



ALBERTA
ENVIRONMENT AND PARKS

*Office of the Minister
MLA, Lethbridge-West*

ALBERTA ENVIRONMENT AND PARKS

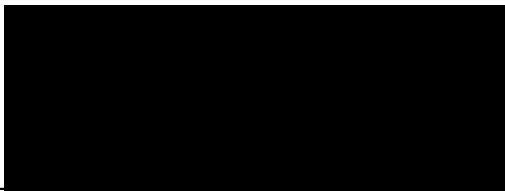
*Public Lands Act
RSA 2000, c. P-40*

**MINISTERIAL ORDER
25/2016**

**ORDER RESPECTING PUBLIC LANDS APPEAL BOARD
APPEAL NO. 14-0024**

I, Shannon Phillips, Minister of Environment and Parks, pursuant to s.124 of the *Public Lands Act*, make the order in the attached Appendix, being an Order respecting Public Lands Appeal Board Appeal No.14-0024.

DATED at the City of Edmonton, in the Province of Alberta, this 12th day of May, 2016.



[Signature]
Shannon Phillips
Minister

Appendix A

Order Respecting Public Lands Appeal Board Appeal No. 14-0024

With respect to Public Lands Appeal Board Appeal No. 14-0024, I, Shannon Phillips, Minister of Alberta Environment and Parks, order as follows:

1. That the replacement disposition signed by the Director on June 18, 2014 be formally issued to Penny Dunn by the Director with the following direction:

If Penny Dunn fails to execute the replacement disposition signed by the Director on June 18, 2014, by signing it and returning it to the Director within 60 days of the date of the Ministerial Order 25/2016, then the Director may proceed to cancel the disposition as per section 39 of the *Public Lands Act*.

2. That the Director's actions to cancel the replacement disposition signed by the Director on June 18, 2014, which were taken during the period of the stay issued by the Board, are revoked.
3. That Public Lands Appeal Board Appeal No. 14-0024 is dismissed without costs.

ALBERTA

PUBLIC LANDS APPEAL BOARD

Report

IN THE MATTER OF the *Public Lands Act*, R.S.A. 2000, c. P-40, as amended, and the Public Lands Administration Regulation, A.R. 187/2011, as amended;

-and-

IN THE MATTER OF an appeal filed by Penny Dunn

Cite as: Dunn v. Director, Environment and Sustainable Resource Development et al.,
Appeal No. PLAB 14-0024.

Table of Contents

EXECUTIVE SUMMARY.....	4
FINDINGS OF FACT BASED ON THE RECORD	8
Introduction	8
The Issuance of the FGL in 1997 [FGL #1]	9
Issuance of a Replacement FGL in 2002 [FGL #2]	9
The Period of Overholding Tenancy & Lack of Policy Development in Respect of the Renewal Process.....	9
The Issuance of the SME for Gravel Exploration	10
Minich Accesses the FGL and Completes the Exploration Activity Authorized by the SME	13
Ms. Dunn Asserts an Intent to Appeal to the Surface Rights Board, Complains to the Premier about Minich’s Access to the FGL and Alleges Persecution By Alberta	13
Alleged Breaches of the Terms and Conditions of the Forest Grazing Licence by Ms. Dunn...	15
The Application for a Surface Material Licence [SMC]	15
The Director Formulates a Strategy for Dealing with Ms. Dunn	16
Efforts to Communicate with Ms. Dunn As Regards Her Consent to the SME	18
The Decision to Alter the Boundaries of the FGL	26
Approval of the SMC	31
Ms. Dunn Asserts an Intent to Appeal the Issuance of SMC 130005	31
Signature of the Replacement Grazing Licence Disposition by the Director & Uncertainty over the Date when the Boundaries were Amended	31
Unsuccessful Efforts to Work with Ms. Dunn to Identify Additional Lands including those which May Provide Convenient Access to the FGL	33
An Appeal is Filed with the Board by Ms. Dunn.....	35
Events After the Appeal Filed by Ms. Dunn as Revealed in the Record	36
Preliminary Matters	37
ISSUES	39
SUBMISSIONS OF THE APPELLANT	40
SUBMISSIONS OF MINICH.....	42
SUBMISSIONS OF THE DIRECTOR.....	43
REASONS OF THE PANEL.....	48

Analysis by the Public Lands Appeal Board48
COSTS53
OBSERVATIONS.....53
RECOMMENDATIONS54
LIST OF APPENDICES.....55

EXECUTIVE SUMMARY

[1] On October 1, 2014, the Director [used here to refer to the Director and staff of the Department of Alberta Environment and Parks (AEP), until 2015 known as Environment and Sustainable Resource Development (ESRD) and referred to in this report as "Department", acting under the authority of the Director duly designated under the *Public Lands Act*, RSA 2000, c. P-40, s. 1(d.1),] communicated to Penny Dunn [Ms. Dunn] as follows:

"A timeline of October 14, 2014 was agreed to in regards to your response to either:

- Accept the additional area to be amended into FGL 970007 [the replacement FGL with a term from 2012 to 2022], or
- Accept the renewal area as currently provided [in the replacement FGL with the term from 2012 to 2022].

If no response is received by October 14, 2014, the renewal provided will be cancelled and FGL 9700078 will be removed from the records of the Department, and all improvements, including fencing, must be removed."

The communication of October 1, 2014, as clarified by a second email of October 1, 2014, sent later that day, constitute the Decision which is the subject of this appeal [the Director's Decision of October 1, 2014]. Appendix H to this Decision of the Board is a copy of both of the Director's emails dated October 1, 2014.¹ Both emails, together, constitute the Director's Decision of October 1, 2014.

[2] One of these two dispositions had been signed by the Director on June 18, 2014, and is referred to in the Director's Decision of October 1, 2014, as "the replacement FGL [Forest Grazing Licence] with the term from 2012 to 2022". This replacement disposition is referred to later in these Reasons as FGL #3, and is attached as Appendix G to this Decision of the Board.

[3] On October 8, 2014, Ms. Dunn filed an appeal of the Director's Decision of October 1, 2014 to the Public Lands Appeal Board (the Board).

¹ Record, Tab 107.

[4] On October 9, 2014, the Board issued against the Director a stay in proceeding to act upon the Director's Decision of October 1, 2014, until such time as the appeal may be heard. It appears that the Director has wrongfully ignored the stay, by purporting to cancel a replacement disposition signed by the Director on June 18, 2014, and referred to in the Director's Decision of October 1, 2014, as "the replacement FGL with the term from 2012 to 2022".

[5] The appeal arises because there was a conflict between Ms. Dunn and a third party referred to under various names in the Record. For simplicity, the third party and its agents are referred to here as Minich Oilfield Services ["Minich"].

[6] Ms. Dunn was an overholding tenant pursuant to s. 20(3) of the *Public Lands Administration Regulations*. The Director treated the terms and conditions of this overholding tenancy as identical to the terms and conditions in the expired FGL disposition. Ms. Dunn is, in this sense, 'the holder of a disposition' within the meaning of that term in s. 15(4) of the *Act*. Minich was the holder of a disposition concerning a part of the same land.

[7] It is clear to the Board that the Director has made every reasonable effort to resolve the dispute between Minich and Ms. Dunn, and that all reasonable efforts in this respect have failed.

[8] The circumstances before the Director on June 18, 2014, and at all material times thereafter, were that there was conflict between Ms. Dunn and Minich, both of whom were holders of dispositions concerning a part of the same parcel of land. The Board finds that the Director acted reasonably in signing the replacement FGL signed by the Director on June 18, 2014, with the term from 2012 to 2022.

[9] The sole issue advanced before the Board by Counsel for the Appellant involves characterization of what was done by the Director as a "renewal". The Appellant argues that power to renew does not include power to vary boundaries of the prior disposition.

[10] The Board finds that this was not a renewal of the disposition, as alleged by Appellant. The Board finds that signing the disposition was the first step towards the issuance of a replacement disposition through the exercise of powers conferred on the Director by s. 15(4) of the *Public Lands Act*, and s. 20(3) and s. 64(1)(b) of the *Public Lands Administration Regulations*. Given the difficult history involving communications with Ms. Dunn, outlined below, signing that replacement disposition was a reasonable

exercise of the powers conferred on the Director by s. 15(4) of the *Public Lands Act*, and s. 20(3) and s. 64(1)(b) of the *Public Lands Administration Regulations*.

[11] The Board finds that the Director signed a replacement disposition on June 18, 2014; however, the Board finds that the evidence in the Record does not establish, on a balance of probabilities, that the Director formally issued that replacement licence to Ms. Dunn in accordance with s. 39 of the *Public Lands Act*. The Board is not satisfied that the Record establishes that the replacement disposition signed by the Director on June 18, 2014, was properly issued. Therefore, that disposition has not yet taken effect. Ms. Dunn remains an overholding tenant on terms and conditions set out in the expired disposition described later in these Reasons as FGL #2.

[12] If the disposition had been formally “issued” by the Director, then the conflict between Ms. Dunn and Minich may have been resolved since all lands on which gravel extraction could occur would be removed from the “the replacement FGL with the term from 2012 to 2022”. Since the replacement FGL signed by the Director on June 18, 2014, with the term from 2012 to 2022, was not formally issued, a conflict remains, and all reasonable means of resolving the conflict have been exhausted.

[13] In these appellate proceedings the Board has remedial powers defined in s. 124(2) of the *Public Lands Act*. The Board may recommend that the Minister vary the decision appealed from; and, further, the advisory power of the Board to recommend variance extends to recommendations that the Minister exercise power under s. 124(3) of the *Public Lands Act* to make any further Order necessary to resolve the dispute between Ms. Dunn and Minich.

[14] The Board therefore recommends variance of the decision of October 1, 2014. The Board specifically recommends that the Minister exercise power conferred by s. 124(3) of the *Public Lands Act*, to Order the issuance to Ms. Dunn of the replacement disposition signed by the Director on June 18, 2014. The disposition, including its amended boundaries and terms and conditions, will be effective upon formal issuance in accordance with procedures in s. 36(2) of the *Public Lands Act*. The Board is of the opinion that personal delivery to Ms. Dunn would provide the best proof of formal issuance. When the replacement disposition is formally issued by personal service on Ms. Dunn, the replacement disposition is effective by virtue of s. 39(2)(b) of the *Public Lands Act*.

[15] If Ms. Dunn seeks additional lands for grazing, she is able to either (i) make application for a formal disposition in accordance with s. 9 of the *Public Lands*

Administration Regulation, or (ii) request the Director exercise power under s. 64(b) of the *Public Lands Administration Regulation* to amend the boundaries of the replacement disposition signed by the Director and issued pursuant to the Order of the Minister.

[16] The Board therefore recommends that the Minister:

- vary the Director's Decision of October 1, 2014 by exercising powers conferred on the Minister by s. 124(3) of the *Act*, to make the decision which the Director could have made in order to resolve the dispute between Ms. Dunn and Minich;
- order that the replacement disposition signed by the Director on June 18, 2014, should now be issued to Ms. Dunn by the Director with the following direction:
- that if Ms. Dunn fails to execute and return the replacement disposition signed by the Director on June 18, 2014, by signing it and returning it to the Director within 60 days of the date of the Order of the Minister conveying the Minister's decision in this appeal, then s. 39 of the *Public Lands Act* authorizes the Director to cancel the disposition;
- that the Director's action in purporting to cancel the replacement disposition signed by the Director on June 18, 2014, during the stay issued by the Board is revoked.

[17] Ms. Dunn has exercised a right of appeal in relation to the issuance of a disposition. That issuance was offered to her on October 1, 2014, with consequences for failure to respond. The Board notes that s. 126 of the *Public Lands Act* grants to the Minister exclusive and final jurisdiction to make an order necessary to resolve this matter, and that no decision, order, direction, ruling, proceeding, report or recommendation of the Minister or the appeal body shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court to question, review, prohibit or restrain the Minister or the appeal body or any of its proceedings.

[18] The Board is of the view that the Record reveals numerous uncertainties amongst the Director's officials, and that these may be attributed to: (1) the absence of policy development in respect of the renewal process for a grazing licence; and (2) the dynamics of the relationship between overlapping dispositions involving gravel exploration and extraction and grazing licence tenure. While not making any specific recommendation in this regard, the Board wishes to express its view that that policy development in these two areas would be beneficial in avoiding the kinds of errors and uncertainties which occurred in this case.

FINDINGS OF FACT BASED ON THE RECORD

Introduction

[19] The parties disagree on many material facts, and it is therefore necessary for the Board to review the facts of the case in some detail.

[20] The Written Submissions of the parties reveals that the Appellant and the Director disagree on many facts and issues, including whether or not boundaries for the disposition in issue in this case [FGL 970007] were changed by the Director prior to the commencement of this appeal.²

[21] When the Board reviewed the Record in this case, the Board found that the Submissions of the parties did not address all of the material evidence in the Record. In particular, Counsel for the Appellant and the Director did not address the replacement disposition contained in the Record and, for greater certainty, attached as Appendix G to this Decision of the Board. That licence was signed on June 18, 2014, by the Director, but is not specifically referred to in any of the Written Submissions provided by either the Appellant or the Director.

[22] The Record provided by the Director reveals use of the term 'renew' in relation to that disposition. The word 'renewal' appears in the Director's Decision of October 1, 2014. The Director's legal position, however, is that a renewal could not legally occur.³ Unfortunately, the Director's submissions do not attempt to explain the particular use of the term 'renew' by the Director throughout the Record, including the use of that term in the Director's Decision of October 1, 2014.

[23] The Board has carefully reviewed the Record provided by the Director in this case, and has carefully considered the Written Submissions filed by all of the parties. Based on this review, the Board has found it necessary to make the following findings of fact.

² The Appellant's position on this specific point about boundaries is contained in paragraph 7 of the Written Submissions of the Appellant dated August 10, 2015. The Director's position on this point is contained in paragraph 75 of the Submission of the Director dated August 17, 2015.

³ The Director's position on this point is contained in paragraph 81(a) of the Submission of the Director dated August 17, 2015.

The Issuance of the FGL in 1997 [FGL #1]

[24] In 1997 Forest Grazing Licence No 970007 [FGL #1] was issued to Ms. Dunn by the Director.⁴ FGL #1, the 1997 disposition, is attached as Appendix A. The total lands described in this disposition were 153.49 acres more or less, and the location of these lands is shown on a map included with the FGL. FGL #1 authorized Ms. Dunn to graze livestock that she owned on the land described in the Licence. The effective date of this disposition was September 1, 1997, and the expiry date was August 31, 2002. Schedule C of the FGL in Appendix A contained Terms and Conditions applicable to FGL #1.

[25] The term of FGL #1 expired on August 31, 2002, without being renewed; but Ms. Dunn did not vacate the land upon the expiry of this disposition.

Issuance of a Replacement FGL in 2002 [FGL #2]

[26] On March 10, 2004, the Director provided a new disposition to Ms. Dunn, as a replacement for the expired FGL #1. The replacement was a disposition also called Forest Grazing Licence No 970007. This second disposition referred to as FGL #2 in this decision, and is attached as Appendix B to this Decision of the Board⁵. FGL #2 contemplated the very same 153.49 acres, more or less, which had been the subject of the 1997 disposition. The effective date of the replacement disposition was backdated to September 1, 2002; and the expiry date was August 31, 2012. Ms. Dunn was authorized by this disposition to graze certain livestock that she owned on the lands described in the licence. Schedule C of FGL #2 again contained Terms and Conditions applicable to FGL #2. These included the following:

- that the availability of use by others is a consideration at the time of disposition renewal.

[27] The term of FGL #2 expired on September 1, 2012. Again, Ms. Dunn did not vacate the land. She did not, on or before the expiry of the term of FGL, apply to renew the FGL.

The Period of Overholding Tenancy & Lack of Policy Development in Respect of the Renewal Process

[28] The Director accepted Ms. Dunn' continuing tenure on the basis that she was an overholding tenant on a month-to-month basis in respect of the subject land. The

⁴ Record, Tab 121.

⁵ Record, Tab 33.

Director's position was described in an email to Ms. Dunn by Dave Hugelschaffer [Mr. Hugelschaffer] on October 1, 2013. He wrote:

"Since the *Public Lands Administration Regulation* [PLAR] took effect all public lands dispositions that expire must be applied for as a renewal. Unfortunately, due to the magnitude of the work required to implement PLAR many processes are still awaiting development, including the renewal process. This places all expired dispositions, your FGL included, in what is termed a state of 'overholding tenancy.' The department continues to allow the use of the lands of these expired and overholding dispositions to continue for the time being under the same basic conditions, pending the renewal process."

The Issuance of the SME for Gravel Exploration

[29] In about April of 2013, the Department approved the issuance to a third party of a disposition known as Surface Material Exploration [SME]. The third party to whom the SME was issued is referred to under various names in the Record and, for simplicity, is referred to here as Minich. The SME is a short term disposition authorizing the disposition holder to conduct exploration for gravel. At this time Minich sought to explore for gravel which might be used in relation to Coalspur Coal Mine Project near Hinton, Alberta.

[30] The SME authorized exploration activity on lands which had been encompassed within FGL #2. FGL #2 was expired at this time, but these lands were then the subject of an overholding tenancy with the same terms and conditions as FGL #2. Since there were overlapping dispositions, the Director told Minich that it had to have Ms. Dunn's consent before undertaking exploration in accordance with the SME.⁶ A condition to this effect was added into the SME. Officials also advised the Minister of Department, that the holder of the FGL had to consent to the exploration activity authorized by the SME.⁷ The Record reflects the following conversation with the Minister:

"The Honourable Robin Campbell left a message with Brenda Huxley, Aggregate Administrator, today, April 25, 2013 inquiring if the Surface Material Exploration (SME) holder required consent to access the Forest Grazing Licence (FGL) for aggregate exploration. There was an information request on this item as well from the FGL holder (AR 53210), in which Shelly Currie responded to. Brenda returned the call and advised Mr. Campbell that the SME holder would have to get a form of consent from the FGL holder to get on the land to

⁶ Record, Tab 1, Email from Trevor Laycock to Dave Hugelschaffer, April 9, 2013, at 11:02 am.

⁷ Record, Tab 4, Email from Melissa Styba, April 26, 2013, at 5:12 pm: "The Honourable Robin Campbell "

complete exploration. If the SME holder can't get consent for access from the FGL holder, then they may have to go to the Surface Right Board to obtain some right of entry."

[31] Ms. Dunn refused this consent. The Record reflects that Ms. Dunn told a Government official that "the contractor refused to listen to her husband on the subject."⁸ Employees from Minich told Government officials that "[t]hey were concerned over having to work with the Dunns in the future"⁹ because "threats were made if they were to access the land"¹⁰ and "they are concerned over their personal safety if they go onto the Dunns lease [sic]."¹¹

[32] The Director then changed its position on whether the holder of an SME required consent from the holder of an FGL. The Record reflects the following steps were taken:

"The initial SME approval, dated April 2, 2013, indicated that consent through condition 050 *"The holder shall obtain written consent from Len Ramstead and Penny I Dunn, holders of the Grazing Lease/Farm Development Lease No. FGL 970006 and FGL 970007 prior to entry on the agricultural lease land, and provide the lease holder with a copy of the approval 5 day prior to commencement of activity"* was required. Then a second letter was sent April 8, 2013, removing condition 50. Then a third letter was sent, April 12, 2013 adding a condition 32 *"The holder shall indemnify and hold harmless the Department, his employees and agents, from any and all claims, demands, actions and costs whatsoever that may arise, directly or indirectly, out of any act or omission of the holder, its employees or agents in the performance by the holder of this authority*". This letter was never received by the client as it was returned to ESRD noting illegal address."¹²

The Board finds that the SME issued to Minich authorized exploration activity on a Forest Grazing Licence, not a grazing lease or farm development lease. At all material times, the FGL in question was issued to Penny Dunn, only. Len Ramstead is not identified in the FGL as having any interest in it.

[33] The Record contains various explanations for this change of position. The Board is of the view that uncertainties arose amongst the Director's officials in this case, and that these may be attributed to the absence of policy development in respect of the

⁸ Record, Tab 1, Email from Angela Nagel, April 9, 2013, at 12:05 pm.

⁹ Record, Tab 1, Email from Angela Nagel April 9, 2013, at 12:05 pm.

¹⁰ Record, Tab 2, Email from Tenille Kupsch, April 9, 2013, at 4:10 pm.

¹¹ Record, Tab 1, Email from Angela Nagel, April 9, 2013, at 12:05 pm.

¹² Record, Tab 4, Email from Melissa Styba, April 26, 2013, at 5:12 pm.

renewal process for an FGL and also the dynamics of the relationship between gravel exploration and extraction and FGL tenure.

[34] The Record reflects that Department officials acknowledged that “since 2005 we have been applying condition 50 to all SMEs.”¹³ Email communications between Department officials proceeded to distinguish between disposition types, stating: “Consent requirements outlined in conditions 050 and 071 apply to agricultural **leases only**” (bolding in original).¹⁴ Email communications between Alberta officials also went on to state that there should be no requirement for consent from an FGL holder to exploration activity under an SME:

“In general, the intent of the legislation is that a grazing license is a much smaller bundle of rights than a lease. According to PLAR and staff who work with FGLs, consent is not needed for exploration access of any kind on a grazing license. In fact, most if not all FGLs (including the Dunns') contain a clause that specifically states that the holder shall allow exploration access if ESRD grants an approval for such. In our view, there should be no requirement for consent from an FGL holder to an SME holder. There should be a requirement to contact them to work out details of the access, but not consent.

There is a gap in policy and practice, however, over what happens if gravel is found in commercial quantities. The development area would need to be withdrawn from the FGL. There is provision in PLAR for ESRD to amend an FGL and that no compensation is payable. We don't have any policy around that, though.”¹⁵

[35] These discussions ultimately led to a change in the Director's position respecting the necessity of obtaining consent for entry to an FGL for the purposes of completing exploration work under an SME.¹⁶ This change of position was purportedly communicated to Minich and to Ms. Dunn in a meeting in Hinton, Alberta, on May 3, 2013.

[36] A formal letter was sent to Minich on May 10, 2013, providing “a written summary of the rights of a Forest Grazing Licence (FGL) holder with respect to surface materials exploration and development.”¹⁷ The Record contains an anonymous Memo to File which asserts that “Letters were sent out Friday May 10, 2013, to both the

¹³ Record, Tab 4, Email from Joanne Sweeney, April 12, 2013, at 10:52 am.

¹⁴ Record, Tab 4, Email from Rob Kessler, April 12, 2013, at 12:02 pm.

¹⁵ Record, Tab, Email from Helen Newsham dated April 12, 2013, at 9:57 a.m.

¹⁶ Record Tab 24, Letter from Matthew Machiese to Penny Dunn dated July 25, 2013.

¹⁷ Record, Tab 8, Letter from Tennille Kupsch, May 10, 2013.

Dunn's and SME holder that address issues that were brought up on May 3, 2013 meeting in Hinton."¹⁸ However, the Record in this case does not contain a letter to Ms. Dunn. The Board finds that if such a letter was sent to Ms. Dunn, it should have been included with the Director's Record in this case. Since it is not in the Record, the Board finds that it was not sent.

Minich Accesses the FGL and Completes the Exploration Activity Authorized by the SME

[37] On May 13, 2014, Minich was able to access the FGL lands for exploration activity authorized by the overlapping SME. This was done without consent of Ms. Dunn.¹⁹ Minich requested that Government officials attend to observe their work, because of a concern that Minich would be locked out or otherwise prevented from undertaking the work by Ms. Dunn or her husband. Government officials did not attend, but Minich was able to enter the lands contemplated by FGL #2. Minich conducted the exploration activity authorized by its SME in a brief period of time.

Ms. Dunn Asserts an Intent to Appeal to the Surface Rights Board, Complains to the Premier about Minich's Access to the FGL and Alleges Persecution By Alberta

[38] On May 10, 2014, Minich called Ms. Dunn to advise her of Minich's intent to access the FGL, and Ms. Dunn advised Minich that "she had been in touch with the Surface Rights Board and that she would be appealing the ESRD decision to grant an SME without the FGL holder's consent."²⁰ It is not clear to the Board that Ms. Dunn took steps to initiate an appeal. Nothing in the Record before the Board indicates that an appeal was initiated.

[39] Ms. Dunn subsequently complained to the Premier of alleged damage done by Minich during its brief access to the FGL.²¹ On July 25, 2014, an Assistant Deputy Minister responded to the letter to the Premier. This response confirmed that the Director had changed practice in respect of requiring the holder of an SME to obtain

¹⁸ Record, Tab 11, anonymous Memo to File re Conversation with Penny Dunn, May 13, 2013.

¹⁹ Record, Tab 14, Email from Terry Dodge, May 14, 2013.

²⁰ Record, Tab 14, Email from Terry Dodge, May 14, 2013.

²¹ Record, Tab 9, Letter to Premier Redford, cc Wildrose Party, May 13, 2013.

consent from holders of FGLs prior to undertaking exploration activity, and asked for the cooperation of Ms. Dunn.

[40] The Assistant Deputy Minister directed Ms. Dunn to communicate with Mr. Hugelschaffer. It appears to the Board that, at about this time, Mr. Hugelschaffer had been nominated by the Director as a primary point of contact between the Director and Ms. Dunn. As Mr. Hugelschaffer began to undertake his work in this capacity, he sought a meeting with Ms. Dunn in respect of three issues in particular:

- alleged breach of the terms and conditions of FGL 970007;
- renewal of FGL 970007; and
- consent of Ms. Dunn anticipated in relation to a Surface Materials Licence [SMC] which Minich had applied for.

[41] With respect to the complaint by Ms. Dunn to the Premier that damage was caused by Minich during its exploration activities under the SME issued to it, Government officials inspected the disposition in question to look for damage and took photographs during this inspection.²² These officials concluded that “no damage had been done” and that Minich had exercised due diligence in crossing a small permanent creek.²³ Government officials also disagreed with Ms. Dunn’s allegation that a lock on a fence had been cut and replaced in the process of obtaining access.²⁴ Conclusions were communicated to Ms. Dunn on July 25, 2013: “ESRD staff inspected the area operated under SME 130027. We found minimal impact to the area and confirmed that no work had been completed outside of the approved exploration area.”²⁵

[42] A letter to the Premier was sent by Ms. Dunn to Tennille Kupsch, an Department official at the meeting with Ms. Dunn held in Hinton, Alberta, on May 3, 2013. The covering letter to Mr. Kupsh states: “We’ve sent the attached letter to Premier Redford. Thanks for nothing. You’ve dealt with none of my concerns, you have obviously lied to us. Do not contact us by phone, any further communication with you will be in the form of a letter.”²⁶ An email electronically signed by Ms. Dunn was sent directly to the Office of the Premier by Bill Dunn on Sunday, May 5, 2013, at 11:42 pm, stating in part: “It’s official, SRD is maliciously persecuting us with regard to our FGL.”

²² Record, Tab 12, Notes to File; and Tab 13, Email from Angela Nagel, May 21 2013, at 8:52 am.

²³ Record, Tab 12, Notes to File; and Tab 13, Email from Angela Nagel, May 21 2013, at 8:52 am.

²⁴ Record, Tab 13, Email from Angela Nagel, May 21 2013, at 8:52 am.

²⁵ Record, Tab 22, Letter from Dave Hubelschaffer, July 25, 2015.

²⁶ Record, Tab 9, Letter from Bill and Penny Dunn, stamped as received by Fish & Wildlife Division on May 15, 1015.

Alleged Breaches of the Terms and Conditions of the Forest Grazing Licence by Ms. Dunn

[43] The record contains some communications between the Director and Ms. Dunn, respecting alleged breaches of the terms and conditions of the overholding tenancy flowing from FGL #2 observed by Department officials during the inspection associated with the complaint of damage by Minich, and also on July 8, 2013.²⁷ Ms. Dunn disputed these claims,²⁸ and expressed a concern that her interest in the FGL “was to be taken from her (cancelled).”²⁹

[44] With respect to the allegations that Ms. Dunn was in breach of the terms and conditions of the overholding tenancy flowing from FGL #2, the Director submits in paragraph 20 of its Written Submissions dated August 17, 2015, that the Director “did not cancel the rights of the Appellants” and that the Director “preferred to work with them to resolve the issues, if possible.” The Board accepts this statement as an accurate statement of fact, and therefore does not find it necessary to make findings as to whether, or not, the alleged breaches existed in fact.

[45] It was alleged by the Director that refusal to consent to the exploration activities under the SME issued to Minich constituted a breach by Ms. Dunn of the terms and conditions of the overholding tenancy flowing from FGL #2. The Board notes that the Department itself initially imposed the necessity of seeking consent from Ms. Dunn upon Minich as a specific condition in the SME which it first issued to Minich. Insertion of such a clause in an SME was then a provincial wide practice. This practice was apparently discontinued, on a province wide basis, as a result of the lessons learned by the Director through the Minich-Dunn experience. Although Ms. Dunn continued to resist the legality of that access, this resistance is included within the Director’s statement that the Director “did not cancel the rights of the Appellants” but instead “preferred to work with them to resolve the issues, if possible.” The Board does not find it necessary to make findings as to whether, or not, Ms. Dunn’s refusal of consent to the exploration activity authorized by the SME constituted a breach of the terms and conditions of her overholding tenancy flowing from FGL #2.

The Application for a Surface Material Licence [SMC]

²⁷ Record, Tab 16 to 23 and Tab 25 to 29.

