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Expediting Approval of Grazing Lease Applications

Issue

The length of time it takes Alberta Environment and Parks (AEP) to process assignments of ownership and renewals of grazing leases is excessively long.

Background

Alberta's grazing lease system has been in place since 1881. More than 8 million acres of Alberta Crown land is used for grazing and there are approximately 5,700 grazing disposition holders in Alberta. Leaseholders provide upwards of \$70 million in value to the Province of Alberta for their role overseeing Crown land under grazing dispositions. As grazing cattle is vital to maintain ecosystem function and wildlife habitat values, '...carefully managed cattle grazing and traditional ranching practices on long-term grazing leases contribute to the ecological health of large tracts of the continent's finest remaining native grasslands. Good stewardship and proper grazing management has helped to retain much of the existing healthy native and intact rangelands.¹

Grazing leases provide livestock producers with an economical grazing opportunity that allows their business to be sustainable. Thus, grazing leases are fundamental to Alberta livestock producers and have a direct impact on the Alberta beef industry. From the government's perspective, there is economic value to having grazing disposition holders steward Alberta Crown land and ensure modern rangeland management practices are being followed. Livestock producers enhance the value of these lands and increase productive use of these lands by addressing issues like weed control, fencing the lands, monitoring usage, maintaining and improving the ecosystem, maintaining fences and water supplies, providing fire suppression and control to the grasslands, managing and monitoring recreational and commercial access, and paying taxes on the land.

Grazing leases in Alberta are generally for a term of 10 years and must be renewed by the grazing disposition holder once the term expires. In cases where the leaseholder shows exemplary stewardship, AEP will award 20 year terms. British Columbia, has recently moved to a 25 tenure on grazing leases, providing all leaseholders with a greater sense of stability and certainty that they will have the land to use for a long period of time. It appears Alberta is one of the last provinces to have tenure for grazing leases under 20 years as a rule.

There are specific rules that apply when a grazing disposition holder wishes to renew their grazing lease or transfer it to a third party. These renewals and transfers of ownership are reviewed and land inspected by the local lease inspector, before being sent to Edmonton for

¹ Alberta Grazing Leaseholders Association, Policy Brief - Crown Land Grazing Dispositions: Spring 2019: <https://albertagrazinglease.ca/downloads/2019/Crown-Lands-Grazing-Brief-Spring-2019.pdf>

final processing by AEP and where there is currently a backlog of up to two to three years. Contrast this to the mere weeks it takes for Special Areas to process a similar type of transfer or renewal for grazing leases within their area.

AEP has stated that these delays are due to staffing shortages, lack of modern technology, and to the department having to complete extensive due diligence to determine the status of the lands in question, the ability of the grazing disposition holder to transfer/renew its lease and the ability of the buyer to acquire the transferred lease.

Around 2017, AEP commenced a pilot project aimed at reducing the turnaround time to process grazing lease assignments. The plan involved the development and institution of updated forms and increasing AEP staff to handle the assignments. The new forms unloaded a significant portion of the work previously performed by government employees to the parties and their lawyers.

The pilot project was successful. During the pilot, the turnaround time was reduced significantly, in some cases down to 4 months. The pilot project suffered cutbacks: initially with a significant downsizing of the government employees in the team. Then in March 2020, the pilot project was wound down and the pre-existing process, together with its delays, returned.

While we commend the government on the progress they are currently making at clearing out the backlog of renewals, there is still a large backlog of transfers to be dealt with. These renewal and transfer processes need to be streamlined and short processing times maintained to provide security to the grazing disposition holders, their advisors and any transferees seeking to purchase a grazing lease for many reasons, including the following.

With respect to a sale of a grazing lease, while a buyer and seller are waiting for the transfer to be approved by AEP, the parties must determine how to handle the purchase funds involved in the transaction. The purchase funds are generally held in trust by a lawyer at a nominal interest rate, in which case the seller has no access to the funds to invest or pay down debt, use for retirement, or to pay out an estate.. The buyer is equally unhappy because despite having had to put up the funds to purchase the lease and are likely paying interest on the funds, they are unable to use the land, and they do not have certainty that they will be approved to hold the grazing lease.

As all livestock placed on lease land must be owned by the registered leaseholder, the new proposed leaseholders are not allowed to use the lease land until the transfer has been approved by AEP. A separate application must be made to get approval to graze the land until the lease is finally approved or rejected, which adds another layer of red tape that would mostly be unnecessary if approvals were completed in a timely manner. . Furthermore, new leaseholders are generally hesitant to invest in range or infrastructure improvements to the subject lands when the transfer or renewal has not been completed out of fear that should their assignment not be approved by AEP they will likely be unable to recover any of the financial or other investment they made

Even though in practice, grazing lease renewals are generally approved if the lands were utilized according to the terms of the lease and deemed healthy, there is no legislative requirement for AEP to renew the grazing lease. In fact, AEP has the legislative ability to cancel or refuse any renewals. This creates uncertainty as to whether the grazing lease will be renewed, especially since the backlog in the system results in the grazing disposition holder operating on an expired lease while they await approval of the renewal.

The current length of time it takes to approve a lease renewal or a transfer impedes commerce and creates unnecessary risk to the parties involved. Furthermore, it creates uncertainty in the livestock sector, inhibits the ability to make long term plans and investments by livestock producers and can affect the application of proper rangeland management. Invested capital is tied up in the transfer process and returns on that investment (through the ability to graze) are not realized, which significantly impacts business operations.

The Medicine Hat & District of Commerce recommends the Government of Alberta:

1. **Streamline the approval process for grazing lease transfers and renewals to less than 3 months and ideally less than 1 month.**
2. **Establish a system wherein grazing disposition holders can track where their application is in the queue.**
3. **Implement a 20-year or more term for grazing leases with the ability of a leaseholder to increase the term to 40 years in cases of exemplary stewardship, provided that there are regular lease inspections to ensure stewardship stays on track.**