BRITISH COLUMBIA

File: 15120-50/TFT Timber Range Communication
19500-00
19510-00
15700-03

April 8, 2015

To: Thompson Rivers District Forest Licensees
Thompson Rivers District Range Licensees and Grazing Lessees
BC Cattlemen's Association

Re: Thompson Rivers District Manager Policy Regarding Disposition of Crown Timber on Grazing Leases

Please find attached Thompson Rivers District's policy: *Disposition of Crown Timber on Grazing Leases.*

The purpose of this policy is to guide the disposition of Crown timber on grazing leases within the Thompson Rivers District, recognizing the unique interests and objectives of the forest and ranching sectors. This policy has no effect on requirements to manage for other values and objectives such as habitat, recreation and visual quality.

This policy is effective May 1, 2015. Please ensure that you, your staff and any contractors and consultants you work with are aware of and understand this policy.

If you have any questions please contact Bill Ashman at Bill.Ashman@gov.bc.ca.

Thank you,

Rick Sommer, RPF
District Manager

Attachment: (1)

Ministry of Forests, Lands and Natural Resource Operations Thompson Rivers Forest District

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Thompson Rivers District Policy
Disposition of Crown Timber on Grazing Leases
Effective: May 1, 2015

Purpose
The purpose of this policy is to guide the disposition of Crown timber on grazing leases in the Thompson Rivers District, recognizing the unique interests and objectives of both forest and ranching sectors.

Scope
This policy applies to all Crown timber on all grazing leases in the Thompson Rivers District.

Existing Framework
- The Crown reserves the right to harvest timber and establish future tree crops on grazing leases, and the Crown reserves the right to permit others to enter and remove timber from a grazing lease.
- Timber harvesting is authorized under the *Forest Act*.
- The grazing lessee is granted a *Land Act* tenure with the exclusive use of the forage resource on the lease area for scheduled livestock grazing, forage harvesting and/or livestock containment.
- Grazing lease lands often fall within the Agricultural Land Reserve (ALR). The purpose of the ALR is to preserve agricultural land and recognize agriculture as the priority use. However, timber production, harvesting, silviculture and forest protection are also permitted uses in the ALR.
- The Kamloops Land and Resource Management Plan (KLRMP) is a legal higher-level plan with an objective to "*Minimize tree/grass/cattle conflicts through integrated management practices"*, and as such must be addressed by forest licensees in their forest stewardship plans (FSP), and followed when carrying out forest practices.
- *Forest Planning and Practices Regulation* section 21(c) requires that a person who advertises a new or amended forest stewardship plan must provide a person whose rights may be affected by the plan with an opportunity to review the plan in a manner that is commensurate with the nature and extent to which the person's rights may be affected.
- This policy has no effect on requirements to manage for other values and objectives such as habitat, recreation and visual quality.

Policy
- Timber harvesting on grazing leases must be carried out in such a way as to meet the dual objectives of maintaining or enhancing grazing **and** sustaining forest resources.
- Timber harvesting on grazing leases must recognize and address the rights of the grazing lessee.
- Timber harvesting on grazing leases must incorporate best management practices (see appendices):
    1. appropriate for the biogeoclimatic ecosystem classification (BEC) on the lease area,

2. consistent with *Timber Licensee / Range Agreement Holder Referral Best Practices* (Recommendations and Considerations for Timber-Range Holder Communication).

- Forest licensees and BCTS will be given priority for timber harvesting on grazing leases in accordance with the following procedures.

Procedures

Forest licensee-initiated:

- The forest licensee **must** establish contact with the lessee to obtain the Grazing Lease Management Plan and identify lease boundaries, access points, range developments and infrastructure, key forage areas, grazing schedule and forage management goals.
- The lessee must engage in communication. Refusal to engage may result in harvesting being carried out without forage objectives being addressed adequately. The grazing lessee cannot unreasonably withhold consent if the proposed activity will not materially affect the conveyed use for grazing, forage production and animal containment.
- The parties must develop and sign a written agreement to address objectives for forage, timber production and minimizing/mitigating impacts on grazing. This plan should address:
    - a harvesting and silviculture activity schedule
    - a harvesting and silviculture prescription
    - mitigation measures for lost forage
    - an invasive plant management strategy
    - road deactivation
- The forest licensee must make their harvesting prescription available to the District Manager prior to a cutting permit being issued. Licensees may voluntarily prepare an enhanced result or strategy for their forest stewardship plan to address KLRMP objective 2.1.10 ("*Minimize tree/grass/cattle conflicts through integrated management practices"*), as it applies to grazing leases. This may satisfy the District Manager's requirement to review the prescription in advance of issuing the cutting permit.
- The licensee will proceed with planning and development – consistent with the agreement – as per the normal cutting permit application process.