²⁸ Record, Tab 19, Letter from Bill and Penny Dunn to Tennille Kupsch, July 4, 2013.

²⁹ Record, Tab 29, Email from Dave Hugelschaffer, September 6, 2013, at 2:21 pm.

[46] On May 19, 2013, Minich applied for an SMC authorizing the extraction of sand and gravel from a parcel of land comprising some 1.67 hectares [4.1 acres, more or less] located within the boundary of the overholding tenancy flowing from FGL #2. The Application is attached as Appendix C to this Report of the Board.³⁰ The SMC is a short term disposition, authorizing the holder of the SMC to occupy public land under the licence to remove surface material by surface excavation.

At the time of the application, a surface material licence [SMC] was defined in the *Public Lands Administration Regulation* as a formal disposition and the Director's position was that Minich's application for a formal disposition [the SMC] within the boundaries of the overholding tenancy which flowed from FGL 970007 required the consent of Ms. Dunn

[47] On September 4, 2013, Minich sent a request for consent form to Ms. Dunn by registered mail.³¹ That is attached as Exhibit D to this Decision. The withdrawal form sought Ms. Dunn's consent "to the withdrawal of a portion of the lands comprising the said lease" so that they could be issued to Minich via a disposition for the purpose of sand and gravel removal.³²

The Director Formulates a Strategy for Dealing with Ms. Dunn

[48] Minich also wrote to the Minister, the Honourable Diane McQueen.³³ The letter to the Minister is not included in the Record filed in this appeal, but was attached by Minich to its Written Submissions. Minich's letter to the Minister triggered the necessity of a Briefing Note to the Minister.³⁴ The Board will make its decision based on the Record in this case, and refers to the letter to the Minister here only insofar as that letter is referred to in documents which are a part of the Record in this appeal.

[49] Mr. Hugelschaffer became involved in the development of the Briefing Note to be prepared in relation to Minich's letter to the Minister. Mr. Hugelschaffer plan was to advise Minich and the Minister that consent was required, facilitate a meeting between the parties to see if the matter of consent could be resolved, and to develop a strategy internally if Ms. Dunn refused consent. The meeting would be formally documented in

³⁰ Record, Tab 43.

³¹ Record, Tab 32, Letter to P. Dunn from Terry Dodge, September 4, 2013.

³² Record, Tab 32, Letter to P. Dunn from Terry Dodge, September 4, 2013.

³³ Record, Tab 25, Email from Dave Hugelschaffer, September 03, 2013, at 2:17 pm.

³⁴ Record, Tab 25, Email from Julie Lefebvre, August 13, 2013, at 12:39 pm.

case Ms. Dunn was to appeal. All of this was documented on September 3, 2013, when Mr. Hugelschaffer wrote:

"I just spoke with Terry Dodge, who submitted the letter which triggered the AR. He has not yet had any communication with the FGL holder regarding consent, and sent his letter to Minister McQueen in anticipation of a refusal for consent (based on past dealings with the FGL holder). I explained that he will still need to formally request consent, as part of the application process, and if he is denied, request their reason for denial.

In responding to the letter to Minister McQueen, we need only to detail why consent is required. How we will proceed if consent is refused does not need to be in the letter, but we should have a strategy in place internally. As I had noted previously, my step would be to schedule a meeting with both parties to sort out what concerns exist and attempt facilitation of an agreement. The meeting would be documented to support the Department's land management decision, and as input into any appeal."³⁵

[50] During communications internal to the Department, Mr. Hugelschaffer received comment from Helen Newsham about how the SMC might be issued as an overlapping disposition in the event that Ms. Dunn was to refuse consent to the SMC. That advice also confirmed the absence of policy development respecting the process for renewal of FGLs. Ms. Newsham wrote:

"If we cannot get participation from the Dunns we should be prepared to make a decision on approval of the SMC. I realize there is precedent set here but offer the following rationale for approving this overlapping use without consent, which limits the precedent set here:

-this is a grazing license not a lease, and the legislation makes quite a distinction between the two including a provision for withdrawal without compensation that only applies to licenses; -conditions of the FGL indicate that we were contemplating future use for gravel extraction; -the land is not being withdrawn from the grazing license, but the two uses will exist together on the same land base as per Section 25 (b) of the Act. Withdrawal is a greater imposition on the rights granted by disposition than an overlapping use.

-our expectation with a grazing licence holder is that other dispositions and approvals on the license area will be accommodated, but that the new users must discuss and accommodate, as far as possible, the needs of the first disposition holders. For FGLS this could be e.g. fencing, timing

³⁵ Record, Tab 25, Email from Dave Hugelschaffer, September 3, 2013, at 2:27 pm.

of activities, access routes. That is the rationale for asking for consent -- we would much prefer everyone to "play nice" as they must co-exist on the land base.

For this purpose (as we discussed) I am disregarding the overholding tenancy Issue. Vanee has pointed out that we have not communicated with or warned disposition holders about the consequences of overholding tenancy, and our past approach has always been to treat expired dispositions (as long as they have not been canceled) as still active. To change this needs policy in place."

Efforts to Communicate with Ms. Dunn As Regards Her Consent to the SME

[51] Mr. Hugelschaffer contacted Ms. Dunn on September 6, 2013, to request a meeting. In that email Mr. Hugelschaffer provided, as an attachment to the email, a letter previously sent to Ms. Dunn on July 25, 2013, by registered mail, but returned as undelivered.³⁶ The letter to Ms. Dunn of July 25, 2013, responded to a letter she had sent on July 4, 2013,³⁷ disputing the alleged contraventions of the terms and conditions of her FGL. The letter of July 25, 2013, also made the following statement about the renewal of the FGL:

"Your grazing licence (FGL 970007) expired August 31, 2012. A decision on the issuance of a new licence should be made shortly. In the interim, you may continue to utilize the licence area according to the terms and conditions of the expired licence and the *Public Lands Act* and regulations."³⁸

[52] Mr. Hugelschaffer subsequently documented in an email a telephone call he had with Ms. Dunn, and his description included the following points:

"-She expressed a concern that her FGL was to be taken from her (cancelled) and I assured her that such a decision had not been made, and that the Department's approach is to first work with disposition holders on compliance issues (of which over-utilization had been noted), and that cancellation was always a last resort.

³⁶ Record, Tab 24.

³⁷ Record, Tab 19, Letter to Tennille Kupsch from Bill & Penny Dunn, July 4, 20123.

³⁸ Record, Tab 24.

Advised her that the application of SMC 130035 would be requesting consent and that I would facilitate a meeting between herself and the application if issues arose regarding consent.”³⁹

[53] During September and October of 2013, Ms. Dunn and Mr. Hugelschaffer exchanged email communications. Mr. Hugelschaffer encouraged Ms. Dunn to pick up a registered letter from Minich.⁴⁰ Ms. Dunn claimed not to have received “anything from anybody”⁴¹ and asked that nothing be sent her by registered mail.⁴² She also stated: “If you wish to take my FGL away from me (to give to someone else) please (I’ve asked for this information before) direct me how I go about the appeal process.”⁴³

[54] Mr. Hugelschaffer wrote to Ms. Dunn on September 27, 2013, with a map. That map showed the boundaries of FGL 970007 and the area covered by the SMC which Minich had applied for. An additional area of sand and gravel resources was also identified: the area of a Protective Notation [PN] showing lands within the FGL which had gravel but for which all sand and gravel had been reserved (by reason of the PN) for future potential use by Alberta Transportation. Mr. Hugelschaffer went on to state:

“As per our previous discussions, the SME was originally approved with a requirement for FGL consent, however the FGL expressly does not support this (as per the FGL970007 Letter of Authority). This conflict was brought to our legal team who determined that consent is not applicable in ANY situations involving surface material exploration on an FGL, and the provincial requirement for FGL consent for SME activity was discontinued.

The SMC130035, for which Terry Dodge [on behalf of Minich] has requested consent is shown in red. Given the previous conflict regarding consent for the SME within an FGL, we thought it best to check in advance with our legal team, who have confirmed that consent is required for an overlapping disposition such as the SMC overlapping the FGL To be clear, the SMC is not being removed from the FGL, but is issued as an overlapping disposition. Should the SMC be converted to an SML, it will be removed from the FGL.

As previously noted, consent is a mechanism to facilitate discussion between overlapping disposition holders and is intended to address matters of an operational manner (such as, for example, timing of operations between both

³⁹ Record, Tab 29, Email from Dave Hugelschaffer, September 06, 2013, at 2:21 pm.

⁴⁰ Record, Tab 31, Email from Dave Hugelschaffer, September 20, 2013, at 9:26 am.

⁴¹ Record, Tab 31, Email from Penny Dunn, September 24, 2013, at 9:07 am.

⁴² Record, Tab 31, Email from Penny Dunn to Dave Hugelschaffer, September 24, 2013, at 9:07 pm. See also Tab 36, email from Penny Dunn to Dave Hugelschaffer, October 8, 2013.

⁴³ Record, Tab 32, Email from Penny Dunn to Dave Hugelschaffer, September 25, 2013, at 9:35 am.

dispositions to minimize conflicts, access, fencing, etc). Consent does not involve matters of compensation. Consent cannot be unreasonably withheld. If consent is unreasonably withheld the Crown has the option to remove from your FGL any lands required for the development of other resources." (underlining added)

[55] Written Submissions filed by Counsel for the Director do not explain the discrepancy between the fact that (i) Minich had sought consent from Ms. Dunn by use of a consent form which sought withdrawal of the 4 acre parcel comprising the SMC from the 154 acre parcel comprising the FGL, and (ii) the Director was now proposing to proceed on the basis that the SMC would not be withdrawn from the FGL, and that consent sought from Ms. Dunn would be in relation to operation of sand and gravel activities rather than withdrawal of the SMC from the FGL.

[56] The Board finds that Mr. Hugelschaffer was proceeding on the basis that the consent associated with the issuance of an SMC was in relation to the operation of the extraction activity governed by the SMC. In his letter of September 27, 2013, Mr. Hugelschaffer clearly conveyed to Ms. Dunn that, if she would not consent to the extraction activities authorized under the overlapping SMC, that the Director could then withdraw from the overholding tenancy flowing from FGL #2 those lands which were included within the SMCs so as to eliminate conflict between overlapping dispositions involving grazing use and gravel extraction.

[57] On October 3, 2013, Ms. Dunn requested a meeting with Mr. Hugelschaffer -- on condition that information be provided to her about the alleged contraventions and "what happened at our meeting at SRD in Sept 2012."⁴⁴ Mr. Hugelschaffer responded on the same day,⁴⁵ indicating that he had sent a letter to Ms. Dunn (by registered mail, regular mail and email) which addressed the issues which she raised about the alleged contraventions. Mr. Hugelschaffer assured Ms. Dunn that "your FGL is not currently being considered for cancellation" as a consequence of the alleged contraventions, and that "[a]ny views you have received to the contrary are mistaken." He then, again, asked her to discuss the consent request from Minich:

"I urge you to discuss the consent request for Mr. Minich. Consent is intended to be an agreement reached between overlapping disposition holders. Involvement by ESRD in the consent process would be to mediate a discussion between both parties, after previous attempts by both parties to reach an agreement has not produced results. At this point my understanding is that you have not responded

⁴⁴ Record, Tab 34, Email from Penny Dunn, October 03, 2013, at 10:46.

⁴⁵ Record, Tab 34, Email from Dave Hugelschaffer, October 3, 2013, at 12:02 pm.

to Mr. Minich's request (through Terry Dodge) for consent. A response to Mr. Minich (Terry Dodge) is required to start the consent mediation process."

[58] On October 8, 2013, Ms. Dunn wrote to Mr. Hugelschaffer denying that Minich had attempted to contact her.⁴⁶ On October 11, 2013, Mr. Hugelschaffer asked Minich to "please make all reasonable efforts to reach a consent agreement by November 12, 2013."⁴⁷ In this email Mr. Hugelschaffer stated:

"Concerns typically discussed between the holder of grazing dispositions and an overlapping gravel pit include extent of disturbance, timing and phasing of operations, access arrangements, fencing and animal control, refuse management, and reclamation."

[59] On October 16, 2013, Minich had a process server effect service of the request for land withdrawal consent on her.⁴⁸ On October 31, 2013, Ms. Dunn wrote to Minich asserting a willingness to meet with Minich – but only if certain conditions were met. Ms. Dunn stated:

"You wish to develop my FGL. We would like to have some questions answered before this happens. We have been asking for information since the beginning of this process. ... If you are willing to meet we will send you a list of the questions we have been asking, which we would like to have answered at this meeting.

Ms. Dunn also stated in this letter that "[i]f you are unwilling to provide answers to the questions, then we will take this to the next step which is the Surface Rights Board."⁴⁹

[60] Minich responded by letter on November 5, 2013, agreeing to meet and to answer questions respecting the SMC application.⁵⁰ Minich suggested that a meeting with the Director would be "the most effective way to answer your questions" and asked the Director to arrange a meeting. There is nothing in the Record to indicate that the Director attempted to itself arrange a meeting between Minich and Ms. Dunn before 2014.

⁴⁶ Record, Tab 36, Email from P. Dunn, October 8, 2013, at 8:41 am.

⁴⁷ Record, Tab 38, Email from Dave Hugelschaffer, October 11, 2013, 2:34 pm.

⁴⁸ Record, Tab 39, Affidavit of William Kohut.

⁴⁹ Record, Tab 40, Letter from Penny Dunn, October 31, 2013.

⁵⁰ Record, Tab 41, Letter from Terry Dodge, November 5, 2013.

[61] Minich did, however, offer to meet with Ms. Dunn on a weekend.⁵¹ On November 20, 2013, Ms. Dunn wrote to Minich stating she was not available on the weekend offered by Minich. Ms. Dunn offered two times in December when she and her husband would be able to meet -- including December 20 and 21, 2013.⁵² On November 22, 2013, Minich wrote to Ms. Dunn stating that its agent, Mr. Dodge, was not available on one of the two dates provided, and stating “[i]t seems like it might be a lot simpler to email me your questions on the SMC application.”⁵³ At this time Minich provided Ms. Dunn with a copy of the Application for the SMC and also a *Surface Materials Licence (SMC) Aggregate Operations and Field Report*. Ms. Dunn did not respond to this.

[62] In January 2014, when Mr. Hugelschaffer inquired of Ms. Dunn about “progress regarding Mr. Minich’s request for consent for his SMC”, Ms. Dunn told Mr. Hugelschaffer that “it got too close to Xmas for us to meet. I’m waiting to hear from him as when they are available.”⁵⁴ Mr. Hugelschaffer provided this information to Minich, stating “Penny is claims [sic] to be awaiting your call. Keep me updated on progress.”⁵⁵ Minich responded by denying that Ms. Dunn’s version of events was correct, stating “She has been asked many times to forward me her questions. They are going to stall for as long as they possibly can.”⁵⁶

[63] In December of 2013, Ms. Dunn wrote to the Minister of Environment and Sustainable Resource Development.⁵⁷ The Minister responded on January 15, 2014, stating the following in relation to her consent to the SMC application:

“Applications for surface material leases for extraction require permission from the forest grazing licence holder.

To date, Environment and Sustainable Resource Development have not approved any applications for a surface materials lease for the extraction of sand or gravel because this requires consent from you. I understand that the company has been attempting to arrange a meeting to discuss this consent. Mr. Dave Hugelschaffer is available to assist in facilitating this arrangement. ...”⁵⁸

⁵¹ Record, Tab 43, Email from Penny Dunn, November 20, 2013: “This weekend doesn’t work for us.”

⁵² Record, Tab 42, Email from Penny Dunn, November 20, 2013 at 8:36 am.

⁵³ Record, Tab 43, Email from Terry Dodge to Dave Hugelschaffer, November 22, 2013 at 9:07 am.

⁵⁴ Record, Tab 42, Email from Penny Dunn, January 13, 2014 at 11:56 am.

⁵⁵ Record, Tab 42, Email from Dave Hugelschaffer, January 13, 2014, at 12:06 pm.

⁵⁶ Record, Tab 42, Email from Terry Dodge, January 13, 2014, at 12:55 pm.

⁵⁷ Record, Tab 46, Letter from Robin Campbell, Minister, January 15, 2014.

⁵⁸ Record, Tab 46, Letter from Robin Campbell, Minister, January 15, 2014.

[64] On January 14, 2014, the day before this letter was sent from the Minister, Mr. Hugelschaffer sent an email to Ms. Dunn and to Minich, stating the following:

“The issue of consent has dragged on for many months now and I have been receiving conflicting responses regarding attempts to resolve this between both parties.

I am setting a deadline of Jan 31, 2014, for resolution of the consent issue, failing which the Crown will move forward with a decision.”⁵⁹

Ms. Dunn responded to Mr. Hugelschaffer on January 14, via email stating “Now, I’m really confused. What’s an SMC ...”.⁶⁰ Mr. Hugelschaffer replied to Ms. Dunn on January 14, stating:

“The SMC is the gravel pit that Minich has applied for within your FGL (you often refer to it incorrectly as a lease, which would be an SML). An SMC is short term, usually a year; if operations are to go longer conversion is required to an SML). You should have all the info on the SMC from the material that Terry Dodge sent you.

I should be free right after lunch if you’d like to call with any more questions.”⁶¹

Ms. Dunn did not call Mr. Hugelschaffer.

[65] On January 15, 2014, Ms. Penny Dunn wrote to Mr. Hugelschaffer, and sent a copy to Gail Dunn of the West Yellowhead constituency.⁶² Gail Dunn is described in the Record as “Constituency Manager, West Yellowhead Constituency Office” (of the Minister of Environment and Sustainable Resource Development).⁶³ In this Decision of the Board, the phrase ‘Ms. Dunn’ refers to the Appellant Ms. Penny Dunn. Where Gail Dunn is referred to, the phrase ‘Gail Dunn’ is used. In this letter Ms. Dunn asked for a copy of a map associated with the SME. In this email Ms. Dunn stated: “Obviously, your people are not doing their jobs and should be looking for employment elsewhere.” Upon receipt of this email, Mr. Hugelschaffer asked Minich if there was more information which could be provided to Ms. Dunn.⁶⁴ Minich responded that the survey

⁵⁹ Record, Tab 44, Email from Dave Hugelschaffer, January 14, 2014, at 8:29 am.

⁶⁰ Record, Tab 45, Email from Penny Dunn, January 14, 2014, at 10:00 am.

⁶¹ Record, Tab 45, Email from Dave Hugelschaffer, January 14, 2014, at 10:30 am.

⁶² Record, Tab 47, Email from Penny Dunn to Dave Hugelschaffer, copy to Gail Dunn, January 15, 2014, at 9:08 am.

⁶³ Record, Tab 59, Email from West Yellowhead, February 26, 2014, at 9:53 a.m.

⁶⁴ Record, Tab 47, Email from Dave Hugelschaffer, January 15, 2014, at 12:27 pm.

plan was sent to Ms. Penny Dunn with the request for consent via registered mail on September 4, 2013, was personally delivered to Ms. Penny Dunn by a process server on October 16, 2013, and was also sent by email to Ms. Dunn on November 22, 2013, with the Aggregate Operations and Field Report.⁶⁵

[66] On January 16, 2014, Ms. Dunn wrote to Mr. Hugelschaffer, asking for a copy of the "SME" application and maps showing where Minich was allowed to test.⁶⁶ Mr. Hugelschaffer answered Ms. Dunn on January 16, 2014, within one hour of her email, explaining that the SME was concluded and asking her to address the consent for the SMC:

"Please focus on the consent request for the SMC 130035 submitted to you by Mr. Dodge. As I noted in previous email the consent issue for SMC 130035 must be resolved by January 31, 2014, failing which the Department will make a decision on how to proceed."

[67] Ms. Dunn responded to this by email on January 16, 2014, at 12:38 pm, stating:

"Who do we appeal your decision to? As far as we are concerned, Minich's SME was illegal because SRD/Minich refused to give us the information requested and you are still refusing, we fully intend to appeal because of these concerns."

[68] On January 24, 2014, Mr. Hugelschaffer wrote to Minich and Ms. Dunn offering to facilitate a meeting at the ESRD office in Hinton on January 28, 2014.⁶⁷ Minich accepted this offer.⁶⁸ Ms. Dunn responded on January 24, stating "[w]e are not available to meet Jan 28 as we both have prior commitments" and asking for "information that we need to appeal your decision and we will go that route." Ms. Dunn also alleged: "You do not wish to resolve the issues, and you/Minich will/have not provided the information that we need to make an informed decision."⁶⁹ Mr. Hugelschaffer responded to this by email on January 24, stating:

"What information are you seeking that has not been provided, in regards to the SMC application? It is unfortunate you are not available as a discussion with both parties present may be beneficial. No decision has yet been made; this will

⁶⁵ Record, Tab 47, Email from Terry Didge, January 15, 2014, at 1:18 pm.

⁶⁶ Record, Tab 50, Email from Penny Dunn, January 16, 2014, at 8:53 am.

⁶⁷ Record, Tab 51, Email from Dave Hugelschaffer, January 24, 2014, at 11:16 am.

⁶⁸ Record, Tab 62, Summary of Request for Consent Efforts towards Withdrawal of SMC 130035 from FGL 970007.

⁶⁹ Record, Tab 53, Email from Penny Dunn, January 24, 2014, at 11:49 am.

occur after Jan 31, 2014. You will be advised of what appeal options are available after a decision has been made.”⁷⁰

[69] Within minutes of sending an email to Mr. Hugelschaffer on January 24, 2014, as described above, Ms. Dunn sent an email to the West Yellowhead Constituency Office, asking the following about the Minister:

“Does Robyn agree with assigning deadlines before all of the pertinent information is available? How can I make a decision if I don’t know what I’m dealing with.”⁷¹

The Constituency Manager, Gail Dunn, responded on January 28, 2014, stating that “the January 31, 2014, deadline remains in effect” and also stating:

“ESRD will be examining the land uses in your area and making a determination regarding the possible renewal of the expired Forest Grazing Licence held by you.

They are expecting a response to you within the next month.”⁷²

Ms. Dunn replied to the Constituency Manager, Gail Dunn, on January 28, 2014, stating:

“They will do as they please, whenever and however they please, and I will be left to suffer the consequences of their decisions. I am always pleased to be treated with respect and care that an Alberta taxpayer deserves. Not sure what my tax dollars go for, but I am confident that government agencies will ensure that I do not receive anything that they can keep or take away from me (rights and privileges included).”⁷³

Gail Dunn sent this to Mr. Hugelschaffer with the comment that “Penny seems to think she has been accommodating with dates.”⁷⁴

[70] Also on January 24, 2014, a few minutes after writing to the constituency office, Ms. Dunn sent an email to Mr. Hugelschaffer, with a copy to the Minister’s constituency office, stating:

⁷⁰ Record, Tab 53, Email from Dave Hugelschaffer, January 24, 2014, at 12:01 pm.

⁷¹ Record, Tab 54, Email from Penny Dunn, January 24, 2014, at 11:54 am.

⁷² Record, Tab 64, Email from Gail Dunn, Constituency Manager, West Yellowhead Constituency Office, to Penny Dunn, January 28, 2014, at 11:12 am.

⁷³ Record, Tab 64, Record, Tab 64, Email from Gail Dunn, Constituency Manager, West Yellowhead Constituency Office, to Penny Dunn, January 28, 2014, at 11:26 am.

⁷⁴ Record, Tab 64, Email from West Yellowhead to Dave Hugelschaffer, January 28, 2014, at 11:33 am.

"I've received the map from Terry and he says they will fence the pit. What kind of fence, adequate for livestock? Is the fence going to be maintained? And, again, if they take that land out of the FGL and Border Paving takes some out more, how much is left for me? How many horses will I be able to graze? I need to know what I'm dealing with."⁷⁵

[71] Mr. Hugelschaffer responded to this by email on January 24, 2014, with a copy to the Minister's constituency office, answering each point raised by Ms. Dunn and offering to facilitate a meeting on January 28, 2014 or to be available by phone or email to answer other concerns.⁷⁶

[72] The Record contains no response from Ms. Dunn to this offer. January 2014 ended without any resolution of the outstanding consent issues associated with the application for the SMC.

The Decision to Alter the Boundaries of the FGL

[73] Mr. Hugelschaffer wrote to Ms. Dunn on February 24, 2014, requesting a meeting "to discuss the management of aggregates within your FGL 970007 (including how this may affect grazing capacity), the status and renewal options for your FGL 970007, and the outstanding consent issues for SMC 130035."⁷⁷ He provided a range of available dates in February and March, 2014. Ms. Dunn responded with a further question,⁷⁸ which was answered,⁷⁹ but it appears from the Record that Ms. Dunn did not respond to the request for a meeting.

[74] Ms. Dunn did write to the constituency office for the Minister of Environment and Sustainable Resource Development on February 26, 2014, complaining about the events surrounding the issuance of the SME.⁸⁰ The constituency office asked Mr. Hugelschaffer if he could provide any information to Ms. Dunn.⁸¹ Mr. Hugelschaffer advised the constituency office that Ms. Dunn did not have the legal right under the

⁷⁵ Record, Tab 55, Email from Penny Dunn, January 24, 2014, at 12:02 pm.

⁷⁶ Record, Tab 55, Email from Dave Hugelschaffer, January 24, 2014, at 2:14 pm.

⁷⁷ Record, Tab 56, Email from Dave Hugelschaffer, February 24, 2014, at 2:43 pm.

⁷⁸ Record, Tab 57, Email from Penny Dunn, February 24, 2014, at 3:16 pm.

⁷⁹ Record, Tab 57, Email from Dave Hugelschaffer, February 24, 2014, at 3:37 pm.

⁸⁰ Record, Tab 59, Email from Penny Dunn, February 26, 2014, at 9:45 am.

⁸¹ Record, Tab 59, Email from West Yellowhead, February 26, 2014, at 9:53 am.

FGL to block access under an SME.⁸² Soon thereafter he later provided to Ms. Dunn a map showing the drill locations for the SME,⁸³ and a map showing the test hold locations for the SME.⁸⁴

[75] On February 26, 2014, Mr. Hugelschaffer sent an email internal to the Department. This email documents a decision by the Director that Ms. Dunn was “still balking” on the question of consent of the SMC, and that the Director had received advice that it could issue the SMC without consent. Citing a concern that Minich would lose its contract if it could not get its SMC approved, Mr. Hugelschaffer identified a “long-term solution” which would “reduce Dunn’s FGL to the 200m m buffer (map attached) which reduced their range capacity from 4 horses/month to 3 horses/month, and removes any future conflict between gravel extraction and their FGL. Seems like a good compromise.”⁸⁵ The map showing the 200 meter boundary is attached as Appendix E to this Decision of the Board. The 200 metre line shown on this map ultimately did become a boundary of the replacement disposition signed by the Director on June 18 2014 but not formally issued in accordance with s. 39 of the *Public Lands Act*.

[76] On February 28, 2014, Mr. Hugelschaffer wrote to Ms. Dunn to check that he understood all issues “[p]rior to moving ahead with approval of SMC 130035.”⁸⁶ Mr. Hugelschaffer’s letter then provided information on the following questions:

- Will the SMC be fenced adequate to keep livestock out of the gravel operation?
- How will SMC affect the grazing capacity?
- What is the timeframe for the gravel operation?
- What will be the access for the gravel pit?

He asked Ms. Dunn to review this information and confirm that there were not other issues relative to SMC 130035.⁸⁷

[77] A meeting was then arranged for March 10, 2014, in Hinton, to involve Department officials, Ms. Dunn and Gail Dunn.⁸⁸ Ms. Dunn was asked to confirm that

⁸² Record, Tab 59, Email from Dave Hugelschaffer, February 26, 2014, at 10:14 am.

⁸³ Record, Tab 60, Email from Dave Hugelschaffer, February 27, 2014, at 9:19 am.

⁸⁴ Record, Tab 61, Email from Dave Hugelschaffer, February 27, 2014, at 11:12 am.

⁸⁵ Record, Tab 58, Email from Dave Hugelschaffer, February 26, 2014, at 10:09 am.

⁸⁶ Record, Tab 63, Email from Dave Hugelschaffer, February 28, 2014, at 1:09 pm.

⁸⁷ Record, Tab 63, Email from Dave Hugelschaffer, February 28, 2014, at 1:09 pm.

⁸⁸ Record, Tab 64, Email from Dave Hugelschaffer.

the time of the meeting was acceptable.⁸⁹ A proposed agenda of the meeting was presented to Gail Dunn, as follows:

- Review concerns expressed by Penny Dunn, and responses;
- Determine if there are additional concerns and how these concerns might best be addressed;
- Determine if consent can proceed;
- Review future land management of the FGL area related to a pending gravel tender;
- Determine next steps.⁹⁰

[78] On March 5, 2014 Ms. Dunn sent email to Gail Dunn of the West Yellowhead Constituency Office, stating:

"I spoke with Bill this morning and we've decided to wait for a decision from the Ombudsman. We will await that decision before any more meetings with SRO. There are issues which need to be addressed before anyone (including Minich) is allowed on this piece of property. The people of Alberta deserve to be treated with fairness and respect by any government agency. The people of Alberta deserve to see the best benefit possible from this property. Preferential treatment allocated to Minich and the exclusion of others is not my idea of fair and respectful behavior by SRD."⁹¹

Later on March 5, 2014, Gail Dunn wrote to Mr. Hugelschaffer indicating "Meeting is cancelled."⁹²

[79] On March 31, 2014, Mr. Hugelschaffer wrote to Ms. Dunn to advise her of a decision about the use of the area contained in the expired FGL#2.⁹³ Mr. Hugelschaffer stated that "all reasonable efforts to resolve your concerns have been made by the Department and the SMC applicant." Mr. Hugelschaffer went on to state:

"It is unfortunate you cancelled our planned meeting of March 10 to discuss consent issues related to SMC130035 as well as the management of gravel resources in the vicinity and renewal options for expired FGL970007. I am writing to you to advise you of the Department's decision about the use of the area contained in the expired FGL970007.

