Appeal No. PLAB 16-0001

ALBERTA

PUBLIC LANDS APPEAL BOARD

REPORT

January 10, 2017

IN THE MATTER OF sections 119(d), 121, and 124 of the *Public Lands Act,* R.S.A. 2000, c. P-40, and sections 9, 211(c), 213, 228 and 235 of the *Public Lands Administration Regulation,* A.R. 187/2011;

- and -

IN THE MATTER OF an appeal filed by Duane Schug under section 211(c) of the *Public Lands Administration Regulation*.

Cite as: *Schug v. Director, Alberta Environment and Parks, APLAB 16-0001-R***.**

Panel Member:

Mr. Alex MacWilliam, Panel Chair.

Appearances:

Jodie Hierlmeier, Environmental Law Section, Alberta Justice and Solicitor General on behalf of the Director, Approvals and Disposition Services Unit, Operations Division, Alberta Environment and Parks; and

Duane Schug, Appellant.

Board Staff:

Gilbert Van Nes, Board Counsel.

EXECUTIVE SUMMARY

Alberta Environment and Parks refused to renew a grazing lease because the grazing lease was not being used for grazing as required under the *Public Lands Act*, the *Public Lands Administration Regulation*, and the terms and conditions of the grazing lease.

The lessee appealed the decision to refuse to renew the grazing lease, arguing the decision: (1) was based on an error of fact; (2) was based on an error of law; (3) was made without proper authority or jurisdiction; (4) did not comply with an approved regional plan; or (5) was appealable as a deemed rejection.

The Public Lands Appeal Board concluded Alberta Environment and Parks made an error of law by failing to comply with the principles of natural justice and procedural fairness. Before making the decision to refuse to renew the grazing lease, Alberta Environment and Parks was required to write to the lessee stating:

(1) Alberta Environment and Parks was considering not renewing the grazing lease;

(2) the factual and legal basis as to why Alberta Environment and Parks was considering not renewing the grazing lease; and

(3) the lessee was invited to provide Alberta Environment and Parks with written comments that would be taken into account in making the decision whether to renew the grazing lease.

The lessee did not provide sufficient evidence or substantive arguments for the Board to consider the other concerns. However, based on the error of law committed by the Alberta Environment and Parks, the Board has recommended to the Minister of Environment and Parks that the grazing lease be reinstated for two grazing seasons ending April 30, 2019, to allow the lessee to demonstrate proper use of the grazing lease.

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I. Introduction

[1] This is the Public Lands Appeal Board's (the "Board") report to the Minister of Environment and Parks (the "Minister") regarding an appeal filed by Mr. Duane Schug (the "Appellant"). The Appellant is appealing the December 18, 2015, decision of the Director, Approvals and Disposition Services Unit, Operations Division, Alberta Environment and Parks (the "Director") to refuse to renew Grazing Lease No. GRL 35158 (the "Lease"). The stated reason for refusing to renew the Lease is for non-utilization, meaning the Appellant did not graze livestock on the Lease as required.

Record, Tab 27, Letter from the Director dated December 18, 2015.
Notice of Appeal dated January 10, 2016.

[2] The Lease is a disposition under the *Public Lands Act*, R.S.A. 2000, c. P-40 (the "PLA"). Therefore, the Board has jurisdiction to hear this appeal under section 211(c) of the *Public Lands Administration Regulation*, A.R. 187/2011 (the "PLAR"), which provides: "The following decisions are prescribed as decisions from which an appeal is available: … **a refusal** to issue a disposition or **to renew** or amend **a disposition applied for** under the Act…." (Emphasis added.)

PLA sections 1(e) and 102; and PLAR section 1(1)(o).
Director's Written Submission dated August 30, 2016, paragraph 23.

[3] In carrying out this jurisdiction, the Board must follow section 120 of the PLA, which provides that: "An appeal under this Act must be based on the decision and the record of the decision-maker." This means the appeal is "an appeal on the record" and not a "*de novo*" appeal.

[4] In an "appeal on the record," the Board's decision must be based on the evidence found in the record provided by the Director (the "Record"). However, this also includes other evidence that is rationally connected to evidence found in the Record, meaning evidence that provides details, clarifies, or helps the Board understand the evidence found in the Record.

[5] Further, the Board is restricted in what type of arguments it can consider in an appeal. Section 213 of the PLAR provides that:

> "A decision is appealable only on the grounds that
>
> (a) the director … who made the decision
>
> (i) erred in the determination of a material fact on the face of the record,
>
> (ii) erred in law,
>
> (iii) exceeded the director's … jurisdiction or authority, or
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> (iv) did not comply with an [Alberta Land Stewardship Act, S.A. 2000, c. A-26.8 ("ALSA")] regional plan,
>
> or
>
> (b) the decision is expressly subject to an appeal under section 59.2(3) of the Act or section 15(4)."

[6] The grounds of appeal that are available for the Board to consider in an appeal are determined by the appellant when the Notice of Appeal is filed. In this case, the Appellant identified five grounds of appeal in his Notice of Appeal, which were:

1. the Director erred in the determination of a material fact on the face of the Record;
2. the Director erred in law;
3. the Director exceeded her jurisdiction or authority;
4. the Director did not comply with an ALSA regional plan; and
5. the decision is expressly subject to an appeal under section 15(4) of the PLAR.[1]

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[1] The grounds of appeal available under section 213(b) are that the decision is expressly subject to appeal under section 59.2(3) of the PLA or section 15(5) of the PLAR. Section 59.2(3) allows the appeal of the decision to issue an order under section 59.2(2) of the PLA. In the appeal before the Board, no order has been issued. Therefore, this ground of appeal is inapplicable in this case. Section 15(5) of the PLAR allows the appeal of the application for a decision that has been deemed to be rejected under section 15(1) of the PLAR. This ground of appeal may be applicable in the appeal as an application to renew the Lease was filed.

Notice of Appeal dated January 10, 2016.

These are the only grounds of appeal the Board can consider. Therefore, for the Appellant to be successful in this appeal, he must convince the Board, on the balance of probabilities, the Director committed an error in one of these ways or that he has an express right of appeal under section 15(4) of the PLAR. In legal terms, the Appellant has the "onus" to convince the Board of his view that the decision should be reversed. To meet this onus, the Appellant must point to evidence in the Record or evidence that is rationally connected to evidence found in the Record.

Notice of Appeal dated January 10, 2016.

