Legislative Assembly of Alberta

The 30th Legislature
Third Session

Select Special Committee on Real Property Rights

Public Input Meeting in Eckville

Thursday, April 14, 2022
10:30 a.m.

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Select Special Committee on Real Property Rights

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Select Special Committee on Real Property Rights

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Dale Christian
Lindsye Murfin
Curtis Reed
Dennis Roszell
Robert Schwartz
Robert Shumborski
Jody Young

10:30 a.m. Thursday, April 14, 2022

[Mr. Rutherford in the chair]

The Deputy Chair: Thank you, everybody. My name is Brad Rutherford. I'm the MLA for Leduc-Beaumont. I'd like to call the meeting to order for the Select Special Committee on Real Property Rights and welcome everybody in attendance. Thank you, everybody, for welcoming us here in Eckville today.

I'm just going to have the committee members introduce themselves for the record. We will start at the far end.

Mr. Huffman: Warren Huffman, committee clerk.

Mr. Nielsen: Good morning, everyone. Chris Nielsen, MLA for Edmonton-Decore.

Mrs. Frey: Michaela Frey, MLA, Brooks-Medicine Hat.

Mr. Hanson: David Hanson, MLA for Bonnyville-Cold Lake-St. Paul.

Mr. Milliken: Nicholas Milliken, MLA for Calgary-Currie.

Mr. Rowswell: Garth Rowswell, MLA for Vermilion-Lloydminster-Wainwright.

The Deputy Chair: Thank you for that.

I'll just note for the record that there are no substitutions for today.

I just have a little bit to read through, so bear with me. We have a few housekeeping items to address. The audio of today's meeting is being live streamed on the Internet and broadcast on Alberta Assembly TV. The audiostream and transcripts of the meetings can be accessed via the Legislative Assembly website. Please set your cellphones and other devices to silent during the duration of the meeting.

Just a bit of background on the committee. The Legislative Assembly struck the committee on March 22, 2021. The committee's mandate is limited to the consideration of the following: whether the legal remedies available to real property owners who are deprived of the use of the real property are adequate; whether the real property rights should be expanded or, in the case of an individual, constitutionally protected; whether the law of adverse possession should be abolished; whether the expropriation processes provided under the Expropriation Act are adequate; and any other matter the committee decides is necessary to ensure the completeness of its review.

The committee may review as part of its mandate any part of the following statutes: the Alberta Bill of Rights, the Alberta Land Stewardship Act, the Expropriation Act, the Land Titles Act, the Law of Property Act, the Limitations Act, the Responsible Energy Development Act, and a review of any other act that the committee determines is necessary to ensure the completeness of the review.

So far the committee has received technical briefings from the government ministries and has also received written responses and oral presentations from identified stakeholders.

We will now turn our attention to hearing presentations from members of the public. We've had six public meetings so far. There was a virtual meeting hosted in Edmonton last month, and we've had meetings in Edson, St. Paul, Medicine Hat, Fort Macleod, and Hanna. Today's meeting is our final of six in-person public meetings planned in locations around the province. Information from these meetings can be found on the committee website.

Those interested in presenting to the committee this morning were asked to preregister with the committee clerk. We have sort of worked out at different meetings, based on how many people have preregistered, the amount of minutes that we're going to initially allocate, so we will have 10 minutes allocated to each presenter. That will cover just over an hour and 10 minutes. Then we will go to questions and answers but also see if anybody else in the meeting would like to come up to the microphone and make any additional comments or make a presentation themselves. It just gives additional time. If anybody hasn't registered throughout, I think go back to the back table, I believe, and indicate, and then we can make sure that we're monitoring this list properly. We will start with 10 minutes unless that list begins to grow, and then I will let everybody here know that we will make an adjustment to that so that we can fit everybody in.

First up on the list is Robert Shumborski. Please come up to the microphone. We will have a timer set for 10 minutes. Please go ahead.

Mr. Shumborski: Okay. Good morning. I've never been in front of such a large, esteemed group of government officials. Hopefully, this isn't scary or anything. With 10 minutes, you know, I can't tell a whole story. The committee has been presented with this whole presentation, that Warren did a good job taking care of. I was part of the initial virtual meeting, so I presented at that.

My basic issue that I've been bringing up has to do with the issue of guidelines for expropriation. I am in a situation where I own a rural residential piece of property in the Whitecourt area that had changed. The designation for the development of that property got changed due to the fact that it's in a flood zone. That really was a very devastating event and situation in our lives. I am of the belief strongly that people in that kind of a situation, where they had a significant change of property value or purpose of use – those situations need to fall into the expropriation regulations. Something like that needs to be dealt with as if it's government expropriation of property. I would strongly believe that. I would just encourage, I guess, everyone on the committee – I don't know how many presentations you've had physically – to look through that.

Basically, my situation was one where we had planned a rural residential retirement living place. This plan was in place for not just a few years; we're talking decades. So when the opportunity finally came to take some action on that, it was probably a matter of weeks, months. My wife and I walked into the county office in Whitecourt for Woodlands county to get a development permit, and the development officer asked me, "What's your property designation?" I told her that, and her face just dropped. She said: "I can't give you a building permit for that property sitting there. I cannot give you a building permit for that property, period." That was it. That was it right there.

I have been attempting to talk to people in government since that happened. It's been quite a while. I've talked with people in three different governments: the Conservatives prior to the NDP, I talked to people in the NDP, and now I've been talking to people in this present government to try and get some kind of appropriate addressing of this issue. So that's why I'm here.

I think, like, the details in this whole package: there's everything I went through in dealing with the provincial government, the municipal government. It's just bang, bang, bang, bang, bang; everything is following government mandates, period, provincially. You know, we weren't doing anything sideways. We just went to the government: "What we can do in this situation?" They said: "Here's what you can do. You can get a building permit if you do this. You can get a building permit if you do this." We just kept going down that road based on what we were told, but it came to an

end. It just didn't work out that way in the end, and we're the ones that have suffered for that.

That's what I'm asking for from the government. The people I've talked with in government: there isn't one person that's told me that what I'm asking for is wrong. They have said: we can't do that right now. Of all three of those governments, I've talked to people that have said: we understand, but we can't do that right now. I think that we're, you know, standing on right grounds in asking for this.

I just want to share a little story. You can tell by the grey hair that I've got a few years behind me. During the '80s I was working in the oil patch in Calgary. I was very active oil patch wise, and I was very active politically. That job that I had there in Calgary would have been – just to give you a time frame, the Prime Minister of Canada at that time was our present Prime Minister's father. That's the kind of environment that we were working in and trying to deal with, so that's kind of where I am politically.

I want to share this story. My story is one of a country boy who ends up downtown, in the big city, and that was pretty much a culture shock for me. In a way, it was one of the best things that ever happened in my life. I got forced into pretty high-level business dealings in terms of dealing with clients, dealing with customers at an extremely high level in the oil industry. You know, I learned some of the things that made for success, and one was that you better be a straight shooter, period. If you deal with somebody sideways, they'll come around to get you.

10:40

That realization has been a significant motivator in my life, and I think on this issue I'm actually being a straight shooter. The government of this province needs to step up on this issue and address it. Stop just brushing it off. Stop making excuses. This needs to be addressed. You know, we have a government right now that says a lot about keeping promises. Well, I think on this particular issue – and thank you for this committee – there are some promises here that need to be kept. It's important. There are people in this province that are suffering, have suffered loss because of change to government regulation on this issue. Maybe there aren't very many speaking up. I'm speaking up and, hopefully, for other people that are in a similar situation.

That's really where I've come from. I don't know how much more to really say. I'm hopeful that you folks are looking through, you know, the presentations. You can see what's there. I'm just basically someone who has acted based on what government said that I could do without question, and then in a very quick moment the rug got pulled out from under us. I think the government needs to stand up and do an honourable thing, a right thing on that issue. I'm asking for compensation. That's what I'm asking.

The Deputy Chair: All right. Thank you for your time.

Mr. Shumborski: Did I exceed my 10 minutes?

The Deputy Chair: No. We're good. I think we're well within the 10 minutes on that one. What we're going to do, though, is go through all of the presenters. Hopefully, you're able to stay, and then if there are additional questions, the committee will ask. You can stay if you like, but it's not an obligation. I hope you do.

Mr. Shumborski: That's fine. I will. Thanks.

The Deputy Chair: Next on the list is Curtis Reed. Do you want to come up to the microphone?

Mr. Reed: Good morning, everyone. There we go. My name is Curtis Reed, and I have a little speech prepared here. My talk is about the rights on grazing leases. I am a retired Sundre area landowner, a member of the Innisfail Fish and Game Association. My family has been part of the Alberta landscape since the late 1800s. I enjoy hunting, fishing, and exploring the great outdoors on horseback. In my many years of hunting I have had the honour and privilege to hunt with a large number of family members and friends. This will be my 56th consecutive year hunting in Alberta.

My concern today is: when it comes to hunting on grazing leases and special areas, what are my rights as an Alberta resident? What rights will my children and grandchildren have in the future? Will they be able to continue with our hunting traditions in the future?

I would like to take this time to share some of my experiences with leaseholders with you. One: we don't allow hunting.

Two: to access that particular lease, you have to cross a pasture I keep my heifers in; that disruption will cause a great number of them to abort their calf. I then offered to go on horseback, and he said that he would not allow any strange horses on his land. FYI, this gentleman was and still is an outfitter in this particular area, and he holds a number of allegations in that WMU.

