

EAST KOOTENAY RANGE ISSUES

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CONTENTS

SUMMARY	1
I INTRODUCTION	1
II FINDINGS	6
A. Administration of Resource Allocation Policies	6
i) Problems	6
ii) CRMP Concept	11
iii) Long Term Planning	11
iv) Interim Priorities	17
v) Participation of Ministry of Lands, Parks, & Housing	20
B. Management Issues	23
i) Forest Growth	23
ii) Wildlife/Livestock Conflict	29
a) Policy	30
b) Wildlife Damage	33
iii) Ranch Viability	39
iv) CRMP Participation by Ranchers	45
v) Provincial Government Land Holdings	47
III CONCLUSIONS	52

PUBLIC REPORT ON EAST KOOTENAY RANGE ISSUES

SUMMARY

Shortly after my office opened in October 1979, I received numerous complaints from the East Kootenays pertaining to the administration of range resources. The problems stemmed from the fact that in the East Kootenays there are a number of groups competing for use of the range resource: ranchers want to use the range to graze their livestock; wildlife groups want range to be used as wildlife habitat; and timber operators want to encourage the growth and harvesting of timber in the area.

The range resource is of course limited, and in an effort to address these conflicting interests, a system of Coordinated Resource Management Planning (CRMP) was introduced into the area in the mid 1970's. Under CRMP both those interested in using the resources, and those whose responsibility it is to manage the resources (i.e. officials of different government agencies) meet and together plan the management of specific geographic areas on a multiple use basis. Their goal is to manage the resources of the area in such a way as to satisfy as much as possible all the various demands being made of the resources. This means compromise in many instances, but it also means that each user group can reasonably expect that to some extent its requirements will be met.

There is fairly consistent agreement that the CRMP approach is the best means of tackling the problems besetting the East Kootenays, and there is also general agreement that the range resources are now in better condition than they would have been if CRMP had not been introduced. However, the nature and number of the complaints I received indicated very clearly that there were significant problems with the manner in which CRMP had been administered.

The range of complaints was wide, and seemed to reflect a feeling, on the part of ranchers, that government agencies and other user groups had

joined forces in an attempt to squeeze the ranching industry out of the East Kootenays. The complaints thus affected a number of government agencies; for example:

- There were charges that the Ministry of Environment was deliberately expanding the population of elk and deer in the area and that the increased numbers of wildlife were overgrazing the range and foraging on crops which ranchers needed to feed their livestock; there were also many complaints that wildlife predation on private lands had resulted in significant financial losses for many ranchers.
- There were charges that the Ministry of Forests was allowing the Crown range to become overgrown with timber, thus reducing the amount of range available as forage for livestock and wildlife; there were also charges that in issuing grazing permits and licences the Ministry of Forests showed favouritism to large ranches with existing range rights, and was issuing permits for short terms and with last minute changes, thus making it difficult for ranchers to plan their operations.
- There were charges that the Ministry of Lands, Parks and Housing was permitting large scale alienations of land within CRMP areas, thus reducing the total amount of land available for agricultural purposes, and that decisions respecting such alienations were being made without consulting or advising CRMP participants.
- There were also complaints about the management of the ranches owned by the Agricultural Land Commission, and questions as to whether these ranches were in fact serving their intended purpose of permitting rehabilitation of Crown range.

Because so many of the individual complaints I received appeared indicative of more general problems, I decided, and my complainants agreed, that I would investigate these general issues in the expectation that resolution of the general problems would also result in a resolution of individual complaints.

It is unusual for the Ombudsman to investigate complaints about public policies as such. However, in this case I consider my involvement justified since:

- it appeared that inadequate policy, and conflict and ambiguity between policies were resulting in inappropriate administrative conduct which had at least the potential for administrative injustice; where administrative injustice appears to result from the implementation of public policies, it is legitimate for me to investigate the operation of those policies;
- the numerous specific complaints I received appeared to be symptoms of more general policy related problems, and thus I considered it a more efficient use of my investigative resources to examine the root causes rather than the symptoms of the problems.

During the course of this investigation my staff and I have discussed these problems with representatives of the various government agencies, with ranchers, and with representatives of wildlife and livestock groups. We also reviewed most of the recent studies of the East Kootenay range problems, and sought the assistance of an independent consultant, Dr. Valerius Geist of the University of Calgary.

In December 1980 I provided the Ministries with my preliminary report on the matter and advised them of my proposed recommendations. I sent a summary of this preliminary report to my complainants in March 1981, and in April I held a public meeting in Cranbrook to provide interested parties with an opportunity to comment on the preliminary report. Between April and June I received a number of written submissions on these matters and had further discussions with the Ministries involved.

In July 1981 I issued my final report to the Ministries. By then, the Ministries had already taken steps to correct many of the problems my complainants had cited. However, there were still a number of matters outstanding, and my final report included recommendations to address the remaining matters. I have now received the responses of all the government agencies involved, and I am pleased to report that there has been general acceptance of my recommendations.

Those directly affected by such issues will find a detailed treatment of each problem in the body of the attached report; for others, the following should serve to highlight the progress made since the inception of my investigation.

Ministry of Environment

This Ministry's responsibilities include the management, protection and conservation of wildlife, and the enforcement of hunting and trapping regulations under the Wildlife Act. As well, this Ministry was extensively involved in the establishment of CRMP in the East Kootenays.

The complaints I received about this Ministry reflected a concern on the part of ranchers that Ministry staff were controlling rather than simply participating in the CRMP process. This concern related directly to uncertainty about the Ministry's policy regarding the populations of wildlife, particularly elk and deer, in the range lands of the East Kootenays. I found that many ranchers had suffered significant financial losses because of elk and deer foraging on standing or stored crops.

Progress: In response to the concerns I expressed about an apparent lack of policy direction from senior Ministerial levels and about apparent inconsistencies in policies between headquarters and regional staff, the Deputy Minister of Environment has given instructions to have Ministry policies on the CRMP process fully documented and integrated into policy manuals. He further assures me that there will be no inconsistency between headquarters and regions in policy matters.

The Deputy Minister has also provided a clarification of Ministry policy respecting the allocation of forage on Crown land within the CRMP process. The Ministry's policy is that at the start of the planning process, it will take the position that native range forage on range units committed to livestock grazing should be shared equally by wildlife and livestock under permit. However, the Ministry has stated that the final allocation of the forage resource will be determined by the planning process. To support his position that Ministry staff are willing to, and do, compromise on this matter, the Deputy Minister provided data which show that in CRMP units in the East Kootenays, far more grazing resources (measured in terms of Animal Unit Months, the numbers of animals grazing during the grazing season) are allocated to livestock than to elk.

Thus we now have a definitive statement of Ministry policy, an assurance that policy will receive senior level direction and will be applied consistently, and a commitment to abide by the plans developed through the CRMP process.

With respect to the matter of wildlife damage, I had emphasized the need for immediate action to curb the problem, either through better management programs, or a compensation scheme, or both. I had recommended that serious consideration be given to the elk management techniques proposed by Dr. Geist and others, and to the adoption of a program of financial assistance to prevent or compensate for loss. I also recommended that officials of the Range Branch be included in such discussions, and that CRMP participants be given the opportunity to comment on proposals.

While this issue is not yet completely resolved, I am fairly satisfied with the Ministry's response thus far. The Ministry has advised that it has undertaken an internal review of issues pertaining to wildlife damage including matters such as the identification of types of wildlife causing problems, rationales for hunting seasons and other management issues. The Ministry has also entered into an agreement with the Ministry of Agriculture and Food to review the question of crop damage by wildlife; the Ministry of Environment indicated that a compensation program was among the options being considered, but it also indicated that at present a compensation scheme did not appear to be a viable alternative. The Ministry has advised that it expects to be able to present its programs or proposals to counteract wildlife damage by the end of 1981. The Ministry has also advised that discussions are underway with other agencies to examine options for implementing the remaining recommendations.

