



The Honourable Catherine McKenna MP
Minister of Environment and Climate Change Canada
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Sent Via Email to ec.ministre-minister.ec@canada.ca

Parks Canada Phase One Consultation, Icefields Trail
Sent Via Email to opinion.jasper@pc.gc.ca

April 22, 2017

Re: Input from the Canadian Parks and Wilderness Society (“CPAWS”) on the Phase 1 Consultations for the Proposed Icefields Trail

Dear Minister McKenna,

Thank you for accepting the enclosed comments from CPAWS related to the first phase of public consultation on Parks Canada’s proposed Icefields Trail (the “Icefields Trail,” the “Trail” or the “Project”).

CPAWS is Canada’s only nationwide charity dedicated solely to the protection of our public land and water and to ensuring our parks are managed to protect the nature within them. Over the last 50+ years, CPAWS has played a lead role in protecting over half a million square kilometers – an area bigger than the entire Yukon Territory. Our vision is to protect at least half of our public land and water to safeguard Canada’s biodiversity and so that future generations can experience Canada’s irreplaceable wilderness. CPAWS has chapters in almost every province and territory across Canada, and two chapters in Alberta – a Southern Alberta chapter located in Calgary and a Northern Alberta chapter located in Edmonton.

Jasper National Park is one of Canada’s most spectacular and beloved national parks. Part of the UNESCO Canadian Rocky Mountain Parks World Heritage Site, Jasper is home to numerous species of flora and fauna, many of which are considered at-risk, and spectacular scenery that millions come to visit every year. For 50 years the two Alberta CPAWS chapters have played key roles in ensuring that the Rocky Mountain Parks perform their number one function – prioritizing ecological integrity and protecting the ecosystems and wildlife within them. This includes participating in public consultations when a development proposal is made that may threaten the natural values of national parks and the corresponding laws and policies designed for protection of these regions.

With respect to the Icefields Trail proposal, CPAWS has had the opportunity to review the documents released by the Parks Canada Agency (“Parks Canada”) for this phase one consultation (the “consultation documents”), has attended the public consultation sessions in both Edmonton and Calgary, and has reviewed internal Parks Canada documents received from a request made under freedom of information legislation (the “ATIP



documents”). We have the following concerns regarding the Icefields Trail; further detail on each concern is provided later in this letter:

1. The Icefields Trail conflicts with the promises made by this government and the mandate of the Minister of Environment and Climate Change Canada, the Minister responsible for the Parks Canada Agency (the “Minister”);
2. The Icefields Trail conflicts with the legislated mandate of the Parks Canada Agency to manage our national parks as mandated by the *Canada National Parks Act* with ecological integrity as the number one priority;
3. The Icefields Trail conflicts with Parks Canada’s obligations under the *Species at Risk Act* and *Migratory Birds Convention Act*;
4. The Icefields Trail is contrary to Canada’s promises to protect the outstanding universal values of the UNESCO Canadian Rocky Mountain Parks World Heritage Site;
5. The Icefields Trail project destroys designated wilderness in Jasper National Park without adequate consideration of the Trail’s appropriateness or impacts;
6. The Icefields Trail poses major concerns related to the safety of both the public and wildlife in the park;
7. The Icefields Trail will encourage more built infrastructure development along its route (induced development);
8. The process of developing the proposal for the Icefields Trail presents a concerning lack of transparency and due process from and within Parks Canada;
9. There is no demonstrated demand for the Icefields Trail and the Rocky Mountain Parks system is already overcrowded; and
10. The cost of the Icefields Trail is egregious and unsupportable.

For all of the above reasons, CPAWS recommends that the Minister reject the Icefields Trail as proposed and instead reinvest the allocated funds into restoring Parks Canada’s much-needed conservation and nature education programs.

Detailed Comments

1. The Icefields Trail conflicts with the promises made by this government and the mandate of the Minister

Since its announcement, the Icefields Trail has been an example of the lack of transparency and due process afforded to development projects by Parks Canada in recent years. The Project was announced in the federal budget as a single line item for a \$66 million bike path with no further details provided, and no information forthcoming from Parks Canada until January of 2017. There had been no consultation and no one had heard about this major project.



