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LEGISLATIVE SUMMARY



Bill C-18: An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act

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Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-18: AN ACT TO AMEND THE ROUGE NATIONAL URBAN PARK ACT, THE PARKS CANADA AGENCY ACT AND THE CANADA NATIONAL PARKS ACT

1 BACKGROUND

Bill C-18, An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act,¹ was introduced by the Minister of Environment and Climate Change in the House of Commons on 9 June 2016.

The bill makes three distinct changes. It amends the *Rouge National Urban Park Act*² to accord the same level of ecological protection to the Rouge National Urban Park as is currently accorded to Canada's national parks, and it expands the park. Second, the bill amends the *Parks Canada Agency Act*³ to allow the New Parks and Historic Sites Account to be used for national parks and historic sites that have attained full operational status. Third, it amends the *Canada National Parks Act*⁴ to change the boundary of Wood Buffalo National Park in northern Alberta.

1.1 AMENDMENTS TO THE *ROUGE NATIONAL URBAN PARK ACT*

The *Rouge National Urban Park Act*, establishing the first national urban park in Canada, came into force on 15 May 2015. The current size of the park as outlined in the schedule to the Act is approximately 2 km². The final planned area is to be 79.1 km², after federal land transferred from Transport Canada to Parks Canada is formally added to the schedule, in addition to land to be transferred from Ontario, from the Toronto and Region Conservation Authority and from various municipalities.⁵

The transfer of land from Ontario is dependent on the fulfillment of a memorandum of understanding between Ontario and the federal government in which the parties agreed that Parks Canada would “work with Ontario to develop written policies in respect of the creation, management and administration of the Park that meet or exceed provincial policies regarding the Transferred Lands.”⁶ Whether this criterion was met under the terms of the *Rouge National Urban Park Act* has been at the centre of discussions regarding the impending transfer of the provincial lands.

During Parliament's study of Bill C-40 (the legislation enacted as the *Rouge National Urban Park Act*), the federal government argued that it would provide even greater protection of the parkland than is provided by the province. In testimony before the House of Commons Standing Committee on Environment and Sustainable Development (the Environment Committee), the Minister of the Environment noted that proposed protections would prohibit mining, hunting and the removal of native plants, while offering protections under the *Species at Risk Act* and addressing waste dumping, among other things. The minister noted that the Province of Ontario did not offer these protections for parklands.⁷

Other stakeholders argued that protections extended to the parkland in Bill C-40 and the draft park management plan did not fulfill the requirement to meet or exceed provincial standards for ecological integrity. As a result, the Ontario government has refused to transfer approximately 22 km² of land to Parks Canada to be formally included in the national urban park.⁸ Major environmental groups supported this refusal.⁹

Maintenance or restoration of ecological integrity¹⁰ is the first management priority for national parks under section 8(2) of the *Canada National Parks Act*. In testimony before the Environment Committee, the Minister of the Environment, Leona Aglukkaq, argued that it was not possible to accomplish ecological integrity in the Rouge National Urban Park. She stated:

The ecosystems have integrity when their native components remain intact, but because ecosystems are constantly changing, conservation strategies that have ecological integrity as their goal must also allow processes that reflect the ecosystem's natural conditions. That means such ecological processes as wildfires, flooding, and pest outbreaks would need to be allowed to run their natural course, which is not desirable and realistic in an urban setting. The park includes major highways, rail lines, hydro corridors, as well as farmland, and seven million people live on the Rouge's doorstep.

