



**Forest  
Practices  
Board**

## **Fence Construction on Crown Range**

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*Grazing Permit RAN 07254 31352.00  
Horsefly Forest District*

**FPB/IRC/04  
Complaint 950030**

August 1997

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## Summary

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The District Manager of the Horsefly Forest District approved construction of a barbed wire fence under a grazing permit on June 5, 1995, immediately before the Forest Practices Code came into force. The fence was required to let 40 yearling cattle graze an area of Crown land near the Horsefly River and to restrict the period of such use to early summer. On June 17, 1995, the permittee cleared a right-of-way and installed a temporary electric fence.

After referral to other Crown agencies, the approval was modified with additional conditions in October, 1995. The District planned to complete a range use plan in mid-1996 and the modified approval required that grazing in the area had to be addressed in the future plan.

In November, 1995, an adjacent property owner complained to the Board that the fence construction had been authorized and the right-of-way clearing had been carried out without an approved range use plan in place, in contravention of the Code. The complainant also alleged that one of the District range administration staff had a conflict of interest that might impair the fairness of the approval process. Finally, he expressed concern that the fence would cut off his access through the Crown land and that the fence and grazing operation would have a negative impact on wildlife movement and habitat.

In April 1996, the Ministry of Forests regional range manager inspected the range affected by the authorization and recommended a one-third reduction in grazing pressure. In May 1996, the District Manager confirmed the October 1995 modification of the June 1995 approval to construct the fence, subject to minor additional amendments. The fence was still authorized to allow grazing of 40 yearlings for one month. There was still no range use plan in place.

The fence was constructed in May 1996 in accordance with the October 1995 and May 1996 approval conditions, and with gates installed to allow access. A range use plan was subsequently approved on June 14, 1996, with the condition that the grazing period be reduced from one month to three weeks.

The complaint raised the following issues:

1. Was a range use plan required to be in place for the fenced area at the time the fence construction was authorized by the District Manager, and, if so, was there one in place at the time of the approval?

2. What other Code requirements applied during the various stages of the approval and construction process?
3. Did the District Manager comply with the Code, was the process he used for making a decision fair, and was the decision reasonable?

The Board concluded that the District Manager had complied with the Code requirements in authorizing the fence construction. While the Act required a range use plan to be in place before approval of the fence construction, the permittee's existing grazing permit was deemed to be a range use plan under the transitional provisions of the Code.

The Board also found that the decision was reasonable in the circumstances and that the process followed by the District Manager in reaching the decision was administratively fair. The Board noted that the District Manager had considered and largely addressed the complainant's concerns after the complaint was originally filed with the Board.

The Board concluded that the conflict-of-interest issue was not central to the dispute, as no conflict was alleged on the part of the District Manager, who approved the work.

Ordinarily, the appropriate remedy for a person with such concerns would be through the public review and comment process provided by the Act with regard to range use plans. In this instance, however, the District Manager approved the range use plan one day before public review and comment was required, a year after the Code came into effect. The result is that the complainant will be denied access to any formal public review and comment opportunity on the range use plan for at least another three years.

## **Purpose of this Report**

The Forest Practices Board is an independent government body that makes reports and recommendations about compliance and enforcement issues related to B.C.'s Forest Practices Code and about the achievement of the intent of the Code. The Code came into effect in June 1995 and includes legislation--the *Forest Practices Code of British Columbia Act* and its regulations--and guidebooks that provide assistance in interpreting and complying with the legislative requirements. Responsibility for the administration of the Code lies with three ministers--Forests; Environment, Lands and Parks; and Employment and Investment--and the Board reports its findings to them as well as to the general public.

One of the Board's tasks is to investigate complaints from the public about matters relating to operational planning, forestry practices and enforcement of the Code. On completion of an investigation, the Board reports its conclusions to the complainant and

the party(ies) affected by the complaint. The Act requires that when the Board makes a report or recommendation that may adversely affect a person or party, an opportunity must be provided to that person or party to make representations before the matter is decided. This report contains no recommendations, and the Board does not believe that any persons or parties stand to be adversely affected. Consequently, this represents the Board's final report on this complaint investigation.