⁸⁹ Record, Tab 64, Email from Dave Hugelschaffer to Gail Dunn/West Yellowhead, March 5, 2014, at 9:06 am.

⁹⁰ Record, Tab 64, Email from Dave Hugelschaffer to Gail Dunn/West Yellowhead, March 5, 2014, at 9:06 am.

⁹¹ Record, Tab 65, Email from Penny Dunn to West Yellowhead, March 5, 2014, at 12:10 pm.

⁹² Record, Tab 65, Email from West Yellowhead to Dave Hugelschaffer, March 5, 2013, at 12:41 pm.

⁹³ Record, Tab 66, Email from Dave Hugelschaffer, March 31, 2013, at 9:57 am.

In regards to your refusal to provide consent for SMC130035, the Department feels that all of your concerns have been recorded (attached) and that all reasonable efforts to resolve your concerns have been made by the Department and the SMC applicant. The Department has determined a course of action that will address both access to the gravel resource and your desire for access to the range resource. The Department intends to amend the boundary of expired FGL970007 to remove areas of conflict between gravel exploration and extraction and utilization of the range resource. This will entail deletion from expired FGL.970007 of lands beyond 200m or the bank of the Athabasca River (map attached). The lands remaining for grazing within this buffer represent, at current calculated stocking rates, a reduction from 4 horses/ 4months to 3 horses/4 months. If you wish to acquire additional range capacity in another location the Department will work with you in securing an additional grazing location.

It would be beneficial if we could meet with you to discuss implementation of this option relative to renewal of expired FGL970007, to discuss items such as fencing adjustments and timelines, and length of term for a renewal period. Please indicate if you are agreeable to meet with the Department (and what days/times work best for you) to discuss this adjustment in the next two weeks as the Department plans to move forward with this adjustment on April 15, 2014. I look forward to your response.”⁹⁴

[80] The letter of March 31, 2014, from Mr. Hugelschaffer asserted an intent “to move forward with this adjustment on April 15, 2014.” Counsel for the Director submits that a decision to adjust the boundaries was actually made on April 15, 2014. The Board finds that there is an assertion to make a decision, but there is no document in the Record which confirms that a decision was actually reached on April 15, 2014.

[81] Instead, on April 16, 2014, the Director’s officials communicated via email with one another about future “options”.⁹⁵ One of the options discussed in these communications was to prepare renewal documents and submit them to Ms. Dunn for signature. Under this option:

- the disposition issued to Ms. Dunn would be cancelled if she did not sign the renewal documents within 90 days [consisting of 60 days followed by a further 30 days]; and
- Ms. Dunn would then have “grounds for appeal PLAR Section 21(1)” [SIC].⁹⁶

⁹⁴ Record, Tab 66, Email from Dave Hugelschaffer, March 31, 2013, at 9:57 am.

⁹⁵ Record, Tab 68, Email from Teresa Stokes to Dave Hugelschaffer, April 16, 2014, at 1:24 pm.

⁹⁶ Record, Tab 68, Email from Teresa Stokes to Dave Hugelschaffer, April 16, 2014, at 1:24 pm.

Later, on May 7, 2014, Department officials correspond stating that the boundaries of the overholding disposition “be amended to decrease the size of the licenced area pursuant to s. 64(1)(a) of PLAR with a new term of 10 years.”⁹⁷ A replacement disposition was prepared and signed by the Director on June 18, 2014.⁹⁸

[82] The Board finds that June 18, 2014 was the date when the replacement disposition was signed. The Board also finds that there is insufficient evidence that this was communicated to Ms. Dunn.

[83] On April 8, 2014, Mr. Hugelschaffer sent email to Ms. Dunn, with a copy to Gail Dunn, stating that he had not heard from her in relation to his email of March 31, 2014, that the Department remained willing to meet with her, providing map showing “the new proposed boundary” of the FGL, and stating that “the Department may move forward” after April 15, 2014.⁹⁹ The future indefinite tense of the verb used by Mr. Hugelschaffer further confirms that no decision was actually taken on April 15, 2014, as suggested by Counsel for the Director. Ms. Dunn replied on April 10, 2014, stating that she was “still waiting for a response from the Ombudsman’s office.”¹⁰⁰ Mr. Hugelschaffer replied to her that Ms. Dunn’s submission to the Ombudsman would not stop the Department’s process, that the April 15, 2014, deadline for “input into the changes to expired FGL 970007” remains, and that he was available on April 14, 2014, to meet with her.¹⁰¹

[84] A meeting with Ms. Dunn was eventually held on April 24, 2014. The participants were Mr. and Ms. Dunn, and Department officials Helen Newsham and Brent Schleppe. Prior to that meeting, Mr. Hugelschaffer provided the Government participants with “FGL options.”¹⁰²

[85] Ms. Newsham documented the outcome of the April 24, 2014 meeting with Ms. Dunn on April 25, 2014. Her email states in part:

“Concerning the FGL, Mrs. Dunn indicated she would be prepared to accept a new FGL with a smaller size as indicated in the attached imagery. ...

⁹⁷ Record, Tab 72, Email from Tenille Kupsch to Connie Gagne, Dispositions and Approvals Section, May 7, 2014.

⁹⁸ Record, Tab 81.

⁹⁹ Record, Tab 67, Email from Dave Hugelschaffer, April 8, 2014, at 2:03 pm.

¹⁰⁰ Record, Tab 67, Email from Penny Dunn, April 10, 2014, at 1:51 pm.

¹⁰¹ Record, Tab 67, Email from Dave Hugelschaffer, April 10, 2014, at 2:12 pm.

¹⁰² Record, Tab 69, Email from Dave Hugelschaffer, April 22, 2014, at 11:46 am.

I believe the next step would be for dispositions to make the offer to Mrs. Dunn, including a reference to the PLAB appeal.”¹⁰³

Brent Schleppe contends in his email dated April 30, 2014 that Ms. Dunn had agreed to accept a new FGL with a smaller size¹⁰⁴. Ms. Dunn’s record of the meeting does not reflect this agreement.¹⁰⁵

Approval of the SMC

[86] On May 2, 2014, SMC 130035 was formally issued, with an expiry date of May 1, 2015.¹⁰⁶ This disposition erroneously identified “non-manufacturing clay” as the substance which was the subject of the licence, and it was later amended to reflect “sand and gravel” rather than “non-manufacturing clay.”¹⁰⁷ The SMC which was issued is attached as Appendix F to this Decision of the Board.

Ms. Dunn Asserts an Intent to Appeal the Issuance of SMC 130005

[87] On May 26, 2014, at 10:43 am, Penny Dunn advised Brent Schleppe (Regional Approvals Manager, Environment and Sustainable Resource Development) and Gail Dunn (Constituency Manager, West Yellowhead Constituency) that “we have decided to appeal the ‘gravel pit’ being proposed for my FGL.”¹⁰⁸

Signature of the Replacement Grazing Licence Disposition by the Director & Uncertainty over the Date when the Boundaries were Amended

[88] On June 18, 2014, the Director signed a replacement grazing licence disposition [FGL #3].¹⁰⁹ FGL #3 was backdated so as to purport to be effective from September 1, 2012. Its 10 year term expired on August 31, 2022. The replacement disposition referred to here as FGL #3 is attached as Appendix G to this Decision of the Board.

¹⁰³ Record, Tab 69, Email from Helen Newsham, April 25, 2014, at 10:56 am.

¹⁰⁴ Record, Tab 70, Email from Brent Schleppe to Penny Dunn, April 30, 2014, at 9:01 am.

¹⁰⁵ Record, Tab 102, Email from Penny Dunn to Brent Schleppe, April 28, 2014, at 9:16 pm.

¹⁰⁶ Record, Tab 71, Non-Public Pit Surface Materials Licence.

¹⁰⁷ Record, Tab 71, Letter from Hawantee Beejmohun, May 6, 2014.

¹⁰⁸ Record, Tab 73, Email from Penny Dunn, May 26, 2014, at 10:43 am.

¹⁰⁹ Record, Tab 81, Grazing Licence FGL 970007, effective date September 1, 2012, expiry date August 31, 2022.

[89] The Record before the Board does not establish, on a balance of probabilities, how or when this replacement disposition was transmitted to Ms. Dunn. No covering letter documentation is provided in the Record. If such documents exist, they should have been included with the Director's Record in this case, particularly since the Director provided assurances that this would be accompanied by advice to Ms. Dunn about her right to appeal to the Board.

[90] The Record contains an email from Caroline Hiew of the Dispositions and Approvals Section which states "the licence package mailed out to Penny Dunn on June 18, 2014, has not been signed and returned to our office today the DEPT. Copy."¹¹⁰ The Board does not accept this statement as sufficient proof on a balance of probabilities that the replacement disposition FGL #3 was actually 'issued' to Ms. Dunn in accordance with s. 36(2) of the *Public Lands Act*. If the replacement disposition FGL #3 were mailed to Ms. Dunn, there should have been a covering letter advising her of her rights to appeal. The Record contains covering letters for FGL #1 and FGL #2, but no covering letter for FGL #3. Further, the Record reveals a great problem in delivery of documents to Ms. Dunn.

[91] The email from Caroline Hiew continues: "The 60 day deadline just expired. ... Penny ... claimed that she has not received the licence package sent to her more than two months ago.... I will be calling her sometime next week, to follow up with her on when she will be signing and returning the licence document (if she does find it), as I have extended the deadline for her to return the document at the end of September."

[92] This led Ms. Dunn to write to Mr. Schleppe on September 2, 2014 indicating:

"As the licencing department has extended the deadline till the end of September [sic], would we please deal with the addition of the land to my FGL before the end of Sept.? If this is not possible could you please contact the people in Edmonton and have the deadline extended till your department is able to deal with it? I am not comfortable renewing the licence with the land exclusion, but with no land being added to compensate for my loss."¹¹¹

[93] Mr. Schleppe responded to Ms. Dunn on September 2, 2014, with a copy to Gail Dunn and others, stating that "the disposition will be renewed once we finalize the Forest Grazing Licence (FGL) boundaries" (underlining added).¹¹² The Board finds that

¹¹⁰ Record, Tab 94, Email from Caroline Hiew, August 29, 2014, 4:31 pm.

¹¹¹ Record, Tab 96, Email from Penny Dunn to Brent Schleppe and Gail Dunn, September 2, 2014.

¹¹² Record, Tab 96, Email from Brent Schleppe to Penny Dunn cc. Gail Dunn.

the use of the tense “will be renewed” reflects uncertainty by the Regional Approvals Manager as to when the boundaries of Ms. Dunn’s licence were changed, and conveyed to Ms. Dunn the representation that the changes were not effective until the question of additional lands was settled.

Unsuccessful Efforts to Work with Ms. Dunn to Identify Additional Lands including those which May Provide Convenient Access to the FGL

[94] At all material times after the meeting of April 24, 2014, including in the period after the Notice of Appeal on October 8, 2014, it is apparent that the Director’s staff attempted to work with Ms. Dunn to identify additional lands which she might accept in lieu of those lands removed, or proposed for removal, from the FGL in order to avoid conflict with sand and gravel extraction and to provide convenient access to the FGL.¹¹³ All reasonable efforts by the Director in this regard failed to achieve any resolution with Ms. Dunn.

[95] On May 29, 2014, Ms. Dunn wrote to the Minister of Environment and Sustainable Resources, then the Honourable Robin Campbell, “requesting assistance from Environment and Sustainable Resource Development staff to locate supplementary grazing areas.”¹¹⁴ The Minister encouraged Ms. Dunn “to continue working with staff until suitable supplementary areas are found.”¹¹⁵

[96] The Board finds that all reasonable efforts by the Director’s officials in this respect have been unsuccessful.

[97] On August 28, 2014, Ms. Dunn wrote to Gail Dunn stating:

“I’ve had SRD’s assurance that certain conditions would be met before allowing development. Apparently these conditions have been met without my consideration. What’s going on? If Mr. Campbell wants my support, I want his support – please act on my behalf and find out what’s going on. I don’t believe I am being treated fairly and I don’t appreciate being dismissed without consideration.”¹¹⁶

¹¹³ Record, Tabs 74, 75, 76, 77, 78, 80, 82, 84, 85, 86, 87, 89, 90, 91, 92, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110.

¹¹⁴ Record, Tab 80, Letter from the Honourable Robin Campbell, June 17, 2014.

¹¹⁵ Record, Tab 80, Letter from the Honourable Robin Campbell, June 17, 2014.

¹¹⁶ Record, Tab 92, Email to Gail Dunn August 28, 2014, at 2:27 p.m.

[98] On September 11, 2014, Mr. Hugelschaffer prepared an email stating that “This is really high priority, as Dunn keeps calling the Minister.”¹¹⁷ Mr. Schleppe asked Mr. Hugelschaffer to set up a meeting.¹¹⁸ The Director did set up a meeting in Hinton, Alberta, on September 30, 2014.¹¹⁹ Brent Schleppe wrote to Ms. Dunn on October 1, 2014, summarizing that meeting and providing Ms. Dunn with two options respecting a formal disposition. The material passage of the Director’s Decision of October 1, 2014, is as follows:

“A timeline of October 14, 2014 was agreed to in regards to your response to either:

- Accept the additional area to be amended into FGL 970007 [the replacement FGL with a term from 2012 to 2022], or
- Accept the renewal area as currently provided [in the replacement FGL with the term from 2012 to 2022].

If no response is received by October 14, 2014, the renewal provided will be cancelled and FGL 9700078 will be removed from the records of the Department, and all improvements, including fencing, must be removed.”

Later on October 1, 2014, Mr. Schleppe sent Ms. Dunn “the map of the FGL amendment boundary and new additional area being proposed.”¹²⁰ Appendix H to this Decision of the Board is a copy of both of Mr. Schleppe’s emails dated October 1, 2014.¹²¹

[99] On October 5, 2014, Mr. Schleppe sent a letter to Ms. Dunn restating the Decision reached:

“The boundary of FGL 970007 has been changed at renewal... The renewal documents have been provided for your signature. Prior to your decision on the renewal as provided you had expressed an interest in identifying any lands that might be added.

¹¹⁷ Record, Tab 98, Email from Dave Hugelschaffer, September 11, 2014, at 3:16 pm.

¹¹⁸ Record, Tab 99, Email from Brent Schleppe, September 11, 2014, at 8:12 pm.

¹¹⁹ Record, Tab 103, Email from Brent Schleppe to Penny Dunn, cc Gail Dunn and others, September 17, 2014, at 2:59 pm.

¹²⁰ Record, Tab 111, Email from Brent Schleppe, October 1, 2014, at 8:30 pm.

¹²¹ Record, Tab 107.

- A proposed addition to FGL 970007 was presented and discussed. ... you would like some additional time to review the area before deciding if you would like this added to FGL 9700007. ...
- A timeline of October 14, 2014, was agreed to in regard to either:
 - Accept the additional area to be amended, into FGL 970007, or
 - Accept the renewal as currently provided.
 If no response is received by October 14, 2014, the renewal provided will be cancelled and FGL970007 will be removed from the records of the Department, and all improvements, including fencing, must be removed."¹²²

An Appeal is Filed with the Board by Ms. Dunn

[100] On October 8, 2014, Ms. Dunn filed a Notice of Appeal with the Board. The Notice of Appeal asserted that Ms. Dunn was directly affected by a decision of Brent Schleppe. The Decision of Mr. Schleppe which was the subject of appeal was attached to the Notice of Appeal, and was the email from Mr. Schleppe of October 1, 2014, at 4:34 pm; and, in addition, the supplementary email from Mr. Schleppe of October 1, 2014, at 8:30 pm. Both of these are attached as Appendix H to this Decision of the Board.

[101] The Notice of Appeal asserted that the appeal was based on s. 64 and s. 67.2 of the *Public Lands Act*. Part of the hand-written appeal states: "entitled to compensation for improvements made – fencing? etc? access is being taken away to give to Gravel Pit – will need new access."

[102] The Board finds that reference to s. 64 and s. 67.2 of the *Public Lands Act* is a clerical error, and that the Notice of Appeal filed by Ms. Dunn properly refers to s. 64 and s. 67(2) of the *Public Lands Administration Regulations*.

[103] With respect to the grounds of appeal, Ms. Dunn checked off two boxes on the Notice of Appeal, alleging that the Director or officer who made the decision erred in law and/or did not comply with a regional plan approved under the *Alberta Land Stewardship Act*.

[104] The following handwriting beside the box for an error of law: "didn't renew my licence when it expired; don't take Personal Property laws into consideration." Under the box for non-compliance with a regional plan, the following handwriting appears: "land was originally under disposition to AB Transportation – not advertised ... interested parties just given opportunity to one user."

¹²² Record, Tab 110, Letter from Brent Schleppe to Penny Dunn, October 5, 2014.

[105] In terms of the result sought, the following handwriting appears:

- "a) land of equal value for grazing that I will lose if the gravel pit goes in
- b) enough grazing to supplement the "Queen's Elk" who are eating my domestic grass
- c) a plan to address the lack of land for the large elk herd do graze and calve in the spring. I can't afford to buy extra feed for all of them & my animals too."

Events After the Appeal Filed by Ms. Dunn as Revealed in the Record

[106] On October 16, 2014, Mr. Hugelschaffer wrote to others within the Department respecting the use of the term 'renew'. Mr. Hugelschaffer stated:

"Another point that has been clarified is that the FGL on offer (reduced in size) is NOT a renewal of FGL 970007; it will be a new FGL with a new number. We need to stop referring to the new FGL as a renewal or amendment, or by the previous FGL number."

[107] The Director continued to discuss with Ms. Dunn further revisions to the boundary of the FGL. A meeting was held on October 22, 2014, between the Director and Ms. Dunn, to try to define "an area that will allow movement of horses directly from your private land into a future Forest Grazing Licence (FGL)" (underlining added).¹²³

[108] On October 31, 2014, Brent Schleppe sent a letter to Ms. Dunn which purported to notify her that the "FGL 970007 is expired and that all rights under FGL 970007 have terminated."¹²⁴

[109] On January 21, 2015, Mr. Schleppe wrote to Ms. Dunn to clarify what this meant. Mr. Schleppe's letter of January 21, 2015, stated:

"The licence has been registered as expired. As the licence is expired, you have no further right or interest in these lands and must not make any use of them other than for the removal of all structures, buildings, fences, signs and chattels. These must be removed by July 1, 2015. To be clear, as the licence is expired and all rights have been terminated, you are not permitted to graze any animals

¹²³ Record, Tab 117, Letter from Brent Schleppe to Penny Dunn, October 31, 2014.

¹²⁴ Record, Tab 117, Letter from Brent Schleppe to Penny Dunn, October 31, 2014.

on the area covered by this expired licence. This also means that any rights that you may have as an overholding tenant are also extinguished.”¹²⁵

Preliminary Matters

[110] On October 9, 2014, the Appeals Coordinator of the Public Lands Board acknowledged receipt of the Notice of Appeal and requested from the Director the Record of documents upon which the decision under appeal was based. Additionally, the Appeals Coordinator issued a stay of “the Director’s deadline for response” set out in the email of October 1, 2014, “pending consideration of submissions from the parties on the stay application”. The Appeals Coordinator also requested the parties provide their available dates for mediation.

[111] After the Notice of Appeal had been filed, the Director’s Counsel disputed that a renewal decision had been taken. By letter dated October 20, 2014, Counsel for the Director requested that the Board reconsider its October 9, 2014, decision to accept the notice of appeal and initiate the appeal, and that the Board rescind its decision and reject the notice of appeal.

[112] On October 24, 2014, the Appeals Coordinator of the Board acknowledged the letter of October 20, 2014, from Counsel for the Director, reviewed the Director’s submissions contained in the letter, and dismissed the Director’s request to rescind the October 9 decision to accept the appeal. The Appeals Coordinator also stated this with respect to the stay of proceedings issued by the Board:

“The Board notes that the Director has stated “If no response is received by October 14, 2014 the renewal provided will be cancelled and FGL 970007 will be removed from the records of the Department, and all improvements, including fencing, must be removed,” indicating that the Director has made a decision contingent upon non-response, by the date established by the Director. Section 121(4) of the *Public Lands Appeal Act* states that “submitting a notice of appeal does not operate to stay the decision objected to.” However, the Appellant has filed a notice of appeal and requested a stay pending resolution of the matter under appeal. **A stay has been issue by this Board in regard to proceeding to act upon the decision, until such time as the appeal may be heard.**” (bolding in original).

¹²⁵ Record, Tab 119, Letter from Brent Schleppe to Penny Dunn, January 21, 2015.

[113] On June 5, 2015, the Director filed an application to determine jurisdiction and a separate application to lift the stay issued by the Board.

[114] The Director's application to determine jurisdiction raised two questions: (1) Does the Board acquire jurisdiction on the facts of this matter to consider any of the issues raised by the Appellants' notice of appeal and make a recommendation to the Minister? (2) If the answer to issue #1 is yes, does the Board have jurisdiction to consider the Appellant's claim for compensation. In this application the Director requested that the Appeals Coordinator "not be appointed to the panel of Board members who will consider and determine this application."

[115] The Board did not appoint the Appeals Coordinator to the panel of Board members convened to consider and determine the Director's application of June 5, 2015, the Director's application to lift the stay, or to consider and determine the merits of the appeal.

[116] The parties subsequently exchanged submissions regarding both of the two preliminary applications filed by the Director.

[117] On July 31, 2015, the Panel issued decisions on both of the applications of the Director.

[118] On July 31, 2015, the Panel fixed a sequence for the filing of submissions in advance of the Panel's consideration of the merits of the Appeal. Counsel for the Appellant tendered an application to vary the schedule of filings, but that application was later withdraw; and the parties filed submissions in accordance with the schedule of filings fixed by the Panel on July 31, 2015. A hearing by written submission was held on August 24, 2015, with the Panel meeting again on September 14, 2015, to consider the submissions and Record further.

ISSUES

[119] Section 213 of the *Public Lands Administration Regulation* defines the grounds on which a decision may be appealed to the Board. Only two of these grounds are referenced in the Notice of Appeal.

[120] Of the two grounds referenced in the Notice of Appeal, the Appellant and the Respondent agree that there is no regional plan approved under the *Alberta Land Stewardship Act* and that this ground is therefore not applicable in this appeal.

[121] The only issue properly before the Board is whether the Director erred in law in respect of his decision of October 1, 2014.

[122] The Board has accepted that Ms. Dunn is a person to whom a decision was given, and has standing to bring this appeal on this ground. Although Counsel for the Director has filed Written Submissions which continue to dispute this finding, the decision of the Public Land Appeal Board on this point is final by virtue of s. 212(3) of the *Public Lands Administration Regulations*.

[123] The Appellant's Counsel has filed Written Submission which frames the error of law as follows:

Did the Director, in deciding to change the boundaries of the FGL on renewal and in deciding to cancel the FGL entirely if the changed boundaries were not accepted, err in law?

SUBMISSIONS OF THE APPELLANT

[124] The Appellant filed Written Submissions, and Rebuttal Submissions. The Board has read and carefully considered these Submissions.

[125] The Appellant's Written Submissions on questions of fact are that FGL 970007 was first issued to Ms. Dunn in 1997, and that there has been no change to the lands included in the FGL since that time. Both the SME and SMC were issued as overlapping dispositions. The Director did not remove the SMC lands from the boundary of the overholding tenancy flowing from FGL #2. A meeting was held between Mr. Schleppe and Ms. Dunn on September 30, 2014, "to discuss a formal renewal of the FGL." On October 1, 2014, Mr. Schleppe communicated to Ms. Dunn the Decision which is the subject of the appeal.

[126] In Rebuttal Submissions, the Appellant denies that Director's submission that the boundaries of the FGL were changed effective April 15, 2015. The Appellant submits: "there was not 'decision' in March or April 2014 to reduce the boundaries of the FGL."

[127] The Appellant's Written Submissions do not specifically refer to the Disposition signed by the Director on June 18, 2014. The decision under appeal (Mr. Schleppe's email of October 1, 2014) does refer to the Disposition signed by the Director on June 18, 2014. With respect to that reference, the Appellant's Submissions state "[h]is email included AEP's decision that 'the boundary of FGL 970007 has been changed at renewal.'" The Appellant characterizes the Notice of Appeal as being in relation to "AEP's October 1, 2014, decision to change the boundaries of the FGL at renewal and to cancel the FGL and require the removal of any improvements if the revised FGL was not accepted." In Rebuttal Submissions, the Appellant states "on or by October 1, 2014 the AEP had already renewed the FGL with a changed boundary." The Board finds that the Appellant's Rebuttal submission ["AEP had already renewed the FGL"] can only be reconciled with the Appellant's initial Written Submission ["there has been no change to the lands included in the FGL"] if the Appellant's position is that the effective date of the change in boundaries had not yet arisen on or before October 1, 2014.

[128] The Appellant's submissions of law are that the authority to renew the FGL is set out in s. 15 of the *Public Lands Act*, and s. 17 of the *Public Lands Administration Regulation*. The essence of this is that, when the Director exercises authority to renew a disposition, "neither the Act nor the PLAR grant the Director the authority to 'vary or delete' the legal description or the boundary of the lands subject to the disposition."

[129] The Appellant's initial Written Submissions concede that other sections of the *Act* and the *PLAR* authorize the Director to amend the area granted in a disposition; but that these are not applicable because "the decision being appealed from is to amend the boundaries of the area granted on renewal of the FGL." In Rebuttal submissions, the Appellant expands upon the legal authority of the Director with respect to s. 64 of the *Public Lands Administration Regulations*:

"While section 64 does state that the Director 'may at any time' change the size of a disposition, that section does not include the words 'including at renewal'. Further, section 17 of the *PLAR* regarding renewal does not include any wording to the effect that the Director has any powers on renewal other than those specifically set out in that section."

[130] With respect to that part of Mr. Schleppe's October 1, 2014, Decision which imposes a consequence of cancellation, the Appellant's submission is that this is an error of law because "neither the *Act* nor the *PLAR* provide the authority for such a time line for acceptance at renewal." The Appellant's Written Submissions do not specifically refer to documents in the Record concerning the 60 day period for Ms. Dunn to sign the Disposition signed by the Director on June 18, 2014, to the expiry of the 60 day period without signature from Ms. Dunn, or to the extension of that 60 day period to the end of September, 2014.

[131] The Appellant submits that the Board's previous decisions of October 24, 2014, and July 31, 2015, confirm that the Director had in fact made a decision regarding renewal of the FGL. In summary, the Appellant argues that the Director was exercising a power of renewal.

[132] The Board does not accept this submission.

[133] The Appeal Coordinator's decision of October 24, 2014, was taken without benefit of the review of the Record in this case (which was not then available), and was based on the use of the word 'renew' on the face of the decision under appeal (Appendix H). The Appeals Coordinator's finding is stated as follows: "the Board finds that a decision has been made in regards to a matter that is appealable under section 211 of the Public Lands Administration Regulation."

[134] The Panel's Decision of July 31, 2015, which was taken after a review of the Record, simply confirms that "the Director's October 1, 2014, email to the Appellants

[sic] constitutes a decision” which is appealable under one of s. 211(a), (c) or (d) of the *Public Lands Administration Regulation*.

[135] Neither the Appeals Coordinator nor the Panel found in its preliminary Decisions that the Director was exercising a power of renewal under s. 17 of the *Public Lands Administration Regulation*.

[136] By way of relief, the Appellant asks that the Board recommend that the Director's decision to change the boundaries of the FGL at renewal be reversed, and further recommend that the Minister decide to renew the FGL in its entirety.

SUBMISSIONS OF MINICH

[137] The Board, acting pursuant to s. 123(1) of the *Public Lands Administration Regulations*, allowed Minich to make written submissions in this appeal. The Board has read and carefully considered the Submissions of Minich.

[138] Minich's Written Submissions introduce a new alleged fact, which is not on the Record before the Panel. The new fact is that on June 15, 2015, the Department approved Surface Material Lease [SML] 140063. Minich also appends to its Written Submissions a letter to Minister Diana McQueen dated July 26, 2013. The letter from Minich to Minister McQueen is not itself contained within the documents in the Record in this appeal, but is referred to in documents which are in the Record.

[139] Minich's submissions are that Ms. Dunn had refused to acknowledge or respond to attempts by Minich to address concerns and gain consent for SMC 13005 and SML 140063, and that any cancellation of the disposition would put Minich in the position of repeating these exhaustive efforts and incurring these costs and additional time.

[140] Minich provides a timeline of events of its efforts to gain consent to occupy lands within the boundaries of the overholding tenancy flowing from FGL#2, extending from April 5, 2013, to August 12, 2015. This timeline of events overlaps with the findings of fact made by the Board in this case, but includes some additional facts which are not on the Record

[141] Section 120 of the *Public Lands Act* requires that an appeal under this *Act* must be based on the decision and the record of the decision-maker. The Board will base its decision in this Appeal on the Record in this case, and will not base its decision on new

facts alleged in the Submission of Minich or in the letter to Minister McQueen appended to the Submission.

