POLICY BRIEF -
CROWN LAND GRAZING DISPOSITIONS

SPRING 2019

Alberta's grazing lease system has been in place since 1881. A rangeland stewardship program solely led by government would be challenging to implement. Over the years, a partnership has been created between the department and disposition holders, who manage the land using stewardship principles to sustain and increase the function and productivity of rangelands. Truly speaking, this relationship between government and disposition holders has resulted in a grazing lease system proven to work for conservation of grasslands and rangelands that exist in Alberta.

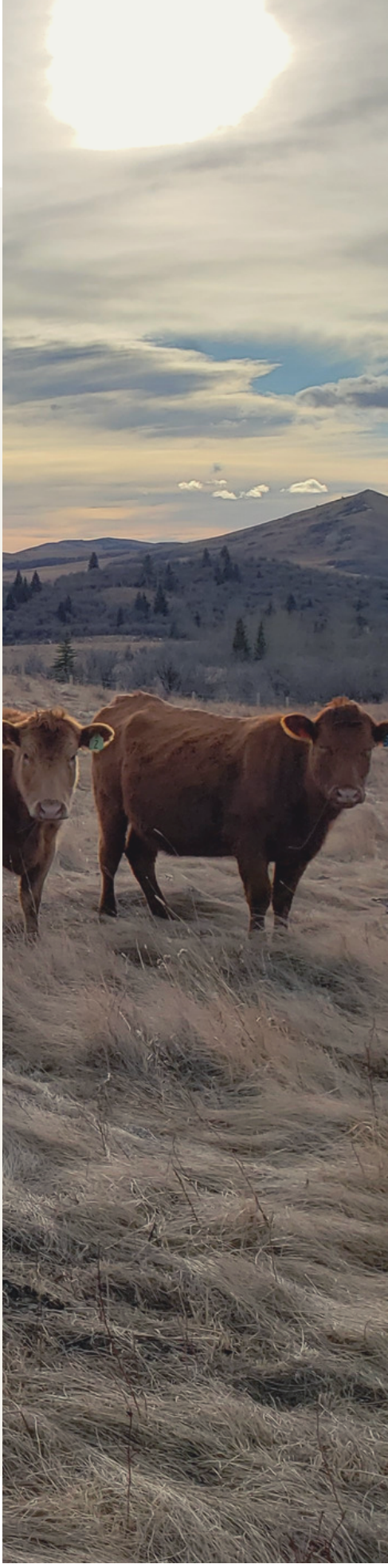
There are more than 5,700 grazing leases covering 5.2 million acres in Alberta. These leases form an important component of Alberta's modern cattle industry, supporting value-added processing, and contributing nearly $3 million in annual grazing fees to the Crown.

Alberta Grazing Leaseholders Association (AGLA) advocates for the rights of all Crown land grazing disposition holders in Alberta. Since the inception of AGLA in 1998, we have actively represented the interests of dispositions holders provincially, nationally and locally.

The recommendations below pertain to the continued management of grazing leases in Alberta. In the following pages you will find background information on the recommendations.

RECOMMENDATIONS

1. **Implement the Alberta Public Lands Grazing Framework**
2. **Move Rangelands Sections into the Department of Agriculture**
3. **Implement 20-year tenure and security of tenure for stewardship**
4. **Reduce the time to process transfers and renewals**
5. **Protect fair surface compensation under the *Surface Rights Act***
6. **Uphold and increase support of current Recreational Access Regulations**
7. **Retain the Grazing Disposition Holders Operational Committee.**
8. **Amend the definition of livestock in the *Public Lands Act* to include goats**



AGLA
Alberta Grazing Leaseholders Association

Submitted by the Alberta Grazing Leaseholders Association

BACKGROUND

1. Implement the Alberta Public Lands Grazing Framework

In fall of 2014, industry stakeholders, along with government started working on a framework to modernize the grazing disposition rental rates and assignment fees. The resulting framework proposal represents nearly unprecedented collaboration between all industry stakeholders and government.

The benefits of the Alberta Public Lands Grazing Framework Proposal recognized by all stakeholders include:

- The proposed framework is defensible under countervail arguments and aligns its methodologies with other resource sectors that work under Crown land dispositions.
- The rental rates are justifiable and based on profit and producer inputs. The rates are fair to producers while allowing government to receive a fair return for the use of public forage resources.
- The framework is justifiable to the Alberta public, other provinces and other resource sectors. It maintains market access and increases social license.
- The proposed administrative fee for grazing disposition assignments is consistent with other Public Lands Act dispositions and helps remove barriers to succession.
- The new framework promotes and encourages good stewardship of the land. It supports the maintenance of native rangelands and recognizes the interconnections between public and private rangelands. The encouragement of good stewardship on Crown land by default also encourages the same good stewardship on freehold land as they are under the same management.
- The new formula schedule recognizes the contributions of good management and private capital to the system.