## **Nature of the Complaint**

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The complainant owns property on the Horsefly River, approximately 10 kilometres north of Horsefly and 40 kilometres east of Williams Lake . On November 23, 1995, he complained to the Board that the District Manager of the Horsefly Forest District had improperly authorized the construction of a neighbour's fence and associated right-of-way forest clearing across Crown land adjacent to the complainant's property. He suggested that the District Manager had contravened the Code by approving the construction in the absence of an approved range use plan.

The complainant asked that the Board recommend that a range use plan be prepared and approved and that the fence approval be made subject to the plan. He also asked that temporary rather than permanent fencing be used and that the northwestern portion of his private lot be fenced by the permittee to prevent cattle from the new enclosure from entering his land. Finally, the complainant asked that the District's Range Officer be removed from further involvement in the fence approval because of an alleged conflict of interest.

After filing the Notice of Complaint, the complainant further elaborated on his concerns. He noted that construction of the fence would have the effect of blocking his and others' access through the Crown land, and expressed concern that the cattle enclosure and fence construction would impede wildlife and damage wildlife habitat.

## **Chronology of Events**

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The Board's investigation established the following sequence of events between January 1995 and June 1996.

### **1995**

- |        |  |
|--------|--|
| 1 Jan  | District Manager of Horsefly forest district issues five-year grazing permit to permittee. |
| 25 Apr | Permittee applies for permission to construct a 400 metre barbed-wire                      |

fence across Crown land between her Lots 5196 and 12414.

- 5 Jun District Manager authorizes permittee to construct the fence and requires a top rail, with authorization to expire December 31, 1995.
- 17 Jun Permittee clears 10-metre right-of-way and installs temporary electric fence.
- 20 Jun Complainant writes to District Manager, expressing concern about the fence construction and pointing out the need for gates to allow his and others' access. He questions whether a "proper forest district referral" has been done.
- Jul-Aug Internal referral among District sections notes winter wildlife use, the need to maintain access by gates and the need for a written plan for the area.
- 20 Oct District Manager writes to permittee, approving the fence construction and adding conditions, including the requirement that a proposed range use plan must address the area, that two gates be installed, and that waterholes and brush fences keep cattle away from the Horsefly River.
- 20 Oct District Manager responds to complainant's letter of June 20, explaining why the fence has been authorized (to contain 40 yearlings for one month in early summer), that two gates are required and that the internal referral has been completed.
- 23 Oct Complainant writes to District Manager asking to appeal the fence approval and asking for more information. Complainant also asks that the District Range Officer be removed from dealing with the matter because of an alleged conflict of interest, and asks that the fence be temporary rather than permanent.
- 16 Nov Complainant files complaint with Forest Practices Board.
- 1996**
- 21 Jan Permittee describes her position to the Board, explaining that a permanent fence is needed because the temporary electric fence was knocked down by bulls.
- 18 Apr MoF Regional Range Manager completes site inspection. His report notes heavy wildlife use, recommends that approved number of yearlings be reduced from 40 to 26, and recommends that no further

- fence construction take place until a range use plan has been completed.
- 9 May Notwithstanding the recommendations of the Regional Range Manager, the District Manager writes to permittee confirming his October 20 approval to construct the fence, adding the condition that plastic fencing be used to highlight the top strand in some areas.
- May Fence construction completed, with gates.
- 14 Jun Completed range use plan restricts cattle use of the disputed area to 40 yearlings for three weeks rather than one month.

