

COMPLAINT INVESTIGATION

# Range Practices on the Coutlee Range Unit



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# BOARD COMMENTARY

The Forest Practices Board (the Board) investigated a complaint about grazing practices on a range agreement area within the Coutlee Range Unit near Merritt. The investigation found non-compliances related to overgrazing have damaged the open grasslands in the Mine pasture, which is part of the Coutlee Range Unit.

The Ministry of Forests (the ministry) has known about the poor condition of the Mine pasture and the broader range agreement area since 2009. That year, a forage supply review recommended reducing authorized grazing by more than half, estimating a 50-year period to reach full recovery. Despite some current and planned actions, the authorized forage amount is still more than double what was recommended in the forage supply review.

The Board believes that the non-compliances by range agreement holders and the ministry's over-allocation of forage are hindering the achievement of government objectives for the range resource.<sup>1</sup> <sup>2</sup> The Board urges range agreement holders and the ministry to take the necessary steps to ensure proper stewardship of the range resource, consistent with government's objectives.

This investigation illustrates the challenges of managing a range agreement area with six tenure holders under one range use plan. The level of cooperation required of multiple licensees to follow one range use plan may not be practical.

A recurring theme the Board has noted in its investigations and audits relating to range management is that requirements in range use plans are not measurable and thus not verifiable or enforceable. This is not appropriate in light of the many resource values that are found on BC's rangelands.

The Board acknowledges that actions by the ministry and range users in 2024 and 2025, and planned for future years, represent positive steps in the restoration of the Mine pasture.

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<sup>1</sup> Government's objectives for range are in sections 5-11 of the [Range Planning and Practices Regulation](#).

<sup>2</sup> In its special report titled '[Measuring and Allocating Forage on Rangelands in BC](#)', the Board discusses the relationship between forage allocation and achievement of government's objectives for range.

# INTRODUCTION

## The Complaint

On June 18, 2023, the Forest Practices Board (the Board) received a complaint from two range agreement holders (the complainants) from Merritt, British Columbia. The complainants, together with four other range agreement holders, are authorized to graze livestock on the same range agreement area located within the Coutlee Range Unit.

The complainants believe that one pasture—the Mine pasture—is overgrazed. As a result, the complainants decided not to graze their livestock on any pasture during the 2023 grazing season. The other four range agreement holders met with the Ministry of Forests (the ministry) and subsequently amended their grazing schedule without the complainants' knowledge. The complainants say that the changes to the grazing schedule will result in further deterioration of the Mine pasture.

The complainants are also concerned that the four other range agreement holders are not maintaining the fences they are responsible for and are not following the amended grazing schedule.

## Background

The Coutlee Range Unit is located southwest of the City of Merritt, BC (see Figure 1), in the Cascades Natural Resource District. The range unit includes three separate range agreement areas, including the area grazed in common by the complainants and four other agreement holders.

The range agreement area that is subject to the complaint is located in the southern part of the Coutlee Range Unit. It is bordered by the Coldwater Indian Reserve to the south and east. The range agreement area is within the territories of 21 First Nations and the Forest Practices Board recognizes their deep connection with the land that continues to this day.<sup>i</sup>

