

ALBERTA'S PUBLIC LAND CRISIS:

THE FOURTH ANNUAL MARTHA KOSTUCH LECTURE



BY IAN URQUHART

Technology is double-edged. It excites and sometimes helps me do my work; it scares me too – in the case of this article – when technology seems to think. I couldn't attend Bob Scammell's Martha Kostuch lecture in November but, courtesy of servers, file transfer protocols and people who know much more about such things than me, I was able to listen to Bob's remarks. I downloaded the lecture and proceeded to iTunes to open the audio file. When I found the audio file I noticed iTunes, in its wisdom, already had decided what genre it should assign to Bob's lecture – the blues.

I started then to listen to "The Battle for No-Man's Land," Bob's lecture about public lands in Alberta, with some trepidation. iTunes' selection of the blues genre was scarily perceptive. It foreshadowed some of the message Bob shared with a standing room only audience on November 18. Some of the lecture was true to the melancholy and sadness found in many great blues tracks. Bob told a story of great loss. He told his audience that Albertans had lost access to public land through the grazing lease system. He spoke passionately about how this system also has cost Albertans millions and millions of dollars.

But Bob's passionate speech about Alberta's public land was much more than a lament. It was a call for action, a call for Albertans who care about public lands and the organizations they support (such as AWA and Alberta Fish and Game Association) to commit themselves to ensure the owners of those lands – you and me – benefit adequately from them in the future. It was

a lecture that, as one member of the audience noted, was inspirational.

Given Bob's enthusiasm for hunting, it may be especially appropriate to suggest he brought a double-barreled perspective to thinking about Alberta's public land. The first barrel came courtesy of what Bob's father taught him more than 60 years ago. The elder Scammell relished the freedom to hunt and fish on Alberta's public lands, freedom the Old Country's elitism refused to someone of his social standing. His father introduced Bob to the joys of rambling through Alberta's countryside. Those outings were where his father outlined a short, sharp, simple land ethic for the stewardship of both public and private lands: "Look after

THE TRUE TRAGEDY OF THE COMMONS OF PUBLIC LAND IS REALLY NOT A TRAGEDY AT ALL BUT THE FARCE OF UNCARING, NEGLIGENT GOVERNMENTS WHO DO NOT MANAGE AND STEWARD THE LAND REMOTELY COMPETENTLY.

- BOB SCAMMELL

the land and it will look after you."

Bob has lived those words. His love of the land animated this poignant declaration: "Alberta's public land has meant a good part of life itself to me. What I miss most because of my mobility problems is wandering and wading to beloved places I'll probably never see again, most on public land."

The other barrel came courtesy of the late Martha Kostuch herself, that giant of Canadian conservationism, who Bob so properly called our "Great Earth Mother." "What," Bob asked, "would Martha do about our perennial public land problem?"

Public Land in Alberta: Scope, Status, and Controversies

Bob devoted most of his speech to building a fearless, provocative critique of public land management in Alberta. His specific focus was the grazing lease system on public land – the Alberta government's rules for leasing grazing rights to Alberta ranchers. Michael Wenig wrote in 2005 that, in 2003, there were 5,700 grazing leases in Alberta that covered nearly 5 million acres of public land; they accounted for over 60 percent of the public land agricultural dispositions made by government.

Bob prefaced his critique by reminding his audience about the significance of public land to recreation and wilderness. At least 75 percent of outdoors recreation in Alberta takes place on there. Since most of Alberta's wild spaces are found on public land the preservation of this space is vital to AWA's wilderness agenda.

Over the 45 years in which his weekly outdoors column has appeared in the *Red Deer Advocate*

Bob has written on dozens of occasions about public land. There he has made a special point of alerting his readers to the legal rights they have when it comes to the land they share in common with all other Albertans. Arlene Kwasniak's 1993 work for the Environmental Law Centre, establishing the public right to access Crown land leased for grazing purposes, supported well this perspective.

It is an understatement to say, as Bob did during his lecture, that his columns and articles on access to public land issue garnered a "major response." His words hit a raw nerve; they shone light on an issue some grazing leaseholders wanted to keep

in the dark.irate ranchers hurled threats and insults at him. But his words also won him the evidence he needed to know his instincts were right – “plain brown envelopes from anonymous government employees and officials documenting how our governments have been deliberately misleading Albertans for years as to what their access rights were to grazing leases on public land.”