## **Board Jurisdiction**

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Under the provisions of the *Forest Practices Code of British Columbia Act*, the Board can only investigate complaints about actions occurring after June 15, 1995, the date when the Code came into effect. As the events leading to this complaint took place over a period before and after June 15, 1995, the Board had to consider whether it had jurisdiction in the matter before beginning an investigation. To reach a conclusion, the Board first needed to determine the effective date of the District Manager's authorization of the fence construction, which was the focus of the complaint.

The permittee had a grazing permit issued to her on January 1, 1995, valid for five years. She applied, by handwritten note in May 1995, for authorization to construct a 400-metre fence across a neck of Crown land between her Lot 12414 and Lot 5196. The District Manager sent her a letter dated June 5, 1995, that authorized the construction of a barbed wire fence. However, the District Manager wrote to the permittee again on two occasions thereafter, on October 20, 1995, and May 9, 1996, concerning approval for fence construction. The District Manager told the Board's investigator that this June 5 letter was the formal authorization and the subsequent letters mere amendments. If his position was correct, the Board would have been foreclosed from any investigation.

After the first approval on June 5, and immediately after the complainant wrote to the District Manager on June 20, 1995, questioning whether a proper referral had been carried out prior to the approval of the permittee's application to construct a fence, the District Manager decided to complete an internal referral. Although nothing was written to the permittee, no further fence construction occurred and a temporary electric fence was used for the duration of the summer in 1995. On October 20, 1995, the District Manager wrote to the permittee making no reference to the June 5 approval. The letter reads like an initial response to the permittee's request. Moreover, later

correspondence from the District Manager to the permittee (9 May 1996) confirmed that "the construction of the fence may proceed as per my letter of October 20, 1995".

Consequently the Board concluded that the June 5 approval was informally rescinded pending an internal referral and that the October 20, 1995, letter was the approval at issue in this complaint. As this date occurred after the Code came into effect, the Board concluded that it had jurisdiction to investigate the complaint.

## **Discussion**

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The complaint raises the following issues:

1. Was a range use plan required to be in place for the fenced area at the time the fence construction was authorized by the District Manager, and, if so, was there one in place at the time of the approval?
2. What other Code requirements applied during the various stages of the approval and construction process?
3. Did the District Manager comply with the Code, was the process he used for making a decision fair, and was the decision reasonable?

### **A. Compliance with the Code**

The requirements of the Code varied during the sequence of events that involved the complaint. The Code did not apply on June 5, 1995 when the first "authorization" for the construction of the fence (rescinded and replaced in October) was issued. On June 15, 1995, the Code came into effect; however, the *Forest Practices Code of British Columbia Act* and the *Operational Planning Regulation* contain transitional provisions that apply for the first two years, from June 1995 to June 1997. This was the case in October 1996, when the effective authorization was issued. The transitional provisions also affected issues related to the fence construction such as the applicable range use plan. Range use plans were not required to go through public review and comment requirements of the Act until June 15, 1996.

Section 1 of the Act defines "range development" as "a structure ... related to the management, for range purposes, of range land or livestock". Section 73 requires that any person who constructs a range development on range land (which includes Crown land) must do so in accordance with a range use plan. The fence that was the subject of the complaint crossed Crown land, but there was no formal range use plan in place until June 14, 1996, eight months after the fence construction was authorized.



**FINDING #1 - The Code required the permittee to construct the fence in accordance with a range use plan, but no formal plan was in place when the District Manager approved the fence construction in October 1996.**

While no formal plan existed, there was a range use plan of sorts in effect in October 1995. Section 224 of the Act provides for "grand-parenting" of previous licence agreements, deeming them to be plans during a transition period. Specifically, section 224 provides that: 224.(1) This Division applies to the following plans:

(g) a tenure management plan ... approved under the *Range Act*, or a plan approved as part of an agreement under the *Range Act* respecting the use and development of Crown range, that is in effect on the coming into force of this paragraph.

A grazing permit is an agreement under the *Range Act*, so transitional provisions of the *Forest Practices Code of British Columbia Act* applied to the grazing permit.