SUBMISSIONS OF THE DIRECTOR

[142] The Director filed Written Submissions, and also Rebuttal Submissions. These are very lengthy. The Board has read and carefully considered all of the Submissions by the Director.

[143] The Board has accepted that Ms. Dunn is a person to whom a decision was given, and has standing to bring this appeal. Although Counsel for the Director continues to dispute this finding, the decision of the Public Land Appeal Board on this point is final by virtue of s. 212(3) of the *Public Lands Administration Regulations*.

[144] The Director makes submissions with respect to the alleged non-compliance of Ms. Dunn in relation to refusal of access for exploration under the SME, and for certain uses of FGL 970007. As noted above, the Board does not find it necessary to make any findings about these alleged contraventions. The Board accepts the Director's submission that "AEP did not cancel the rights of the Appellants ... and advised them that AEP preferred to work with them to resolve the issues, if possible."

[145] The Director also submits, as fact, matters which are not included in the Record in this case. New facts which are not included in the Record include:

- the submission that "[t]here have not been any [extraction] operations on the SMC/SML lands to date in 2015";
- the submission that the Department received an application for an SML on September 9, 2014, and that it approved this on June 15, 2014; and
- the submission that the Department "has taken no steps" in regard to the letter of January 21, 2015 [in which Mr. Schleppe "advised the Appellants"¹²⁶ [sic] that they [sic] had no further right or interest in the New Lands and were not allowed to make any use of them. AEP requested that the

¹²⁶ The 1997 and 2002 dispositions were issued to Ms. Dunn, not to she and her husband. Only Ms. Dunn has the status of overholding tenant. Ms. Dunn is the only Appellant.

Appellants remove any structures, buildings, fencing, signs and chattels by July 1, 2015.”].

These facts are not in the Record provided by the Director. If the Director’s Counsel is of the view that these new facts are material to the Decision of the Director, the Board notes that documentation regarding these matters should have been included in the Record provided by the Director. Section 120 of the *Public Lands Act* requires that an appeal under this *Act* must be based on the decision and the record of the decision-maker. The Board will base its decision in this Appeal on the Record in this case, and will not base its decision on new facts alleged in the Submissions of the Director.

[146] The Director’s Submissions note that the FGL lands in question are subject to a Forest Management Agreement [FMA] held by Hinton Wood Products. The Board agrees that the FGL is located within an FMA, and notes there are references to the FMA in the Record. But the Board considers that the FMA is not material to its decision on the merits of the appeal presented to the Board. For this reason, the Board has not found it necessary to make any reference to the FMA.

[147] The Director notes the issuance to Ms. Dunn of FLG 970007 in 1997, its expiry on August 31, 2002, the issuance to Ms. Dunn of a replacement FGL on March 10, 2004, with a term from September 1, 2002, to August 31, 2012, the expiry of that FGL on August 31, 2012, and that “the Appellants [sic] were deemed to be overholding tenants on a month-to-month basis ... by operation of the Public Lands Administration Regulation.” In respect of the 1997 and the 2002 disposition, the Director refers to the following passage of the covering letters sent to Ms. Dunn with the dispositions:

“The Department encourages multiple use of public land and contact between other users (e.g. recreational users) and grazing disposition holders. As a forest grazing licence does not grant the holder exclusive use of the area, this goal of multiple use and access can be achieved. Availability of use/access by others is a consideration at the time of disposition renewal.”

[148] The words in this sentence refer to renewal. The Director’s legal submissions are to the effect that, once the dispositions expire, they “no longer exist in law” and that “once a disposition no longer exists at law, it is not capable of being renewed.” The Director’s Written Submissions make no effort to explain the many occasions in the Record when the Director’s officials use the term ‘renew’ in relation to the facts of this case.

[149] The Director's submissions on the facts of the case are that, on April 15, 2014, the Director made a decision "to decrease the size of the area available to the Appellants for grazing." The authority for this decision, and the remaining boundaries after the alleged decision of April 15, 2014, are described in paragraph 29 of the Director's initial Written Submissions:

"Pursuant to his authority under the PLAR section 64(1), the Director decreased the size of the area available for grazing to the Appellants by removing those lands that were suitable for surface materials development because of the conflict between gravel extraction and grazing, and to facilitate ... [Minich's] ... SMC operations. Further, the Director removed lands across the East River Road because these lands were stranded from the Appellant's main grazing area making them inoperable for grazing."

The Director then submits that the time had expired for appeal from this alleged decision of April 15, 2014.

[150] As noted above, the Board does not accept the submission that a decision was taken on April 15, 2014. There is no document in the Record dated April 15, 2014, documenting a decision by the Director on that date. Documents in the record reveal that April 15, 2014, was set as a date by which Ms. Dunn could provide comment on Mr. Hugelschaffer's proposal to reduce the boundaries of the FGL; and, after April 15, 2014, the Director's officials were discussing 'options' with respect to the FGL. The Board finds that a decision had not yet been taken by the Director on April 15, 2014.

[151] The Director does not specifically refer to the Disposition signed by the Director on June 18, 2014. Nor does the Record contain any covering letter which may have been sent to Ms. Dunn with this disposition. There are references in the Record to the fact that Ms. Dunn would be advised of her appeal rights when a disposition was issued to her, and the Board considers that this would likely have been included with a covering letter to be sent with the disposition signed by the Director on June 18, 2014. Both the 1997 disposition, and the 2004 disposition (effective as of 2002), were sent to Ms. Dunn with a covering letter.

[152] The Record before the Board does not establish, on a balance of probabilities, how or when the disposition signed on June 18, 2014, was transmitted to Ms. Dunn.

[153] The Board finds that, by October 1, 2014, Ms. Dunn would have been aware of this disposition signed by the Director on June 18, 2014.

[154] The email of October 1, 2014, (the decision under appeal) does refer to the disposition signed by the Director on June 18, 2014. In respect of the decision under appeal, the emails from Mr. Schleppe of October 1, 2014, the Director submits that:

- “[a]s of October 1, 2014, AEP had not made a decision about the issuance of a replacement FGL”;
- “[o]n September 30, 2014, AEP met with the Appellants [sic] and offered them [sic] a replacement FGL for the New Lands only or for the New Lands plus additional lands to add grazing capacity”; and
- “[t]he October 1, 2014 email only communicated one of a number of the Director’s offers of a replacement FGL for the New Lands as negotiations between the parties continued to take place.”

The Director’s Decision of October 1, 2014, itself states that the boundary of FGL 970007 “has been changed at renewal” and that “the renewal documents have been provided for your signature.” The Director’s only submission on this specific point is contained in its Rebuttal Submissions:

“the Director states that his use of the phrase ‘the boundary of FGL 970007 has been changed’ is in reference to his April 15, 2014 decision in which he had decreased the size of the lands available to the Appellants for grazing and the discussion about a replacement FGL reflected the change already made.”

[155] The Director’s Counsel therefore does not refer, in any way, to the disposition signed by the Director on June 18, 2014. It would have been helpful to the Board if the Director had provided submissions concerning that disposition, the repeated use of the term ‘renewal’ by the Director’s officials in relation to FGL 970007, or to documents in the Record which speak to the following:

- a 60 day period for Ms. Dunn to sign the disposition signed by the Director on June 18, 2014;
- the expiry of the 60 day period without signature from Ms. Dunn;
- the extension of that 60 day period to the end of September, 2014; and

- the further extension of that time to October 14, 2014 as per the Director's email of October 1, 2014.

[156] The Board does not accept the Director's submission that, as of October 1, 2014, a decision about a replacement disposition had not been taken. The Record contains a disposition signed by the Director on June 18, 2014.

[157] The Director also quotes the letter of January 15, 2015, and submits that:

"AEP advised the Appellants that they had no further right or interest in the New Lands and were not allowed to make any use of them."

As noted above, the Board has found that this contravenes the stay issued by Appeals Coordinator and confirmed by the Panel.

[158] The Director's position on the law is:

- [n]owhere in the *Public Lands Act* or the *PLAR* does it provide the Director with authority to renew a disposition that has expired;
- a disposition expires at the end of its term, and then "it no longer exists in law";
- a disposition which no longer exists in law is not capable of being renewed;
- only when each of the conditions in s. 17(1) of the *Public Lands Administration Regulations* are satisfied does the Director have authority to exercise his discretion to renew a disposition. Only if the holder of the disposition is in compliance with the *Public Lands Act*, the *PLAR*, and the terms and conditions of the disposition, can the Director decide to renew a disposition. In any other circumstance, the Director is without authority to do so. In any event, there is no disposition to renew in this appeal;
- section 64(1)(b) of the *Public Lands Administration Regulation* provides that the Director may amend a grazing licence to increase or decrease the size of the licenced area at any time;
- section 20(3)(b) of the *Public Lands Administration Regulation* provides the Director with authority to issue a new disposition to the former holder of the disposition 'in place of the expired disposition' on his/her own initiative or as a result of an application; and

- on April 15, 2014, the Director decreased the size of the area available to the Appellants [sic] for grazing pursuant to his authority under *PLAR* s. 64(1).

[159] By way of relief, the Director asks that the Appeal be dismissed or, in the alternative, that the Board recommend to the Minister that the appeal be resolved by adopting a proposal contained in the Director's Written Submissions.

REASONS OF THE PANEL

Analysis by the Public Lands Appeal Board

[160] The appeal arises as a result of a conflict between Minich and Ms. Dunn regarding the Department's actions in granting exploration and extraction dispositions for sand and gravel exploration and development to Minich. The exploration disposition was a surface materials exploration disposition, or "SME". The development disposition was a surface materials licence, or "SMC". Both the SME and SMC were issued on lands within the boundaries of an overholding tenancy arising from a prior disposition [a Forest Grazing Licence, or "FGL"] which had been first issued to Ms. Dunn in 1997, and which had been reissued to her in 2004 for a term from 2002 to 2012.

[161] The FGL issued to Ms. Dunn in 1997 had expired in 2002, and was replaced by a replacement FGL issued to Ms. Dunn in 2004 (but with a term from 2002 to 2012). This disposition expired on August 31, 2012. These formal dispositions authorized Ms. Dunn to graze horses (the 1997 – 2002 FGL) or livestock (the 2002 – 2012 FGL) for a part of the year on Crown land identified in the FGL, subject to terms and conditions of the FGL.

[162] The FGL lands in question are near Hinton, Alberta, and are located along the bank of the Athabasca River. From 1997 to 2012 Ms. Dunn's FGL was approximately 154 acres in size, more or less.

[163] The *Public Lands Administration Regulation* came into force on September 12, 2011. It replaced the *Dispositions and Fees Regulation*, and consolidated into one Regulation the provisions of the *Forest Recreation Regulation*, *Castle Special Management Regulation* and the *Unauthorized use of Public Land and Recovery of Penalty Regulation*. At all material times, s. 18 of the *Public Lands Administration Regulation* anticipated that a holder of a disposition could make an application for renewal.

[164] Ms. Dunn never applied for a renewal of her disposition. Accordingly, the Board need not determine if Ms. Dunn would have been beyond the one year limit for applying for renewal in any case.

[165] After Ms. Dunn's FGL expired in 2012, Ms. Dunn was deemed by operation of ss. 20(3)(b) of the *Public Lands Administration Regulation* to be an overholding tenant on a month to month basis in respect of the subject land comprising the FGL. The Director administered the expired FGL as if it continued to exist under the terms and conditions applicable prior to expiry.

[166] In 2013, during the period of overholding tenancy, the Department received from a third party, Minich Oilfield Services ["Minich"], an application for an SME. The Department first told Minich that it had to obtain Ms. Dunn's consent to undertake the exploration activity authorized by the SME. Minich's efforts to obtain consent from Ms. Dunn were refused by Ms. Dunn, and were allegedly met with threats by Ms. Dunn's husband.

[167] The Department later reversed its decision requiring Minich to obtain consent of Ms. Dunn for the exploration activity under the SME. Minich completed the exploration activity authorized by the SME by entering the lands to which the overholding tenancy was applicable without Ms. Dunn's consent.

[168] Ms. Dunn then asserted an intent to appeal, and complained about persecution and about damage said to have been caused by the exploration activity. She wrote to the Premier, and to Department officials. Ms. Dunn's complaints about damage said to have been caused by the exploration activity were investigated by Department officials and found to be unfounded.

[169] In addition to writing to the Premier, Ms. Dunn wrote to Tenille Kupsch, asserting an intent to appeal the decision to issue the SME.¹²⁷ The Record in this case contains no evidence of an appeal ever being filed with, or pursued before, the Surface Rights Board, or any other entity.

[170] Later in 2013, Minich applied for a formal disposition ["the SMC"] to occupy some 4.1 acres of land within the overholding tenancy arising from the FGL for the purpose of extracting sand and gravel by surface excavation. Minich was required to provide a statement of consent from Ms. Dunn with its application for an SMC.

[171] The consent which Minich sought from Ms. Dunn in 2013 was in relation to withdrawal of the 4.1 acres of lands for an SMC from the boundaries of the 154 acre overholding tenancy arising from the expired FGL. Ms. Dunn would not give this consent to Minich.

[172] The Director then took the position that Ms. Dunn's consent was necessary for operation of the extraction activity authorized by the SMC (rather than for the issuance of the SMC). Ms. Dunn refused this consent, also.

¹²⁷ Record, Tab 9, Letter of Appeal from P. Dunn to Tenille Kupsch, May 10, 2013.

[173] Reasonable efforts were made by the Director's officials to resolve the dispute between Minich and Ms. Dunn. These efforts included participation of Gail Dunn, the Constituency Manager for the Yellowhead Constituency. All efforts in this respect were ultimately unsuccessful. However, on April 24, 2014, a meeting between the Director's officials and Ms. Dunn led the Director to understand that Ms. Dunn would be prepared to accept a new FGL with a smaller size.

[174] The Director's officials who attended that meeting identified the next steps for dispositions to make the offer to Ms. Dunn, including a reference to the PLAB appeal.¹²⁸ (underlining added)

[175] In late May of 2014, after the SMC was issued to Minich, but before the replacement FGL was signed by the Director, Ms. Dunn communicated to the Director that she was not willing to accept a new FGL with a smaller size.

[176] On June 18, 2014, the Director signed a replacement FGL to Ms. Dunn. In the circumstances of the case, the Director's action in this regard were authorized by s. 15(4) of the *Act*, and s. 20(3) and s. 64(1)(b) of the *Regulation*.

[177] The replacement FGL was signed by the Director on June 18, 2014, and had a term from 2012 to 2022. The boundaries of the replacement FGL excluded the 4.1 acres of land which were the subject of the SMC, and also excluded approximately 46 acres of additional gravel bearing lands which had been within the boundaries of the FGL. The replacement FGL was therefore approximately 100 acres in size, more or less (whereas the prior FGL was 154 acres in size, more or less).

[178] Between June and October, 2014, staff of the Director met with Ms. Dunn on numerous occasions in an effort to identify additional lands which might be added to the boundaries of the replacement FGL in order to make up for the loss of some 50 acres of sand and gravel bearing lands. All reasonable efforts in this respect have been made, and have failed.

[179] Ms. Dunn did not sign anything by the end of September, 2014. On October 1, 2014, the Director therefore communicated to Ms. Dunn the decision which is the subject of this appeal.

[180] This is not a case of renewal of a formal disposition. Ms. Dunn held FGL 970007 from 2002 to 2012. That FGL expired, and Ms. Dunn did not make an application for its renewal at any time. A formal application for renewal is required by s. 17 of the *Public Lands Administration Regulations* and is subject to the formalities in s. 9(1) and (6) of

¹²⁸ Record, Tab 69, Email from Helen Newsham, April 25, 2014, at 10:56 am.

those *Regulations*. Where a formal application for renewal is made, s. 10 of the *Regulations* confers upon the Director authority to act in relation to the Application.

[181] Since Ms. Dunn did not apply for a renewal of FGL 970007, she was deemed to be an overholding tenant on a month-to-month basis in respect of the subject land. The terms and conditions of the overholding tenancy were the same as those which had been in place under FGL 970007.

[182] Since this was an overholding tenancy, the Director could have registered its expiry without notice to Ms. Dunn by virtue of s. 20(1) of the *Regulations*. Alternatively, the Director could have issued a formal disposition to the holder of the expired disposition in place of the expired disposition, whether or not an application had been made for the formal disposition.

[183] At all material times prior to the appeal by Ms. Dunn to this Board, the Director's staff acted as if they could renew the disposition to Ms. Dunn. The words 'renew' or 'renewal' were used by the Director's staff in relation to the issuance of a disposition to Ms. Dunn in order to bring her overholding tenancy to a conclusion. The Board finds that the Director and staff used the words 'renew' and 'renewal' in a generic, rather than a technical sense, to refer to the issuance of a disposition by the Director which would bring Ms. Dunn's period of overholding tenancy to a conclusion.

[184] Legally, the Director has authority to issue a replacement disposition to an overholding tenant, without application, by the provisions of s. 20(3)(b) of the *Public Lands Administration Regulation*. For this to be legally effective, however, the Director must 'issue' the replacement disposition in accordance with s. 39 of the *Act*.

[185] Section 15(4) of the *Act*, and s. 64(1)(b) of the *Regulation*, augment and complement the power of the Director under s. 20(3)(b). These provisions authorize amendment of the terms and conditions, and boundaries, of the replacement disposition, respectively. The Board finds that the conflict between Ms. Dunn and Minich was a reasonable basis for the exercise of powers under s. 15(4) of the *Act*, and s. 20(3) and s. 64(1)(b) of the *Regulations*, by the Director.

[186] When the Director signs a replacement licence in this way, the provisions of s. 39 of the *Act* apply. In the ordinary course, the disposition is legally effective when it is signed by the Director and issued (in 2 copies, by mail or delivery), even though it is not yet signed by the disposition holder. If the disposition holder fails to sign the disposition within 60 days of its issuance as aforesaid, the Director is then able to cancel the disposition.

[187] This case is not ordinary. The Board finds as a fact that the evidence is not sufficient, on a balance of probabilities, to establish that the replacement disposition signed by the Director on June 18, 2014, was actually 'issued' to Ms. Dunn within the

definition of the term 'issue' in s. 39(1) of the *Act*. No documentation respecting the delivery is included in the Director's Record, other than email from Caroline Hiew asserting delivery "of the renewal package" by ordinary mail. This email is grammatically incorrect, and does not define what was in "the renewal package." This email does not establish, in the opinion of the Board, that 2 or more copies of the disposition were sent or delivered to Ms. Dunn.

[188] The absence of adequate proof of issuance is concerning to the Board because the Director's staff were clear that, when the replacement disposition was "issued", Ms. Dunn would be advised of her appeal rights. This should have been done via covering letter sent with the disposition; but, no such covering letter is included in the Record. Both prior dispositions had a covering letter which is included in the Record. Given the history of the dispute with Ms. Dunn, its very high political profile, the enormous amount of time spent on Ms. Dunn's 'issues' by the Department, and the recurrent history of problems in the delivery of documents to Ms. Dunn which were well known to the Director, it would seem to the Board more appropriate for the Director to have delivered the two copies of the replacement disposition to Ms. Dunn by an appropriate form of delivery which would have had proof of delivery associated with it.

[189] Further, there is a history of administrative errors made by the Director's staff in relation to this case. These include:

- requiring Minich to obtain the consent of Ms. Dunn to exploration activity under the SME;
- advising a former Minister that imposing this requirement upon Minich was a legal obligation;
- failing to send to Ms. Dunn a letter dated Friday May 10, 2013, which addressed the issues that were brought up on a May 3, 2013 meeting in Hinton; and
- issuing the SMC to Minich authorizing extraction of the wrong substance.

[190] The Board is satisfied that the disposition was signed by the Director on June 18, 2014, but is not satisfied on a balance of probabilities that the disposition was 'issued' to Ms. Dunn in accordance with s. 39(1) of the *Act*.

[191] The situation is therefore that, on October 1, 2014, after the replacement disposition was signed by the Director but before the replacement disposition was properly 'issued', Ms. Dunn was told she must choose, by October 14, 2014, between one of two forms of disposition, and that if she did not accept one of these two forms of disposition her overholding tenancy would be cancelled.

[192] This made Ms. Dunn a person to whom a decision about the issuance a disposition issued under the *Act* had been made within s. 211(a) of the *Public Lands Administration Regulations*. The finding of the Board on this point is final by virtue of s. 212(3) of the *Public Lands Administration Regulations*, and this is determinative of the submissions of the Director which dispute the jurisdiction of the Board to hear and decide this appeal.

[193] In the factual context of this case, the issuance of a replacement disposition signed by the Director on June 18, 2014, was a reasonable exercise of powers conferred on the Director by s. 20(3) of the *Public Lands Administration Regulation*, complemented and augmented by s. 15(4) of the *Act* and s. 64(1)(b) of the *Regulation*. All reasonable efforts to accommodate Ms. Dunn's concerns, other than through the formal issuance of a replacement disposition, have been tried and have been unsuccessful.

COSTS

[194] The Board considers that costs of this appeal should not be awarded to any party.

OBSERVATIONS

[195] The Board is of the view that the Record reveals numerous uncertainties amongst the Director's officials, and that these may be attributed to:

- the absence of policy development in respect of the renewal process for a grazing licence; and also
- the dynamics of the relationship between gravel exploration and extraction and grazing licence tenure.

The Board is of the view that policy development in these areas would be beneficial in avoiding the kinds of errors and uncertainties which occurred in this case.

RECOMMENDATIONS

[196] The Board is obligated, within 30 days after the completion of the hearing of the appeal, to submit a report to the Minister, including recommendations and the representations or a summary of the representations that were made to it. The report may recommend confirmation, reversal or variance of the decision appealed.

[197] The Board recommends that the Minister:

- vary the decision appealed from by exercising powers conferred on the Minister by s. 124(3) of the *Act*, to make the decision which the Director could have made in order to resolve the dispute between Ms. Dunn and Minich;
- order that the replacement disposition signed by the Director on June 18, 2014, should now be formally issued to Ms. Dunn by the Director with the following direction:
 - that if Ms. Dunn fails to execute the replacement disposition signed by the Director on June 18, 2014, by signing it and returning it to the Director within 60 days of the date of the Order of the Minister conveying the Minister's decision in this appeal, then s. 39 of the *Public Lands Act* authorizes the Director to cancel the disposition;
- order that the Director's actions to cancel the replacement disposition signed by the Director on June 18, 2014, which were taken during the period of the stay issued by the Board, be revoked.
- dismiss the appeal 14-0024 without costs.

Dated at Edmonton, Alberta, on October 5, 2015.

"original signed"

Eric McAvity, Q.C., Chair

"original signed"

Dr. David Evans

"original signed"

LIST OF APPENDICES

Appendix A	Tab 121
Appendix B	Tab 33
Appendix C	Tab 43
Appendix D	Tab 32
Appendix E	Tab 58
Appendix F	Tab 71
Appendix G	Tab 81
Appendix H	Tab 107

Appendix A

Tab 121.



Land and Forest Service
Land Administration Division

Petroleum Plaza - South Tower
9915 - 108 Street
Edmonton, Alberta
Canada T5K 2G8

File No. SE 5-52-24-5

Telephone: (403) 427-3570
FAX: (403) 422-9670

September 12, 1997

Penny Dunn
Box 6397
Hinton, Alberta
T7V 1X7

Dear Madam:

RE: Forest Grazing Licence No. 970007
Pt. LSD's 13,14 and 15 of Section 32-51-24-5;
Pt. SW 4 (south of River) and SE 5 (south of river)
in 52-24-5

A final decision has been made to award the above land to you.

Enclosed is your copy of the above disposition and it is your responsibility to ensure that the entire area is adequately fenced within two years of the effective date of the agreement and utilized in accordance with the attached regulations and/or conditions during the current and future grazing seasons.

Any fencing or range management concerns should be discussed with the Forest Land Use Office.

You are also reminded that no range improvement may be carried out on the land unless prior written authorization has been obtained from the Department.

The area under disposition is currently rated at a carrying capacity of 17 AUM's (animal unit months) of grazing annually. A stocking rate sheet is attached for your convenience.

The Department encourages multiple use of public land and contact between other users (e.g., recreational users) and grazing disposition holders. As a forest grazing licence does not grant the holder exclusive use of the area, this goal of multiple use and access can be achieved. Availability of use/access by others is a consideration at the time of disposition renewal.

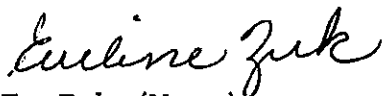
This disposition is not valid until payment of \$53.50, which includes GST is received by the Department. The amount owing covers the balance of the current year's rental. Please forward payment immediately as the disposition will be cancelled if payment is not received within the next 20-30 days.

Lands within this disposition are used by registered trapline licence holder(s):

Edward Poelzer 9240 98 Ave Grande Prairie, Alberta T8V 3X6	Lester Chauncy Hunt PO Box 6271 Hinton, Alberta T8V 3X6	Frank E.Hun PO Box 5016 Hinton, Alberta T8V 3X6
---	--	--

It is recommended that you contact the trapper(s) or your local Alberta Fish and Wildlife Office prior to undertaking any fenceline clearing to avoid possible damage to any cabins, trap sets etc., located on the land and the Department trusts that you will cooperate with the trapper(s).

Sincerely,



E. Zuk (Mrs.)
Disposition Services Branch

/ez
Encl.

cc: Northern East Slopes Region, Foothills District,
Hinton Office
cc: M.D. of Yellowhead No. 94

Alberta

ENVIRONMENTAL PROTECTION
Land and Forest Service
Land Administration Division

FOREST GRAZING LICENCE

LICENCE NUMBER: FGL 970007

EFFECTIVE DATE: September 1, 1997

EXPIRY DATE: August 31, 2002

LANDS:

See Attached Appendix A

CONDITIONS:

See Attached Schedule C

Penny Dunn of Box 6397, Hinton, Alberta.

is hereby authorized to graze livestock, that she own(s), on the lands described above, and must abide by the Forest Grazing Licence Regulations in that respect.



For the Minister of Environmental Protection

APPENDIX A
LEGAL DESCRIPTION
FOR
FGL 870007

LANDS (MERIDIAN-RANGE-TOWNSHIP-SECTION-1/4 SECTION OR LEGAL SUBDIVISION
-QUADRANT-QUATER QUADRANT)

HECTARES-- ACRES--DETAILS.....

5-24-051-32-13 0.081 0.20

ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE
RIGHT BANK OF THE ATHABASCA RIVER.

32-14 11.250 27.80

ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE
RIGHT BANK OF THE ATHABASCA RIVER.

32-15 16.187 40.00

5-24-052-04-SW 23.148 57.20

ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK
OF THE ATHABASCA RIVER.

05-SE 11.453 28.30

ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK
OF THE ATHABASCA RIVER.

AREA SUMMARY

THE TOTAL LANDS HEREIN DESCRIBED CONTAIN 82.115 HA (193.49 ACRES)
MORE OR LESS

SUBJECT TO:

THE AUTHORIZATIONS AND DISPOSITIONS LISTED ON THE ATTACHED "SCHEDULE B", IF
ANY, HAVE BEEN ISSUED ON THE QUARTER SECTIONS OF LAND ON WHICH YOUR
DISPOSITION HAS BEEN ISSUED AND MAY BE PRIOR AND SUBSISTING AUTHORIZATIONS AND
DISPOSITIONS TO YOUR DISPOSITION AND MAY RELATE TO AND AFFECT YOUR
DISPOSITION AND THE LANDS ON WHICH YOUR DISPOSITION HAS BEEN ISSUED.