Three: we only accept bookings at ranch headquarters from 6 a.m. to 10 a.m. on a particular Saturday. When I arrived, there was only one other vehicle ahead of me. When it was my turn to register, there were only two dates left for me to choose from, and they were in a very remote part of the ranch. In Peace River I got this response: thanks for calling, but my brother is a guide out of Edmonton, and we promised the lease access to him.

When hunting antelope, most leases deny access if there are as few as one head of livestock on it. I was drawn for bull moose a couple of years ago in the WMU around our land. It took eight years to draw this tag. I had obtained permission from several leases near me and spent a great deal of time in September and October locating a couple of acceptable bulls on this one particular lease. On opening day, as I was headed out for the lease, I received a group text saying that all gates to the lease are locked and that it is now foot access only. This is a very large lease with numerous oil roads, and in the past it has always allowed vehicles as long as they stayed on the established roads. When I complained to the area agrologist, she told me the lease managers can change their requirements at any time.

Number seven: I'm getting so many calls I can't get my work done.

These are just a few of the examples, and no wonder there is confusion. I really don't understand the difference between hunting and forestry when there are cattle on it, and as soon as these same ranchers put cattle on grazing leases or special areas, I am not able to gain access even when there are no cattle on it. Many of these leases are becoming more restrictive than Kananaskis Country. Examples: you must call before accessing; you must call weekdays between 8 a.m. and 6 p.m.; you must call seven days before; you must call 14 days before; e-mail only to register. Numerous times the leaseholder will not even return your call. A vehicle description must be given. The licence plate number must be given, the number in the hunting party, the type of firearm. It seems to me that the Alberta resident hunter is experiencing more and more access-related issues.

In closing, I would like to read an excerpt from the Hunt Alberta website, www.huntalberta.ca.

> Hunting Alberta's Mule Deer has far more advantages than ever before. First of all, resident hunting pressure is . . . minimal due to the limited license draw system. The Province is broken up into 180 Wildlife Management Units (WMUs) with most having an allotted number of Mule Deer licenses available. This strictly limits the harvesting of animals from resident hunters.

> Ever changing advancements in hunting technology, fish and wildlife policies, relationships with rural land owners and crown property hunting rights are just a few of the recent developments being experienced in Alberta Outfitting industry today. Combined with [the] burgeoning animal populations and leading conservation models, Alberta Outfitters are fully enabled and supported in providing world class guiding for non-resident hunters at an extremely reasonable expense. This makes hunting Alberta an appealing destination for new and seasoned hunters alike. For more provincial information and statistics, visit us online at www.HuntAlberta.ca.

That is it, in a nutshell. I could ramble on, but I think this kind of sums up my concerns. My biggest concern is the future of resident hunting and our rights. You know, the Crown leases are the property of Alberta – right? – and there should be a common denominator or a common method to access these, reasonable access. It shouldn't be limited to: well, I have the lease, so I can drive on it to check my cattle, and the oil companies can drive on it. You know, it can't be limited. Kananaskis Country: no vehicles allowed. That means that ranchers who have cattle there must check their cattle on horseback. That's not the case on Crown leases and special areas.

Thank you for your time.

10:50

The Deputy Chair: I appreciate it. Please, hopefully, you're able to stay. I'm sure there will be some questions at the end as well.

At this point I will ask Robert Schwartz to come up. The timer starts when you do. Go ahead.

Mr. Schwartz: Thanks to the committee for accepting me as one of the speakers. I'm here today to kind of give my interpretation of how we got here to deal with property rights as an issue.

I guess I should explain. I was one of the members of the Alberta Surface Rights Group, which was a very active group at one time in central Alberta. We came together during the coal-bed methane blitz that everybody lived through. Anyway, I had some trepidation here. I wanted to present to this committee here because in 2005 our group, which is now disbanded, participated fully in public hearings and whatever to a committee basically charged with the same determining factors that you are here today. We did the dance in 2005, okay? We got nowhere.

What we didn't know was that at that time or two years prior to us being involved in property rights discussions with the province, Ted Morton and three of his oil patch buddies were already hired two years prior and were already working on property rights issues that would suit or on resolutions or issues that would actually benefit the oil patch more than it would the surface landowner. We were very much behind the eight ball on that. Every time we seemed to raise an issue, they seemed to have it covered already. I'm hoping that we're not dealing with the same situation here today.

The other thing that went on there was that after 2005 there was just a litany of legislation that hit the floor in Edmonton that limited our property rights as surface landowners, and they were onerous. I'm going to get into one here. It's not the first of the list, but I'm going to get into a little bit of history on how we ended up with REDA, the Responsible Energy Development Act.

Now, we're in Eckville. It's not very far north to Rimbey, where the old ERCB got in a hell of a lot of trouble over spying on grannies and whatever. So this was an issue that had to be taken care of. Actually, it was the old EUB that ended up being renamed ERCB at that time just because of this spying thing.

Okay. Bill 2 was enacted in June 2013. How that bill came about: I'm going to give you a little bit of a history lesson here. We went as a group. Five of us went to the unveiling of REDA. This was a big gala event in Edmonton, sometime in March; I can't remember the exact day. But we had to ask to get invited. We had participated in all these discussions prior, but we had to ask to get invited to this unveiling of REDA. Okay?

We get there. It starts at 9 o'clock. The occasion is opened by Diana McQueen, who was then the Energy minister. It didn't take her very long to turn the floor over to Gerry Protti, who was then still chairman of CAPP. She was so excited, gushing. I mean, she couldn't have been happier that Gerry Protti agreed to work for her as a paid consultant to develop the oil industry wish list for oil and gas regulation in Alberta. Now, that seems a little bit one sided to me. Anyway, that's the way it went down.

I don't know what else I can say about that. We did do some breakout sessions. They were not breakout sessions to discuss issues; they were breakout sessions to inform us as to how the deal was going to go down. That's it. There was no landowner consultation. We were the only five landowners that were there. This bill, REDA, is a bill that affects every property right in Alberta, everything we thought we had. So not a good start.

Now, REDA was different than the previous ERCB mandates or EUB mandates. REDA created the AER. REDA was the legislation that created the AER. In this legislation that created the AER, there is no public duty of care required of the AER management. They could give a shit less about what happens to farmland. It's not in their mandate to do so. Not the direction that you'd like to see property rights be enforced in Alberta. The legislation limited a landowner's right to appeal an AER decision. We used to have the right to a hearing if we objected to a development. That was taken away with REDA. The AER now had the full authority to say: no, you don't get a bloody hearing. It cut us out. We used to have an ability to take an AER decision to the Alberta Court of Queen's Bench or, failing that, the Alberta Court of Appeal. That was eliminated in REDA.

It gets worse. [A timer sounded]

11:00

The Deputy Chair: As you're hearing the timer there, sir, if you want to just finish up your final thought there. I'm sure, if you have more to add, that there will be time after we get through all the presenters if you want to add . . .

Mr. Schwartz: I just got started.

The Deputy Chair: Well, I hate to cut you off, but we're just going to get through the rest of our presenters. If there's time at the end, happy to have you back up to finish through what you've got there.

Mr. Schwartz: I can do that.

The Deputy Chair: Okay. Well, thank you.

Victor Maris.

Mr. Maris: I'll waive.

The Deputy Chair: You'll waive? All right.

Jeanne Sprague.

Mrs. Sprague: No. Nothing.

The Deputy Chair: No?

I'm assuming maybe the same for Albert, then. I had you both on the list.

Mr. Sprague: Yep.

The Deputy Chair: Okay.

Jody Young.

Well, Robert, don't go far. We're going to be back to you here pretty quick.

Jody is the last one currently on my list. If somebody wants to register to present, please let us know at the back, and we'll get it to the committee clerk. Other than that, we'll be shortly into questions here.

Jody, you've got 10 minutes, and that timer starts when you do.

Mrs. Young: Good morning, Mr. Chair and members of the committee. My name is Jody Young. I reside in Red Deer county.

Firstly, I'd like to thank the hon. Marlin Schmidt and his office for responding to my submission and informing me of the existence of the special committee for real property rights. Ideally, I would have preferred to provide you with a detailed, comprehensive, maybe even a shorter written submission, but I only recently became aware of Government Motion 69 and Bill 206. I'm grateful to have an opportunity to speak with you today and share with you my family's story, our experiences, and the ongoing challenges we have faced as we tried to protect our own property rights.

In listening to the other presenters and reading the information that's been brought forward to this committee, I have heard and read many common themes across several industries. I respect that everyone wants the opportunity to do with their land as they wish but recognize that as our communities continue to expand, there will be increased demands on our lands, whether it be access to resources; allowing for residential, commercial, and industrial growth; or to protect our natural landscapes and water. I believe that in moving forward, we have to work together in balancing those needs. You have heard opposing opinions on whether the government should or should not be involved. Some of my experiences highlight how the existing laws and rules are either not being followed, regulated, or enforced. In efforts to streamline processes, shortcuts have and continue to be taken that have put the property rights of Albertans at greater risk. Evidently, the status quo isn't working, and there needs to be legislative action taken to correct these matters.