Section 224(5) deems such a grand-parented grazing permit to be an interim range use plan for the purposes of the Code:

(5) A plan referred to in subsection (1)(g) is deemed to be a range use plan under this Act and remains in effect until the first to happen of the following:

- (a) the agreement for which the plan was prepared expires or is cancelled, surrendered or otherwise terminated;
- (b) the plan is replaced with a range use plan prepared in accordance with this Act;
- (c) two years after this section comes into force.

Thus, the grazing permit, with its terms and conditions, served as a range use plan until it was replaced by a formal plan on June 14, 1996, and authorization of the fence construction in October 1995 constituted approval of a range development under a grazing permit deemed to be a range use plan.

**FINDING #2 - The 1995 grazing permit was deemed to be a range use plan under the Code and functioned as such from June 15, 1995, until it was replaced by a formal plan on June 14, 1996.**

**FINDING #3 - There was a valid range use plan in place when fence construction was authorized by the District Manager in October 1995.**

Subsection (6) of section 224 goes on to exempt grand-parented plans from the Code's public review requirements:

(6) An operational plan referred to in subsections (2) to (5) does not have to meet ... any public review requirements that are prescribed under this Act.

**FINDING #4 - The grazing permit, even when deemed to be a range use plan, was not required to go through a public review and comment process.**

The next question is whether the deemed range use plan's provisions for the approval of fence construction were complied with. The grazing permit at issue contained a standard set of conditions that pertain to management and planning, use of the permit area, financial obligations and others. Clause 5.00 provides:

5.00 Without the prior written consent of the Permitter, the Permittee will not:

b) erect or install any works ... on the permit

In the circumstances of this complaint, the permittee had the written prior consent of the District Manager before the Code was in force, at least for the right-of-way construction, and also had the prior written consent of the District Manager for the fence construction by October 20, 1995.

**FINDING #5 - The fence line was cleared and the fence constructed with two prior written approvals of the District Manager, in compliance with the terms of the deemed range use plan at the dates of approval.**

In conclusion, the fence was constructed in compliance with the Code's requirements for such construction to be in accordance with the provisions of a valid range use plan.

## **B. Administrative Fairness**

### ***a. Was the decision reasonable?***

The complainant, as a neighbouring landowner, expressed several concerns to the District Manager in June 1995 about the fence being constructed on adjacent Crown land. These included

1. possible conflict of interest affecting the decision to approve fence construction;
2. lack of information about the potential impact of the cattle on other resource values, and the absence of a referral process; and
3. the effect of the fence in blocking access for himself and other users.

In a letter to the District Manager in October 1995, the complainant said he was specifically concerned about indications of a conflict of interest on the part of the District Range Officer. While this concern about bias was never specifically addressed by the District Manager, the decision to approve the fence construction was made exclusively by the District Manager rather than by the Range Officer. The complainant expressed no concern during the investigation about lack of impartiality on the District Manager's part. The Board concluded that the allegation of a conflict of interest on the part of the District Range Officer was not relevant to this complaint.

**FINDING #6 - The complainant's concern about a possible conflict of interest on the part of a District employee was not directly relevant to the complaint, as the decision complained of was made solely by the District Manager.**

The complainant's concern about a lack of a referral to assess potential impacts on other forest resources was addressed by the District Manager by ordering a referral during the summer of 1995. The Silviculture Officer supported the complainant's concern about requiring access to be maintained. The Planning Forester recommended that a range use plan be prepared to describe measures to be taken in range developments to protect wildlife and riparian areas.

The Board found that the District Manager had responded to the concerns raised by the complainant and the referral staff by adding new conditions to the approval, including:

1. the need for consideration of the fence and enclosure in a future range use plan;
2. addition of a wooden top rail on some parts of the fence line;
3. improvement in waterholes to keep cattle from the river; and
4. construction of brush fences across game trails leading to the river.

