

Chief Forester Order
Respecting an AAC Determination
For Tree Farm Licence No. 6

Section 8 (3.1) of the *Forest Act* stipulates in part that

If ... the chief forester considers that the allowable annual cut ... is not likely to be changed significantly with a new determination ... the chief forester ... by written order may postpone the next [allowable annual cut] determination ... to a date that is up to 10 years after the date of the relevant last determination, and ... must give written reasons for the postponement”.

In accordance with Section 23(3) of the *Interpretation Act*, the deputy chief forester is expressly authorised to carry out the functions of the chief forester, which include those required under Section 8 of the *Forest Act*. I, the deputy chief forester, have considered the factors described below and order the postponement of the allowable annual cut (AAC) determination for the reasons noted in this document.

In considering whether to postpone the next AAC determination for Tree Farm Licence No. 6 (TFL 6) held by Western Forest Products Inc. (the licensee):

- I note that the last relevant AAC determination for TFL 6 was made on July 23, 2001. That determination set the AAC at 1 460 000 cubic metres effective September 1, 2001.
- I further note that on May 9, 2007 the AAC for TFL 6 was adjusted to account for the removal of the private land from TFL 6. As a result of the removal the AAC was reduced by 116 800 cubic metres (8 percent) to 1 343 200 cubic metres. The 8-percent reduction is proportional to the amount of area that was removed.
- I have reviewed the letter provided by the licensee dated August 19, 2005 requesting that the AAC determination for TFL 6 be postponed to December 31, 2008, which is approximately seven and one half years from the date of the last relevant determination. In the letter the licensee stated:
 - Postponement might allow completion of (i) reallocation of harvesting rights under the *Forestry Revitalization Act*, (ii) private land withdrawal, (iii) delineation of old growth management areas (OGMAs) and wildlife habitat areas (WHAs), and (iv) management plan policy review;
 - The extra time would enable improved information to be available, namely, (i) vegetation resources inventory adjustments, (ii) visual and recreational inventory updates, (iii) site index adjustments and (iv) refinements to ecosystem mapping;
 - A postponement would provide the company with a more efficient schedule for preparing the next timber supply review.
- I note pertinent comments made by the deputy chief forester in the rationale for the last AAC determination for TFL 6:
 - A relatively large portion of the productive land on the TFL contributes to the timber harvesting land base in comparison to other coastal management units.

- The previous timber supply review did not push the limits on factors that may contribute to the timber supply. For example, the minimum harvestable age averages 100 years which is higher than other coastal units. Reducing the minimum age would result in an increase in the harvest level in the short- and mid-term.
- Potential exists for harvesting of the deciduous component of stands which could lessen the mid-term timber supply deficit.
- I have also reviewed the base case and each factor considered in the most recent AAC determination completed in 2001 and I note the following:
 - Several sensitivity analyses tend to reinforce the need for the short-term timber supply to gradually step down to mid-term levels.
 - Based on analysis of the base case output by Ministry of Forests and Range (MoFR) staff it appears that a harvest level of 1 460 000 cubic metres per year, which is equal to the AAC determined in 2001, can be maintained for a 10-year period with less than a 10 percent step-down per decade over the next thirty years. The harvest would decline by 8.4%, 8.3% and 1.7% over the first three decades respectively before reaching a mid-term harvest level of 1 199 000 cubic metres per year. From decade four onwards it is likely that the harvest flow would follow the current management option of the last analysis. It was projected to increase each decade in 2- to 7-percent increments to a long-term harvest level of 1 663 000 cubic metres per year. A maximum step-down of 10% per decade is regularly used in timber supply analysis and is consistent with the economic and social objectives of the Crown as expressed by the minister to the chief forester in his letter of July 4, 2006.
- I have reviewed the effect of the private land removal on the base case harvest forecast and note the following:
 - In the analysis provided to me by the licensee that showed the effect on the base case of removing the private land, the proportional reduction in the harvest forecast could be maintained over the forecast period. I am satisfied that for the purposes of this decision, any effects of uncertainties on this harvest forecast would be substantially the same as on the base case, especially in the short to medium term.
- A key question when assessing whether a postponement is justified under section 8 of the Forest Act is whether there have been any significant changes to management practices or new information has become available since the latest determination.
 - I am aware that seven WHAs, a wildlife management area, and OGMAs for one landscape unit have been established and I anticipate a decision regarding additional OGMAs in 2008. Much of this information was already accounted for in the 2001 timber supply analysis as a deduction for ungulate winter range and through the application of landscape level biodiversity constraints.
 - The last relevant analysis was completed in 2000 before “dead potential” wood volume was considered to contribute to AACs and it therefore contained no estimate of this additional volume. I note that including an estimate of dead potential volume in the harvest forecasts provided in the analysis could provide a

significant increase in the timber supply in the short- and mid-term with the potential to reduce the mid-term timber supply deficit.