II. Background

[7] The leased land was SW-29-37-02-W4M near Provost, Alberta, and the Lease was first granted to Mr. Dennis Schug (the Appellant's father) on April 15, 1985. The Lease was renewed on May 1, 2005, for a ten-year term, expiring on April 30, 2015. At the time of the renewal, the Lease was held by Mr. Dennis Schug and the Appellant, due to an assignment dated January 18, 1996. On March 9, 2007, the Lease was assigned solely to the Appellant. Therefore, from March 9, 2007, until the Lease expired on April 30, 2015, the Lease was held by the Appellant, and from May 1, 2015 until the date of the Director's decision (December 18, 2015) the Appellant was an overholding tenant on the public lands.

Record, Tabs 1 to 3 and 6, Lease with Renewals and Assignments.
See also: Record, Tab 19, Email dated March 26, 2015.
Director's Written Submission dated August 30, 2016, paragraphs 2 and 3.

[8] Stock return forms for the Lease were submitted for the years 2005 to 2009 and 2012. Stock return forms were not submitted for the years 2010, 2011, 2013 and

2014. The Department's[2] agrologist (the "Agrologist") authorized no grazing on the Lease in 2014, at the Appellant's request.

Record, Tabs 4, 5, and 7 to 11, Stock Return Forms.
Record, Tab 16, Note to File.
Director's Written Submission dated August 30, 2016, paragraphs 4, 5, and 6.

[9] On May 15, 2014, the Appellant filed a Grazing Lease Renewal – Stewardship Self-Assessment Form requesting the renewal of the Lease with the Department. The Appellant's right to apply for a renewal of the Lease is authorized by section 18 of the PLAR. According to section 18(2), an "application for renewal of a … disposition must be made in accordance with section 9 [of the PLAR]."

Record, Tab 12, Grazing Lease Renewal – Stewardship Self-Assessment Form.
Director's Written Submission dated August 30, 2016, paragraph 12.
PLAR, section 18.

[10] Section 9(6) of the PLAR provides: "The director must register a notice of the acceptance or rejection of an application under this section within 30 days after receiving the application." Section 9(7) of the PLAR provides: "Where an application is rejected under this section, the director must notify the applicant of the rejection in writing as soon as possible."

[11] There is no documentation on the Record to suggest the Director accepted or rejected the Grazing Lease Renewal – Stewardship Self-Assessment Form, or that the 30-day period for making this decision was extended by another 90 days as is authorized by section 15(2) of the PLAR.

PLAR, sections 9(5), 9(6), 9(7), and 15(2).

[12] Instead, on May 20, 2014, the Agrologist recommended conducting a full range health audit on the Lease. An inspection completed on August 28, 2014,

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[2] At various points in this appeal, documents refer to Environment and Sustainable Resources Development or Sustainable Resources Development. These are predecessors of Alberta Environment and Parks.

determined the Lease was not in good standing and indicated the Lease was not grazed in 2012, 2013, and 2014. The inspection report noted the Agrologist verbally reminded the Appellant that "… for 2015 he will need to graze the lease with his own cattle."

Record, Tab 13, Grazing Lease Decision Tree Summary dated May 20, 2014.

Record, Tab 14, Rangeland Management Form dated August 28, 2014.

Record, Tab 15, Field Notes, Vegetation Inventory Form, Range Health Assessment Forms, and Activity Report.

Director's Written Submission dated August 30, 2016, paragraphs 8 to 10.

[13] It appears that on June 16, 2014, 30 days after the Appellant filed the Grazing Lease Renewal – Stewardship Self-Assessment Form, the Appellant's application to renew the Lease may have been deemed rejected by operation of section 15(1) of the PLAR.

[14] In an internal email dated November 21, 2014, the Agrologist requested the Department not process the Lease renewal until grazing was confirmed in 2015. The email enclosed a "Request for Compliance" letter dated November 21, 2014, the Agrologist sent to the Appellant. That letter provided:

- the Lease had to be grazed by July 1, 2015, to be renewed;
- the Lease must be stocked to at least one-third of capacity or 28 AUMs;[3] and
- the failure to abide by the terms of the *Public Lands Act*, the *Public Lands Administration Regulation*, and the terms and conditions of the Lease document "…may jeopardize the

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[3] "When range managers determine the number of head [of cattle] that can be supported by a given site, for a given period of time, they are setting the stocking rate. This stocking rate is the balance between the livestock's monthly forage utilization requirements, the plant production and the ecology of the site. … The [ecologically sustainable stocking rate] reflects the maximum number of livestock (e.g. hectares (ha)/animal unit month (AUM)) that can be supported by the plant community given inherent biophysical constraints and the ecological goal of sustainable health and proper functioning of the plant community. When the [ecologically sustainable stocking rate] is expressed for the area … of a plant community polygon, the result is termed carrying capacity … and is written in AUMs." Methodology for Calculating Carrying and Grazing Capacity on Public Rangelands, Alberta Sustainable Resource Development, Public Lands and Forests Division, 2004 at page 4.

> tenure of your lease or may result in an enforcement response by [the Department.]"

Record, Tab 17, Email dated November 21, 2014, and Request for Compliance Letter dated November 21, 2014.

Director's Written Submission dated August 30, 2016, paragraph 11.

[15] The "Request for Compliance" letter specifically identified section 81(1) of the PLA that, at the time, provided:

> "The Minister may cancel a lease if the Minister is satisfied that
>
> (a) the leased land is not being used for the purpose for which it is leased,
>
> (b) the lease or the land described in it is not being held by the lessee for the lessee's sole use and benefit."

This section of the PLA, was subsequently amended, and now provides:

> "The director may cancel or amend a lease if the director is satisfied that
>
> (a) the leased land is not being used for the purpose for which it is leased,
>
> (a.1) the lease is contrary to an applicable ALSA regional plan,
>
> (b) when land is leased to two or more persons, one or more of them has ceased to use the land for the purpose for which it is leased,
>
> (c) the lease was issued in error,
>
> (d) the lease or the land described in it is not held by the lessee for the lessee's sole use and benefit,
>
> (e) the lessee was ineligible to apply for or acquire the lease or is ineligible to hold it, or
>
> (f) the lessee has failed to pay the rent, or any taxes, rates or assessments levied against the lessee's interest under the lease or any other money payable under the lease when it is due."

S.A. 2003, c. 11, s. 3(25); S.A. 2009, c. A-26.8, ss. 91(47) and 91(51).

[16] A note to file indicated the Agrologist spoke to the Appellant on December 11, 2014, explaining to him that he needs to graze the Lease the following year to at

least one-third of the maximum AUMs. The Agrologist provided the "…example of 18 head heifers for 5 months of 900 pounds."

