

Annual Report 2017-18



farmers'
advocate
office

Alberta

Alberta Agriculture and Forestry, Government of Alberta

November 1, 2018

Annual Report 2017-18

Farmers' Advocate Office

Peter J. Dobbie: Q.C., Farmers' Advocate of Alberta

Janet Patriquin: Assistant Farmers' Advocate

Michele Del Colle: Energy, Utilities, and Policy Specialist

Jeana Shuurman (2017-18): Rural Engagement and Communications Specialist

Anna Kauffman (2018): Rural Engagement Specialist

Roseline Soparlo, Administrative Coordinator

Bernie Yakimyshyn: Farm Implement Inspector

Brenda Tangen: Appeals Coordinator

Table of Contents

Introduction	1
Message from the Farmers' Advocate	2
Rural Disputes	3
Rural Albertans and the Economic Challenges	6
Stakeholder and Community Engagement.....	8
Alberta Financial Services Corporation Appeals	10
<i>Alberta Operation Practices Act</i>	10
<i>Farm Implement Act</i>	11
<i>Financial Highlights 2017-18</i>	Appendix A

Introduction

The Farmers' Advocate Office (FAO) serves as a resource for Alberta farmers and ranchers. The FAO works to ensure that the rights and interests of rural Albertans are recognized, understood, and protected. The FAO is committed to providing ongoing support for rural Albertans through the provision of timely and clear information and effective advocacy related to areas of concern identified by farmers, ranchers and landowners.

Our Mission

To create value for rural Albertans and our stakeholders by:

- ❖ Empowering rural Albertans through awareness on key issues;
- ❖ Providing objective, unbiased ideas and advice for resolving disputes;
- ❖ Representing the rural Alberta perspective on matters of concern; and
- ❖ Facilitating interaction on strategic matters among key stakeholders.

Our Vision

“To be a vital, issues-driven organization valued by stakeholders for our constructive contributions; respected for our impact on matters of concern to farmers and rural Albertans”

Message from the Farmers' Advocate

Dear Minister Carlier,

I am pleased to present the 2017-18 Annual Report of the Farmers' Advocate Office (FAO) for your review. This report highlights some of the key undertakings and accomplishments of the FAO over the past fiscal year. The financial statements for the Farm Implement Compensation Fund are attached as required under the *Farm Implement Act*.



Sincerely,

A handwritten signature in black ink, appearing to read 'Peter J. Dobbie'.

Peter J. Dobbie, Q.C.
Farmers' Advocate for Alberta

Rural Disputes

This area reflects a cross-section of rural issues that we receive client calls on. For rural disputes calls, our general rule is: Be prepared to be surprised! We are continuously researching new topics in order to provide information and assistance to rural landowners. For example, in one week alone we received calls on manure stockpiles, grazing leases, canola seed purchase agreement, spray drift, municipal subdivision concerns, bee infestation, changes to local water flows, fencing dispute, pasture leasing agreement dispute, municipal planning issues, and a disagreement over the quality of fertilizer. At the Farmers' Advocate Office, we also support the development of partnerships between rural landowners, commercial enterprises, and local governments to facilitate knowledge transfer among entities.

While we work to identify trends and influence change, the needs of our clients often differ, so we determine the appropriate actions for each caller on a case-by-case basis. Some files require direct intervention: inquiries, arranging meetings, or facilitating conversations between disputing parties. Other clients require research and information only. In 2017-18 the FAO completed 114 case files on rural disputes, excluding energy, utilities and surface rights issues. We addressed over 1200 inquiries not requiring formal case files.



"Trixie, the Potato Farming Dog" Credit: Kauffman, A. (2018)

Landowner/Municipal Interface

We received calls from landowners preparing to be involved in the process related to obtaining a development permit or subdivision or wishing to be heard as an affected party to an application. Landowners seeking a development permit or landowners opposing land development are, at times, directed to the Farmers' Advocate Office by municipalities or other government departments. As the population of Alberta has grown, rural landowners have sometimes expressed concerns about the development and subdivision of rural areas and they express the opinion that these activities can infringe on their sense of place as rural people. In addition, there are often misconceptions regarding who holds decision making power in the land-use arena.

[Engaging with Your Municipality](#) is a publication the FAO developed this year. The document outlines frequently asked questions and clarifies some commonly-held concerns for landowners.

Sand and Gravel Pits



Trending for several years we have dealt with sand and gravel pit-related nuisance complaints made by adjacent landowners bothered by noise and dust. Surface mineral extraction pits are regulated by Alberta Environment and Parks (AEP) and municipalities. With assistance from AEP, Municipal Affairs, and the Alberta Sand and Gravel Association, we

have developed a [publication](#) that highlights who has jurisdictional authority over these nuisance complaints.