The assessment of fence impacts on other forest resources and other resource users continued after the approval. In the spring of 1996, the regional Range Manager carried out a field inspection of the fence and enclosure. In his report, he corroborated potential wildlife habitat concerns, finding that the enclosure was an important moose and deer winter range and migration corridor. Permanent barbed wire fencing was acceptable, but additional plastic fence markers were recommended where there was no wooden top rail required. He suggested that the permittee be required to stop any further construction until a range use plan was in place. He also recommended that game trails leading to the breaks above the Horsefly River be blocked against livestock use. Finally, he recommended a reduction in livestock use, limiting livestock use to 26 yearlings for one month, rather than the 40 that were approved.

**FINDING #7 - The District Manager considered the complainant's concern about the need for a referral by implicitly holding the approval for fence construction in abeyance until a referral was done and adding conditions to the approval.**

The District Manager also responded to the complainant's concerns about access through the fenced land. He added a new requirement that the permittee install two gates as a new condition to the approval.

**FINDING #8 - The District Manager considered the complainant's concern about access blockage by adding gate installation conditions to the approval.**

In summary, the District Manager acted on some recommendations and rejected the others. The Board found he had exercised his discretion appropriately in doing so, and that his decision to authorize fence construction, subject to additional conditions, was reasonable.

The final sequence of events occurred in the spring of 1996. In his third letter to the permittee on May 9, 1996, the District Manager confirmed his October approval but required use of the additional plastic fence markers as a result of the April site inspection by the regional Range Manager. The permittee constructed the permanent fence within days of receiving that letter.

***b. Was the decision-making process fair?***

As indicated above, the District Manager reviewed and responded to the complainant's concerns regarding the construction of the fence. Moreover, the complainant had ready access to District office information about the matter by virtue of his employment with the ministry. The complainant had compiled a large file of materials on his own between October 1995 and the date of the field investigation of the complaint in February 1997. When the complainant's file was compared to the District file on the permittee's grazing permit, it was clear that the complainant had been able to examine all District records on the matter. He had had liberal access to District information.

As a District employee, the complainant was in a particularly good position to monitor the approval process, including referral agency concerns. Such access to information was unique to this complainant; the general public may or may not have had such access.

The Board concluded that the process employed to arrive at the District Manager's decision to authorize the construction of the fence met the requirements for administrative fairness.

**FINDING #9 - The District Manager provided adequate disclosure of information to the complainant and acted fairly in arriving at his decision to authorize the construction of the fence.**

### **C. Further Opportunities For Complaint Resolution**

The District Manager's decision in 1996 to lower the grazing intensity on the fenced area from an initial 40 yearlings for four weeks to 40 yearlings for only three weeks likely addressed the complainant's concern about damage to wildlife habitat along the Horsefly River. The installation of gates provided him with the access he desired. Moreover, the complainant acknowledged during the investigation that, although the fence contains yearlings for several weeks, it also acts to keep cattle out of the sensitive area for 11¼ months each year, thus reducing his concern about cattle trespassing onto his land. The complainant has come to accept the presence of the fence although he remains concerned about the process that was followed by the District. The complainant also questions whether a permanent fence is really necessary and believes that a combination of permanent posts with a temporary (seasonal) electrical top strand of fencing would accomplish the purpose with less interference with wildlife.

The complainant has taken his concerns to the Board, the Ombudsman, the regional manager of the Cariboo Forest Region, and the Minister of Forests. His remaining option is take advantage of the public review and comment process that the Code provides as the legislated avenue for affected neighbors to be informed about range developments and to express concern about the effects of those developments.

However, the investigation showed that the complainant did not have recourse to a public review and comment process in October 1995 because the transitional provisions of the Act delayed the requirement for range use plans to go through that process until June 1996. On the other hand, the complainant was able to access information at the District office and express his concerns effectively to the District Manager despite the absence of a formal public review and comment process.

