

Other Regulatory Considerations

In applying other regulatory considerations to the Agricultural Service Board Program you will:

- ✓ *describe situations in which the municipality may become involved in other agricultural or environmental legislation*
- ✓ *describe the Agricultural Fieldman's responsibility under various legislation or situations*
- ✓ *describe situations that may warrant the involvement of a municipality with supervision and restoration of land under the ASB Act*
- ✓ *describe the procedure for taking land under supervision or reclamation under the ASB Act*

Agricultural Fieldmen act as designated officers of their municipality for several agricultural acts including the *Weed Control Act*, *Agricultural Pests Act*, *Soil Conservation Act* and *Agricultural Service Board Act*. However, the role of an Agricultural Fieldman extends beyond enforcement duties. There is an extensive list of other legislation that although an Agricultural Fieldman is not an inspector or officer under, you may still play a key role in dealing with agricultural and environmental issues.

Municipality Involvement in Other Agricultural or Environmental Legislation

The Agricultural Fieldman's job is specific to certain pieces of agricultural legislation. However, local residents will often contact an Agricultural Fieldman because they are local and known to them. It is therefore imperative that the Agricultural Fieldman knows what other agricultural or environmental legislation can impact his residents and who needs to be contacted if problems arise.

* Describe situations in which the municipality may become involved in other agricultural or environmental legislation.

Agricultural Operation Practices Act (AOPA)

The purpose of AOPA is to ensure that Alberta's livestock industry can grow to meet the opportunities presented by local and world markets in an environmentally sustainable manner. In January 2002, the province established a permit process for confined feeding operations (CFOs) and set province-wide manure management standards under AOPA. The requirements under AOPA are aimed at supporting the sustainable growth of the livestock industry and protecting the environment. CFOs are defined as fenced or enclosed land or buildings where livestock are confined for the purposes of growing, sustaining, finishing or breeding by means other than grazing and any other building or ancillary structure directly related to that purpose. Grazing livestock operations, wintering sites, equestrian stables, auction markets, racetracks or exhibition grounds are not considered CFOs (ARD, 2006).

On October 1, 2006, amendments to the regulations that support AOPA came into effect. The amendments provide further clarity to the original intent of the legislation, address permitting issues and update the standards for manure storage (ARD, 2006).

There are two main sections under AOPA.

- Process for dealing with nuisance complaints.
- Siting of new and expanding CFO's, compliance monitoring and enforcement of province-wide standards.

Residents may contact the Agricultural Fieldman with odor and dust complaints, complaints of dead animals which are not being dealt with, complaints that more animals are present than what the CFO is approved for and other nuisance complaints. In addition, improper manure storage and application and run off concerns may be voiced. The Agricultural Fieldman needs to know which calls to deal with and who should be contacted regarding other concerns. The responsibilities of various organizations are mentioned below.

AOPA Players and Their Roles:

Alberta's Agricultural Operations Practices Act brings a completely new process for application and approval of new and expanding CFO's. A clear understanding of the process and the players involved is key to making this process work smoothly.

Alberta Agriculture and Forestry (AF)

The Minister of AF is responsible for the AOPA legislation and AF is responsible for updating the legislation, regulations and standards to ensure they meet the

* Describe the Agricultural Fieldman's responsibility under various situations and legislation.

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needs of the livestock industry and the public. AF will also take a lead role in providing technology transfer of applied research to the livestock industry.

To contact the appropriate AF office call:

Toll-free 310-FARM (3276)

Natural Resources and Conservation Board (NRCB)

NRCB is an independent, quasi-judicial agency reporting to the Minister of Environment and Parks (EP). NRCB is responsible for compliance conditions on all existing municipal development permits and health authority permits, as well as province-wide standards in AOPA for manure use, storage and handling. Producers with existing livestock operations must abide by the terms and conditions set out in any development permit issued by a municipality. However, producers can apply to the NRCB to have the conditions on their existing permit modified.