Contracts & Agreements

We continue to see a significant number of files that involve unsuccessful contractual agreements. Examples were large agricultural purchases, livestock sales, cropland or pasture land leases, contract work, or access roads. We worked with the affected parties to resolve issues based upon the particular facts of each situation. For cropland leasing agreements, we refer people to the [Leasing Cropland in Alberta](#) document that is produced by Agriculture and Forestry. This is an informative resource for those who are looking for a guide to “getting it in writing” but are not sure what “it” is.



Drainage

Drainage, water flow, and wetland related calls have declined over the past year. We are building a relationship with Alberta Environment and Parks (AEP), who are the lead on [Water Act](#) related issues. In July 2017, we released a short guide entitled [Water Act Essentials](#). Municipalities are the first point of contact for these types of questions. We distributed copies of this publication at the Rural Municipalities Tradeshow in March, 2018. This document was made available on our website.

Other Resources for Landowners

- ❖ [You Suspect Spray Drift... Now What?](#) - FAO 2017
- ❖ [Fact Sheet on Foreign Land Ownership](#) - FAO 2017
- ❖ The [Line Fence Act](#) - A reference for Clients

Rural Albertans and the Economic Challenges

The reduction in oil prices and the resultant economic downturn has impacted rural Albertans with oil, gas, and utilities infrastructure on their property. The FAO helped landowners understand their rights in relation to oil and gas companies. We continue to receive a high number of inquiries about the recourse for recovery of unpaid surface rentals, unilateral rental reductions, the federal insolvency process, the incorrect registration of Builders' Liens, surface lease reclamation, and the role of the Orphan Well Association.

Several of our flagship publications have been distributed throughout Alberta over the course of a changing economic and regulatory climate over the past 20 years. They include:

- ❖ [Geophysical Operations & Landowner Rights](#) - updated by FAO 2017
- ❖ [Pipelines in Alberta : What Landowners Need to Know](#) - updated by FAO 2018
- ❖ [Negotiating Surface Rights](#)

Lexin Resources Limited

In 2017-18 the FAO worked quickly to issue advisories to affected landowners as a result of the [bankruptcy of Lexin Resources Limited](#), also known as MFC Industrial Corporation, MFC Bancorp Limited, Compton Petroleum Corporation, or 0989 Resource Partnership.

In spring 2017, the Alberta Energy Regulator (AER) took an [unprecedented compliance action](#) against Lexin, suspending the 1,600 licenses belonging to the operator. Lexin was placed into receivership by the Alberta Court of Queen’s Bench on March 20, 2017.



Builders’ Liens

An issue that re-surfaced as a result of the challenges faced by the energy industry was the registration of builders’ liens. Under the [Builders’ Lien Act](#), a person not paid for supplies or services provided for an oil and gas development can register a lien against the leasehold interest for the development. We observed that liens were incorrectly registered against the landowner’s fee simple interest rather than the limited leasehold interest.

The FAO issued an [advisory](#) to landowners that a properly registered builders’ lien should not be a cause for concern, but it should be reviewed and dealt with. A lien will remain on the Certificate of Title for 180 days and will automatically terminate unless additional action is taken by the contractor against the operator and a certificate of *lis pendens* (notice of lawsuit) is filed. However, landowners should obtain legal advice as to their rights and remedies once notice of a lien is received.

Electrification of Wellsites Belonging to Insolvent Companies

The FAO received several concerns that EPCOR Energy Alberta GO Inc. (“EPCOR”) was attempting to collect payment for three phase electrical services that were provided to a now insolvent oil and gas companies. After discussion with the Alberta Utilities Commission (AUC) and the Utilities Consumer Advocate (UCA), the FAO issued an [advisory](#) to landowners explaining how to deal with the issue.

The FAO continued to work with the UCA on [AUC Proceeding 22091](#) to review the filed terms and conditions of service to ensure protection for landowners was in place going forward. We are very proud of our work on this issue, and grateful to the UCA for their collaboration in moving this forward on behalf of rural Albertans.

Stakeholder and Community Engagement

The FAO strives to offer a high standard of stakeholder engagement and communications with all of our key partners. We actively participated in local landowner and synergy groups throughout the province. Our role varied, depending on the need of the organization. We provided information through presentations and information sessions, printed material, advice, and the investigation of concerns.