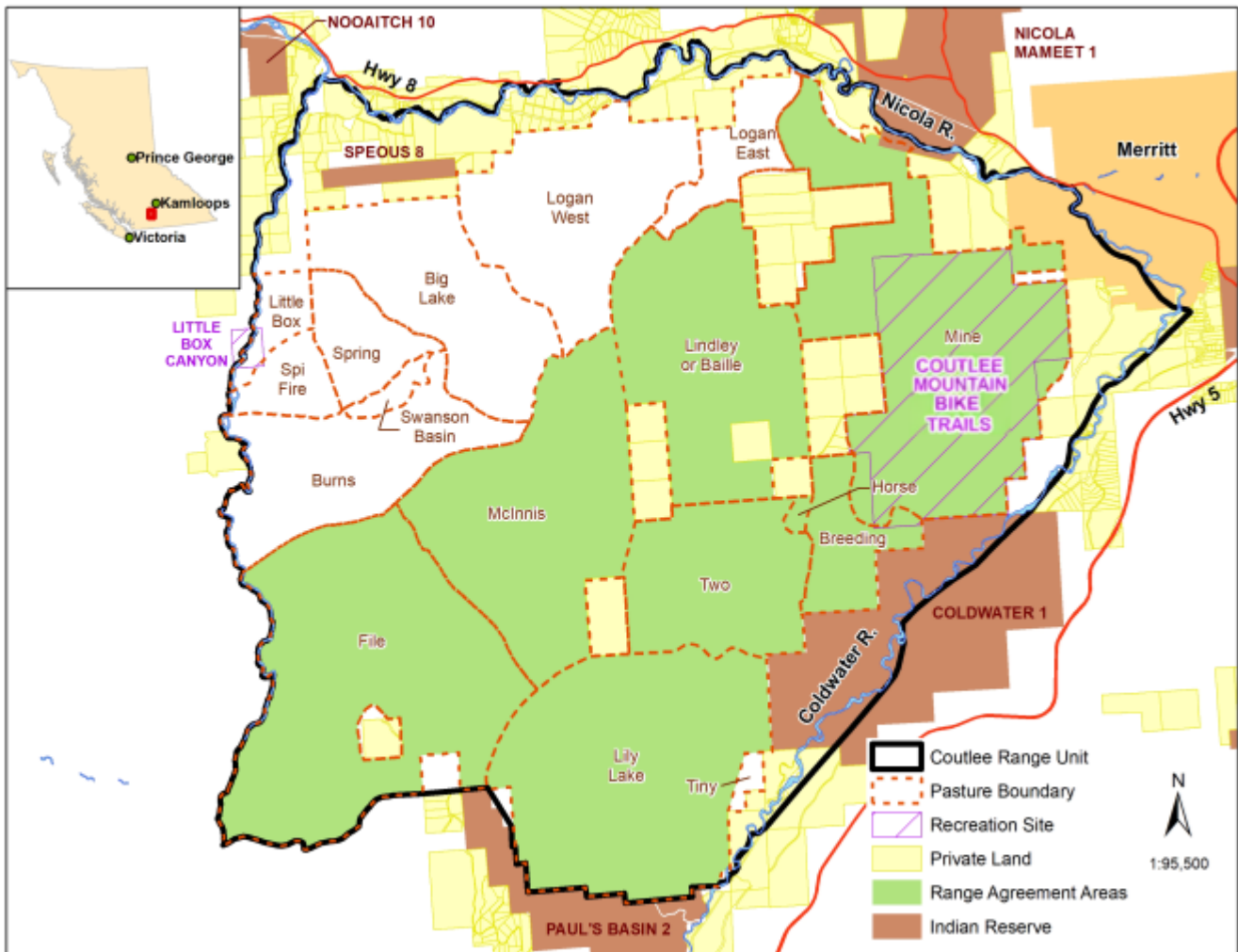
There are several parcels of private land within the range unit which are not part of the range agreement area. A portion of the range unit is also designated as a recreation site by Recreation Sites and Trails BC and is popular for mountain biking and cross-country skiing. Horses are frequently seen in the range unit and are regarded by the ministry as being at-large and in trespass because they are not authorized to graze on public land.

The range agreement area is one of the few range units in the province where there are more than two overlapping range agreements on the same area. Even less common is that all six range agreement holders are signatories to one range use plan (Table 1); however, each agreement holder has their own *Range Act* licence. Over the past 15 years, with the exception of the complainants, there have been numerous transfers of rights in the *Range Act* agreement from one agreement holder to a different agreement holder.

**TABLE 1.** The six *Range Act* agreement holders that are signatories to the 2019-2024 range use plan and the 2023 amendment to the grazing schedule of the range use plan.