SUPPLEMENTARY INFORMATION

(LTO) - LAND TITLES OFFICE
(EP) - ENVIRONMENTAL PROTECTION/LAND ADMINISTRATION DIVISION
(ATS) - ALBERTA TOWNSHIP SURVEY
(HA) - HECTARES
1 HECTARE = 2.471054 ACRES

1997/09/28
14:48:02
SUBMITTED BY LSLEIG8

SCHEDULE 15

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

LAND STANDING REPORT

LSRC1130

REPORT DATE: 1997-SEP-02 TIME: 16:47:00

REQUESTED BY: LSLGIO2

PAGE 1

----- SELECTION CRITERIA -----

REQUESTED LAND LIST: INCLUDE
 TITLE INFORMATION : INCLUDE
 REQUEST LAND STATUS: EXCLUDE

SELECT GEO-ADMINISTRATIVE AREA: ALL

SELECT ACTIVITIES:

INCL/EXCL	ACTIVITIES	MAX STATUS	ALL/NONE/SOME	IF SOME, SPECIFY TYPE
I	SURFACE DISP	6	ALL	
I	RESERVATIONS	6	ALL	
I	ENCUMBRANCES	6	ALL	
I	LAND POSTINGS	6	ALL	
I	INTERIM RECORDS	6	ALL	
I	SUBDIVISIONS	5	ALL	

----- REQUESTED ACTIVITY -----

REQUESTED ACTIVITY: FGL- 970007

----- REQUESTED LAND -----

REQUESTED LAND	OWNERSHIP STATUS	TITLE STATUS	ADMINISTERED BY	SURVEY STATUS	-- AREA IN HECTARES --		--- AREA IN ACRES ---		
					LAND	TITLE	LAND	TITLE	
5-24-051-32-13	MIXED	MIXED	FLW-FRH	SURVEYED	11.979		29.60		PARTLY WATER
5-24-051-32-14	CROWN	UNTITLED	FLW	SURVEYED	12.464		30.80		PARTLY WATER
5-24-051-32-15	CROWN	UNTITLED	FLW	SURVEYED					
5-24-052-04-SH	MIXED	MIXED	FLW-FRH	SURVEYED	42.653	0.004	105.40	0.01	PARTLY WATER
		REMARKS: FRHOLD 0.01 PT LS 3-DISMANTLED RY							
		ENR 49.20 PT LS 586 N/R							
		ENR 0.10 PT LS 5 IS NO.2							
		ENR 56.09 PT LS 3 & 4 S/R EXCLUDING RY							
5-24-052-05-SE	CROWN	UNTITLED	FLW	SURVEYED	44.233		109.30		PARTLY WATER
		REMARKS: PT RIVER							
TOTAL	MIXED	MIXED		SURVEYED		0.004		0.01	PARTLY WATER

----- TITLE INFORMATION -----

LAND IDENTIFIER	TITLE	EFFECTIVE DATE	TITLE HOLDER / REMARKS	HECTARES	ACRES
5-24-052-04-SH	PSEUDO REVESTMENT	1973-AUG-01	ENERGY AND NATURAL RESOURCES ENR # 12989	22.699	56.09

----- GEO-ADMINISTRATIVE AREAS -----

COAL DEVELOPMENT REGION

EASTERN SLOPES

CODE: CDR-3

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

LAND STANDING REPORT

LSRC1130

REPORT DATE: 1997-SEP-02 TIME: 16:47:00

REQUESTED BY: LSLG102

PAGE 2

----- GEO-ADMINISTRATIVE AREAS -----

COAL DEVELOPMENT REGION	(CONTINUED)		
5-24-051			
5-24-052			
ENVIRONMENT CONS. & RECL. DISTRICT	NO. 3		CODE: ERD-003
5-24-051			
5-24-052			
EASTERN SLOPE ZONE			CODE: ESZ-
5-24-051			
5-24-052			
FOREST MANAGEMENT UNIT	EDSON FOREST	E4N	CODE: FMU-E -04N
5-24-052-04-SW		S/RIVER	
5-24-052-05-SE		S/RIVER	
FOREST MANAGEMENT UNIT	EDSON FOREST	E9	CODE: FMU-E -09
5-24-051-32			
5-24-052-04-SW		N/RIVER	
5-24-052-05-SE		N/RIVER	
FISH & WILDLIFE ADMIN REGION	EASTERN SLOPES REGION	EDSON	CODE: FWA-3 -04
5-24-051			
5-24-052			
FISH AND WILDLIFE DISTRICT	EASTERN SLOPES REGION	HINTON	CODE: FWD-3 -07
5-24-051			
5-24-052			
FISH & WILDLIFE REFERRAL LANDS			CODE: FWR-
5-24-051-32			
5-24-052-04			
5-24-052-05			
GENERAL LANDS CLASSIFICATION	GREEN		CODE: GLC-G
5-24-051			
5-24-052			
GRAZING ZONE	C		CODE: GRZ-C
5-24-051			
5-24-052			
INTEGRATED RESOURCE PLAN	COAL BRANCH		CODE: IRP-C2
5-24-051			
5-24-052-04			
5-24-052-05			
MUNICIPAL DISTRICT	YELLOWHEAD NO. 94		CODE: MD -094
5-24-051-32			
5-24-052			
PUBLIC LAND DISTRICT	NORTHWEST REGION	EVANSBURG	CODE: PLD-6 -5
5-24-051			
5-24-052			
PROVINCIAL PARK REGION	WEST CENTRAL 1		CODE: PPR-01
5-24-051			
5-24-052			
RANGER DISTRICT	NORTHERN EAST SLOPES	HINTON - FOOTHILLS DISTRICT	CODE: RAD-NES -1C
5-24-051			

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS
 REPORT DATE: 1997-SEP-02 TIME: 16:47:00

LAND STANDING REPORT

LSRC1130
 REQUESTED BY: LSLGIO2 PAGE 3

----- GEO-ADMINISTRATIVE AREAS -----

RANGER DISTRICT (CONTINUED)
 5-24-052

----- ACTIVITIES -----

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	TOTAL AREA	
					ACRES	HECTARES
CNC-820128	APPROVED 0530 INDUSTRIAL/COMMERCIAL SITE 5-24-052-04-SW	ON 1982-OCT-26 42.492	1997-OCT-31 105.00	MCLEOD RIVER COAL LIMITED 1 NO RESTRICTION 710 SPECIFIED IN COMMENTS FIELD	45,823.40	18,544.071
CNT-960110	APPROVED 0600 SPECIAL PLACES 5-24-051-32-NW 5-24-051-32-NE 5-24-052-04-SW 5-24-052-05	ON 1996-JAN-19 28.490 23.391 42.650 258.999	2001-JAN-31 70.40 57.80 105.39 640.00	ENVIRONMENTAL PROTECTION, 1 NO RESTRICTION 710 SPECIFIED IN COMMENTS FIELD	1,538,187.00	622,482.147
FGL- 970007	ACTIVE/DISPOSED 5-24-051-32-13 5-24-051-32-14 5-24-051-32-15 5-24-052-04-SW 5-24-052-05-SE	ON 1997-SEP-01 0.081 11.250 16.187 23.148 11.453	2002-AUG-31 0.20 27.80 40.00 57.20 28.30	DUNN, PENNY I ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE RIGHT BANK OF THE ATHABASCA RIVER. ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE RIGHT BANK OF THE ATHABASCA RIVER. ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK OF THE ATHABASCA RIVER. ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK OF THE ATHABASCA RIVER.	153.49	62.115 (MORE) (MORE) (MORE) (MORE)
FMA-8800025	ACTIVE/DISPOSED 5-24-052-04-SW 5-24-052-05-SE	ON 1988-JUN-15	2008-JUN-14	WELDWOOD OF CANADA LIMITED S/ATHABASCA R S/ATHABASCA R	2,480,025.88	1,003,630.792
HTG- 950001	ACTIVE/DISPOSED 5-24-051-32-NW 5-24-052-04-SW 5-24-052-05-SE	ON 1995-JAN-01	1995-DEC-31	HINTON HORSE GRAZING ASSOCIATION PT. PT. PT.	1,720.00	696.059
LOC- 4797	ACTIVE/DISPOSED 5-24-052-04-SW	ON 1974-MAY-02	9999-999-99	WELDWOOD OF CANADA LIMITED	30.00	12.141
LOC- 750673	ACTIVE/DISPOSED 5-24-052-04-SW	ON 1976-MAR-25	9999-999-99	TELUS COMMUNICATIONS INC.	6.06	2.452
PLA- 880916	ACTIVE/DISPOSED	ON 1958-AUG-14	9999-999-99	TRANS MOUNTAIN PIPE LINE COMPANY	27.77	11.238

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

LAND STANDING REPORT

LSRC1130

REPORT DATE: 1997-SEP-02 TIME: 16:47:00

REQUESTED BY: LSLGIO2

PAGE 4

ACTIVITIES

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	TOTAL AREA	
					ACRES	HECTARES
PLA- 880916	(CONTINUED)					
	5-24-052-04-SW	0.534	1.32			
PLA- 880926	ACTIVE/DISPOSED	ON 1952-SEP-24	9999-999-99	TRANS MOUNTAIN PIPE LINE COMPANY	286.64	115.999
	5-24-051-32-NE	1.101	2.72			
	5-24-052-04-SW	0.465	1.15			
PNT-776393	APPROVED	ON 1978-JUN-13	1998-JUN-30	ENVIRONMENTAL PROTECTION, 3 NO AGRICULTURAL DISPOS 110 UNIMPR GRAZNG 710 SPECIFIED IN COMMENTS FIELD	1,945.11	787.158
	0165 GRAZING ALLOTMENT AREA					
	5-24-051-32-NW	16.268	40.20	W/RIVER		
	5-24-052-04-SW	19.911	49.20	N/RIVER		
	5-24-052-05-SE	31.120	76.90	N/RIVER		
PNT-810810	APPROVED	ON 1981-NOV-24	2001-NOV-30	ENVIRONMENTAL PROTECTION, 3 NO AGRICULTURAL DISPOS 110 UNIMPR GRAZNG	3,903.31	1,579.613
	0220 PUBLIC WOOD CUTTING(GREEN AREA)			PT		
	5-24-051-32-NW	16.268	40.20			
PNT-860478	APPROVED	ON 1986-NOV-03	2006-AUG-31	ALBERTA TRANSPORTATION & UTILITIE 2 NO AGRICULTURAL SALE D 730 WRITTEN AGENCY CONSENTS REQUIR PT. E/RIVER	224.02	90.658
	0541 SURFACE MATERIALS EXPLORATION					
	5-24-051-32-14	12.222	30.20			
	5-24-051-32-15	16.187	40.00			
ROE- 2836	ACTIVE/DISPOSED	ON 1956-JAN-16	9999-999-99	NORCEN ENERGY RESOURCES LIMITED	3.36	1.360
	5-24-052-04-SW	0.223	0.55			
RRD- 4490EO	ACTIVE/DISPOSED	ON 1932-APR-01	9999-999-99	ALBERTA TRANSPORTATION & UTILITIES	12.84	5.196
	5-24-051-32-NE	2.594	6.41			
TPA- 2192	ACTIVE/DISPOSED	ON 1987-AUG-26	1997-JUN-30	POELZER, EDWARD E/ATHABASCA R	0.00	0.000
	5-24-051-32-14					
	5-24-051-32-NE					
	5-24-052-04-03			S/ATHABASCA R		
	5-24-052-04-04			S/ATHABASCA R		
	5-24-052-05-01			S/ATHABASCA R		
	5-24-052-05-02			S/ATHABASCA R		
TPA- 2241	ACTIVE/DISPOSED	ON 1987-AUG-17	1996-AUG-31	HUNT, LESTER CHAUNCEY N/ATHABASCA R N/ATHABASCA R	0.00	0.000
	5-24-052-04-05					
	5-24-052-04-06					
TPA- 2473	ACTIVE/DISPOSED	ON 1987-AUG-04	1998-JUN-30	HUNT, FRANK E	0.00	0.000

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

LAND STANDING REPORT

LSRC1130

REPORT DATE: 1997-SEP-02 TIME: 16:47:00

REQUESTED BY: LSLGIO2

PAGE 5

----- ACTIVITIES -----

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	----- TOTAL AREA -----	
					ACRES	HECTARES
TPA- 2473	(CONTINUED)					
	5-24-051-32-13			W/ATHABASCA R		
	5-24-052-05-02			N/ATHABASCA R		
	5-24-052-05-07			N/ATHABASCA R		
	5-24-052-05-08			N/ATHABASCA R		

*** NOTE: THE FOLLOWING DISCLAIMER ***

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS .

LAND STANDING REPORT

LSRC1130

REPORT DATE: 1997-SEP-02

TIME: 16:47:00

REQUESTED BY: LSLGI02

PAGE 6

----- D I S C L A I M E R -----

THIS STANDING REPORT IS PROVIDED SUBJECT TO THE CONDITION THAT HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AND HER EMPLOYEES:

- (1) HEREBY DISCLAIM AND ARE RELEASED FROM ANY AND ALL RESPONSIBILITY FOR THE INFORMATION IN, AND ANY OMISSION OF THE INFORMATION FROM, THIS REPORT;
- (2) SHALL NOT BEAR ANY RESPONSIBILITY FOR ANY LOSS OR DAMAGE OF ANY KIND ARISING FROM OR IN RESPECT OF ANY ABSENCE OF INFORMATION OR ANY ERRORS OR OMISSIONS (WHETHER THE AFORESAID OCCASIONED BY NEGLIGENCE OR OTHERWISE) IN OR AFFECTING THIS REPORT OR THE INFORMATION THEREIN.

THIS REPORT DOES NOT SHOW CAVEATS, BUILDERS' LIENS, OR OTHER INSTRUMENTS, IF ANY, REGISTERED AT LAND TITLES OFFICE IN RESPECT OF ANY LANDS OR INTERESTS THEREIN. PERSONS ARE ADVISED TO ALSO EXAMINE RECORDS AT LAND TITLES OFFICE TO ASCERTAIN WHETHER OTHER INSTRUMENTS THAT MAY CONCERN THE LANDS OR INTERESTS THEREIN HAVE BEEN REGISTERED.

*** END OF REPORT *** .

FOREST GRAZING LICENCE NO 970007
SCHEDULE "C"

The licence area is to be used for horses only and the licence area shall not hold a stud horse.

All clay, sand, gravel, silica sand, topsoil and peat (surface materials) on the said lands and the right to work same are expressly excepted from this disposition.

The Crown in right of Alberta, its employees, agents and contractors or the holders of authorization under the Public Lands Act from the Crown shall have the right to enter upon the said lands to explore for, process and remove surface materials on and from the said lands.

Pursuant to Section 24 (a) of the Public Lands Act (the "Act"), the lessee expressly agrees that the lessor has the right to cancel the lease and/or withdraw such portions of the lands from this lease, upon giving the lessee 60 days written notice of his intention to do so, without compensation to the lessee, as the lessor decides in his absolute discretion as the land are potentially available for major subdivision planning under an area development plan by the Municipal District and Town of Hinton. The lessee acknowledges that such a cancellation or withdrawal is not a cancellation or withdrawal under Section 79 of the Act.

The licence area is taxable and payment of the taxes is the responsibility of the licensee.

No range improvement is to be undertaken on the licence area unless prior written approval has been obtained from the Department.

The licensee must retain ownership or control of sufficient land to support his/her livestock during the period when grazing is not permitted in the licence area.

The Minister shall not be responsible for any claims or demands of any nature whatsoever arising from injury or loss of livestock placed on the disposition area (including losses which may be attributed to predators).

Livestock on the licence lands must carry the brand of the licensee(s).

The disposition area is to be utilized between June 1 and October 31 of each year only.

The licensee must contact the local Land and Forest Service office to establish and obtain approval for the appropriate fenceline clearing width.

The licensee must obtain prior written authorization from the forest officer before undertaking any clearing for range improvement.

All merchantable timber must be harvested while the authorized clearing is carried out. The right to cut and remove this timber will depend on the total volume involved, and on local procedures and conditions for securing timber permits.

The holders of any timber permits or licenses for lands under this licence are to be allowed access for the purpose of removing timber.

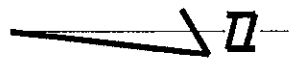
The Department encourages multiple use of public land and contact between other users (e.g., recreational users) and grazing disposition holders. As a forest grazing licence does not grant the holder exclusive use of the area, this goal of multiple use and access can be achieved. Availability of use/access by others is a consideration at the time of disposition renewal.

The licensee agrees that the fences will be constructed with the bottom wire at a minimum height of 36 centimetres and the top wire at a maximum height of 126 centimetres. Proper gates shall be provided at all existing crossings of roadways and trails which are or may be used by the public.

RGE. 24 W. 5 MER.

4

5



RIVER

ATHABASCA

57.2 ac

28.3 ac

TWP 52

TWP 51

2289 BS
0.01 ac

68 ac

lsd 13

lsd 12

lsd 14

lsd 11

lsd 15

lsd 10

lsd 16

lsd 9

32

33

FOREST GRAZING LICENCE AREA = 153.49 ACRES

FILE : FGL 970007

PLAN NUMBER :

DISTANCES ARE IN METRES
AND DECIMALS THEREOF



ALBERTA ENVIRONMENTAL PROTECTION
Land and Forest Services - Land Administration Division
Technical Services Branch

Remarks

LOCATION OF RIVER AS SHOWN ON
1 : 20000 BASEMAPS.

Graphic File : FGL 970007

Date : 1997-07-17

Drawn By : R. EDMONDS

Scaler

Appendix B

Tab 33.

Public Lands and Forests Division

Petroleum Plaza - South Tower
5th Floor, 9915 - 108 Street
Edmonton, Alberta T5K 2G8
Telephone (780) 427-3570
Fax (780) 427-1029

File No: FGL 970007

March 10, 2004

Ms. Penny Dunn
P.O. Box 6397
Hinton, Alberta
T7V 1X7

Dear Ms. Dunn:

RE: Forest Grazing Licence No. FGL 970007

Enclosed is your copy of the above Forest Grazing Licence which replaces the licence that expired on **August 31, 2002**.

Please ensure that the licence area is adequately fenced and utilized. You are reminded that you have obligations under the *Public Lands Act* and the Regulations, which are amended from time to time. To obtain a copy of the *Act* or Regulations, please contact the Queen's Printer at (780) 427-4952.

The department encourages multiple use of public land and contact between other users (e.g., recreational users) and grazing disposition holders. As a Forest Grazing Licence does not grant the holder exclusive use of the area, this goal of multiple use and access can be achieved. Availability of use/access by others is a consideration at the time of disposition renewal.

Please send payment of \$10.00 plus \$0.70 GST within the next 30 days to cover the application fee for issuance of this licence. Make cheque or money order payable to **Minister of Finance, Province of Alberta**. If we do not receive payment within that time, we will assume you are not interested in retaining the grazing rights on this land and will proceed with cancellation of the licence.

The licence covers an area of **153.49** acres and is rated at **17** animal unit months (AUM's) of use annually. The grazing season for this licence is from **June 1** to **October 31**.

.../2



Lands within this disposition are used by registered trapline licence holder(s):

Edward Poelzer, 9240 - 98 Avenue, Grande Prairie, Alberta, T8V 3X6

It is recommended that you contact the trapper(s) or your local Alberta Fish and Wildlife Office prior to undertaking any fenceline clearing to avoid possible damage to any cabins, trap sets etc. located on the land.

The department trusts that you will cooperate with the trapper(s).

This licence is subject to the conditions outlined on the attached Schedule "C".

If you have any questions or concerns, please contact me at (780) 415-2201.

Sincerely,



Annette Vawter
Disposition Services Section

Enclosures

cc: Public Lands and Forests Division, Hinton

cc: Yellowhead County

FOREST GRAZING LICENCE

LICENCE NUMBER: FGL 970007

EFFECTIVE DATE: September 1, 2002

EXPIRY DATE: August 31, 2012

LANDS:

See Attached Appendix A

CONDITIONS:

See Attached Schedule C

Penny Dunn of the Town of Hinton

in the Province of Alberta

is hereby authorized to graze livestock, that she owns, on the lands described above,
and must abide by the Dispositions and Fees Regulation in that respect.


For the Minister of Sustainable Resource Development

APPENDIX A
LEGAL DESCRIPTION
FOR
FGL 970007

LANDS (MERIDIAN-RANGE-TOWNSHIP-SECTION-1/4 SECTION OR LEGAL SUBDIVISION
-QUADRANT-QUATER QUADRANT)

	-HECTARES--	---ACRES--	-----DETAILS-----
5-24-051-32-13	0.081	0.20	ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE RIGHT BANK OF THE ATHABASCA RIVER.
32-14	11.250	27.80	ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE RIGHT BANK OF THE ATHABASCA RIVER.
32-15	16.187	40.00	
5-24-052-04-SW	23.148	57.20	ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK OF THE ATHABASCA RIVER.
05-SE	11.453	28.30	ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK OF THE ATHABASCA RIVER.

AREA SUMMARY

THE TOTAL LANDS HEREIN DESCRIBED CONTAIN 62.115 HA (153.49 ACRES)
MORE OR LESS

SUBJECT TO:

THE AUTHORIZATIONS AND DISPOSITIONS LISTED ON THE ATTACHED "SCHEDULE B", IF ANY, HAVE BEEN ISSUED ON THE QUARTER SECTIONS OF LAND ON WHICH YOUR DISPOSITION HAS BEEN ISSUED AND MAY BE PRIOR AND SUBSISTING AUTHORIZATIONS AND DISPOSITIONS TO YOUR DISPOSITION AND MAY RELATE TO AND AFFECT YOUR DISPOSITION AND THE LANDS ON WHICH YOUR DISPOSITION HAS BEEN ISSUED.

SUPPLEMENTARY INFORMATION

(LTO) - LAND TITLES OFFICE
(AE) - ALBERTA ENVIRONMENT/LAND ADMINISTRATION DIVISION
(ATS) - ALBERTA TOWNSHIP SURVEY
(HA) - HECTARES
1 HECTARE = 2.471054 ACRES

2004/03/05
10:57:47
SUBMITTED BY LSLEI14

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

LAND STANDING REPORT

LSRC1130

REPORT DATE: 2004-03-05

TIME: 10:57:30

REQUESTED BY: LSLE114

PAGE 1

SELECTION CRITERIA

REQUESTED LAND LIST: EXCLUDE
TITLE INFORMATION : EXCLUDE
REQUEST LAND STATUS: EXCLUDE

SELECT GEO-ADMINISTRATIVE AREA: NONE

SELECT ACTIVITIES:

INCL/EXCL	ACTIVITIES	MAX STATUS	ALL/NONE/SOME	IF SOME, SPECIFY TYPE
I	SURFACE DISP	6	ALL	
E	RESERVATIONS	7	NONE	
E	ENCUMBRANCES	7	NDNE	
E	LAND POSTINGS	7	NONE	
E	INTERIM RECORDS	7	NONE	
E	SUBDIVISIONS	5	NONE	

SCHEDULE "B"

REQUESTED ACTIVITY

REQUESTED ACTIVITY: FGL- 970007

REQUESTED LAND

REQUESTED LAND	OWNERSHIP STATUS	TITLE STATUS	ADMINISTERED BY	SURVEY STATUS	AREA IN HECTARES		AREA IN ACRES	
					LAND	TITLE	LAND	TITLE
REQUESTED ATSLAND DETAILS SUPPRESSED								
TOTAL	MIXED	MIXED		SURVEYED	0.004		0.01	PARTLY WATER

ACTIVITIES

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	TOTAL AREA	
					ACRES	HECTARES
FGL- 970007	ACTIVE/DISPOSED	ON 1997-SEP-01	2002-AUG-31	DUNN, PENNY I	153.49	62.115
	5-24-051-32-13	0.081	0.20	ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE RIGHT BANK OF THE ATHABASCA RIVER.		(MORE)
	5-24-051-32-14	11.250	27.80	ALL THAT PORTION WHICH LIES TO THE SOUTH AND EAST OF THE RIGHT BANK OF THE ATHABASCA RIVER.		(MORE)
	5-24-051-32-15	16.187	40.00			
	5-24-052-04-SW	23.148	57.20	ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK OF THE ATHABASCA RIVER.		(MORE)
	5-24-052-05-SE	11.453	28.30	ALL THAT PORTION WHICH LIES TO THE SOUTH OF THE RIGHT BANK OF THE ATHABASCA RIVER.		(MORE)
FMA-8800025	ACTIVE/DISPOSED	ON 1988-JUN-15	2008-JUN-14	WELDWOOD OF CANADA LIMITED	2,460,628.71	995,781.034

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS
 REPORT DATE: 2004-03-05 TIME: 10:57:30

LAND STANDING REPORT

LSRC1130
 REQUESTED BY: LSLE114 PAGE 2

ACTIVITIES

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	TOTAL AREA	
					ACRES	HECTARES
FMA-8800025	(CONTINUED) 5-24-052-04-SW 5-24-052-05-SE			S/ATHABASCA R S/ATHABASCA R		
HTG- 950001	ACTIVE/DISPOSED ON 5-24-051-32-NW 5-24-052-04-SW 5-24-052-05-SE	1995-JAN-01	1995-DEC-31	HINTON HORSE GRAZING ASSOCIATION PT. PT. PT.	1,720.00	696.059
LOC- 4797	ACTIVE/DISPOSED ON 5-24-052-04-SW	1974-MAY-02	9999-999-99	WELWOOD OF CANADA LIMITED	30.00	12.141
LOC- 750673	ACTIVE/DISPOSED ON 5-24-052-04-SW	1976-MAR-25	9999-999-99	TELUS COMMUNICATIONS INC.	6.06	2.452
MLP- 030018	ACTIVE/DISPOSED ON 5-24-051-32-NE	2004-FEB-02 2.040	2004-FEB-01 5.04	SEABROOK, PAUL PT	5.04	2.040
PLA- 880916	ACTIVE/DISPOSED ON 5-24-052-04-SW	1958-AUG-14 0.534	9999-999-99 1.32	TERASEN PIPELINES (TRANS MOUNTAIN)	27.77	11.238
PLA- 880926	ACTIVE/DISPOSED ON 5-24-051-32-NE 5-24-052-04-SW	1952-SEP-24 1.101 0.465	9999-999-99 2.72 1.15	TERASEN PIPELINES (TRANS MOUNTAIN)	286.64	115.999
ROE- 2836	ACTIVE/DISPOSED ON 5-24-052-04-SW	1956-JAN-16 0.223	9999-999-99 0.55	ATCO PIPELINES	3.36	1.360
RRO- 4490E0	ACTIVE/DISPOSED ON 5-24-051-32-NE	1932-APR-01 2.594	9999-999-99 6.41	ALBERTA TRANSPORTATION	12.84	5.196
TPA- 2192	ACTIVE/DISPOSED ON 5-24-051-32-14 5-24-051-32-NE 5-24-052-04-03 5-24-052-04-04 5-24-052-05-01 5-24-052-05-02	1987-AUG-26	2004-JUN-30	POELZER, EDWARD E/ATHABASCA R S/ATHABASCA R S/ATHABASCA R S/ATHABASCA R S/ATHABASCA R	0.00	0.000
TPA- 2241	ACTIVE/DISPOSED ON 5-24-052-04-05 5-24-052-04-06	1987-AUG-17	1996-AUG-31	HUNT, LESTER CHAUNCEY N/ATHABASCA R N/ATHABASCA R	0.00	0.000

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

LAND STANDING REPORT

LSRC1130

REPORT DATE: 2004-03-05

TIME: 10:57:30

REQUESTED BY: LSLE114

PAGE 3

----- ACTIVITIES -----

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	TOTAL AREA	
					ACRES	HECTARES
TPA 2473	ACTIVE/DISPOSED	ON 1987-AUG-04	2004-JUN-30	HUNT, FRANK E	0.00	0.000
	5-24-051-32-13			W/ATHABASCA R		
	5-24-052-05-02			N/ATHABASCA R		
	5-24-052-05-07			N/ATHABASCA R		
	5-24-052-05-08			N/ATHABASCA R		

*** NOTE: THE FOLLOWING DISCLAIMER ***

LAND STATUS AUTOMATED SYSTEM

ENR-LSAS

REPORT DATE: 2004-03-05

LAND STANDING REPORT

TIME: 10:57:30

REQUESTED BY: LSLEY14

LSRC1130

PAGE 4

----- D I S C L A I M E R -----

THIS STANDING REPORT IS PROVIDED SUBJECT TO THE CONDITION THAT HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AND HER EMPLOYEES:

(1) HEREBY DISCLAIM AND ARE RELEASED FROM ANY AND ALL RESPONSIBILITY FOR THE INFORMATION IN, AND ANY OMISSION OF THE INFORMATION FROM, THIS REPORT;

(2) SHALL NOT BEAR ANY RESPONSIBILITY FOR ANY LOSS OR DAMAGE OF ANY KIND ARISING FROM OR IN RESPECT OF ANY ABSENCE OF INFORMATION OR ANY ERRORS OR OMISSIONS (WHETHER THE AFORESAID OCCASIONED BY NEGLIGENCE OR OTHERWISE) IN OR AFFECTING THIS REPORT OR THE INFORMATION THEREIN.

THIS REPORT DOES NOT SHOW CAVEATS, BUILDERS' LIENS, OR OTHER INSTRUMENTS, IF ANY, REGISTERED AT LAND TITLES OFFICE IN RESPECT OF ANY LANDS OR INTERESTS THEREIN. PERSONS ARE ADVISED TO ALSO EXAMINE RECORDS AT LAND TITLES OFFICE TO ASCERTAIN WHETHER OTHER INSTRUMENTS THAT MAY CONCERN THE LANDS OR INTERESTS THEREIN HAVE BEEN REGISTERED.

*** END OF REPORT ***

SCHEDULE "C"

Forest Grazing Licence No. FGL 970007

Date: September 1, 2002

1. The licence area is taxable and payment of the taxes is the responsibility of the licensee.
2. No range improvements, including perimeter fenceline clearing, are to be undertaken on the licence area unless prior written approval has been obtained from the appropriate Land Manager.
3. The Minister shall not be responsible for any claims or demands of any nature whatsoever arising from injury to or loss of livestock placed on the licence area (including losses which may attributed to predators).
4. The disposition area is to be utilized between June 1 and October 31 only of each year.
5. All clay, silt, sand, gravel, topsoil and peat (surface materials) on the said land are expressly excepted from this disposition.
6. The holders of any exploration approval under the *Public Lands Act* and *Mines and Minerals Act* are to be allowed access for the purpose of conducting and exploration program in accordance with the approval granted by Sustainable Resource Development.
7. Pursuant to Section 25 (a) of the *Public Lands Act (Act)*, the lessee expressly agrees that the lessor has the right to cancel the lease and/or withdraw such portions of the lands from this lease, upon giving the lessee one year written notice of his intention to do so, without compensation to the lessee, for the early termination of the lease or for any improvements added by the lessee, as the lessor decides in his absolute discretion as the lands are potentially available for major subdivision planning under an area development plan by the Yellowhead County and the Town of Hinton. The lessee acknowledges that such a cancellation or withdrawal is not a cancellation or withdrawal under Section 82 of the *Act*.
8. Livestock on the licensee lands must carry the brand of the licensee(s).
9. All merchantable timber must be harvested while the authorized clearing is carried out. The right to cut and remove this timber will depend on the total volume involved, and on local procedures and conditions for securing timber permits.