When it came into power in late 2015, this government promised to do things differently. In the Minister of Environment and Climate Change Mandate Letter (the “Mandate Letter”),¹ Prime Minister Justin Trudeau stated:

We have committed to an open, honest government that is accountable to Canadians, lives up to the highest ethical standards, and applies the utmost care and prudence in the handling of public funds.

...

We have also committed to set a higher bar for openness and transparency in government. It is time to shine more light on government to ensure it remains focused on the people it serves. Government and its information should be open by default. If we want Canadians to trust their government, we need a government that trusts Canadians. It is important that we acknowledge mistakes when we make them. Canadians do not expect us to be perfect – they expect us to be honest, open, and sincere in our efforts to serve the public interest.

[emphasis added]

The Mandate Letter set out a commitment of the Minister to:

Protect our National Parks by limiting development within them, and where possible, work with nearby communities to help grow local eco-tourism industries and create jobs.

As is further set out below, the Icefields Trail conflicts with government priorities and the Mandate Letter not only because of the lack of transparency apparent in the Project, but also because it directly conflicts with the government’s commitment to protect our national parks by limiting development within them.

2. The Icefields Trail conflicts with the legislated mandate of Parks Canada to manage our national parks as mandated by the *Canada National Parks Act* with ecological integrity as the number one priority

Parks Canada is tasked with the responsibility of safeguarding our national parks and ensuring that they are managed to protect nature. For the following reasons, the Icefields Parkway does not meet this standard:

- a) The Icefields Trail conflicts with multiple laws that are in existence to ensure the responsible management of our national parks and park ecosystems***

The Trail is contrary to section 8(2) of the *Canada National Parks Act*,² which states:

¹ Prime Minister Justin Trudeau, *Minister of Environment and Climate Change Mandate Letter*, November 13, 2015, <http://pm.gc.ca/eng/minister-environment-and-climate-change-mandate-letter>

² *Canada National Parks Act*, SC 2000, c 32.

Ecological integrity

8 (2) Maintenance or restoration of ecological integrity, through the protection of natural resources and natural processes, shall be the first priority of the Minister when considering all aspects of the management of parks.

According to the *Canada National Parks Act*, the federal government's first priority in all park management decisions must be maintaining or restoring the health of park ecosystems. A proposal that destroys a wide swath of sensitive, intact forest, which is also the critical habitat of many at-risk species, does not meet this test.

The *Canada National Parks Act*, together with the preamble to the *Parks Canada Agency Act*,³ further sets out that ecological integrity of national parks takes precedence over visitor activities. The *Canada National Parks Act* states:

4 (1) The national parks of Canada are hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to this Act and the regulations, and the **parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations.**

[emphasis added]

The *Parks Canada Agency Act* states:

Whereas the Government of Canada wishes to establish an Agency for the **purpose of ensuring that Canada's national parks, national historic sites and related heritage areas are protected and presented for this and future generations and in order to further the achievement of the national interest as it relates to those parks**, sites and heritage areas and related programs;

[emphasis added]

The national interest as it relates to parks is to ensure their ecological function and integrity as natural ecosystems and to leave parks unimpaired for the enjoyment of future generations. The Icefields Trail would destroy a large portion of Jasper National Park's ecosystem and threatens the survival of some of Canada's most iconic wildlife species, such as federally listed threatened caribou. It is wholly incompatible with both the *Canada National Parks Act* and the *Parks Canada Agency Act*.

The Icefields Trail is also contrary to Parks Canada's own Charter,⁴ which states:

³ *Parks Canada Agency Act*, SC 1998, c 31.

⁴ Parks Canada Agency, *Parks Canada Charter*, <https://www.pc.gc.ca/en/docs/v-g/ie-ei/at-ag/agir-action/sec9/page1>, April 15, 2017



On behalf of the people of Canada, we protect and present nationally significant examples of Canada’s natural and cultural heritage, and foster public understanding, appreciation and enjoyment **in ways that ensure the ecological and commemorative integrity of these places for present and future generations.**

[emphasis added]

In the Parks Canada Charter, Parks Canada has made the commitment to “protect, as a first priority, the natural and cultural heritage of our special places and ensure that they remain healthy and whole.” The Icefields Trail would further fragment the ecosystems of both Jasper and Banff National Parks, and as such is contrary to Parks Canada’s stated mandate and commitments.