Record, Tab 18, Note to File dated December 11, 2014.
Director's Written Submission dated August 30, 2016, paragraph 12.

[17] With the Lease set to expire on April 30, 2015, in a March 26, 2015 internal email, the Agrologist requested the Lease be "…put through as an overholding tenant." The Agrologist attached two letters to the email: a copy of the November 21, 2014 "Request for Compliance" letter and a "…draft letter that you can use as a start to send the lessee." The second letter – the draft letter – was not included as part of the Record and there is no evidence of a second letter being sent to the Appellant.

Record, Tab 19, Email dated March 26, 2015, and Request for Compliance Letter dated November 21, 2014.
Director's Written Submission dated August 30, 2016, paragraph 13.

[18] The Lease expired on April 30, 2015. The Record does not include any documentation to suggest this was communicated to the Appellant. Section 20(1) of the PLAR provides: "Where a disposition expires without an application for renewal being made by its holder, the director may register its expiry without notice to the former holder of the disposition."

[19] The Agrologist inspected the Lease on July 7, 2015. The Agrologist's notes indicated no grazing had occurred on the Lease. An undated and unsigned note to file indicated someone, presumably the Agrologist, spoke with the Appellant on July 8, 2015, indicating the need to graze "1/2 dozen cows by August 1" or the "option is to lose the lease."

Record, Tab 20, Notes to File.
Director's Written Submission dated August 30, 2016, paragraphs 14 and 15.

[20] The Agrologist's notes from August 20, 2015, indicated there were no cows on the Lease. The Agrologist's notes from a subsequent conversation with the Appellant indicate the Appellant had purchased 42 sheep and they would be

"turned out shortly." Further notes dated September 1, 2015 indicate the sheep were "not on the lease yet." A final note from the Agrologist, dated September 29, 2015, indicates there was no sign of grazing on the Lease.

Record, Tab 20, Notes to File.

Director's Written Submission dated August 30, 2016, paragraphs 16 and 17.

[21] In an internal email dated September 30, 2015, the Agrologist confirmed that he conducted an inspection of the Lease on September 29, 2015. In the email, the Agrologist advised there were no signs of grazing on the Lease in the "past season (2015)." The Agrologist summarized his contact with the Appellant, stating:

> "Nov 21 2014 - Request for Compliance letter sent to [the Appellant], attached is a copy.
>
> Dec 11 2014 – [R]eceived a phone call from [the Appellant] asking about the [Request for Compliance] letter. I explained to him that he needs to graze next year (2015). An acceptable amount is 1/3 of the carrying capacity up to the carrying capacity. An example is 18 head of replacement heifers of 900 lbs for 5 months, as that would be 81 AUM's, [*sic*] at the time [the Appellant] was considering that as what he wanted to do. …
>
> July 7 2015 - Inspected the lease and saw no livestock on the lease. No manure or tracks at the dugout or anywhere else. There were recent quad tracks along the fence line, a fence check had been done.
>
> July 8 2015 - Spoke with [the Appellant] by phone, informed him that half dozen cows by Aug 1 2015 would be acceptable and that he stood a very good chance to lose the lease.
>
> Aug 20 2015 - I again inspected the lease and there was no sign of grazing. I stopped by the farm yard and spoke with [the Appellant]. He again complained that cattle were too expensive to buy. So he had purchased 40 sheep and would be putting them on the lease. I was able to see the sheep in the yard. I told him that the sheep would need to be put onto the lease soon in order to show some use.
>
> Sept 1 2015 — Inspected the lease again. Sheep were in the yard not yet on the lease. Did not speak with [the Appellant].

> Sept 29 2015 — No grazing on the lease. The sheep had obviously been grazed from the yard and down part of the road allowance towards the lease, however the closest they got to the lease was 1065 ft. to the north of the lease. There were no sheep in the yard at the time. I did not speak with [the Appellant]."

The Agrologist then summarized the grazing history on the Lease, indicating:

- no grazing occurred in 2015;
- no grazing occurred in 2014, but this had been authorized;
- no stock return was filed for 2013, but there was no evidence of grazing;
- the stock return was filed for 2012, but without any information on it regarding the amount of grazing;
- there were notes on the 2012 stock return indicating that "Warren Schug … is the person who looks after the cows" and that livestock from both Warren Schug and the Appellant had been grazed on the Lease;[4] and
- grazing occurred on the Lease in 2011 in the amount of 113 AUMs.

The Agrologist concluded the email stating:

> "The lease is not being grazed. [The Appellant] has been given warnings to graze (Nov 21 2014 letter) and ample opportunity to graze this past season. While there seems to be some intent as can be seen by the repaired fences there is no actual use. Every time I speak with the [Appellant] I get more stories and reasons that are not fulfilled.
>
> Sadly, **I must recommend that [the Lease] not be renewed. The reason is for non-use.** [The Lease] expired on Apr 30 2015." (Emphasis in the original.)

Record, Tab 21, Email dated September 30, 2016, with attachments.

Director's Written Submission dated August 30, 2016, paragraph 18.

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4 The Agrologist advised the Appellant that livestock belonging to another person are not allowed to graze on the Lease. The Agrologist advised that if this was to continue, Warren Schug, the Appellant's brother, should be added as a leaseholder.

Record, Tab 21, Email dated September 30, 2016, with attachments.

Appellant's Written Submission dated August 16, 2016.

[22] The Agrologist inspected the Lease again on November 5, 2015. His notes indicate the Lease still had not been grazed.

Record, Tab 22, Agrologist's Notes dated November 5, 2015.
Director's Written Submission dated August 30, 2016, paragraph 19.

[23] In an internal email dated December 17, 2015, the Agrologist again recommended non-renewal. Attached to the email was a "Disposition Renewal/No-Renewal" form. The form indicated the Lease should not be renewed. On the form, the Agrologist stated:

> "I recommend this lease not be renewed. This is based on non-use by the [Appellant] and several compliance requests that have not been fulfilled. See the attached email of Sept 30/15 from myself to Caroline Hiew."

The form was signed by the Agrologist and by the Rangeland Management Branch Assistant Regional Head.

Record, Tabs 25 and 26, Email dated December 17, 2015, with attachments.
Director's Written Submission dated August 30, 2016, paragraph 20.

[24] In a letter to the Appellant, dated December 18, 2015, the Director advised the Appellant the Lease would not be renewed, stating:

> "This letter is a follow up to our Request for Compliance letter of November 21, 2014. The department will not be renewing your grazing lease due to your non-utilization of the lease, for a few years now. Field inspections conducted in July, August, and September of this year confirmed that there was still no sign of grazing or livestock on the lease by the given deadline of July 1, 2015."

