



Agricultural Leases and Recreational Land Use Under the *Public Lands Act*

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What are Agricultural Leases?

In respect of public lands, stewards of agricultural land can hold grazing and farming leases, licenses, and permits (“agricultural dispositions”). An agricultural lease is a lease of provincial lands for agricultural purposes such as growing crops, grazing livestock, and harvesting hay. An agricultural leaseholder, therefore, leases Crown lands from the Alberta government for farm and ranch operations. While other agricultural dispositions such as farm development leases and hay permits exist, this article will focus on the main agricultural disposition: the grazing lease.

By way of historiographical introduction, the first grazing leases on Alberta Crown land were granted in the late 1800s to support cattle producers in allowing herds to roam on vast grasslands with abundant forages.¹ The history of the cattle industry is intimately interwoven into that of the province and has been crucial to Alberta’s economy – beef production being a significant contributor to provincial GDP. Western Canada – especially southern Alberta, the agricultural heartland – became a frontier for the cattle industry which solidified the importance of grazing leases in the era of open rangelands.

Agricultural leases nowadays are usually issued when no other long-term disposition of the land would be in the public interest. They can sometimes be issued on public lands reserved for additional purposes such as timber production.² Grazing leases are legally protected property interests that give leaseholders the exclusive right to use the land for grazing purposes. As we will see, however, that does not mean that other uses by other people are unpermitted.

The administration of grazing leases and the concomitant rights and responsibilities of public land leaseholders is governed primarily by Alberta’s *Public Lands Act*, RSA 2000, c P-40 (the “Act”) and its associated regulations. The term of a grazing lease is capped at 20 years,³ but most terms are 10 years in length and may be renewed on application to Alberta Environment and Parks (the “AEP”).⁴

Although Crown land can be leased for agricultural purposes, ploughing and cultivating the surface of leased Crown land requires approval from the AEP.⁵ While this stipulation may be superficially

¹ Nielson, K. & Prociuk, J. *From Start to Finish: An Illustrated History of Cattle Feeding in Alberta* (1998). Calgary, AB: Alberta Cattle Feeders’ Association.

² From Alberta Sustainable Resource Development’s “Information on Acquiring Public Lands” pamphlet.

³ *Public Lands Act*, RSA 2000, c P-40, s 102(1).

⁴ *Public Lands Administration Regulation* (Alta Reg 187/2011), s 17.

⁵ *Ibid*, s 56.

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paradoxical, it makes more sense when one considers that most agricultural dispositions on public lands are for grazing, which is inherently regenerative as opposed to extractive.

Acquiring public land involves first identifying a suitable parcel by legal description. Suitability is not solely determined by the individual or corporation seeking land based on their operational goals but also by land managers from the province. Subsequently, an application and required fee are submitted before leases are granted usually via tendering process. Land is awarded to the highest bonus bid but may also be granted based on need if the parcel is located in a remote area of northern or western Alberta with varied topography and lower soil quality.⁶

According to Alberta Sustainable Resource Development, about 60% of the province's land base is publicly owned Crown land, approximately 8 million acres of which are leased for livestock production and other agricultural uses.⁷ Despite the large portion of public land in Alberta, the amount of unallocated land suitable for agricultural purposes is at present relatively limited.

Access to Agricultural Crown Land for Recreation

Both public land leaseholders and recreationalists have rights and responsibilities akin in some degree to other legal arrangements with mutual covenants. Leaseholders, for instance, bear the responsibility of upholding the Grazing Lease Stewardship Code of Practice in maintaining healthy rangeland. Moreover, section 62.1(1) of the Act provides that if someone wants to use land subject to an agricultural disposition for recreational purposes, the holder of that disposition must permit reasonable access. These access rights and trespass conditions are also contemplated by the *Recreational Access Regulation* (the "RAR").⁸

While leaseholders must allow recreational access, they may also restrict or outright deny access. The RAR sets out prescribed circumstances under which recreational access to agricultural leased lands may be denied.⁹ For example, an agricultural leaseholder can restrict or deny access if: (a) livestock are present in fenced pasture; (b) crops have not yet been harvested; (c) a recreational user wants to camp on the land; or (d) a recreational user wants to use firearms or explosives near livestock on the land.¹⁰ Furthermore, recreational users cannot park vehicles on driveways or access routes; if they wish to have a fire, consent must be obtained; litter must be cleared; property comprising chattels and fixtures must not

⁶ *Supra* note 2.