Synergy Groups:

[Calumet Synergy Association](#)

[Pembina Area Synergy](#)

[Rimbey Regional Synergy Group](#)

[West Central Stakeholders](#)

[Wapiti Area Synergy Partnership](#)

[Central Mountainview Advisory Groups](#)

[Sundre Petroleum Operators Group](#)

[Foundation of Administrative Justice](#)

Committee Participation:

[Multi Stakeholder Advisory Committee](#)

Alberta Industry-Government Geophysical
Committee

[Synergy Alberta](#)

Surface Rights Federation

[Action Surface Rights](#)

[Oil and Gas Exploration and Transportation
Committee](#)

Strathcona Oil and Gas Committee

Warburg Surface Rights Group

[Alberta Provincial Rural Crime Watch
Association](#)

[Foundation of Administrative Justice](#)

Policy Initiatives:

Liability Management Review:

Alberta Energy and Alberta Energy
Regulator, Alberta Environment & Parks
and Alberta Energy: Surface Rights Regime

Modernization Project:

National Energy Board

Integrated Decision Approach:

Alberta Energy Regulator

Partnerships:

Alberta Energy Regulator, Alberta Utilities
Commission, Surface Rights Board, Utilities
Consumer Advocate, Rural Utilities Branch,
Federation of Gas Cooperatives, Federation
of Rural Electrification Associations,
Synergy Alberta, Canadian Association of
Petroleum Producers, Canadian Association
of Petroleum Landmen, Alberta Association
of Surface Land Agents, and Olds College.

Alberta Financial Services Corporation Appeals

The FAO administered five Agriculture Financial Services Corporation (AFSC) AgriInsurance appeals during the fiscal year and an AgriStability appeal was withdrawn by the client prior to the hearing. There were two appeals regarding uninsured causes of loss, specifically due to untimely harvest practices and weed management issues. Another appeal involved the Satellite Yield Insurance Program. One client disputed AFSC's decision to pro-rate his field pea production and the Appeal Committee allowed his appeal in part. A Bee Overwintering program appeal was decided in favor of the producer.



istock/erwo1

Agricultural Operation Practices Act

Under Part 1 of the [Agricultural Operation Practices Act](#) a person aggrieved of a nuisance (odour, noise, dust, or smoke) arising from an agricultural operation may make an application to the Minister for review. The Minister has the authority to appoint a panel to determine if the nuisance is arising from a Generally Accepted Agricultural Practice (GAAP). The panel may issue a GAAP Certificate to provide the producer with assurance going forward, or make recommendations to change a practice to minimize nuisance

The Farmers' Advocate Office (FAO) had two appeals under Part 1 in 2017, one relating to dust and the other to odour. On the dust appeal, the panel recommended that the Minister issue a GAAP Certificate on the condition that the Dust Management Plan from

the Natural Resources Conservation Board (NRCB) continue to be followed by the producer.

The second appeal was withdrawn by the applicant prior to the hearing. The FAO provided the producer with the option of proceeding with the appeal without participation from the applicant. This would have provided the producer the opportunity to receive a GAAP Certificate or panel recommendation that could have provided guidance to the producer for the future. The producer declined and the appeal did not proceed.

Since it has been over 10 years since the last Part 1 appeal, the FAO took steps to update the policies and procedures to ensure a smooth and transparent process. These documents are publicly available on the FAO website at:

www.farmersadvocate.gov.ab.ca

Farm Implement Act

The [Farm Implement Act](#) provides consumer protection to Albertans purchasing new farm implements by establishing minimum warranty standards, creating requirements on the availability of repair parts, and establishing a process for resolving disputes over agreements and implement performance.

All dealers selling new farm implements in Alberta must be licensed. In 2017, the FAO licensed 377 dealers. Any distributor selling products to an Alberta dealer must also be licensed. In 2017, the FAO licensed 150 distributors. These lists are publicly available on the FAO website.



FAO staff worked in collaboration with the Farm Implement Inspector to address any issues that arose. In 2017-18, the Farm Implement Inspector had 43 client files, nine of which required a site visit. Problems that cannot be resolved through direct negotiation or mediation with the farm inspector may proceed to the Farm Implement Board (FIB) for review. The FAO received two Notices of Failures to Perform. Both files were heard by the Farm Implement Board in 2017-18.