This proposal is contrary to all of the above laws and policy documents, which are designed to guide and bind Parks Canada’s decision-making as well as the agency’s ability to put forward and assess development proposals within our national parks.

3. The Icefields Trail conflicts with Parks Canada’s obligations under the *Species at Risk Act* and *Migratory Birds Convention Act*

The Icefields Trail would pave a new corridor through the most important alpine and sensitive valley bottom ecosystems in the park. These ecosystems are already highly fragmented by roads, railways, townsites, outlying accommodations, parking lots, ski resorts, and other developments in the parks. They also contain critical habitat for species at risk listed under Canada’s *Species at Risk Act*⁵ (“SARA”).

Environment Canada and the Parks Canada Agency are the federal departments accountable for the recovery of species at risk in national parks, which includes the protection of critical habitat for species listed under SARA. The Icefields Trail would run through the critical habitat of many SARA-listed species, including: whitebark pine trees, woodland caribou (southern mountain population), olive sided flycatcher, little brown myotis, and common nighthawk. In the ATIP documents, Parks Canada acknowledges that the critical habitat for some of these species (woodland caribou and whitebark pine) extends right to the road.

In the *Recovery Strategy for Woodland Caribou, Southern Mountain population (Rangifer tarandus caribou) in Canada*,⁶ Parks Canada is charged with achieving “an ecologically functioning local population of southern mountain caribou in Banff and Jasper National Parks” and has set a target of at least 500 southern mountain caribou in Jasper National Park over the next 100 years. There are currently only 55 animals in Jasper National Park – and populations continue to decline.

⁵ *Species at Risk Act*, SC 2002, c 29.

⁶ Environment Canada. 2014. *Recovery Strategy for the Woodland Caribou, Southern Mountain population (Rangifer tarandus caribou) in Canada*. Species at Risk Act Recovery Strategy Series. Environment Canada, Ottawa. viii + 103 pp.



In the ATIP documents, the proposed action to address the fact that the Icefields Trail runs through critical habitat is to get permits to *destroy* that critical habitat or to amend the parks' management plans in such a way that Parks Canada's mandate to protect ecological integrity and species at risk within the parks is undermined. This is wholly inconsistent with Parks Canada's responsibilities under SARA and its stated goals for southern mountain caribou recovery. These comments and proposed mitigations are, frankly, appalling coming from the agency tasked with managing our most protected areas in Canada.

Parks Canada acknowledges in online information about its caribou recovery efforts that "[r]ecreational use of important habitat can also affect caribou, displacing them to less suitable areas."⁷ It is well documented that caribou avoid linear disturbances on the landscape by reducing use of their habitat in adjacent areas. Thus, it is not just the habitat in the footprint of the trail that this at-risk species would lose, but the functional habitat of a large area around that disturbance as well. In addition, Parks Canada acknowledges that recreational trails provide access for increased predation by wolves, and that winter closures are necessary in caribou habitat to mitigate this risk. Thus, the Trail would have to be closed in the winter for much of its length.

The very fact that this Trail would run through the critical habitat of an endangered tree species and a threatened caribou herd should have caused it to be dismissed from the beginning, both because of SARA obligations and the requirement to prioritize ecological integrity in decision-making.

The Icefields Trail is inconsistent with the *Migratory Birds Convention Act*,⁸ which states that Canada will:

[P]rovide for and protect habitat necessary for the conservation of migratory birds

The Icefields Trail project would destroy dozens of hectares of migratory bird breeding habitat. This is documented by Parks Canada in the ATIP documents, as they illustrate that Parks Canada has debated the best time of year to destroy the habitat so as not to interrupt the current breeding season. While constructing the trail in the fall may minimize the impact on the birds during the current breeding season, that breeding habitat will be destroyed and lost to those birds forever.

Finally, the ATIP documents further indicate that the Trail will have impacts on important fish habitat, wetlands, and sensitive mountain goat mineral licks. The ATIP documents show that the Trail would pass directly through sensitive habitats for both local mountain goat and bighorn sheep herds. In addition, it would run through sensitive grizzly bear habitat. Grizzly bears are listed as "threatened" under the regulations to Alberta's *Wildlife Act*,⁹ and limited numbers are left in the wild in Canada's Rocky Mountain Parks.

