

## Construction of Access Roads within Undeveloped Road Allowances

### Policy EN-017

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# Sustainable Infrastructure Services Division

## Brief Council on the following topics:

- Policy EN-017
- Process Engineering is currently following
- County's obligation under the Public Highway Act
- County's obligation under the Municipal Government Act
- Engineering Standards versus Safety
- Engineering Standards versus Liabilities
- Expropriation under the MGA and process
- Wetland Compensation and the Water Act
- Access to the South ½ of 21-50-05-W5M
  - History since first request
  - Status Quo Option
  - Options along Range Road 53
  - Options along Range Road 54
- Recommendations and discussions

# Sustainable Infrastructure Services Division

## Policy EN-017

- Council may authorize the construction of an access road in an undeveloped road allowance when requested by a property owner.
- The property owner requesting the access shall contribute 50% of the project cost.
- There are approximately 680 kilometers of undeveloped road allowance in Parkland County.
- The County's share of funding is allocated from the Capital Road Program budget.
- The Capital Road Program finances the rehabilitation and upgrade of 2068 kilometers of developed roads. (Maintaining the same level of service leads to no new construction)



# Sustainable Infrastructure Services Division

## Equivalent Policy from our neighbors:

**Lac Ste Anne County:** Must meet standards. Fully paid by who is requesting. County may pay for culverts.

**Sturgeon County:** Currently presenting a policy that is similar to ours. Currently have 3 requests. Estimated cost = \$800,000 per km.

**Leduc County:** May allow a party requesting an access road to construct the road themselves at their own expense. 2 year warranty prior to take over. Cost share if beneficial to community.

**Strathcona County:** Do not have a policy in place as the great majority of their roadways are developed.



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## Process Engineering is currently following under the Policy EN-017

- **Acknowledge receipt by:**
  - Providing a copy of the policy to who requested the construction
  - Discuss the cost share
  - Discuss the initiation fee
  - Cost Estimate
- **Perform a desk review**
- **Perform a site inspection**
- **Conduct a feasibility review**
- **Prepare a construction cost estimate**
- **Present the results in a formal manner to the requester**
- **Await response from the requester accepting the cost share in principle**
- **Project is presented to Council for consideration**
- **Project included to the program**
- **Agreement is being prepared with funds paid to Parkland County**



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## County's obligation under the Public Highways Development Act - AR326/2009

### Definitions

1 In this Act,

- (j) “highway authority” means
  - (i) the Minister, as to highways subject to the Minister’s direction, control and management,
  - (ii) an urban municipality, as to highways subject to its direction, control and management, or
  - (iii) a rural municipality, as to highways subject to its direction, control and management;
- (s) **“rural road” means a road subject to the direction, control and management of a rural municipality** or a road, other than a primary highway, in an improvement district and subject to the direction, control and management of the Minister;



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## County's obligation under the Municipal Government Act (RSA 2000, Chap M-26, Div 2 Roads)

### Control of Roads

**18 (1) Subject to this or any other Act, a municipality has the direction, control and management of all roads within the municipality.**

### Road Closure

**22 (1) No road in a municipality that is subject to the direction, control and management of the municipality may be closed except by bylaw.**

**(2) A bylaw closing a road must be advertised.**

**(3) A bylaw closing a road made by the council of a municipality** that is not a city has no effect unless it is approved by the Minister of Infrastructure and Transportation before the bylaw receives second reading.

### Compensation

**23 (1) Any person who occupies, owns or has an interest in land** that sustains damages through the closing of a road by bylaw must be compensated for the damages.



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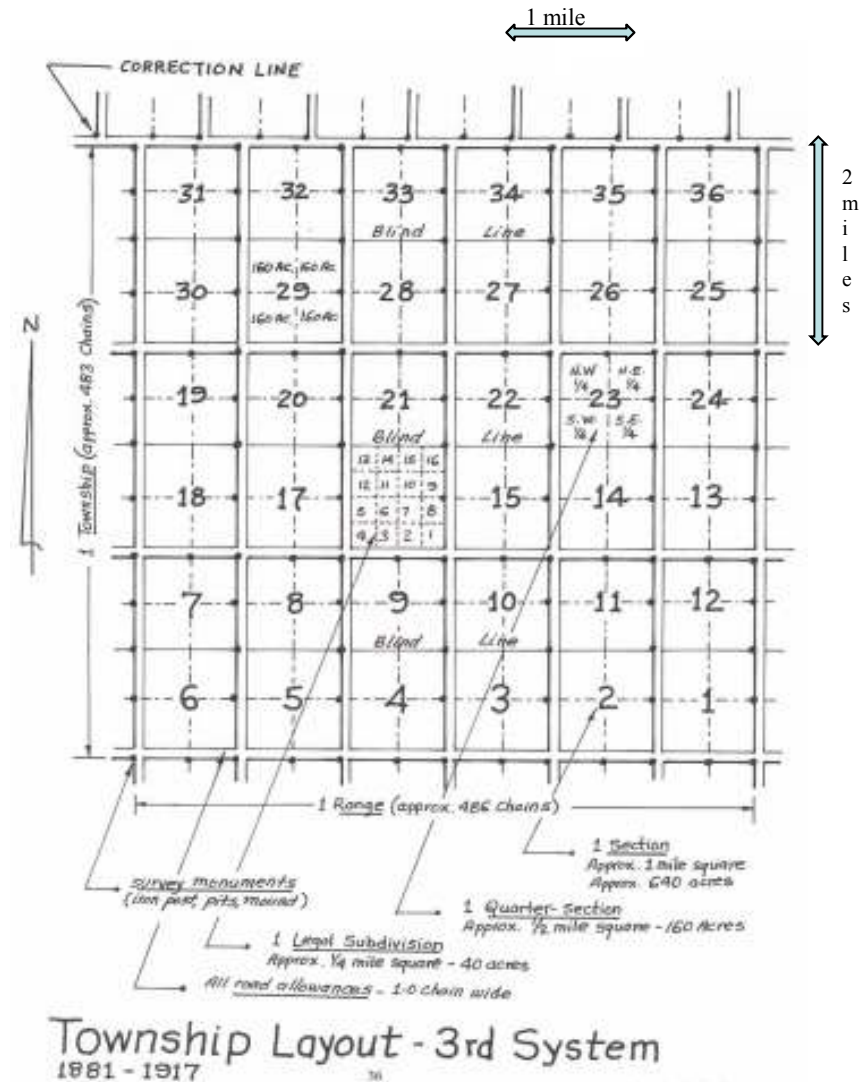
## Torrens System of Survey

(Effective January 1, 1887)

Land between the Initial Meridians was subdivided into townships. Township surveys subdivided this Crown land into parcels which could be sold for settlement, development and other purposes. North-south road allowances run every mile apart; east-west road allowances are spaced at two mile intervals. These road allowances provide public access to each quarter-section.