RANGE AGREEMENT #	RANGE AGREEMENT HOLDERS	
	When the 2019-2024 Range Use Plan was Approved	When the 2023 Amended Grazing Schedule was Submitted
RAN077654	Avanlee Farm Ltd.	Avanlee Farm Ltd.
RAN076725	Gene Ewalt	Gene Ewalt (complainant)*
RAN077470	Robert Kuiper	Lower Nicola Cattle Company and Curt and Erica Martendale
RAN077102	Laura and Neale Brunhild	Laura and Neale Brunhild
RAN077658	Wayne Schindler	Wayne Schindler (complainant)*
RAN077659	Robert Sahara	Robert and Gail Sahara and Hailey Rutherford

\* These agreement holders did not sign the 2023 amended grazing schedule.



**Figure 1.** The range agreement areas and pastures within the Coutlee Range Unit.

## Government Management of the Range Agreement Area

### Forage Supply Review

In 2009, the ministry's range branch conducted a forage supply review on the range agreement area. The review included a detailed problem analysis of forage use and availability in the Mine pasture.

The forage review states that each year, the Mine pasture is typically used to move livestock on and off the range. This leads to a high risk of overgrazing. Forage use was found to be heavy to extreme in the open forest/grasslands of the Mine pasture, primarily due to concentrated grazing by livestock.<sup>3</sup> As a result, the grasslands are in very poor health and susceptible to the establishment and spread of invasive plants.

To determine the appropriate level of forage use, the review modelled several scenarios of forage allocation, including a 'recovery scenario' and a 'maintenance scenario'. The recovery scenario recognized that it would take more than 50 years for the plant communities in the open areas of the Mine pasture to recover. To achieve recovery, the review recommended forage use in the pasture be set at 159 animal unit months (AUMs) per year.<sup>4</sup>

The maintenance scenario assumes a "safe use" factor of 50 percent of the available forage to maintain existing plant communities. Maintenance would require better distribution of livestock across the pasture so that use is not concentrated in the open forest/grassland areas. To achieve this condition, the review recommended setting forage use in the Mine pasture at 453 AUMs. Even with 50 percent use, the review found there is a high risk of further alteration of the plant communities in the grasslands.

A "safe use" factor is the recommended amount of forage that can be consumed by livestock without overgrazing while also maintaining forage for wildlife and ecosystem health.

*Source: Forest Practices Board, 2023. Measuring and Allocating Forage on rangelands in BC. Special Report.*

For both the recovery and maintenance scenarios, the review recommended that the Mine pasture be rested every second year or at least have its use deferred until later in the year.

**Table 1.** Comparison of AUMs recommended in the 2009 forage supply review and actual AUMs in the 2023 amended grazing schedule for the Mine pasture.

AUMs RECOMMENDED IN 2009 FORAGE SUPPLY REVIEW		ACTUAL AUMs	
Recovery Scenario	Maintenance Scenario	In the 2019-2024 Range Use Plan	In the 2023 Grazing Schedule Amendment
159	453	408	388

<sup>3</sup> 'Poor livestock distribution' means that livestock grazing is concentrated in part of a pasture and that the range agreement holder is not actively moving livestock to ensure that grazing is spread evenly across a pasture.

<sup>4</sup> 'Animal unit month' (AUM) is defined in the *Range Act* as 450 kilograms of forage that would sustain for one month a cow with calf. Because bulls consume more forage than cows, they typically account for 1.5 AUMs for each month of grazing.

## Range Use Plan Effectiveness Monitoring

In 2017 and 2018, range staff from the Cascades Natural Resource District office inspected the range agreement area four times before renewing the range use plan. The inspections found that changes to grazing practices were required due to overgrazing resulting in adverse impacts to soils, forage and plant communities, wildlife habitat and biodiversity. District staff also identified non-compliance with the grazing schedule and the maintenance of range developments. Also, there were coordination problems between the six range agreement holders, leading to fences not being maintained and overgrazing in some areas.

The inspection reports indicated that the range unit is difficult to manage due to horses being at large, recreation and multiple range agreement holders. The report concluded that range health improvements are unlikely unless there are fewer range agreement holders sharing the range.