Ministry of Forests

This Ministry's responsibilities in CRMP matters relate to both forest and range management. This includes planning for the use of forest and range resources so as to coordinate and integrate the production of timber and forage, the harvesting of timber, and the grazing of livestock. It also has a responsibility to consult and cooperate with other Ministries and agencies and with the public sector.

The complaints I received about this Ministry reflected the dual nature of its responsibilities for forest and range management: there was concern that the Ministry was tending to its forest responsibilities but neglecting its duties toward the range. There were complaints that the Ministry was deliberately allowing the range to become overgrown with trees, thereby decreasing the total amount of range available. Fears were also expressed that this Ministry was attempting to reduce the ranching industry in the East Kootenays by deliberately decreasing the number of Animal Unit Months (AUMs) allocated to livestock, and by issuing grazing permits and licences in such a manner as to make planning and operation difficult, particularly for the small rancher.

Progress: In response to complaints that it has neglected the range, this Ministry outlined a multi-phased range management program currently in effect. It has now for the most part completed the initial phase which consisted of the establishment of maintenance structures such as fences and cattle guards, and is now involved in the identification and correction of problems besetting specific range units. The current phase also involves the implementation of specific corrective programs such as clearcutting thick clumps of trees, and spacing in areas where this appears beneficial to both timber and forage resources. I consider the Ministry's spacing program to be particularly appropriate to a multiple use approach to range management since it addresses the needs of timber operators, wildlife groups and ranchers. However, the nature of the spacing program is such that its benefits are not apparent for a number of years; I have recommended that the Ministry attempt to speed up its spacing plans and that it consult with CRMP participants to ensure that problem areas are included, and the Ministry has agreed.

With respect to the decrease in the number of livestock AUMs, my investigation verified that there had in fact been a very significant reduction in livestock AUMs since the mid 1960's. However, I also learned that there had been significant increases in AUMs during the 1960's, and that the range had become badly overgrazed as a result. The reductions which have taken place during the 1970's were an attempt to correct an overgrazing situation and to allow rehabilitation of the range. The Ministry's goal is to retain AUMs at current levels with slight increases in certain units as conditions permit. Under the circumstances I find this a responsible approach to range management, and not one intended to squeeze out ranchers.

The Ministry has also taken steps to correct some of the difficulties experienced with grazing permits and licences. It now issues permits for longer periods, and has agreed that permits should be issued early and will not normally be changed at the last minute. These measures will assist ranchers in planning their operations. I had recommended that the Ministry, when issuing permits for new grazing opportunities, give serious consideration to potentially viable operations and to those without existing grazing rights. The Ministry has agreed, although it also expressed some reservation about the interpretation of the term "potential"; it has drafted a new policy for the disposition of new grazing opportunities, and will circulate this draft to users for comment. There were also some complaints about the appeal procedures for grazing permits; this is a matter which may entail changes in legislation and regulations, and thus can be expected to take some time. I will continue discussions of this matter with the Ministry until the problems are resolved.

Ministry of Lands, Parks and Housing

This Ministry has a general responsibility to administer Crown land within the province. It is also involved in setting the geographic boundaries of a CRMP when the CRMP is first established.

The complaints I received about this Ministry reflected a fear that the Ministry was allowing large scale alienation of land within CRMP areas without consulting or advising CRMP participants, and that this was resulting in an overall decrease in the amount of land available for grazing purposes. There were also complaints that the Ministry refused to participate in CRMP beyond the boundary setting stage.

Progress: The Ministry has advised that it has now made a written commitment to refer land use applications within CRMP areas to other agencies, to have contentious issues discussed by the Regional Resource Management Committee, and to provide for the referral of unresolved issues to the Environment and Land Use Technical Committee. Thus CRMP participants can be advised of land applications relating to CRMP areas through the Regional Resource Management Committee. The Ministry has taken the position that its continuing participation in CRMP is unnecessary after boundary setting; since the Ministry has established a

procedure whereby CRMP participants can be consulted and advised respecting land use applications, I would agree with this position.

The Ministry has also provided information on land alienation in CRMP areas of the East Kootenays for 1979 and 1980. On the basis of this information, I would agree with the Ministry that there have not been extensive land alienations having detrimental effects on the ranching industry.

Ministry of Agriculture and Food

This Ministry's responsibilities include matters relating to the production of agricultural products and to the institution and implementation of advisory, research and education extension programs related to agriculture. It has an important role to play in advising ranchers on methods of improving cattle production, including at times matters relating to range management.

The only complaints I received about this Ministry were simply requests that this Ministry play a more active role in CRMP matters, and seemed to reflect a belief that this Ministry was in a better position to understand and assist ranchers in their problems. During my investigation I also became aware that certain government officials were attempting to promote conflict between this Ministry and the Range Branch of the Ministry of Forests.

Progress: This Ministry has been quick to volunteer its assistance and expertise in the role of advisor to ranchers; it is also to be commended for the initiative it has displayed in taking steps to implement my recommendations and to meet with other government agencies on matters requiring joint action.

Further, in December 1980 the Ministries of Forests, and of Agriculture and Food signed a memorandum of understanding which defines and delineates their respective roles in the CRMP process. I am confident that the CRMP process will benefit from increased involvement on the part of the Ministry of Agriculture and Food and from cooperation between this Ministry and the Range Branch on matters pertaining to range management.

Agricultural Land Commission

Among the responsibilities of the Agricultural Land Commission is the administration of three ranches which the Commission owns in the East Kootenays. These ranches have been used as alternatives to Crown range for livestock grazing purposes to allow rehabilitation of badly overgrazed Crown range.

The complaints I received about the Commission related to the manner in which grazing privileges on Commission ranches were allocated, and to concern that the ranches might not actually be serving the purpose of promoting rehabilitation of Crown range.

Progress: In response to comments and recommendations respecting the allocation of grazing privileges on Commission ranches, the Commission has initiated a pilot project in which a bid system is used to allocate surplus pasture, and in which cattle not currently under permit are eligible for consideration.

With respect to the role played by the three Commission ranches, I have been advised that a review of that role is currently underway through an interagency task force involving input from the Ministry of Forests, the Ministry of Agriculture and Food, and the Agricultural Land Commission.

The Commission responded very quickly and very effectively to the complaints and recommendations it received, and is to be commended for the initiative it has displayed in these matters.

Conclusion

As this report indicates, there has been significant progress on many of the problems which complainants drew to my attention. In some cases changes are already in effect and in other cases plans have been made for changes which should have demonstrable benefits within the next few years.

In reviewing the course of this investigation, I have concluded that one of the most important results has been an infusion of democratic spirit into the CRMP process. From its inception, the intention of the CRMP approach has been that all the involved parties -- both resource users and resource managers -- should participate actively in planning for resource management in the area, and that the resulting plans should be the work of their joint effort. For a myriad of reasons, CRMP has not worked as it was intended, and one of the results has been inequitable participation, confusion, misinformation and fear. Some managers were not as involved as they should have been, and others were perhaps too involved; conflicts between user groups were emphasized rather than minimized; and ranchers came to believe that their role in the process was minimal, and that it was the government's intention to slowly eliminate the ranching industry in the East Kootenays.

I can understand the origins of this fear, but I am now convinced that it is groundless. The ranching industry in the East Kootenays plays an important role in the fulfillment of British Columbia's agricultural policies. In the past the government has made a commitment to the promotion of the ranching industry by permitting use of Crown range for grazing purposes; the government has now made a further commitment that it will not substantially change the existing user shares of the range resource -- including that share attributable to ranchers -- until such time as long term planning dictates a change in resource allocation in the area. In this latter event, the government has agreed that there will be consultation with and sufficient notice to users before such changes are actually implemented.

In the interim ranchers and other user groups, in combination with resource managers can participate more equitably in the CRMP process so that CRMP can operate as it was intended. During the course of my investigation I have witnessed a significant change in attitude on the part of the government agencies involved. CRMP has been in place for over five years now, but it has taken this long to obtain genuine commitment to the concept on the part of the various Ministries. The conversion is not complete, but it is clear that the attention which has been drawn to these issues has for the most part led Ministries in the direction of a long term commitment to the concept. I am pleased to have been able to assist to whatever extent I have in this conversion, and I am optimistic that the trend will continue.

