

DECISION REPORT
Application #9104 - Kan-Alta Golf Management Ltd.

Construction of 18-Hole Golf Course Facility Evan Thomas Creek Area - Kananaskis Country

August 1992



**CONSTRUCTION OF 18-HOLE GOLF COURSE FACILITY
EVAN THOMAS CREEK AREA
- KANANASKIS COUNTRY**

NRCB Application 9104

August 1992

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1.0 INTRODUCTION

1.1 Background

Kan-Alta Golf Management Ltd. (Kan-Alta) currently leases and operates the existing Kananaskis Country Golf Course under the terms of a contract with the Province of Alberta. In an application to the Natural Resources Conservation Board (NRCB), Kan-Alta, in association with Paragon Properties Ltd. (Paragon) and William Turnbull, is proposing to develop an additional 18-hole golf course with associated clubhouse and maintenance facilities (the project) in Kananaskis Country on land to be leased from the Crown. The development would be located on the east side of Highway 40 adjacent to Evan Thomas Creek and approximately one kilometre (km) south of the existing Kananaskis Country Golf Course (see Figures 1 and 2).

Preliminary disclosure statements to develop a second golf course complex in Kananaskis Country were initially filed independently by both Kan-Alta and Paragon with the Government of Alberta in July 1988. Because of the similarities of the proposals, the two proponents agreed to form a joint venture to pursue the development of a golf course in the Evan Thomas Creek area. Under the current joint venture agreement, Kan-Alta has assumed a 60 percent share in the project, with the remaining 40 percent being shared equally by Paragon and William Turnbull.

In March 1990, the Minister of Forestry, Lands and Wildlife authorized the Kan-Alta proposal to proceed subject to:

- 1. The review of a detailed development plan and environmental study by the Kananaskis Country Interdepartmental Committee (KCIC);**
- 2. KCIC and the Kananaskis Country Citizens Advisory Committee (KCAC) holding public meetings in Calgary to receive briefs and submissions; and**
- 3. KCIC making final recommendations to the Department of Forestry, Lands and Wildlife on whether a lease should be issued and under what conditions.**

In response to these conditions, Kan-Alta prepared a development plan and environmental study for the project, and distributed the document in November 1990 to identified interest groups within the area, the media, the Calgary Public Library and Kananaskis Country offices in Calgary. A formal presentation of the submission was made to KCIC on November 27, 1990. In January 1991, KCIC and KCAC advertised and held a public information meeting at Canada Olympic Park to solicit public comment on the project.

On May 6, 1991, Kan-Alta was requested to submit an Environmental Impact Assessment (EIA) for government and public review. Terms of Reference for the EIA were finalized by Alberta Environment (with public input) and provided to Kan-Alta on September 12, 1991. Based on these Terms of Reference, Kan-Alta prepared an EIA for Alberta Environment and for inclusion in the application to the NRCB.