Record, Tab 27, Director's Letter dated December 18, 2015.
Director's Written Submission dated August 30, 2016, paragraph 21.

[25] In an email dated January 6, 2016, the Director wrote to the Agrologist and advised him that the PLAR may provide the Appellant with a right to appeal her

decision to the Board. The Agrologist communicated this information to the Appellant on the same day.

Director' Record, Tab 28, Email dated January 6, 2016, and Note to File dated January 6, 2016.

[26] Following receipt of this information, the Appellant submitted a Notice of Appeal dated January 10, 2016, which was received by the Board on January 11, 2016.

Notice of Appeal dated January 10, 2016.

[27] The procedural history of this appeal is detailed in Appendix "A" to this report. The procedural history includes receipt of the Record, being the documents upon which the Director based her decision and upon which this appeal is based. The Record was provided to the Board on February 18, 2016, and subsequently provided to the Appellant.

[28] In a letter of July 18, 2016, the Board set a hearing by written submissions for September 19, 2016. The Board received the written submission of the Appellant dated August 22, 2016, and the written submission of the Director dated September 6, 2016. The Appellant did not provide a rebuttal and, as a result, a rebuttal submission was not needed from the Director.

[29] The September 19, 2016 hearing was adjourned when the Chair assigned to hear the appeal recused himself from the appeal. He took this step because he had become aware of information from the mediation that was included in the Appellant's written submission. This information was subsequently redacted from the Appellant's written submission and Mr. Alex MacWilliam was appointed as the new Chair. The hearing was then convened on October 4, 2016.

See: Board's Letter dated September 20, 2016.

[30] At that time, the hearing was adjourned again as the new Chair had questions arising from the written submissions of the parties. On December 8, 2016, the Board provided the parties with a list of questions. Responses were received from the Director on December 19, 2016. On December 21, 2016, the Appellant

advised he would not be responding to the questions. The hearing reconvened on December 23, 2016.

See: Board's Letters dated November 2, 2016, December 8, 2016, December 20, 2016, and December 22, 2016.

III. Submissions

[31] The issues set by the Notice of Appeal for consideration in this hearing are:

1. In making the decision to refuse to renew the Lease, did the Director:
   (a) err in the determination of a material fact on the face of the Record;
   (b) err in law;
   (c) exceed the Director's jurisdiction; or
   (d) fail to comply with a regional plan approved under the ALSA?
2. Is the Director's decision expressly subject to appeal under section 15 of the PLAR?

A. Appellant

[32] The Appellant submitted a letter in response to the request for written submissions requesting reinstatement of the Lease. The letter indicated the Lease is a land-locked parcel of land that requires access through the Appellant's land and, therefore, the family has held the Lease for many years.

Appellant's Written Submission dated August 16, 2016, paragraphs 1 and 2.

[33] The Appellant advised that three or four years ago, the family decided to sell their cattle. The Appellant noted, "the three year deadline of not having any animals on the leased land was up last summer."

Appellant's Written Submission dated August 16, 2016, paragraphs 3.

[34] The Appellant stated he received letters from the Department regarding the need to "get some animals on this piece of land." However, due to high cattle prices,

the Appellant purchased sheep for the Lease but experienced difficulty in keeping the sheep within the fenced area of the Lease. The Appellant submitted that around this time the Agrologist

> "…made the decision to tell [the Department of] his decision to pull the lease from us --- but he did not send any letter telling us about his decision or giving us an option to try to figure something else out until it was too late and the lease was pulled from us."

The Appellant stated that had he received sufficient notice, he would have been able to come into compliance.

Appellant's Written Submission dated August 16, 2016, paragraph 3.

[35] The Appellant noted he purchased 30 heifers this spring "to put on the land but that was after the lease was pulled. But we were able to rent the lease land." The Appellant stated:

> "We may have missed getting some letters – at first they were just sending them regular mail and who knows if you receive things on time – so we asked if they could send them registered mail so we would be sure to receive them."

Appellant's Written Submission dated August 16, 2016, paragraph 5.

[36] The Appellant's letter concluded:

> "We are writing this letter in hopes to be able to retrieve the lease land back into our names again, so we can have some pasture land for our small herd of cattle. We feel we are the perfect candidates for this lease land as it is close to us and you have to go through our farmyard to access part of the land anyways, and especially being we had not received the final letter or notice of the lease land being pulled from us."

Appellant's Written Submission dated August 16, 2016, paragraph 6.

B. Director

[37] The Director argued the legislative background for this appeal is as follows:

> "The Department administers public land throughout the province under the [PLA] and [the] PLAR.

> A grazing lease is a type of formal disposition issued under the PLA and [the] PLAR. [(PLAR, section 1(1)(o).)]
>
> A grazing lease is issued for the purpose of grazing livestock. [(PLA, section 102.)]
>
> The [PLA] and [the] PLAR:
>
> - permit the holder of a disposition to renew a disposition;
> - set out the requirements to apply for renewal; and
> - give the Director authority to refuse a renewal if the applicant is in non-compliance with the Act or the regulations. [(PLAR, sections 17 and 18; PLA section 15.1(b).)]
>
> When an application to renew a disposition is refused or rejected, all rights and interests of the disposition holder cease. The provisions for overholding tenants do not apply unless a disposition expires without being renewed. [(PLAR, section 20.)]
>
> The decision to refuse to renew a disposition is an appealable decision. [(PLAR, section 211(c).)]"

Director's Written Submission dated August 30, 2016, paragraphs 22 to 27.

1. In making the decision to refuse to renew the Lease, did the Director make an error in the determination of a material fact on the face of the record?

[38] The Director submitted that her decision to refuse to renew the Lease was based on the following material facts:

- Stock return forms were not submitted for the Lease in 2010, 2011, 2013, 2014, or 2015. An incomplete stock return form was submitted in 2012.
- The Lease was, by the Appellant's admission, not grazed in 2013 or 2014.
- The Agrologist communicated to the Appellant – either verbally or in writing – about the need to graze the Lease on five separate occasions; being August 28, 2014, November 21, 2014, December 11, 2014, July 8, 2015, and August 20, 2015; and
- The Agrologist inspected the Lease in August 2014, July 2015, August 2015, September 2015, and November 2015 and saw no sign of grazing.

Director's Written Submission dated August 30, 2016, paragraph 30.