Key functions of the NRCB in relation to AOPA include:

- **Application review and processing** – producers wishing to build a new CFO or to expand an existing facility must submit an application to the NRCB.
- **Public review of decisions** – applicants or directly affected parties have the right to request a review by a panel of board members. The board can also facilitate discussions between producers and affected parties.
- **Compliance monitoring and enforcement** – NRCB is responsible for ensuring the facilities that have been approved are built and operated in accordance with the approvals and province-wide standards. The enforcement process combines education and voluntary compliance with a series of escalating consequences for non-compliance. Enforcement orders are issued when the terms or conditions of the Act have been contravened, or when the contravention creates a risk to the environment, or an inappropriate disturbance. Enforcement orders can also be issued to refer the matter to the Minister of SRD for mediation, direct the person to cease the actions that are in violation of the Act, or specify which actions must be taken in order to achieve compliance with the Act.
- **Respond to complaints** – NRCB is also required to respond to complaints regarding existing operations and to ensure these facilities also meet the appropriate regulatory requirements.

Producers who feel they have been treated unfairly can request a review of the enforcement order by a panel of NRCB board members. If at the end of the

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process, a producer fails to comply with an order, the NRCB can apply to the courts for a court order.

To contact the nearest NRCB regional office:

Website: www.nrcb.ca

Toll-free response line: 1-866-383-6722

Phone: Lethbridge (403) 381-5166

Red Deer (403) 340-5241

Morinville (780) 939-1212

Fairview (780) 835-7111

Dial 310-0000 to be connected toll-free.

Farmers' Advocate of Alberta

Under AOPA (Part 1), the role of the Farmers' Advocate Office (FAO) is to assist in looking for solutions when disputes arise between the agricultural industry and neighbors over nuisance issues. If a disagreement is brought directly to the attention of the FAO, the FAO will work with the parties to resolve the dispute. If a complaint is not resolved through that process, a person who is aggrieved by a disturbance resulting from an agricultural operation, the owner or operator of the agricultural operation, or the NRCB may submit a written request to the Minister of Agriculture and Food to establish a Practices Review Committee to resolve the dispute (ARD, 2007).

To contact the Farmers' Advocate Office of Alberta:

305, 7000 113 Street

Edmonton, AB T6H5T6

Phone: Dial 310-FARM (3276)

Fax: (780) 427-3913

Email: farmers.advocate@gov.ab.ca

Website : www.farmersadvocate.gov.ab.ca

Learning Exercise 8.1

Review other roles of the Farmers' Advocate Office.

Municipalities

Although municipalities no longer have the power to issue development permits for CFO's, they will continue to play an important role providing input on specific applications and developing land-use plans that identify where new and existing CFO's would not be compatible with current or future land uses. For existing operations, the terms and conditions outlined in municipal development permits continue to apply and prevail.

AOPA Enforcement Process

The enforcement process is basically complaint driven. Inspectors investigate livestock operations based on complaints from neighbors, the public and referrals from other agencies such as municipalities, regional health authorities and government departments.

- NRCB inspectors will contact the complainant and then visit the operation site.
- NRCB inspectors have the power to enter onto land to determine whether an operator is in compliance with the Act and Regulations. Inspections can also include any buildings associated with the agricultural operations, other than private dwelling places.
- NRCB inspectors will determine if the operator is in compliance with the Act and Regulations and existing permit conditions.

If the NRCB inspector finds the operator in compliance with the Act and Regulations, the complainant may still pursue his or her case with the Farmers' Advocate if it falls under the nuisance category, or the NRCB inspector may pass the case to the Farmers' Advocate Office directly.

- Farmers' Advocate Office will undergo a fact-finding mission, which includes a site visit and discussions with local residents.
- If the complaint is not justifiable, they can recommend to the Minister that the complaint be dismissed.
- If the complaint appears valid, the Farmers' Advocate Office will attempt to informally mediate the dispute between the complainant and the operator.
- If the dispute cannot be resolved, it may be referred to an Agricultural Practices Review Committee. The committee membership consists of three people. Two must be experienced in the type of operation in question, and the third is a member at large. The committee is responsible

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for determining if the operation in question is following generally accepted agricultural practices, and may also attempt to mediate the dispute. The committee will submit a report, which may include recommendations for adjusting the operation to prevent the nuisance. If further legal action is taken by either party, the report is admissible in court as evidence.