Ranchers with leases were more likely to object, rudely or reasonably, to Bob’s unwelcome probing than were those who didn’t have leases. Why? For Bob the answer likely revolves around much more than the public access issue. It seems to go to the other benefits the provincial government has bestowed on leaseholders. As Wenig pointed out, grazing leases on public land raise a number of controversies in addition to access: lease rental rates, lease transferability, lease land purchases by lease holders, access by other commercial actors (e.g. petroleum) to lease land, and the matter of who receives the financial compensation payments made by those other actors.

The financial aspects or controversies of Alberta’s grazing lease system occupied most of Bob’s attention. He made it very clear near the outset of his talk that he was not criticizing the stewardship of grasslands by leaseholders. He didn’t have any evidence of overgrazing or abuse of those lands.

Cowboy Welfare?

The financial dimensions, however, infuriate him. He sees it as a “cowboy welfare” system for that minority of ranchers who are privileged to hold these cattle grazing rights. The analogy to welfare grows out of several claims. The first claim is that public land leaseholders pay much less for the right to graze cattle on public land than they would pay for a lease to graze those same cattle on private land.

The claim begs the question of whether the actor with the duty of serving the best interest of all Albertans – the Government of Alberta – is doing so when it comes to setting grazing lease fees. This assertion about discrepancies between public and private grazing lease fees is strikingly similar to the advice former Premier Peter Lougheed offered with respect to developing the oil sands: think like an owner.

The audience heard a substantial list of ways in which the government fails to behave like any prudent owner of private land. I suspect three other financial aspects of the grazing lease system angered Bob even



Bob Scammell (left), recipient of an AWA Alberta Wilderness Defenders Award, and Wayne Lowry, Alberta Fish and Game Association.

PHOTO: © K. MIHALCHEON

more than below market-value lease fees. Two of these practices, land disturbance compensation payments and the sale/transfer of grazing leases, stood out. “Gradually I realized that,” Bob said, “parsing the words of section 102, the ‘best use’ of public land under grazing lease is not just for cheap grass for the grazing of livestock at all but for the mining of windfall, buckshee money. It is a cash cow to put it bluntly.” This is where the pejorative meaning of welfare, namely that it is undeserved, received perhaps its strongest expression.

In Alberta, rights to explore for and exploit sub-surface resources such as oil and gas do not belong to private landowners. The Crown retains those rights. But, if a company comes onto private land to search for or develop sub-surface riches, the private landowner receives financial compensation from the company for whatever surface disturbances their actions cause.

This is not the case on public land leased for cattle grazing. There the owner of the land, the public, does not receive compensation payments for surface disturbances. Instead those payments go to whoever holds the grazing lease. Lessees of public land, not

the owners, receive that compensation.

Anecdotally, these payments may be very sizeable. Some people claimed to Bob that they know of individual ranchers who make more than \$100,000 per year from the payments they receive from oil and gas activities on the grazing lands they have leased from Albertans.

Fuel is poured onto this grievance by the ability of grazing leaseholders freely to sell or transfer their leases if and when they want to. Leases with oil and gas operations fetch a pretty penny indeed. They “routinely sell for around 125 to 130 dollars an acre – not bad buckshee money for a mere license to graze the grass on land you don’t even own.”

The final object of this financial critique was the Government of Alberta. Bob used the phrase “gross negligence” at one point in his talk. That characterization must have been aimed at the provincial government. The government apparently has no solid estimate of how much money is exchanged between the petroleum industry and grazing leaseholders. At a time when the provincial government is running multi-billion dollar deficits and is threatening to cut public



Stephen Hererro, recipient of an AWA Alberta Wilderness Defenders Award, and AWA's Nigel Douglas.

PHOTO: © K. MIHALCHEON

services such ignorance may strike some readers as especially scandalous.

Potatogate testified to the government's blindness on this matter. Dave Ealey, spokesperson for Sustainable Resource Development, told Bob he could not tell him how much money grazing leaseholders received from resource companies on the 16,000 acres of land the government proposed to sell. He simply didn't know.

The information Bob sought is private; it's between the leaseholder and the companies. This exchange buttressed the charge that "our government has no idea how much

money is lost annually to provincial coffers by allowing grazing leaseholders to keep surface disturbance payments..." Based on data compiled some years ago by the Association of Professional Landmen the province was likely losing tens of millions of dollars...then...years ago.