I INTRODUCTION

In October, 1979 I received numerous complaints from the East Kootenays relating to the Ministries of Environment, Forests, Lands, Parks and Housing, and Agriculture and Food, and the Agricultural Land Commission. I visited the area in November 1979 and received many more complaints. Some of these complaints were general, and some specific, but all related in some way to the manner in which range resources were being allocated and administered, and the manner in which the Coordinated Resource Management Plans (CRMP's) were operating in the area.

Coordinated Resource Management Planning was introduced into the East Kootenays in the mid 1970's in an effort to resolve conflicts which were becoming apparent among resource users. Many areas of the East Kootenays are suitable for ranching, for timber production, or for wildlife habitat; and there are conflicting views as to the extent to which the range resource should be used to satisfy each of these various uses. But under Coordinated Resource Management Planning the range can be managed in such a fashion that each of these uses has a place; it represents a sharing of the range among the various user groups, rather than the dedication of the range to

one use with the exclusion of others. Under CRMP task groups are established in which both resource users and the government's resource managers work together to plan the management and development of the area's resources on a multiple use basis, recognizing and satisfying as far as possible the various demands placed on the resources by the different user groups.

However, the introduction of C.R.M. Planning in the East Kootenays brought with it other problems. Most, if not all of the participants, support the concept, but many have been dissatisfied with the manner in which the concept has been implemented. Some think the plans produced through the CRMP process operate to the benefit of certain user groups and to the detriment of others; and some believe they do not have sufficient input into the planning process.

Because so many of the complaints I received related to more general underlying problems, I proposed to my complainants that I investigate the general issues raised, rather than attempting to pursue individually each of the complaints. This approach was accepted on the assumption that the resolution of the more general problems would also alleviate the circumstances precipitating the individual complaints.

It is unusual for the Ombudsman to investigate complaints about public policies as such; however, this case was also unusual, in terms of both the number and the nature of complaints, and gave me reason to be concerned. More specifically, there are two primary grounds which I believe justify my involvement:

- i) It appeared that the absence of policy, the conflict between policies and the ambiguities inherent in specific resource use policies were directly responsible for fostering inappropriate administrative conduct which in turn has the potential for administrative injustice. If administrative injustice is directly or indirectly caused by the operation of public policies it is a legitimate role for me to recommend reconsideration or clarification of policies in order to minimize administrative injustice.
- ii) I received numerous complaints about specific incidents of administrative misconduct, abuse of discretion, and arbitrariness by government officials. Since these appeared to be symptoms stemming from the more general policy related problems noted above, I decided that it would be a more efficient use of my investigative resources to examine the root causes rather than the symptoms of the problems.

My staff and I have spent a considerable amount of time on these issues since November, 1979. We have discussed the problems with representatives of the various Ministries, with ranchers, and with representatives of wildlife and livestock groups. We have also reviewed most of the recent studies of the East Kootenay Range problems, and of directly related issues.

I had an independent consultant, Dr. Valerius Geist of the University of Calgary, examine the information available to my office. He provided an appraisal of range and resource management in the East Kootenays, and offered valuable advice on solutions and appropriate management techniques.

In December 1980 I advised the Ministries of my preliminary findings and of my proposed recommendations. In March 1981 I sent a summary of this preliminary report to each of the complainants and to the other involved parties, and in April I held a public meeting in Cranbrook to provide interested parties with the opportunity to comment on my preliminary report.

In response to this preliminary report, I received written submissions from each of the Ministries and from a number of other parties. In all, I received submissions from seventeen parties between March and June of this year, and many of these commented at length on many aspects of my preliminary report.

I considered all of the various submissions, and in July I issued my final report to the Ministries. By this time the Ministries involved had taken or were planning to take, steps to correct many of the problems highlighted by my investigation. However, there

were still a number of matters which had not been resolved satisfactorily and in my final report to the Ministries I made recommendations intended to correct this.

I have now received the responses of each of the Ministries, and I am pleased to report that the Ministries have made a commitment to accept and to proceed with the implementation of my recommendations.

II FINDINGS

Because the issues are complex, I will discuss my findings in two parts: the first part relating to matters of overall policy administration, and the second to detailed management issues arising out of the implementation of the various policies.

A. Administration of Resource Allocation Policies

i) Problems

During the past number of years people in the East Kootenays have become increasingly concerned about the quantity and quality of available range resources. The primary resource user groups to express that concern have been ranchers, wildlife groups, and those involved in forestry operations. Their concerns are varied and reflect the interests and livelihood of each group:

- Ranchers in the area use privately owned land and, to a varying extent, also use segments of Crown range land as a source of forage for their cattle; they are concerned about problems in obtaining or retaining grazing permits on Crown land, about reductions of available range due to forest ingrowth or due to

foraging by wildlife on private lands, and about the damage caused to their crops by wildlife.

- Wildlife groups are interested in maintaining and increasing wildlife populations in the area so as to promote hunting opportunities. They are concerned that ranchers and others may attempt to restrict or reduce wildlife populations, or may take other steps to discourage wildlife from frequenting the area; they are also concerned that forest ingrowth may be reducing the amount of forage available to wildlife.

- Those involved in forestry operations are interested in encouraging the orderly growth of stands of timber; they are concerned that pressure for increased grazing opportunities may lead to demands that areas be clearcut, thereby reducing available timber resources for the future.

Many are also concerned that other demands for Crown land (e.g. reservoirs, development, tourism related land alienations) may serve to reduce further the Crown land available for ranching, wildlife, or timber purposes.

Overlaying this network of potentially conflicting demands on the range resource is another network of management responsibilities, which similarly holds a potential for conflict, both among resource managers, and between a specific resource manager and a specific user group. There are five government bodies which serve as resource managers in this area:

- The Ministry of Lands, Park and Housing has a general responsibility to administer the Crown land resource of the province, and is involved in setting the boundaries of a C.R.M.P. when it is first established. I had received complaints about this Ministry's lack of participation in C.R.M. Planning beyond the boundary-setting stage. More specifically, there were charges that the Ministry of Lands, Parks and Housing made decisions respecting land alienation and use without consulting or advising the affected CRMP groups.
- The Ministry of Environment's responsibilities include the management, protection and conservation of wildlife; the Ministry also has extensive responsibilities relating to the enforcement of hunting and trapping regulations under the Wildlife Act (R.S.B.C. 1979, c.433). There were complaints that

this Ministry, more particularly its Fish and Wildlife Branch, was exerting too much influence over the CRMP process -- that it was in effect controlling, rather than participating in the process. Ranchers expressed the fear that the Fish and Wildlife Branch was increasing populations of elk in the area, resulting in a decrease in the Crown range available for livestock grazing, and in damage by wildlife to both standing and stored crops.

- The Ministry of Agriculture and Food is responsible for the production of agricultural products, and for the institution and implementation of advisory, research, and education extension programs related to agriculture. This Ministry has an important role to play in advising ranchers on methods of improving cattle production; at times this extends to matters pertaining to range management, and I realize that there may appear to be overlap in responsibilities of this Ministry, and the range responsibilities of officials of the Ministry of Forests.
- The Agricultural Land Commission owns ranches in the East Kootenays which have been used as alternatives to Crown range for livestock grazing so as to allow rehabilitation of badly overgrazed Crown range. I received complaints about the administration of these ranches, more specifically about their

practice of accommodating only ranchers who already hold range privileges. Questions were also raised as to whether or not the ranches were actually serving their intended purpose, i.e. to permit rehabilitation of Crown ranges.

- The Ministry of Forests plays a dual role in C.R.M.P. matters, since it has responsibilities for both forest and range management. As the Ministry of Forest Act (R.S.B.C. 1979, c.272) states, its purposes and functions include the responsibility to:

"...plan the use of the forest and range resources of the Crown, so that the production of timber and forage, the harvesting of timber, the grazing of livestock and the realization of...other natural resource values are coordinated and integrated, in consultation and cooperation with other ministries and agencies of the Crown and with the private sector."