The Alberta Grazing Leaseholders Association has presented the proposal to leaseholders and non-leaseholders at several meetings and feedback has been encouraging. We have engaged Alberta leaseholders comprehensively throughout the province and addressed the concerns to the satisfaction of those concerned. We can say with confidence that leaseholders in Alberta are in favour of the Alberta Public Lands Grazing Framework Proposal. Therefore it is within the best interest of the province and cattle industry to implement this proposal.

2. Move Rangelands Sections to the Department of Agriculture

The Rangelands Division has previously been housed in the Department of Agriculture, the Department of Energy, the Department of Sustainable Resource Development and the Department of Parks. Given that grazing leases, grazing permits, grazing licences and grazing reserves (including those in forestry) are an agricultural disposition, it makes the most logical sense to move the division into the Department of Agriculture.

The role of the agriculture industry in managing for healthy Crown land under grazing dispositions is best understood by the Department of Agriculture. Having a better relationship with the department will definitely result in better management and stewardship of the province’s rangeland resource.

3. Implement 20-year tenure and security of tenure for stewardship on eligible grazing leases

Ranching is essentially an intergenerational industry with tenure measured in decades or generations or centuries – not individual years. Grazing lease lands have benefitted from the intergenerational knowledge of its stewards, and the succession of those stewards depends on security of tenure. The production of many ecosystem goods and services by default also depends on security of tenure, biodiversity is one example. Longer tenure and security of tenure awarded for stewardship builds a level of confidence for the leaseholder whereby a return of investment into the land will be realized. This builds true incentive for good stewardship into the system with very little capital investment on the part of government.

20-year tenure is itemized in the South Saskatchewan Regional Plan but has not been implemented yet. With BC recently moving to 25-year tenure on grazing leases, Alberta remains the last province to have tenure for grazing leases under 20 years.

4. Reduce the time it takes to process transfers and renewals

Transfers of grazing leases can take up to two years to process through the department. While buyers and sellers are waiting for the transfer to go through, the money involved in the transaction is often held in trust. This results in the seller being unable to access the money for reinvestment in his operation and the buyer being unable to confidently apply his stewardship management and invest in improvements. This can subsequently result in a detriment to rangeland health.

Renewals have taken upwards of two to three years to go through the department. That time incurs unreasonable uncertainty with the leaseholder, affects the application of proper management and restricts the investment in improvements on the land. The renewable resource we know as rangelands are much slower to respond to management (good or bad) than, for example non-renewable hydrocarbon reserves; yet we grant mineral leaseholders assurance of renewal as long as the resource is producing and being harvested. Thankfully in practice and for the most part, grazing leases have been renewed as long as they were utilized and deemed healthy – but there is no legislative requirement for renewal and there are legislative accommodations in both the *Public Lands Act* and the *Alberta Land Stewardship Act* for cancellation or non-renewal.

The unreasonable amount of time taken to process both transfers and renewals is a barrier to commerce and proper stewardship at the fault of the government. This needs to be corrected.

5. Protect fair surface compensation under the *Surface Rights Act* and address companies that are refusing to pay compensation.

In terms of surface access for minerals extraction (mineral surface leases), leaseholders have played a key role in minimizing impacts of surface industrial activity on the grassland ecosystem. They do this by influencing timing, practices, and surface location of disturbances and infrastructure required to extract the resources. The leaseholder also acts as site manager for the Crown by way of ongoing supervision of the industrial installations and their operation. This influence results from the requirement under the *Surface Rights Act* for industrial operators to provide annual compensation to occupants (leaseholders) for loss of use, nuisance, inconvenience, and adverse effect.

The compensation payment leaseholders receive is mistakenly perceived by some as a surface access fee to the land that leaseholders are charging companies. This is not accurate, and therefore we feel is a point that requires clarification. Leaseholders are being compensated for the infringement on property rights and damages and impacts including loss of use, damages, inconvenience and adverse effect – all of which affect the leaseholder's management significantly. The leaseholder is being asked to bear the impacts of industrial installations for the greater good. The *Surface Rights Act* and numerous court rulings, requires compensation to be paid to the parties directly affected – the ones who will suffer the losses and impacts. This compensation helps defer costs of changing management and grazing actions, fixing damaged infrastructure, not being able to use the land etc.