Grazing Lessee-Initiated:

- Grazing lessees may apply to harvest timber on their grazing leases to improve forage productivity and livestock management.
- Early discussion with district staff is advised to determine what harvesting constraints may exist.
- A lessee must approach no less than three forest licensees to determine if they are willing to develop a plan for harvesting on the lease. This contact must include major licensees with operating areas that overlap the grazing lease (the district office will provide a list of appropriate contacts). If the proposed harvesting is within BC Timber Sales operating areas, the lessee only needs to approach BCTS. The lessee should document which licensees were contacted and when.

- If no licensees are willing or interested to harvest the grazing lease, or haven't responded within a reasonable amount of time, the lessee may apply to the District Manager for an occupant license to cut (OLTC) to carry out harvesting.
- The OLTC application must include:
    - a rationale that addresses the lessee's objectives for the proposed harvesting. A professional prescription, that provides for a properly stocked stand upon completion of harvesting and satisfies the District Manager, must accompany the OLTC application. This prescription will be incorporated into the license in order to ensure compliance.
- Issuance of a license is not guaranteed.

Dispute Resolution:

In all situations, disputes will be referred to the District Manager for resolution.

References

- Forest Act
- Forest and Range Practices Act
- Land Act
- Agricultural Land Commission Act
- Kamloops Land and Resource Management Plan, 1996
- Forest License document, version 4.02

Implementation

This policy will be effective as of **May 1, 2015**.

Rick Sommer, RPF
District Manager
Thompson Rivers District
Ministry of Forests, Lands and Natural Resource Operations

Date

Appendix 1:
Background & District Manager Rationale

In the Kamloops Timber Supply Area (TSA) most grazing leases are within the timber harvesting landbase (THLB), and the timber contributes to the allowable annual cut (AAC) for the TSA. With the decline of the mountain pine beetle infestation, and the impact pine salvage has placed on the THLB, licensees will eventually have to consider grazing leases as a source of suitable timber.

Grazing lessee's rights

Grazing lease holders have rights and interests that must be protected. These rights may vary between leases, so reference must be made to each individual lease to determine which rights exist under it. However the Crown reserves the right to harvest timber and to establish a subsequent crop of trees on the lease area. The Crown also reserves the right to authorize others to enter onto leased Crown land for the purposes of harvesting timber.

One of the overriding objectives on a grazing lease is forage production. Any harvesting or forestry activity must be carried out with that objective in mind and must consider and respect the scheduled grazing activities. A proper harvesting and silviculture prescription should promote a more suitable forage base while still contributing to timber production.

The lessee's rights and interests are best protected when the lessee and forest licensee have a written agreement in place. This will provide parties with a clear understanding of expected outcomes and assignment of responsibility for the various aspects of the agreement.

Review of prescription

In this district many grazing leases are located in the drier biogeoclimatic ecosystem classification (BEC) zones and will require special management. This may include a partial cut system or uneven-aged management system. For this reason, the District Manager has implemented a requirement that silviculture prescriptions will be reviewed by the district before the cutting permit will be issued. The District Manager's authority to do this lies in paragraph 5.03(c)(iii) of the forest license document, which states that a cutting permit application must include "a description acceptable to the District Manager of any timber that is reserved from cutting" before the District Manager can issue the cutting permit. In consideration that these areas are likely to require special management, it is not unreasonable for the "timber reserved from cutting" to be shown in its full context in order to be acceptable to the District Manager. This context will be provided in the prescription.

Licensees may wish to consider a voluntary amendment to their forest stewardship plans which provides considerably more detail in addressing KLRMP objective 2.1.10 "*Minimize tree/grass/cattle conflicts through integrated management practices"* where harvesting applies to grazing leases. This would provide the District Manager with confidence that a review of each silviculture prescription isn't warranted prior to issuing a cutting permit.

Harvesting priority

Forest Licensees are given priority for harvesting on grazing leases for several reasons. The timber on grazing leases is part of the timber supply for the holders of forest licenses. Activities of forest licensees are conducted under a forest stewardship plan, which means they must address objectives set by government (*Forest and Range Practices Act* – FRPA) and the Kamloops Land and Resource Management Plan (KLRMP). These objectives include, among other things, protection of soil, riparian areas, visual quality, biodiversity, wildlife habitat and species at risk. Forest licensees are also required to establish a subsequent crop of suitable trees. This can be done by planting trees, or by leaving the stand adequately stocked on completion of their operations. The volume of timber harvested is attributed to their quota, which eases pressure on the THLB.