I received complaints that this Ministry was tending to its forest responsibilities and neglecting its duties toward the range. More specifically, there were charges that the Ministry was permitting forest encroachment of range lands, thereby reducing the forage available to both wildlife and livestock; there were also accusations that the Ministry was deliberately decreasing the number of Animal Unit Months (A.U.M.'s) allocated to ranchers through grazing permits and licences.

ii) C.R.M.P. Concept

Clearly, Coordinated Resource Management Planning is an appropriate tool with which to tackle this set of problems, and I found general support for the concept of coordinated management and use of limited resources in the East Kootenays. In spite of all of the complaints lodged pertaining to CRMP matters, I think it is fair to say that all parties involved agree that their interests are better served through the CRMP process than through previous management efforts.

However, my investigation has indicated that there were some problems with both long term planning and interim priorities for C.R.M.P.

iii) Long Term Planning

If CRMP is to be effective, there must be major long term planning for the resources of the East Kootenays, and plans must be approved at senior Ministry levels or by the Environment and Land Use Committee (ELUC) of Cabinet. The planning and policy making must consider, adjust and coordinate all resource demands and all the various policy options, and should attempt to stabilize resource

shares by user sector. It is quite likely that the proper vehicle for this kind of policy making may exist in the form of an "Official Plan" under the proposed Community Planning Act if and when that proposed legislation is approved by the Legislative Assembly. At present, there is no legislative framework to formalize this coordinated approach, but I am satisfied that there is now a commitment on the part of the involved government agencies to work toward this goal.

With respect to the need for senior level approval of CRMP plans, I have concluded that in the earlier stages of coordinated resource planning, the local range resources were being managed by regional staff in the absence of senior level governmental directives and policy in some very critical respects. As a result, major policy and planning decisions were being formulated by regional staff without a circumspect regard for provincial objectives, and without genuine coordination of resource interests. Each agency, despite its participation in the CRMP process, was managing for its own policy goals with no mechanism for adjusting its aims to reach a position of mutual benefit, compromise or accommodation.

In my preliminary report I indicated that this lack of direction from senior Ministerial levels seemed particularly evident in the

Ministry of Environment. In responding to my preliminary report, the Ministry of Environment did not disagree with the need for policy formulation at senior levels.

However, subsequent to that response it appeared that regional staff continued to make major policy and planning decisions and that senior levels within the Ministry appeared to be unwilling to effect changes in this regard. In my final report to the Ministry I again emphasized the need for senior level direction and for consistency between region and headquarters in policy matters. The Ministry of Environment has advised that discussions of policy matters were taking place continuously between region and headquarters, and that there were no variations between the two on policy matters.

I accept this as a statement of the Ministry's goal, and I trust that the Ministry will work toward complete achievement of this goal. I realize, as the Ministry of Environment pointed out, that Environment officials have played a major role in establishing the CRMP process in the province; but now that the process has been established, there is a need to ensure that all the involved government agencies assume their proper roles in what should be a truly coordinated approach to resource management.

Similarly, I consider it important that the Ministry of Agriculture and Food become more involved in policy development. I am aware that certain of those involved in the CRMP process are attempting to fan a conflict between Agriculture officials and those of the Ministry of Forests' Range Branch. I only hope that such efforts die quickly. In this regard I was encouraged to learn that in December, 1980 the Ministries of Forests, and of Agriculture and Food had entered into a memorandum of understanding defining and delineating their respective roles in the CRMP process. As that memorandum makes clear, the Ministry of Agriculture and Food has the authority and responsibility to assist the ranching industry in the development of methods which promote efficient production; this will include training, information and extension programs, the undertaking of specialized research, and the provision of advice as required or appropriate. This is an important role, and it is my view that the CRMP process will clearly benefit by this increased involvement on the part of the Ministry of Agriculture and Food.

Two additional points must be noted with regard to long term planning. First, before long term planning can be initiated, an assessment must be made of all land use and resource interests in the East Kootenays, and second, current resource users must be provided with sufficient notice and with the opportunity to comment

on proposed changes when major shifts are contemplated in the various resource shares.

With regard to the assessment of the relative importance of all land-use and resource interests, it was pointed out to me that the East Kootenay range is classified as first class wildlife habitat and as significantly lower class agricultural land. This may well be an accurate assessment on purely technical grounds, but it reflects neither the actual land settlement patterns, nor historical or current land uses, nor does it address the issue of the relative importance of the various resource interests for British Columbia.

It is likely that if the range were left unmanaged and unimproved, it would revert significantly to a condition suitable only as wildlife habitat; but this likelihood need not dictate the actual use to which the range is put, nor do I believe that the agencies involved intend to allow this to happen. The ranching industry has been part of life in the East Kootenays for many, many years; it not only represents a significant capital investment on the part of individuals, but also makes a significant contribution to the province's beef production industry, and in this way plays an important role in the implementation of the province's agricultural policy.

With respect to the second point above, it is essential that ranchers and other resource users be consulted when changes in resource shares are contemplated. In the event that long term policy indicates that major alterations of the present range resource allocation scheme are desired, those changes should be properly canvassed, approved at senior levels of government and effected gradually in order to create the least displacement of existing interests.

From my review of Ministry comments regarding policy formulation, I have concluded that for the most part there is a recognition of this need, and an agreement regarding the responsibility to consult with, and provide sufficient notice to, current users when considering major shifts in resource use policy.

I must note, however, that many ranchers in the East Kootenays do not know or do not believe that this commitment exists. Apparently government officials acted and occasionally talked as though government wanted ranchers out of the region and that the entire region would be more suitable for wildlife production and recreation use. Because of this ranchers feared that it was government policy to displace ranching in the area. I am convinced and now conclude

that that is not government policy and that these fears are not based on fact although I can understand how these fears arose.

iv) Interim Priorities

Until and unless long term plans and policies are established it is critical that all Ministries participating in Crown resource management in the East Kootenays recognize and commit themselves to maintaining the resource user shares in effect at present. My complainants are ranchers who have invested considerable time and capital in their industry, and I believe that in permitting ranchers to use Crown lands in order to engage in their livelihood, the government has made a firm if tacit commitment to ranchers to allow continued use of the Crown range for ranching. I also believe that because of this, ranchers are entitled to rely on at least the Crown grazing opportunities available to them now until a properly authorized regional plan alters present priorities.

I received many comments disagreeing vociferously with my proposal that Ministries make a commitment to maintaining the existing resource user shares. This disagreement was based on the belief that it implied the granting of a priority interest to ranchers' use of the range, and many seemed unwilling to accept the position that ranchers might or should have priority over other range users.

The responses from the Ministries of Forests and Environment pointed out that the range should be managed on a multiple, rather than a single, use basis, with a goal of producing benefits for all the resource users, including ranchers. I agree with this point; any coordinated plan must take into account all of the various uses to which the range will be put. I made reference to ranchers because of their heavy capital investment in the industry, because of the extent to which they currently rely on the use of Crown range land, and because they were the only ones whose livelihood was threatened by a reduction in their share of the resource.

But clearly other groups have interests in the Crown range as well, whether of a financial or other nature. Those involved in the timber industry, and those in wildlife groups, are also users of the Crown resources in the East Kootenays, and are entitled to expect to maintain their share of the resource until such time as there is a conscious decision made through a long term planning process to change those shares.

My specific concern with regard to the ranching industry is that ranchers not suffer further decreases in AUM's before long term policy for the region is developed. I have examined Ministry of

Forests records for livestock grazing allocations in the East Kootenays. These records indicate, as my complainants had stated, that there was a significant reduction in AUM's between 1965 and 1979 (from 76,582 in 1965 to 43,907 in 1979). However I understand that the level of AUM's had been increased dramatically in the 1960's from a prior level of approximately 44,000, and that this increase in AUM's in the 1960's led to a deterioration of range conditions. I have been advised that the decrease which has taken place since then was an attempt to improve range conditions.