With the current downturn in the oil and gas industry, many companies are now looking at decreasing compensation payments or refusing to pay compensation altogether. Companies cannot legally decrease compensation payments unilaterally and it is illegal to stop compensation payments. Accepting a lower compensation may negatively impact the local Pattern of Dealing and make it more difficult to obtain fair compensation if the operator ends up in bankruptcy.

If an oil and gas operator fails to pay the annual surface lease compensation, the landowner can apply under Section 36 of the *Surface Rights Act* to the Surface Rights Board (SRB) to require the provincial government to pay the annual compensation. The SRB has been using a previous court decision to use its discretion in reducing the annual compensation on abandoned/suspended wells. This has created a situation whereby the SRB has become less objective and more subjective – something that should not be allowed to happen. Furthermore, the SRB has a large backlog of around 3,500 Section 36 applications so the time for the leaseholder (or landowner) to get paid is unreasonably long. Leaseholders have to reapply for Section 36 every year which increases the costs to the leaseholder.

Financial pressure on the oil and gas companies is also leading them to be in contravention of Section 37 of the *Surface Rights Act* whereby they are required to review the compensation every five years. Fear of the compensation increasing due to changes in the value of the land for example deters companies from properly following legislation.

.

6. Uphold current Recreational Access Regulation and protect the rights and investment of the occupant

The challenge to the Recreational Access Regulations (RAR) is to grant enough public land access to keep the recreationalists satisfied but at the same time, regulate it enough so that the health of the landscape is not compromised. The leaseholder, through their relationship with the rangeland agrologist is the single best tool the government has for proper adaptive management of these Crown lands. This relationship represents a shared stewardship backed by extensive knowledge to manage the competing land uses in order to maintain a healthy, thriving landscape that maximizes ecosystem goods and services.

Over the past few years, budget cuts have reduced the number of Fish and Wildlife Officers which unfortunately has led to a situation whereby the ability to enforce the RAR is drastically diminished. This coupled with inaccurate and inflammatory messaging around the rights of both the leaseholder and the recreationalist is creating an environment of unnecessary friction between both groups. Without increased enforcement, this situation could escalate and result not only in compromised stewardship or damage to the landscape but also unsafe conditions to those who are using the land.

Increasing the number of Fish and Wildlife Officers could help with the current lack of enforcement, however this option is limited due to the financial cost to government. Reverting back to the regulations whereby the leaseholder has control over access to the lease could help alleviate this enforcement budget constraint. We suggest a solution that combines both of these; increasing the responsibilities of the leaseholder to alleviate some of the demands on the officers, and hire more Wildlife Officers for areas that are in dire need..

Currently the fines under RAR are considered of little consequence to those who contravene the regulations on a regular basis. For some, paying the fine is simply factored into the cost of business. Raising the fines to a level that it would be a deterrent may also help to reduce the number of infractions.

The Recreational Access Regulation created under the *Public Lands Act* after amendment by the *Agricultural Dispositions Statutes Amendment Act, 2004* (Bill 16) requires leaseholders to allow reasonable recreational access. The question remains though should directly impacted stakeholders have more say than the occasional recreational users on land use?

.

7. Retain the Grazing Disposition Holders Operational Committee

The Alberta government and grazing leaseholders have benefitted from a regular exchange of information and ideas between leaseholders and government officials to improve the operation of the grazing lease system in Alberta and to determine the contributions of that system to Alberta's economy and natural capital.

The committee provides a constructive and collaborative forum that allows stakeholders and government to exchange information and perspectives on key issues affecting Alberta's grazing lease system. This collaborative approach is beneficial for the development of policies and initiatives that are acceptable to both government and stakeholders, to ultimately enhance the management of Alberta's grazing leaselands.

This operational committee is the best forum through which to address specific management issues. Some issues we would like to continue to address through this committee in the immediate future include:

- Revert back to previous set back clearing distances for trees along perimeter and cross fencing. The change to reduce the distance by over half presents significant management hardships without any benefit to the proper maintenance of the working landscape. Unnecessary regulatory burden for fence clearing has been added recently which compounds the difficulty of a situation which should be a simple management decision.

- Parity for leaseholders and trappers in regards to use and placement of cabins and similar buildings to facilitate proper management and stewardship.

- Create a policy for subletting to support succession planning and intergenerational knowledge transfer but also prevent abuse of the intention of the policy.

.

8. Amend the definition of livestock in the *Public Lands Act* to include goats

To date, livestock permitted to graze on public land include horses, sheep, cattle and, by regulation, bison. In recent years, some livestock producers have diversified their operations to include goats. Goats are an effective tool for brush and weed control, and when combined with cattle (multi-species grazing) can increase forage utilization and stand health. In addition, Alberta's meat market has become more diverse, with an increasing demand for goat meat.