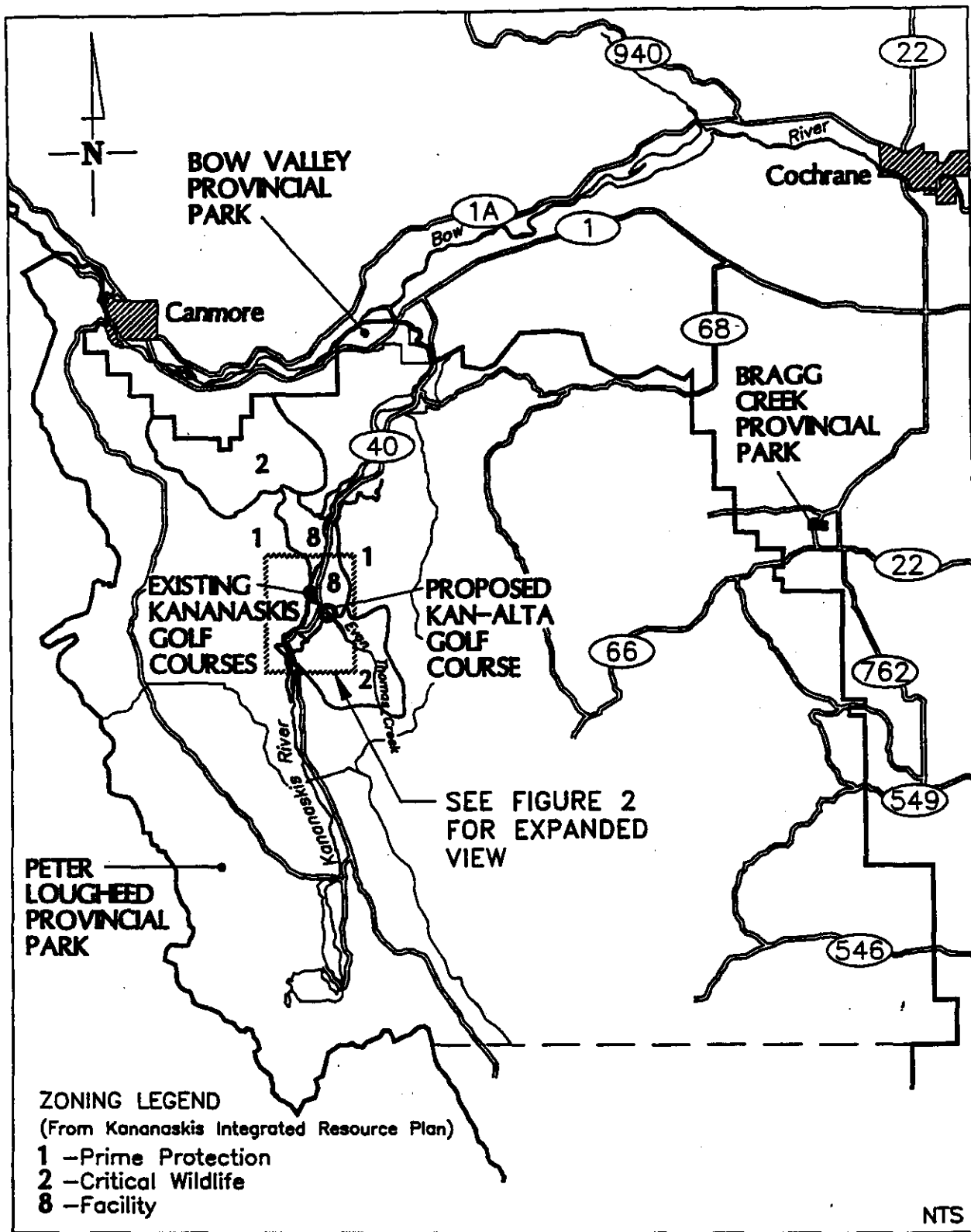


FIGURE 1 PROPOSED GOLF COURSE DEVELOPMENT LOCATION IN KANANASKIS COUNTRY



FIGURE 2 THE WEDGE - EVAN THOMAS CREEK AREA

1.2 Natural Resources Conservation Board Jurisdiction

The Natural Resources Conservation Board Act (the Act) established a Board to "... provide for an impartial process to review projects that will or may affect the natural resources of Alberta in order to determine whether, in the Board's opinion, the projects are in the public interest, having regard to the social and economic effects of the projects and the effect of the projects on the environment".

The types of projects that are subject to review, as set out in the Act, include recreational or tourism projects for which an EIA has been ordered by the Minister of Environment. By letter dated May 6, 1991, Kan-Alta was directed to prepare an EIA for its proposed project, and as a result, it is a reviewable project and is subject to NRCB jurisdiction.

The Act prohibits the commencement of a reviewable project unless the NRCB, on application, has granted an approval, subject to authorization of Cabinet. The NRCB approval required for these projects is in addition to all other approvals, licences or permits required under any other act, regulation or by-law in force in the province.

The Board's mandate is to determine whether the proposed 18-hole golf course is in the public interest, and if so, to approve it. Once a decision report is issued, the Board does not have any ongoing regulatory function.