I have an interest in property rights from several perspectives: as a residential acreage owner and as an owner of agricultural lands impacted by hunting, trespassing, and oil and gas. Today I'm going to be limiting my discussion with you to my recent experiences relating to municipal land-use designation changes and the impacts of aggregate extraction activities on adjacent landowners.

Aggregate extraction activities are industrial in nature and have numerous negative impacts on the adjacent landowners and habitats. Having a gravel pit adjacent to your property results in the loss in the use and enjoyment of your own property; the loss in your property's value; creates the potential for long-term health implications from the daily exposure to the stress, loss of sleep, exposure to the constant noise, the dust, et cetera, which are created by those gravel activities; and the potential loss of water sources for residential livestock use, just to name a few. Gravel activities are unsightly, are usually long-term developments in nature with no definitive end date.

With respect to your mandate the current legal remedies available to real property owners who are deprived of the use and enjoyment of their own property and who incur significant property value losses are inadequate. There is a lack of information and support in place to ensure that the impacted property owners are on an equitable playing field with the large industries, the big businesses, and the government. Rural property owners, whether they be owners of agricultural operations or the owners of small residential acreages, are not receiving adequate notification, have hurdles to obtaining and accessing pertinent information, are not having an opportunity to participate meaningfully in discussion, and are not being given the fiscal support they need when the existing legal remedies should be sought. These landowners are not receiving fair compensation when their property values are plummeted and the daily use and enjoyment of their properties are lost through the land-use decisions forced upon them by our governments.

Real property rights should be expanded and constitutionally protected. One landowner's property rights need to be balanced with another. If a government introduces new land-use decisions and/or permits new developments, then our governments and the developers need to be accountable for those decisions, and the impacted parties should be fairly compensated for both the initial impacts and for the duration in which the impacts will occur.

I understand that this committee can recommend the review of other acts and other pieces of legislation. I would bring to your attention some additional Alberta statutes and regulations which are very much at the heart of the issues my family has faced with respect to property rights. I believe it is important that these pieces of legislation – namely, the Municipal Government Act, the Water Act, and the Environmental Protection and Enhancement Act and some of the associated regulations – are considered by your committee to ensure the completeness of your review. With respect to the Alberta Bill of Rights I think we must recognize and compensate for the impacts to the property rights of adjacent landowners caused by changes in land-use decisions that will negatively affect those adjacent properties.

Until recently I had the utmost respect and trust for all government departments, officials, and representatives. I trusted that Alberta laws would protect real property owners and our environment from unnecessary developments and would ensure individuals in Alberta had an equitable opportunity to defend their own real property rights. Unfortunately, my trust has been shattered by a land-use process that has involved misinformation, the withholding of pertinent documents, and the failing of my own municipality to abide by their own processes, their own bylaws, or to even abide by the Municipal Government Act. If people do not trust government, the government will lose its ability to govern.

So a little bit about myself: I was raised in rural Alberta, and I come from a farming family. I obtained postsecondary education in biology, and then I went on to have a career in law enforcement. My in-laws were also Alberta farmers and ranchers who in the '90s transitioned some of their farmland into a small gravel extraction operation before their retirement. I have spent the last three years trying to learn and understand Alberta statutes, municipal bylaws, and policies to try and determine what, if any, rights I have as a property owner. So far I've come to the conclusion that my municipality can strip from my family our property rights without putting in place any meaningful mitigation or providing any sort of compensation to us.

It was not long ago that I had been filled with such excitement. I remember standing with my family beside our new, blue sign and having such pride. My dream of building a forever home in the country had come true. My husband was a small-business owner and had several business ventures in play. I was a working mom trying to balance two small children, a full-time plus job, and assisting my husband. We had both been working since we were teenagers, and through a lot of hard work and juggling, we were able to manage to pay and borrow to build our home.

Red Deer county permitted my family to build our home where it is. The land my husband and I built on had been in my husband's family for over 50 years. It is close to my husband's family home and has been and continues to be the utmost fiscal investment of our lives. We chose very carefully where to build our home to ensure we distanced ourselves from the existing and potential future gravel activity in our area. We were familiar with some of the

negative impacts that come with being near gravel extraction activities and wanted to minimize those potential impacts to our children and to our daily lives. We understood that the gravel activities nearest to us were nearing completion and expected the existing impacts to end within a few short years and that the gravel activities would expand further away from our home. We chose to build by an environmentally significant area, known as an ESA.

11:10

In 2010, before we got our permit, we understood from Red Deer county's public presentations that ESAs would be protected from development. Our home is situated beside two long-established residential acreages, acreages that were not identified by Red Deer county's locations for future gravel extraction. Red Deer county had publicly stated that an environment corridor or buffer shall be enforced along all waterways, that they would protect environment resources such as groundwater, that they were committed to the protection of ESAs, and that they would be directing new residential developments away from resource extraction activities to minimize conflict between incompatible land uses. It was reasonable for us to expect that our county would not permit us to build a home in our location if they intended in the future to permit gravel extraction on the adjacent land.

It was with great dismay that I learned and my family learned in the summer of 2019 that the residential landowners beside us were looking at developing a gravel pit literally out our front door. These landowners purchased their land in 2020, when gravel operations and permits on the adjacent lands were already in various stages of development and protection. Understandably, no one wants to live by a gravel pit, but some responsibility falls on land purchasers in researching and understanding existing and future planned land uses. Shortly after these landowners took possession, they were approached about having a gravel pit on their land, and as was their right, they adamantly refused. Approximately five years before we built our home, these landowners became aware of our intention to build a future home at that location near them. In that time that I have resided there, these landowners used their property as a recreational home, so they spent more time away than they were ever at that location.

Now, everyone has the right to change their mind about how they wish to use their land, but the decisions by our government to make changes to land uses need to be made at the right time, in the right places, and for the right reasons. Land-use decisions need to be consistent with the long-term planning and the information our governments are providing to the public. Now, I have a lot more to say, so . . .

The Deputy Chair: Well, Jody, I appreciate your comments thus far. We have two more people who have asked to speak. I'm certain we will have time at the end here for you to come back up and finish off.

But at this point: Dale Christian.

Mrs. Young: Can I just ask a question? If there isn't time, am I able to table what I've written down?

The Deputy Chair: Absolutely.

Mrs. Young: Perfect. Thank you.

The Deputy Chair: Dale, would you like to come up?

You have 10 minutes.

Mrs. Christian: Thank you. My name is Dale Christian. I, too, live in Red Deer county. I have farmed for my whole life, and that's a long time, 57 years on the existing property. I wrote this as a letter to you guys because I didn't expect to get to speak.

It says, to each of you I'm directing this to: dear special committee members. In the immediate past we Albertans, especially rural Albertans, have been under attack. Our agricultural land, whether on or adjacent to or, in the case of water rights, downstream, the rights of rural Albertans and their environment, in fact all Alberta's environments, have been regulated to out-of-scope pages or the famed parking lot in discussion.

We rural people have been directly or indirectly pillaged, deprived of our water, deprived of our clean air, our right to the use and enjoyment of our properties by earlier shabby changes to the property act so that nonrenewable resource extraction profiteering can take priority. Directly affected people are not even afforded the definition of "directly affected" on a case-by-case basis. Rural residents living in our places in Alberta have been steadily regulated out of our rights to water, to clean air, to environment, and to the protections that the original Alberta Act promised us and promised future Albertans. Pore space legislation is an example of an open-ended property grab. Red tape reduction has left water science in the rear-view mirror and opened up our scarce source water to wanton gravel exploitation without oversight, reclamation, or appeal. Appeals through our so-called arm's-length judiciary boards have left the directly affected with debilitating personal costs and little else. Do away with risk and mitigation where neither is scientifically possible, please; for example, mining in our water. There are no-go zones.

Current hurried decision-maker policies, act changes, red tape reduction, wordsmithing, limited scopes, and administrative runarounds have restricted the last gasp of democratic protection to the people themselves; for example, refusals to apply pre-exploitation baseline study, reduced public access to related information, failures to enforce, failures to follow up on nonrenewable resource extractions that are growing to be the new normal. Why? What I perceive a rush to be implemented is the direct wishes of the private profiteering lobbies – I've been privy to that for a while – extraordinarily foreign-owned and backed by large contingencies of lawyers, word spinners, and politicians. Current governments show a hurried willingness to oblige these powerful lobbies of greed to the directly affected person's cost, and such has been my lived experience. Agriculture always loses. Where is the climate change act in your deliberations? Where is the wetland act? What changes are you deliberating on making to ALSA, the Alberta Land Stewardship Act?

Today you asked for comments on what may be sweeping changes to the property act that could include even less legal redress to my community's right to water, to water access, to clean air, to the use and enjoyment and current value of their properties and, worse, the deprivation of those same rights to my children and my grandchildren. Sirs and madams, you are the tasked committee, a committee that answers to current government whims. Do you think the decision-making in the last three years has been anything short of a signpost for more deregulation and less oversight, more industry pillaging from the unprotected directly affected? Today I ask you formally for your hand-on-the-Bible promise, commitment that the findings of your committee will build on, will strengthen Alberta's rights and the right of the environment to a stronger protection through legal enshrinement of those rights. I ask for full transparency in a timely manner. Current changes to the FOIP Act do not do that. The Municipal Government Act certainly does not do that.