10. The holders of any timber permits or licences for lands under this licence are to be allowed access for the purpose of removing timber.
11. The department encourages multiple use of public land and contact between other users (e.g., recreational users) and grazing disposition holders. As a Forest Grazing Licence does not grant the holder exclusive use of the area, this goal of multiple use and access can be achieved. Availability of use/access by others is a consideration at the time of disposition renewal.
12. The licensee agrees that the fences will be constructed with the bottom wire at a minimum height of 36 centimetres and the top wire at a maximum height of 126 centimetres. Proper gates shall be provided at all existing crossings of roadways and trails which are or may be used by the public.
13. The licence area is to be used for horses only and the licence area shall not hold a stud horse.

All licences, authorizations and approvals issued by Alberta Sustainable Resource Development under the *Public Lands Act* and *Forests Act*, and Alberta Environment under the *Environmental Protection and Enhancement Act* and *Water Act* should not be taken to mean the proponent (applicant) has complied with federal legislation. Proponents should contact *Fisheries and Oceans Canada* in one of the following locations nearest to them (Peace River, Edmonton, Calgary, Lethbridge) in relation to the application of federal laws, including but not limited to the *Navigable Water Protection Act* and the *Fisheries Act (Canada)*.

Fisheries and Oceans Canada Offices:

7646 8th Street N E Calgary, AB T2E 8X4 General Inquiries: (403) 292-5160 Fax: (403) 292-5173	Whitemud Business Park 4253-97th Street Edmonton, AB T6B 5Y7 General Inquiries: (780) 495-4220 Fax: (780) 495-8606	J.D. Higenbotham Building Suite 204, 704 - 4th Ave. Lethbridge, AB T1 J 0N8 General Inquiries: (403) 394-2920 Fax: (403) 394-2917	9001-94 Street Peace River, AB T8S 1 G9 General Inquiries: (780) 618-3220 Fax: (780) 618-3235
--	--	---	--

RGE. 24 W. 4 MER.

5

4

TWP 52

TWP 51

ATHABASCA

RIVER

57.2 ac

28.3 ac

2289 BS
0.01 ac

68 ac

lsd 13

lsd 14

lsd 15

lsd 16

lsd 12

lsd 11

lsd 10

lsd 9

Plan #: 50965K

Version: 1997.09.01

File: FGL 970007

TECHNICAL SERVICES

SKT RP

32

33

FOREST GRAZING LICENCE AREA = 153.49 Acres (62.12 HA) ^{more or less}
ACRES SHOWN IN RED HAVE BEEN DELETED FROM LICENCE AREA

FGL 970007

Scale: 1: Date: 2004/03/05
 Alphabet: [AS] - Sheets: //
 Drawn By: R. EDMONDS
 Checked by:
 Graphic File: 970007.dgn
 Remarks:
 Distances are in metres and decimals thereof.
 Surveys and Technical Services Section

© Government of Alberta 2003 All rights reserved.
 The Minister and the Crown provide the information, where necessary, represented
 as to any errors including those listed in Alberta's Data Accuracy is correct
 accurate to the best of our ability. Change, omission and deletion of content will
 create a liability for the user only.
 Base Data provided by: Special Data Warehouse Ltd.



Appendix C

Tab 43.

Application for Surface Materials Licence

Please Print Or Type				Department File Number: SMC			
				FNC Number: FNC201301349			
Surface Materials Required:		<input type="checkbox"/> Manufacturing Clay	<input type="checkbox"/> Marl	<input type="checkbox"/> Sand	<input type="checkbox"/> Topsoil		
		<input type="checkbox"/> Non-Manufacturing Clay	<input type="checkbox"/> Peat	<input checked="" type="checkbox"/> Sand & Gravel			
Test Data enclosed:		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Volume of Cubic Yards: 65000		
Municipalities only:		<input type="checkbox"/> Yes	<input type="checkbox"/> No	Is this a public work project?			
Applicant's name: 537042 AB. Ltd.				Client ID: 8089391001			
Address: Box 5024				Tel: 780 865-6209			
City/Province: Hinton, AB			Postal code: T7V1X3		Fax:		
Applicant's authorized representative name: Terry Dodge				File:			
Address: Box 6202				Tel: 780 817-8185			
City/Province: Hinton			Postal code: AB		Fax:		
Are you a Canadian Citizen?		Have you attained the age of 18 years?		Are you an employee of the Alberta Government or member of the Legislative Assembly of the Province of Alberta?			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes Dept. <input checked="" type="checkbox"/> No			
Is this a public work project?				Are operations located entirely within the boundaries of an approved oil sands development or EIA area for which you are the holder?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Surface Materials Required:		<input type="checkbox"/> Manufacturing Clay	<input type="checkbox"/> Marl	<input type="checkbox"/> Sand	<input type="checkbox"/> Topsoil		
		<input type="checkbox"/> Non-Manufacturing Clay	<input type="checkbox"/> Peat	<input checked="" type="checkbox"/> Sand & Gravel			
Size: 4.13		acres (5 acres maximum)		Volume of Cubic Yards: 100000			
Required attachment:		<input checked="" type="checkbox"/> Statutory Declaration		<input checked="" type="checkbox"/> Sketch			
Go to esrd.alberta.ca and search for Disposition Plan Requirements							
Land Being Applied For (attach schedule if insufficient space)							
SEC	TWP	RGE	MER	SEC	TWP	RGE	MER
SW 4	52	24	5				
Monies enclosed:							
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Security Deposit \$1,000.00 per acre		Signature _____ Terry Dodge Print Name May 19/2013 \$4275.00 Date			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Surface Materials Licence application fee (\$20.00)					
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		GST (\$1.00) or GST Registrant No. 13394 9362					
RT0001							
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Mapping fee (\$125.00) attached					

Your personal information is collected in accordance with Section 33(c) of the Freedom of Information and Protection of Privacy (FOIP) Act and will be used to administer the (your) public land disposition. Sustainable Resource Development (SRD) collects, uses and discloses personal information in accordance with Part 2 of the FOIP Act. Should you require further information about the collection, use and disclosure of your personal information, please contact Land Dispositions Branch, 5th Floor, South Petroleum Plaza, 9915 - 108 Street, Edmonton, Alberta, T5K 2G8 or call (780) 427-3570.

Surface Materials License (SMC) Aggregate Operations and Field Report

Applicant or Company Name	537042 AB Ltd.
Surface Material Licence (SMC) # <i>(Departmental use only)</i>	
Location (Sec, Twp., Rge., Meridian)	SW 4 Sec 52 Rge 24 Twp 5 M
Size of licence area (acres/hectares) (Max. 5 ac)	4.13 acres
Type of surface material being applied for: How much will be removed during operation?	Gravel 769000 m ³ (100000 yd ³)
Construction is proposed under the following ground conditions (check the box that applies): <input checked="" type="checkbox"/> Frozen <input checked="" type="checkbox"/> Non-Frozen <input type="checkbox"/> Other (If "Other", explain):	Proposed construction date: July 1/2013

Contact Identification

Agency	Name	Phone No.	Location/Town	Date
Lands	Angela Nagel	780 865-6966	Foothills/Hinton	May 17/2013
Environment				
Parks				
Fish and Wildlife				
Culture				
Alberta One-Call				
Alberta Transportation				

Program Evaluation

The following maps, resources or actions were used to evaluate site conditions, stream crossing locations, existing lines, wildlife concerns, and timber density for environmental mitigation and operational effectiveness. Failure to conduct adequate reconnaissance may result in rejection of the application.

Mandatory On-site Evaluation

<input checked="" type="checkbox"/> Ground reconnaissance	Date of ground reconnaissance: <u>May 13, 2013</u>
<input type="checkbox"/> Mandatory on-site evaluation waived <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, reasons:

ESRD – SMC Aggregate Operations and Field Report

Tools used for Evaluation

- Aerial photography
- Forest vegetation map(s) (e.g., Phase III, AVI, Forest Cover)
- Fisheries referral map(s)
- Wildlife referral maps(s)
- Resource Base map(s)

LSAS (Land Status Automated System) Check: Yes No

Date LSAS search was completed 19/05/2013 (dd/mm/yyyy)

A complete check **must** be made on the proposed licence area to determine Industrial holdings and/or dispositions, agricultural dispositions, Indian Reserves, Metis Settlements, traplines, FMA's, etc., along with other areas of special concern. In addition, use LSAS to identify any reservations placed on lands: Protective Notations (PNT), Disposition Reservations (DRS), etc. Where reservations exist, list and explain how they will or why they will not affect the program, and any actions that are required.

Identify Reservations needing mitigation and the actions required (e.g., PNT, CNT)

Type/Number	Action required/Comments
CNT 090044	Refer to Firesmart Guidebook.
PNT 776393	Grazing Allocation

Identify Areas of Special Concern

Indicate if any part of the proposed licence falls in the following area(s). If yes, it is recommended that you contact the appropriate agency for additional information (see previous Contact Identification list)

<p>Caribou Area: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF Yes, provide Caribou Protection Plan Number:</p>	
<p>Critical Wildlife Areas</p> <p>Ungulate Winter Range: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, timing restrictions apply. Check applicable box below:</p> <p><input type="checkbox"/> Boreal – Jan.15 to April 30 (where applicable) <input checked="" type="checkbox"/> Southern- Jan. 1 to April 30</p> <p>Southwest Corner</p> <p><input type="checkbox"/> Mountain South of Kananaskis Country Dec.1 to April 30 <input type="checkbox"/> Foothills south of Kananaskis Country Dec. 15 to April 30</p>	<p>Other Critical Wildlife Areas: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Identify: _____</p> <p>Do timing restrictions apply: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF Yes, specify dates: <u>Jan 1 to April 30</u></p> <p>List any other requirements/conditions to be applied:</p>
<p>First Nations Consultations: (Contact Field Office to determine if consultation is required)</p> <p><input type="checkbox"/> Required <input checked="" type="checkbox"/> Not required If required, with whom <u>FNC#201304067-001</u></p>	

ESRD – SMC Aggregate Operations and Field Report

Buffer Zones

Are there any buffers required for this proposed licence area: Yes No

If Yes, illustrate on the operation area map the location and width of each buffer.

Access

How will the proposed licence be accessed? (illustrate on the operation area map)
Via adjacent LOC 4797 and LOC 750673.

Access Management: If applicable, describe how operations will be coordinated with other resource industries (e.g., Forest Management Agreement holder, oil and gas industry) to reduce footprint.

N/A

Testing

Testing should be carried out to determine the general extent of the deposit. The objectives of testing are to:

1. Determine the specific quality and quantity of the resource within the proposed area.
2. Determine the licence boundary location.

Testing

Was testing done to determine the type and quantity of surface material? Yes No

If yes, please attach test logs and show the test hole locations on the operations area map.

If No, how was the deposit verified? _____

Average depth of deposit 5 m

Total volume of deposit estimated in the operating area 80000 m³

Maximum Depth of excavation 5 m

Site-Specific Environmental Data

Site-specific environmental data (baseline data) must be collected. This information allows the operator and the Land Manager to understand the potential impacts of these operations, and to develop mitigation strategies.

Environmental baseline data is to be identified and/or mapped on the proposed lease area, including all adjacent interests (e.g., highway, pipeline right of way, water well), and adjacent environmental considerations (e.g., water body or topography anomaly). The following baseline information is required to determine probable environmental impacts. Assessing this information will identify many impacts associated with the activity. This will allow the operator to determine what measures and methods will be used to mitigate the probable environmental impacts.

ESRD – SMC Aggregate Operations and Field Report

Describe and delineate the following:

<input checked="" type="checkbox"/> Vegetation	<p>Dominant Vegetation cover:</p> <p><input type="checkbox"/> Grassland <input type="checkbox"/> Poplar <input type="checkbox"/> Pine <input checked="" type="checkbox"/> Spruce <input type="checkbox"/> Shrubs</p> <p><input checked="" type="checkbox"/> Other (describe):</p> <p>Type (species composition): Regenerating spruce with pine grass.</p> <p>Will the license area fall within an FMA? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, which FMA <u>8800025</u></p>
<input checked="" type="checkbox"/> Presence of Weeds	<p>The presence of noxious/restricted nuisance weeds has been detected on site?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Identify: _____</p>
<input checked="" type="checkbox"/> Soils	<p>Profiles (depth of each horizon). Determine the average depth of topsoil, subsoil and overburden. Initial restrictions should be investigated, such as, water permeability, vertical root elongation, and soil compaction. What is the dominant soil classification for the area? What is the dominant soil texture for the topsoil, subsoil, and overburden layers.</p> <p>Note: Soil data is required to assist in evaluating the reclamation potential of the area All surface soils must be salvaged and replaced on the site. Pre-planning ensures the integrity of the salvaged topsoil for future reclamation.</p> <p>Dominant Soil Profile and texture:</p> <p>A horizon Texture <u>SiL</u> Depth <u>.02</u> m (Topsoil)</p> <p>B horizon Texture <u>SL</u> Depth <u>.60</u> m (Subsoil)</p> <p>Overburden Depth <u>.60-.75</u> m</p>
<input checked="" type="checkbox"/> Wildlife	<p>List types (species) and any critical habitat features (e.g. migration routes) must be described. Critical wildlife zones and timing restraints must be identified.</p> <p><u>Wildlife Referral Zone "C".</u></p>
<input checked="" type="checkbox"/> Topography	<p>Describe topographic features and slope percent of the site using the Canadian Land Inventory Index (CLI) classes.</p> <p>_____</p>

ESRD – SMC Aggregate Operations and Field Report

	<p>Indicate the slope class of the site land based on Canada Land Inventory (CLI) slope classes:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> level 0 - 0.5% (200:1) <input checked="" type="checkbox"/> nearly level 0.5 - 2.5% (50:1) <input checked="" type="checkbox"/> very gentle slopes 3.5 - 5% (20:1) <input type="checkbox"/> gentle slopes 6 - 9% (10:1) <input type="checkbox"/> moderate slopes 10 - 15% (6:1) <input type="checkbox"/> strong slopes 16 - 30% (3:1) <input type="checkbox"/> very strong slopes 31 - 45% (2:1) <p>Describe areas where the operations may affect slope stability. Provide information on the prevailing type of topography. Surface expression is the form (grouping of slopes) and patterns of the land. Identify the surface expression(s) of the site and access. Is it inclined, undulating, rolling, ridged, hummocky, steep, terraced, an apron, fan, blanket, veneer, etc.?</p> <p><u>Flat, terraced topography.</u></p>
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Erosion <input type="checkbox"/> Man Made <input type="checkbox"/> Naturally Occurring 	<p>Identify any evidence of erosion. <u>No erosion is present.</u></p>

ESRD – SMC Aggregate Operations and Field Report

<p><input checked="" type="checkbox"/> Hydrogeology</p>	<p>Provide summary of the location and depth of any groundwater encountered.</p> <p>Water was encountered in <u>0</u> of <u>13</u> holes?</p> <p>Has the water table depth been established? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No @ _____ m (average depth) (refer to cross-sections)</p> <p>Will the operation extend below the water table? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Will Pit de-watering likely occur? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Is surface or groundwater being used or diverted to accommodate pit operations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, you must apply for an approval or waiver under the Water Act. Note: The following activities may require an approval under the Water Act:</p> <ul style="list-style-type: none"> • Water quality management • Activity within the high water (i.e., 1:100 year flood) • Diversion of a watercourse • Washing operations • Dewatering • Wet pit excavation, or • A waterbody will be created on reclamation <p>Indicate if the site contains or is adjacent to a:</p> <ul style="list-style-type: none"> • ephemeral draw • Intermittent waterbody • small permanent waterbody • a large permanent waterbody
<p><input checked="" type="checkbox"/> Historical Resources</p> <p>Historical Resource Value</p> <p><input checked="" type="checkbox"/> Not Listed</p> <p><input type="checkbox"/> 1</p> <p><input type="checkbox"/> 2</p> <p><input type="checkbox"/> 3</p> <p><input type="checkbox"/> 4</p> <p><input type="checkbox"/> 5</p>	<p>Review the potential for historical, paleontological, or archaeological resources. Check the current Listing of Historical Sites and Areas Document to determine if the proposed activity occurs on lands ranked with a Historical Resource Value. Check the appropriate box to the left (culture.alberta.ca).</p> <p>Note: If HRV is 1-5 an "Application for Historical Resources Act Clearance" must be submitted to the Cultural Facilities and Historical Resource Division (CFHRD). Activities on land that have a HRV of 4 or 5 may require a Historical Resource Impact Assessment (HRIA).</p>
<p><input checked="" type="checkbox"/> Species at Risk (plant/animals)</p> <p>Is it likely that a species at risk will be found in the area of the proposed development?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Species at Risk are species:</p> <ul style="list-style-type: none"> • Listed as Endangered or Threatened on the <i>Alberta Wildlife Act</i> • Designated as Special Concern in Alberta • Listed as Endangered, Threatened or Special concern in Alberta by COSEWIC; and/or the <i>Species at Risk Act</i> <p>If Yes specify for each species, the status and protective strategy i.e. Species at Risk (Plants/Animals) _____</p>

ESRD – SMC Aggregate Operations and Field Report

	<input type="checkbox"/> Endangered <input type="checkbox"/> Threatened <input type="checkbox"/> Special Concern <input type="checkbox"/> At Risk <input type="checkbox"/> May be at risk <input type="checkbox"/> Sensitive Has an Alberta Natural Heritage Information Center Database (ANHIC) search been completed? <input type="checkbox"/> Yes <input type="checkbox"/> No Date: _____ Explain any conflicts and proposed mitigations: _____
<input checked="" type="checkbox"/> Existing land Use	List all land uses, including recreational use, adjacent to site and all activities that may be affected. Describe the mitigation techniques that will be used. <u>Timber extraction and grazing. Consent and notification required.</u>
<input checked="" type="checkbox"/> Existing Disturbances	Identify and list all disturbances or man-made alterations on the site. <u>Previously logged site.</u>
<input checked="" type="checkbox"/> Other Interest Holders	Identify and list all on-site and adjacent interests to ensure all prior land uses have been considered in the proposed development (must be illustrated on operations plan). If necessary, consultation is conducted at this stage. All protective measures and agreements for adjacent lands are to be in place and identified. <u>FMA 8800025, FGL 970007.</u>

Resource Extraction Activities

<input checked="" type="checkbox"/> Security Deposit Assessment The operation is <u>1.67</u> ha	Identify all surface area that has been disturbed and will be disturbed by development. This area is used to calculate the security deposit. <u>1.67 ha.</u>
<input checked="" type="checkbox"/> Erosion Prevention Techniques	Describe all measures that will be taken to mitigate potential wind and water erosion during operations. <u>Wind is primary erosion concern. Topsoil stockpiles will be seeded to avoid losses to erosion.</u>
<input checked="" type="checkbox"/> Weed Control	Explain how monitoring and control of weeds will be implemented during the operation and during reclamation. <u>Progressive re-seeding in consultation with Forest Officer.</u>

ESRD – SMC Aggregate Operations and Field Report

<input checked="" type="checkbox"/> Associated Activities	<p>Indicate any activities associated with aggregate processing that will take place on site, such as asphalt plants, crushing, screening, sand and gravel washing. Show the locations of the activities and describe pollution control measures that will be used for such activities. List all approvals needed for these activities.</p> <p><u>Crushing.</u></p>
<input checked="" type="checkbox"/> Operation Area Map	<p>A separate map must be attached showing the license area, extraction area, access, buffers, soil stockpile locations, and any test hole locations. (It is preferable that this information be shown on a sketch identical to the application sketch.)</p>

Reclamation

<input checked="" type="checkbox"/> Proposed End Land Use	<p>The end land use should be compatible with adjacent lands.</p> <p>What is the best end land use for the specified site? <u>Timber management and grazing use.</u></p> <p>What will the site be reclaimed to? <u>Native grasses and forbs.</u></p> <p>Will a waterbody be created after reclamation? <u>No</u></p> <p>If so, what is the size? _____</p>
<input checked="" type="checkbox"/> Reclaimed Topography	<p>Provide the anticipated final reclamation grade: <u>20%</u></p> <p>Describe how the operating area will be reclaimed.</p> <p><u>After recontouring, stored topsoil will be spread on the site and seeding will occur.</u></p>
<input checked="" type="checkbox"/> Topsoil	<p>Average depth of replaced topsoil: <u>.02</u> m</p>
<input checked="" type="checkbox"/> Subsoil	<p>Average depth of replaced subsoil: <u>.60</u> m</p>
<input checked="" type="checkbox"/> Overburden	<p>Average depth of replaced overburden <u>.62</u> m</p>
<input checked="" type="checkbox"/> Revegetation	<p>Describe the revegetation strategy and if necessary state which approved seed mixture, will be used. (Note: the type of seed mixture should be compatible with soil type and surrounding vegetation).</p>

ESRD – SMC Aggregate Operations and Field Report

	<p>What process of weed and erosion control management will be implemented?</p> <p><u>Progressive reseedng.</u></p> <p>Guidelines for the Use of Native Plant Material can be found by searching the SRD website at srd.alberta.ca..</p> <p>Revegetation Strategy was developed In consultation with Departmental Officer.</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
--	---

I certify that the information provided in this application is an accurate description of the site and of the operation and reclamation of the pit. I will conserve and reclaim the site as described in this application, follow the terms and conditions of the approval, and secure a Reclamation Certificate upon completion.

Name: Terry Dodge, RPF

Signature: _____

Application Date: May 19, 2013

Plan #:
 Variant:
 File:

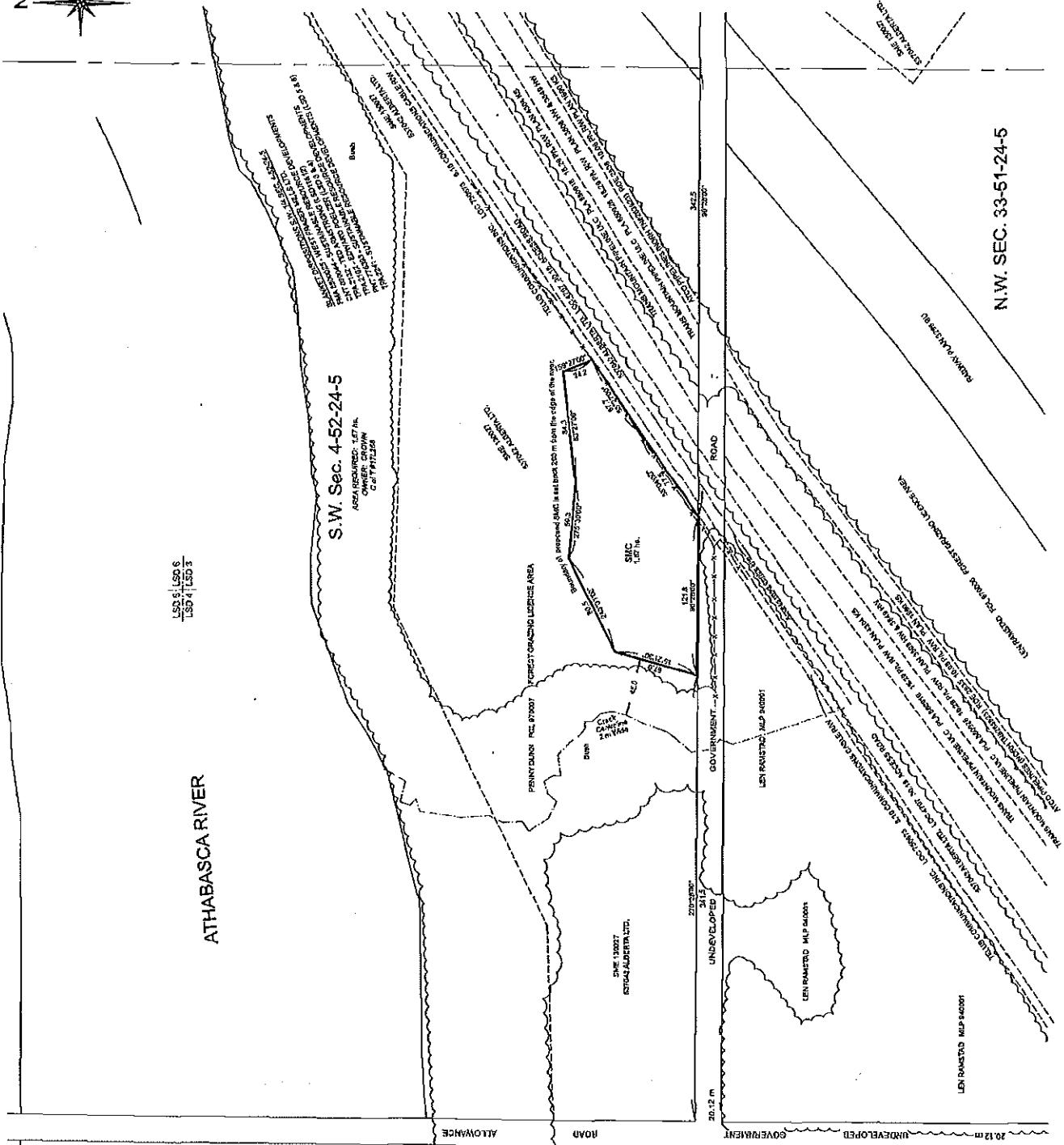
537042 ALBERTA LTD.

SKETCH
 SHOWING

PROPOSED SMC FOR
 SURFACE MATERIALS LICENCE
 WITHIN

S.W. 1/4 SEC.4
 TWP.52, RGE.24, W.5MER.

YELLOWHEAD COUNTY - ALBERTA



- LEGEND:**
1. Area of SMC boundary required shown bounded lines.
 2. Total Area Required For SMC.
 3. Proposed SMC boundary shown with dashed lines.
 4. Dimension shown in metres and feet, the latter used for one dimension shown.
 5. Dotted line showing approximate LITHOLOGY (Colour) and bearings referred to 1971 W. Longitude.
 6. UTM Combined Scale Factor = 0.999843.
 7. The public land boundary shown is established in 2015.
 8. Note, areas and frontages have been confirmed by company 15.10.12.

Abbreviations Used:

Alberta Land Surveyors	..... A.L.S.
Cartographers of Titles	..... C of T
Electric	..... E
Gas	..... G
Highway	..... H
Land Claims	..... L.C.
Land	..... L
North	..... N
North	..... N
Pipeline	..... P
Proposed SMC	..... P.S.M.C.
Right of Way	..... R.O.W.
South	..... S
Survey	..... S
Unsurveyed	..... U.S.
Water	..... W



Print Date: May 17th, 2012
 Fourth Survey District, L.L.
 State of Alberta, L.L.
 Yellowhead County
 Plan # 537042-200
 File # 040002-781

Drawn By: B.C.
 Checked By: B.C.
 Date: 05/17/12
 File # 537042
 Asset File # 040002-781

N.W. SEC. 33-51-24-5

Appendix D

Tab 32.



WOLVERINE
INTEGRATED RESOURCE MANAGEMENT

Box 6202
Hinton, Alberta
T7V 1X5

Cell (780) 817-8185

terry@wolverine-irm.com

September 4, 2013

PO Box 6397
Hinton, AB
T7V 1X7

Attention: Penny Dunn

Dear Penny,

537042 Alberta Ltd; Land withdrawal consent for SMC 130035 within FGL 970007

On behalf of 537042 Alberta Ltd., I would like to request land withdrawal consent for SMC 130035 within Forest Grazing License FGL 970007.

Please see enclosed sketch plan for further details. If you have any questions, or require further information, please call me at (780) 817-8185 or email me at terry@wolverine-irm.com.

Sincerely,

T Dodge

Terry Dodge, R.P.F.
Agent for 537042 Alberta Ltd.

Encl.

Cc File

Consent To Withdrawal

Environment and Sustainable Resource Development
Operations Division
Land Dispositions Branch
5th Floor, 9915 - 108 Street
Petroleum Plaza, South Tower
Edmonton, Alberta
T5K 2G8

I, _____ of _____
in the Province of Alberta, the lessee named in Forest Grazing License
Lease No. FGL 970007, hereby consent to the withdrawal of a portion of
the lands comprising the said lease described as follows:

portion of SW 1/4 of Section 4 Township
52 Range 24 W5M as shown
on enclosed plan.

by the Department of Environment and Sustainable Resource Development for a disposition of
the said portion to 537042 A13 Ltd.
of Hinton, AB
for the purpose of sand and gravel removal as per SMC 130035.

Dated at the Town of Hinton
in the Province of Alberta, this 4th day of September, 2013.