⁷ Parks Canada Agency, *Woodland Caribou – Southern mountain population*, <http://www.pc.gc.ca/en/nature/eep-sar/itm3/eep-sar3caribou>, April 17, 2017

⁸ *Migratory Birds Convention Act*, SC 1994, c 22.

⁹ *Wildlife Act*, RSA 2000, c W-10 and *Wildlife Regulation*, Alta Reg 143/1997



4. The Icefields Trail is contrary to Canada’s promises to protect the outstanding universal values of the UNESCO Canada Rocky Mountain Parks World Heritage Site

As stated above, the area proposed in the project has been designated as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (“UNESCO”). This means that there is a global responsibility for its protection. The Icefields Trail project does not consider the *Convention Concerning the Protection of the World Cultural and Natural Heritage*¹⁰ (the “*World Heritage Convention*”) as there is no consideration of the impacts of the trail on the outstanding universal values of the Canadian Rocky Mountain Parks World Heritage Site.

In over 500 pages of ATIP documents, World Heritage is not mentioned even once. Nor is it mentioned in the terms of reference for the Detailed Impact Analysis (“DIA”). The DIA makes no mention of the requirement to follow the International Union on the Conservation of Nature (“IUCN”) guidance documents for environmental assessments in World Heritage Sites.

This lack of consideration for World Heritage status illustrates Parks Canada yet again abrogating its responsibility to take its first mandate and World Heritage seriously.

The outstanding universal values of the Canada Rocky Mountain Parks World Heritage Site include criterion vii: “to contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance.” The Icefields Trail would destroy 230 linear kilometers or approximately 70 football fields worth of this natural beauty.

5. The Icefields Trail project destroys designated wilderness in Jasper National Park without adequate consideration of its appropriateness or impacts

The Icefields Trail proposes to destroy approximately seven kilometers (21,000m²) of designated wilderness in Jasper National Park. Wilderness in the *Canada National Parks Act* is any area that “that exists in a natural state or that is capable of returning to a natural state,” and once it is designated it is meant to be considered permanent:

Maintaining character

14 (2) The Minister may not authorize any activity to be carried on in a wilderness area that is likely to impair the wilderness character of the area.

The ATIP documents show that Parks Canada has not assessed whether a paved corridor is appropriate in or consistent with an area that has been designated wilderness by the Minister. A multi-use, paved trail that requires ongoing mechanical maintenance (brush clearing at each side) is very likely to impair the wilderness character of the area.

¹⁰ *Convention Concerning the Protection of the World Cultural and Natural Heritage*, adopted on 16 November 1972, by the General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 17 October to 21 November 1972, at its seventeenth session.

6. The Icefields Trail poses major concerns related to the safety of both the public and wildlife in the park

The path of the Icefields Trail poses acknowledged public safety concerns and issues related to human-wildlife conflict. For example, the ATIP documents show that Parks Canada anticipates human-wildlife conflict will arise, as the “trail goes through high value habitat.” Parks Canada also acknowledges that the Banff-Canmore Legacy Trail continues to have human-wildlife conflict, despite the trail being fenced in to reduce such issues.

The Icefields Trail would in essence be a highway twinning project – a new paved lane parallel to the road, 20 to 30 meters away (and in some cases further). For some species, this “median” between the road and the Trail would no longer be used as habitat. For others it would become a dangerous place to occupy; for example, grizzly bears feeding in this area, which is ideal habitat for production of buffalo berry bushes, a key food source for grizzly bears, would be sandwiched between cyclists and cars. They could be pushed onto the road by pelotons of cyclists, or pushed onto the path by bear jams and traffic. Neither scenario is good for either the bears or the people.

In the ATIP documents, Parks Canada makes suggested recommendations for how to mitigate the risk of conflicts with bears along the Trail. These suggestions include clearing a wide area of brush on either side of the trail, and using herbicide to control the growth of vegetation along the Trail. Neither of these mitigations are consistent with a mandate to protect critical habitat and ecological integrity of the parks.

