
NAME OF LAND POLICY: Grazing

APPLICATION: This policy applies only to the replacement of grazing leases issued pursuant to the *Land Act*


ISSUANCE: Director, Policy and Economic Development Branch

IMPLEMENTATION: All LWBC Staff

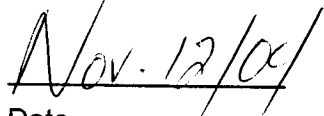
REFERENCES: *Land Act* (Ch. 245, R.S.B.C., 1996)
Range Act (Ch. 396, R.S.B.C., 1996)

RELATIONSHIP TO PREVIOUS LAND POLICY: This policy replaces the previous Grazing policy dated 94.03.01


POLICY AMENDMENT: Any formal request for an amendment to this policy is to be directed in writing to the Director, Policy and Economic Development Branch.



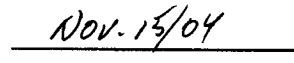
Jody Shimkus
A/Executive Director
Business Programs and Policy Division



Date



Jim Yardley
Vice President
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Date

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1. POLICY APPLICATION

This policy applies to existing Crown grazing leases and the replacement of these leases.

Inquiries for new grazing tenure should be directed to the appropriate office of the Ministry of Forests which administers grazing licence or permit tenure pursuant to the *Range Act*.

The italicized text in this document represents information summarized from LWBC standard policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant LWBC policies and procedures. Text in standard script is applicable to this policy only.

2. PRINCIPLES AND GOALS

As a Crown corporation charged with providing access to Crown land and water resources, LWBC strives to apply sound business principles. The successful management of these assets contributes significantly to the economic, social and cultural well being of all British Columbians. LWBC's [Service Plan](#) provides the corporation's vision of how best to apply these principles in managing these resources in accordance with governing enactments.

LWBC's internal programs are directed at ensuring that LWBC staff act in accordance with applicable legal requirements when making decisions. The [Guiding Principles](#) are a summary of key administrative and contract law principles which guide LWBC.

This policy is part of a series of policies that have been developed to help LWBC staff use business and legal principles to achieve LWBC's goals with respect to the management of Crown land and water in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how LWBC makes decisions respecting Crown land and water resources.

3. DEFINITIONS

Animal Unit Month (AUM) means a measure of the forage consumed by one mature cow and calf in one month. One animal unit consumes approximately 11.8 kilograms of dry matter forage per day.

4. ABBREVIATIONS

BCA - BC Assessment

ha. - Hectare

MOU - Memorandum of Understanding

MSRM - BC Ministry of Sustainable Resource Management

MWLAP - BC Ministry of Water, Land and Air Protection

5. APPLICANT ELIGIBILITY

5.1 Requirements for Individuals

Individuals must:

- be a Canadian citizen or landed immigrant (permanent resident) 19 years of age or older;
- presently hold a grazing lease in good standing on the subject land; and
- presently be engaged in the operation of the farm or ranch which includes the grazing leasehold for which replacement application is made.

5.2 Requirements for Agricultural Corporations

Agricultural corporations must:

- presently hold a grazing lease in good standing on the subject land,
- have two-thirds (66 2/3%) of the voting shares of the corporation owned by Canadian citizens or persons who have qualified for permanent residence in Canada;
- have fifty-one percent (51%) of the voting shares of the corporation owned by British Columbia residents;
- have a major shareholder of the corporation actively involved in the daily management of the farm/ranch; and
- file a statutory declaration at the time of application stating that the principal business of the corporation is the operation of a farm or ranch in British Columbia for the purpose of producing agricultural products (timber products excluded).

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary of the forms and terms of Crown tenure available for grazing operations.

For more detailed standard policy information see [Form of Crown Land Allocation](#).

6.1 Lease

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area. A lease is a registerable interest in the land that is mortgageable.

All grazing lease replacements are disposed by lease tenure.

The standard term of tenure for replacement grazing leases is 20 years.

Lessees may apply to obtain a subsequent grazing lease at or after the mid-term of their existing grazing lease.

7. PRICING POLICY

7.1 Administrative Fees

Application fees for tenures, and other administrative fees, are payable to LWBC. These fees are set out in the fee schedules contained in the [Land Act Fees Regulation](#).