Clearly – please, clearly – define and require an enforcement consequence to the government bodies for ignoring the Water Act, ignoring the Fisheries Act. Failures to enforce used to be an

effective tool within the government. Define and expand "directly affected." Require proven, science-based setbacks and the precautionary principle: please use the precautionary principle. Provide for no-go zones. Implement setbacks on a scientific, case-by-case basis. Red tape reduction does not do that. Change the act to enshrine the precautionary principle in word and deed. Renew the priority of agricultural lands, including grasslands, riparian areas, wetlands, and the environmental connectivity of natural features on and in the watershed. I ask for these commitments from each of you today. A show of hands will suffice. Thank you.

11:20

I was going to add, because everybody else is telling their tale of woe, that I particularly want to endorse the things that Jody Young has said in regard to gravel extraction. I've been involved in trying to negotiate my way around gravel extraction applications since 1984. I've always found that those adjacent to these gravel extractions, especially where our water is concerned, whether it's current flood zones or flood plains or the access to water through the groundwater – groundwater and surface water cannot be divorced from each other. When you make a decision on water, you're making a decision on the same water, because groundwater and surface water are one water. I'm going on and on about that, but I do want to say that what I heard from Jody I one hundred per cent support.

Thank you.

The Deputy Chair: Thank you, Dale, for your time.

Next on the list is Lindsye Murfin. Come up. Good morning. You have 10 minutes. That starts when you do.

Ms Murfin: Okay. I know I'm going to be over by three or four minutes.

The Deputy Chair: You know what? You're the last on the list. I think we're going to have some time at the end for both Robert and Jody to come back up as well, so if you're a couple of extra minutes, I'm sure we can . . .

Ms Murfin: I'll try not to be.

The Deputy Chair: . . . fairly allocate that to everybody else, too.

Ms Murfin: All right. I want to start by expressing appreciation to this committee for providing the audience to Albertans for bringing forward property rights discussions, and thank you very much for putting in the effort to go out to the communities like you have. My name is Lindsye Murfin, and I am pleased to be here today to address you on behalf of the board and the membership of the Alberta Grazing Leaseholders Association. Our chair sends his regrets. It's calving season, so our executive and board are very busy, and with this recent winter snap, you got stuck with me. Sorry.

To start, the Legislative Assembly referred Bill 206 for review by this committee in April of last year, so I wanted to start by speaking to one of the proposed amendments to ALSA in Bill 206. It proposed to add the right to compensation for holders of statutory consents when a regional plan impacts the property rights of said statutory consent holder. This recognition of the property rights associated with statutory consents, specifically grazing dispositions, is long overdue.

All statutory consents in Alberta, which include grazing dispositions, have value: they can be bought; they can be sold; they can be borrowed against. This is the foundation of commerce and attracts investment to Alberta. Grazing lease holders pay the property taxes on their leases as well as annual rent. These facts stand as evidence that grazing dispositions are property. Many cattle operations rely on their grazing lease instruments to ensure the viability of their operations. They are a vital part of and a contributor to the sustainability of the beef industry in Alberta and also the sustainability of large, contiguous ranges of grasslands.

Over the past 50 years the area of native landscapes under Crown lease has remained stable, with minimal conversion to other land uses, because of the grazing leases. At this point I just want to bring in a little bit of background and history, because the grazing lease system that we have today is deliberately designed to impart property rights to grazing lease holders. Our grazing lease system was developed in the context of the range wars and the environmental degradation that was occurring in the States in the Great Plains between 1866 and 1885, so a fairly long time ago.

It's well documented that Canada's elected officials at the time were acutely aware of the problems on the Great Plains and wanted to implement a better system here in Canada. The U.S. had an open-range policy. That means – the Supreme Court of the U.S. stated:

> The public lands of the United States, especially those in which the [natural] grasses are adapted to the growth and fattening of domestic animals, shall be free [for] the people who seek to use them where they are left open and unenclosed.

The effect of this was that whichever rancher could get his livestock to the grass first got the grass. This resulted in intense competition for the grass resources. This led to literal range wars, killings, poisoning of water sources, all of the things that you've seen depicted in classic Hollywood western movies.

To avoid this tragedy of the commons, Senator Cochrane and Sir John A. Macdonald were debating on how to design a system to protect the ecology of the grasslands while at the same time creating sufficient security of tenure to attract the investment needed for a viable cattle industry. They rejected the open-range policies of the U.S., and the Canadian grazing lease system was designed to create a lease of real property at common law based on the Australian model. A tragedy of the commons was thankfully avoided, and the grazing lease system in Alberta stands as a time-tested mechanism to conserve rangeland, landscapes, and their ecological goods and services.

Security of tenure, part of which is the lease being recognized at common law, built a level of confidence for leaseholders whereby a return of investment in the land will be realized. This builds a true incentive for good stewardship into the system with very little capital investment on behalf of the government. Security of tenure fosters a commitment to sustainable working landscapes that is lost if leaseholders are concerned that their leases will be rescinded or not renewed. While in 1881 the tenure rights were used to stimulate investment in the cattle industry, today they are used to meet sustainability goals for the cattle industry and for the government. Private property rights are a fundamental and necessary condition if people are to be prosperous and free. Continued stewardship of Crown land in Alberta is reliant on the recognition of property rights in grazing leases and the legislation supporting it.

There are approximately 5,700 grazing leases in Alberta, covering over 8 million acres. Crown land grazing lease holders operate on lands with a multiple-use mandate and are required by law to maintain fences, improve rangeland, develop watering systems, manage recreation and industrial access, and ensure that lands meet stewardship standards as a condition of their contract. These activities and requirements are undertaken at the cost of the leaseholder. A value estimate report that was completed by Serecon Inc. in 2020 concluded that nearly $70 million in value above and beyond the grazing fee is provided to the province of Alberta every year by leaseholders. Without leaseholders the cost of managing these Crown lands would be much more than that $70 million due

to the need for increased staffing, monitoring, and enforcement requirements.

In addition to this investment to meet their legislative requirements, leaseholders also spend a substantial amount of their summer and fall overseeing recreational access on Crown lands. They contribute to improving programs to protect wildlife in Alberta through wildlife population monitoring and protection of species at risk. Leaseholders also spend considerable time on reclamation oversight and liaising with oil and gas companies resulting from industry activity on grazing leases. The relationship between the province as the landowner and the leaseholders as the steward is very much a partnership.

Over the course of this committee's consultation I've noticed that surface compensation has been brought up quite a few times, and I wanted to take a few moments to bring forward a few thoughts and truths on this topic for your consideration. Leaseholders play a key role in minimizing the impacts of surface industrial activity on grassland ecosystems. They do this by influencing the timing, practices, and surface location of disturbances and infrastructure required to extract the resources.

The leaseholder also acts as site manager for the Crown by way of ongoing supervision of industrial installations and their operations. This influence results from the requirement under the Surface Rights Act for industrial operators to provide annual compensation to occupants, in this case the leaseholder, for loss of use, nuisance, inconvenience, and adverse effect. The compensation that leaseholders receive under the Surface Rights Act for industrial installations on their Crown land has been a contentious issue for many years. Often in this discussion the compensation side is the focus while more detailed information on the operational impacts, the infrastructure costs, and the stewardship role of the leaseholders is not considered, so this is where we come back to the annual $70 million that I talked about before. This leads to drawing an incomplete picture of why compensation is needed.

It's a really complex issue when you look at the full picture, so I have a number of points. First, compensation is not revenue. One point that is often misrepresented is that leaseholders receive surface access fees. This implies that leaseholders are charging companies for access to the land. This is not accurate, nor is the payment considered revenue. Leaseholders are being compensated for the infringement on property rights and damages and impacts, including loss of use, damages, inconvenience, and adverse effect, all of which affect the leaseholder's management significantly, all of which affect the leaseholder's ability to meet their legislative requirements under their lease contract.

11:30

Leaseholders must be diligent in monitoring and managing grazing to ensure rangeland health. They must fence the lease, develop water sources, clear trees and brush as needed, and provide other livestock-handling infrastructure. These infrastructure assets are often and repeatedly impacted by other oil and gas developments, requiring that they be repaired, dismantled, or rebuilt. The leaseholder is being asked to bear the impacts and costs of industrial installations for the greater good.

Amounts collected by grazing lease holders from operators are not meant to confer a windfall on the leaseholder but are intended, instead, to make them whole. The intent is to put the grazing lease holder affected by energy operations in a financial position as close as possible to the position they were in prior to entry by the operator.

My second point is that compensation helps minimize impacts. The payments serve as an important allocative function by requiring energy operators to internalize the external effect of their activities. The prospect of paying statutory compensation encourages operators to take measures to mitigate the impact of energy development.

Number three, if the province is looking to these compensation payments for additional income, the Crown has other revenue options. [Ms Murfin's speaking time expired]

Do you mind if I go over right now?

The Deputy Chair: How much more time do you think you might need?

Ms Murfin: Three minutes.

The Deputy Chair: Three minutes. Okay. Let's do that, and then we do have one more person after you, and then we'll come back over here.

Ms Murfin: Thank you. I appreciate that.

The Deputy Chair: Yeah.

Ms Murfin: If the Crown requires additional revenue to meet public policy objectives, there are other income tools that would not result in unfairly clawing back compensation. Energy company mineral lease bonus payments, annual mineral lease rental payments, royalty rate increases on production as well as related taxes on the energy industry are all possible options. It is far more appropriate to revise royalty paid to the Crown in order to meet policy goals than remove the current compensation model, which is designed to ensure the leaseholder is not made worse off.

