



File: 97250-20/090921

February 16, 2010

Dear Participants

Re: Complaint Investigation 090921 / Meadow Valley Range

The purpose of this letter is to report the results of the Forest Practices Board's investigation of a complaint about cattle and horses (livestock) grazing near private residences in the Meadow Valley north west of Summerland BC.

The Complaint

On October 13, 2009, the Forest Practices Board received a complaint that some range tenure holders were not respecting an agreement about a no-grazing buffer zone in the Meadow Valley and that government's enforcement of that agreement had not been effective. The Board consulted with the complainant and the Ministry of Forests and Range (MFR) to try to settle the complaint. This is the resulting resolution report.

Background

The previous range tenure holder had moved livestock through the rural residential area quickly and would patrol and remove stray livestock from the unfenced private properties. The range tenure holder gave up the tenure and the MFR re-allocated it to three other tenure holders. After the re-allocation, livestock started to graze on private property and the residents complained. On June 15, 2006 a number of residents, the range tenure holders, and a Ministry of Forests and Range (MFR) agrologist met at a site on Fish Lake Road to discuss range issues. The residents were concerned that livestock had been grazing on their private property and near domestic water sources that were on both Crown and private land.

The plan

Livestock have basic needs such as water, food, and shelter, and they become habituated to provide for those needs. Understanding and using the habits can help in devising methods to control livestock movement. So, at the June 15, 2006 meeting, the MFR agrologist proposed the following plan. The range unit would contain a no grazing buffer zone around the private residences. As necessary, to accommodate their grazing schedule, each rancher would quickly drive the livestock through the buffer zone to and from pastures. To facilitate the plan, MFR would build a cattle guard and some wing fencing to the north of the private

properties to discourage the livestock from entering the private land from the north. There would also be a holding area near the cattle guard (see the red star on figure 1) that was not to be actively grazed. Rather, it would be an area that the livestock would use while waiting for the range tenure holder to remove them.

The plan depended on the co-operation of all the parties. The range tenure holders needed to move the livestock through the buffer quickly and use the holding area only for incidental use. Otherwise, livestock would move to the private land. The residents needed to assist by contacting the tenure holders if they observed livestock within this area. The MFR needed to communicate the plan and any changes to all parties. MFR also needed to facilitate range improvements and changes in the range agreements to make the plan work.

The agreements

In order to document the plan, the meeting participants ended the June 15, 2006 meeting by signing this agreement:

- Cooperate with range [tenure] holders to report livestock on private land or within the buffer area.
- Ensure that all range gates remain closed during the term of the range agreements (June 1-October 31).
- Report any injured animals or concerns to the agreement holders or the Range Program Staff.
- Range Agreement Holders to remove livestock in a timely manner (within 24 hours of report).
- Report actions to all parties within 24 hours (minimum is [a] phone call).

The MFR intended this agreement to function until the short-term permits expired in two years. When the permits expired, a formal process led up to MFR awarding the longer term grazing licenses. New range use plans (RUPs) were developed with conditions that referred to the original agreement except that MFR extended the 24 hour removal criteria to 48 hours to allow a more realistic timeframe to remove livestock.

The range use plans said:

The agreement holder will remove livestock promptly when reported that livestock are in the area between the cattle guards on the Fish Lake Road in the vicinity of Darke Lake Provincial Park. The livestock shall be removed within a 48-hour period and records kept, with an annual summary report made to the MFR Range program if such removal is required.

Plan implementation

While these agreements were part of the plan, actually implementing the plan required more than merely following the provisions of the agreements. For example, in 2007, the MFR provided the materials with which the cattle guard and fences could be built even though there was no documented agreement requiring MFR to do that. The range improvements were installed by a range tenure holder. Unfortunately, the plan broke down after that because not only did all the parties not live up to their end of the agreements, but they lost the vision of the plan and so were not diligent in their efforts to make it work. Further, the newly installed fence became ineffective as livestock found an alternative route past that range barrier into the buffer area. Now livestock are in the buffer zone consistently during late summer and early fall and the livestock have become habituated to using that area.

Discussion

The Forest Practices Board has received a number of complaints about livestock trespassing on private land. Simply put, the Board's interpretation of the legislation is that it is the responsibility of a private land owner to fence their land if they want to exclude livestock unless the private land is in a pound district¹. So, the MFR has no legal requirement to exclude livestock from the buffer area in the Meadow Valley. MFR does, however, have the authority to include this requirement in agreements in order to accommodate other interests and then MFR has the responsibility to enforce the terms of the agreements. It is also within MFR's discretion whether or not to provide funding for the range improvements to facilitate the plan.

Similarly, the residents have no legal requirement to inform ranchers that livestock are in the buffer area but could facilitate the removal of livestock by reporting it to the licensee and the MFR.

Range tenure holders, on the other hand, are obligated under the range use plans to keep livestock out of the buffer area and off Crown land after round-up and before turn-out.

Resolution

It is one of the guiding principles of the Board to emphasize solutions over assigning blame, so the Board tries to resolve complaints wherever possible. It is sufficient to say that the plan to keep livestock out of the buffer zone is not working. Reiterating and communicating the plan to the plan participants may help it succeed. To assist, the Board distributed this report to plan participants and also posted the report on the Board's website. A key to the success of the plan is the cooperation of all the plan participants. If that fails, then all that

¹ See the *Trespass Act* and the *Livestock Act*

MFR can do is strictly enforce the requirements in the range use plans and the rules governing range use in the *Forest and Range Practices Act*. Private residents would have to fence their properties or fulfill the requirements to become a pound district to exclude the cattle from the private property.