## Land use bylaw

640 (1) A land use bylaw may regulate the location and amount of access to lots from roads and ensuring that there is at least one means of access from each lot to a road.





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## Engineering Standards and Guidelines

A standard describes mandatory procedures that must be followed, results that must be produced, and technologies and technical specifications that must be used or adhered to during the development, enhancement, and maintenance of a product.

A guideline describes procedures, results, technical specifications and/or technologies that are considered good practices to follow, produce, or use. A proposed standard may be initially implemented as a guideline with future plans to implement it as a requirement.



# Sustainable Infrastructure Services Division

## Development of Standards and Guidelines

Alberta Transportation and the Transportation Association of Canada are centers of transportation expertise with the goal to provide a neutral forum to gather and exchange relevant ideas and information on technical guidelines and best practices. With the other provinces they actively promote the safe, secure, efficient and environmentally and financially sustainable transportation services.

**Parkland County Engineering Services constantly refers to the TAC manuals and the AT Geometric Design Guides in the design and upgrade of our roadways as these guidelines and best practices are recognized by the engineering community.**



# Sustainable Infrastructure Services Division

## Engineering Standards and Liability

The advice of our legal counsel in relation to liability within the road allowance (May 13, 2008):  
“... if the County were to construct the road knowing that the road could be a danger in adverse conditions, the County could be held liable if an accident were to occur. The County has knowledge of the risk and it is unlikely that there is anything which the County could do with signage or warning devices which could remove the risk.”

## Engineering Practice in Parkland County

Parkland County is authorized to engage in the practice of engineering in the Province of Alberta under permit #04662.

This permit to practice authorizes Parkland County to practice civil engineering as part of its business. Under the care of the Manager of Engineering Services, maintains an organization in which the practice of the profession can be conducted in accordance with the requirements described in the Engineering, Geological and Geophysical Profession Act.

Except as otherwise provided in this Act, no individual, corporation, partnership or other entity, except a professional engineer, a licensee so authorized in the licensee's license, a permit holder so authorized in its permit or a certificate holder so authorized in the certificate holder's certificate, shall engage in the practice of engineering.



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## Expropriation under the MGA

**If a council wants to acquire an estate or interest in land, inside or outside the municipality**

- (a) for a purpose authorized by an enactment,
- (b) to carry out an area redevelopment plan under Part 17, whether undertaken by the municipality alone or in conjunction with another person,
- (c) to improve land owned by the municipality,
- (d) for the purpose of selling the land as building sites,
- (e) to enable an organization to carry out a development as defined in Part 17 or a redevelopment, or
- (f) for any other municipal purpose,

**it may acquire the estate or interest in the land by expropriation under the *Expropriation Act*.**

(RSA 2000 Section 15 Chapter M-26)



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## Expropriation Act

The **Expropriation Act** provides for the absolute taking of privately owned land without the consent of the owner and provides for the determining of compensation payable to the affected landowner. Generally, governments and municipalities expropriate land deemed to be in the interest of the public good for purposes such as roads, highways, easements, parks, utility right of ways and other uses.

The Expropriation Act sets out the rules and procedures for expropriation, constitutes the Land Compensation Board, and outlines the principles of compensation.

The Expropriation Act allows landowners to question whether the taking of land is **fair, sound and reasonably necessary** in the achievement of the objectives of the expropriating authority. It does not allow them to dispute the expropriating authority's right to expropriate.



# Sustainable Infrastructure Services Division

## PROCEDURE FOR FULL EXPROPRIATION (SECTION 8)

### NOTICE OF INTENTION TO EXPROPRIATE:

Expropriating authority must notify all landowners of intention to expropriate.  
Authority must advertise first and second notices of expropriation.  
Authority must file Notice of Intention in Land Titles Office.

### OBJECTION BY LANDOWNER:

Landowner may object to the expropriation and request an inquiry.

### INQUIRY:

Inquiry Officer is appointed by the Deputy Minister.  
Inquiry Officer must hold a hearing.  
Inquiry Officer issues a report and the parties are given a chance to comment on it.

### APPROVAL:

Approving Authority considers inquiry report and responses and decides whether to proceed with expropriation.  
If approved, a “certificate of approval” is issued to be registered at a Land Titles Office.



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## PROCEDURE FOR FULL EXPROPRIATION (SECTION 8)

Authority serves Notice of Expropriation

### HEARING PROCESS

Introduction

Opening statements

Claimant's presentation

Cross examination follows each witness testimony by Respondent

Questions for the Board

Respondent's presentation

Cross examination of the Respondent by the Claimant

Questions from the Board

Summation and final agreements by the Respondent

Application for costs

Close of hearing



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## PROCEDURE FOR FULL EXPROPRIATION (SECTION 8)

### **The Land Compensation Board Jurisdiction**

Appointed by the Lieutenant Governor in Council

Has jurisdiction over all expropriations under the Expropriation Act

Will determine the compensation payable

### **Principles of Compensation**

Based on the market value of the land taken

The damages attributable to disturbance

The value of any element of special economic advantage

Damages for injurious affection

In cases or principle residences

### **Representation**

Authority serving notice will require representation

Authority serving notice usually pays for landowner's representation

Suggested time to complete following commencement of expropriation is 180 days.





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## Wetland Compensation and the Water Act

Alberta's wetland areas provide clean water, wildlife viewing opportunities and other outdoor recreation activities. They can also help to reduce soil erosion, retain sediments, absorb nutrients, degrade pesticides, store water to moderate impacts of floods and droughts, and help to moderate climate change.

Alberta has lost approximately 64% of its slough/marsh wetlands in the settled area of Alberta. **The Alberta's Water Act** requires that an approval be obtained before undertaking a construction activity in a wetland.

**Alberta's priority is to reduce loss of wetlands by:**

- **Avoiding** impacts to the wetland;
- **Minimizing** impacts and requiring applicable compensation; and
- **Compensating** for impacts that cannot be avoided or minimized.