Applying in the legislation the concept of ecological integrity as we do in national parks would make it impossible to permit the type of sustainable farming that has been taking place in the Rouge for centuries.¹¹

Bill C-18 makes ecological integrity the first management priority for Rouge National Urban Park, but it also provides for the carrying out of agricultural activities in the park. Following the introduction of Bill C-18, the Ontario Minister of Economic Development and Growth is reported to have recommended to the provincial Cabinet that the Ontario lands be transferred to the federal government.¹² However, some stakeholders argue that the transfer should not take place until Bill C-18 is amended to “support the implementation of existing Greenbelt, Rouge Park and Watershed Plans. These existing science-based Plans were approved after decades of public, government and stakeholder consultation.”¹³

1.2 AMENDMENTS TO THE *PARKS CANADA AGENCY ACT*

Section 21(1) of the *Parks Canada Agency Act* established an account in the accounts of Canada known as the New Parks and Historic Sites Account. Both Parliament and Parks Canada may credit funds – including gifts, bequests and other forms of donation – to the account. Payments from the New Parks and Historic Sites Account may only be made for new protected heritage areas and unfinished national parks, national marine conservation areas and national historic sites.¹⁴

According to the 2012–2013 Parks Canada Agency Corporate Plan, the guidelines for use of the fund mean that the national parks eligible for funding from the New Parks and Historic Sites Account are:

- Sirmilik;
- Ukkusiksalik;

- Gulf Islands;
- Torngat Mountains;
- Nahanni (related to expansion);
- Sable Island;
- Nááts'ihch'oh; and
- Bathurst Island [Qausuittuq].¹⁵

Bill C-18 amends the *Parks Canada Agency Act* to allow the government to use the account to expand or complete national parks, national marine conservation areas and national historic sites that have reached full operational status.

1.3 AMENDMENTS TO THE *CANADA NATIONAL PARKS ACT*

Under Bill C-18, the *Canada National Parks Act* is amended to modify the boundary of Wood Buffalo National Park.

Wood Buffalo National Park was established in 1922 to protect the last free roaming herds of wood bison in northern Canada. At 44,807 km², it is Canada's largest national park.¹⁶

The park was created on Indigenous traditional territories that were the subject of Treaty 8, signed in 1899.¹⁷ According to the 2010 Wood Buffalo National Park management plan, “[t]here are 11 distinct Aboriginal groups in and around the park that come from Chipewyan, Cree and Métis roots and eight Indian Reserves within its boundaries.”¹⁸ In addition, “[o]ver the life of the park, the management and regulation of traditional use has been a contentious right-versus-privilege based issue.”¹⁹

One of the mechanisms used to resolve these disputes has been negotiations to excise land from the park to enable fuller use by Indigenous communities and in some cases to resolve land claims settlements. For example, the Peace Point community was excised from the park in 1988 for the creation of a reserve under the terms of a 1986 Treaty Land Entitlement Agreement.²⁰

Negotiations have been ongoing for decades with the Little Red River Cree Nation regarding the possibility of excising the Garden River (Creek) settlement on the Peace River in the southwestern part of the park, though this is not related to a land claims settlement.

The Garden River (Creek) settlement, initially the location of seasonal Indigenous camps, became a permanent settlement in the 1950s with the advent of logging in the area. After the sawmill closed in 1976, the inhabitants shifted focus to traditional uses of the land while requesting further community amenities. The 1984 Wood Buffalo National Park Management Plan identified the community as a “non-conforming use in the context of the park zoning plan.” The solution identified was a long-term plan to excise the community from the park.²¹

According to one account, an agreement on Garden River (Creek) was approved by Cabinet in 1994, but further discussions with the Little Red River Cree Nation were delayed. The final boundary of the proposed reserve had therefore not been determined by the time Bill C-27, now the *Canada National Parks Act*, was introduced in 2000.²² Accordingly, section 38(1)(a) of that Act empowers the Governor in Council to amend the description of Wood Buffalo National Park to withdraw lands from the park required to establish an Indian reserve in the vicinity of Garden River (Creek). The parliamentary secretary to the Minister of Heritage at the time stated that “[p]rovisions are made in the bill to remove lands from Wood Buffalo and Wapusk to accommodate treaty land entitlement.”²³

By 2010, negotiations between the government and the Little Red River Cree Nation regarding the excision of the Garden River (Creek) community were almost finalized.²⁴ According to the backgrounder accompanying Bill C-18, the amendment honours the Government of Canada’s commitment to the Little Red River Cree Nation.²⁵