1.3 Natural Resources Conservation Board Review Process

1.3.1 Receipt and Review of the Application

Application 9104 (the application) was received from Kan-Alta on November 26, 1991. It requested approval to develop an 18-hole golf course, with associated facilities, access road, and utilities, adjacent to Evan Thomas Creek in Kananaskis Country. In accordance with NRCB regulations, the application included an EIA prepared under the Terms of Reference issued by Alberta Environment. A Supplementary Information Request was mailed to the applicant on February 6, 1992, and, on February 13, 1992, the Board issued a Preliminary Notice of Application. On March 24, 1992, Kan-Alta filed its response to the Request for Supplementary Information with the NRCB.

After review of this information by Board staff and after being advised by Alberta Environment that from its perspective the EIA was suitable for discussion at a public hearing. A Notice of Hearing was issued by the Board on April 7, 1992, and a hearing was scheduled for June 2, 1992.

1.3.2 Prehearing Meetings

A request for adjournment was received by the NRCB from the Alberta Wilderness Association (AWA) on April 13, 1992. A meeting was scheduled for April 27, 1992, to consider the adjournment request. In the interim, additional adjournment requests were received

from The Federation of Alberta Naturalists (the Federation), the Bow Valley Naturalists, Trout Unlimited Canada and a number of Trout Unlimited Chapters and the Upper Bow Valley Fish and Game Association (Trout Unlimited), and the Alberta Fish and Game Association. Kan-Alta opposed the requested adjournment, and after hearing argument, the Board confirmed the hearing date of June 2, 1992, in its written decision dated April 28, 1992.

A second prehearing meeting was held on April 29, 1992, to consider a number of matters related to intervener funding. Three interveners participated in the meeting: the Federation, Trout Unlimited, and the Sarcee Fish and Game Association (Sarcee F and G Association). The latter two applied to the Board for an advance award of costs, while the Federation only asked for a determination that it was "directly affected". In its written decision of May 4, 1992, the Board concluded that none of the interveners are or would be "directly affected" and therefore eligible for intervener funding. However, the Board indicated it was prepared to provide some funds to assist in bringing relevant information before the Board.

The written decisions for these meetings are attached as Appendix A.

1.3.3 The Hearing

The hearing opened in the Rafter Six Ranch Resort at Seebe, Alberta on June 2, 1992, with G.J. DeSorcy, P.Eng., G.A. Yarranton, PhD., C.H. Weir, P. Eng., and D.M. Derworiz, P.Eng. sitting. The hearing concluded on June 10, 1992, having convened on June 2, 3, 4, 5, and 10. The hearing participants are listed in Table 1.1.

TABLE 1.1
LIST OF PARTICIPANTS

Principals and Representatives (Abbreviations Used in Report)	Witnesses
<p>Kan-Alta Golf Management Ltd. (Kan-Alta)</p> <p>Mr. B. O'Ferrall Mr. C. Steele</p>	<p>Mr. N. Kimball Mr. B. Bygrave Mr. J. Rust, P.Eng. (Lamb McManus Associates Ltd.) Mr. T. Gowing, P.Eng. (Urban Systems Ltd.) Mr. D. Reid (HBT AGRA Limited) Mr. G. Beckstead, P.Eng. (HBT AGRA Limited) Ms. J. Smith (Concord Environmental Corporation) Dr. P. McCart (Aquatic Environments Limited) Mr. J. O'Connor</p>
<p>Sarcee Fish and Game Association (Sarcee F and G Association)</p> <p>Mr. R. Everett</p>	<p>Mr. R. Everett Mr. D. Bogdonov Ms. T. Clapp</p>

TABLE 1.1
LIST OF PARTICIPANTS

Principals and Representatives (Abbreviations Used in Report)	Witnesses
<p>Trout Unlimited Canada and a number of Trout Unlimited Chapters and the Upper Bow Valley Fish and Game Association (Trout Unlimited)</p> <p>Mr. D. Pike</p>	<p>Mr. D. Pike Mr. G. Szabo Mr. K. Brewin (Trutta Environments and Management) Mr. H. Hamilton (Environmental Management Association)</p>
<p>Federation of Alberta Naturalists (Federation)</p> <p>Ms. I. Ektvedt Ms. M. Posey</p>	<p>Ms. I. Ektvedt Ms. M. Posey Mr. D. Stiles</p>
<p>Dr. P. Paquet (self)</p>	<p>Dr. P. Paquet (John/Paul & Associates)</p>
<p>Stoney Tribe</p> <p>Mr. D. Rae Ms. J. McLachlan</p>	<p>Mr. P. Wesley Mr. L. Wesley Mr. B. Ear, Senior Mr. K. Tully Mr. I. Getty</p>
<p>Mr. L. Boyd (self) Dr. H. Miller (self) Mr. M. Faubert (self) Mr. W. Hermiston (self)</p>	<p>Mr. L. Boyd Dr. H. Miller Mr. M. Faubert Mr. W. Hermiston</p>