**Wetland compensation** through restoration of a drained wetland should take place within the same watershed as the impacted wetland. Ducks Unlimited Canada is currently the only recognized agency in Alberta for wetland restoration. Existing wetlands must be identified and classified by a qualified aquatic biologist.

(Class III Seasonal pond and lakes of 1.5 ha. with a 3:1 replacement ratio @ \$16,000/ha. which = **\$24,000** to pay.)



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## Approval process and the use of wetland compensation

- Approval applicants should discuss their proposal, including options to avoid or minimize the impact on the wetland, with a wetlands specialist or restoration agency and the local municipality before applying for a *Water Act* approval.
- Approval applicants should also consult with Alberta Sustainable Resource Development's Public Lands and Forest Division.
- An assessment and classification of the affected wetland must be completed if the wetland is to be destroyed or altered.
- It is almost impossible to fully replicate a wetland ecosystem. To compensate, an approval applicant must restore a larger area of wetland (hectares) when a smaller area of natural wetland is destroyed.

The services of a Qualified Aquatic Environment Specialist should be retained to undertake pre-development and post-development aquatic environment assessments when the department determines a need to develop mitigation options.



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**The following questions need to be addressed in each situation:**

- Is the bed and shore of the water body owned by the province?
- Does the water body support a rare and unique ecosystem?
- Is the water body home to any endangered species as defined by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC)?
- Does the water body provide a range of wildlife habitat in terms of quality, quantity and/or diversity?
- If the water body is destroyed or altered, what impact will it have on downstream water users, neighbouring lands or the aquatic environment?
- If the water body is destroyed or altered, will there be potential for flooding or erosion of lands in the future?
- Will the loss of the water body impact on ground water wells or the local aquifer?
- If the water body is destroyed, what impact will the loss of this water body have on operations of the farm or business with regard to possible drought situations in the future?



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

### History since first request

- March 8, 2005 - Letter from K. Ewanchuk requesting construction of RR54 through Letour Lake.
- March 31, 2005 – Engineering Services had discussions with Sustainable Resources and Development (SRD) regarding construction through Letour Lake.
- April 19, 2005 - Application sent to Fisheries and Oceans Canada.
- May 11, 2005 - Estimate cost per mile of various road standards under normal conditions.
- January 13, 2006 to January 31, 2006 - Continued correspondence with the Alberta Government for Wetland Mitigation and Land Acquisition.
- Feb 15, 2006 – K. Ewanchuk requested construction on RR53 and also requested a meeting with Council asking for a review of policy EN 017.
- Feb 28, 2006 – K. Ewanchuk met with Council in regards to reviewing policy EN 017.
- March 15, 2006 - K. Ewanchuk was informed that Policy EN 017 will not change and was advised by the General Manager to contact the Manager of Engineering Services for more information regarding access construction and for cost estimates.



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

### History since first request (continued)

- 21 Months Pass
- Jan 16, 2008 - First contact since March 15, 2006. K. Ewanchuk requesting construction of RR53.
- Feb 20, 2008 – K. Ewanchuk provided two quotes from private contractors to do the work.
- March to July 2008 - Discussions with our legal counsel regarding liability and the expropriation process. Design and estimates in progress. Exploring possible alternative routes.
- April 13, 2008 - Meeting with K. Ewanchuk and Engineering Services staff to discuss limitations regarding the construction.
- Oct 13, 2008 – K. Ewanchuk requesting the clearing of RR53.
- Oct 17, 2008 - An agreement was written to proceed with the clearing of the road allowance and was signed by K. Ewanchuk on October 24, 2008.
- November to December 2008 - Clearing work was completed. K. Ewanchuk verbally advised that adjacent land owners would be providing access to his property. Further work to provide a design and cost estimate for construction of RR53 would not be required.



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

### History since first request (continued)

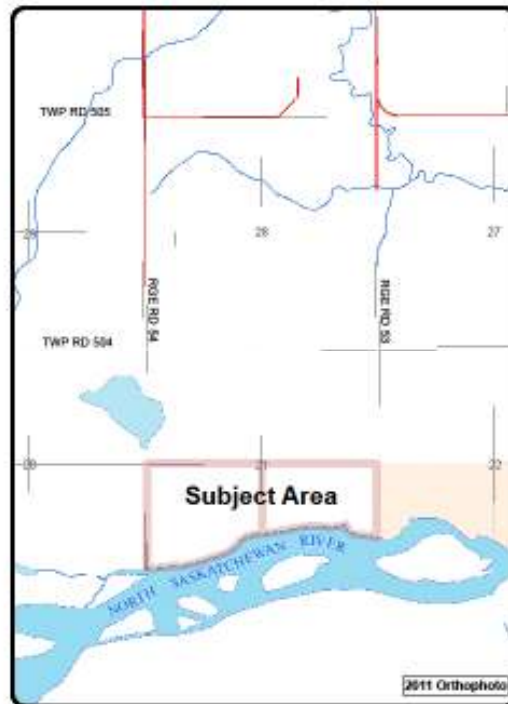
- 30 Months Pass
- July 8, 2011 – K. Ewanchuk send letter to the Manager of Engineering Services requesting the construction of RR 53.  

K. Ewanchuk was verbally informed that we would be conducting preliminary design, following minimum acceptable standards, establishing a cost estimate and meeting with him following completion of the above.
- Sept 7, 2011 - K. Ewanchuk dropped by our Project Supervisor's office and verbally received the approximate estimate to complete the construction. K. Ewanchuk sent a letter to the Manager of Engineering Services asking for the status of his access request.
- Jan 2012 – K. Ewanchuk discussed the cost estimate with our Project Supervisor. K. Ewanchuk escalated directly to the Mayor's Office.