[39] The Director submitted the Appellant had not disputed any of the material facts upon which the Director's decision was based.

Director's Written Submission dated August 30, 2016, paragraph 31.

[40] In response to the Appellant's argument that he should have received notice of the decision not to renew the Lease, the Director responded the Appellant did receive notice on five occasions about the need to graze the Lease. According to the Director, this included a Request for Compliance letter that expressly stated the Lease had to be grazed to be renewed. The Director noted, "The Appellant acknowledges that he received letters indicating he needed to 'get some animals on this piece of land'."

Director's Written Submission dated August 30, 2016, paragraphs 32 to 33.

[41] Finally, with respect to error of fact, the Director submitted the "… Appellant has not pointed to any material fact that the Director allegedly erred in determining when refusing to renew the [Lease], and has not provided any evidence to support this ground of appeal."

Director's Written Submission dated August 30, 2016, paragraphs 35.

2. In making the decision to refuse to renew the Lease, did the Director make an error in law?

[42] The Director submitted that section 102 of the PLA provides that grazing leases are issued for the purpose of grazing livestock. Further, under section 15.1(b) of the PLA, the Director may refuse to renew a grazing lease if the applicant is in non-compliance with the PLA.

Director's Written Submission dated August 30, 2016, paragraphs 36 and 37.

[43] The Director stated that contrary to the PLA, the Appellant was not using the Lease for the purpose for which it was leased, namely, to graze livestock.

Director's Written Submission dated August 30, 2016, paragraph 38.

[44] The Director argued she "considered and applied the relevant provisions of the [PLA] and [the] PLAR, and properly exercised her legal authority under section 15.1(b) of the [PLA] to refuse to renew the [Lease]."

Director's Written Submission dated August 30, 2016, paragraph 39.

[45] The Director stated the "…onus is on the Appellant to demonstrate that the Director erred in law in refusing to renew the [Lease]." Further, the Director noted the "…Appellant's submission does not address any error in law, and does not include any evidence to support this ground of appeal."

Director's Written Submission dated August 30, 2016, paragraph 40.

3. In making the decision to refuse to renew the Lease, did the Director exceed her jurisdiction?

[46] The Director stated she acted within her jurisdiction to make this decision. The Appellant was not using the Lease for the purpose of grazing livestock. This is contrary to the PLA, and the PLA authorizes the Director to refuse to renew a Lease if the applicant is in non-compliance with the PLA or the regulations.

Director's Written Submission dated August 30, 2016, paragraphs 41 to 43.

[47] The Director stated the "…onus is on the Appellant to demonstrate that the Director exceeded her jurisdiction in refusing to renew the [Lease]." Further, the Director noted the "…Appellant's submission does not address the issue of jurisdiction, and does not include any evidence to support this ground of appeal."

Director's Written Submission dated August 30, 2016, paragraph 44.

4. In making the decision to refuse to renew the Lease, did the Director fail to comply with a regional plan approved under the ALSA?

[48] The Director advised the location of this Lease is within the Municipal District of Provost, which would be in the North Saskatchewan Planning Region, and according to the Alberta Land Use Secretariat website, there is no regional plan

in force in the North Saskatchewan Planning Region.

Director's Written Submission dated August 30, 2016, paragraphs 46 and 47.

[49] Further, the Director stated the "…onus is on the Appellant to demonstrate that the Director failed to comply with a regional plan." Further, the Director noted the "…Appellant's submission contains no reference to regional plans, and does not include any evidence to support this ground of appeal."

Director's Written Submission dated August 30, 2016, paragraph 45.

5. Is the Director's decision expressly subject to appeal under section 15 of the PLAR?

[50] The Director submitted that section 15 is not applicable to this appeal, and the Appellant's submission does not address this ground of appeal.

Director's Written Submission dated August 30, 2016, paragraphs 48 and 49.

C. Board's Questions

[51] As noted, following a review of the Record and the written submissions filed by the parties, the Board had questions mainly about whether the Appellant's application to renew the Lease had been deemed rejected. On December 8, 2016, the Board provided its questions and asked the parties to respond. The Board's questions are detailed in Appendix B to this report.

Board's Letter dated December 8, 2016.

[52] The Director provided a written submission in response to the Board's questions on December 19, 2016. The Appellant declined to provide a response to the Board's questions.

Board's Letters dated December 20, 2016, and December 22, 2016.

[53] Having reviewed the Director's written submissions in response to the questions and the other written submissions, as well as the Record, and given the Board's conclusions on the question of whether the Director made an error of law, the

Board has determined that it does not need to address the issue of the deemed refusal for the purpose of making its report on this appeal.

IV. Analysis

[54] The challenges faced by the Board in dealing with this appeal are the same challenges commonly faced by many decision-makers when unrepresented parties are involved in judicial or quasi-judicial processes. In this appeal, the Appellant filed a relatively limited submission, focused mainly on explaining what happened and how the decision affects him. There is little in the submission that speaks to the substantive merits of the appeal. The lack of substantive arguments from the Appellant creates particular difficulties for the Board because of how the PLA greatly limits the scope of the appeal to relatively narrow grounds.

A. Error of Fact

[55] The first ground of appeal the Board must consider is whether in deciding not to renew the Lease, the Director made an error of fact on the face of the record.

[56] The Appellant's submission indicates his version of the facts is substantially similar to that put forward by the Director. As the Director noted in her submission, the Appellant does not point to any particular factual errors the Director relied upon to make her decision. The main factual difference appears to relate to the apparent difficulty the Appellant had in trying to keep sheep within the fenced area of the Lease.

[57] The Agrologist, who inspected the Lease several times after the Appellant purchased the sheep, contradicts this evidence concluding the Lease had not been grazed.

[58] Based on this evidence, while the Board accepts the Appellant may have attempted to graze sheep on the Lease, any such attempts were insufficient to meet the requirements of the PLA that a grazing lease must be used for grazing.

The Board is inclined to agree with the advice the Agrologist gave to the Appellant that grazing at least one-third of the maximum carrying capacity of the Lease is necessary to meet this requirement of the PLA.

[59] The Board notes there was no discussion in the Record as to how often a grazing lease needs to be grazed. However, the Board notes the Appellant believed there is a "three year deadline of not having any animals on the leased land." The Board has not been able to find any legal foundation for this belief in the PLA, the PLAR, or any policy documents.

[60] In the Board's view, to make the best use of the public land that has been designated for grazing, grazing leases should be grazed every year, subject to proper land management practices as approved by the Department's local agrologist. If there is a common understanding among lessees that it is acceptable not to use a grazing lease for up to three years without approval, the Department should work to correct this misunderstanding.