If the NRCB inspector finds the operator is non-compliant the following actions can be taken.

- Encourage voluntary compliance through verbal directions, warning letters, and notices of non-compliance.
- If the operator does not respond, further action can be taken in the form of enforcement orders. An enforcement order outlines specific steps required for dealing with non-compliance situations. The operator may also submit a plan to NRCB for approval for dealing with non-compliance situations.
- If the operator does not comply with an enforcement order, or resists, obstructs or delays a NRCB inspector, a court order may be issued by the Court of Queen's Bench. A court order will instruct the operator to comply with the enforcement order.
- A person may be liable to a fine of not more than \$5,000.00 or not more than \$10,000.00 depending on the contravention.

Environmental Protection and Enhancement Act (EPEA)

The EPEA was created to be a single act that takes an integrated approach to the protection of air, land and water through the consolidation of the following Acts;

- *Agricultural Chemicals Act,*
- *Beverage Container Act;*
- *Clean Air Act,*
- *Clean Water Act,*
- *Ground Water Development Act,*
- *Hazardous Chemicals Act,*
- *Land Surface Conservation and Reclamation Act,*
- *Litter Act, and*
- *Department of the Environment Act* (some sections).

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The act came into force on September 1, 1993 to strengthen and clarify Alberta's environmental laws. Alberta Environment and Parks administers and enforces this Act. Environmental considerations are a key factor in municipal, industrial and agricultural operations. Through the municipalities, Agricultural Fieldmen play an important role in Alberta Environment's approach to protecting the environment. Alberta Environment considers the Agricultural Fieldmen as a local set of eyes able to recognize and report contraventions of the EPEA such as an improper pesticide application and applications being performed by unlicensed applicators. With increased scrutiny of the agriculture industry, efforts have been implemented to ensure that environmental quality is not adversely affected by agricultural operations at all levels.

Agriculture producers are taking responsibility for environmental stewardship by implementing Environmental Farm Plans (EFP's). An EFP is a voluntary, confidential self-assessment checklist that a producer uses to identify management practices in their operations that may increase environmental risks on his or her farm (Alberta Conservation Connection, 2002). Once risks are identified, an action plan is developed to address those risks. It is an education and awareness tool for all producers. EFP's are one component of a comprehensive environmental program required to ensure continued public confidence in the agriculture industry's environmental stewardship.

Stray Animals Act

The *Stray Animals Act* covers the liability (Part 1), capture (Part 2), protection (Part 3) and other general matters (Part 4) of livestock. Under the Act, livestock refers to the following animals;

- Any horse, head of cattle, sheep, swine, goat, mule or ass, or
- Any other animal specified in the regulations as livestock to which this Act and the regulations apply.

Livestock Identification Services or the RCMP may be called to investigate cases of stray livestock. Under the *Stray Animals Act*, the owner is responsible to keep livestock confined. If livestock trespasses on land, the owner or occupant of the land may capture and confine the livestock. The owner or occupant may authorize another person to capture and confine the livestock. A complete statement of capture and expenses incurred shall be submitted to an inspector within 48 hours of confinement.

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Trespassing livestock may be destroyed by an inspector, or a person authorized by an inspector if the inspector is satisfied that;

- Livestock are trespassing on land,
- Attempted capture of the livestock will likely result in injury to a person, and
- After reasonable inquiry the owner or last person in possession of the livestock is unknown, unwilling or unable to remove the livestock.

Use the following link for more specific details on the *Stray Animals Act* and the associated regulations.

[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/acts6139](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/acts6139)

Animal Health Act

The *Animal Health Act* (AHA) came into force on January 1, 2009 and replaces the *Livestock Diseases Act*. The purpose of the AHA and its regulations is to minimize the impact of diseases in agricultural animals in Alberta and to enhance market access, public health and food safety through effective disease control measures. The new legislation recognizes that modern livestock production is part of a dynamic global market. It enables a quick and decisive response to animal disease outbreaks by authorizing traceability, control measures against disease spread, animal disease surveillance, carcass disposal provisions, livestock market inspection and licensing, and control of the sale of production animal medicines by persons other than veterinarians.