FARM IMPLEMENT COMPENSATION FUND

FINANCIAL STATEMENTS

March 31, 2018

INDEX

	Page
Independent Auditor's Report	
Statement of Operations	2
Statement of Changes in Net Assets	3
Statement of Financial Position	4
Cash Flow Statement	5
Notes to Financial Statements	6

INDEPENDENT AUDITOR'S REPORT

To the Members of Farm Implement Compensation Fund

We have audited the accompanying financial statements of Farm Implement Compensation Fund, which comprise the statement of financial position as at March 31, 2018, and the statements of operations, changes in net assets, and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of Farm Implement Compensation Fund as at March 31, 2018, and its financial performance and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Edmonton, AB
Report Date

Bergeron & Co. Chartered Professional Accountants

FARM IMPLEMENT COMPENSATION FUND
STATEMENT OF OPERATIONS
For the year ended March 31, 2018

	<u>2018</u>	<u>2017</u>
REVENUES		
Farm Implement Fund Levies	\$ 146,575	\$ 146,383
Manufacturer's assessments	41,070	-
Interest	<u>23,518</u>	<u>18,219</u>
	<u>211,163</u>	<u>164,602</u>
 EXPENSES		
Compensation awarded	41,070	-
Bank charges	276	276
Licences	<u>50</u>	<u>-</u>
	<u>41,396</u>	<u>276</u>
 EXCESS OF REVENUES OVER EXPENSES	 <u>\$ 169,767</u>	 <u>\$ 164,326</u>

**FARM IMPLEMENT COMPENSATION FUND
STATEMENT OF CHANGES IN NET ASSETS
For the year ended March 31, 2018**

NET ASSETS	Total <u>2018</u>	Total <u>2017</u>
Restricted Balance, beginning of year	\$ 2,240,788	\$ 2,076,462
Excess of revenues over expenses	<u>169,767</u>	<u>164,326</u>
	<u>2,410,555</u>	<u>2,240,788</u>
Restricted Balance, end of year	<u>\$ 2,410,555</u>	<u>\$ 2,240,788</u>

FARM IMPLEMENT COMPENSATION FUND
STATEMENT OF FINANCIAL POSITION
March 31, 2018

	ASSETS	
	<u>2018</u>	<u>2017</u>
CURRENT		
Cash (Note 3)	\$ <u>2,410,555</u>	\$ <u>2,240,788</u>
TOTAL ASSETS	\$ <u>2,410,555</u>	\$ <u>2,240,788</u>
	NET ASSETS	
Restricted net assets	<u>2,410,555</u>	<u>2,240,788</u>
TOTAL LIABILITIES & NET ASSETS	\$ <u>2,410,555</u>	\$ <u>2,240,788</u>

Approved by the Directors:

_____, Director

_____, Director

FARM IMPLEMENT COMPENSATION FUND
CASH FLOW STATEMENT
For the year ended March 31, 2018

	<u>2018</u>	<u>2017</u>
OPERATING ACTIVITIES		
Excess of revenue over expenses	\$ <u>169,767</u>	\$ <u>164,326</u>
INCREASE IN CASH	169,767	164,326
CASH, beginning of year	<u>2,240,788</u>	<u>2,076,462</u>
CASH, end of year	\$ <u>2,410,555</u>	\$ <u>2,240,788</u>

FARM IMPLEMENT COMPENSATION FUND
NOTES TO FINANCIAL STATEMENTS
March 31, 2018

1. PURPOSE OF THE NOT-FOR-PROFIT ORGANIZATION

The Farm Implement Compensation Fund (the Fund) consists of money received by the Farm Implement Board (the Board) from levies, assessments and penalties in accordance with the Farm Implement Act. This fund is maintained by the Board and its financial results are reported annually through an audit process. Every year the Board sets the levy that Alberta dealers and distributors pay to the Fund. In addition to the levy, the Board may order an additional assessment on applicants who did not hold a licence in the previous year and on licencees with respect to whom the Board awarded compensation from the Fund. The Board and the Fund are both exempt from income tax.

2. ACCOUNTING POLICIES

These financial statements were prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) and include the following significant accounting policies:

Revenue recognition

- a) The revenues of the Fund consists of levies, assessments, and interest. Levies and assessments are recorded as income when they are received. Levies received that are for the following calendar year are not deferred.

Interest is recorded as revenue when it is received.

Management's use of estimates

- b) When preparing financial statements according to ASNPO, the Fund makes estimates and assumptions relating to:
- Reported amounts of revenue and expenses;
 - Reported amounts of assets and liabilities; and
 - Disclosure of contingent assets and liabilities

Management's assumptions are based on a number of factors, including historical experience, current events and actions that the Board may undertake in the future, and other assumptions that we believe are reasonable under the circumstances. Actual results could differ from those estimates under different conditions and assumptions.

Cash and cash equivalents

- c) Cash is comprised of amounts on deposit at financial institutions.

3. FINANCIAL INSTRUMENTS

The following describes the exposures to credit risk. Credit risk arise from one source: cash, which is deposited with a reputable, major financial institutions to limit the credit risk exposure.

farmers'
advocate
office

Alberta  Agriculture
and Forestry

Ministry of Agriculture and Forestry
www.farmersadvocate.gov.ab.ca

310-FARM (3276)