## 2023 Amendment to the Grazing Schedule

In early 2023, the six range agreement holders began discussing changes to the grazing schedule of their range use plan. The two complainants believed that the Mine pasture had been overgrazed and that it should be rested from grazing for the 2023 grazing season to allow the plant communities to recover. The complainants subsequently informed the ministry that they did not want to graze their livestock on the range agreement area in 2023. The ministry granted each of the complainants a non-use agreement.<sup>5</sup> In granting the non-use agreements, the ministry stated that the range had been historically overgrazed and that the non-use would help improve the quality and quantity of forage.

In March 2023, the other four range agreement holders continued discussions with ministry staff about changes to the grazing schedule. The four agreement holders and ministry staff agreed on changes to the grazing schedule, and the four agreement holders submitted a minor amendment to the range use plan. Neither the ministry staff, nor the four agreement holders informed the complainants that they had submitted an amendment to the grazing schedule.

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<sup>5</sup> Under the *Range Act*, an agreement holder is required to obtain a non-use agreement if they intend to utilize less than 90 percent of the forage (expressed as AUMs) authorized in their agreement. Unless exempted, the holder of a non-use agreement continues to comply with requirements under the *Range Act* and the *Forest and Range Practices Act*. For example, a range agreement holder with a non-use agreement must continue to maintain range developments.

# INVESTIGATION

The investigation considered whether the six range agreement holders complied with *Forest and Range Practices Act* (FRPA) requirements for:

- amending a range use plan;
- protecting riparian and upland areas; and
- maintaining range developments.

The Board examined the protection of riparian and upland areas because the complainants were concerned that parts of the range agreement area were overgrazed and in poor condition.

The investigation did not examine how forage is allocated to each range agreement holder, as this is done under the authority of the *Range Act*, which is outside the Board's mandate.

## Did the range agreement holders comply with FRPA's requirements?

In British Columbia, the authorization of livestock grazing and management on Crown range is regulated by the *Range Act* and FRPA. Before grazing livestock, a person must obtain a *Range Act* agreement and obtain the minister's approval of a range use plan that meets FRPA's content requirements.

*Range Act* agreement holders grazing livestock on Crown range must follow the approved range use plan and practice requirements described in both FRPA and the *Range Planning and Practices Regulation* (RPPR).

The complainants assert that overgrazing is occurring in the Mine pasture. Therefore, the Board's assessment of compliance is limited to this pasture. Board investigators undertook a reconnaissance assessment of the range agreement area on July 10, 2023, and a specific assessment of the Mine pasture on September 19, 2023.

### Actions to Address Issues Identified by the Minister

Section 33(1)(c) of FRPA enables the minister to identify 'issues' that an agreement holder must address in a range use plan by specifying actions. Issues are a tool to draw attention to resource values and other matters that require special management. The authority to identify 'issues' is delegated to a district manager. Once in an approved range use plan, section 45(1) of FRPA requires the actions to be carried out by the range agreement holder.

The agreement holders' range use plan includes eight actions to address six issues identified by the minister. Four of the minister's issues are related to ensuring that the range is kept in good condition (Table 3).

**TABLE 3.** Minister’s issues and the agreement holders’ actions in the range use plan to deal range condition.

MINISTER’S ISSUE	AGREEMENT HOLDERS’ ACTIONS TO DEAL WITH THE ISSUES
1. The area to which the range use plan applies is used jointly with other grazing tenure holders. It is important to have co-ordination of use to allow resource objectives to be met.	<ul style="list-style-type: none"> <li>· Pre-turnout meeting to discuss annual use and best management for the grazing season.</li> <li>· Fences to be inspected prior to turnout.</li> </ul>
2. Salting practices must be done in such a way to encourage better distribution of stock, and must not cause deleterious effect to plant communities and other resource values.	<ul style="list-style-type: none"> <li>· Salt at higher elevations, away from open grasslands and water sources.</li> <li>· Within mature forested areas where appropriate and/or possible.</li> <li>· Off main and secondary roads.</li> </ul>
3. Pastures are used at the same time every year. Grazing rotation should allow rest and allow alternating of spring and fall grazing.	<ul style="list-style-type: none"> <li>· Tenure holders should run in the same rotation to allow pastures to be rested.</li> </ul>
4. Poor livestock distribution - large areas of many pastures go completely unused, while other areas are heavily used.	<ul style="list-style-type: none"> <li>· Increase range riding, more coordination between tenure holders to ensure everyone is doing their fair share.</li> <li>· Pre-turn out meeting to discuss yearly tasks.</li> </ul>

Investigators could not determine whether the agreement holders complied with the actions in their range use plan to address the minister’s issues because the actions are written in a way that are not measurable or verifiable and, therefore, are not enforceable. For example, Table 4 shows the actions for minister’s issue #2 and why they are not enforceable.