The Surface Rights Act and numerous court rulings require compensation to be paid to the parties directly affected. It is not justified, fair, nor logical to take the compensation from the people who suffer the harm and redirect that compensation to a party that does not suffer harm. Another point to consider is that the money paid in compensation stays local and is part of rural revitalization. Stripping compensation from those receiving it represents a significant and unjustified transfer of wealth to urban centres from the rural communities.

My fourth point: the process of determining compensation is transparent. Energy companies generally make offers to landowners or leaseholders based on the compensation as set out in section 25 of the Surface Rights Act. If parties fail to reach an agreement on this amount, the Land and Property Rights Tribunal holds a public hearing to determine compensation payable under the Surface Rights Act. The decisions are published in detail. The evidence in these cases is available to the public. The decisions in aggregate build a pattern of dealings for which compensation amounts are based on. The tribunal's decisions are reviewable by the Alberta Court of Queen's Bench, which is also a public process. This is obviously a completely transparent and clear legal process.

In the interest of time I'll stop myself there. Again, thank you very much for the opportunity to address this committee. I will be happy to take any questions or comments.

The Deputy Chair: Perfect. Thank you for your presentation.

Last on the list is Dennis Roszell. You have 10 minutes, and the timer starts when you do. Go ahead, please.

Mr. Roszell: Thank you very much. Thank you for allowing us to speak at this important meeting. I do have one question before I start. Is there anyone here that represents the federal government? This is purely Alberta? Thank you.

I appreciate the challenge that you're facing in that you're dealing with the single most important and valuable asset for all Albertans, the asset of real estate rules and regulations. Call them property

rights. Technically we don't own real estate in Alberta or Canada. We have five basic rights. Discuss those rights here – you all know what those rights are. Everybody in the room knows what those rights are. But when we're dealing with the rights of the people versus the rights of the government, one of the rights the government has been using for many, many years is the right to taxation, but they've been using it without any barriers or restrictions, without any input from the people that live, work, and invest in the land.

Now, my background is that I'm a commercial real estate guy and residential real estate guy for about 28 years. I do business development, and your committee needs to appreciate all of the impacts that will impact each Albertan from a business standpoint economically, from a use standpoint, whether it be residential or for a commercial venture. We need some kinds of controls in place to limit the ability for governments to tax without considering the needs of the people that are using the land.

There are communities that have few or no services that are being taxed as if they had full services – gravel roads versus paved roads, lights at intersections versus an approach off the highway – because the municipalities or the provincial government or the federal government in either case has made a policy that we need more money. Now, the people that reside and work and enjoy the land aren't there to provide the government more money at their budgetary request. We're all working and living in this province and in this country as free people. We need to have the protections from administrations and governments to limit the ability for them to exercise their right to taxation in a reasonable manner.

I appreciate it very much, and I'm not going to use my 10 minutes.

The Deputy Chair: All right. I appreciate you taking the time with us today and making a presentation.

We'll just add five minutes, I think, each. If you'd like, Robert, to come back up and conclude your remarks, then we'll get into question and answer. Then if there's nobody else, Robert, then there'd be, probably, some opportunity further on.

Mr. Schwartz: I can rant on? I got to mentioning some of the bills prior to also being passed. One of them was Bill 24, which the province claimed pore space. Now, pore space is a property right in Ontario, a property right in other provinces. Alberta conveniently decided that it wasn't part of your surface rights even though the Surface Rights Act still maintains the drawing of heaven to hell. Anyway, the province declared this pore space to be a mineral. How can nothing be a mineral? Anyway, that's what happened.

Bill 10 also. The first speaker here today actually is affected directly also, with his mention that he's got land that he can't do anything with because the province has got a claim on it. And he's got no recourse. Everybody tells him: we can't do anything. That's Bill 10. That's also. That affects a lot of other people. It doesn't affect oil and gas. It doesn't affect gravel extraction. It doesn't affect any type of mineral extraction. It puts the onus on the surface rights owner to pay the costs of having his land sequestered for provincial convenience. That's got to change.

11:40

Bill 9, cost awards. It's costly to go to the Surface Rights Board, or if you're lucky enough to even get a hearing with the AER – that's very, very unlikely, but you'd better have a stack of lawyers with you. Bill 9 eliminates the right to be compensated for your legal expenses in presenting to them. I mean, this is one pony show here where, I mean, nobody is getting compensated, right? But in a hearing where it's a win or lose situation, you'd better be well represented, and there are going to be costs. Costs of $30,000 or $40,000 are not unreasonable to go before even the Surface Rights Board. We're in flux there right now because maybe we don't even have a Surface Rights Board. We don't know this. That's the current flux situation here.

The other thing I want to get at quickly here is that back in 1996 the Alberta department of agriculture was tasked to do a study on minimal resource development province-wide, moderate pace of mineral development and energy development province-wide, and also the possibility of unfettered energy development province-wide. They came back with their study, and the results were that if – and this was 1996 – we take today's current path of unfettered, bloody development – okay? – rural Alberta is going to become unlivable. Think about that for a while.

This gentleman behind me here in the real estate business: what is land going to be worth? What are all of our hard-working investments going to be worth? We've been waiting since 1993. Ralph Klein promised us in every ERCB or EUB development proposal that there was going to be an issue called cumulative effect addressed in every single development. This has never happened. We are swamped with this unfettered development, and we're going down the road. What are we going to leave our kids? A smoking black hole in the ground? That's the reality of it.

How many more minutes have I got to rant here?

The Deputy Chair: That would be for the committee clerk.

Mr. Huffman: I haven't been keeping track.

Mr. Schwartz: Oh, jeez. Unlimited.

The Deputy Chair: It was supposed to be five more minutes.

Mr. Schwartz: We'll take that as no account for a cumulative effect, then, right? Okay.

The Deputy Chair: Let's go with a few more minutes, Robert, and then Jody will conclude her remarks. We will get through some questions, and I'm certain at the end of that there will be additional time during which anybody can come up and keep going. Okay. Thank you, Robert.

Jody, let's go with five minutes on the clock. Okay.

Mrs. Young: Thank you, Mr. Chair and the committee, for allowing me to continue. If property owners are expected to make land-use decisions based off municipal land-use planning, then when there are sudden and unexpected land-use planning changes that affect property owners, who would have reasonably had a certain expectation, the longer termed land uses, then there need to be limitations on the proposed unexpected developments, definitive end dates, and legislation to ensure meaningful mitigation and fair compensation to the adjacent landowners.

Now, in early 2019 my family was initially told by the gravel company that the proposed gravel pit beside us would be small and that excavation activities would be completed in two to three years. As much as I was not happy about the prospect of a gravel pit immediately adjacent to my home, my husband and his family wanted to work with the gravel company and our neighbours.

I had many questions and immediately began trying to research to understand my rights and the potential implication. I wanted some confirmation that the activity was to be truly small in size, short in duration, and would not negatively impact our water sources. Through some strategic questioning I learned that the pit would most likely expand, that additional applications would most likely be made, and that we potentially face a gravel pit operating

immediately beside our home for a minimum of 15 years. I learned that others have lost or had water wells contaminated or irreparably damaged due to gravel extraction activities and that the gravel extraction activities can cause carcinogenic elements to become mobilized, which would enter into our drinking water. At minimum, our water well, which already had a very slow rate, could have the water pressure flow rate negatively impacted.

I pointed out to the gravel company representative that they appeared to be ahead of themselves and that I did not understand why we were even having this conversation because the land beside us was not even designated for gravel extraction. I was told that it wasn't if a gravel pit would be permitted but when, and I was left to understand that the land-use bylaw amendment process would be a formality and that any objections I had to the matter would not change the outcome. Right from the get-go the gravel company was telling me that I had no rights and that nothing I said or did would change how the municipality ruled on the matter.

I naively believed that if the matter proceeded, it would be a fair, democratic process in which I, my neighbours, and my council would be properly informed of the potential impacts to residents and adjacent properties and that I would be fully informed of my rights and that I would be supported in obtaining information applicable to my matter and that my municipality's decision would be guided by their own past municipal land-use planning objectives, consideration of the cumulative impacts of adding yet another pit, and by the input received by the impacted parties and the county residents as a whole.

But back on track, we're hear to talk about property rights and what can be done to facilitate protecting those rights. One of the first steps is ensuring that Albertans have their property rights protected, ensuring that they have proper, timely, informative notification of any activities which may impact their property rights and values.

What does this mean? Well, to me, this means that the people who will be impacted have to receive direct notification early enough from all agencies involved so they can properly prepare and respond. They need to know fully what is occurring, when it will occur, how they may be impacted, how long they will be impacted for, how they can have input, when and in what form they can provide input, what rights they actually do have, where they can find information and support, their role in the processes, who they can ask questions to and expect answers from, and what, if any, appeal options are available to them. Some municipalities already have what on paper appears like sufficient notification processes. However, if these processes are not followed, landowners' rights are not being protected.

Currently, in my experience, there appears to be little or no accountability to municipalities if they do not abide by their own bylaws. In our matter after I became aware of the possibility of a gravel pit by our home, I immediately contacted Red Deer county, and I was told that no application for a land-use amendment bylaw had been received and that I would be notified when and if that did occur. Years earlier, for an unrelated previous pit application in the area, we had received notification when an application was made, a copy of the application, and a rather detailed explanation of what was being applied for. I anticipated that we would receive the same. My county's bylaw stated that referral notices would be sent when applications for land-use amendments are received. My family never received a referral notice.