2 DESCRIPTION AND ANALYSIS

2.1 AMENDMENTS TO THE *ROUGE NATIONAL URBAN PARK ACT*

Currently, section 6 of the *Rouge National Urban Park Act* requires that, in managing the park, the Minister of Environment and Climate Change take into consideration the protection of the park’s ecological health. Clause 2 of Bill C-18 replaces section 6 of the Act with a new, stricter requirement that the minister’s first priority, when considering all aspects of the management of the park, be maintenance or restoration of ecological integrity. Clause 1 of the bill adds the following definition for “ecological integrity” to section 2 of the Act:

ecological integrity means, with respect to the Park, a condition that is determined to be characteristic of its natural region and likely to persist, including abiotic components and the composition and abundance of native species and biological communities, rates of change and supporting processes.

This definition of “ecological integrity” and the statement regarding the minister’s first management priority are almost identical to provisions included in the *Canada National Parks Act*. In other words, Bill C-18 provides the same level of ecological protection for Rouge National Urban Park as is currently provided for national parks.

One proviso to this statement is the confirmation, in new section 6(2) of the *Rouge National Urban Park Act*, that the minister’s requirement to prioritize ecological integrity of the park “does not prevent the carrying out of agricultural activities as provided for in [the] Act.” Section 9(2) of the Act continues to require that the management plan for the park include “the presentation of agricultural heritage and the encouragement of sustainable farming practices.”

Clause 3 amends the schedule to the Act to formally add 17.1 km² of land transferred from Transport Canada to the northern portion of the park, which currently covers 2 km².

An additional 60 km² of parkland have yet to be added to the schedule and formally included in the park. Once fully established, the park is expected to occupy 79.1 km².²⁶

2.2 AMENDMENTS TO THE *PARKS CANADA AGENCY ACT*

Clause 4 of the bill amends section 21 of the *Parks Canada Agency Act*, which establishes and defines the uses of the New Parks and Historic Sites Account. Specifically, the bill repeals wording that limits use of the account for protected heritage areas that have not yet attained full operational status. The government backgrounder published with Bill C-18 provides the following explanation:

The proposed amendment would allow the Government to use the account, and the public to donate funds, to expand or complete national parks, national marine conservation areas and national historic sites that have attained full operational status, including Rouge National Urban Park.²⁷

As a consequence of this change, sections 21(4) and 21(5) of the Act, which require the Agency's Chief Executive Officer to develop guidelines and make determinations regarding whether a protected heritage area has attained full operational status, are no longer required and are therefore repealed.

2.3 AMENDMENTS TO THE *CANADA NATIONAL PARKS ACT*

Clause 5 of Bill C-18 removes a 37-km² parcel of land from the description of Wood Buffalo National Park in Schedule 1 of the *Canada National Parks Act*.

Clause 6 adjusts the wording of the French version of the existing description of Wood Buffalo National Park without making a substantial change.

NOTES

1. [Bill C-18, An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act](#), 1st Session, 42nd Parliament (first reading version, 9 June 2016).
2. [Rouge National Urban Park Act](#), S.C. 2015, c. 10.
3. [Parks Canada Agency Act](#), S.C. 1998, c. 31.
4. [Canada National Parks Act](#), S.C. 2000, c. 32.
5. For more information on the background of Rouge Park and Bill C-40, An Act respecting the Rouge National Urban Park, see Penny Becklumb and Tim Williams, [Legislative Summary of Bill C-40: An Act respecting the Rouge National Urban Park](#), Publication no. 41-2-C40-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 18 July 2014. For information about lands to be added to the park, see the [Memorandum of Agreement Respecting the Establishment of the Proposed Rouge National Urban Park](#) (between the governments of Canada and Ontario), 26 January 2013 [MOU respecting Rouge National Urban Park]; and the [Memorandum of Agreement Respecting the Assembly of Lands for the Proposed Rouge National Urban Park](#) (between the federal government, the Toronto and Region Conservation Authority, and various municipalities), 2014.