The application fee for a replacement grazing lease is \$200.

7.2 Rentals

7.2.1 Lease

Grazing lease rental is paid annually as the greater of the Base Rent, the Forage Fee or the minimum annual rent of \$500.

Base Rent is 1% of the Actual Value of the land as established by the BC Assessment for the taxation year immediately preceding the date of lease replacement and the date of all subsequent 5 year reviews of the Base Rent.

Forage Fee is determined annually using the following productivity formula:

$$\text{Forage Fee} = \text{Stock Price} \times 93\% \times \text{AUMs}$$

where:

Stock Price is the three year weighted average price per kilogram for live cattle sold through the BC Livestock Producer's Cooperative Association, for the immediately preceding calendar years (see Appendix 2); and

AUMs are the number of animal unit months established in the management plan.

8. ALLOCATION PROCESSES

8.1 Applications

Replacement tenures are normally offered in response to individual applications.

For more detailed standard policy and procedures regarding the application process see [Allocations Procedures – Applications](#).

Grazing lease replacement tenures are disposed by direct offer pursuant to application.
Applications for new grazing leases are not available under this program.

8.1.1 Application Package

Applications submitted to LWBC must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.

Grazing Lease Management Plan

Applications for grazing lease replacements must include a grazing lease management plan. Preparation of the grazing lease management plan is the responsibility of the applicant, and must be completed to a standard and in a format acceptable to LWBC (see Appendix 3 – Management Plan Template).

If a replacement tenure is offered the management plan is annexed to and forms a part of the grazing lease document.

LWBC may request that a management plan be prepared, amended or approved by a professional agrologist, at the clients' expense, if there are concerns regarding the merits of a plan that cannot be resolved between the client and LWBC, and the issue warrants the expertise of a professional agrologist.

Linking the Lease to Private Ranch Property

The management plan must identify the parcels of the lessee's private (titled) ranch property that are managed together with the lease area as well as those parcels that allow access to the lease (e.g. private parcels adjacent to or in close proximity to the lease area). These titled parcels will be linked to the lease through the tenure document. This will help to ensure that the lease remains a part of a viable ranching operation with appropriate access in the event that private ranch property is sold.

8.1.2 Application Acceptance

Applications are only accepted for replacement of existing leases.

Replacement applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, and other information which may be available to LWBC staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

8.1.3 Clearance/Statusing

After acceptance, LWBC undertakes a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.1.4 Referrals

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to LWBC within 30 days (45 days for First Nations).

In addition to the standard referral agencies, regional staff may consider referral of grazing lease replacement applications to the local livestock association.

8.1.5 Advertising/Notification

At the time of application acceptance, LWBC notifies applicants if advertising is required and provides the necessary instructions.

8.1.6 Aboriginal Interests Consideration

LWBC is responsible for ensuring the province's fiduciary obligations to First Nations are met in the disposition of Crown land. LWBC carries out consultations in accordance with its [Aboriginal Interests Consideration Procedures](#) and the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

8.1.7 Field Inspections

Field inspection means the on-site evaluation of a parcel of Crown land by LWBC staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with LWBC.

8.1.8 Decision/Report

The applicant will be notified in writing of LWBC's decision.

8.1.9 Issuing Documents

If the application is approved, tenure documents are offered to the applicant. All LWBC preconditions must be satisfied prior to LWBC signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.

9. TENURE ADMINISTRATION

For more detailed standard policy and procedures see [Tenure Administration](#).

9.1 Insurance

No insurance is required.

9.2 Security/Performance Guarantee

A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, and/or to ensure compliance with development requirements.

9.3 Assignment and Sub-Tenuring

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means a lease of property granted by a tenant of the property rather than the owner (the Province).

Assignment or sub-tenuring requires the prior written consent of LWBC. The assignee or sub-tenure holder must meet eligibility requirements. LWBC may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to LWBC.

Requirements are that:

assignees meet the eligibility criteria; and

the assignment is either part of a transaction involving the entire ranching operations, or

the assignment is associated with a redistribution of land holdings between ranching operations, and the re-distribution of private parcels does not prevent reasonable access to the lease by the assignee and ensures that the lease remains an integral part of a viable ranching operation.