We only became aware that the matter was proceeding at the end of February 2020, when we received a public notice for a public hearing. It was discovered that the Red Deer county administration reports had documented a titled document in their reports called Adjacent Landowner Referral Letter, which publicly gave the appearance that the impacted landowners received timely notification when, in fact, we did not.

The Deputy Chair: How much more time do you think you've got on that?

Mrs. Young: I've probably got five minutes.

The Deputy Chair: Another five?

Mrs. Young: If I can.

The Deputy Chair: All right. Let's just get this – we'll get through this together.

11:50

Mrs. Young: Okay. Thank you.

In this situation what ended up happening is that I was forced to take a leave of absence from my employment to properly prepare for the public hearing. This was a matter I had had no previous experience in, so I had to try to navigate it and take the time to educate myself and try to figure out: what were the next steps that we needed to take?

In respect to the application I repeatedly asked for a copy of the application that started the proceedings and was advised that the bylaw before council was the application. I determined that Red Deer county bylaws stated that this process could not have started without an application and appropriate supporting documents and fees being paid. I was not provided a copy of this application and only finally obtained it by making a FOIP request. I found out that Red Deer county received a bylaw application approximately three months before we even learned of the proceedings and that not all of the required documents that were supposed to be submitted had been submitted and that the gravel company was represented in the application as actually being the landowner.

During the proceedings I discovered that ahead of the municipal land-use bylaw amendment Alberta Environment and Parks approved an updated activities plan application which appeared to allow the gravel company to conduct aggregate extraction activities in the land beside our home. We received no notification of the update which would allow a new gravel extraction on land that was not even adjacent to any of the existing other gravel pits.

The Environmental Protection and Enhancement Act needs to be amended so that when Alberta Environment and Parks and/or the Alberta Energy Regulator receives applications, amendments, variances, updated activity reports, or additions, deletions, or changes to aggregate approvals, at a minimum the landowners in the vicinity impacted by activities in the haul routes receive notification and, further, at a minimum, they're given an opportunity to submit a letter of concern.

I spoke with a representative from Alberta Environment and Parks who stated that they could not prohibit nor deny that private landowner their right to excavate aggregate from their own property. My question is: why are the property rights of that one private landowner or business owner being treated as having more value and more priority than my property rights? Why are the existing land uses not being given priority?

I've heard more than once that aggregate activity should be allowed for the public interest. We need aggregate for roads, building schools, et cetera, and pits need to be in multiple locations to reduce transport costs. But in our case there are several operational pits already right there. There are large stockpiles of gravel in these pits. I understand that studies have been done showing that our county's one pit beside us has at least the resource of 30 years of providing gravel. The county municipal development

plan identifies land all over the area by us which could be potential future aggregate resource locations.

I understand that the profits from the private business do not go back to the public and that the private operator exports most of the aggregate extracted from our municipality out of our province and, in most cases, out of the country, so I struggle to see how putting our homes, our water, and our land at risk, at the detriment to all of these things, is actually in the public's interest.

I have looked at section 619(3) of the Municipal Government Act, and it speaks to the fact that permits, approvals, and other authorizations granted by various government departments such as the AER prevail over any land-use bylaw or development decisions and that if a municipality receives an application for a land-use bylaw amendment that is consistent with the provincial approvals, the municipality must approve the application. If I understand this piece of legislation correctly, it appears that if aggregate extraction activities are approved by a provincial body, then the municipality cannot deny land-use amendments which would permit gravel activities.

Therefore, if landowners are to have any rights, they need to be involved in the provincial processes, and it calls into question why we have municipal public hearings and why landowners are being put through the stress, the fiscal cost, and the time in this land-use amendment decision process if the decisions have already been made by a provincial department before a municipal public hearing is even conducted.

On January 26, '21, Red Deer county passed this controversial bylaw to add previous residential acreage lands immediately adjacent to our home to their gravel extraction overlay district, thereby allowing aggregate extraction on the lands to be a permitted use and permitting the development of a gravel pit 165 metres from my home and within 80 metres of my water well. The project was presented as being small scale with a short-term duration, followed by the landowners building a home at the location.

One immediate concern was that this was not the first time we've been told such a tale. Community residents had been told the same thing about another pit in the area operated by the same developer. The pit was only supposed to be 11 hectares in size and completed by 2011. That pit is still in operation. That pit has expanded beyond its permitted footprint. It is now over 25 hectares in size and appears to be continuing to expand. Freedom of information requests have revealed that that pit was supposed to be excavated in phases and reclamation occurring at the end of each phase. To date no reclamation has been completed. I'm not sure how many of you are familiar with the 2019 Auditor General's report in regard to reclamation, but it might be something worth looking at.

When questioned about this pit and other operating pits in the immediate area, we were advised that once lands are added to the Red Deer county's gravel extraction district and once the initial permit is granted, gravel extraction operations can expand throughout the entire gravel overlay without any permits or oversight by our county. Further, they stated that several of the existing pits were grandfathered, and therefore the current rules did not apply to them. One of these so-called grandfathered pits has been in operation for over 50 years. My concerns increased as I realized that not only will my family have to deal with the cumulative impacts of having yet another operating gravel pit in the area, but the proposed pit beside us would become a much larger industrial development than publicly presented.

As predicted, shortly after the bylaw was passed, a large gravel company purchased all the land in question. It became known that Red Deer county was aware of the intention of the gravel company to purchase this land, and further it was learned that the gravel company planned not only to have a small pit but to level both residential acreages and excavate land from the large area over a longer period of time. Now, I recognize the need for balancing economic development, environmental protection, the property rights of all landowners, and working in the public interest, but there needs to be some accountability with municipalities staying the course with publicly made plans and protecting our environmentally sensitive areas and water supplies.

Do you need to take questions? I'll come back.

The Deputy Chair: Yeah.

Mrs. Young: Okay. Thanks.

The Deputy Chair: Thank you, Jody.

I will just ask everybody in the audience if there is anyone else who would like to present. Hang on a second. I want to make sure that there's nobody else who wants to get onto the list as we sort of manage the time.

I've got three MLAs on the list for questions. Let's get through those questions, and then we'll go back up. MLA Milliken, you're on the list for a question.

Mr. Milliken: Sure. I believe this one is for Robert Shumborski. I'm calling you up anyway if I could. Yeah. Just a couple of questions regarding – they're related to basically your whole experience that you've had. One of them was – it sounds to me from the story that you gave that you wouldn't have even known about the changes to the land use had you not gone forward with the development permit. Is that kind of correct? I'm trying to find out, like: what notice did you have of the changes, or what notice got missed or anything? I just don't know, right? Is there anything on that, on the notice side of it?

Mr. Shumborski: Yeah. I can probably fill that in a little bit for you. At the time that the process was happening for flood evaluation, this would have been post High River and all those issues that happened there with that whole flood situation. I think there was a pretty strong initiative by the provincial government to put some pressure on municipalities to be doing flood studies in possible areas that might prove to be problematic in the future. That pressure came to Woodlands county, specifically in the Whitecourt area, because there was a lot of development happening in the Athabasca Flats area of Whitecourt. At that time my wife and I were actually engaged in elderly postsecondary education, and we were in Saskatchewan. I had received some letters from the county talking about public hearings. It was not possible for me to get to them. To say that I was totally without awareness that that was an issue: I wouldn't say that to you.

Mr. Milliken: Yeah. I'm not trying to get at that logic of it. What I mean by that is that just having the opportunity to go and attend public meetings doesn't necessarily fix the problem that you're facing right now. I'm not trying to put any blame on you on that one.

The other side of it is that you've obviously been living this experience, so you've had more time to consider it than I've had up here, sitting here. Have you considered – if you haven't, that's fine – any way that perhaps compensation should be valuated if it was a case that compensation became a reality through legislation?

Mr. Shumborski: Yeah. In the process of the actual, I guess, implementing of the plan for Woodlands county, that was almost the identical time when we moved back to Whitecourt from Saskatchewan . . . [A siren sounded]

12:00

Mr. Milliken: Air raid.

Mr. Shumborski: I think we're far enough away from the Russians. I think we're okay.

We just kind of got blind sided right there, but one person that really stepped up on that or tried to step up on that was at that time the mayor of Woodlands county, Jim Rennie. He really saw the problem with this, and he did what he could. I mean, it was limited, what he could do, but he encouraged putting together some kind of a package and talking to people in Edmonton. That's what I did. He actually wrote a letter calling on the government to seriously consider setting up some type of funding for people like us, you know, caught in this kind of situation. He encouraged me. He gave me the name of someone in Whitecourt. He said: "You can go to this person. They will give you an unbiased, accurate assessment of your property before and after. They'll just lay out the picture." That's actually part of the presentation. There's a letter in there from that person saying that this is what this property was realistically valued at prior to the implementation of the flood study.

Mr. Milliken: Yeah. And I've seen, through my previous work and stuff like that, that appraisals can be effective. It's just that, yeah, I figured I knew the answer, but I just wanted to ask you, because I figured you had put more time into it.

Thank you very much.

Mr. Shumborski: Thank you.