[61] Therefore, for the purpose of its recommendation to the Minister, the Board finds the Appellant has not demonstrated an error of fact on the face of the record that would provide the Board with a basis for recommending the Director's decision not to renew the Lease be varied or reversed.

B. Error of Law

[62] The second ground of appeal the Board must consider is whether, in deciding not to renew the Lease, the Director made an error of law.

[63] The Director argued the Appellant did not point to any error in law in his submission. The Board disagrees. In his submission, the Appellant stated:

> "[The Agrologist] …made the decision to tell [the Department of] his decision to pull the lease from us --- but he did not send any letter telling us about his decision or giving us an option to try to figure something else out until it was too late and the lease was pulled from us."

The Appellant also stated that had he received sufficient notice he would have been able to come into compliance.

Appellant's Written Submission dated August 16, 2016, paragraph 3.

[64] Further, the Appellant argued:

> "We are writing this letter in hopes to be able to retrieve the lease land back into our names again, so we can have some pasture land for our small herd of cattle. We feel we are the perfect candidates for this lease land as it is close to us and you have to go through our farmyard to access part of the land anyways, and especially being we had not received the final letter or notice of the lease land being pulled from us."

Appellant's Written Submission dated August 16, 2016, paragraph 6.

[65] While this argument is not framed in legal terminology, in essence the Appellant is saying the Director violated the rules of natural justice and procedural fairness in deciding not to renew the Lease. In support of this view, the Board points to the March 26, 2016 request by the Agrologist that the Lease be "…put through as an overholding tenant." As part of this request, the Agrologist attached two letters to the email: a copy of the November 21, 2014 "Request for Compliance" letter and a "…draft letter that you can use as a start to send the lessee." As the Board noted, the second letter – the draft letter – was not included as part of the Record and there is no evidence of a second letter being sent to the Appellant.

Record, Tab 19, Email dated March 26, 2015, and Request for Compliance Letter dated November 21, 2014.

[66] In the Board's view, the Agrologist was correct in recommending that a letter be sent to the Appellant. While the Board does not know what the draft letter prepared by the Agrologist stated, the Board is of the view the Appellant should have been advised, in writing, that the Director was considering not renewing his Lease. Further, the Appellant should have been given an opportunity to make representations to the Director before she made her decision.

[67] Failure to provide the Appellant this opportunity was a breach of the rules of natural justice and procedural fairness. The Board notes the Director's submission that the "… Agrologist communicated to the Appellant – either verbally or in writing – about the need to graze the Lease on five separate occasions; being August 28, 2014, November 21, 2014, December 11, 2014, July 8, 2015, and August 20, 2015 …" and indicated in some of these communications the consequences of failing to graze could be the loss of the Lease. While the Board commends the Agrologist for his efforts to work with the Appellant on this point, the Board is of the view these "communications" – particularly the reliance on verbal communications - were insufficient to meet the Director's obligations under the rules of natural justice and procedural fairness.

[68] Considering the November 14, 2014 Request for Compliance letter, in particular, the purpose of this letter was to require the Appellant to come into compliance with the PLA, the PLAR, and the terms of the Lease. While the letter indicates that "losing" the Lease was a possibility, this was not clear communication about the actual decision by the Director to refuse to renew the Lease. This is particularly true because the letter was sent more than a year before the Director actually turned her mind to making the decision. The Board does not believe the Appellant should have been expected to connect the Request for Compliance letter with the decision not to renew the lease, which occurred a year later. This apparent expectation on the part of the Director is unreasonable.

[69] The Board bases this view on two of the most basic principles of natural justice and procedural fairness: a party's right to know the case against it and the right to defend itself. These principles have been relied upon since they were first stated in the *Board of Education* v. *Rice*, [1911] AC 179, at pages 181 and 182:

> "[The decision-maker] … will have to ascertain the law and also to ascertain the facts. I need not add that in doing either **they must act in good faith and fairly listen to both sides, for that is a duty lying upon everyone who decides anything**. But I do not think they are bound to treat such a question as though it were a

> trial. They have no power to administer an oath, and need not examine witnesses. They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view. ….
>
> [Further] a decision-making body should not see relevant material without giving those affected a chance to comment on it and, if they wish, to controvert it, is fundamental to the principle of law (which governs public administration as much as it does adjudication)…." (Emphasis added.)

These principles were cited with approval in *IWA* v. *Consolidated-Bathurst Package Ltd.*, [1990] 1 SCR 282 at page 339:

> "Since its earliest development, the essence of the *audi alteram partum* rule has been to give the parties a 'fair opportunity of answering the case against [them]': Evan, *de Smith's Judicial Review of Administrative Actions,* [4th ed. By J.M. Evans. London: Stevens & Sons, 1980 at page] 158. It is true that on factual matters the parties must be given a 'fair opportunity for correcting or contradicting any relevant statement prejudicial to their view': *Board of Education* v. *Rice*, [1911] A.C. 179, at [page] 182 …."

[70] These principles were also addressed by the Supreme Court of Canada in *Baker* v. *Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, where it discussed the sliding scale of fairness in administrative proceedings, such as the decision under appeal. In this case, at page 837, Justice L'Heureux-Dubé stated:

> "Although the duty of fairness is flexible and variable, and depends on an appreciation of the context of the particular statute and the rights affected, it is helpful to review the criteria that should be used in determining what procedural rights the duty of fairness requires in a given set of circumstances. I emphasize that underlying all these factors is the notion that the purpose of the participatory rights contained within the duty of procedural fairness is to ensure that administrative decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional, and social context, **with an opportunity for those affected by the decision to put forward their views and evidence fully and have them considered by the decision-maker**." (Emphasis added.)