**Table 4.** Minister’s issue #2 and why the actions in the plan are not enforceable.

ACTIONS TO ADDRESS MINISTER’S ISSUE #2	WHY THE ACTIONS ARE NOT ENFORCEABLE
Salt at higher elevations, away from open grasslands and water sources.	“Salt at higher elevations” is not a specific measurable or verifiable action.
Within mature forested areas where appropriate and/or possible.	“Where appropriate and/or possible” means that the action is not necessarily required and up to the discretion of the agreement holders.
Off main and secondary roads.	“Off” does not specify a measurable distance. Also, the range use plan map does not identify which roads are main roads or secondary roads.

### Finding

The Board could not determine compliance with section 45(1) of FRPA because the agreement holders’ actions in the range use plan are not enforceable.

### Amending a Range Use Plan

FRPA categorizes amendments to a range use plan as either ‘mandatory’ (requires the minister’s approval) or ‘minor’. Since all six range agreement holders are signatories to the range use plan, all holders must collectively participate in the amendment process.

## Amendment Must be Signed

Section 33(2) of FRPA requires a range use plan, or any amendment to it, to be signed by the person who prepared the plan, or—if it is a corporation—by the person or people authorized to sign on behalf of the corporation. Section 37(1) of FRPA requires the minister to approve an amendment unless the agreement holder determines the proposed amendment: a) otherwise conforms to the act and regulations and, b) does not materially affect the intended results specified in the plan (see section 40 FRPA regarding minor amendments). The Ministry of Forests' policy states that changes made to the grazing schedule of a range use plan are generally considered a 'minor amendment'.

In May of 2023, the six range agreement holders discussed making changes to the grazing schedule of the range use plan. The two complainants disagreed with the proposed changes. The other four range agreement holders proceeded to engage with the ministry and submitted a signed notification of an amended grazing schedule. The two complainants were unaware that the other agreement holders had submitted an amended range use plan. District staff supported the amendment, incorrectly assuming that the two complainants were not required to sign because they had been approved to be in a non-use agreement.

### Finding

The amended 2023 grazing schedule is not valid because it was not signed by all six range agreement holders.

## Circumstances Requiring a Mandatory Amendment

FRPA has several requirements that either directly or indirectly require range agreement holders to monitor livestock grazing to ensure that they are complying with their range use plan and practice requirements. Agreement holders must also monitor range practices to ensure that the actions in their plan continue to be sufficient to deal with the issues identified by the district manager, per section 38(2)(b) of FRPA. Section 38(4) of FRPA requires an agreement holder to submit a mandatory amendment to their plan with revised or new actions to deal with issues, if they know or reasonably ought to know that the actions in the plan are not sufficient to deal with the issues.

The Board examined whether the six range agreement holders complied with section 38(4) of FRPA.

The ministry's records establish that the Mine pasture is overgrazed and in very poor condition (see [Background](#) section of report). The information is documented in numerous ministry assessments and reports, some of which have been shared with the range agreement holders. Board investigators found similar concerns when they assessed the proper functioning of the Mine pasture. Investigators found no evidence that the range use plan actions meant to address the minister's issues regarding range condition were sufficient (see minister's issues #2-4 in [Table 3](#)).

All six range agreement holders met annually in the spring to discuss grazing plans for the upcoming grazing season. Two range agreement holders—who are the complainants—voiced concerns in late 2022 and early 2023 about the poor condition of the Mine pasture to the other four range agreement holders and the ministry staff. The complainants subsequently decided to enter into a non-use agreement with the ministry and did not graze their livestock on the agreement area for the entire 2023 grazing season.