**FINDING #10 - The appropriate forum for the complainant to express his concerns about the disputed fence is through the public review and comment process for approval of range use plans. Due to the transitional provisions of the *Forest Practices Code of British Columbia Act*, the complainant has not yet had an opportunity to express his concerns through public review and comment on the range use plan, though he was able to express his concerns directly to the District Manager.**

With a formal range use plan now in place, the question arises as to whether the complainant can now avail himself of the public review and comment process for approval of range use plans.

The range use plan covering the area in dispute was approved a month after the fence was constructed, on June 14, 1996. It is a patchy, incomplete document that does not meet current content requirements for such plans.. For example, there was no attempt to describe existing and desired plant communities, even though the plan includes a "Strategy" that is described as being intended to achieve the desired plant communities. Conditions are referred to, but missing. Acronyms such as "PNC" and "GEF" are used, but not explained. However, the grazing schedule does impose a reduction in grazing pressure as recommended by the Regional Range Manager in his April 1996 report -- the 40 yearlings are to be enclosed for just three weeks rather than the four weeks initially approved. This provides virtually the same result as 26 yearlings for four weeks, the arrangement recommended by the Regional Range Manager.

Two aspects of this range use plan are significant. First, at the date of plan approval, the deficiencies in content were acceptable under the transitional provisions of the Act. Section 236 provides that:

236.(1) Despite section 27, if on or before [June 14, 1996],

- (a) the district manager approves a range use plan ... or
- (b) a district manager prepares a range use plan ...

the plan ... need not meet the content and review and comment requirements of this Act and the regulations.

(2) Despite section 27, if [between June 15, 1996 and December 31, 1997] the district manager prepares or approves a range use plan ..., the plan ... must

- (a) meet the review and comment requirements of this Act and the regulations, and
- (b) be in substantial compliance with the other requirements of this Act and the regulations.

Note that, if the range use plan had been approved only one day after it was actually approved, two new laws would have applied:

1. the content of the plan would have to be in full compliance with the Act and *Operational Planning Regulation*, and
2. the complainant would have been able to express his concerns in public review and comment on the plan.

**FINDING #11 - The effect of approving the incomplete range use plan on June 14, 1996, was that there was no Code requirement regarding content and that there was no requirement for public review and comment for the plan until it was replaced.**

Approval on June 14, 1996, was deliberate on the part of the District Manager, but not unique to the circumstances of this complaint. The District Manager confirmed during the investigation that almost all of the 35 to 40 range use plans in the District were approved before the June 15, 1996 deadline.

Approval just prior to June 15, 1996, was not a practice restricted to the Horsefly District. On a provincial scale, the Manager of the Ministry's Range, Recreation and Forest Practices Branch in Victoria confirmed that the majority of range use plans in the province would have been approved (or re-approved, in the case of some pre-Code "tenure management plans" that would have been prepared for many 10-year term grazing licences) before that date.

The Branch Manager provided two operational reasons for approving range use plans before June 15, 1996. First, range use plans were wanted before stock moved onto the ranges for the 1996 season, if possible. Second, grazing permits can be issued for various terms, not only five years. By approving range use plans for grazing permits of various durations, the workload of future range use plan renewals could be staggered or distributed. Some would be examined for content and subject to public review in one year, some in two years and so on.

**FINDING #12 - It was a general practice in the Horsefly District, and in most of B.C., to approve range use plans before the content and public review provisions of the *Forest Practices Code of British Columbia Act* came into force on June 15, 1996.**

Given that the new range use plan was approved just before public review and comment provisions took effect, when will the complainant have an opportunity to express his concerns through a formal public review and comment process? Range use plans, unlike other operational plans such as forest development plans, are not subjected to public review and comment every year. Sections 19 and 27 of the Act require that forest development plans and range use plans must be approved before cutting authority is applied for and before livestock are grazed, respectively.