An examination of the records from the time CRMP was introduced to the present shows that there has been a slight increase in the number of AUM's allocated to livestock in the East Kootenays since the inception of CRMP in 1975. Ministry of Forests staff have indicated that the Ministry intends at least to maintain this level, and that in certain range units there will be a slight (10-15%) increase in the AUM allocations.

I appreciate that it is impossible for the Ministry of Forests to guarantee that a specific number of AUM's will be dedicated to livestock grazing since factors such as weather can influence the quantity and quality of range available for different users. I also agree that the range should be managed with a goal of improving the

benefits for all users. Further, I am satisfied that the Ministry of Forests intends to maintain the present level of AUM allocation and to increase that level slowly over time.

v) Participation of Ministry of Lands, Parks and Housing

In my preliminary report I had commented that the Ministry of Lands, Parks and Housing was involved in very few coordinated planning matters and that its decisions regarding alienation and use of Crown Land were not part of the CRMP process. I had proposed that the Ministry become a consistent participant in CRMP, and that its decisions regarding land alienation be subject to scrutiny and evaluation within the CRMP process.

The Deputy Minister of Lands, Parks and Housing has suggested that I was not correct in stating that land alienation decisions were not integrated into the CRMP process, and further advised that his Ministry had made a written commitment to this effect. I have obtained a copy of the pertinent document, which is an October, 1980 amendment of the Ministry's Planning Handbook. As the Deputy Minister indicated, this document does require land use applications to be referred to the appropriate agencies; it provides for the discussion of contentious issues by the Regional Resource Management

Committee, and also provides for the referral of unresolved issues to the Environment and Land Use Technical Committee. It is clear that this procedure does allow CRMP participants to be advised of, and to have input into proposed land use decisions, and I am pleased to learn that the Ministry has made a commitment to this procedure.

With respect to its consistent participation in the CRMP process, the Ministry has stated that it does not feel it has a primary role to play after boundaries have been set, since most other decisions and plans focus on matters within the jurisdiction of other Ministries. In view of the fact that the Ministry has established a procedure which allows affected CRMP groups to be advised of and have input into land use decisions, I would agree with the Ministry's position, since this was my primary concern relating to Lands, Parks and Housing's continuing involvement in CRMP. In any case I have been advised that since the beginning of this year, the Ministry has tended to participate in the CRMP process on a regular basis.

However, discussion of this matter revealed another problem relating to the referral of land use applications to affected CRMP groups. There had been some criticism to the effect that agencies providing referral information appeared to have no formal means of being

advised of the final decision on such applications. Because such information is important in a coordinated planning environment, I recommend that the Ministries involved in CRMP take steps to provide feedback, either directly from the Ministry of Lands, Parks, and Housing to the Regional Resource Management Committee, or indirectly through each Ministry to its staff on the Regional Resource Management Committee. This recommendation has been accepted.

I should also add that the Deputy Minister of Lands, Parks and Housing has provided information on land alienations in the East Kootenays in 1979 and 1980 to contradict the charges that there had been extensive land alienation in the area in the recent past. This information shows that in 1979, the Ministry approved one land application involving just over 20 hectares which had been in a CRMP area, and in 1980 the Ministry approved applications pertaining to 314 hectares within CRMP areas, of which 229 hectares remained in agricultural use. I would agree with the Ministry's position that these do not represent extensive land alienations having detrimental effects on the ranching industry.

B. Management Issues

1) Forest Growth

I had received many complaints concerning the Ministry of Forests' management of the range resource. I was advised that the Ministry had managed the range without serious commitment to the users dependent on that resource, that it had allowed the range to become overgrown with "scrub" timber which had clearly caused a deterioration in range conditions, and that this ingrowth was also of little use to the forest industry without thinning. As a consequence of this ingrowth, and of the Ministry of Forests' refusal to correct it, ranchers and wildlife interests had been placed in a position of increasing conflict as they were forced to compete for shares of a diminishing resource.

I might also note that forest ingrowth and the resulting reduction in the range base were cited as primary contributors to East Kootenay range problems in the reports of Project Grass-Roots (1970) and of the Special Interministerial Committee (1980) which was appointed to examine the implementation of CRMP in the East Kootenays. The report of the Special Interministerial Committee also states that the Committee had been advised that usable range land in the East Kootenay had decreased by 50% in the last 30 years.

It is difficult or impossible to determine the precise extent to which range land has been replaced by forest. From the comments I received it is apparent that the extent to which this is perceived as a problem varies with the time frame one employs for comparison purposes. At one time the East Kootenay area was heavily forested; then, during the early part of this century the area was logged and subsequently plagued by a series of devastating fires. If one compares the present situation with the earlier forested period, one could conclude that range has replaced much of the natural timber area; if one compares the present with the period following the fires and logging operations, one could reasonably conclude that forest ingrowth has replaced natural range areas.

I don't consider either of these arguments to be particularly fruitful; at present there are demands for both range and timber resources, and the most constructive approach involves managing the available resource area in such a way as to satisfy both types of demand as far as is possible.

From the information provided to me by the Ministry of Forests, I have concluded that the Ministry has taken positive steps toward such a management policy; however, because of the nature of the

process it may well be some time before significant benefits become apparent.

In response to my preliminary report, the Ministry of Forests explained that it distinguishes between two types of timber growth problems in the East Kootenays, each requiring a different solution. The first is an overstocking problem and is characterized by dense clumps of trees; the second is a growth problem in which spacing programs can be employed to make more productive use of timber stands.

The Ministry has stated that overstocking is by far the less prevalent problem; it occurs when dense thickets are such that they do not readily lend themselves to spacing, either because of the species of tree or the thickness of clumps. In overstocking situations, clearcutting is required, and the Ministry has stated its intention to carry out clearcutting programs as required.

The second, and more prevalent problem is one in which there is a need for spacing of trees to provide a grass and tree environment which can be used as forage by both cattle and wildlife, and as an improved source of timber. Much of the timber in the East Kootenays is a mixture of Fir and Yellow Pine; both of these are species which

benefit from spacing and which have heavy bark allowing fire to be used without causing severe damage to the trees. After a stand has been spaced, the slash must be left on the ground for a period to promote retention of nutrients by the soil, and can then be burned so that the area around the remaining trees reverts to grassland, or is seeded to promote grass growth. Such a program is clearly consistent with the goals of a coordinated approach to resource management.

Ministry of Forests staff advised that while spacing programs have been prevalent in coastal areas for some time, they have been introduced into the interior only relatively recently. I have examined Ministry of Forests information regarding the level of spacing activity in the past and that planned for the future. In the Cranbrook Forest District, spacing programs were initiated in 1977, and in that year only 6 hectares were spaced. However this figure rapidly increased to 670 hectares in 1979 and to 1250 hectares in 1980. Ministry staff in the area estimate that there are 4000 hectares which require priority spacing, and that at least half of this (and of the area already spaced) would have long term forage value. The Ministry's current plans are to space 200 hectares in 1981, and 950 hectares per year from 1982 - 1985. The decrease in the 1981 program appears to be primarily attributable to a significant decrease in ARDSA funds for this year.

I have also learned that the Ministry of Forests has developed a range management program consisting of several phases. The first phase was oriented toward the creation of maintenance structures - fences, cattle guards, water holes which would allow control over the use of the range. These structures are now pretty much in place, and the Ministry has reoriented its efforts toward the second phase, which involves the introduction of special programs, such as spacing and clearcutting, to address the problems of each specific range unit.

The Ministry has advised that it has hired a planner to evaluate each of the range units in the East Kootenays; this evaluation involves the provision of base information regarding the type and severity of problems facing each unit, and allows the Ministry to attach priorities to its efforts with regard to the different range units. I understand that CRMP participants have been involved in this process. I also understand that Grassmere has been singled out as the range most in need of rehabilitation and that initial efforts have been oriented toward improvements there.

