



CLOSING LETTER

FPB/IRC/61

File: 97250-20\010348

February 20, 2002

Dear Participants:

The purpose of this letter is to report the results of the Forest Practices Board's investigation into a complaint about cattle grazing near Noke Creek, and to encourage the parties to meet to try to resolve the issue.

The Complaint

On October 25, 2001, the Board received a complaint from a resident of the Moyie River valley, south of Cranbrook. The complainant's 25-acre property is completely surrounded by Crown rangeland. The complainant holds a domestic water license that permits her to take up to 1500 gallons of water per day from Noke Creek. The water intake is on Crown land. The Noke Creek watershed is not a community watershed as defined in the *Forest Practices Code of British Columbia Act*.

According to the complainant, cattle defecate in and around Noke Creek and her water intake, polluting the water. The problem was especially bad during the summer of 2001, and the complainant resorted to drinking bottled water. The complainant is concerned about the health risks associated with drinking the water.

The complainant is also concerned about cattle coming onto her property, particularly in her yard. She has a significant investment in landscaping, and cows have grazed on the landscaped areas. As a solution to the problem, the complainant requested that cattle be kept out of the Noke Creek drainage.

The Board decided to investigate whether or not the rancher who holds the grazing licence for the range unit complied with the Forest Practices Code of British Columbia Act with respect to cattle grazing on Crown land near Noke Creek.

Discussion

Grazing near Noke Creek

Noke Creek and the complainant's property lie within the Upper Moyie River range unit. The Crown first gave the rancher the right to graze cattle in the range unit in 1981 through a grazing licence issued under the *Range Act*.

Section 27 of the *Forest Practices Code of British Columbia Act* requires a rancher to obtain the district manager's approval of a range use plan (RUP) before grazing cattle on Crown land. A RUP includes a description of grazing activities, range developments and a grazing schedule for the plan area.

The rancher's RUP was approved on April 26, 2001. It indicated that 60 cow and calf pairs would graze in the Upper Moyie River range unit for 125 days, give or take 12 days, during the 2001 grazing season. The RUP states "livestock use is allowed within the riparian area." The banks of Noke Creek are riparian areas. Thus, cattle are permitted to graze and make use of water sources, including Noke Creek, within the range unit.

The rancher had the authority to graze his cattle within the range unit and he complied with the RUP when he permitted his cattle to water at Noke Creek.

In response to the complainant's concern, the local health unit tested water from Noke Creek in September 2001. The results indicated that the water was unsatisfactory for human consumption. An officer at the health unit told Board staff that he does not recommend drinking any untreated surface water, whether or not cattle polluted the water, because of the presence of naturally occurring bacteria.

The complainant told Board staff that she is not willing to treat the water due to the expense and concerns about the effectiveness of chlorine.

Fencing

There is no cattle fence between the complainant's property and the surrounding Crown range. Understandably, cattle are drawn to the property by its landscaping and pond.

The complainant does not want a fence because of concerns about liability and potential impacts on wildlife. For example, snowmobilers may catch a ski on a fence wire in deep snow conditions or wildlife may become entangled.

There is no requirement in the RUP or in the Act for the rancher to fence the property. However, in the interest of keeping cattle out of the yard, the rancher offered to assist in fencing the complainant's property. The complainant does not want a fence and declined the offer.

Conclusion

Grazing is a government-approved activity in the Upper Moyie River range unit, and the rancher complied with the Forest Practices Code of British Columbia Act with respect to grazing cattle near Noke Creek.

Towards Resolution

The Ministry of Forests commented that the Board became involved in this issue before the ministry had a chance to meet with the complainant and the rancher together to seek a solution. The rancher also appreciates the complainant's concerns, and he wants to find a long-term solution. The Board encourages parties to solve problems locally, wherever possible, and supports a meeting.

Discussion with ministry staff revealed that there are options, such as lay-down, high visibility rail, or electric fences that could prevent cattle from entering the private property, while at the same time addressing the complainant's concerns about liability. The ministry also has some ideas to keep cattle

away from the water intake and a meadow area above the water intake. The ministry would like to discuss these options with the rancher and the complainant, and has agreed to arrange a meeting.

A new range use plan will be prepared and be available for public review, probably in March 2002. I encourage the complainant to take part in that review and provide comments to the ministry. By copy of this letter I am requesting that the ministry directly inform the complainant of the opportunity to comment on the RUP.

Finally, the ministry and the rancher have demonstrated a willingness to work with the complainant in an attempt to address her concerns. It is my hope that this spirit of cooperation will result in a solution satisfactory to all parties.

This concludes the Board's involvement in this matter.

Yours sincerely,

W. N. Cafferata R.P.F.

Chair