

Agricultural Crown Lands Program (ACLP) – Forage Leases

Current Policies

Manitoba Agriculture has heard from forage lease holders through their letters and through various meetings. Several concerns were raised about rents, lease terms and conditions, land productivity, and programs/services. The following discusses current policies on ACL.

Rent

Forage rents are calculated using a market based formula in regulation: 3.5% of the market price of beef x the number of cows that the land can sustain (i.e. “animal unit months”, or AUMs, which is a measure of the productivity of the land). Forage lease rent is $A \times B \times 3.5\%$ (where $A =$ AUM, $B =$ price of cattle).

Previously, rents were frozen at artificially low rates since 2014, at about \$2/AUM, and were based on a triennial survey. Lessees are currently paying \$7.19/AUM, or about \$48 for 5 months of feed per cow-calf pair (for reference Saskatchewan 2022 grazing rates are \$8.18 per AUM).

Rental rate transition: In 2019, the rental rate remained at \$2.13 per AUM. In 2020, the rental rate was the average of the 2019 rate and the amount described in the formula. In 2021 and thereafter, the rent is determined using the formula. In addition, rent is now payable by December 31, rather than at the end of the production year as had been the practice in the past.

Lease Lengths

Forage lease terms are 15 years. Those who had forage leases prior to 2019 (i.e. “legacy leaseholders”) can transfer their lease to immediate family members only in perpetuity. For partnerships and corporations, leases obtained prior to 2019 can be transferred to an existing ownership interest in the partnership or corporation in perpetuity.

Leaseholders may surrender their lease at any time without penalty. Surrendering only a portion of a lease can be considered on a case by case basis, depending on the land use impacts and other considerations.

Unit Transfers

Lifetime leases can no longer be transferred to a third party. This is called a unit transfer. Typically, this involves the transfer of a lifetime ACL lease along with the sale of a farmer's private property to a non family member. However, those with forage leases prior to 2019 may transfer their leases to immediate family members in perpetuity.

Animal Unit Month (AUM)

AUM ratings are long term production averages. AUMs are not adjusted annually and are generally conservative. Lands are assessed for AUM using scientific methods based on region, soil type, type of vegetation and other conditions. AUM assessments are always conducted prior to Crown land auctions. Forage lessees are expected to manage the land to maintain or increase long term productivity. AUMs are not adjusted downward if leaseholders are not actively maintaining the land, including controlling encroachment. AUMs are a key part of rent calculations: rent is calculated as 3.5% of the market price of cattle per AUM.

Productivity Improvements

When leaseholders make investments to improve ACL productivity, by policy, Manitoba will not increase AUM assessments on those lands for 10 years.

The 2021 ACL Forage Productivity Pilot Program (ACLFPPP) (75% government funded and 25% applicant funded) funded projects related to forage management techniques to improve productivity and sustainability on Crown land. ACL productivity improvements resulting from the ACLFPPP may not be reflected in AUM assessments for 5-10 years, meaning rents would not be increased due to the improvements. In the pilot, any improvements are owned by lessees.

Many years ago, Manitoba offered a Crown Land Improvement Program (CLIP) for leaseholders to develop Crown lands for the purposes of cattle production. CLIP acres are a large part of existing ACLP lands. AUMs on CLIP acres are assessed based on their productivity potential; the onus is on the leaseholder to maintain productivity, for example by limiting encroachment. In cases where the land has not been adequately maintained over the years, resulting in the need for significant redevelopment, there can be delays for the permissions required from the Department to complete this type of work, due to the need for consultations and permits.

Valuing Improvements

The value of improvements on forage leases is settled privately between outgoing and incoming leaseholders within 30 days of the auction. If agreement cannot be reached, the matter is referred to formal arbitration under The Arbitration Act. This is a new system that is relatively untested.

In situations where a leaseholder walks away from a lease and improvements, and they revert to the Crown, the value is known prior to the allocation process, and the value is paid to the Crown at the time of allocation.

Auctions

Auctions are held in November, in the year prior to use, for various locations throughout the province, with advertisements placed in local newspapers and online, at least 30 days prior to the auction date. Payments must be made in full at the auction, including all of the first year's rent and local taxes, and any other fees that may be known for the parcel of land.

The Department moved to online auctions during the pandemic. Sometimes, releasing the list of land to be auctioned is delayed due to the department's generous cancellation policy for non payment. Cancelled and surrendered leases are put on the notification list to First Nations for Treaty Land Entitlement selection prior to auction.