I believe the Ministry's approach properly addresses the needs of the various resource users under a coordinated plan, and the

Ministry is to be commended for its initiatives in this regard. I was however, somewhat concerned with the timing of certain aspects of the Ministry's management plan. I realize that because of the need to ensure retention of nutrients, and because of the time required to promote grass growth, the results of these efforts cannot be translated immediately into increased and improved range lands. However, because of this time lag I felt it necessary to reiterate my concern for immediate action, and recommended that the Ministry give serious consideration to completing within a shorter period the priority spacing programs considered likely to produce the greatest increase in forage resources. The Ministry has accepted this recommendation.

Also, in view of the comments which I received respecting the extent of forest ingrowth in the area, I consider it important that the Ministry consult with CRMP participants on this matter. The Ministry has estimated that approximately 4,000 hectares require priority spacing; I recommended that the Ministry consult with CRMP participants to assist in determining the accuracy of this estimate, and to ensure that spacing programs include land of concern to CRMP participants. The Ministry has also accepted this recommendation.

ii) Wildlife/Livestock Conflict

More complaints were voiced on the subject of wildlife/livestock conflict than on any other, including forest ingrowth. The Ministry of Environment has estimated that there are between 12,000 and 13,500 elk in the East Kootenay area. It had been the stated policy of Regional Fish and Wildlife staff that the forage resource should be shared equally between livestock and wildlife; and on this basis it was estimated that the elk population in the area could be increased to between 18,000 and 22,500.

Ranchers in the area have expressed extreme opposition to this prospect. Many of the complaints I received concerned the damage caused by wildlife to fences and to both standing and stored crops. I understand that the local Fish and Wildlife Branch made an informal study which estimated the annual damage at about \$100,000, and which noted the ranches according to the severity of damage. (More recently, however, the Ministry of Environment advised that it does not consider that the extent of the economic damage has been established because the data upon which the study was based are considered to be neither complete nor accurate).

a) Policy

It was on the matter of policy respecting the population mix of wildlife and livestock sharing the East Kootenay range that I questioned whether senior level officials or regional staff of the Ministry of Environment had taken the lead in policy development. From the Ministry's response to my preliminary report, and from my discussions of that response with Ministry staff, I had concluded that there appeared to be a lack of policy direction from senior levels, and that there appeared to be inconsistencies between the policy statements of headquarters and regional staff.

It may be that this exchange took place before Ministry policy on the matter had been completely clarified. Whatever the explanation, I now have the Ministry's commitment that Ministry policy will be applied consistently. The Deputy Minister of Environment, in responding to my final report, stated the Ministry's policy regarding allocation of forage on Crown land with the CRMP process as follows:

"...The initial premise at the start of the planning process is that the allocation of the native range forage on range units committed to livestock grazing in the East Kootenay area shall be equally shared by wildlife (all species) and livestock under permit (cattle and horse): the final allocation of the forage resource is determined by the planning process."

The Deputy Minister of Environment also attached to his response a breakdown of the AUMs allocated to elk and to livestock in the East Kootenays. These figures show 42,607 AUMs allocated to livestock and 20,314 AUMs to elk; in the Rocky Mountain trench, 36,697 AUMs have been allocated to livestock, and 8,218 AUMs to elk. On the basis of this information I would agree with the Deputy Minister of Environment that his officials clearly have compromised from their original position that range units should be shared equally between wildlife and livestock. Further, I am certain that my complainants will feel reassured to know that the Ministry has committed itself to accepting the population mix determined through the CRMP planning process rather than through unilateral decisions.

In the long term, the Ministry must establish policies regarding wildlife population sizes in accordance with the future regional planning system. To do this it will be necessary to determine the carrying capacity of the East Kootenay range for livestock and wildlife. In my preliminary report I had stated that my consultant, Dr. Geist, had suggested that the only reliable indicator of the carrying capacity of the range as far as wildlife is concerned is the physical condition of elk measured in ways such as rates of body

growth, antler development and reproductive performance. I misinterpreted Dr. Geist on this point; he had instead suggested that such qualitative measures should be used in association with the usual quantitative information obtained through herd counts.

However, even in its modified form, this suggestion encountered opposition from almost all parties. The opposition stemmed from the belief that by the time any inadequacies in the range were reflected in the physical condition of the elk, it would be far too late to avoid a serious if not irrevocable degrading of the range.

Since I am not in a position to evaluate the various means available to measure the carrying capacity of the range, I recommended that the Ministry take immediate steps to determine the carrying capacity of Crown lands and range using the most efficient and accurate means available. I also recommended that the Fish and Wildlife Branch and other involved agencies be provided with sufficient funds to do much needed research on elk quality and health, and on means of optimizing the grazing succession of cattle, elk and other wildlife. The Ministry of Environment has advised that discussions are underway with the other involved agencies to examine options for implementing these recommendations.

b) Wildlife Damage

Currently, damage by elk and deer to the agricultural operations of ranches in the East Kootenays exceeds acceptable limits in many identifiable instances. The comments which I have received this spring and summer have indicated that the problem of wildlife damage is, if anything, even worse this year than in past years. Although the Ministry of Environment may consider that the facts are not sufficiently well documented to place a concrete dollar value on the losses incurred through wildlife damage by ranchers, it is clear that the Ministry considers the damage to be significant.

The effective risk to ranchers presented by wildlife depredation on private land must be reduced either through effective management of wildlife on the part of the Fish and Wildlife Branch, or through the introduction of a compensation program, or through a combination of both.

Our consultant, Dr. Geist, made a number of specific suggestions with regard to elk management:

- 1) Problem elk i.e., "homesteaders" must be completely eliminated by the Fish and Wildlife Branch. Their tendency to settle on private agricultural lands has become engrained as a behaviour pattern. Sport hunting will not be enough to solve the problem, as the elk will alter their

feeding pattern from diurnal to nocturnal. Dr. Geist suggested that an elk control officer might be required to remove nuisance elk, using night sighting equipment where necessary.

- 2) Sport or special hunting in lowland areas where elk tend to settle ("homesteader elk") could be used to prevent future recurrences. While hunting will not cure the existing problem it will be preventive.
- 3) The use of lure crops for elk or deer should be avoided, as it only serves to encourage settlement-type behaviour.
- 4) Recreational snowmobiling and other forms of recreational encroachment such as motorcycling on range areas favoured by elk in winter months should be strictly prevented. Such activity tends to discourage elk from use of wild range areas, and to encourage them to frequent private pasture where farm fences often provide a wildlife refuge. Closures for recreation vehicles may be effected by the Lieutenant Governor in Council through two legislative avenues: S.61 of the Land Act, R.S.B.C. 1979, c.214, and the Motor Vehicle (All Terrain) Act, R.S.B.C. 1979, c.289.
- 5) Winter feeding programs should be avoided. Such programs may solve the problem of elk survival in harsh winters, however, they encourage and engrain elk behaviour which creates problems for many years after the feeding program has ceased: "homesteading", depredation of stored crops, direct competition with cattle on spring ranges for the cattle, and spreading disease as a result of concentrations of elk in small land areas.

In addition, various other management techniques were suggested during the course of my investigation. These included measures such as fencing of stored crops, selective kill permits to control or eliminate "homesteading" elk, and seeding of nonsod grasses on cut over forest land to intercept elk migrating from Crown to private lands.

Some ranchers have been accused of converting their private lands into game reserves by refusing to permit hunting on their land. These protected private lands attract elk and deer, and may create and intensify the homesteader problem. In my preliminary report I had suggested that it would be to ranchers' benefit to permit hunting on their ranches. However, the general response I received from ranchers indicates that this is not an effective solution since hunters are often considered to cause more damage than elk or deer.

