

**Environmental Law Centre's
COMMENTS ON INTERIM REPORT OF THE AGRICULTURAL LEASE
REVIEW COMMITTEE**

Note: comment numbers refer to questions in Comments insert form from the Agricultural Lease Review Committee's Report

1. Re: Philosophical Change

We are not sure what you encompass by the term "philosophical change" and therefore cannot answer this question with a "yes" or "no". However, we wish to stress the following regarding the nature of the relation between the Province, disposition holders and other users and beneficiaries of public land.

- The Province owns public land for the benefit of all Albertans, and not primarily for those who make personal profit from the lands.
- Although White Area public lands have demonstrated agricultural and economic value, the wildlife habitat, biodiversity and similar values of these lands must not be given second rating to agricultural and economic values. Accordingly, we object to any blanket policy that the primary use of these lands be agricultural. Government should consider this matter on a case by case basis. Perhaps some areas of White area public lands, even within a grazing lease area, should have a primary use designation of, for example, wildlife habitat lands, while the remainder be designated as primarily agricultural.

2. Re: Surface Compensation

We agree with the Committee's recommendations and commend the Committee for them.

3. Re: Access

We find the Committee's recommendations in this regard to be disappointing and we strongly disagree with them. Our views are:

- As argued in A. Kwasniak's *Alberta Public Rangeland Law and Policy* we believe that the public should have reasonable access to public land under grazing lease. "Reasonable" here means access that will not interfere with grazing operations. As pointed out by Arlene Kwasniak at her presentation before the Committee, the law as it presently stands provides only that a

leaseholder has a right to control access for non-native hunting, and potentially to other uses that would interfere with rights given by a grazing disposition. The law is not that a lessee has the right to control any access. Casual recreational foot access that does not interfere with rights given under a grazing disposition should not be subject to a requirement of lessee permission, as “gatekeeper” or otherwise.

In our view:

- If lessees’ concern in over occupier’s liability then the appropriate response is reform to occupier’s liability law and not to shut off public lands from the responsible public.
- If lessees’ concerns are the irresponsible public and potential vandalism and harm to grazing operations, then their concerns are no different from holders of other Crown dispositions as well as private landowners. Shutting down the public lands from the public will not end vandalism and harm. There are other ways of dealing with these societal problems. For example, vandalism and harm can be addressed through greater regulation, monitoring, control, enforcement and education. As well, vandalism and harm can be greatly curbed through regulated access through well-marked access points, defined trails, and clear, posted access rules that are consistently enforced.

4. Re: Other Public Land Management Issues

a) Re: Sale of Public Land

We support the Committee’s intention that White area public lands remain under Provincial Control.

b) Re: Liability

We advocate reform to Alberta’s *Occupier’s Liability Act* to relieve all Albertans of occupier’s liability relating to injuries to guests on natural or agricultural land, except where the occupier intentionally created a hazard.

c) Re: Industrial Access for Resource Exploration

We support the Committee’s recommendations.

d) Re: Environmental Protection

We support all of the Committee’s recommendations and commend the Committee for them.

e) Re: Rental Rates and Municipal Taxes

We support the Committee's recommendations.

f) Re: Grazing Disposition Assignments and Tenure

We support the Committee's recommendations.

g) Re: The Name "Public Land"

We do not support the Committee's recommendations. We do not agree with the Committee's statement that the term "public" gives an "... impression of ownership by all and an undeniable right to the public to use these lands, irrespective of prior rights being granted" [Report, p.15]. Indeed, we find this to be quite a startling statement and wonder why the Committee would make it. The public certainly is not so ignorant.

We note that the term "public lands" is used for government owned lands in the United States, Ontario and Quebec. We feel that changing the name of public lands back to "provincial lands" will give the impression that the Alberta government has shown marked preference to those who make a private profit off of Alberta's public lands over the public interest in these lands. It is even possible that the public would view such change as a slap in the face. The Province holds public lands for the benefit of all Albertans, present and future. This benefit covers not only economic values but also environmental and recreational values. This relationship is captured by the term "public lands".

[Query: Has the Committee determined why Legislature changed the name of the relevant Act from the "Provincial Lands Act" to the "Public Lands Act" in 1949?]

h) Re: Public Involvement

We support public involvement in decisions relevant to public land management.

i) Re: Fragmentation and Conservation Easements

We strongly agree that provincial policies should not create pressure leading to the fragmentation of public lands. **We encourage the use of conservation easements on both public and private land to stave off fragmentation.** We particularly encourage the use of conservation easements within grazing lease areas to protect important environmental values. We note that using conservation easements could take some pressure off of both government and the disposition holder in monitoring and maintaining environmental values where the easement is held by a non-governmental organization (e.g. Nature Conservancy, Ducks Unlimited, Alberta Conservation Authority and so on).

j) Re: Shared Stewardship

In our view a department or agency that does not have as an overriding interest the protection of agriculture should administer public lands. Environmental Protection must be the lead agency in any shared stewardship.

k) Re: Aboriginal Issues

We wonder why the Committee itself did not deal with aboriginal issues. We enclose, for the Committee's information, the last two copies of our *NewsBrief* which contain case comments relevant to public land management and aboriginal issues.

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