The following regulations are authorized under the Animal Health Act:

- Reportable and Notifiable Diseases Regulation
- Traceability Premises Identification Regulation
- Traceability Cattle Identification Regulation
- Destruction and Disposal of Dead Animals Regulation
- Production Animal Medicine Regulation
- Livestock Disease Control Regulation
- Livestock Market and Livestock Assembling Station Regulation

Key provisions of the AHA include:

- Clear and updated definition of disease, including reportable and notifiable diseases.
- Ability to establish quarantines, surveillance zones and control zones to control animal diseases.

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- Ability to implement additional disease control measures such as inspection, surveillance, depopulation and cleaning and disinfection of premises.
- The establishment of a livestock traceability system, including premises identification and livestock identification, including age verification in cattle.
- Ability to collect information for timely disclosure by the Chief Provincial Veterinarian in order to protect animal and human health with provisions to protect private information.

Under the *ASB Act*, the role of the board, and therefore, the Agricultural Fieldman is “to assist in the control of animal diseases under the *Animal Health Act*”. Under this Act, the Chief Provincial Veterinarian may appoint Agricultural Fieldmen as inspectors in a disease outbreak where their assistance is required. If a provincially reportable disease is discovered in your municipality, the Chief Provincial Veterinarian may rely on your local knowledge and expertise to help contain or control an outbreak.

Agricultural Service Boards under the *ASB Act* are included in the Schedule of Authorized Persons in the AHA. This means that Agricultural Fieldmen must provide information to the Minister when legally required to do so and may only use and disclose animal disease related information provided back to them for the purposes authorized by the Minister. They also have an obligation to report any known or suspected cases of a reportable or notifiable disease to the Office of the Chief Provincial Veterinarian within 24 hours. The phone number for reporting is 1-800-524-0051.

A list of Alberta’s reportable and notifiable diseases is located on AF’s website:
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/ARDs12455](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/ARDs12455)

The AHA was amended in June 2009 however the Amendment Act has yet to be proclaimed into force. Minor modifications will include revising several definitions, reorganizing the regulation-making authorities, and clarifying inspection authority for audits.

Use the following link for more specific details about the *Animal Health Act* and its associated regulations.

[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/acts12272](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/acts12272)

Animal Welfare

Society's changing attitude toward the treatment and use of animals continue to change or impact agricultural practices. Societies for the Prevention of Cruelty to Animals (SPCAs) focus their attention and efforts on addressing issues specifically related to the welfare of animals. The Alberta SPCA is a non-profit, provincially incorporated organization. It is only one of more than 100 SPCAs (or humane societies as some prefer to call themselves), their branches and affiliates, who have joined to form the Canadian Federation of Humane Societies. The Federation's purpose is to promote compassion and humane treatment of animals by "helping people to help animals" (ARD, 2006, original source Ripley, ASPCA, 2004).

As the Agricultural Fieldman you are not required to respond to concerns regarding animal welfare. If you have a specific concern, or someone has reported a concern to you about the welfare of livestock, please contact:

- Alberta Society for the Prevention of Cruelty to Animals (ASPCA) at 1-800-455-9003, or
- Farm Animal Care Action Line & Resource Team (ALERT) at 1-800-506-CARE (2273) – operated by Alberta's livestock industries through the Alberta Farm Animal Care Association

Alberta Society for the Prevention of Cruelty to Animals (ASPCA) and the Animal Protection Act (APA)

Since enactment in 1967 of Alberta's precedent-setting *Animal Protection Act* (APA), the provincial government has entrusted enforcement of its legislation to local SPCAs or to the ASPCA Special Constables appointed by the Solicitor General of Alberta. Local SPCAs are responsible for the Edmonton and Calgary areas, while the ASPCA is under contract with the provincial government to enforce the APA for the entire province but in particular, rural Alberta.

The mission of the ASPCA is "to have every animal in Alberta humanely treated." As a result, the ASPCA is obligate to respond to calls and follow through with the appropriate enforcement. Ultimately it is Alberta Justice that will proceed with charges if deemed necessary.