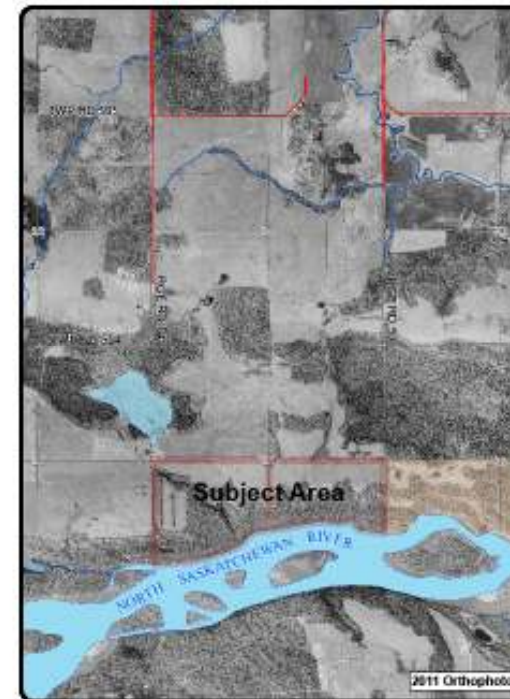


# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M



South Sec 21 Twp 50 Rge 6 W5M

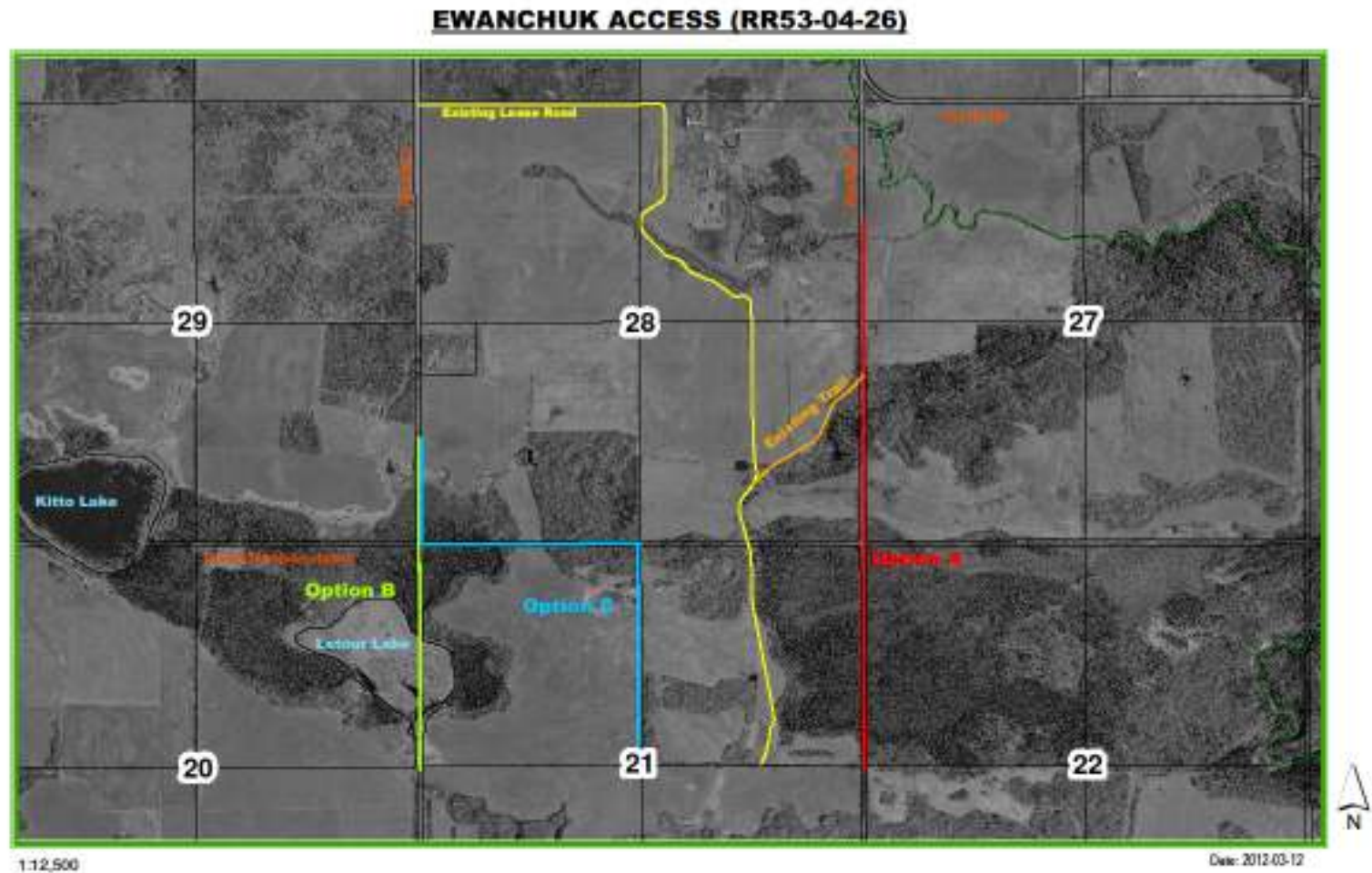


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# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M - Options