X
Witness

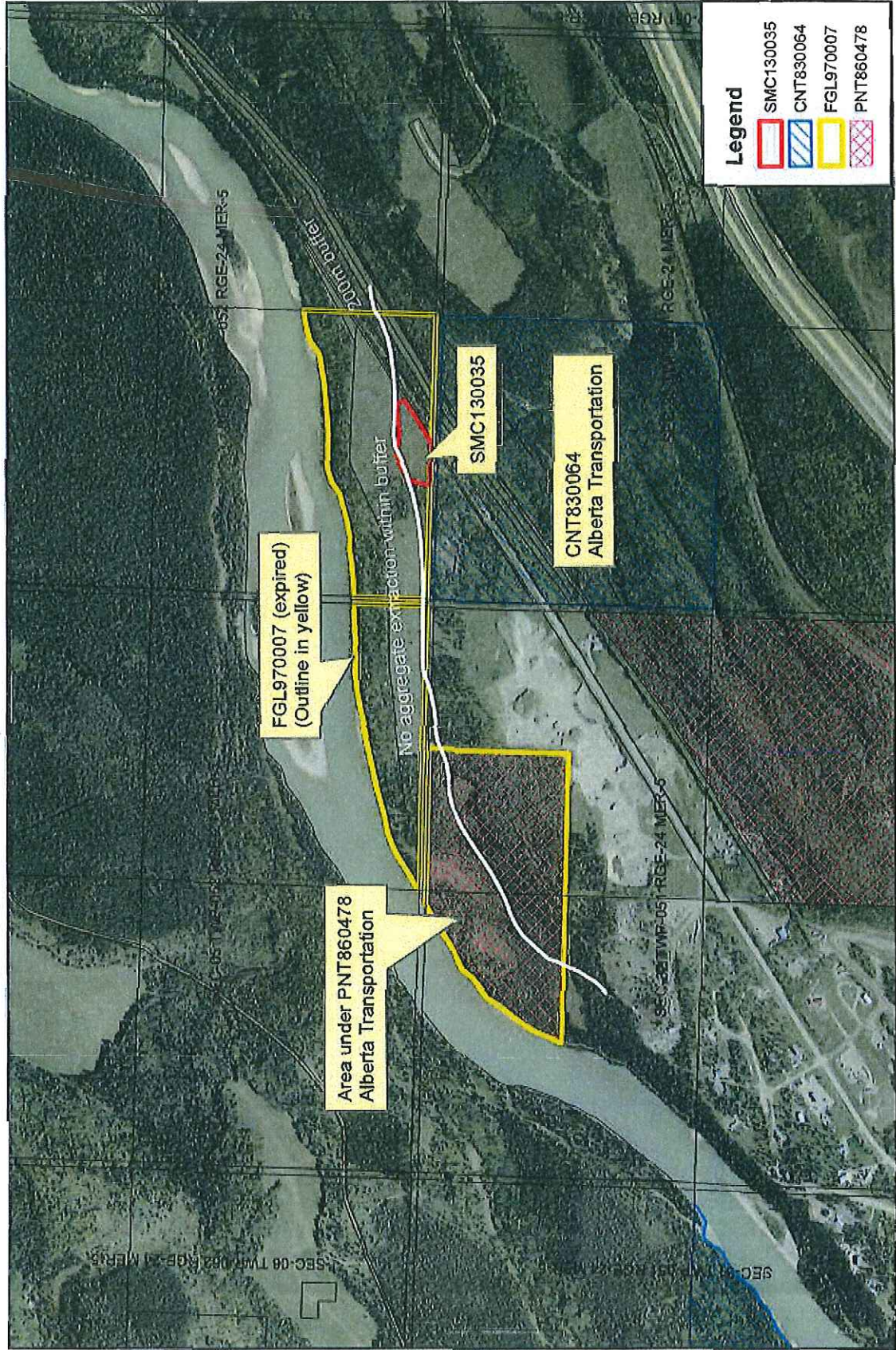
X
Signature

Your personal information is collected in accordance with Section 33(c) of the Freedom of Information and Protection of Privacy (FOIP) Act and will be used to administer the (your) public land disposition. Sustainable Resource Development (SRD) collects, uses and discloses personal information in accordance with Part 2 of the FOIP Act. Should you require further information about the collection, use and disclosure of your personal information, please contact Land Dispositions Branch, 5th Floor, South Petroleum Plaza, 9915 - 108 Street, Edmonton, Alberta, T5K 2G8 or call (780) 427-3670.

Appendix E

Tab 58.

FGL970007



Appendix F

Tab 71.

Dave Hugelschaffer

From: Hawantee Beejmohun
Sent: Tuesday, May 06, 2014 1:39 PM
To: 'terry@wolverine-irm.com'
Cc: Dave Hugelschaffer; Joanne Sweeney; Jane Fletcher; Brenda Huxley
Subject: FW: Send data from MFP-07050714 05/06/2014 11:51
Attachments: DOC050614-05062014115149.pdf

Hi Terry,

I do apologies for the inconvenience. Please find attach copy of the signed approval with a departmental letter. For your information, the complete approval package goes to the client and only the first page of the approval goes to the representative. The copy of the approval package for 5MC 130035 that was mailed out to the client on May 2, 2014, has a signature.

If any questions or concerns please give me a call.

Thank you.

Hawantee Beejmohun
ESRD
Provincial Programs Branch
Dispositions and Approvals Section
Petroleum Plaza, South Tower, 3rd Floor, 9915-108 ST Edmonton, AB T5K 2G8
Tel. (780) 644-4655 Fax. (780) 427-1185
Hawantee.beejmohun@gov.ab.ca

Government of Alberta
Sustainable Resource Development

**Non-Public Pit
Surface Materials Licence**

Lands Division

Disposition Services Section
9915 - 108 Street
Edmonton, Alberta, T6K 2G8
Telephone: (780) 427-3570

SMC NUMBER

SMC 130035

OPERATOR'S NAME: 537042 Alberta Ltd.		
ADDRESS: PO Box 5024, Hinton, Alberta	DIGITAL FANS: T7V 1X3	TEL NO.: 403-768-5775

LAND DESCRIPTION:	LS	QTR.	SEC.	TWP.	RGE.	MER
		SW	04	52	24	5

Pursuant to the *Public Lands Act* and Regulations thereunder the above named operator is hereby authorized to remove only 100,000 cubic yards or _____ cubic meters of PIT RUN Non-Manufacturing Clay from the above lands. (specify material type)

This licence does not entitle the operator to remove stockpiled surface materials unless placed there by the operator. Removal of surface materials in excess of the amount approved by this licence is illegal and is subject to a penalty. If more surface materials are required, please contact the Disposition Services Section at the above address. This authority is granted subject to the operator complying with the attached schedule of conditions. Upon completion of operations or upon expiration of this surface materials licence, whichever date occurs first. This licence does not grant the operator a right of exclusive possession to the land described in the licence nor does it grant to the operator the right to the exclusion of others, to remove and take away from the land, the surface materials within and under the land.

May 2, 2014

May 1, 2015

EFFECTIVE DATE

EXPIRY DATE

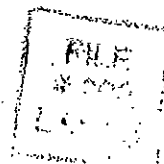
SIGNATURE OF ISSUING OFFICER

FOR DEPARTMENT USE ONLY

Public Land Division Hinton	Forest District	Application Fee	\$20.00
		GST	\$N/A
		Royalty	\$80,000.00
Alberta Transportation District Number	Alberta Transportation Aggregates Engineer	GST	\$N/A
		Timber Damage	\$784.05
		Timber Damage Administration Fee	\$N/A
Alberta Environment	Natural Resources Service	GST	\$N/A
		Security Deposit	\$4130.00
		Surcharge	\$N/A
Terry Dodge Box 6202 Hinton, AB T7V 1X5		GST	\$N/A
		TOTAL CONSIDERATION	\$65039.05 (inc. Mapping Fee)

RECORDING OF ISSUED LICENCE	RECORDING OF CANCELLED LICENCE
(0)	

DATE C.A.R.S.	ADMIN DATA
---------------	------------



File No: SMC 130035

May 6, 2014

537042 Alberta Ltd.
PO Box 5024
Hinton, Alberta
T7V 1X3

Dear Sir/Madam:

RE: Surface Materials Licence No. SMC 130035
SW-04-052-24-W5 (4.13 acres)
Purpose: Sand and Gravel

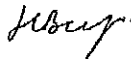
On May 2, 2014, the department has issued an approval for SMC 130035.

However, a review of the approval indicates the material type is in error.

Therefore, to correct this oversight, this letter has been generated to change the material type from Non-Manufacturing Clay to Sand and Gravel.

Please attach this letter to the SMC 130035 approval documents.

Sincerely,



Hawantee Beejmohun
Dispositions and Approvals Section

cc: Land Use, Hinton
cc: Terry Dodge
Box 6202
Hinton, Alberta T7V 1X5

Appendix G

Tab 81.



GRAZING LICENCE

LICENCE NUMBER: FGL 970007
EFFECTIVE DATE: September 1, 2012
TERM: 10 Years
EXPIRY DATE: August 31, 2022

LICENSEE:

Penny I. Dunn, of the Town of Hinton, in the Province of Alberta

Pursuant to the *Public Lands Act* (hereinafter called the "Act") and the Public Lands Administration Regulation (hereinafter called the "Regulation"), the above named licensee is hereby granted a licence to enter and occupy the land more particularly described in the attached Appendix A (hereinafter called the "land") for the purpose of grazing livestock that he/she owns.

THE DEPARTMENT OF Environment and Sustainable Resource Development as represented herein by the "director" duly designated under the *Public Lands Act*, (hereinafter called the "director") AND THE LICENSEE AGREE EACH WITH THE OTHER:

1. This licence shall be in effect for the term described above, unless terminated earlier by the director of the Licensee in accordance with the Act or Regulation.
2. The licensee shall at all times during the subsistence of this licence perform, observe and comply with all provisions, obligations and requirements which the Licensee is required to perform, observe and comply with this licence, and by the Act or by any acts hereafter enacted in substitution therefore, and by the Regulation made under the authority of any such act, and the terms, conditions and provisions of all such acts and regulations shall be deemed to form part of this licence, which shall be read and construed as if the same had been set out and incorporated herein.
3. The licensee shall pay the first year's rental on the execution of this licence and each year's rental thereafter on or before the anniversary date of this licence, calculated at the rates specified by the Regulation in force at the time payment becomes due.
4. The licensee shall pay and discharge all rates, assessments and taxes which are a proper charge on the lands.
5. The licensee must utilize the land in accordance with the established grazing capacity of the disposition and with proper range management and conservation practices.
6. The holders of any exploration approval under the *Public Lands Act* and *Mines and Minerals Act* are to be allowed access for the purpose of conducting an exploration program in accordance with the approval granted by the department.
7. All clay, silt, sand, gravel, topsoil and peat (surface materials) on the said land are expressly excepted from this disposition.
8. The Crown in right of Alberta, its employees, agents and contractors shall have the right to enter upon the said lands with departmental approval, without compensation to the licensee, to explore for surface materials on the said lands.
9. The licensee shall not assign, transfer or sublet the lands contained in the disposition, or any part thereof, without the consent of the director in writing.
10. The licensee must have prior written approval to conduct any activity not specifically authorized in the terms of the disposition including but not limited to, erecting any structures or carry out any improvements or modifications to the land related to this disposition.
11. When requested to do so by the director in writing, the licensee will provide, in a form satisfactory to the director:
 - accurate reports of yearly livestock utilization on the land under disposition (i.e. annual stock return forms);
 - proof by declaration or otherwise that the licensee has complied with the provisions of the disposition and/or
 - a plan and statement showing the purpose for which the land is being used and the manner in which that use or development is to be achieved.
12. The licensee must complete perimeter fencing suitable to confine livestock within two years of the effective date of disposition issuance unless otherwise authorized in writing by the Departmental Officer.
13. The licensee must complete perimeter fencing prior to livestock entry on the disposition.
14. The licensee shall maintain fences in a condition suitable to confine livestock to the disposition area.
15. The licensee is responsible for determining the legal location of boundaries and survey pins prior to erecting perimeter fences.
16. The licensee shall manage the land under disposition in accordance with any approved range improvement, management plan, signed agreement or other written direction by the Department.

- 17. The disposition will be subject to the Public Lands Administration Regulation, and must be grazed by livestock solely belonging to the licensee. Livestock, as defined in the *Public Lands Act*, may be grazed on the licensed land. Bison may not be stocked on public land north of the 57th parallel.
- 18. The acquisition of a disposition on these public lands does not convey the right to graze bison. In order to graze bison on these public lands, additional written authorization from the department is required.
- 19. The licensee shall comply with any statute, regulation, order or bylaw in force from time to time for the prevention, control or eradication of any contagious animal disease, as defined by applicable federal and provincial statutes. Failure to comply may result in the director taking any action he considers necessary to enforce compliance with the said statute, regulation, order or bylaw, and the licensee may be liable to the department for the costs of any such action.
- 20. The licensee shall cut, keep down and destroy all such weeds as identified under the *Weed Control Act*.
- 21. The licensee shall comply with all the relevant provisions designated as Schedule "A" hereto attached.

IN WITNESS WHEREOF the parties have executed this licence.

SIGNED, in the presence of:

Caroline Munn
 Witness as to Signature of
 the director, *Public Lands Act*

Connie Ennis
 The director, *Public Lands Act*
 Date: June 18, 2014

SIGNED, in the presence of:

Witness to the signature of the Licensee

Licensee's signature

Date: _____

AFFIDAVIT OF EXECUTION

CANADA
 PROVINCE OF ALBERTA
 TO WIT:

I, _____
 NAME OF WITNESS
 of the _____
 in the Province of Alberta, make oath and say:

- 1. THAT I was personally present and did see _____
 named in the within instrument who is (are) personally known to me to be the person(s) named therein, duly sign and execute the same for the purpose named therein;
- 2. THAT the same was executed at the _____ of _____
 in the Province of Alberta and that I am the subscribing witness thereto;
- 3. THAT I know the said _____ and _____
 is (are) in my belief of the full age of eighteen years.

SWORN before me at _____
 of _____ in the Province of Alberta,
 this _____ day of _____, 20____

 Signature of Witness

Commissioner for Oaths in and for the Province of Alberta

Printed or stamped name of Commissioner for Oaths

My appointment as Commissioner for Oaths terminates; _____

Appendix A
Legal Description
for
FGL 970007

Affected Lands (Meridian-Range-Township-Section-1/4Section-Legal Subdivision-Quadrant-Quarter-Quadrant)

LAND	HECTARES	ACRES	DETAILS
W5-24-051-32-NE	4.128	10.20	
W5-24-051-32-NW	8.944	22.10	
W5-24-052-04-SW	16.754	41.40	
W5-24-052-05-SE	11.534	28.50	

AREA SUMMARY

The total lands herein described contain 41,359 HA (102,20 ACRES) more or less.

SUBJECT TO

The authorizations and dispositions listed on the attached "Schedule B", if any, have been issued on the quarter sections of land on which your disposition has been issued and may be prior and subsisting authorizations and dispositions to your disposition and may relate to and affect your disposition and the land on which your disposition has been issued.

Supplementary Information

(LTO) - Land Titles Office
(AB) - Alberta Environment/Land Administration Division
(ATS) - Alberta Township System
(HA) - Hectares
1 Hectare = 2.471054 Acres

2014/06/05 8:34:08 AM

Submitted by: JBUDNICK

DISCLAIMER

THIS STANDING REPORT IS PROVIDED SUBJECT TO THE CONDITION THAT HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AND HER EMPLOYEES:

(1) HEREBY DISCLAIM AND ARE RELEASED FROM ANY AND ALL RESPONSIBILITY FOR THE INFORMATION IN, AND ANY OMISSION OF THE INFORMATION FROM, THIS REPORT;
(2) SHALL NOT BEAR ANY RESPONSIBILITY FOR ANY LOSS OR DAMAGE OF ANY KIND ARISING FROM OR IN RESPECT OF ANY ABSENCE OF INFORMATION OR ANY ERRORS OR OMISSIONS (WHETHER THE AFORESAID OCCASIONED BY NEGLIGENCE OR OTHERWISE) IN OR AFFECTING THIS REPORT OR THE INFORMATION THEREIN.

THIS REPORT DOES NOT SHOW CAVEATS, BUILDERS' LIENS, OR OTHER INSTRUMENTS, IF ANY, REGISTERED AT LAND TITLES OFFICE IN RESPECT OF ANY LANDS OR INTERESTS THEREIN. PERSONS ARE ADVISED TO ALSO EXAMINE RECORDS AT LAND TITLES OFFICE TO ASCERTAIN WHETHER OTHER INSTRUMENTS THAT MAY CONCERN THE LANDS OR INTERESTS THEREIN HAVE BEEN REGISTERED.

*** END OF REPORT ***

SCHEDULE "A"

1. 014 IN THIS DOCUMENT, unless the context indicates otherwise:

"approval (of a departmental officer)" whenever required, must be in writing.

"authority" means: this document or the right to occupy public land granted by this document.

"department" means: Environment and Sustainable Resource Development
Petroleum Plaza, South Tower
9915 - 108 Street
Edmonton, Alberta T5K 2G8
Telephone: 780-427-3570

"departmental officer" means: an employee of Environment and Sustainable Resource Development, responsible for the management of surface activity on the land.

"holder" means: the recipient of the right to occupy public land granted by this document.

"land(s)" means: the specific land which the holder is authorized to occupy by this document.

"director" means: the "director" duly designated under the *Public Lands Act*.

"minister" means: the Minister of Environment and Sustainable Resource Development.

payments required by this document are to be made payable to the "Government of Alberta" and may be delivered to the nearest departmental field office, or mailed to:

Environment and Sustainable Resource Development
Main Floor, Petroleum Plaza, South Tower
9915 - 108 Street
Edmonton, Alberta T5K 2G8

- a) The holder shall comply with all relevant laws in the Province of Alberta.
- b) Schedule "B", attached, lists any prior and subsisting authorizations and dispositions (prior rights) issued on the quarter sections included in this authority. The holder shall not conduct any activity on the land where prior rights have been issued without the consent of the holder of these prior rights.

Surface rights plot sheets showing active dispositions, and individual activity plans can be purchased from IHS, Main Floor, Petroleum Plaza, South Tower, 9915-108 Street, Edmonton, Alberta, T5K 2G8, Telephone: (780) 413-3380, Fax: 780) 413-3383 or Website: <http://www.petrosurveys.ca>

- c) If a trapping area (TPA) is listed in Schedule "B", the holder shall contact the registered trapper at least TEN DAYS PRIOR TO COMMENCING ANY ACTIVITY. This must be done by registered mail and we recommend personal communication follow-up. The trapper's name and address may be obtained from Alberta Energy, Crown Land Data Support (Telephone: 780-422-1395). For other information concerning registered traplines, contact the Client and Licensing Service, Alberta Environment and Sustainable Resource Development, Edmonton, Alberta (Telephone: 780-427-5185) upon receipt of this approval. The holder may be responsible for any damage to traps, snares or other improvements.
- d) The holder is responsible for obtaining any necessary federal, municipal and other permits and approvals with respect to this activity.
- e) The holder agrees to hold harmless the Department from any and all third party claims, demands, or actions for which the holder is legally responsible, including those arising out of negligence or willful acts by the holder or the holder's employees or agents. This hold harmless shall survive this Agreement.
- f) The holder shall indemnify and save harmless the Department from any and all claims, actions, suits, or similar proceedings commenced by any competent regulatory body against the holder or the Department in connection with the activity or holder's use of the land, including without limitation the local municipality, any other department or agency of the Government of Alberta or the Government of Canada.
- g) The holder shall, at its own expense and without limiting its liabilities herein, insure its operations under a contract of General Liability Insurance, in accordance with the *Alberta Insurance Act*, insuring against bodily injury, personal injury and property damage including loss of use thereof. The holder shall provide the Department with a certified true copy of the policy, upon request.
- h) This authorization is granted subject to further amendment by the Department of Environment and Sustainable Resource Development in its sole discretion.

2. 098 The holder shall contact and advise the departmental officer of its intentions:
 - prior to entry upon the lands for a stated purpose,
 - prior to any additional construction during the term of this authority,
 - at the completion of operations, and
 - upon abandonment of this activity.District Agrologist in Edson, Alberta, Telephone: (780) 723-8265.

3. 215 The disposition area shall be utilized between June 15 and October 1 of each year only, unless authorized by the director. Any grazing of livestock on the disposition area outside of these dates must have prior written approval of a Rangeland Agrologist.

4. 217 The holder shall allow activities pertaining to the FireSmart Program to occur on the disposition.

5. 222 The director may, in his sole discretion, require the disposition holder to enter into a Grazing Timber Agreement with the holder of any applicable timber dispositions upon such terms and in a form that are satisfactory to the director; and the director may, in his sole discretion, rely upon and enforce the Grazing Timber Agreement as though its terms formed an integral part of this disposition.

6. 224 The director may, in his sole discretion, either cancel the lease or withdraw a portion of the lands comprising the lease where he is satisfied that coniferous regeneration or the forest cover is being seriously damaged by livestock grazing on areas managed for sustained yield timber.

7. 225 The maximum fenceline width that is allowed in areas managed for sustained yield timber is 10 metres.

8. 226 The Government of Alberta is not responsible or liable for property loss, property damage or the relocation of facilities or installations resulting from flooding or from water management activities whether or not such damage, loss or relocation is caused by error, omission or negligence on the part of the disposition grantor, its servants, agents, employees or contractors.

9. 227 The Government of Alberta reserves the right of access through the leased area at all times, without compensation to the lessee, for his surveyors, engineers, agents and workmen:
 - To construct dams, ditches, weirs, spillways, roads and such other structures as are necessary or incidental to the carrying out of any such work for undertaking or the maintenance thereof.
 - To carry out any work necessary for administering the *Water Act*.



All licences, authorizations and approvals issued under the *Alberta Environmental Protection and Enhancement Act*, *Water Act* or *Public Lands Act* should not be taken to mean the proponent (applicant) has complied with federal legislation. Proponents should contact Habitat Management, Prairies Area, Fisheries and Oceans, at the appropriate local office as listed below, in relation to the application of federal laws relating to the *Fisheries Act* (Canada).

- Southern Alberta District - Calgary (403) 292-5160
- Northern Alberta District - Edmonton (780) 495-4220
- Southern Alberta District - Lethbridge (403) 394-2920
- Northern Alberta District - Peace River (780) 618-3220

Proponents should also contact the Navigation Protection Program, Canadian Coast Guard, 4253-97 Street, Edmonton, Alberta, T6E 5Y7, Telephone: 780-495-4220, relating to the *Navigable Waters Protection Act*.

CH/jb

Activity Standing Search

Requested by: JBUDNICK

Geographic Land Information Management and Planning System

Req: 0000415400

Report Date: 2014/06/05 Time: 08:51:58

Selection Criteria

Grouping/Rollup					
Group By:	Activity				
Rollup:	Y				
Selected Sections					
Geo-Administrative Area:	Y				
Requested Lands:	Y				
Title Information:	NA				
Activity Details:	Y				
Subdivisions:	NA				
Client List:	N				
Selected Activities					
Surface Dispositions	Y	Status:	All		
		Types:	All		
Geophysical	N	Status:	None		
		Types:	None		
Reservations	Y	Status:	All		
		Types:	All		
Encumbrances	Y	Status:	All		
		Types:	All		
Land Postings	N	Status:	None		
		Types:	None		

Activity Numbers

FGL 970007

Activity Standing Search

Requested by: JBUDNICK

Requested Land

Requested Land	Ownership Status	Administered By	Titled Status	Survey Status	Area in Hectares		Area in Acres		Water Covered
					Land	Title	Land	Title	
W5-24-051-32-NW	Mixed	FLW-FRH	Mixed	Surveyed	49.580	21.084	122.51	52.10	Partly Covered
Remarks: FRHOLD 52.10 PTLS 12 ER; PTLS 13 ER ENR 40.20 PTLS 12&13 WR ENR 30.21 PTLS 14 ER									
W5-24-051-32-NE	Mixed	FLW-FRH	Mixed	Surveyed	64.700	41.359	159.88	102.20	No Water Coverage
Remarks: FRHOLD 98.70 PTLS 9 - NERY; 1210&16 FRHOLD 3.50 PTLS 9 RY ENR 57.68 PTLS 9 NRY; LNT5									
W5-24-052-04-SW	Mixed	FLW-FRH	Mixed	Surveyed	42.653	0.004	105.40	0.01	Partly Covered
Remarks: FRHOLD 0.01 PTLS 3-DISMANTLED RY ENR 49.20 PTLS 5&6 WR ENR 0.10 PTLS 5 NQ2 ENR 50.09 PTLS 3 & 4 SR EACH/DONG RY									
W5-24-052-05-SE	Crown	FLW	Untitled	Surveyed	44.233	0.000	109.30	0.00	Partly Covered
Remarks: PT RIFER									
TOTAL					201.166	62.447	497.09	154.31	

Geo Administrative Areas

ALBERTA ENERGY REGULATOR	CENTRAL REGION	Code: AERC
W5-24-051-32-NW		
W5-24-051-32-NE		
W5-24-052-04-SW		
W5-24-052-05-SE		
COAL DEVELOPMENT REGION	EASTERN SLOPES	Code: CDR-3
W5-24-051		
W5-24-052		
ENVIRONMENT CORPORATE REGION	CENTRAL	Code: ENV-2
W5-24-051		
W5-24-052		

ENVIRONMENT CONS. & RECL DISTRICT	NO. 3	Code: ERD-003
W5-24-051		
W5-24-052		Code: ESZ
EASTERN SLOPE ZONE		
W5-24-051		
W5-24-052		Code: FMU-E-09
FOREST MANAGEMENT UNIT SOUTHWEST	E9 FOOTHILLS	
W5-24-051-32		
W5-24-052-04		
W5-24-052-05		Code: FMU-E-14
FOREST MANAGEMENT UNIT SOUTHWEST	E14 FOOTHILLS	
W5-24-052-04-SW		
W5-24-052-05-SE		Code: FWA-3-04
FISH & WILDLIFE ADMIN REGION	EASTERN SLOPES REGION	
W5-24-051		
W5-24-052		Code: FWD-3-07
FISH AND WILDLIFE DISTRICT	EASTERN SLOPES REGION	
W5-24-051		
W5-24-052		Code: FWR
FISH & WILDLIFE REFERRAL LANDS	HINTON	
W5-24-051-32		
W5-24-052-04		
W5-24-052-05		Code: GLC-G
GENERAL LANDS CLASSIFICATION	GREEN	
W5-24-051		
W5-24-052		Code: GRZ-C
GRAZING ZONE	C	
W5-24-051		
W5-24-052		Code: IRP-C2
INTEGRATED RESOURCE PLAN	COAL BRANCH	
W5-24-051		
W5-24-052-04		

Geographic Land Information Management and Planning System

Req: 0000415400

Report Date: 2014/06/05 Time: 08:31:58

Activity Standing Search

Requested by: JBUDNICK

INTEGRATED RESOURCE PLAN	COAL BRANCH	Code: IRP-C2
W5-24-052-05		
LAND USE AREA	SOUTHWEST 3	Code: LUA-SW3-1
W5-24-051		
MUNICIPAL DISTRICT	YELLOWHEAD COUNTY	Code: MD-094
W5-24-051-32		
W5-24-052		
RANGELAND DISTRICT	SOUTHWEST	Code: RLD-SW-5
W5-24-051		
W5-24-052		
	EDSON	

End of Geo Administrative Areas

Activity Land	Status/Type	Date	Expiry	Client	Mets and Bounds Remarks	Acres	Total Area Hectares
CNT090044	Active/Disposed	2009/05/11	2034/05/31			331,661.98	134,218.830

Activities and Titles

EDSON OFFICE - FORESTRY ENVIRONMENT AND SUSTAINABLE RESOURCE DEVELOPMENT
 0510 : BUFFER
 1 : NO RESTRICTION
 710 : SEE COMMENTS

FOR EAP APPLICATIONS, SEND EMAIL TO BELOW ADDRESS BASED ON CRITERIA. A TEN DAY REFERRAL WINDOW WILL APPLY AND NOTE OF RECEIPT WILL BE PROVIDED BY EMAIL. IF NO REPLY IS RECEIVED THEN PROCEED WITH APPLICATION. NON-EAP APPLICANTS FOLLOW NORMAL REFERRAL PROTOCOLS. ALL PROMONENTS ARE TO REFER TO THE FRESMART GUIDEBOOK FOR THE OIL AND GAS INDUSTRY, BEST MANAGEMENT PRACTICES FOR WILDFIRE PREVENTION AND FRESMART FIELD GUIDE FOR WILDFIRE RISK AND MITIGATION STRATEGIES; LINK TO E-DOCUMENTS
 HTTP://SRD.ALBERTA.CA/WILDFIRE/FRESMART/INDUSTRY/DEFAULT.ASPX FRESMART CONSULTATIVE NOTATION COMMENTS; TYPES OF ACTIVITIES AND DISPOSITIONS THAT REQUIRE REFERRAL; *RECREATION LEASE (REC) *DISPOSITION RESERVATION (DRS) - USE CRITERIA FOR MLL * SML AND LOC AS DEFINED BELOW *EASEMENT (EZE) *VEGETATION CONTROL EASEMENT (VCE) *LICENSE OF OCCUPATION (LOC) - HIGH GRADE ROAD OR ACCESS ROAD 20 M+ WIDE *NON-EAP MINERAL SURFACE LEASE (MSL) *MISCELLANEOUS LEASE (MLL) * MISCELLANEOUS PERMIT (MLP) *PIPELINE AGREEMENT (PLA) - IF 20 M+ WIDE *PIPELINE INSTALLATION LEASE (PIL) - IF OVER 5 HECTARES *RURAL ELECTRIC ASSOCIATION (REA) *SURFACE MATERIAL LEASE (SML) - ONLY IF PEATMOSS *ALL AGRICULTURAL DISPOSITIONS REQUIRING FENCE LINE CLEARING/FIELD CLEARING AND DEBRIS DISPOSAL * REGIONAL GRAZING/TIMBER INTEGRATION PLANS, ALL APPLICATIONS MUST BE REFERRED VIA EMAIL TO THE "WILDFIRE PREVENTION OFFICER" AT THE EDSON FORESTRY OFFICE: SRD.EDS-EDSO-FRESMART@GOV.AB.CA TYPES OF ACTIVITIES AND DISPOSITIONS NOT REQUIRING REFERRAL *GEOPHYSICAL ACTIVITIES. *AGRICULTURAL DISPOSITIONS WHERE CLEARING IS NOT REQUIRED E.G. HAY PERMIT *(HAP), FOREST GRAZING LICENSE (FGL) WITH NO FENCE LINES *TIMBER DISPOSITIONS