To obtain the details regarding the APA and its regulations use the following link.
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/acts6029](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/acts6029)

Livestock Welfare Unit, Alberta Agriculture and Forestry

The province of Alberta has a team dedicated specifically to livestock welfare issues. The Livestock Welfare Unit falls within the department of Agriculture and Food. This group provides expertise in the form of research and extension for maintaining Alberta's livestock industries as international leaders in the care of livestock. The key contacts for the Livestock Welfare Section are:

- Michelle Follensbee, Unit Leader, Livestock Welfare
Phone: 780-644-3072
Email: michelle.follensbee@gov.ab.ca

Alberta Farm Animal Care (AFAC)

In 1993, Alberta's major livestock groups formed the Alberta Farm Animal Care (AFAC) Association. They operate under the following mandate:

- Promote responsible, humane animal care within the livestock industry.
- Engage in discussion with the public about today's animal agriculture.
- Monitor and participate in issues and legislation that affect animal care.
- Encourage research relevant to animal care.

AFAC's goal is to improve animal handling and promote responsible animal care. The partnership recognized that animal welfare issues are a growing international concern and the public expect all animals to be humanely treated throughout their lifetime.

AFAC, working with industry, has collaborated on a variety of initiatives:

- Open communication with livestock protection agencies.
- Animal welfare curriculum with agriculture colleges.
- Handling and care of livestock guidelines, reports and training programs.
- Communicating to the public that farmers care for their animals.

AFAC is the 1st livestock organization to form a working partnership with a provincial humane society (ASPCA).

The following link will connect you to the AFAC website if you are interested in learning more about the partners, programs and services and initiatives of AFAC.

<http://www.afac.ab.ca/>

Alberta Livestock Protection System (ALPS)

Attitude has evolved through the years to make Alberta a leader in the delivery of animal protection and welfare services. In Alberta, we have a program that, as far as we know, is unique at least in North America called the Alberta Livestock Protection System (ALPS). The mandate for the ALPS is to ensure the responsible and humane care of livestock in Alberta. There are 4 key components of the ALPS:

1. Livestock Care Response and Enforcement Service

Ensures compliance with animal welfare legislation with an emphasis on enhanced preventative action by trained resource people.

2. Data Collection and Benchmarking Service

Provides information to objectively identify problems, track improvements and successes and have accurate facts to communicate to the public.

3. Education and Training

Provides the most current information on animal handling methods to producers, handlers and special constables.

4. Livestock Industry and Public Communication

Enhances communication about the responsible care and handling of farm animals.

The ALPS is a working partnership of:

- Alberta Agriculture and Forestry
- Alberta Farm Animal Care Association (ARDAC) – representing the livestock industry
- Alberta Society for the Prevention of Cruelty to Animals (ASPCA) – representing the public concern for animal welfare
- Canadian Food Inspection Agency (CFIA)
- Royal Canadian Mounted Police (RMCP)

Federal and provincial legislation for the protection of animals is clear evidence that society accepts the proposition that animals, although considered property by law, are objects of moral concern of sufficient importance to be entitled to at least limited protection by law. This implies, although no explicitly stated, that there are in fact rights that are those of the owner, but of the animal itself which are to be protected (ARD, 2004).

Agricultural Service Board Act

The administration and responsibilities of the municipality under the *ASB Act* was discussed in module 2. The ASB Program Administration Office is responsible for the provincial administration of the *ASB Act*. This section will focus on the process and issues associated with a municipality taking land under supervision or reclamation.

Extreme or reoccurring problems, whether they be soil erosion or weed problems or pest concerns are sometimes not capable of being resolved under their respective Acts. It may be necessary for the Municipality to become actively involved in the day-to-day control of land to ensure these problems are dealt with properly.

It is recommended that you contact the Alberta Agriculture and Forestry, Agricultural Service Board Program Administration Office (780) 415-9930 to assist you in the process and also in identifying the appropriate Minister's representative.