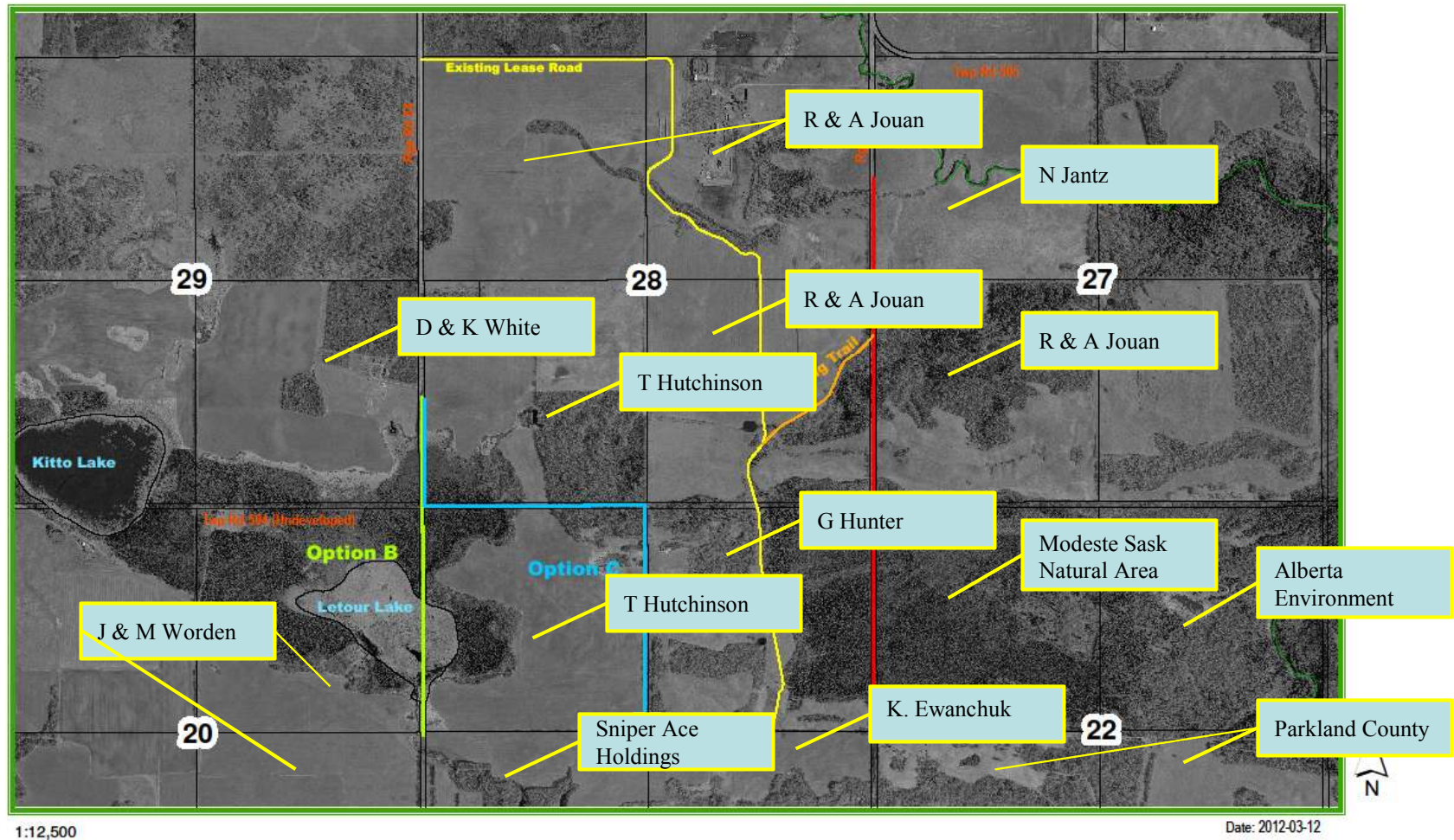
Construction of Access Roads within Undeveloped Road Allowances, Policy EN-017



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M - Owners

### EWANCHUK ACCESS (RR53-04-26)



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

- Options along Range Road 53



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# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

- **Option A - along Range Road 53**
  - **Provide access to the South ½ of 20**
  - **Provide access to crown land (hunting ground)**
  - **All weather access**