Note that the assignment of leases to new ranching operations may require an amendment to the management plan.

Consolidation and splitting of leases

Requests from ranchers to consolidate multiple leaseholds into a single lease will be considered by LWBC where it makes good business sense to do so (e.g. leases that are too far apart may not be suitable). Requests for splitting of a single lease into two or more parcels may also be considered if all portions of the existing lease area will remain viable components of a ranching operation. These changes will normally require amendments to the management plan.

9.4 Tenure Replacement

Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.

In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at LWBC's discretion. LWBC may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see section 6.

9.5 Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans, act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

During the term of a tenure the lessee can be required by LWBC to amend the management plan, if the existing plan results in impairment or under-utilization of the forage resource on the land. If necessary, LWBC may request that the plan amendments be prepared or approved by a professional agrologist (see section 8.1.1).

10. LEASE AREA MODIFICATIONS

10.1 Access Route and Watercourse Exclusions

Existing and future potential access requirements (i.e. trails, roads, and highways) and all watercourses should be excluded from replacement grazing leases.

Specific identification of existing and potential access route and watercourse locations is to be accomplished by use of field inspection, interagency referral information and/or input from public interest groups.

Where access planning could result in inordinate delays in processing replacements, consideration should be given to postponing planning and utilizing provisions of the *Land Act* and lease to enable access corridors to be accommodated during the term of the replacement tenure (see section 10.2).

Where there is evidence that grazing has been incorrectly excluded from an area within a lease (e.g. where a dry gulch was incorrectly identified as a creek) the exclusion can be removed at replacement.

10.2 Area Deletions to Accommodate Other Uses

Deleting areas from the lease may be considered where there is demand or future potential for intensive land uses that are not compatible with the grazing lease. Deletions should be done at replacement if possible; although, there may also be opportunity to carry out deletions during the term of the tenure.

If specifically provided for in the lease, up to 5% of the lease area may be deleted to accommodate other uses during the tenure term, without compensation to the lessee. Deletions may be carried out where the land is required for development purposes not compatible with grazing, including intensive commercial, industrial or residential use. In addition, this provision may be used to provide for permanent road access to land beyond the lease area where no other practicable options exist (e.g. locating elsewhere on Crown land could result in much higher construction costs or more environmental risk). The lessee will not be responsible for costs of surveying and new range developments (e.g. fencing), made necessary by these deletions.

LWBC will consult with the lessee prior to making any deletions to the lease area to ensure that impacts to the ranching operation are minimized as much as practicable (e.g. to try to avoid deleting high forage production areas or creating barriers to cattle movement).

In addition to the above lease provision, the Land Act (s. 50(1)(a)) allows for up to 5% of a lease to be deleted for public works purposes (roads, bridges, etc) under prescribed conditions during the term of the tenure.

11. DISPOSITION OF TIMBER ON CROWN GRAZING LEASES

The Crown reserves the right to all timber located on any Crown grazing leasehold, and further reserves the right to permit others to enter and remove such timber.

Timber harvesting must be carried out in a manner which will ensure that the lessee will be able to meet his/her obligations set out in the grazing lease management plan.

When a proposal to cut timber or conduct related forestry activities (e.g. silviculture, site preparation, road construction) on a grazing lease is initiated by the Ministry of Forests or a Forest Act timber tenure holder, the proposal is to be reviewed with the grazing lessee to determine whether the lessee has any objections and what if any arrangements can be made to avoid conflicts or mitigate potential impacts. For older leases (issued prior to November 2004) the lessee's rights in this regard may vary from lease to lease, and reference should be made to the lease document in conducting this review. As a result of this review, the lessee may either consent to the proposal subject to the protections provided by the lease or withhold consent.

Please note that woodlot licences may only be issued over existing grazing leases to the grazing lessee. When a woodlot licence is the intended timber tenure, its management and working plan will be coordinated with the grazing lease management plan to protect the interests of the lessee and minimize resource conflicts.

11.1 Lessee Consents

When written consent is provided by the lessee or an agreement reached between the lessee and timber tenure holder, it is up to the lessee to ensure that they clearly understand what activities are being proposed, and when and where these activities will be taking place (including road construction, debris disposal, planting, site preparation, stand tending, etc). Lessees should be satisfied that the cutting authority issued to the timber tenure holder and the forest operational plans prepared by the agreement holder will protect the lessee's interests, the range resource and any range improvements on the lease hold.

