

File: 18760-00/FAC

September 13, 2006

To: Regional Executive Directors
District Managers

From: Jim Snetsinger
Chief Forester

**Re: FSP Stocking Standards Based on Tree Density Averaged over
the Standards Unit**

It has come to my attention that some forest stewardship plans (FSPs) propose stocking standards that are based on crop tree density averaged over the entire standards unit (SU). For example, well-spaced trees per hectare, when averaged over an entire SU, must exceed some specified value. The purpose of this note is to (1) advise you of the ministry's position on the legal requirements with respect to stocking standards; (2) bring to your attention some undesirable characteristics of stocking standards that average tree density over the entire SU; and (3) provide an update on action that the ministry is taking to clarify stocking expectations.



Legal position

Last year, the Forest Appeals Commission (FAC) ruled (Appeals 2004-FOR-020(a) and 2004-FOR-025(a)) that stocking standards can be satisfied by well-spaced (or free-growing) tree density averaged over an entire SU. The ministry has appealed those decisions. Despite the FAC's ruling, the ministry remains of the view that the obligation to establish a free-growing stand continues to apply to all portions of the net area to be reforested. The ministry's lawyers have advised that the FAC decisions, while likely to be applied in future similar cases, are not binding as precedents or as a matter of general law. Accordingly, while the decisions on stocking standards are under appeal, the ministry has been advised it is lawful to continue to proceed based on the ministry's traditional interpretation of the legislative provisions.

FSP stocking standards based on tree density averaged over the SU

The approval tests for FSP stocking standards (FPPR s. 26) include assessing (1) consistency with the timber supply analysis assumptions and with maintaining or enhancing an economically valuable supply of commercial timber; or (2) reasonableness with regard to future timber supply. When reviewing FSPs, I encourage you to carefully examine proposed stocking standards that are based solely on tree density averaged over the SU. Typically, this type of standard can be met even when a large percent of the SU is unstocked. A simple example illustrates the point. With a minimum stocking standard of 700 well-spaced trees per

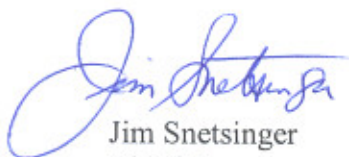
Regional Executive Directors
District Managers

hectare averaged over the SU (and a target stocking standard of 1200/ha), an SU can pass the standard with 60 percent of the area close to 1200/ha and 40 percent of the area having no trees at all. In contrast, the ministry's Timber Supply Review assumes that the vast majority of harvested areas are reforested so that unstocked areas are relatively rare.

Actions government is taking

In a June 2005 memo, Tim Sheldan and I described actions that government would take to clarify stocking expectations (memo attached). I would like to update you on our actions. First, the government has prepared its appeal and has a court date scheduled in December of this year. Second, over the last year we have met with industry representatives in an attempt to reach resolution on these issues. We are continuing our discussions on a legislative amendment to reaffirm the requirement to establish a free-growing stand on areas smaller than the standards unit. Our objective is a framework that promotes management that is socially acceptable, economically viable, and ecologically appropriate.

For further information on these issues, please contact Lorne Bedford, Forest Practices Branch at 250-387-8901.



Jim Snetsinger
Chief Forester

Attachment: June 20, 2005 memo from Jim Snetsinger and Tim Sheldan, *Forest Appeals Commission Ruling on Weyerhaeuser Appeal*

pc: Branch Directors
Bob Friesen, ADM, Tenure and Revenue Division
Tim Sheldan, ADM, Operations Division
Gary Townsend, Executive Director, Operations Division