7. The Icefields Trail will encourage more development along its route (induced development)

The Icefields Trail will need supporting infrastructure and will thus induce further development along its route – development of pull offs, rest stops and toilets, parking lots, and further accommodations within the parks. Parks Canada already anticipates that in short order there will be pressure for more campgrounds, access roads and parking lots along the route, exacerbating the development pressures in two of the busiest and most heavily developed national parks. The DIA does not consider the impact of this induced development, nor the cost. This directly contravenes with the direction of the government to limit development in our National Parks.

This induced development would further fragment and destroy critical habitat, would require ongoing maintenance by Parks Canada, and would also cost taxpayers significantly more than what has been disclosed as the cost of the Icefields Trail.

8. The process of developing the proposal for the Icefields Trail presents a concerning lack of transparency and due process from and within Parks Canada

CPAWS has many concerns about the lack of transparency and due process related to this Project:



a) Parks Canada is not acting with transparency and has a conflict of interest, being the proponent of the Project

Parks Canada is the proponent of the Icefields Trail project and developed the full concept for the Trail with no public disclosure or consultation, in spite of repeated requests for information by groups such as CPAWS following the release of the federal budget of 2016.

The ATIP documents show that Parks Canada had no intention of actually listening to the public, and were discussing “starting the chainsaws” the day after consultations finished. Preliminary engineering activities have taken place (bore holes, etc.) before demand for the Project has been studied and before preliminary consultations have finished.

Parks Canada as the proponent of the Project is not acting as a neutral regulator. They are actively marketing the Project and working behind closed doors to get it approved in spite of the significant conflict with their mandate.

b) Parks Canada has misled the public in its communications related to the Project

Parks Canada’s website and consultation documents related to the Icefields Trail are deliberately misleading Canadians about the origin and legitimacy of the Project. They state:

The idea of the Icefields Trail project is based on the Icefields Parkway Strategic Concept (2009), which was guided by a public steering committee with Indigenous representation and included input from the public. The concept for the project is also part of the management plans for both Jasper National Park (2010) and Banff National Park (2010), which involved extensive public consultations.¹¹

In fact, no separate bike path is mentioned in the park management plans. The Icefields Parkway Strategic Concept states that Parks Canada will review the needs of cyclists and explore options to improve cycling experiences, not build a new paved corridor through critical wildlife habitat. However, no options have been provided to the public.

Even more egregious is that Parks Canada is using the public consultations on the park management plans as justification for the Project, as though Canadians have shown support for a development such as this one. They have not.

In addition, the ATIP documents show that Parks Canada briefed the Minister of Environment and Climate Change that the public would welcome this project, when they had no evidence that they would, showing how out of touch with Canadians Parks Canada has become.

¹¹ Parks Canada, Icefields Trail (North), April 15, 2017, <http://www.pc.gc.ca/en/pn-np/ab/jasper/info/plan/sentierdesglaciers-icefieldstrail>



The Icefields Trail is inconsistent with the management plans of both Jasper and Banff National Parks. Many of the Icefields Trail consultation documents claim that the project was conceived of in the park management plans and in the Icefields Parkway Strategic Concept. It was not. The Icefields Parkway Strategic Concept and management plans actually state that Parks Canada will "[r]eview the needs of cyclists and develop options to enhance opportunities" and that Parks Canada will "[w]ork closely with stakeholders to design and implement key actions and to monitor success." No other options have been put forward or considered by Parks Canada in consultation with stakeholders.

c) Parks Canada's Comparison of the Icefields Trail with the Banff-Canmore Legacy Trail is Disingenuous

Parks Canada continues to compare the Icefields Trail with the Banff-Canmore Legacy Trail. This is evident in both the consultation documents and in the ATIP documents. However, the two trails are very different and should not be conflated. For example, the Legacy Trail runs largely inside a wildlife fence, where there will be lesser risk of negative encounters with bears or other wildlife, and lessened impact on wildlife from human use. The Icefields Trail is not within a fenced area and would run through important grizzly bear habitat, increasing the risk of human-wildlife conflict. The Legacy Trail is also shorter and through a flatter valley that enables it to be more suitable for families and casual riders. In contrast, the Icefields Trail would run through a high alpine valley, through a mountainous wilderness environment. Arguably, only the most athletic and adventurous recreationalists would attempt the Icefields Trail. Thus, the project is suited for an elite minority of park users, which is in marked contrast to the Legacy Trail.