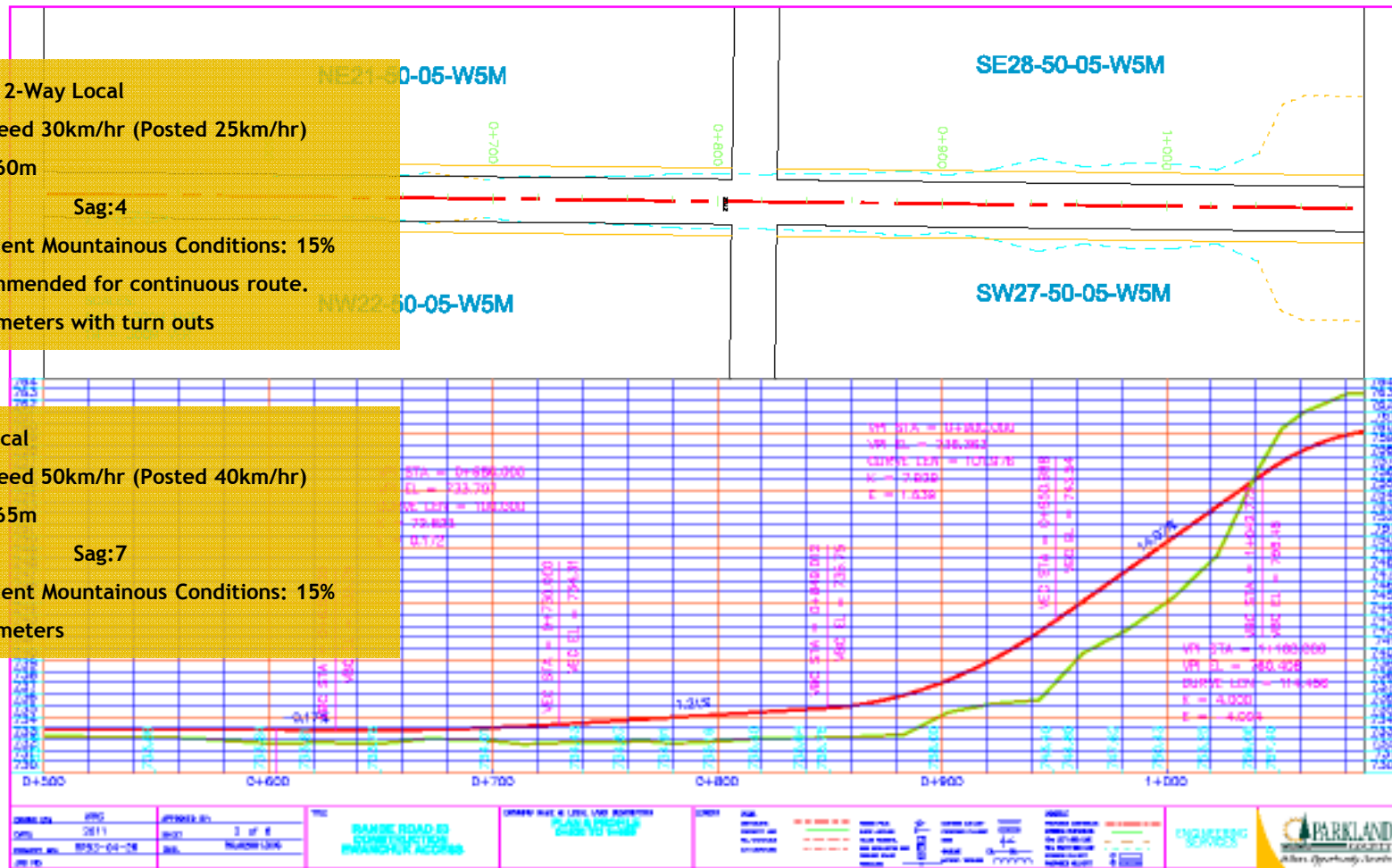


# Sustainable Infrastructure Services Division

## Option A to Access South ½ of 21-50-05-W5M

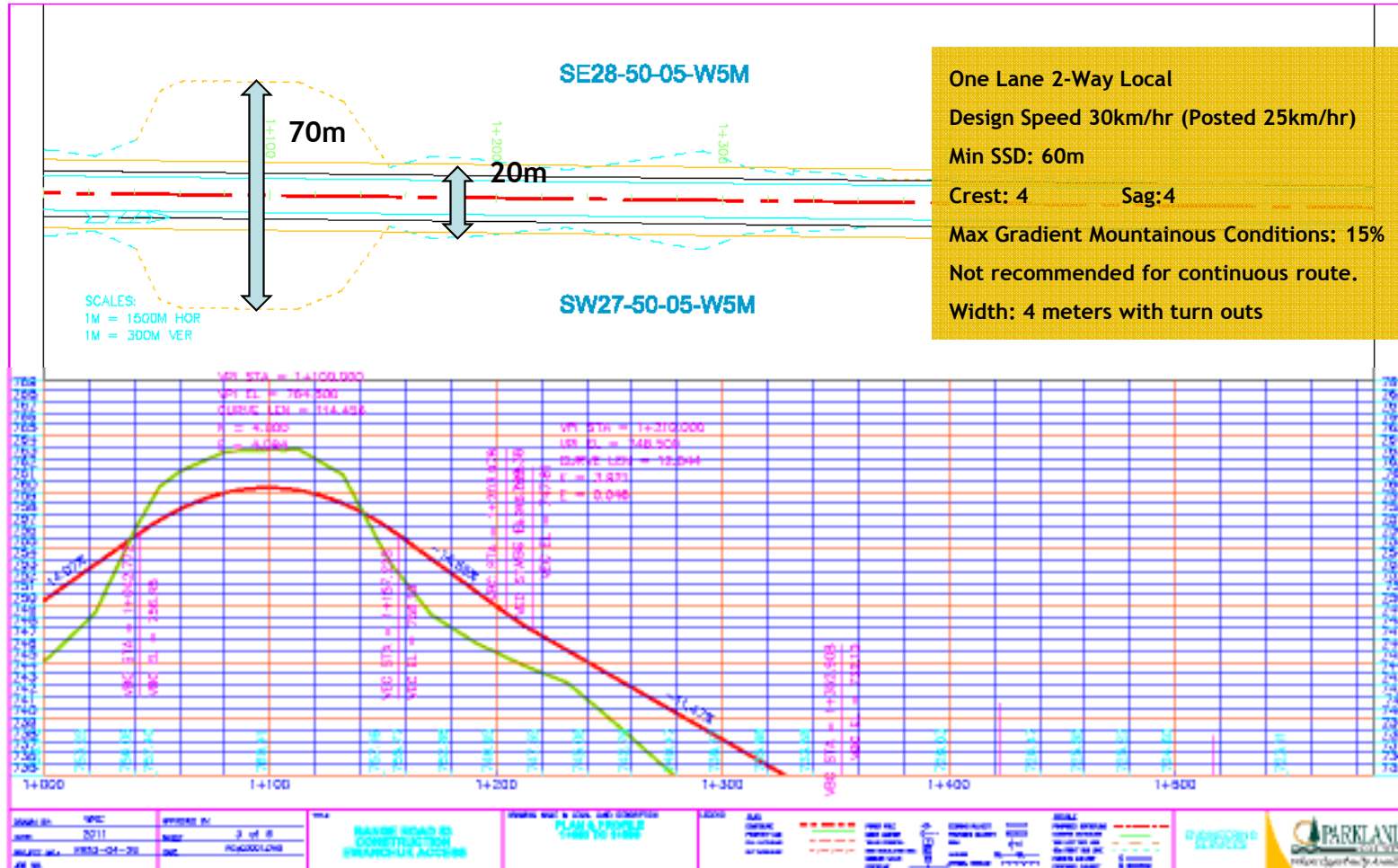
One Lane 2-Way Local  
 Design Speed 30km/hr (Posted 25km/hr)  
 Min SSD: 60m  
 Crest: 4      Sag: 4  
 Max Gradient Mountainous Conditions: 15%  
 Not recommended for continuous route.  
 Width: 4 meters with turn outs

2 -Way Local  
 Design Speed 50km/hr (Posted 40km/hr)  
 Min SSD: 65m  
 Crest: 10      Sag: 7  
 Max Gradient Mountainous Conditions: 15%  
 Width: 7 meters