The Deputy Chair: MLA Hanson, go ahead.

Mr. Hanson: Robert, just a couple of things. The flood zone: that was designated by the municipality, not the province?

Mr. Shumborski: You know, one thing that I experienced in that process was the willingness, to some degree, of both governments in pointing the finger in the other direction. Now, I never got that from elected officials. I applaud that. But I did get that kind of a response from someone on staff at – can I call it ESRD?

I just lost my train of thought. It often happens when you get up to 67 or whatever, more so. Just refresh me on what you're asking.

Mr. Hanson: Yeah. The question was: which level of government declared it as a flood zone?

Mr. Shumborski: Yeah. Basically, what happened was – I would encourage you to look in that package. I did address this, again, with each government that was in power – the NDP government, the PC; it didn't matter to me – and I did get a letter back from the then minister, at the time the NDP government, basically pointing the finger at the municipality. During that time there was a real struggle going on – and I feel for this at the provincial level – post High River. That was a very, very significant event, and that cost the provincial government, I think, a lot of money. I don't know the details of it, but that was a hard, hard pill to deal with. I think that the ramifications of that, you know, kind of went out. The then minister in the NDP government was really pointing the finger at the municipality.

Mr. Hanson: How often did this property flood in the past? Is it a 100-year flood zone? A 200-year flood zone?

Mr. Shumborski: Well, it's right alongside the Athabasca River. The issue of timing, how often: I think that probably in the last 30 years there probably have been maybe two or three.

Mr. Hanson: That is significant.

Mr. Shumborski: It does happen there, yeah. And what caught us was that the engineering group at ESRD had evaluated this area in depth, and they were actually saying that development is fully possible in this area, that all you had to do is meet certain elevation restrictions, which on our property was easily, easily attained. For some other properties it would have been harder, but for our particular one it was a slam dunk. It was no problem achieving those issues.

I challenged Jim Rennie, the mayor, on this and some of the people with the county. He basically strongly said to me: "You know, I know that ultimately the decision is ours. We are the ones that issue development permits, not the provincial government." That's basically what he's saying. He said: "Yeah, the provincial government can say that it's our problem, but if the provincial government is going to say that their influence does not set mandates for us to function under, they're not really being honest with you." When the minister says, "This is what you will do or you won't do," I don't know of any municipality in this province that's going to go against that. So, really, in a practical sense, the provincial government really does control this.

Mr. Hanson: Thank you for your presentation and your time. I understand what you're going through. But I also get the calls in the spring from people that are flooding out that are angry that somebody gave them a permit to build in a certain area, too. Definitely, if it doesn't happen, it's fine, but once it does, it can be a problem.

Mr. Shumborski: I think, you know, again, I would encourage you to look through the package. I can't remember the gentleman's name who talked about that. Our due diligence was extreme, to say the least. I mean, we were aware of the threat, but we were really relying on the designated authorities in Edmonton to really say – they're the ones with all the flood study history, hydraulic engineers, you name it. We really trusted that. We just said: "Okay. You guys are the experts, you know, and you're telling us what we can or can't do. We'll live within what you're saying we can or can't do."

We even knew that in our particular situation. You know, we were given a development elevation for the main floor of our property. We knew; we did surveying. We had latitude to even increase that with our property. The engineers that finally had to come out, that did the flood study – and I took them to task on this. I actually got a surveyor out there again and gave new numbers, and I pressed him hard, obviously. At the end of that, he said: as hard as this is, I have to tell you that you have a developable property, but the minister has said that I'm going to tell you that you don't have safe egress. So that kind of lays out, I think, what was going on, right?

Mr. Hanson: Thank you for your time.

The Deputy Chair: MLA Frey, you have a question?

Mrs. Frey: Yes. My question is directed at, actually, two people, and I guess you guys can fight over who goes first. Ms Murfin as well as Mr. Reed, you both kind of brought up similar concerns – and we hear the same concerns over and over again – about balance. What I found with balance – and I'll say this frankly – is that people want balance when it works for them. Balance is a tricky thing, because true balance means that both parties are probably going to be a little bit mad. It means there's going to be compromise.

My background. I'm the MLA for Brooks-Medicine Hat. We have a ton of grazing lease holders in our area. In fact, I believe the president of your association lives in my riding. I'm very informed by him of the historical concerns of the grazing lease association and how that impacts it. Also, more background, I guess, is that my family is like yours, Mr. Reed, in that we have hunted for decades in southern Alberta and all over the province. But I also see, you know, that when hunters do go on someone's property, whether it be a grazing lease or someone's property that they own, whether it's a disposition or that they have title to it, it is a disturbance. Like, there is something that goes on there. I'm just curious: how, from a solutions perspective, would both of you suggest that we remedy the issue of access as it relates to hunting and access more broadly? You guys can fight over that one, I guess, but I'm interested to hear from both of you.

12:10

Ms Murfin: This has been an issue for a long time that we've been working on. Access has issues for leaseholders. It has issues for hunters and other recreationalists that want to access Crown land. We've actually been working for a number of years with the department on developing a solution to this. Recently, just last summer, our chair, Kyle Forbes, and a representative from Alberta Beef Producers as well as the president of the Alberta Fish and Game Association and the president of Alberta Backcountry Hunters and Anglers all came together as a committee with the department to put forth a solution on how we can fix this access.

Interestingly enough, the issues brought forward: all of these groups could 90 per cent agree with needing a solution for that, right? Both groups have to be looked at and upheld. What came out of that committee was a commitment to develop a better way of booking access; like, not an e-mail, not a phone call to the leaseholder. If there is an online third-party booking system, what are the features of that that we would want? Then the discussion, of course, goes towards: is this a government program, or is it something that we can source out to a private company to build and create for Alberta?

Mrs. Frey: I really appreciate that. I guess that, yeah, that answers my question. So there is a discussion going on about the balance of access?

Ms Murfin: Yeah.

Mrs. Frey: I know that off-highway vehicle use is also another kettle of fish when it comes to property access and things like that. I do appreciate that.

And I want to be totally clear. Like, I totally see where you're coming from, and I see where the landowner is coming from in that situation, where the grazing lease holder is coming from. You have rights to that property as well.

Ms Murfin: Yes.

Mrs. Frey: But then there are also the rights of Albertans to enjoy property or Crown land.

Ms Murfin: Exactly.

Mrs. Frey: It's like those two are competing interests.

Ms Murfin: I think that, really, the majority of leaseholders are very friendly to hunters . . .

Mrs. Frey: A hundred per cent. That's been my experience.

Ms Murfin: . . . because wildlife eats their food that they're trying to feed to their cows.

Mrs. Frey: And wrecks their fences.

Ms Murfin: Yes. Exactly. So they do want the wildlife control out there, the majority of leaseholders.

Mrs. Frey: Yeah. I just wanted to be perfectly clear that my experience has been very positive.

Mr. Reed, I'm curious if you could respond to that as well if you don't mind.

Thank you very much.

Mr. Reed: Yeah. I'll try. I think everyone would like to have a solution to this. The concern I pointed out was the number of different rules that different leases have, right? Like, in Kananaskis Country there's a set number; there's a set rule. You stick to the highway, the roads, the established roads, and that's what you can do. Any activity off that is on foot or on horseback. That's all we want, right?

I think that if you've got, you know, a bunch of guys my age, we could probably solve this problem, but now that there's so much value and so many more groups out there that want to have use and you have so many more opinions, it's extremely difficult. I think that if we could just somehow remove the locks on the gates – that's right from southern Alberta to Peace River; there are lots of them – and register. We all have a hunting licence. We're already registered. I've got a licence to harvest an animal in this particular WMU, but I can't access a great deal of it, so that's the frustration. I just hope that we can come to something so that my grandchildren and their grandchildren can enjoy the same areas responsibly.

The Deputy Chair: Thank you.

MLA Nielsen.

Mr. Nielsen: Yeah. Thanks, Chair. Jody, if you don't mind coming up, a little bit inspired from Dale as well, I'm going to take a guess that you've probably been following this committee for a little bit, seeing as how you were that prepared.

Mrs. Young: Actually, no. I've only known about it for a short time. I was actually up till 3 this morning. I apologize. I didn't mean to be so long.

Mr. Nielsen: No. That's okay. One of the things I did hear – you know, I attended another one of these meetings, in Edson. I obviously heard from my colleagues what they've heard at other ones. So initially this committee started to put together a list of the different acts that perhaps we should be looking at reviewing during this whole process and ultimately decided to have this set of acts to look at and not to consider these, but one of the recurring themes I seem to be hearing coming up and in your situation is around potential water contamination. Should the committee be reconsidering looking at the Water Act? That was one of the ones that we excluded.

Mrs. Young: Yes, very much. I do think you should be looking at the Water Act. In our situation we were told that the excavation activities would stay above the water table but that our municipality wouldn't be establishing where the water table was at. When I followed up with AEP, I was told that they would only worry about the water table if it was reported back to them by the developer if the water table was actually interacted with, and then in doing some research on that, I found out that if a Water Act application is made, I would only have seven days to respond, and that would only be if I knew about it, and the only way that I could find out about it is if I

went on to the authorization viewer. I'm not sure about any of you guys, but I have been trying to regularly go, but I'm not getting there every week, and even if I get there on the sixth day, that's going to be a problem. So, yes, I do agree with you that that's one piece of legislation that should be looked at with this.