d) The Detailed Impact Analysis is insufficient to allow a true understanding of the impacts of this Project and is influenced by Parks Canada acting as the proponent

The scope of the DIA poses problems for the Icefields Trail immediately – the DIA only examines the first 109km of the Icefields Trail rather than the entire 230km proposed, does not address the cumulative impacts of anticipated induced development along the Trail, and does not assess the impacts of ongoing maintenance of the Trail.

In addition, at in-person consultation sessions, it was made clear by the consultant that the purpose of the DIA was to mitigate the impacts of the Trail rather than to assess whether the Trail is appropriate in the first place. This is not a true environmental assessment.

CPAWS also has concerns that the consultant undertaking the DIA would be the same organization then used to build and engineer the project. This means that the business undertaking the DIA has a vested interest in seeing the project go forward and is not providing independent advice on the environmental impacts of the project.



9. There is no demonstrated demand for the Icefields Trail and the Rocky Mountain Parks system is already overcrowded

There is no demonstrated need for the Project. The shoulder on the Icefields Parkway is fairly wide, and the ride from Jasper to Lake Louise is already viewed as one of the great cycling trips in Canada. As stated above, it is anticipated that only an elite minority would be able to access the Icefields Trail, as this is not a setting for “casual” outings – it is a challenging mountainous wilderness environment. Serious cyclists go well above 30 km/hr, which is the speed limit planned for the Trail, and the target audience of new Canadians, young families with strollers, and roller bladers makes no sense in this context. At many of the in-person consultations on this Project (for example in Calgary and Banff), even cyclists and cycling groups expressed their concern about the inappropriateness of the Project.

In addition, Banff and Jasper National Parks are the two most visited parks in Canada and, even without the Icefields Trail, are already at capacity during the high season. The parks are already facing visitation problems, including increased human-wildlife conflict leading to wildlife deaths, an inability to keep up maintenance on existing infrastructure, lack of accommodations for the number of visitors, and traffic jams. The Icefields Trail would further add to the burden of having to manage an overcrowded Rocky Mountain Parks system.

10. The cost of the Icefields Trail is unsupportable

The cost of the entire Icefields Trail project is estimated at \$160 million dollars. This estimate does not include the cost of ongoing operation and maintenance costs associated with the Trail. Nor does it include the cost of the induced development anticipated as a result of building the trail, or the cost of emergency services associated with the Trail. These other costs are likely in the hundreds of millions of dollars.

This amount is very high considering that Parks Canada’s conservation initiatives (such as captive breeding of caribou at the Calgary Zoo for reintroduction into Banff National Park) have been stopped due to high cost (and despite being the stated number one management priority), the conservation budget has been cut by one-third since 2012, and education programs have been completely cut.

In addition, Parks Canada is already struggling to maintain backcountry infrastructure already in place. For example, many complaints were lodged against Parks Canada in 2016 for its failure to maintain the Tonquin Valley, one of Jasper's most famous backcountry circuits, which is now a muddy mess from trail braiding and increased erosion and destruction of nearby vegetation.

The money allocated to the Icefields Trail project would be better spent for upkeep on the current trail system that is severely lacking in maintenance. There has been very little effort on Parks to keep up this scenic trail system. Money and effort should be put into maintaining current infrastructure instead of investing in new projects.



Summary

For all the reasons outlined above, CPAWS believes **the Icefields Trail project is wholly incompatible with the Rocky Mountain Parks and would be extremely detrimental to the ecological integrity of the parks' fragile ecosystems**. CPAWS asks the Minister of Environment and Climate Change to reject the proposed Icefields Trail project immediately and to reinvest the allocated monies into Parks Canada's conservation, species at risk, and nature stewardship education programs.

Thank you for your consideration of our submission.

Sincerely,

Alison Ronson
Executive Director
CPAWS Northern Alberta

Anne-Marie Syslak
Executive Director
CPAWS Southern Alberta

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