In the Board’s view, all six range agreement holders knew or reasonably ought to have known that portions of the Mine pasture have been overgrazed and that the actions in the range use plan were not sufficient to deal with minister’s issues #2-4 respecting range condition. As demonstrated by obtaining a non-use agreement for the 2023 grazing season, the complainants knew that the Mine pasture was overgrazed and took notable steps to enable the range to recover. The other four range agreement holders did not take steps in the 2023 grazing season to address the poor condition of the Mine pasture.

Entering into a non-use agreement is a *Range Act* authority, which differs from FRPA’s requirement to amend the range use plan so that actions are effective in addressing the minister’s issues. However, as found in this investigation, it was unlikely that all six range agreement holders would have agreed on the need for an amendment, and on what actions would be appropriate to improve range condition. This highlights the challenges of achieving compliance with FRPA as the number of parties signatory to the same range use plan increases.

### Finding

The two complainants took notable steps to reduce grazing pressure for the 2023 grazing season, but technically did not comply with section 38(4) of FRPA. The other four range agreement holders did not comply with section 38(4) of FRPA.

## Protection of Riparian and Upland Areas

To assess compliance with FRPA requirements to protect riparian and upland areas (see Table 5), investigators examined the condition of these areas within the Mine pasture.

**Table 5.** Requirements in the RPPR for the protection of riparian and upland areas.

RIPARIAN AREAS (Section 30 of the RPPR)	UPLAND AREAS (Section 31 of the RPPR)
<p>A range agreement holder must not carry out a range practice if it would result in a material adverse effect on the ability of the riparian area to:</p> <ul style="list-style-type: none"> <li>(a) withstand normal peak flow events without accelerated soil loss, channel movement or bank movement,</li> <li>(b) filter runoff,</li> <li>(c) store and safely release water, and</li> <li>(d) conserve wildlife habitat values in the area.</li> </ul>	<p>A range agreement holder must not carry out a range practice on an upland area if the range practice would result in a material adverse affect [sic] on the upland area by substantially:</p> <ul style="list-style-type: none"> <li>(a) accelerating the rate of soil loss from the area,</li> <li>(b) diminishing infiltration of water on the area,</li> <li>(c) reducing moisture storage on the area, or</li> <li>(d) decreasing stability of the area.</li> </ul>

## Riparian Areas

The RPPR defines a 'riparian area' as, "an area of land adjacent to a stream, lake or wetland and contains vegetation that, due to the presence of water, is distinctly different from the vegetation of adjacent upland areas." Typically, riparian areas occupy less than 10 percent of the area within a landscape.<sup>6</sup>

Board investigators completed a riparian health assessment where riparian areas appeared to be impacted by livestock use. The assessment is used to determine whether the current condition of a riparian area is functional, functional at risk, functional at high risk, or not functional.

A riparian area is considered not functional if more than 50 percent of the functioning condition of the riparian area has been impaired. The Board considers that there has been a material adverse effect on each of the riparian functions listed as (a) through (d) under section 30 of the RPPR. When a material adverse effect is identified, the agreement holder is in non-compliance with section 30 of the RPPR.

Investigators examined the condition of riparian areas surrounding three wetlands. Livestock activity within the riparian areas was limited to isolated sites, mainly to access water for drinking. At all three wetlands, the associated riparian areas were in a proper functioning condition and are therefore compliant with FRPA's requirements to protect riparian areas.



**Figure 2.** This wetland in the Mine pasture has had little use by livestock and is in a proper functioning condition.

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<sup>6</sup> Fitch, L., B. Adams and K. O'Shaughnessy. 2003. *Caring for the Green Zone: Riparian Areas and Grazing Management - Third Edition*. Lethbridge, Alberta: Cows and Fish Program.

## Finding

The range agreement holders complied with section 30 of the RPPR to protect riparian areas.

## Upland Areas

Although not defined by FRPA, 'upland areas' are grasslands and forestlands outside of riparian areas. Typically, upland areas occupy over 90 percent of the area within a landscape.