As everybody knows, we just came out of a drought year. I explained to you that I come from an agricultural background. I come from some different viewpoints with this. We can't make more water, and if we have water sources that are clean and usable, why are we putting them at risk if we can access our resources from other locations? Maybe at some point in time we may still have to go back to those areas, but that comes back to going to the right places at the right times to try to minimize those impacts.

Mr. Nielsen: Okay. Thank you.

Mrs. Young: Welcome.

The Deputy Chair: Okay. Thank you for that.

MLA Rowswell, you have a question?

Mr. Rowswell: Thank you. Robert Shumborski, I try to get things down to kind of one sentence as best I can.

Mr. Shumborski: Okay.

Mr. Rowswell: So your issue is that zoning was changed.

Mr. Shumborski: Correct.

Mr. Rowswell: You couldn't do what you wanted to do.

Mr. Shumborski: Correct.

Mr. Rowswell: And you get no compensation.

Mr. Shumborski: Correct.

Mr. Rowswell: And you want compensation.

Mr. Shumborski: I do.

Mr. Rowswell: So that's the issue that you – because that's something, you know, like confiscation by regulation or something like that?

Mr. Shumborski: Regulatory taking.

Mr. Rowswell: Yeah. Regulatory taking. That's kind of what you've experienced, but they don't want your land. There was a regulation that changed, and now you can't utilize your stuff, so you've suffered a loss, and now who is going to compensate you, right?

Mr. Shumborski: Correct. Prior to that strong provincial intervention, if I can say it that way, the county was strongly encouraging the development that I was planning to do. They weren't just sitting there in neutral. I mean, they were looking for development. They wanted development. They were strongly encouraging the path that I was on.

Mr. Rowswell: I just wanted to kind of – but the basic thing is that . . .

Mr. Shumborski: That's exactly what happened. Yeah.

Mr. Rowswell: . . . if the compensation could be there, you'd be a happy man, right?

Mr. Shumborski: If the compensation was there, I would consider that an acceptable, righteous, you know, solution to the problem.

Mr. Rowswell: Okay. Thank you.

Mr. Shumborski: I think the land itself: I'm not too sure what'll happen to it. Maybe it'll grow trees. I don't know.

Mr. Rowswell: All right. Thank you.

Jody Young, if I can ask you a question. So in your case you don't want to be compensated. Your thing, like: "I checked everything out. The best place to build my place is here based on all future development expectations at the time." Then things changed, and then all these rules start coming in or changes, and then you were told things, and then they didn't happen, and that was your experience. Then it sounds like there's been a communication problem. There's been a "who do I call and get help on this?" type of issue. I'm just trying to filter yours down to the main two or three issues.

12:20

Mrs. Young: The main two or three issues. I guess the first issue is municipalities standing by their long-term use planning, and if they're going to make changes that are very extreme, there's got to be some sort of compensation.

Something I didn't get to share with you is that we had no appeal. That was a key piece. I believe it was Mr. McLauchlin with Rural Municipalities of Alberta who told you about how there are options for landowners. Well, in our case there wasn't an option. We couldn't appeal. We couldn't go before a subdivision development board, and our only option was, actually, to take it to a judicial review. For any of you here that may have a legal background, that's a very expensive, lengthy process. Most people don't even know how to navigate that, and I think I was ahead of some of my neighbours in that. We were successful in that.

You know what happened? Two weeks after the Court of Queen's Bench ruled in our favour – our municipality actually had a bylaw that talked about if there are appeals before a subdivision board, they have to wait 18 months before they bring it up again. But, of course, as far as I can tell, I don't see that anybody else has challenged them with a judicial review, so it's not in their bylaws, but two weeks later they put the exact same bylaw before them without even acknowledging that the first one had been ruled invalid by the courts because of their actions.

Your question was some of my main points. My main points are proper notification, just some transparency in keeping us informed, following our long-term planning. I believe they also spoke to the fact of trying to change this so we can change planning within five years. Well, what kind of plan is that, that every time we have a new municipal government, they change the plan? That, to me, is not good government.

Access to information. I've been struggling around this whole FOIP piece. One time I understood you could go on to the authorization viewer and bring up permits and things and could see what's going on. In today's day and age there's no reason why, once we have some of these authorizations, they can't be PDFed and linked up to a land location if – in the environmental protection act it actually speaks to us being able to have access to a bunch of these documents, and I've been getting the runaround. My most recent FOIP request I made to AEP, and I just two days ago got told that they have nothing. There's a problem with this, because I actually already have some of those documents. I'm being told they have no documents that I already have in hand. So it's that lack of information.

We talked about balance. You're right; nobody wins, but there could be ways that we could work with both sides of the party to mitigate this. We actually initially tried to start with that, but the problem we encountered was misinformation, deception, and, frankly, being outright lied to.

Transparency. I actually very much like the format your committee has had, in which they had transcribed the meetings, you've made the audio recordings available. I, unfortunately, haven't had the opportunity to listen to all of it because I haven't, frankly, had time, but I've made attempts to try and educate myself and understand what your mandate is and what you would maybe care about. Municipalities: some of them now put some up on YouTube. There's no reason why our government should not be able to have that public information easily and publicly available to us.

Basically, it comes back to regulatory takings. You need to be compensating us as adjacent landowners, not just like with expropriation. I've invested my entire life into a property which I took very great care, with my family, in choosing – and I'm not against gravel activity. Some people have taken that standpoint, but I naively believed that our government was having these things properly regulated, oversaw, being put in the right places, reclamation, and what I have found here in the last two and a half, three years is that I've discovered where these permits aren't being followed. It's not being regulated. They're being left to self-regulate. If we're not even following our existing laws, I question: what's the point of even amending – they used to have more laws for us – if what we already have isn't being enforced?

I'm sorry. That's probably the longer answer.

Mr. Rowswell: No. That's great. That helps.

Mrs. Young: Okay. Thank you.

The Deputy Chair: MLA Hanson has a question.

Mr. Hanson: It's actually more of a comment to Curtis and I believe it's Lindsye. This is the third time in six meetings that this issue has come up, and one of the common themes is access to hunters. I guess the problem I had with it is – what I've heard very, very clearly – that there's some biased access. There are regulations under the Wildlife Act. I'm a landowner myself. I've got 300 acres of pretty prime hunting land, and I own it personally so I have a little bit more choice than on public land. The issue that I've heard that we need to deal with is the involvement of leaseholders with outfitters and prioritizing their access to our public lands, Alberta public lands. That's the problem that I see, because there's some big money in that. I know guys that are outfitters that, you know, can be paid anywhere from $10,000 to $40,000, depending on if it's an elk hunter or a bear hunter, that kind of thing. Those are the things.

I would caution, from the leaseholder standpoint, that you're almost walking a pretty fine line of violating the Wildlife Act when you do that kind of biased access. That would be one thing I'm definitely going to look into coming out of these six meetings, that access portion to public lands, because I did hear that as kind of a common theme. Some leaseholders are using it, maybe not taking money directly, which would be a direct violation, but kind of skirting those regulations a little bit. I would just kind of provide some caution on that. I definitely will be, as an MLA, looking into that as part of my role in the committee.

Ms Murfin: Can I make a comment?

Mr. Hanson: Absolutely. Please.

Ms Murfin: First of all, there are different rules that apply to outfitters as opposed to recreational hunters because it's a commercial activity.

Mr. Hanson: I do understand that.

Ms Murfin: Yeah. You're talking about section 49, the Wildlife Act, about compensation to – yeah. That's illegal. Shouldn't be doing that.

But most of the recreational access that I and Curtis are talking about is covered under the recreational access regulation, so that would be a factor. When you're looking into this, that would be your major regulation.

Mr. Hanson: I just see it as one of the major conflicts between the fish and game associations and the leaseholders. I think that's something that's really going to have to be worked out. I'm not saying that all leaseholders are doing that, but I think it's pretty clear that there are a few that are making it very difficult for the average Albertan to access but holding special, you know, dates just for the outfitters that are making some pretty good dollars. That's kind of just the area that bothers me that I'm hearing. It doesn't affect me at all where I'm at. Like I said, as a private landowner I can dictate who comes and goes on my property, and I don't charge, am not allowed to charge, anyone for that for access. Those are just kind of the things that came up in Edson and that came up here again. It seems that the more west we go, it seems to be more of a common theme. It's just something that I would like to look into a little bit more and I think that we can probably discuss with your group as well.

Ms Murfin: Yeah. If we could please be involved in the conversation, that would be great.

Mr. Hanson: Yeah. Sure.

The Deputy Chair: Any final questions? Okay.

Hearing and seeing none, I just want to thank everyone who came out to join us today in the audience and everybody who took time to present. Robert, I know you're trying to flag me down, but in 33 seconds this meeting is adjourned right at 12:30. I just wanted to quickly thank everyone for presenting, taking time to answer questions, and joining us. This is the final of the six in-person meetings. I hope everybody has a safe drive home. There's also opportunity afterwards just to chat as well and to pass on any final comments.

With that, we are coming right up to 12:30, which means that this meeting is adjourned.

Mrs. Frey: Need a motion?

The Deputy Chair: Not at 12:30 we don't, which is now.

Mrs. Frey: Oh, we don't? Perfect.

The Deputy Chair: Thank you.

[The committee adjourned at 12:30 p.m.]

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