FOREST PRACTICES CODE

General Bulletin

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Harassment of Livestock

Background

Livestock producers and other holders of *Range Act* tenures often use Crown range to graze livestock in accordance with range use plans. Range used for grazing may be simultaneously allocated for other tenured uses such as wood fibre production, and untenured uses such as recreation. This integrated resource management on Crown range may lead to potential conflicts between tenure holders acting under the *Range Act* and other users of Crown range.

Situations may arise where authorized livestock is harassed or disturbed, intentionally or unintentionally, by other users of the range. For example, horse riders on expeditions to round up feral horses on Crown range may disturb authorized horses and cattle being grazed in compliance with a Range Use Plan. Another example is the case of recreational motor-bike trail riders spooking cattle and causing a stampede.

Recommendations

It is recommended that district managers and their staff make themselves familiar with the following discussion points. This should ***not*** be interpreted as Ministry policy or a legal interpretation.

The *Criminal Code of Canada* provides remedies for serious cases of livestock harassment. The *Livestock Act* may apply to cases of a less serious nature, and the *Prevention of Cruelty to Animals Act* applies specifically to scenarios where livestock owners cause harm to their own animals. Principles the common law provide relief to animal owners whose animals are injured due to the negligent or deliberate acts of others, and may fill in any gaps left by the legislated remedies.

Existing Statutory Remedies

There are currently three pieces of legislation under which relief may be sought in instances of range harassment:

1. *Criminal Code of Canada*. The criminal code contains provisions pertaining to injuring and endangering animals which might be appropriate to use in certain cases of livestock harassment. Section 444 makes it an indictable offence,

punishable by a term of imprisonment not exceeding five years, to willfully kill, maim, wound, poison or injure cattle. Section 445 provides a similar offence for injuring or endangering animals other than cattle. As well, the more general "mischief" offence in section 430 may apply to certain cases of livestock harassment.

These criminal code provisions are intended for infractions of a serious nature, and require concrete proof. Where the criminal code is not appropriate, other statutory avenues may be pursued.

2. *Livestock Act*. Section 18(d) provides that a person who leaves open a gate, lets down a bar or makes a gap in a fence where he/she knew or reasonably ought to have known that livestock might escape, commits an offence and is liable to a penalty not exceeding $2,000.

3. *Prevention of Cruelty to Animals Act*. This statute might provide a remedy against livestock owners who harass or otherwise harm their own animals.

Common Law Remedies

There are several common law remedies which may apply when livestock is disturbed or harassed:

1. **Negligence**. Negligence occurs when a person exposes other people or their property to unreasonable danger by failing to exercise the accepted standard of care. Thus, where a person's actions result in harm to livestock, he or she will be liable for negligence, if a "reasonable person" in his or her position would have foreseen the possibility of danger to the animals, and taken care to avoid it.

2. **Trespass**. Trespass is an intentional wrong by which legal liability is imposed on someone who purposefully inflicts harm on another's person or property. Chasing cattle has traditionally been treated as a trespass at common law because this unauthorized touching or moving of the livestock involves an intentional interference with the owner's animals.

3. **Private Nuisance**. Nuisance is the unreasonable and substantial interference with another's use and enjoyment of his or her property. Private nuisance may arise in certain instances where range land, for which a grazing tenure has been issued, is made unsuitable for grazing purposes through the actions of another range user.

Contacts

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