I received a number of specific comments relating to the suggestions regarding wildlife management. For the most part there was general agreement with Dr. Geist's management suggestions, although some problems were noted; for example, it was indicated that the measures necessary to eliminate homesteading elk would probably be politically unacceptable. The avoidance of winter feeding programs brought somewhat negative comments from wildlife interests, who seemed to prefer the adoption of emergency feeding programs which would minimize negative effects on adjoining private lands. However, the Ministry of Environment has indicated its general agreement with the recommendation that winter feeding be avoided, and has taken the position that winter feeding will not be considered unless the existence of the basic herd is threatened.

The Deputy Minister of Environment advised that his Ministry had undertaken an internal review of issues pertaining to wildlife damage, and had entered into an agreement with the Ministry of Agriculture to review the question of crop damage by wildlife. I understand that the internal review has been completed, and that it focused on matters such as identifying types of wildlife causing problems, rationales for hunting seasons, and other management issues relating to problem wildlife. The intent of the joint Ministerial review of the matter is to identify the extent of the problems and to evaluate alternative solutions. The Ministry of Environment indicated that such discussions were to commence at the end of June of this year.

A similar problem of elk damage exists across the provincial boundary in Alberta. In that province the Fish and Wildlife Division provides fencing materials in approved situations for prevention of damage to feed stacks, and also provides compensation for damage to standing crops. Compensation is not provided for damage to stored crops.

I received conflicting submissions on the value of wildlife damage compensation systems, with some feeling such systems are essential and others not at all convinced of their value.

In British Columbia the concept of compensation was endorsed in July, 1980 by an Interministerial Steering Group charged with responsibility for coordination of C.R.M.P. matters. The key features of that recommendation are that the Ministry of Environment should compensate for damage and that such compensation should be paid for damage to private lands surrounding CRMP areas. As I indicated in my preliminary report, elk and deer may affect ranches which do not border on a CRMP, and it would be an arbitrary decision to compensate only for damage on ranches which surround CRMP areas.

I might note that wildlife interests opposed compensation programs in principle, stating that if such programs were established, a similar program would have to be established to compensate wildlife interests for the depasturing of Crown range land by cattle. I consider such a proposal to be neither logical nor desirable; moreover, the Crown is already being compensated by a system of fees for grazing permits and licences on Crown range.

Other comments regarding compensation indicated that it was reasonable that the Government provide funds for range fence repair, but that there should not be compensation for damage to stored crops. More recently, the Ministry of Environment has indicated

that a compensation program is one of the options being considered as part of the joint review being conducted with the Ministry of Agriculture and Food, although it has also indicated that this is not at present considered a viable option.

I believe that the joint Ministerial approach to the issue of wildlife damage will be a productive one in that it appears to consider all aspects of the matter, and to bring together staff with expertise in the various dimensions of the problem. However, I was somewhat concerned that the Ministries appeared not to have any specific timetable for their discussions. It is clear that in specific instances the problem is intensifying. This spring I received urgent pleas for assistance from individuals who had herds of up to 300 elk or deer busily foraging on their spring crops. Such situations have devastating effects on a rancher's ability to provide forage for his cattle for the remainder of the year. Government representatives in the area know which ranches are experiencing these problems and are aware of the severity of the situation. Since this is a matter of long standing which appears to be intensifying, I recommended that the review group work toward a goal of implementing new programs or presenting definitive proposals to counteract wildlife damage before the end of this year. Further, I recommended that the review group give serious consideration to

the wildlife management suggestions made by Dr. Geist and others, and to the implementation of a program of financial assistance for measures to protect stored crops and to compensate for serious losses to standing crops. I also recommended that representatives of the Range Branch of the Ministry of Forests be included in the discussions, and that other CRMP participants be given the opportunity to provide input.

I have been advised that the review group expects to be able to present its programs or proposals respecting wildlife damage by the end of this year. I have also been advised that the various agencies involved are examining options available for implementing the remaining recommendations.

iii) Ranch Viability

Ranchers complained of a number of difficulties and uncertainties which are attributable to the administration of the range, rather than to natural range conditions. These complaints related directly to the distribution of AUM's by way of a permit system. Concern was expressed over the equitability of the system used to allocate new grazing rights, and there were allegations of arbitrariness in the administration and variation of permits.

These complaints reflected concern with two basic issues: first, whether permits for existing or new opportunities should be issued only to those who currently hold range permits, and second, whether permit administration should continue to manifest its present bias in favour of large ranches with "proven" quality of range use. In my view the latter tendency ensures that the rich get richer while poorer struggling ranches eventually collapse.

In my proposed recommendations regarding ranch viability, I had envisaged the establishment of a new priority system which would result in (1) non-permittees receiving genuine consideration, and (2) small instead of large ranches receiving priority. I received some comments to the effect that ranch viability rather than size should be considered the essential criterion; the point being made was that one was not necessarily helping the ranching industry as a whole by giving priority grazing rights to every struggling rancher. I agree with this concern, however, I reiterate the point that under the present system, a small ranch without a grazing permit has very little chance of becoming a truly viable operation. I am concerned that the system of distributing Crown grazing privileges may work to the detriment of ranchers who have a potentially viable operation.

The Ministry of Forests has stated that I was incorrect in indicating that it was Ministry policy to favour large ranches; the Ministry stated that instead its policy had been to favour those with existing Crown range rights. This may well be; my point was that those with existing Crown range rights were more likely to be large ranches. The Ministry has also indicated that it is in the process of drafting a new policy for the establishment of priorities for new allocations, and that interested parties, including resource and user groups, would have the opportunity to comment on the proposed new policy.

As my comment on the proposed policy, I reiterated the points made in my preliminary report. I recommended that in developing its new policy regarding the establishment of priorities for new grazing allocations, the Ministry of Forests base its priorities on the potential viability of ranching operations, and give serious consideration to attaching some priority to non-permittees and small ranches. The Ministry has agreed to work toward this objective, although it expressed some concern with the words "potential viability", believing this to allow an undue amount of subjectivity to creep into decision making.

Other complaints relating to grazing privileges had to do with the issuance and term of grazing permits. Some complained about the difficulty of planning ranching operations properly when grazing permits were issued for a one year term, or when the conditions of the grazing permit were changed at the last minute by local staff, or when a permit was not issued until one or two days before turn-out.

I consider it desirable that the term of grazing permits should be increased to a 3 to 5 year minimum. As indicated in my preliminary report the Ministry appears to be lengthening the average term of the grazing permit, and discussions with Ministry staff have indicated that the Ministry is in general agreement with the concept of an increased term.

With respect to the issuance of permits, I believe that permits should be issued well in advance of the grazing season and that commitments made at CRMP meetings should not be changed at the last minute by local staff. The Ministry has also confirmed its agreement with this position.

Finally, some complaints related to the lack of appeal rights under the Range Act for situations in which the Ministry has refused to

renew or reissue a grazing permit, and where the permitted level of grazing is reduced by more than a marginal amount. The Range Act provides such appeal rights in other situations of comparable significance, and I believe that appeal rights should be extended to include the above situations.

It has also come to my attention that the existing appeal rights under the Range Act are not very satisfactory from the appellants' point of view. The complaint was leveled that one does not get a fair hearing by going to the supervisor of the person who made the decision in question, and that instead one should be able to go to an independent authority outside the Forest Service. There were also complaints about the time required for the appeal process, particularly when decisions regarding grazing are linked very strictly to seasonal periods. An appeal right is not very effective if the appeal procedure is such that it produces a decision on the appeal only after it is too late for the appellant to benefit from a favourable outcome.

I believe that the existing provisions for appeal should be reexamined with a view to introducing additional appeal rights for

situations such as those described above, and to amending existing appeal procedures. New and amended appeal provisions should:

- i) be easy to use
- ii) allow for a prompt decision
- iii) include in the initial stage discussion with the supervisor of the person making the decision under appeal
- iv) provide for recourse to an independent tribunal.

One appeal model which would satisfy these criteria would involve a two stage process. The first stage could consist of an informal objection procedure in which the appellant could discuss the matter quickly and informally with the person who made the decision under appeal, and with that person's supervisor. If that discussion did not result in a decision satisfactory to the appellant, the matter could go to a second stage consisting of a hearing before a tribunal. I would suggest that this tribunal consist of the Ministry of Forests Regional Manager for the appropriate region and at least two representatives of either the local livestock association or a comparable organization. The appellant should have the opportunity of selecting at least one of the livestock industry representatives.