TABLE 1.1
LIST OF PARTICIPANTS

Principals and Representatives (Abbreviations Used in Report)	Witnesses
<p>Government of Canada Department of Fisheries & Oceans (DFO)</p> <p>Mr. G. Hopky Mr. R. Garrod</p>	
<p>Government of Alberta Alberta Environment</p> <p>Mr. R. Stone</p>	
<p>Natural Resources Conservation Board Staff</p> <p>Mr. W. Kennedy Mr. P. Cleary Dr. R. Powell Dr. A. van Roodselaar, P.Eng. Mr. J. McKee (NRCB staff) Ms. K. Hale Mr. R. Eccles Mr. I. Jones, P.Geol. Mr. D. Westworth (Consultants to the NRCB)</p>	

1.4 The Role of Alberta Environment

Alberta Environment made a statement at the outset of the hearing respecting its role in the administration of the EIA process. This process covers screening of projects to determine the need for EIA reports, determining the appropriate scope of an EIA, ensuring public consultation throughout the EIA process, coordinating interdepartmental reviews of the EIA documents to ensure consistency with the Terms of Reference established for the review, and providing advice as to whether the EIA is suitable for discussion at a public hearing.

All of these functions were carried out with respect to the application by Kan-Alta. On April 2, 1992, Alberta Environment advised the NRCB that the EIA was suitable for consideration at a public hearing.

Alberta Environment participated in the hearing by asking questions of the applicant and the interveners to assist the NRCB review of the EIA report and to address the environmental implications of the proposed development.

It also has regulatory responsibilities respecting the proposed development. Any consumptive use of water for the proposed golf course would require approval from Alberta Environment under the Alberta Water Resources Act. Additionally, an approval pursuant to the Clean Water Act would be required to link this facility to the regional sewer system.

Furthermore, Alberta Environment advised that the application of pesticides, herbicides and fungicides in Alberta requires authorization pursuant to the Agricultural Chemicals Act administered by Alberta Environment.

Alberta Environment confirmed that it will not consider any approvals pursuant to its regulatory requirements until the NRCB has completed its review of the proposal and made its decision.

Finally, Alberta Environment advised that, throughout the EIA process, it had provided information to Environment Canada on details and issues related to the proposed golf course development so that the federal government was aware of the proposal.

1.5 The Role of the Federal Government

The Federal Department of Fisheries and Oceans (DFO) participated in the hearing by asking questions of the applicant. It advised the Board, at the outset of the hearing, of its role respecting the application.

DFO advised that it is responsible for the management and protection of fish and marine mammals and their habitats. These responsibilities are achieved using the powers of the Fisheries Act which contain provisions, among other things, to prevent the harmful disruption, alteration or destruction of fish habitat and to prevent the deposition of deleterious substances into the waterways related to the proposed golf project.

DFO advised also that it is not applying the Federal Environment Assessment and Review Process (EARP) Guidelines Order to the applicant's proposal, following the

January 23, 1992, Supreme Court of Canada decision in Friends of the Oldman River Society v. Canada (Minister of Transport) et al. This decision led DFO to conclude it can no longer be an initiating department under the EARP Guidelines Order pursuant to its fish habitat management decisions. However, DFO said it is prepared to work with the applicant and other federal and provincial departments to optimize fish habitat decisions.

DFO indicated that throughout the EIA process, it had consulted with Environment Canada about water issues and had received technical information from Alberta Forestry, Lands & Wildlife about fish and fish habitat in the potential impact area.