Board investigators completed an upland health assessment where upland areas appeared to be impacted by livestock use. The assessment is used to determine whether the current condition of an upland area is functional, functional at risk, functional at high risk, or not functional.

An upland area is considered not functional if more than 50 percent of the functioning condition of the upland area has been impaired. The Board considers that there has been a material adverse effect on each of the upland functions listed as (a) through (d) under section 31 of the RPPR. When a material adverse effect is identified, the agreement holder is in non-compliance with section 31 of the RPPR.

Investigators assessed the functioning condition of uplands in the Mine pasture across three distinct units, including forested areas, cutblocks and grassland/open forest. The results of the assessment are found in Table 6.

**Table 6.** Results of upland health assessments in the Mine pasture.

UPLAND TYPE WITHIN THE MINE PASTURE	AREA (ha) OF THE TYPE AND PERCENT OF PASTURE	FUNCTIONING CONDITION OF THE TYPE
Forested	1 914 (67%)	Moderately at risk
Cutblocks	689 (24%)	Moderately at risk
Grassland/Open Forest	273 (9%)	Not functional
<b>Total</b>	<b>2 876</b>	

Investigators determined that livestock grazing is likely the primary causal factor in the declining functioning condition of uplands across the Mine pasture (that is, units of the upland that were moderately at risk or not functional). However, investigators also acknowledge that the presence of horses—which are in trespass—and off-road vehicles (ORVs) are secondary factors that contribute to the poor functioning condition of uplands.

In forested and cutblock upland types, investigators found that while the uplands were functioning, they were at moderate risk of becoming not functional. Forested types were the least used of the three upland types within the Mine pasture. However, in localized areas, there were signs of degradation including bare and compacted soil with declining plant community vigour.<sup>7</sup> Grazing in cutblocks has reduced plant community vigour and recruitment of desirable plant species.

<sup>7</sup> Vigour is an expression of plant health or robustness. Plants with low vigour have a greater potential of being out-competed by invasive plant species (Source: Province of British Columbia, 2021. Environmental Farm Plan Reference Guide).



Figure 3. Aerial view of the grassland/open forest unit within the Mine pasture.

In the grassland/open forest type, heavy use by livestock (as well as horses and ORVs as secondary factors) has caused a deterioration of plant communities, poor plant vigour, soil disturbance and compaction. In the grassland/open forest type, the functioning condition of the upland is less than 50 percent. This means that more than half of the upland's functioning condition has been impaired. This is evidenced by a substantially:

- accelerated rate of soil loss;
- diminished infiltration of water;
- reduced moisture storage; and
- decreased area stability.

As a result, the grassland/open forest type was determined by investigators to be not functional and is therefore not compliant with FRPA's requirements to protect upland areas.

Given the long-term overgrazing that has occurred in the grassland/open forest type, it is likely that a recovery plan will be required to improve range condition.



**Figure 4.** The grassland/open forest unit of the Mine pasture has been overgrazed, as indicated by the poor condition of the plant communities and the amount of bare ground. The grassland/open forest unit is in a not functioning condition.

### **Finding**

In the grassland/open forest type of the Mine pasture, livestock grazing was the primary causal factor leading to the unit's not functioning condition. Therefore, the agreement holders did not comply with section 31 of the RPPR to protect upland areas.

### **Maintenance of Range Developments**

Section 40(1) of the RPPR requires a range agreement holder to maintain range developments in an 'effective operating condition'. Range developments include fences, corrals and watering facilities used to manage livestock. Under section 40(2), the minister may exempt an agreement holder from the requirement to maintain a range development for several reasons, including that it is not in the public interest to maintain the range development. The minister has not exempted any of the six agreement holders from maintaining range developments.

Investigators examined the maintenance of two kilometres of range fence and four cattle guards to determine if they were in an 'effective operating condition' as required under the RPPR. Although the term 'effective operating condition' is not defined in FRPA, the Board considers it to mean that range developments are maintained to function as intended.

Investigators found that all range developments observed were in an effective operating condition.



**Figure 5.** This section of range fence is located on the east side of the range agreement area. Although the fence is old, it is being maintained in an effective operating condition.