Justice L'Heureux-Dubé went on to discuss the various factors she believes were important in determining the level of fairness required in a particular case. In particular, the third factor she discussed was the importance of the decision to the individual affected. She stated at page 838:

> "A third factor in determining the nature and extent of the duty of fairness owed is the importance of the decision to the individual or individuals affected. **The more important the decision is to the lives of those affected and the greater its impact on that person or those persons, the more stringent the procedural protections that will be mandated.** This was expressed, for example, by Dickson J. (as he then was) in *Kane* v. *Board of Governors of the University of British Columbia*, 1980 CanLII 10 (SCC), [1980] 1 S.C.R. 1105, at [page] 1113:
>
> > 'A high standard of justice is required when the right to continue in one's profession or employment is at stake. ... A disciplinary suspension can have grave and permanent consequences upon a professional career.'
>
> As Sedley J. (now Sedley L.J.) stated in *R*. v. *Higher Education Funding Council, ex parte Institute of Dental Surgery*, [1994] 1 All E.R. 651 (Q.B.), at [page] 667:
>
> > 'In the modern state the decisions of administrative bodies can have a more immediate and profound impact on people's lives than the decisions of courts, and public law has since *Ridge* v. *Baldwin* [1963] 2 All E.R. 66, [1964] A.C. 40 been alive to that fact. While the judicial character of a function may elevate the practical requirements of fairness above what they would otherwise be, for example by requiring contentious evidence to be given and tested orally, what makes it 'judicial' in this sense is principally the nature of the issue it has to determine, not the formal status of the deciding body.'
>
> The importance of a decision to the individuals affected, therefore, constitutes a significant factor affecting the content of the duty of procedural fairness." (Emphasis added.)

[71] Finally, in specifically discussing the participatory rights of Ms. Baker, Justice L'Heureux-Dubé stated at page 842: "At the heart of this analysis is whether,

considering all the circumstances, those whose interests were affected had a meaningful opportunity to present their case fully and fairly."

[72] In the circumstances of this case, taking into account these principles, the effect of the Director's decision was to deprive the Appellant of an interest in land. In the Board's view, while this is not a "right to continue in one's profession or employment," it is substantially similar. The purpose of a grazing lease is to graze livestock, and the purpose of grazing livestock is, for most lessees, to earn a living. The Board notes that a grazing lease can often be an integral part of a lessee's agricultural operation. Therefore, in the Board's view the minimum standard of natural justice and procedural fairness would have been, as the Agrologist suggested, to write a letter to the Appellant clearly stating:

1. the Director was considering not renewing the Lease,
2. the factual and legal basis as to why the Director was considering not renewing the Lease, and
3. the Appellant was invited to provide the Director with written comments that she would take into account in making her decision.

In the Board's view, this is a prerequisite to the Director being able to make the decision to refuse to renew a grazing lease.

[73] The Board is of the view that, in making the decision not to renew the Lease, the Director erred in law by not providing the Appellant with the natural justice and procedural fairness to which he was entitled. Specifically, he was entitled to be informed, in writing, that the Director was considering not renewing the Lease. Further, he was entitled to know the factual and legal basis as to why the Director was considering not renewing the Lease. Finally, he was entitled to an opportunity to provide comments to the Director before she made her decision. It appears from the Record, the Appellant was afforded none of these legal rights and, therefore, the Director's decision to refuse to renew the Lease effectively came as a surprise to the Appellant. In the Board's view, this error of law

provides the basis for the Board to recommend to the Minister the decision of the Director be reversed and the Appellant's Lease be renewed.

C. Director's Authority

[74] The third ground of appeal the Board must consider is whether, in making the decision not to renew the Lease, the Director exceeded her jurisdiction.

[75] The Director noted the Appellant did not challenge the Director's jurisdiction to decide not to renew the Lease and did not point to any evidence to support this ground of appeal.

Director's Written Submission dated August 30, 2016, paragraph 44.

[76] The Board agrees. The Appellant did not make any arguments to support this concern. Therefore, there is no basis for the Board to make any findings on this ground of appeal.

D. Compliance with a Regional Plan

[77] The fourth ground of appeal the Board must consider is, whether in making the decision to refuse to renew the Lease, the Director failed to comply with a regional plan approved under the ALSA.

[78] The Director advised, and the Board has confirmed, there is no regional plan in force in this area of the Province.

Director's Written Submission dated August 30, 2016, paragraphs 46 and 47.

[79] Further, the Director noted the Appellant did not refer to regional plans and did not include any evidence to support this ground of appeal.

Director's Written Submission dated August 30, 2016, paragraph 45.

[80] The Board agrees. First, there is no approved regional plan, so it is not possible for the Director to make a decision in noncompliance with a regional plan. Second, the Appellant did not make any arguments to support this concern.

Therefore, there is no basis for the Board to a make any findings on this ground of appeal.

E. Deemed Rejection

[81] The final ground of appeal the Board must consider is whether the Director's decision is expressly subject to appeal under section 15 of the PLAR.

[82] The Director submitted that section 15 is not applicable to this appeal, and the Appellant did not address this ground of appeal.

Director's Written Submission dated August 30, 2016, paragraphs 48 and 49.

[83] While the Board agrees the Appellant did not address this ground of appeal, the Board does not agree that section 15 is wholly inapplicable to this appeal but, as noted above, given the Board's finding on the Director's error of law, it is not necessary for the Board to address the question of the deemed rejection.

V. Recommendations

[84] In making the decision not to renew the Lease, the Director made an error in law by not providing the Appellant with the natural justice and procedural fairness to which he was entitled. Specifically, the Appellant was entitled to be informed, in writing, that the Director was considering not renewing the Lease. Further, the Appellant was entitled to know the factual and legal basis as to why the Director was considering not renewing the Lease. Finally, the Appellant was entitled to an opportunity to provide comments to the Director before she made her decision. The Appellant was not afforded any of these legal rights. In the Board's view, this error of law provides the basis for the Board to recommend to the Minister the decision of the Director be reversed and the Appellant's Lease be renewed.

[85] In making the recommendation to the Minister the Appellant's Lease should be renewed, the Board is mindful of the concerns raised by the Agrologist and the basis of the Director's decision that the Appellant has not been grazing livestock

on the Lease as required by the PLA and the PLAR. In the Board's view, the grazing resources of Alberta must be used to the best advantage of the lessees, which in turn is to the benefit of the people of Alberta. Therefore, the Board is recommending the Lease only be renewed for two grazing seasons, or more specifically, the renewed Lease should expire on April 30, 2019. All the other terms and conditions of the Lease should remain the same. The two grazing seasons should provide the Appellant with sufficient opportunity to demonstrate he is serious about keeping the Lease.

[86] Therefore, the Board recommends to the Minister the Director's decision in this appeal be reversed and that a lease be issued to the Appellant for a term ending on April 30, 2019. Further, the Board recommends to the Minister that no costs should be awarded in this appeal.

[87] The Board recommends this report and any decision of the Minister be sent to:

1. Mr. Duane Schug; and
2. Ms. Jodie Hierlmeier, Environmental Law Section, Alberta Justice and Solicitor General, on behalf of the Director, Approvals and Disposition Services Unit, Operations Division, Alberta Environment and Parks.

Dated on the 10th day of January 2017.