Supervision and Restoration of Land

Through investigation and inquiry, an ASB may find any of the following situations;

- soil loss or deterioration is taking place on land, and is of such significance that it is detrimental to the land, other land or the community, or
- weeds have infested the land to the point that crop production is seriously hindered and that the infestation threatens neighboring land, or
- productivity of land has been or may be seriously affected by any other cause.

Findings of the ASB shall be submitted to council or the Minister responsible for the *Special Areas Act*. The land under investigation must be within the municipality that the ASB has been appointed. On receipt of the report, the council may declare the land referred to in the report subject to supervision, rehabilitation, or reclamation under the *ASB Act*.

Regardless of the level of involvement the municipality takes in order to rehabilitate and reclaim land, it is important for the council to retain legal counsel with respect to these matters. It is a very sensitive issue to take control of someone's land to any degree; therefore, all activities should be documented with photographs, dates and notes of conversations etc. and proper procedures should be followed.

* Describe situations that may warrant the involvement of a municipality with supervision and restoration of land under the ASB Act.

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Taking land under supervision or reclamation is more likely to be challenged based on due process rather than science or agronomy. This may be partially a result of the lack of understanding or focus given to agronomic issues by legal staff involved in the process. However, the legal staff is very sure of administrative law and therefore, it is your responsibility to ensure that the process is followed regardless of what may appear as an obvious violation of legislation.

Process for Taking Land under Supervision

* Describe the procedure for taking land under supervision or reclamation under the ASB Act.

In order to put the process in motion, the ASB shall provide council with a report regarding a particular piece of land. In many cases the report can be given to the municipal secretary or administrator (CAO), who will then set a date for a hearing. At this point the council has only received the report, not reviewed it. It is critically important that all documents that the ASB provides to council are also provided to the landowner.

Once a date has been set, notice of the hearing shall be served to all persons shown on the assessment roll of the municipality to have an interest in the land. This notice shall be served at least 15 calendar days (not counting the day of delivery or receipt) prior to the date of the hearing and shall be served in one of two ways:

- personal service, or
- registered mail to the last known address of the person on the assessment roll of the municipality.

The notice shall include the following information:

- time and place of the hearing, and
- a statement that indicates that all persons having interest in the land may appear and be heard in person or through an agent.

The hearing is conducted to consider the report or recommendation of the ASB, while also giving the landowner and all persons having an interest in the land an opportunity to be heard. If the person has been sent a notice and they or a representative fail to attend the hearing, the hearing shall proceed in that person's absence.

Those people with an interest in the land that will require a notification of the hearing are as follows:

- anyone on the assessment roll
- persons holding an interest through a lien, caveat, judgment, or any other encumbrances
- persons or institutions holding a mortgage for the property.

Land Subject to Supervision

When land has been declared subject to supervision, the Agricultural Fieldman and the Minister's representative shall consult with the owner or occupant of the land to advise them of the best methods to resolve the problem. The intent is to mutually work out a plan of proper farming practices that the landholder can realistically undertake over a specified period of time to restore the productivity of the land. The ASB may also advise that in order to perform the measures agreed upon, the council may make special payments for equipment, materials or labor. Special payment requires that the council and the landholder enter into an agreement for repayment of the money paid by the council. If repayment is not made according to the agreement, council by bylaw may declare that the amount owing under the agreement be added to the tax role for the land.

Land Under Order of Reclamation

There are situations where council can order the control of the land be taken away from the landowner and occupant, resulting in the council taking possession and control. The shift of control is achieved through making a bylaw, or if in a special area, by order. From the date of the bylaw or order, any plan or agreement previously made is cancelled and no person shall be in possession of any part of the land without the authority and consent of the council. Although this approach may appear to be unfair and heavy-handed, there are instances where this may be the only approach to resolve the problem and restore the productivity of the land. The following are examples of when an order of reclamation may be appropriate:

- the ASB is of the opinion that a declaration that the land is subject to supervision would be ineffective;
- in a case where land has been declared subject to supervision, the Agricultural Fieldman and the Minister's representative were unable to work out a plan of proper farming practices with the landholder;
- the landholder has refused or neglected to follow an agreed upon plan of proper farming practices;
- the landholder has failed to comply with the provisions of an agreement to repay council if he or she is to contribute funds for equipment, materials or labor to complete the measures specified; or
- results have been unsatisfactory.