The complainant and MFR agreed that completion of this report would be a resolution to the complaint.

Further, in order to help MFR enforce the range use plans, and help the range tenure holders to control their cattle, the complainant committed to notifying the range tenure holders and MFR when livestock are in the buffer zone.

Since the livestock have become accustomed to moving past the wing fence, as part of the resolution, MFR has committed to:

- extend the fence as shown in red on the attached map,
- build a gathering facility to aid in the holding and removal of livestock from the buffer area at the star on the attached map,
- supply a contact list of range tenure holders with telephone numbers, brands and other identifying marks to the residents,
- accept reports of non-compliance with the provisions of the plan,
- put signs on gates to inform people to leave gates closed, and
- amend the current RUPs to reflect the agreement.

Concluding Remarks

Successful plan implementation depends on cooperation from all the plan participants to help change the behaviour of the livestock. All residents, including other range tenure holders in the area need to contact the appropriate range tenure holder when livestock are in the buffer zone. Regardless of being notified or not, if the range tenure holder knows their livestock is in the buffer zone, they must remove the livestock as quickly as they can so the livestock don't become habituated to the area.

The Board encourages plan participants to be patient and diligent as it may take some time for the livestock to change their behaviour. However, once this occurs, it is likely that the burden on the plan participants will be significantly reduced.

I hope that the Board's involvement in this resolution has been helpful. If you have any remaining concerns, please feel free to contact me.

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Yours sincerely,

A handwritten signature in cursive script that reads "Bruce Fraser". The signature is written in black ink and is positioned above the typed name.

Bruce Fraser, PhD
Chair

Complaint Investigation Meadow Valley Range Buffer

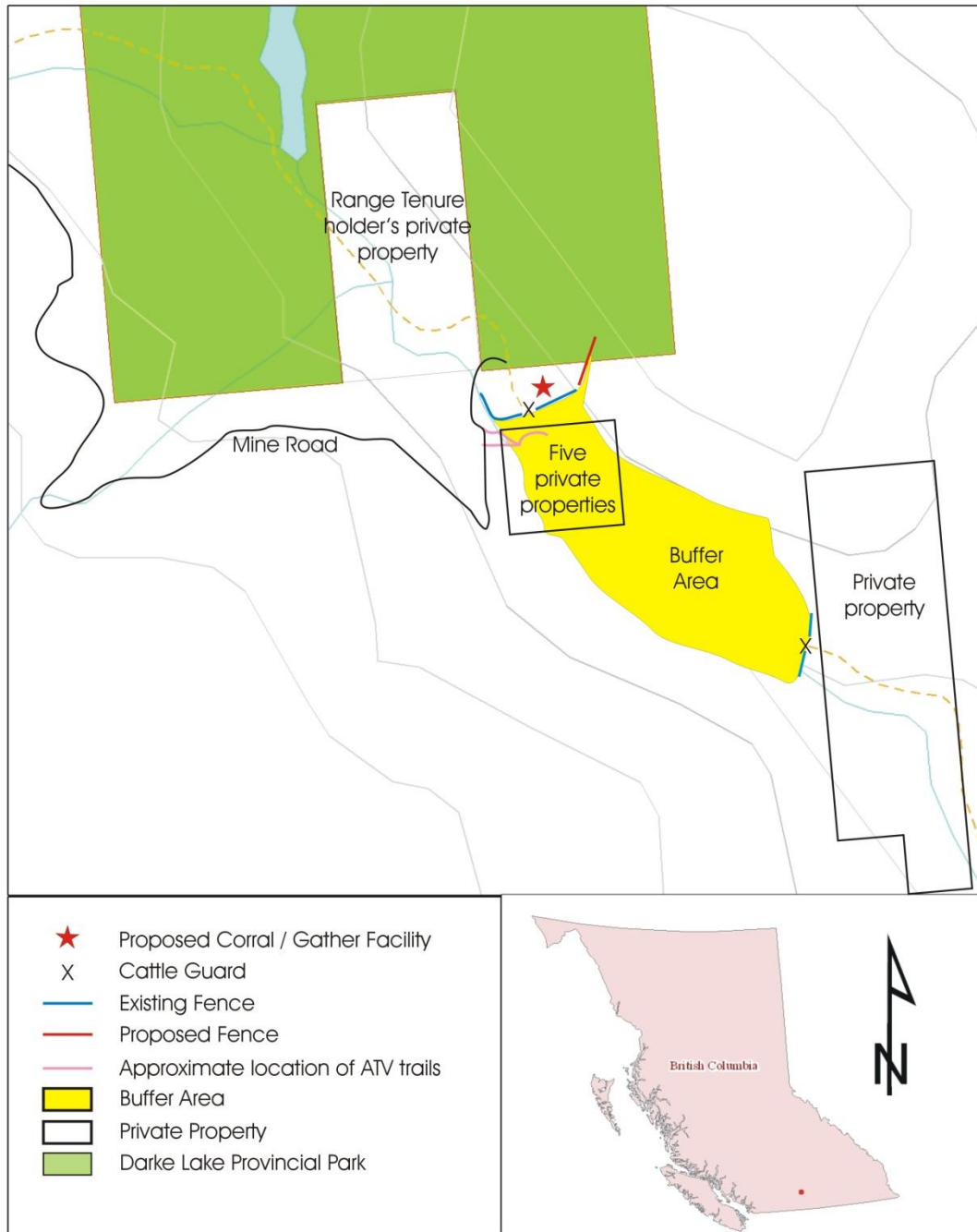


Figure 1: Area of the complaint