Bob then tried to estimate what the government's refusal to collect these compensation payments might mean today to the provincial treasury. The estimate came from data published by the 5,500 acre Antelope Creek Ranch located 18 kilometres west of Brooks and the Eastern

Irrigation District that sprawls roughly through southeastern Alberta from Bassano in the west to the Saskatchewan border and between the Red Deer River to the north and the Bow River to the south. Using the per acre petroleum compensation payments received by these institutions Bob estimated that this practice alone could be costing the people of Alberta \$130 million per year. This estimate is nearly 30 percent greater than the \$107 million in education funding Premier Redford restored after becoming leader of the Progressive Conservative Party.

What Would Martha Do?

Early in the evening Bob posed the question to his audience: "What would Martha do about our perennial public land problem?" He concluded his remarks by invoking Martha's spirit and outlining a series of actions he believes she would pursue if she still walked among us.

First, we should follow the money and find out just how much the government's grazing lease system costs Albertans. The province's *Freedom of Information Act* should be employed to this end. A freedom of information request would be valuable even if it failed to produce the numbers. "It would likely demonstrate something even worse," Bob suggested, "that our government has no idea about how much of our money it has negligently wasted..."

Second, AWA should join other conservation groups and approach the new premier to see if her administration will break with the past and show some real interest in recovering these lost revenues.

Third, the provincial auditor general should be contacted and we should request he use his powers to try to get to the bottom of financial costs of the grazing lease system.

Fourth, conservationists should reach out to the Canadian Association of Professional Landmen and the Government of Saskatchewan to see what data they have regarding compensation payments for surface disturbances.

THE DIRECTOR MAY IN ACCORDANCE WITH THIS PART LEASE PUBLIC LAND FOR A TERM NOT EXCEEDING 20 YEARS FOR THE PURPOSE OF GRAZING LIVESTOCK WHEN, IN THE DIRECTOR'S OPINION, THE BEST USE THAT MAY BE MADE OF THE LAND IS THE GRAZING OF LIVESTOCK.

- SECTION 102(1), *PUBLIC LANDS ACT*



Finally, and perhaps most importantly, Albertans “must start demanding better management, administration, and stewardship of our public land generally...Public land is a public trust and it should be managed and administered as such by a board of trustees selected from among the owners – the people of Alberta.”

I was told Bob promised AWA a barn-burning Martha Kostuch lecture. He certainly delivered one. I suspect the spot on the floor in AWA’s meeting room where he stood to deliver his remarks is still warm to the touch.

Both the substance and style of Bob’s lecture were provocative. I hope they produce the strong reaction I believe he was looking for. I hope they provoke, at the very least, a wide-ranging debate about the stewardship of public land in Alberta.

Such a debate would provide an opportunity for any number of important questions and possible tradeoffs to be considered. For example, would below market-value lease payments or leaseholder retention of a portion of petroleum compensation payments be warranted in return for excellent ecological stewardship and commitments to public access?

I would hope it also would provide an opportunity for constructive partnerships to be formed between the ranching and conservation communities. These communities, as Nigel Douglas later underlines in his update on the Alberta Utilities Commission transmission line decision in southwestern Alberta, share important perspectives on how Alberta’s landscapes should be treated. 🌲



Captivating
14" x 10" watercolour
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Shaw TV in Calgary (channel 10) will be rebroadcasting the Martha Kostuch Annual Lecture according to the following schedule. The lecture will not be shown on the days when Shaw’s holiday favourite, the Yule Log, is running.

Mondays

(beginning on Dec. 5 and ending on Jan. 30): 4:00 to 5:00 pm

Wednesdays

(beginning on Dec. 7 and ending on Jan. 25): 2:00 to 3:00 am

Thursdays

(beginning on Dec. 8 and ending on Jan. 26): 9:00 pm to 10:00 pm

Fridays

(beginning on Dec. 9 and ending on Jan. 27): 2:00 am to 3:00 am

Sundays

(beginning on Dec. 11 and ending on Jan. 29): 2:00 am to 3:00 am

Sundays

(beginning on Dec. 11 and ending on Jan. 29): 12:00 pm to 1:00 pm