Registrar of Land Titles

After a bylaw has been passed, or an order has been made to take control of land, the council is required to forward a notice to the Registrar of Land Titles who will make a memorandum of the notice on the certificate of title of the land affected

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by the order. A notice of the memorandum will be forwarded by registered mail to all registered owners, caveators and mortgages of that land. This memorandum has priority over all agreements of sale, caveats, mortgages, liens, charges and encumbrances of any kind, other than taxes, irrigation charges and drainage rates.

Possession of Land

From the date of passing the bylaw or making the order, the council takes possession of the land, which remains under the general supervision of the Agricultural Fieldman. With the advice of the ASB, the council through their agents, or by agreement with the landholder, shall take any steps necessary to reclaim and rehabilitate the land. Common practices include;

- cultivate, seed, and harvest crops
- destroy weeds

The ultimate intent is to return the possession of the land back to the person who it was entitled to before control was taken by the council.

Expenses and Revenue

As long as the bylaw is in force, the council may pay the expenses for rehabilitating the land. Similarly, the council is entitled to revenues derived from the land to cover the expenses for rehabilitation and payment of taxes on the land. Any surplus of funds shall be paid to the person entitled to the possession of the land at the time the bylaw or order was made. A tenant is not eligible to receive any surplus funds.

Another option for the council in dealing with the expenses of rehabilitating the land is to rent or lease the land to a farm operator that has been approved by the ASB. The rent or lease agreement would include;

- a specific period of time, and
- the method of farming and reclamation of the land that the council considers appropriate.

Money received by council for rental of the land shall be applied first to repayment of any money expended on the land by the council, and then to payment of the taxes on the land. If there is any money from the rental arrangement remaining at the termination of the lease, it shall be paid to the person entitled to the possession of the land at the time the bylaw or order was made. A tenant is not eligible to receive any surplus funds.

Rescinding the Bylaw

On the recommendation of the ASB, the council may rescind the bylaw or order and return the land to the person entitled to the possession of the land at the time the bylaw or order was made. The ASB shall make this recommendation when it is of the opinion that the land has been rehabilitated and reclaimed sufficiently. Once the bylaw has been rescinded, the council is required to forward a notice to the Registrar of Land Titles indicating return of control to the person entitled to the possession of the land. Upon receiving the notice, Registrar of Land Titles will cancel the previous memorandum noted on the certificate of title and forward notice of this cancellation by registered mail to all registered owners, caveators, and mortgagees of the land.

If a bylaw or order is not officially rescinded by council it shall automatically lapse on January 1 following three full crop years after the date on which the original bylaw or order was made, or after the date on which an order or bylaw was confirmed after an appeal was taken, whichever is later.

Learning Exercise 8.2

Be sure to review all legislation above and any other environmental and agricultural legislation (i.e. Line Fence Act, Municipal Government Act) to be sure you are aware of responsibilities for yourself and your municipality as related to the ASB.

 Test your knowledge

Assignment 8.1

Is it necessary for a long-term problem to exist prior to considering land for supervision or reclamation? What is your opinion on using this piece of legislation (i.e. How effective is it? Political issues? etc).

 Graded Assignment

**Total Question Value
= 10 pts**

Long term problem = 4 pts
Opinion = 6 pts

DUE DATE: April 21, 2017

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Attached in the Appendix as well as a link in the references is a general contact list for dealing with a variety of issues mentioned in this module.

References and Additional Resources

Alberta Farm Animal Care Association
<http://www.afac.ab.ca/>

Animal Protection Act and regulations
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/acts6029](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/acts6029)

Farmers' Advocates Office – Alberta Agriculture and Rural Development
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/ofa2621](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/ofa2621)

Quick Reference List for Rural Landowners
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/ofa2622](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/ofa2622)

Permits and Regulations for Existing Operations
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/epw9115](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/epw9115)

Stray Animals Act and regulations
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/acts6139](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/acts6139)