ACTIVITY DETAIL INFORMATION

PLAN NO	LTO PLAN NO	ITEM	VERSION DATE(S)
6286 RN			2009/05/04
W5-24-051-32-NE			(0.00)
W5-24-051-32-NW			(0.00)
W5-24-052-04-SW			(0.00)

Activity Standing Search

Geographic Land Information Management and Planning System
 Req: 0000415400
 Report Date: 2014/06/05 Time: 08:31:58
 Requested by: JBUDNICK

Activity Land	Status/Type	Date	Expiry	Client Metes and Bounds Remarks	Acres	Total Area Hectares
W5-24-052-05-SE	Active/Disposed	1974/05/02	2999/12/31	537042 ALBERTA LTD. Converted from LOC 4797	(0.00)	(0.000)
DLO 4797					30.00	12.141
ACTIVITY DETAIL INFORMATION						
OPTION TO PURCHASE (Y/N): N WITHIN 100M OF WATERBODY (Y/N): PURPOSE: ACCESS ROAD						
DIMENSION: 99FT X 2.5MI CLIENT FILE NO:						
PLAN NO		LTO PLAN NO	ITEM	VERSION DATE(S)		
4234 TL				1998/08/13	(0.00)	(0.000)
W5-24-052-04-SW	Active/Disposed	1976/09/25	2999/12/31	TELU'S COMMUNICATIONS INC. Converted from LOC 750673	6.06	2.452
DLO 750673						
ACTIVITY DETAIL INFORMATION						
OPTION TO PURCHASE (Y/N): N WITHIN 100M OF WATERBODY (Y/N): PURPOSE: COMMUNICATIONS CABLE						
DIMENSION: 20' CLIENT FILE NO:						
PLAN NO		LTO PLAN NO	ITEM	VERSION DATE(S)		
5793 TL				1858/11/17	(0.00)	(0.000)
W5-24-052-04-SW	Active/Disposed	1997/09/01	2012/08/31	PENNY DUNN	102.20	41.359
FGL 970007						
ACTIVITY DETAIL INFORMATION						
OPTION TO PURCHASE (Y/N): WITHIN 100M OF WATERBODY (Y/N): PURPOSE:						
DIMENSION: CLIENT FILE NO:						
PLAN NO		LTO PLAN NO	ITEM	VERSION DATE(S)		
5096 SK				2014/06/02		

Geographic Land Information Management and Planning System

Req: 0000415400

Report Date: 2014/06/05 Time: 08:31:58

Activity Standing Search

Requested by: IBUDNICK

Activity Land	Stamps/Type	Date	Expiry	Client Metres and Bounds Remarks	Acres	Total Area Hectares
W5-24-051-32-NE					(10.20)	(4.128)
W5-24-051-32-NW					(22.10)	(8.944)
W5-24-052-04-SW					(41.40)	(16.754)
W5-24-052-05-SE					(28.50)	(11.534)
<hr/>						
FMA8800025	Active/Disposed	1988/06/15	2028/04/30	WEST FRASER MILLS LTD. O.C. 463/88 ; O.C. 214/89 ; O.C. 610/95 ; O.C. 565/2007 O.C. 463/88 ; O.C. 214/89 ; O.C. 610/95 ; O.C. 565/2007	2,460,628.71	995,781.034
<hr/>						
W5-24-052-04-03					(0.00)	(0.000)
W5-24-052-04-04					(0.00)	(0.000)
W5-24-052-05-01					(0.00)	(0.000)
W5-24-052-05-02					(0.00)	(0.000)
<hr/>						
PLA 880916	Active/Disposed	1958/08/14	2999/12/31	TRANS MOUNTAIN PIPELINE ULC	27.77	11.238
<hr/>						
W5-24-052-04-SW					(1.32)	(0.514)

OPTION TO PURCHASE (Y/N):
DIMENSION:
WITHIN 100M OF WATERBODY (Y/N):
CLIENT FILE NO:

NO PLANS

OPTION TO PURCHASE (Y/N):
DIMENSION: 18.288 M (W) (60 FT)
PLAN NO
706 P
LTO PLAN NO
ITEM
VERSION DATE(S)
1988/12/19

Activity Standing Search

Requested by: JBUDNICK

Expiry: 2999/12/31

Status/Type: Active/Disposed

Activities and Titles

Activity Land	Expiry	Client	Total Area
PLA 880926	2999/12/31	Metes and Bounds Remarks TRANS MOUNTAIN PIPELINE ULC	Acres: 286.64 Hectares: 115.999

ACTIVITY DETAIL INFORMATION

OPTION TO PURCHASE (Y/N):
 DIMENSION: 60 FT

WITHIN 100M OF WATERBODY (Y/N):
 CLIENT FILE NO: KM310

PURPOSE: PIPELINE

PLAN NO	LTO PLAN NO	ITEM	VERSION DATE(S)
170 P	3765HW		1858/11/17
168 P	3808HW		1858/11/17
167 P	3738HW		1858/11/17
166 P	3726HW		1858/11/17
171 P	3766HW		1858/11/17
165 P	3725HW		1858/11/17
169 P	3764HW		1858/11/17
164 P	3679HW		1858/11/17

WS-24-051-32-NE

WS-24-052-04-SW

PNT776393

1978/06/13

2013/06/30

1,945.11

HINTON OFFICE - LAND USE AREA - LANDS DIVISION DEPT. OF SUSTAINABLE RESOURCE DEV
 0165 : GRAZING ALLOTMENT AREA
 4 : NO SURFACE DISPOSITION
 100 : GRAZING HAYING
 710 : SEE COMMENTS

(2.72)
 (1.15)
 787.158

710 - ONLY THE EXISTING FIELD CLEARINGS CAN BE MAINTAINED

ACTIVITY DETAIL INFORMATION

NO PLANS

WS-24-051-32-NW

WS-24-052-04-SW

WS-24-052-05-SE

W/RIVER

N/RIVER

N/RIVER

(40.20)

(49.20)

(76.90)

(16.268)

(19.911)

(31.120)

Activities and Titles

Activity Land	Status/Type	Date	Expiry	Client	Mets and Bounds Remarks	Acres	Total Area	Hectares
PNT860478	Active/Disposed	1986/11/03	2010/08/31		TRANSPORTATION 0541 : SURFACE MATERIALS EXPLORATION 2 : NO AGRICULTURAL SALE DISPOSITION 730 : CONSENT REQUIRED	88.00	35.612	
ACTIVITY DETAIL INFORMATION								
NO PLANS								
W5-24-051-32-09		PT. SRLAWY R/W				(17.80)	(7.203)	
W5-24-051-32-14		PT. ERIVER				(30.20)	(12.222)	
W5-24-051-32-15						(40.00)	(16.187)	
ROE 2836	Active/Disposed	1956/01/76	2999/12/31		ATCO PIPELINES (NORTH TNE263923)	3.36	1.360	
ACTIVITY DETAIL INFORMATION								
OPTION TO PURCHASE (Y/N): N PURPOSE: PIPELINE								
DIMENSION: 33' WITHIN 100M OF WATERBODY (Y/N):								
PLAN NO		LTO PLAN NO		CLIENT FILE NO:				VERSION DATE(S)
486 P		1690KS						1858/11/17
W5-24-052-04-SW						(0.55)	(0.223)	
RRD 4490EO	Active/Disposed	1932/04/01	2999/12/31		TRANSPORTATION	12.84	5.196	
ACTIVITY DETAIL INFORMATION								
OPTION TO PURCHASE (Y/N):								
DIMENSION: WITHIN 100M OF WATERBODY (Y/N):								
PLAN NO		LTO PLAN NO		CLIENT FILE NO:				VERSION DATE(S)
266 RD		4490EO						1858/11/17

Activity Land	Status/Type	Date	Expiry	Client Mets and Bounds Remarks	Acres	Total Area Hectars
WS-24-051-32-NE					(5.41)	(2.594)
SMC 130035	Active/Disposed	2014/05/02	2015/05/01	537042 ALBERTA LTD.	4.13	1.670
<p>ACTIVITY DETAIL INFORMATION</p> <p>OPTION TO PURCHASE (Y/N): WITHIN 100M OF WATERBODY (Y/N): PURPOSE: EXPLORATION</p> <p>DIMENSION: Irregular CLIENT FILE NO:</p> <p>PLAN NO LTO PLAN NO ITEM VERSION DATE(S)</p> <p>6176 SG 2013/06/05</p>						
WS-24-052-04-SW					(4.13)	(1.670)
SME 130027	Cancelled - Outstanding Obligation		2013/10/01	537042 ALBERTA LTD.	157.68	63.810
<p>ACTIVITY DETAIL INFORMATION</p> <p>OPTION TO PURCHASE (Y/N): WITHIN 100M OF WATERBODY (Y/N): PURPOSE: EXPLORATION</p> <p>DIMENSION: Irregular CLIENT FILE NO:</p> <p>PLAN NO LTO PLAN NO ITEM VERSION DATE(S)</p> <p>6070 SG 2013/03/05</p>						
WS-24-051-32-NE					(28.66)	(11.600)
WS-24-051-32-NW					(5.19)	(2.100)
WS-24-052-04-SW					(27.68)	(11.200)
WS-24-052-05-SE					(12.36)	(5.000)

Activity Land	Status/Type	Date	Expiry	Client Meets and Bounds Remarks	Acres	Total Area Hectares
SME 140009	Application	2014/01/22		BORDER PAVING LTD.	35.46	14.550

Activities and Titles

ACTIVITY DETAIL INFORMATION
 OPTION TO PURCHASE (Y/N):
 DIMENSION: (2) Irregular
 PLAN NO L TO PLAN NO ITEM VERSION DATE(S)
 6457 SG 2014/01/30

W5-24-052-04-SW					(23.18)	(9.380)
W5-24-052-05-SE					(12.31)	(4.980)

TPA 2192 Active/Disposed 1987/08/26 2013/06/30 EDWARD POELZER 0.00 0.000

ACTIVITY DETAIL INFORMATION
 WITHIN 100M OF WATERBODY (Y/N):
 CLIENT FILE NO:

OPTION TO PURCHASE (Y/N):
 DIMENSION:

W5-24-051-32-11	E/ATHABASCA R				(0.00)	(0.000)
W5-24-051-32-12	E/ATHABASCA R				(0.00)	(0.000)
W5-24-051-32-14	E/ATHABASCA R				(0.00)	(0.000)
W5-24-051-32-NE				NO PLANS	(0.00)	(0.000)
W5-24-052-04-03	S/ATHABASCA R				(0.00)	(0.000)
W5-24-052-04-04	S/ATHABASCA R				(0.00)	(0.000)
W5-24-052-05-01	S/ATHABASCA R				(0.00)	(0.000)
W5-24-052-05-02	S/ATHABASCA R				(0.00)	(0.000)

Activities and Titles

Activity Land	TPA	Status/Type	Date	Expiry	Client	Mets and Bounds Remarks	Acres	Total Area	Hectares
	2241	Active/Disposed	1987/08/17	2096/06/30		EDMONTON OFFICE - FISH AND WILDLIFE/DEPT. OF SUSTAINABLE RESOURCE DEV	0.00		0.000

ACTIVITY DETAIL INFORMATION

OPTION TO PURCHASE (Y/N):
 DIMENSION:
 WITHIN 100M OF WATERBODY (Y/N):
 CLIENT FILE NO:

NO PLANS

W5-24-052-04-05	N/ATHABASCA R						(0.00)		(0.000)
W5-24-052-04-06	N/ATHABASCA R						(0.00)		(0.000)

TPA 2473

Active/Disposed

1987/08/04

2014/06/30

ROBERT HUNT

0.000

ACTIVITY DETAIL INFORMATION

OPTION TO PURCHASE (Y/N):
 DIMENSION:
 WITHIN 100M OF WATERBODY (Y/N):
 CLIENT FILE NO:

NO PLANS

W5-24-051-32-12	W/ATHABASCA R						(0.00)		(0.000)
W5-24-051-32-13	W/ATHABASCA R						(0.00)		(0.000)
W5-24-052-05-02	N/ATHABASCA R						(0.00)		(0.000)
W5-24-052-05-07	N/ATHABASCA R						(0.00)		(0.000)
W5-24-052-05-08	N/ATHABASCA R						(0.00)		(0.000)

DISCLAIMER

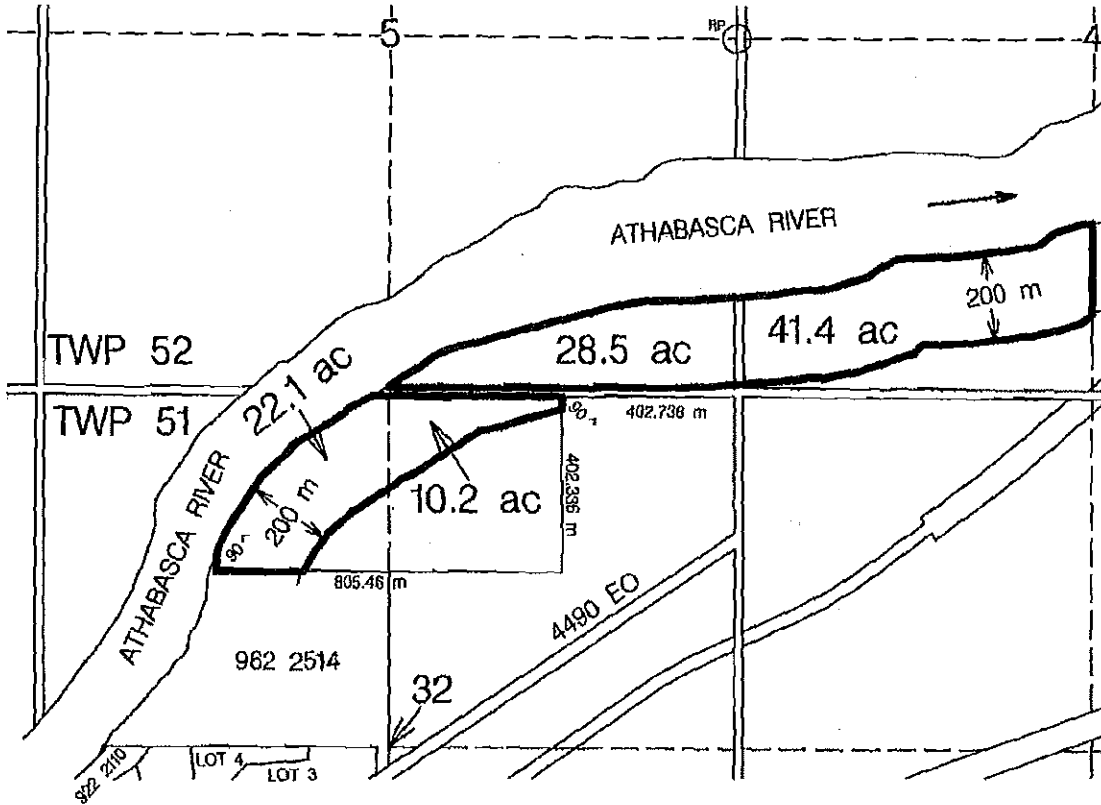
THIS STANDING REPORT IS PROVIDED SUBJECT TO THE CONDITION THAT HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AND HER EMPLOYEES:

- (1) HEREBY DISCLAIM AND ARE RELEASED FROM ANY AND ALL RESPONSIBILITY FOR THE INFORMATION IN, AND ANY OMISSION OF THE INFORMATION FROM, THIS REPORT;
- (2) SHALL NOT BEAR ANY RESPONSIBILITY FOR ANY LOSS OR DAMAGE OF ANY KIND ARISING FROM OR IN RESPECT OF ANY ABSENCE OF INFORMATION OR ANY ERRORS OR OMISSIONS (WHETHER THE AFORESAID OCCASIONED BY NEGLIGENCE OR OTHERWISE) IN OR AFFECTING THIS REPORT OR THE INFORMATION THEREIN.

THIS REPORT DOES NOT SHOW CAVEATS, BUILDERS' LIENS, OR OTHER INSTRUMENTS, IF ANY, REGISTERED AT LAND TITLES OFFICE IN RESPECT OF ANY LANDS OR INTERESTS THEREIN. PERSONS ARE ADVISED TO ALSO EXAMINE RECORDS AT LAND TITLES OFFICE TO ASCERTAIN WHETHER OTHER INSTRUMENTS THAT MAY CONCERN THE LANDS OR INTERESTS THEREIN HAVE BEEN REGISTERED.

*** END OF REPORT ***

TOWNSHIPS 51 & 52 RANGE 24 WEST 5 MERIDIAN



□ Forest Grazing Licence =
102.2 Acres (41.36 Ha), more or less.

Surveyed Road Allowances not included in Lease Area

FGL970007 SRD Plan: 5096 SK, 2014-06-02, dal

FGL970007 SRD Plan: 5096 SK, 2014-06-02, dal

© 2014 Government of Alberta
The Alberta and the Crown provides this information without warranty or representation as to any matter including but not limited to whether the data/information is correct, accurate or free from error, defect, damage, or loss, and whether it is otherwise suitable or suitable for any use the user may make of it.
Base Data provided by Spatial Data Warehouse Ltd.

Alberta
Environment and Sustainable
Resource Development
Operations Division
Surveys and Technical Services Section

Scale 1: 15,000	Date 2014 / 06 / 02
Airphoto (AS) - Shot(s)	Date / /
Dwn By D. Scheshuk	Checked by
Graphic File FGL 970007	
Remarks: Southern boundary of the FGL is a parallel width of 200 metres from the right bank of the Athabasca River.	

Appendix H

Tab 107.

Dave Hugelschaffer

From: Brent Schleppe
Sent: Wednesday, October 01, 2014 4:33 PM
To: Penny Dunn (mailto:PennDunn@gypsd.ca)
Cc: Helen Newsham; Dave Hugelschaffer
Subject: FGL970007

Penny,

Here is a summary of our discussion yesterday. I am disappointed that we could not finish our meeting to discuss your access concerns to the west side of the proposed amended license. Can you be available this Friday, October 3, 2014 to further discuss access and fencing requirements with myself and Helen Newsham?

Here is a summary of what was discussed at the meeting yesterday. I will also send this information to you in a signed letter.

- The boundary of FGL970007 has been changed at renewal, (area outlined in red on the attached map), for reasons previously discussed. The renewal documents have been provided for your signature. Prior to your decision on the renewal as provided you had expressed an interest in identifying any lands that might be added.
- A proposed addition to FGL970007 was presented and discussed (area outlined in green on the attached map). This area is long and narrow, between the East River Road and the Athabasca River, and was noted having a high cost to fence. You would like some additional time to review the area before deciding if you would like this added to FGL970007.
- The current renewal area has a total annual grazing capacity of 13 AUMs. Grazing capacity may increase with good management of the forage resource, and will be calculated periodically through a range health assessment
- The additional area has a total annual grazing capacity of 3 AUMs.

A timeline of October 14, 2014 was agreed to in regards to your response to either:

- o Accept the additional area to be amended into FGL970007, or
 - o Accept the renewal area as currently provided.
- If no response is received by October 14, 2014 the renewal provided will be cancelled and FGL970007 will be removed from the records of the Department, and all improvements, including fencing, must be removed.
 - If you decide to have the area added, the amended mapping fee and the amendment fee will be waived and only the current renewal and mapping fee, and any accrued interest, would be payable. FGL970007 would need to be fenced by June 30, 2015, with an acceptable fence line clearing width of 5 metres.

Prior to the end of the meeting you had expressed an interest in some arrangement to provide access for your horses to FGL970007. After the meeting I further discussed the matter with Dave and Tennille and we identified several possible options, I would like to discuss these options with you on Friday October 3, 2014.

Brent Schleppe
Regional Approvals Manager
Operations Division
Upper Athabasca Region

Environment and Sustainable Resource Development
#107, 111-54 St, Edson AB T7E-1T2
Ph 780-723-8204 , Fax 780-723-8290

Alberta Environment and Sustainable
Resource Development

Dave Hugelschaffer

From: Brent Schleppe
Sent: Wednesday, October 01, 2014 8:27 PM
To: Brent Schleppe
Cc: Helen Newsham; Dave Hugelschaffer
Subject: RE: FGL970007
Attachments: FGL970007_added area.pdf; FGL970007_access_options.pdf

Hi Penny,


I forgot to attach the map of the FGL amendment boundary and new additional area being proposed with the minutes on the items we discussed September 30, 2014. I will also mail this map to you with the minutes from the our meeting.

I have also included a map of the options that we can discuss at our next meeting on October 3, 2014. See attached.

If you have any question please let me know. Thanks

Brent Schleppe
Regional Approvals Manager
Operations Division
Upper Athabasca Region
Environment and Sustainable Resource Development
#107, 111-54 St, Edson AB T7E-1T2

Ph 780-723-8204 , Fax 780-723-8290 

 Environment and Sustainable
Resource Development

0 0.17 0.35 0.7 Kilometers


Informatics Team
 Alberta Ministry of Environment and Sustainable Resource
 Development - Upper Athabasca Region

Where applicable:
 Record Provided by the Spadell Dam Workhouse Ltd.
 Map for the DMS provided by NAV CANADA
 SPOI for CANIS. Licensed by James Geomatics Corp.
 Lehighville, Alberta, Canada

The Minister and the Crown provides this information
 without warranty or representation as to any matter
 including but not limited to whether the data/information
 is correct, accurate or free from error, defect, danger,
 or hazard and whether it is otherwise useful or suitable
 for any use the user may make of it.

© 2014 Government of Alberta

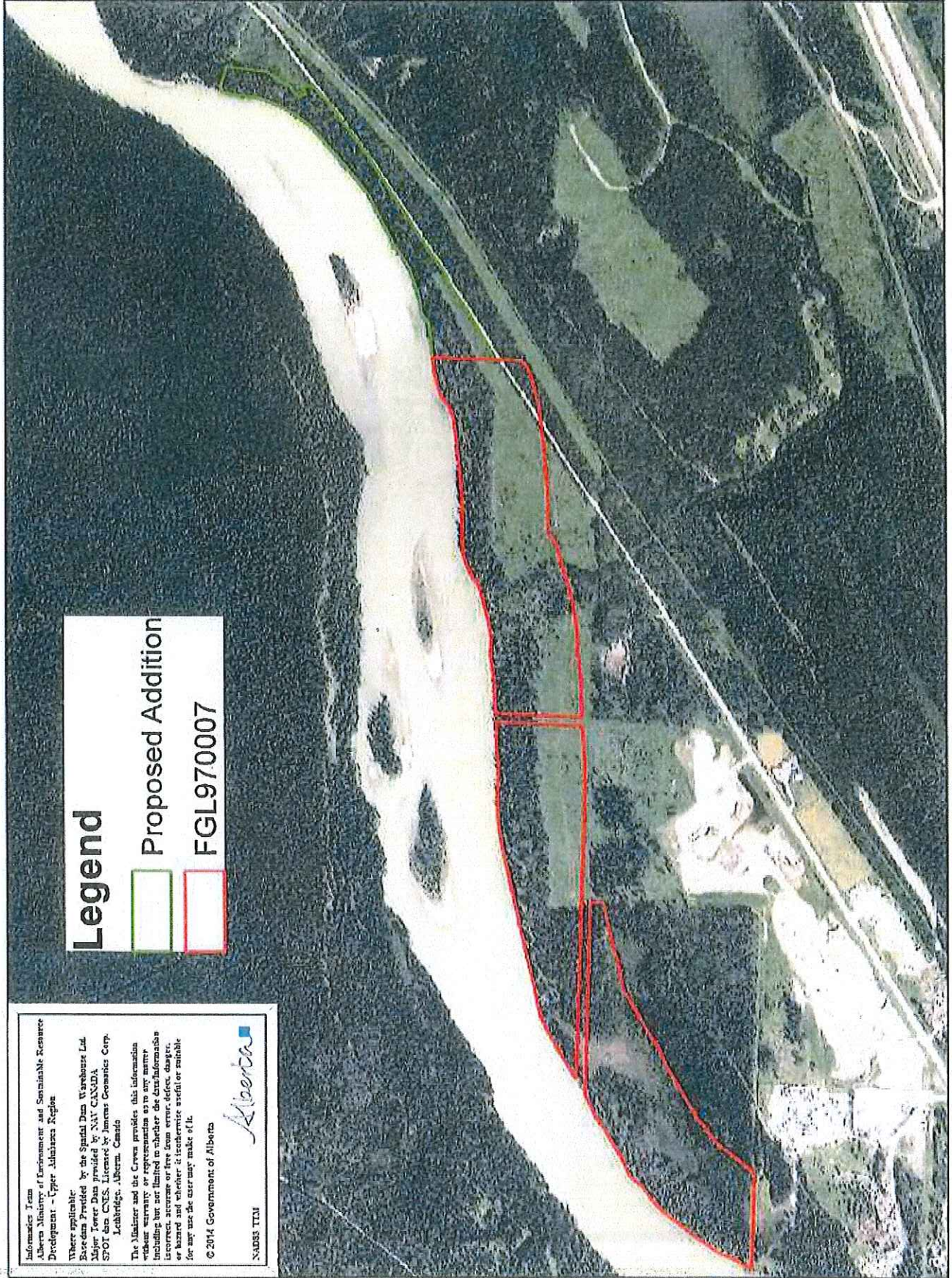
NA0033 TTAJ



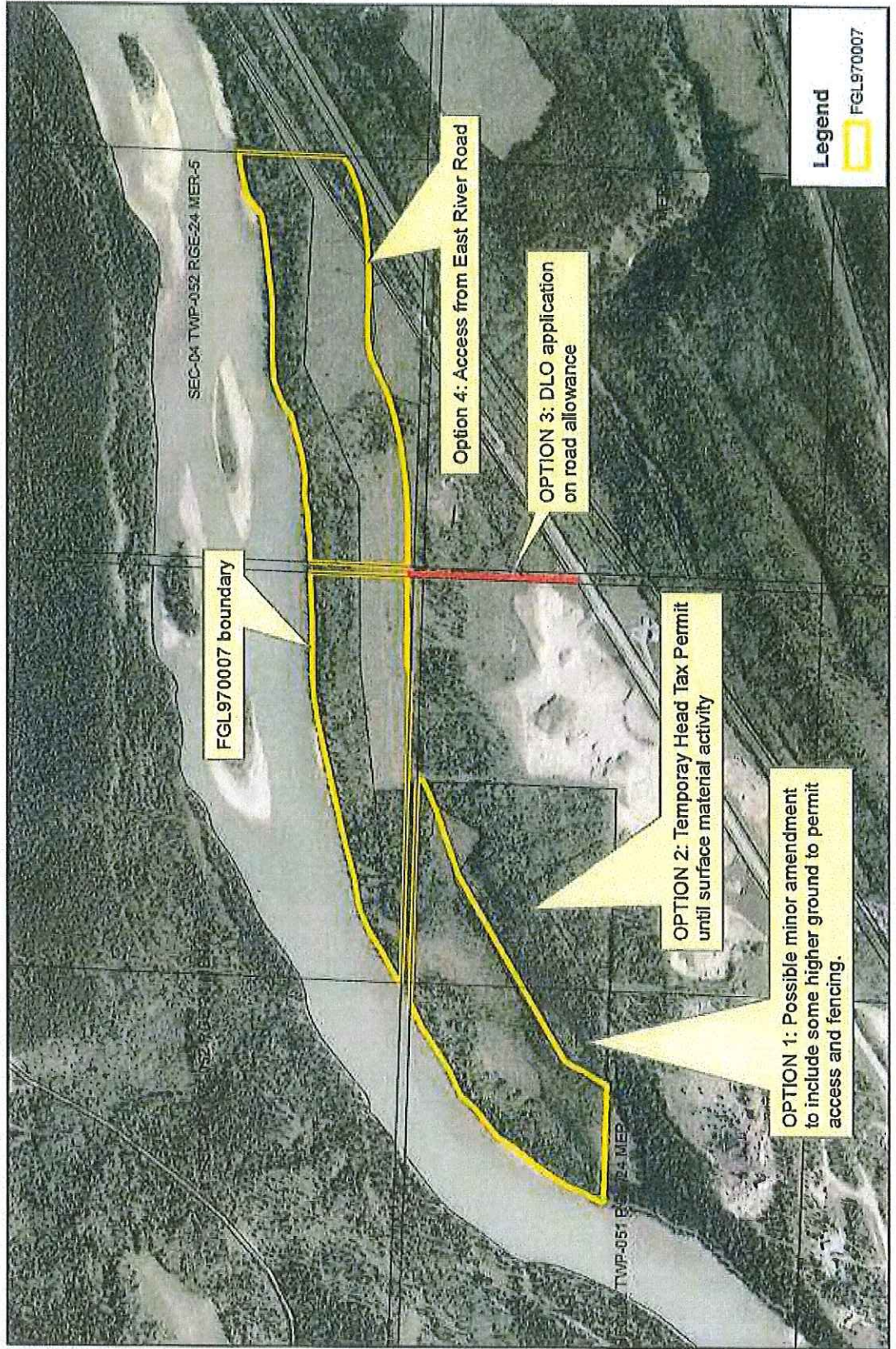
Legend

 Proposed Addition

 FGL970007



FGL970007



Map Date: October 1, 2014