The Ministry is currently considering changes in its appeal procedure and we have discussed proposed changes at some length. I

will continue to discuss the matter with the Ministry until the existing problems are corrected.

iv) CRMP Participation by Ranchers

While there is general support for CRMP, some ranchers expressed concern that they are unable to represent their own interests effectively through that process, and that their participation is rendered ineffective by their relative lack of sophistication in the ways of bureaucracies, and by a pre-existent coalition among the representatives of the several Ministries involved.

The report of the Interministerial Review Committee discussed this apprehension and recommended that ranchers be exposed to CRMP Planning before they actually participate and that a typed plan be circulated to prospective participants after decisions on the CRMP and before signing. These proposals appear to offer a sensible solution.

Dr. Geist suggested that a resource expert be hired to undertake necessary research and investigation on behalf of ranchers in the East Kootenays, and to represent their interests at CRMP meetings. It was also suggested that funding for such a position could be

shared between the government and the Cattlemen's Association. I cannot say that this proposal met with much enthusiasm. I was advised that a CRMP Advisor for ranchers had been established in the past, but that there did not appear to be much demand for his services.

The Ministry of Agriculture and Food has indicated that it is prepared to take on the role of advisor to ranchers in the CRMP process. In this regard I might note that the Ministry of Agriculture and Food took exception to the statement in my preliminary report that "the onus to represent and foster ranching interests in squarely on the shoulders of the Ministry of Forests and its Range Branch". The Ministry of Agriculture is of course quite correct; it has an important role to play in advising the ranching industry, and I should certainly have made that clear.

Rather than promoting the concept of a CRMP advisor as envisioned by Dr. Geist, I would instead urge ranchers to take full advantage of the services offered by the Ministry of Agriculture and Food. I would also suggest that the Ministry be provided with additional resources to allow for a strengthening of the personnel component in the region so as to fulfill this advisory function.

v) Provincial Government Land Holdings

The provincial government owns a substantial amount of land in the East Kootenays. At least four types of land holdings can be identified:

- (i) Crown Range under permit. Some permittees are involved in CRMP's and some are not;
- (ii) Crown Range not under permit. These lands are used exclusively by wildlife and forestry. (Both categories of Crown range are managed by the Ministry of Forests);
- (iii) Agricultural Land Commission Ranches. The Lost Creek, Steeples and Bar Vee ranches are owned by the Agricultural Land Commission, managed by the Ministry of Agriculture, and their yearly use guided by an advisory committee;
- (iv) Ministry of Environment holdings. Approximately 13 parcels of land are owned by this Ministry and put to various uses. In all this Ministry owns, reserves, or manages 244 parcels in the region.

In an integrated land use system involving scarce resources no single authority should direct the use of these various holdings. Integration of these provincial government holdings would assist in making a scarce resource available to more resource users.

An inventory of all land within the region of actual or potential range value which is owned, reserved or managed by the provincial government should be available to CRMP participants. These groups should be able to examine the present use of this land to ascertain

whether true coordination of resources is being effected and whether individual parcels could be put to better use.

I received a number of complaints concerning the three ranches which are owned by the Agricultural Land Commission and managed by the Ministry of Agriculture. Most of these pertained to decisions respecting which ranchers were permitted access, and to the general management of the ranches.

The present use of the ranches follows a recommendation of the Pearse-Bowden Report made after the ranches were acquired. At that time the CRMP process was in its formative stages. Individuals using the government ranches are expected to move back to the rehabilitated range they previously left on the assessment of the Range Branch.

Concern was expressed that the hypothesized benefits to the range through operation of the ranches have not materialized. After the past five years of the ranches' operation the Range Branch of the Ministry of Forests should be able to identify some solid benefits to the local Crown range. If benefits to the range are not now demonstrable, a major policy change may be in order. In my preliminary report I had emphasized the need for a study and review

of benefits to the range to date accruing through the operation of the ranches, and I had suggested that the review be conducted by independent individuals, or at least by individuals drawn from several Ministries and directed by an independent chairman.

It is my view that if such a review does not provide sufficient evidence of range rehabilitation, the A.L.C. should seriously consider reorganizing its priorities so that cattle not currently under range permit might be accommodated, or so that cattle might be accommodated on a competitive bid basis.

Thus, in my preliminary report I had proposed three recommendations respecting the Provincial Government land holdings:

- that an inventory of all such holdings be made available to the Regional Resource Management Committee and CRMP participants;
- that there be an evaluation of the role played by the Agricultural Land Commission ranches to determine whether there is justification for their use for range relief purposes;
- that if there were insufficient evidence of range rehabilitation, serious consideration be given to giving accommodation priority to ranches without range permits, or to accommodating cattle on a competitive bid process.

I am pleased to note that there has been progress on all three of these issues. With regard to the first, the Ministry of Lands, Parks, and Housing has advised that it has made the land inventory

available to the Regional Resource Management Committee, which in turn can make the inventory available to CRMP participants. I would suggest that CRMP participants become familiar with this inventory so that they may be better informed when planning coordination of resources or when asked to comment on alternative uses for individual parcels of land.

With respect to the review of the role played by the three Agricultural Land Commission ranches, I have been advised that such a review has been requested, and is in fact underway as an interagency task force involving input from the Ministry of Forests, the Ministry of Agriculture and Food, and the Agricultural Land Commission.

The Agricultural Land Commission also initiated a pilot project on surplus pasture which responds to the concern noted in the third point above. I have been advised that the A.L.C. has devised a bid system as a means by which to dispose of surplus pasture, and that cattle not currently under permit are eligible for consideration in this pilot project.

I must commend the Agricultural Land Commission for the prompt and cooperative manner in which it responded to my preliminary report.

Within two weeks of receiving my preliminary report the Commission met to discuss my proposals and to take steps to implement proposed changes. I understand that the concerns expressed in my preliminary report coincided with the Commission's concerns, and I am pleased to have been able to assist in the formulation of proposals to meet those concerns.

III CONCLUSION

This group of complaints about East Kootenay range issues were among the first I received after my office opened, and brought about my first field visit. At the time I had not expected to find so many problems, so strongly expressed, from a relatively small area of the province. The problems were clearly not new, but were ones which had intensified as populations grew and as the range resource appeared to shrink in comparison, and perhaps also in reality due to poor management practices.

In an environment characterized by conflict between growing user demands and exacerbated by poor or non-existent management of resources, a concept such as CRMP can serve as a very useful tool. In fact, it is the only realistic alternative. No single use concept could be forced on a population with historic user rights and expectations. I understand that initially CRMP was greeted with considerable enthusiasm, later to be replaced by disillusionment for many.

When I became involved in the matter in late 1979, the situation was such that I could see many examples of what I considered to be

instances of actual or potential administrative injustice. For the most part many of these were integrally connected to the resource allocation policies of the various agencies, and to the manner in which those policies had been administered. For this reason it was necessary for me to examine the more general issues involved rather than to deal with the plethora of specific incidents giving cause for complaint.

The intervening period has witnessed significant improvement in many of these problems. The situation now is one characterized by a greater sense of balance, with most of the various CRMP participants having the opportunity for a more involved role in the process. Some problems remain in need of improvement, but projects are underway to supply and plan for the needed changes, and I have faith that the Ministries involved will carry out these projects.

I believe the most important change I have witnessed is a change in attitude on the part of the government agencies involved. CRMP has been in place for over five years now, but it has taken this long to obtain genuine commitment to the concept on the part of the Ministries. The conversion is not complete, but it is clear that

the attention which has been drawn to these issues has for the most part led Ministries in the direction of a long term commitment to the concept. I am pleased to have been able to assist to whatever extent I have in this conversion, and I am optimistic that the trend will continue until CRMP functions as it was intended.