APPENDIX: General Contact List

Alberta Ag-Info Call Centre

Toll-free in Alberta: 310 FARM (310-3276) or 1-866-882-7677

Out of province: 1-403-742-7901

| Nature of Problem | Contact Agency | Phone # |
|--|--|----------------|
| OIL & GAS WELLS | | |
| Landowner's rights in choosing location of well-site | Alberta Energy & Utilities Board (AEUB) | (403)297-8311 |
| | Farmers' Advocate Office | (780)427-2433 |
| Landowner's rights to compensation | Surface Rights Board | (780)427-2444 |
| | Farmers' Advocate Office | (780)427-2433 |
| Problems with spills, noise or odours | Alberta Energy & Utilities Board (AEUB) | (403)297-8311 |
| | Farmers' Advocate Office | (780)427-2433 |
| Landowner's rights to reclamation of land | Farmers' Advocate Office | (780)427-2433 |
| Problems with reclamation | Environment Science & Standards Division | (780)427-5883 |
| | Farmers' Advocate Office | (780)427-2433 |
| PIPELINES | | |
| Landowner's rights in choosing location of pipeline | Alberta Energy & Utilities Board (AEUB) | (403)297-8311 |
| | Farmers' Advocate Office | (780)427-2433 |
| Compensation for signing easement/right-of-way | Surface Rights Board | (780)427-2444 |
| | Farmers' Advocate Office | (780)427-2433 |
| Oil or gas spills or leaks | Alberta Energy & Utilities Board (AEUB) | (403)297-8311 |
| | Environment Hotline | 1-800-222-6514 |
| | Farmers' Advocate Office | (780)427-2433 |
| Exposed pipelines | Alberta Energy & Utilities Board (AEUB) | (403)297-8311 |
| | Farmers' Advocate Office | (780)427-2433 |
| Pipeline rutting, sinking, clean-up or land problems | Environment Science & Standards Division | (780)427-5883 |
| | Farmers' Advocate Office | (780)427-2433 |
| Land Reclamation | Environment Science & Standards Division | (780)427-5883 |
| | Farmers' Advocate Office | (780)427-2433 |

REGULATORY CONSIDERATIONS

| | | |
|---|--|----------------|
| Environmental Emergency (Chemical Spills, Spraying, etc) | Environment Hotline | 1-800-222-6514 |
| SEISMIC | | |
| Compensation | Farmers' Advocate Office | (780)427-2433 |
| Damage to land by seismic company | Sustainable Resource Development, Geophysical | (780)427-3932 |
| | Farmers' Advocate Office | (780)427-2433 |
| Mineral Rights | | |
| Freehold mineral rights and concerns | Freehold Owners Association | (403)245-4438 |
| LIVESTOCK | | |
| Stray Animals | Local RCMP | Directory |
| | Farmers' Advocate Office | (780)427-2433 |
| | Livestock Identification Services | 1-866-509-2088 |
| Livestock killed by wild animals | Local Fish & Wildlife Officer | (780)427-3574 |
| AG PRACTICES COMPLAINTS | | |
| Confined Feeding Operations (CFO's) | National Resource Conservation Board (NRCB) | 1-866-383-6722 |
| WATER WELLS | | |
| Water loss due to nearby oil/gas well drilling | Farmers' Advocate Office | (780)427-2433 |
| Water loss due to seismic activity & Water Well Restoration or Replacement Program | Sustainable Resource Development, Geophysical | (780)427-3932 |
| | Farmers' Advocate Office | (780)427-2433 |
| Water loss due to oil/gas exploration & Water Well Restoration or Replacement Program | Environment Hotline | 1-800-222-6514 |
| | Farmers' Advocate Office | (780)427-2433 |
| Water well driller concerns | Alberta Water Well Drillers Assoc. | (780)386-2335 |
| CanadaAlberta Farm Water Program (CARDWP) | Alberta Agriculture (AARDRD) | (780)422-9167 |
| UTILITIES | | |
| Utility issues and concerns | Utilities Advocate | (780)644-5130 |
| FARM EQUIPMENT PROBLEMS | | |
| Warranty Provisions | Farmers' Advocate Office, Parts Availability Farm Implement Act Administration | (780)427-2188 |

Revised November, 2006