### **Finding**

The range agreement holders complied with section 40(1) of the RPPR to maintain range developments.

## **CONCLUSION**

The 2023 amended grazing schedule submitted by four of the six range agreement holders was not signed by the two complainants, who are also range agreement holders. Under section 33(2) of FRPA, all range agreement holders subject to the range use plan must sign the plan and any amendments to the plan. Therefore, it is not a valid grazing schedule.

The Board could not determine whether the agreement holders complied with the actions in their range use plan to address issues identified by the minister. This is because the actions were not measurable or verifiable and therefore, are not enforceable.

In the Board's view, all six range agreement holders knew or reasonably ought to have known that portions of the Mine pasture have been overgrazed and that the actions in the range use plan were not sufficient to deal with the minister's issues. As demonstrated by obtaining a non-use agreement for the 2023 grazing season, the complainants knew that the Mine pasture was overgrazed and took notable steps to enable the range to recover. The other four range agreement holders did not take steps for the 2023 grazing season to address the poor condition of the Mine pasture.

Entering into a non-use agreement is a *Range Act* authority, which differs from FRPA's section 38(4) requirement to amend the range use plan so that actions are effective in addressing the minister's issues. While the two complainants took notable steps to reduce grazing pressure in the 2023 grazing season, they technically did not comply with section 38(4) of FRPA. The other four range agreement holders did not comply with section 38(4) of FRPA.

The Board found that the open/grassland unit of the Mine pasture (which represents about 9 percent of the 2 840 hectare-area of the pasture) has been overgrazed for many years and, as a result, is in a not functional condition. Livestock grazing has resulted in a material adverse effect on the ability of the upland area to achieve its intended functions. Therefore, the agreement holders are in non-compliance with section 31 of the RPPR. Given the long-term overgrazing that has occurred, all six range agreement holders have contributed to the non-compliance. Livestock grazing is the primary causal factor of the poor condition of the Mine pasture. However, off-road recreational vehicle use and horses at-large also contribute to the poor condition of the uplands in the Mine pasture.

In the Mine pasture, all six range agreement holders complied with FRPA's requirements in section 30 of the RPPR to protect riparian areas and section 40(1) to maintain range developments.

# ACTIONS SINCE THE INVESTIGATION

The following update was provided by the Ministry of Forests and range agreement holders, summarizing actions taken and planned since 2023 to reduce livestock impacts. These actions have not been verified by the Board.

In 2024, with the support of the ministry, range agreement holders agreed to a 25-percent reduction in AUMs and did not graze livestock in the Mine pasture. In 2025, livestock use in the Mine pasture was significantly reduced.

The ministry will continue to work in partnership with the tenure holders to reduce negative impacts due to cattle grazing whenever possible. The ministry will continue to look for ways to reduce impact, focusing on the Mine pasture first, when possible, but will not do so by increasing risk to other pastures within the range agreement area.

The ministry anticipates undertaking a forage analysis to provide current data to support permanent reductions in the absence of other solutions. Fully addressing overallocation is likely to take several years. The ministry will seek to account for the feral horses and other land uses that impact the safe use levels when adjusting the licensed AUMs after the forage analysis.

The forage analysis itself will only be a snapshot of the available forage at that time and will not fully account for other factors such as drought. These limitations will also be taken into consideration. The ministry is also exploring the possibility of adding adjacent vacant range into the agreement area to disperse current licensed AUMs over a broader land base. The potential addition of vacant range would not be paired with an increase in AUMs.

## ENDNOTE

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<sup>i</sup> The range agreement area is partially or entirely within the territories of the following First Nations:

Ashcroft Indian Band

Boothroyd Indian Band

Boston Bar First Nation

Coldwater Indian Band

Cook's Ferry Indian Band

Lower Nicola Indian Band

Lower Similkameen Indian Band

Lytton First Nation

Nicomen Indian Band

Nooaitch Indian Band

Okanagan Indian Band

Oregon Jack Creek Band

Penticton Indian Band

Shackan Indian Band

Siska First Nation

Skuppah Indian Band

Spuzzum First Nation

Upper Nicola Band

Upper Similkameen Indian Band



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