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April 9, 2006

Land Agents Licensing
Human Resources and Employment
7th Floor, Labour Building
10808 - 99 Avenue
Edmonton, Alberta T5K 0G5

Attention: Gerald Kress

Dear Sirs:

Re: Land Agents Licensing Regulation - Regulatory Review

Further to your letter dated February 27, 2006, Alberta Beef Producers appreciates the opportunity to comment on the proposed amendments to the *Land Agents Licensing Regulation*.

As you may be aware, Alberta Beef Producers represents 30,000 cattle producers in this province who are among the landowners most affected by the "acquisition of interests in land" to which the *Land Agents Licensing Act* and the *Land Agents Licensing Regulation* are directed.

As noted by CAPP, CAPL, SEPAC and IRWA and AASLA in their letter to the Honourable Mike Cardinal dated January 27, 2006 "the *Land Agents Licensing Act* was enacted as a result of pressure from the public for the province to govern the activities of Land Agents representing a variety of industries in Alberta who were acquiring an interest in land on behalf of their principals".

When the definition of "land agent" in the *Land Agents Licensing Act* was amended to include clause (ii) of section 1(c) the requirements of the *Act* were extended to a "person who for a fee . . . gives or offers advice to an owner or the owner's agent with respect to a negotiation for or acquisition of an interest in land." With this amendment all landowners who wished to hire someone to advise them in their negotiations with land agents working for industry were forced to retain the services of either a licensed land agent or a lawyer.

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The idea that a consultant advising landowners with respect to a negotiation for or acquisition of an interest in their land should have the same qualifications as land agents acting for industry was likely good in theory but, in practice, this requirement has worked to the benefit of industry and to the detriment of the landowners it was likely intended to protect. It is the general consensus of our delegates and directors that the *Act* and *Regulation* has totally failed to meet the needs of landowners in this province. The direct result of this failure is the rise in the number of landowners seeking advice from consultants who are not licensed under the *Act*.

Having reviewed your material in detail we are of the view that, with the proposed amendments to the *Land Agents Licensing Regulation*, the *Act* will further benefit industry at the expense of the landowner.

Landowners have a legitimate grievance in that there is no mechanism in the *Act* or the *Regulation* for a person who gives or offers advice to landowners to become licensed as a land agent. The entire regulatory scheme established in the *Land Agents Licensing Act* and the *Land Agents Licensing Regulation*, including the proposed amendments, is geared to persons employed by or under contract with the companies that are engaged in acquiring interests in land from landowners.

This is particularly evident with respect to:

1. The proposed change to section 4 of the *Regulation* that introduces the requirement for 2 years of post secondary education and a filed internship agreement requiring a trainee to work under the supervision of permanent land agents who have been actively engaged in land agent work for a period of three years.
2. The requirement in section 5(1)(a) and the proposed amendment to that section requiring a person holding an interim land agent license to have worked for a period of at least 12 consecutive months under the supervision of permanent land agent license holders referred to in the internship agreement.
3. The requirement that, during the internship period (currently referred to as the articling period), the interim land agent personally conduct a minimum of 25 negotiations for interests in land that normally would require a licensed land agent to conduct and that the supervising land agent be present and observe the interim land agent's performance in 6 of the 25 negotiations.

The reality of the market place is that the above requirements can only be met by a person working as an interim land agent for a company in the business of acquiring interests in land and not for a company or person acting on behalf of individual landowners. This is due to the shortage of licensed land agents working for owners and the lack of incentive for such agents to take on the duties and responsibilities of a "trainer" and the related financial costs.

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It is the opinion of landowners and producers that they are not properly represented by licensed land agents whose education and training is supervised and moulded by the very companies who seek to acquire an interest in their lands. The perspectives are different and someone trained by an oil and gas company sees the transaction from the company's point of view and not the landowner's. What is needed is a mechanism for land agents to be trained with the producer and landowner's interests in mind. This ability, however, is entirely lacking in the current *Act*, *Regulation* and the proposed amendments. Until this happens, landowners will continue to be at a disadvantage when it comes to negotiating with industry.

It has been the experience of our producers that licensed land agents work primarily, if not exclusively, for the companies who seek to acquire interests in land and are not interested in, or fear the economic repercussions of, acting on behalf of the landowner. Unlike other regulated professions there is no neutral training ground for land agents. This has resulted in a significant imbalance in the number of land agents working for industry and those working for landowners. Until this situation is rectified, landowners will have no option other than to seek advice from consultants who are not licensed under the *Act*. The exemption in section 2(a) for members of the Law Society of Alberta does not justify and cannot offset this critical flaw in the *Act* and *Regulation*.

A review of the *Land Agents Licensing Act* and the *Land Agent Licensing Regulation* leads to the inevitable conclusion that it is the interests of the industries acquiring interests in land that are being protected by the licensing requirements to the detriment of the landowners whose land is being compulsorily acquired. This view is reinforced by the penalty provisions in the *Land Agents Licensing Act* which are more onerous than the penalties imposed on persons who contravene the *Veterinary Professions Act*, the *Medical Professions Act* and the *Legal Professions Act*.

The resolutions supported by Alberta Beef Producers, Alberta Surface Rights Federation, Alberta Grazing Leaseholders Association, Western Stock Growers Association and the Western Barley Growers Association calling for the removal of section 1(c)(ii) from the *Land Agents Licensing Act*, are clear evidence of the frustration landowners have with the current *Act* and *Regulation*. Unfortunately, the proposed amendments will increase the dissatisfaction producers and landowners have with this legislation and result in continued pressure on the government to repeal section 1(c)(ii) and allow persons, other than licensed land agents and lawyers, to provide advice to landowners in a negotiation for or acquisition of an interest in land.

Alberta Beef Producers' position is that the *Land Agents Licensing Regulation* should either be amended to provide a better mechanism for licensing persons giving or offering advice to landowners or to exempt a class of persons advising landowners from the application of the *Act*. As the proposed amendments increase the difficulty of non-industry land agents to be licensed under the *Act*, Alberta Beef Producers cannot support the amendments put forward on behalf of the Minister of Human Resources and Employment.

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The resolution from our 2005 Annual General Meeting is that "Alberta Beef Producers lobby the Alberta Government to amend the *Land Agents Licensing Regulations* to change the licensing requirements in order to allow landowners to hire persons other than licensed land agents or lawyers to offer advice to the landowner with respect to a negotiation for or acquisition of an interest in land". Your department has an opportunity to address the grievances leading to this resolution by either reconsidering the licensing requirements in the *Land Agents Licensing Regulation* or amending the *Regulation* to exempt a class of persons giving or offering advice to landowners.

Representatives from Alberta Beef Producers would welcome the opportunity to meet with you to discuss this matter in more detail. Thank you for taking the time to consider our comments on the proposed amendments to the *Land Agents Licensing Regulation*.

Yours truly,

Alberta Beef Producers



Rick Burton, Chair
Government Affairs Committee

- cc. Alberta Surface Rights Federation
Alberta Grazing Leaseholders Association
Western Stock Growers Association
Western Barley Growers Association
Alberta Pork Producers
Alberta Milk
Alberta Cattle Feeders Association
Canadian Association of Petroleum Landmen
Canadian Association of Petroleum Producers
Small Explorers & Producers Association of Canada
International Right of Way Association
Alberta Association of Surface Land Agents
Hon. Mike Cardinal, Minister of Human Resources and Employment
Hon. Doug Horner, Minister of Agriculture, Food and Rural Development