Forest development plans and many range use plans are for five-year planning periods. Despite that similarity, there is a crucial difference. A forest development plan usually covers five years, but it is approved for only one year at a time for major tenures (five years for woodlots). Section 9(3) of the *Operational Planning Regulation* states:

(3) For the purposes of section 19(3) of the Act, unless otherwise specified by the district manager, a forest development plan expires,

(a) if a holder of a major licence prepares the plan, 1 year from the date specified in the approval of the plan....

The effect is that a forest development plan normally comes up for approval every year. Therefore, the public has an opportunity to review and comment upon forest development plans annually.

That public review frequency contrasts sharply with that for range use plans. Section 27(5) of the Act provides that a range use plan is good for up to five years, unless the associated grazing tenure expires earlier:

(5) A range use plan expires on the earlier of

(a) a date 5 years from the date the plan takes effect, and

(b) the expiry of the agreement under the *Range Act*.

The effect is that, unless the underlying grazing tenure expires earlier, range use plans will only come up for approval once every five years. Public review and comment is only required upon plan renewal.

In the specific situation of this complaint, the effect of pre-June 15 approval of the range use plan on the complainant was unfortunate. The current approved but incomplete range use plan will remain in effect until the underlying grazing permit expires or is relinquished. The grazing permit in this case will not expire until December 31, 1999. If the current permittee maintains the tenure until expiry, no new range use plan (one that has the full content required by the Code and one that allows public review and comment) will be required until the year 2000.

**FINDING #13 - As the grazing permit is effective for five years, it is unlikely that the applicable range use plan will be subjected to public review and comment until the year 2000, when the range use plan expires.**



## Conclusions

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1. The fence construction approval complained of was carried out in compliance with the basic requirements of the Code, in that the authorization was made in compliance with the terms of a grazing permit that was deemed to be a range use plan.
2. The decision of the District Manager to approve fence construction was reasonable in that the initial approval was held in abeyance until the complainant's concerns were investigated and partially addressed by the addition of conditions in a subsequent authorization.
3. The decision-making process leading to the approval was fair, with the complainant having generous access to District files as a result of his concerns, although that access may have been in part due to the complainant's status as an employee of the District office.
4. The fence provided some benefits to the complainant and, with the amended conditions, has had no significant adverse impact on him.
5. The appropriate remedy for the complainant is to express his concerns about the fence during the public review and comment process during future approval of a new range use plan.
6. The complainant is not likely to be able to express his concerns in public review and comment for at least three years, but in the circumstances of this complaint, the complainant was able to keep himself fully informed and to fully express his concerns to the District Manager.
7. The practice of the Ministry of Forests in approving range use plans immediately before public review provisions of the Code came into force has resulted in postponing public input into range use planning for as many as five years.

## Complaint Remedies

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1. The complainant asked that the Board recommend that a range use plan be approved and that the fence approval be made subject to the plan.

The investigation confirmed that a deemed range use plan was in place and that the fence approval was made subject to that "plan".

2. The complainant also asked that the District Range Officer be removed from any involvement in this fence approval because of alleged conflict of interest.

The investigation indicated that the fence approval was made by the District Manager, so any conflict of interest on the part of the Range Officer was irrelevant.

3. Finally, the complainant requested that only temporary fencing be used, and that the northwestern corner of his private lot (Lot 12327) be fenced by the permittee to prevent cattle in the new enclosure from entering his land.

The investigation indicated that the District Manager had the authority to require temporary fencing, but decided not to do so. The investigation provided no information to decide whether a temporary fence was suitable.

The investigation also indicated that the complainant was aware that the fence complained of had a beneficial effect, by keeping the cattle out of his land for more than 11 months of the year. Thus, there is less need of an additional fence along the complainant's private land than was the case before the fence at issue was constructed.

As the concerns of the complainant have largely been addressed since the complaint was filed, and as the Board finds no fault with the District Manager's decision or with the process used to arrive at that decision, the Board declines to make recommendations for further action.