# Sustainable Infrastructure Services Division

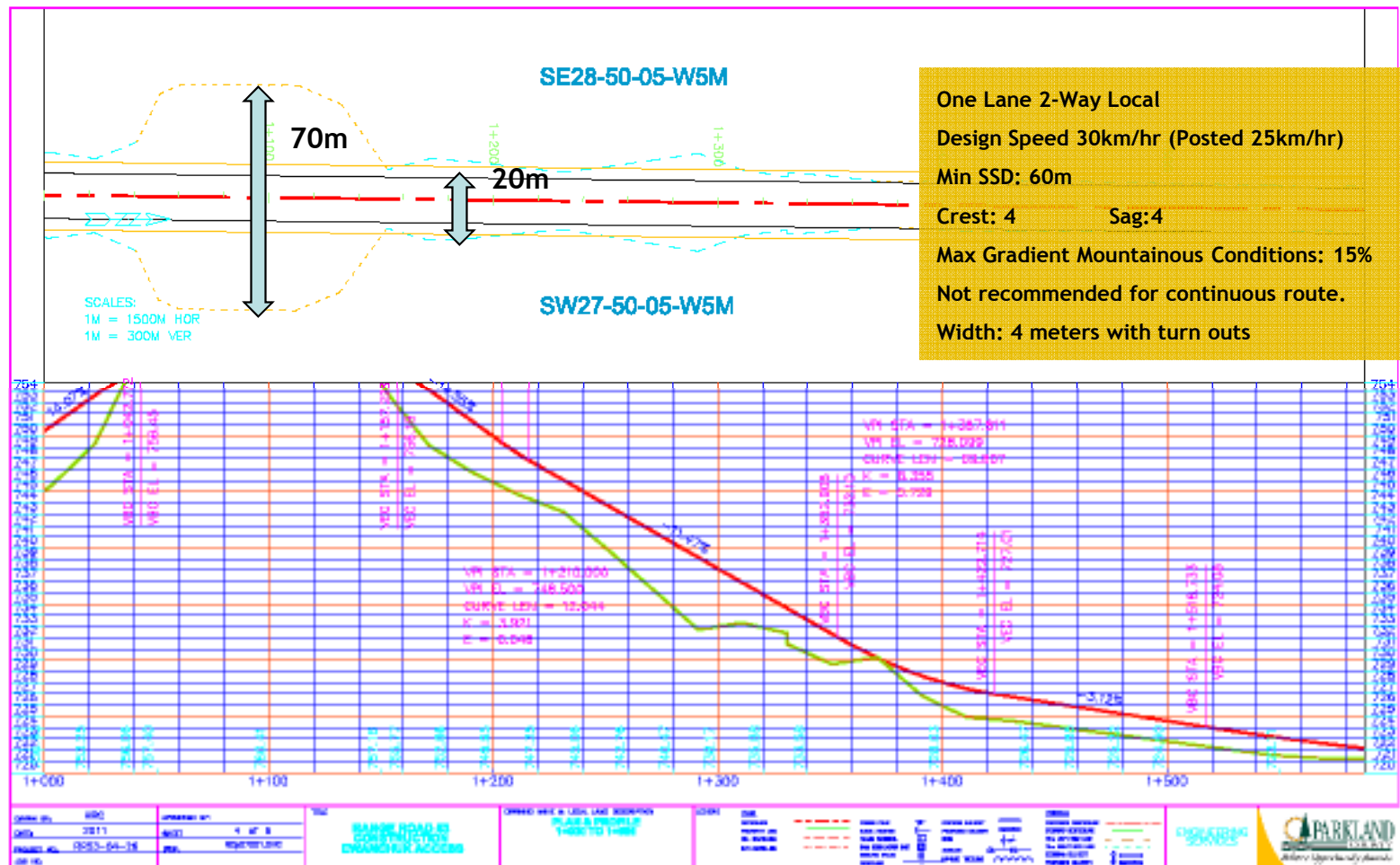
## Option A to Access South ½ of 21-50-05-W5M





# Sustainable Infrastructure Services Division

## Option A to Access South ½ of 21-50-05-W5M



# Sustainable Infrastructure Services Division

## Option A to Access the South ½ of 21-50-05-W5M

### ➤ Cost Estimate:

- \$692,000 two lanes (7m)
- \$494,200 one lane (4m)

### ➤ Main Issue:

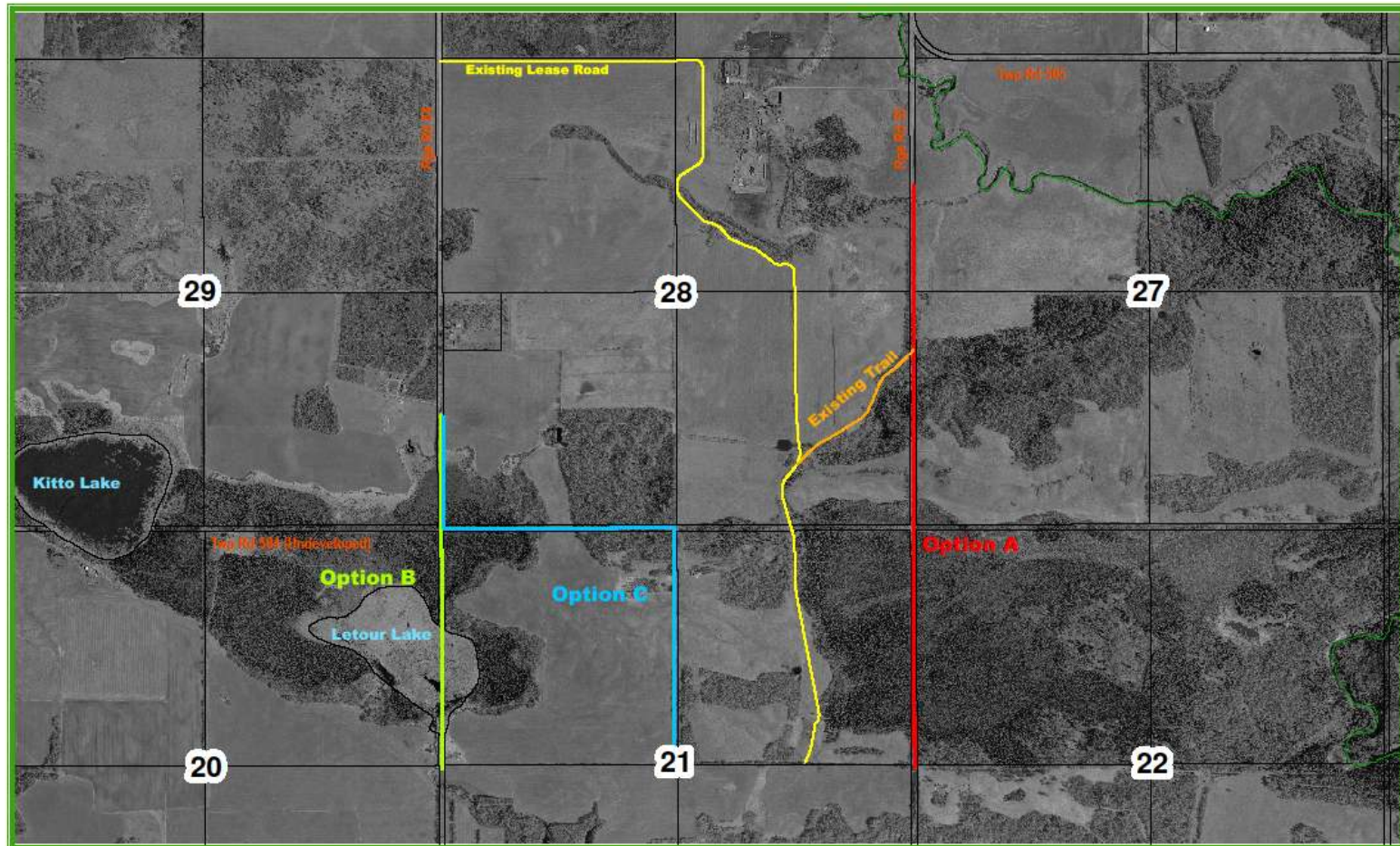
- Adjacent landowners not interested in selling their land
- Require turn outs for a 4m roadway
- Grade line of 15% with 4m road width is detrimental:
  - To winter maintenance
  - High Embankments
  - Difficult recovery