- original signed -

Mr. Alex MacWilliam
Panel Chair

Appendix A - Summary of Procedural Background

[1] The Notice of Appeal, dated January 10, 2016, was received by the Board on January 11, 2016. The Record was requested on or by February 3, 2016. The Board granted an extension for the provision of the Record to February 19, 2016.

[2] On February 19, 2016, the Record was received and sent to the Appellant.

[3] In consultation with the parties, March 11, 2016, was chosen as the date for mediation. The mediation was held in Wainwright, Alberta; however, it did not result in a resolution of the appeal.

[4] On April 22, 2016, a hearing schedule was sent to the parties. The written submissions from the parties were due as follows:

- Appellant's written submission on May 20, 2016;
- Director's written submission on June 6, 2016;
- Appellant's rebuttal, if necessary, on June 8, 2016; and
- Director's rebuttal, if necessary, on June 10, 2016.

[5] On May 18, 2016, in response to a request from the Appellant to reschedule the written submissions, the Board reset the written submission as follows:

- Appellant's written submission on July 15, 2016;
- Director's written submission on July 25, 2016;
- Appellant's rebuttal, if necessary, on July 27, 2016; and
- Director's rebuttal, if necessary, on July 29, 2016.

[6] On July 18, 2016, based on a further request by the Appellant, the Board rescheduled the written submissions as follows:

- Appellant's written submission on August 22, 2016;
- Director's written submission on September 6, 2016;
- Appellant's rebuttal, if necessary, on September 9, 2016; and
- Director's rebuttal, if necessary, on September 14, 2016.

The written hearing was scheduled for September 19, 2016. The hearing panel was Mr. Gordon McClure, Appeals Coordinator and Chair of the Board.

[7] The Hearing Notice was posted to the Alberta Environment and Parks website on July 19, 2016.

[8] On August 24, 2016, the Director raised concerns with the Board regarding the admissibility of the Appellant's written submissions because it disclosed information from the mediation. On August 26, 2016, the Board advised the parties that the fourth paragraph of the Appellant's written submission that referred to mediation would be redacted and would not be considered by the panel.

[9] On September 19, 2016, the panel convened the hearing on this appeal. In reviewing the written submissions, it became apparent to the panel that having decided on the request to redact a portion of the Appellant's written submission, it would be inappropriate for this panel to consider the merits of the appeal. Therefore, Mr. McClure recused himself from the appeal, and the hearing was adjourned.

[10] On September 20, 2016, the Board advised the parties of the adjournment and indicated a new panel would be appointed.

[11] On September 30, 2016, Mr. Alex MacWilliam was appointed to hear the appeal, and the hearing by written submissions was scheduled for October 4, 2016.

[12] The panel convened on October 4, 2016, to hear the appeal. The panel had questions for the parties based on the written submissions and the Record. Therefore, the panel adjourned the hearing to receive responses to a series of written questions.

[13] On December 23, 2016, the panel reconvened the hearing by written submissions.

Appendix B - Board's Questions

Following a review of the Record and the written submissions filed by the parties, the Board had some questions. The following questions were provided to the parties on December 8, 2016:

1. Was Mr. Schug's renewal application, dated May 15, 2014, deemed to be rejected as of June 15, 2014?

2. What is the effect of an application being deemed to be rejected? In particular, is it possible for the Director to subsequently renew a grazing lease based on an application that has been deemed to be rejected?

3. If Mr. Schug's application has been deemed to be rejected, what is the appropriate remedy for the Board to recommend to the Minister? The Board can recommend the Director's decision be confirmed, reversed, or varied. Can the Board recommend to the Minister that the matter be returned to the Director to process the application?

4. Is there any impediment, such as the deadline to file an appeal, that prevents the Board from addressing the deemed rejection? If there is an issue with the deadline regarding the deemed rejection, should the Appeals Coordinator extend that deadline?

5. Was notice or other correspondence sent to Mr. Schug advising him the application was neither accepted nor rejected?

6. Was notice or other correspondence sent to Mr. Schug advising him the application was deemed to be rejected?

7. If no notice or other correspondence was sent to Mr. Shug as identified in questions 5 and 6, how could Mr. Schug exercise his right of appeal in the absence of notice?

8. Do the principles of natural justice and procedural fairness require the Director to provide some sort of notice or other indication to Mr. Schug, that his application had not been accepted or rejected?

9. What is the nature of the process that followed the deemed rejection of Mr. Schug's renewal application? Was it an approval process or a compliance process? Was the nature of the process communicated to Mr. Schug?

10. Given that it appears the nature of the process that followed the deemed rejection was never communicated to him, was it reasonable for Mr. Schug to believe his application had been accepted and the subsequent contact with the Director's staff was merely the processing of his application?

11. Was Mr. Schug advised in writing his grazing lease was about to expire or had expired on April 30, 2015? Was Mr. Schug advised in writing that there was no valid application to renew the grazing lease before the Director? Was a new application required to be filed by Mr. Schug before the Director could consider renewing the grazing lease?

12. Did the Director consider whether to renew Mr. Schug's grazing lease pursuant to section 20(3)(b)?

ALBERTA
ENVIRONMENT AND PARKS

Office of the Minister
Minister Responsible for the Climate Change Office
MLA, Lethbridge-West

ALBERTA ENVIRONMENT AND PARKS

Public Lands Act
RSA 2000, c. P-40

MINISTERIAL ORDER
05/2017

ORDER RESPECTING PUBLIC LANDS APPEAL BOARD
APPEAL NO. 16-0001

I, Shannon Phillips, Minister of Environment and Parks, pursuant to section 124 of the *Public Lands Act*, make the order in the attached Appendix, being the Order Respecting Public Lands Appeal Board Appeal No. 16-0001.

DATED at the City of Edmonton, in the Province of Alberta, this 2nd day of August, 2017.

S. Phillips

Shannon Phillips
Minister

208 Legislature Building, 10800 - 97 Avenue, Edmonton, Alberta T5K 2B6 Canada Telephone 780-427-2391 Fax 780-422-6259

APPENDIX

ORDER RESPECTING PUBLIC LANDS APPEAL BOARD APPEAL NO. 16-0001

With respect to Public Lands Appeal Board Appeal No. 16-0001, I, Shannon Phillips, Minister of Alberta Environment and Parks, order as follows:

1. The decision of the Director be reversed and that the Appellant's Lease should be renewed.

2. The Lease only be renewed for two grazing seasons. All the other terms and conditions of the Lease should remain the same.

3. No costs are awarded.