Grazing lessees can be granted authority to harvest timber on their leases using two types of licenses:

1. The proper authority for lessees to harvest healthy timber is an occupant license to cut (OLTC). This type of license is not guided by a forest stewardship plan, and there are no subsequent silviculture obligations. The volume is not attributed to a forest licensees' quota, thereby maintaining greater pressure on the THLB. Also, under the *Forest Act*, a holder of an OLTC is not entitled to apply for a road permit to build or modify a road, which may pose problems if existing access isn't suitable for logging trucks.
2. A forestry license to cut (FLTC) is another agreement that the District Manager is able to issue to a lessee or third party, however, with a few exceptions, it cannot be issued for harvesting healthy timber, and is generally limited to 2,000 m3 for salvage timber. The resulting silviculture obligations are imposed on the minister and carried out by the District Manager. This tenure is likely to be of limited value for lessees to harvest on grazing leases.

Lease holder consent

A leaseholder does not have a veto over timber harvesting on a lease. In order for a third-party tenure to be placed over land where a lease exists, the consent of the leaseholder is required, but this consent must not be unreasonably withheld. The lease agreement states that the Crown reserves the rights to the timber and can dispose of the timber through a third party, and that the exercise of rights under the *Forest Act* doesn't constitute a breach of covenant of quiet enjoyment. An authorized person can enter onto leased land to carry out the authorized activity. Leaseholders and forest licensees must establish an agreement to ensure that both parties are satisfied with the full regime and scheduling of planned activities.

Agricultural Land Reserve

Under the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, section 2(2)(f), timber production, harvesting, silviculture and forest protection are designated as farm use. Therefore there is no conflict in this regard with allowing timber harvesting on grazing leases located within the ALR. However, the silviculture treatments must maintain the agricultural capacity of the lease for grazing purposes.

Appendix 2:

Best Management Practices (interim) to manage for timber and forage/grazing values

Until the South Area Drybelt Fir Management Strategy is developed, the District Manager expects that the following guidance is considered:

- The preferred method of harvesting is through a partial cut system or uneven-aged management system. This may have the added benefit that, where the stand is left stocked, there will be no issue of damage to planted trees. It is expected that any partial cutting will have the objective of improving the stand, not to degrade it or retain only poor quality trees.
- Landings, roadsides and skid trails are appropriate places to grass-seed for forage production. Grass seeding is not covered in the appraisal allowance for the cutting permit except where needed for erosion control. Seeding for forage is not included. Where deemed necessary, this cost will have to be negotiated by the licensee and leaseholder.
- Slash control must be practiced to facilitate forage production and cattle movement. It may be preferable to limb and top trees at the landing rather than at the stump. Landing piles should be burned if grinding or chipping are not viable options. Retention of coarse woody debris is also a consideration that must be addressed.
- Stumping is appropriate for treatment of root rot areas, but should only be done where necessary because it can impact cattle's ability to access forage. Stumps should be piled in groups as much as possible to allow for cattle and horse movement. Burning of stump piles may mitigate cattle movement issues. Alternatively, stumps or other debris may be arranged to protect riparian features from cattle ingress.
- Where tree planting is required, obstacle planting is recommended to prevent damage by cattle.
- Site preparation techniques should be discussed with the leaseholder early in the process, in order to address potential impacts to cattle movement and utilization of forage.
- Range infrastructure will be protected or properly repaired if damaged. When damage is expected, the length of time when the improvement may be inoperable shall be agreed to by the lease holder.
- Road permits held by forest licensees to access timber on grazing leases may continue to be held by the licensee until the *Natural Resource Road Act* is in place (anticipated to be passed by fall, 2015). Currently there is no opportunity for these roads to be transferred to the leaseholder, but the new Act is expected to allow non-forestry entities to hold road tenures. At that time the road could be transferred to the leaseholder. If the leaseholder has no need for the permitted road, or the forest licensee doesn't want to carry the maintenance liability, the forest licensee can complete the process to be relieved of the obligations. In this case, grass-seeding the deactivated or rehabilitated road would be appropriate.