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M – Option B

### EWANCHUK ACCESS (RR53-04-26)



1:12,500

Date: 2012-03-12

Construction of Access Roads within Undeveloped Road Allowances, Policy EN-017



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

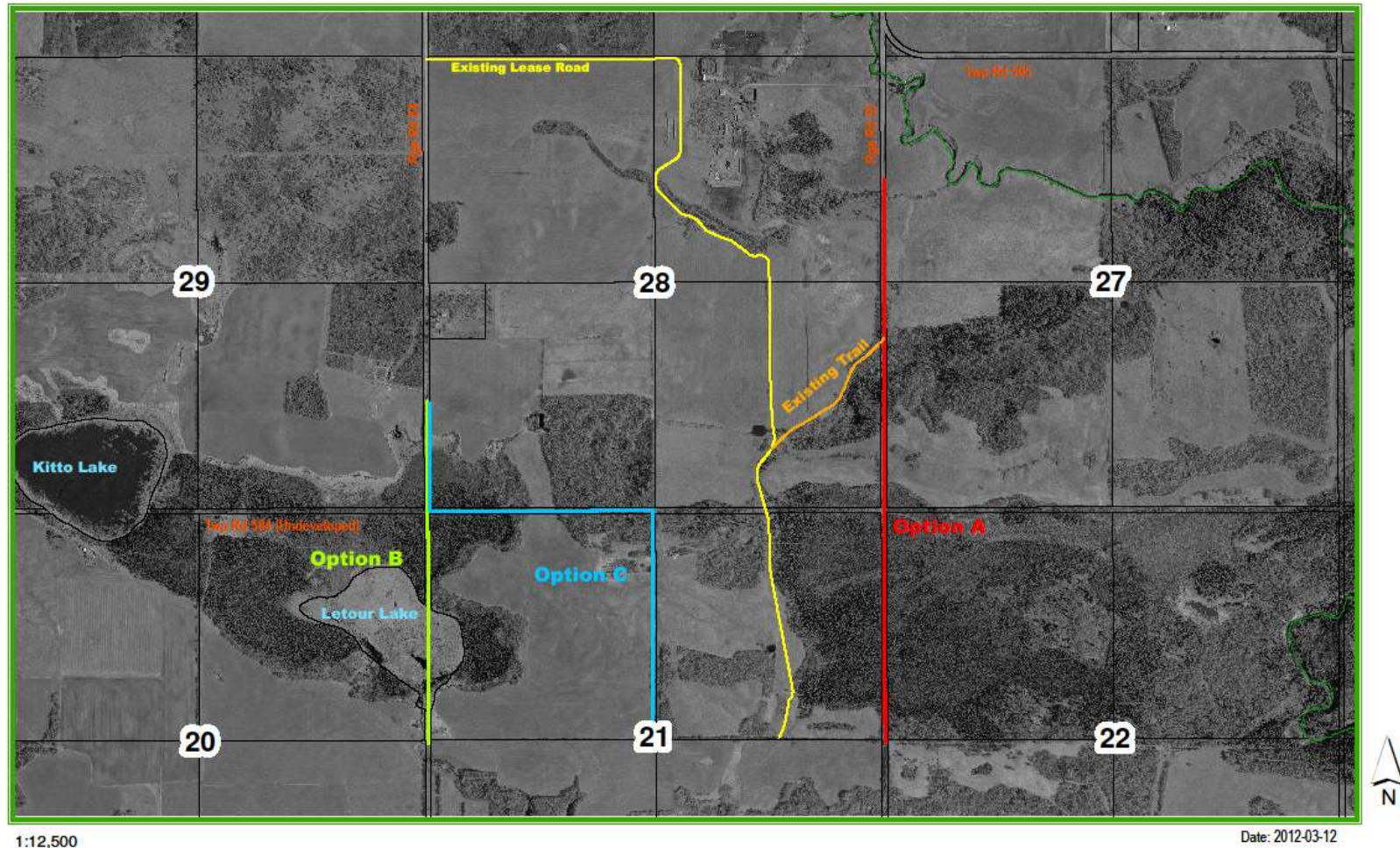
- **Option B along Range Road 54 requires:**
  - **Discussions with Alberta Environment (Wetland Compensation)**
  - **Discussions with Alberta Sustainable Resources and Development**
  - **Discussion with adjacent landowners**
  - **Preliminary Design**
  - **Cost Estimate: \$470,000 plus land and compensation**
  - **Exclude culvert south of Letour Lake**



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M – Option C

### EWANCHUK ACCESS (RR53-04-26)



# Sustainable Infrastructure Services Division

## Access to the South ½ of 21-50-05-W5M

- **Option C along Range Road 54 requires:**
  - **Discussions with Alberta Environment (Wetland Compensation)**
  - **Discussions with Alberta Sustainable Resources and Development**
  - **Discussion with adjacent landowners**
  - **Preliminary Design**
  - **Cost Estimate: \$846,000**



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## In Review

- Policy EN-017 considers 50/50 cost share. Must be agreed by requester before going to Council.
- Other Counties manage similar policies based on full cost to requester, 50/50 share or share based on community benefits.
- Crown has protected quarter section for legal access. No obligations for physical access.
- Guidelines and standards are recognized to be promoting safe, secure and efficient transportation services.
- Parkland County has a license to practice civil engineering in accordance with the Engineering, Geological and Geophysical Act.
- County is exposed to great liability if road is not build to recognized standards.
- Expropriation is an ultimate measure that is costly and only successful if taking of the land is fair, sound and reasonably necessary.
- All wetland falls under the Water Act and Regulations.
- Lakes are wetlands owned by the Crown and managed by Sustainable Resources and Development



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## In Review

- Construction of new roads lead to an increase in services plus an increase in financial contribution.
- Option A will provide access to Crown and County land for hunting. Must be build to a standardized 2-lane 7m cross section.
- Option B and C should be explored further if requester agrees to the cost share.



# Sustainable Infrastructure Services Division

## Recommended Motion



Construction of Access Roads within Undeveloped Road Allowances, Policy EN-017