Where the timber tenure holder is not the lessee, a cash deposit may be required and may be used by the Ministry of Forests District Manager to repair or replace range improvements damaged by the timber tenure holder. In addition, would-be timber tenure holders should be made aware in advance of the potential resource management conflicts and financial implications created when a timber tenure is superimposed over an existing grazing lease.

Formal consent is not required when a timber tenure is to be issued directly to the lessee.

11.2 Lessee Withholds Consent

For older leases (granted prior to November 2004) where consent is required and it is withheld by the lessee, timber rights will not be granted over the grazing leasehold until such time as the lease expires and is replaced by a new lease or is adequately amended by the lessee.

For older leases where the lessee's consent is not a formal requirement of the tenure document but consent is withheld, the matter should be referred to the Ministry of Forests Regional Manager for further consideration in consultation with the LWBC Service Centre Director.

For replacement leases issued November 2004, or later where agreement cannot be reached between the timber tenure holder and the lessee regarding the proposed harvesting or related forestry activity, the lessee is to contact the LWBC Service Centre Director. If necessary, the director will consult with the appropriate MOF official to help resolve the issue. The lessee will be required to abide by the directions of the Service Centre Director.

12. VARIANCE PROCEDURE

Any decision that would vary from this policy must be made by a Service Center Director, the Vice-President, Land and Water Operations Division, the Vice-President, Strategic Initiatives Division, the President and Chief Executive Officer, or the Land and Water British Columbia Inc. Board of Directors.

Appendix 1. Policy Summary: Grazing

TENURE	TERM	VALUATION	PRICING	METHOD OF DISPOSITION	SPECIAL REQUIREMENTS
Lease (replacement only)	20 years with provision for replacement at tenure mid-term	BCA Actual Land Value, or Productivity Formula	Annual payment of greater of: the base rent, or the forage fee (Stock Price x 93% x AUMs), or \$500 minimum rent	Application	Applicants must presently be engaged in the operation of the farm/ranch which included the subject grazing lease; Eligibility restricted to holders of preexisting leases; Compliance with grazing lease management plan

Appendix 2. Record of Stock Price

The following stock prices are used when calculating grazing lease forage fees:

Period in Effect	Stock Price (\$/kg)
April 1, 2004 to March 31, 2005	\$2.27/kg
April 1, 2005 to March 31, 2006	\$2.01/kg

Appendix 3. Grazing Lease Management Plan Template

1. Legal Description of Associated Private Property:

Identify home base property as well as those private parcels that will be managed in conjunction with the lease (generally parcels adjacent to or in close proximity to the lease), and those that are necessary to provide access to the lease. Legal descriptions should be included for each parcel; however, private parcels clearly identified on a map may be acceptable.

2. Description of Lease:

This section should include a legal description, description of topography (soils, slope etc.) and plant communities (including photographs of key areas) as well as preferred access to lease.

3. Total Authorized AUMs:

4. Management Strategies¹:

Must include:

- Strategies for maintaining plant communities in a desired state (grazing rotations, salting, supplementation, herding, season of use etc.). This section should delineate between riparian and upland plant communities;
- Strategies for weed prevention and dealing with weed infestations;
- Strategies for dealing with wildlife concerns, if any.

5. Grazing System:

Include:

- Approximate periods of use for each pasture.
- The amount and class of livestock to be grazed on the range.

6. Monitoring²:

Methods of ensuring management strategies are being effective.

7. Map (attach):

Must include:

- Lease boundary;
- Private property adjacent to the lease;
- The location and type of range developments, including existing and proposed fencing;
- The location and type of naturally occurring watering sites;
- All pastures, including identification of improved pastures;
- Natural barriers, if applicable;
- All riparian areas including wetlands.

¹ Refer to Ministry of Agriculture Food and Fisheries publication: “Designing a Grazing Management Plan” and other Pasture and Rangeland Health Fact Sheets – <http://www.agf.gov.bc.ca/range/factsheets.htm#health>.

² Refer to Pasture and Rangeland Health Fact Sheet “Monitoring Options” (see link in footnote 1)