Appendix 3:

Timber Licensee / Range Agreement Holder Referral Best Practices Recommendations and Considerations for Timber-Range Holder Communication

(See attached signed policy, sent as direction to all Forest and Range Licensees and Grazing Lease Holders from the Kamloops / Headwaters District Manager August 6, 2013)

BRITISH COLUMBIA

File: 15120-50/TFT Timber Range Communication

August 6, 2013

To: Kamloops / Headwaters Forests and Range Licensees and Grazing Lease Holders (Range Agreement Holders)

Re: Timber Licensee / Range Agreement Holder Referral Best Practices Recommendations and Considerations for Timber-Range Holder Communication

Background:

Communication between ranching and forestry sectors has been identified in the joint industry forums as a key resource conflict issue in this district. A key part of communication is the timber harvesting referral documents that are sent to the range agreement holder for review and comment prior to harvesting. A lack of response to referral documents can impact both timber and range interests in numerous ways including missing the appraisal window to fund projects; making livestock management difficult due to removal of barriers; lack of forage; and deactivation of roads. It is expected that both resource industries follow these best practices.

Recommendations for Timber/Range Referral Process:

Referral

1. Timber licensees are to continue to use referral letters, sent by mail or email, to engage range agreement holders in discussion(s) regarding proposed forest developments. A **minimum of 30 days** referral time will be required to provide adequate response time and meaningful discussion unless otherwise mutually agreed upon.

2. Grazing leases grant a higher level of rights to the lease holder. Timber harvesting and silviculture activities must be carried out in a manner that will ensure that the lessee will be able to meet the forage objectives set out in the grazing lease and as such will require increased communication.

Ministry of Forests, Lands and Natural Resource Operations Kamloops / Headwaters Districts

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3. Adjacent range agreement holders should be referred to for proposed forest development that occurs adjacent to a range unit boundary, **where** potential conflicts have been identified, such as a potential natural barrier breach.

4. The referral letter should ask for input on impacts of the proposed activity to:
   - natural range barriers and infrastructure,
   - livestock management and timing of operations,
   - invasive plants,

   as well as identify post harvest activity (silviculture activities, road and trail deactivation, impacts to improvements, grass seeding).

5. A hard copy of a map (or emailed a pdf or kml file if mutually agreed to) showing proposed forest harvesting must be sent with the referral letter. The map should be at an appropriate scale to easily determine location, landmarks such as lakes, wetlands, streams, roads, proposed roads, fences. Main forest access roads should be differentiated from secondary roads on the map. Where possible, licensees are to include adjacent known existing or proposed harvest in their referral maps. Simplify maps to improve understanding by removing unnecessary information. Avoid the use of acronyms and forestry-specific terminology without definitions.

6. The range agreement holder contact list will be updated quarterly by range staff and posted on the Kamloops / Headwaters District FTP site.

Response

1. Range agreement holders are to use referral letters as a **notice** to initiate communication with the timber licensee and are expected to respond to this referral by email, telephone, letter, or in person, within the requested response period, **even** if the timber referral will have no impact. This will acknowledge receipt of the referral and identify what, if any, impacts the activity may have on livestock management.

2. Timber licensees should make pertinent information available to range agreement holders, **if** a concern has been expressed, when new information becomes known subsequent to the original referral, e.g., significant changes in the date of harvest, location of riparian areas, boundaries of cutblocks.

Comments to Timber/Range Referrals:

1. The timber licensee should acknowledge receipt of all rancher referral comments. Both forest and range licensees/leaseholders are expected to follow-up by initiating additional discussions to clarify comments made and to determine solutions to any identified issues. Following discussions, the timber licensee should make any necessary revisions and provide rationale to the rancher as to the resulting actions being taken.

2. If a range area is vacant, then range staff are to be contacted via email or telephone for input.

Considerations:

1. Range agreement holders should provide input into timber licensees regarding deactivation plans.

2. Range licensees are expected to communicate annually with timber licensees and Kamloops / Headwaters Districts stewardship planting programs to get approximate information regarding the timing and nature of field operations within their grazing licence area. Range licensees are expected to communicate their grazing schedules, or changes in the grazing schedule, with the timber licensees to ensure conflicts are minimized.

3. The Range Program of Kamloops / Headwaters Districts will review and make updates to the range improvement, pasture and unit boundaries map layers annually as new information is available. Licensees are requested to submit GPS data for new improvements or as improvement location information is verified to Kamloops / Headwaters Districts so that the range improvement layer can be updated.

Yours truly,

Rick Sommer, R.P.F.
District Manager
Kamloops / Headwaters Districts