6. MOU respecting Rouge National Urban Park (2013), art. 2.09.
7. House of Commons Standing Committee on Environment and Sustainable Development [ENVI], [Evidence](#), 27 October 2014 (Hon. Leona Aglukkaq, Minister of the Environment, Minister of the Canadian Northern Economic Development Agency and Minister for the Arctic Council).
8. Brad Duguid, Minister of Economic Development, Employment and Infrastructure (Ontario), [Letter to Leona Aglukkaq, Minister of the Environment and Minister Responsible for Parks Canada](#), (Re: Bill C-40, An Act respecting the Rouge National Urban Park), 2 September 2014.
9. Environmental Defence, [“Statement by major environmental groups applauds Ontario’s refusal to transfer Rouge Park lands to Parks Canada until proposed Rouge National Urban Park Act is strengthened,”](#) 3 September 2014.
10. Section 2(1) of the *Canada National Parks Act* states that:

ecological integrity means, with respect to a park, a condition that is determined to be characteristic of its natural region and likely to persist, including abiotic components and the composition and abundance of native species and biological communities, rates of change and supporting processes.
11. ENVI (2014), 1545 (Aglukkaq).
12. [“Prime Minister Justin Trudeau paddles the Rouge in Scarborough,”](#) *Scarborough Mirror*, Inside Toronto.com, 18 June 2016.
13. Kevin O’Connor, Friends of the Rouge Watershed, [“Federal Government Introduces Amendments to National Rouge Park Legislation \(Bill C-18\) One Important Commitment Fulfilled, Three Important Commitments Not Yet Fulfilled,”](#) Friends of the Rouge Watershed Facebook post, 9 June 2016. Also reported in Kristen Calis, [“More protections for Rouge Park in Toronto, Pickering, but Province still hasn’t handed over its land; Brad Duguid, minister of economic development, employment and infrastructure, to make announcement about Rouge Park on Saturday,”](#) *Pickering News Advertiser*, durhamregion.com, 17 June 2016.
14. See *Parks Canada Agency Act*, s. 21(3); and Parks Canada Agency, [“New Parks and Historic Sites Account – Source and Use of Funds,”](#) in “Section IV – Other Items of Interest,” *2012–2013 Parks Canada Agency Corporate Plan*, 2012.
15. Parks Canada Agency (2012).
16. Parks Canada, [Wood Buffalo National Park of Canada Management Plan 2010](#), June 2010.
17. See Dennis F. K. Madill, [“Treaty Research Report – Treaty Eight \(1899\),”](#) Indian and Northern Affairs Canada, 1986.
18. Parks Canada (2010), p. 7.
19. Ibid.
20. Ibid., pp. 64–65.

Treaty Land Entitlement claims are intended to settle the land debt owed to those First Nations who did not receive all the land they were entitled to under historical treaties signed by the Crown and First Nations. Settlement agreements are negotiated among First Nations, the Government of Canada and provincial/territorial governments. According to the terms of the agreement, a specified amount of Crown lands is identified and/or a cash settlement is provided so that a First Nation may purchase federal, provincial/territorial, or private land to settle the land debt.

21. Minister of the Environment and Minister of Supply and Services Canada, *Wood Buffalo National Park Management Plan*, 1984.
22. George Wright Society, [Questions and Answers about Canada's New National Park Act: An HTML version of the 1999 NPA Briefing Book](#), January 2000.
23. House of Commons, [Debates](#), 2nd Session, 36th Parliament, 13 June 2000, 1330 (Mauril Bélanger, Parliamentary Secretary to Minister of Canadian Heritage).
24. Parks Canada (2010).
25. Government of Canada, "[An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act](#)," *Backgrounder*, 9 June 2016.
26. Ibid.
27. Ibid.