⁷ There is some dispute over this. The 8 million figure is according to the Alberta Grazing Leaseholders Association. The Alberta Land Institute at the University of Alberta, using 2013 data, put the number at just over 6 million. The former can be found at: <https://albertagrazinglease.ca/faqs.php> while the latter can be reviewed at: <https://www.albertalandinstitute.ca/public/download/documents/14872>.

⁸ *Recreational Access Regulation* (Alta Reg 228/2003), s 6(1).

⁹ *Ibid.*

¹⁰ *Ibid.*

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be damaged; and so on.¹¹ The rationale underpinning this regulatory provision is that recreationalists, while entitled to use leased public land, must respect the stewardship efforts of the leaseholder.

Recreationalists would be well-advised to seek proper permission to use the land from leaseholders in advance. Indeed, anyone who wishes to enter land that is the subject of a grazing lease for any recreational purpose must contact the leaseholder or their designated contact person.¹² On leased parcels of Crown land, one may see “Use Respect” signs in yellow, green, or red. These signs contain the contact information for the leaseholder or contact person, ensuring compliance with the statutory and regulatory rules for recreational access to the land.

It should be noted that citing failed contact attempts as a justification for entering leased land is insufficient and unacceptable. In other words, a recreationalist cannot simply access leased Crown land if the leaseholder or designated contact person did not respond to their reaching out. One must get in touch with the leaseholder or designated contact person before entering the land.¹³ That said, if a recreationalist makes reasonable attempts at contacting the leaseholder or contact person but to no avail, section 5(4) of the RAR provides that a local settlement officer may allow access on their terms and conditions.

With respect to enforcement, Conservation Officers and Fish and Wildlife Officers can issue tickets for violating the rules set out in the Act, the RAR, and the *Alberta Land Stewardship Act*, SA 2009, c A-26.8. Failure to comply with these rules may result in fines of up to \$5,000. How hefty the penalty is depends on the severity of the violation and the extent of any loss or damage. For example, a major contravention with major loss or damage may result in the maximum \$5,000 penalty while a minor contravention with no loss or damage may result in a \$250 penalty.¹⁴

Conclusion

As mentioned at the outset, the grazing lease system in Alberta is a crucial component of the beef industry which generates billions of dollars in total economic activity.¹⁵ While the agricultural, environmental, and economic benefits of grazing leases are manifold, the upshot of this article is that agricultural leaseholders and recreationalists must comply with the statutory and regulatory frameworks in place for the use of public lands. Leaseholders qua stewards are responsible for maintaining the health of the lands leased to them, but they must also respect the rights of recreationalists to reasonably access the same. Thus, leaseholders and recreationalists must balance the right to use the province’s rangelands with the responsibility of conserving and maintaining them. Doing so is crucial for the lasting enjoyment of public land – the land upon which this province was built and the land that makes Alberta so beautiful.

¹¹ *Ibid*, s 9(1).

¹² *Ibid*, s 5.

¹³ *Ibid*, s 5(3).

¹⁴ *Public Lands Administration Regulation* (Alta Reg 187/2011), s 171(3).

¹⁵ *Alberta Beef Industry Competitiveness* (December 2019), prepared by Serecon Inc and Kevin Grier Consulting. Available at: <https://cattlefeeders.ca/wp-content/uploads/2020/01/ab-beef-industry-competitiveness.pdf>.

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