- I am aware of the Province's legal obligation stemming from court decisions to consult First Nations on proposed decisions concerning various forest management matters. I have reviewed the information obtained through the First Nations consultation process undertaken by the MoFR with the First Nations whose asserted traditional territories overlap with TFL 6.
 - The Kwakiutl First Nation, 'Namgis First Nation, Mamalilikulla Qwe'qwa'sot'em First Nation, Quatsino First Nation and Tlatlasikwala First Nation were identified as having asserted traditional territories that overlap with TFL 6. I note that the Kwakiutl First Nation is a signatory to the Douglas Treaties.
 - A letter was sent to each of the five First Nations in August 2006 asking that I be informed about how their aboriginal interests and, in the case of the Kwakiutl, how their treaty rights may be affected by postponing the AAC determination for TFL 6.
 - The Kwakiutl First Nation responded in a letter expressing that there are indications that its aboriginal rights would be affected by a postponement and that the TFL 6 AAC needs to be reduced. The Kwakiutl also noted that it has evidence of interests, including historical village sites and culturally and spiritually sensitive areas, on the TFL 6 area. I note that the Douglas Treaty to which Kwakiutl First Nation is a party makes no provision for the continuation of aboriginal rights other than as the stated treaty rights to hunt over the unoccupied lands and to carry on their fisheries as formerly.
 - MoFR staff responded to the Kwakiutl letter indicating (i) the MoFR will consider how postponing the AAC determination will affect the Kwakiutl's treaty rights, (ii) that historic village sites are protected under the *Heritage Conservation Act* and (iii) noting that MoFR staff had offered to engage in discussions regarding changes to the AAC but were unsuccessful in arranging a meeting. No further feedback was received.
 - I acknowledge Kwakiutl First Nation's notification regarding historic village sites and am aware of the provisions of *Heritage Conservation Act*. Through this determination I draw the licensee's attention to the need to be mindful of these provisions in operational planning.
 - The Quatsino First Nation also responded by letter in which it expressed (i) its need to benefit from resource extraction including from timber harvesting and (ii) opposition to the proposed rate at which its forests are being harvested.
 - MoFR staff responded to the Quatsino First Nation's letter noting, in part, that a timber supply review was undertaken to identify the sustainable harvest level and the various pressures that may affect it. No further feedback was received.
 - A follow-up letter was sent to the 'Namgis First Nation, Mamalilikulla Qwe'qwa'sot'em First Nation, and Tlatlasikwala First Nation in December 2006. No comments were received from these First Nations.
 - I am aware that the 'Namgis First Nation and Quatsino First Nations have entered into Forest and Range Agreements (FRA). The Mamalilikulla Qwe'qwa'sot'em

First Nation has entered into a Forest and Range Opportunity (FRO) agreement and I am aware of the provisions for consultation and accommodation under the FRO.

- I am also aware that Traditional Use Studies (TUS) have been undertaken by the Quatsino and Kwakiutl First Nation throughout their asserted traditional territories. With regard to the TUS:
 - Ministry staff have reviewed the Quatsino and Kwakiutl First Nation's TUS maps and advise me that there is an indication of traditional use on parts of TFL 6. However, no information was provided by these First Nations regarding the specific traditional activities and the location in which these activities are practiced. This detailed information regarding these traditional activities may be provided by these First Nations during the consultation process that will occur prior to any operational activities occurring on this TFL and therefore, may be properly addressed at that time. I am also aware that pursuant to the terms of the Douglas Treaty to which Kwakiutl is a party, such traditional uses (apart from hunting and fishing) would not be afforded constitutional recognition and affirmation.
 - District staff informed me that during operational planning the TUS maps are used to identify areas where aboriginal interests or treaty rights may exist. District staff also indicated that where a site exists and must be protected, the effects on timber supply may be mitigated by combining these areas with wildlife tree patches or other reserves. The net effect on timber supply is unquantified but expected to be small.
 - Through the First Nations consultation process, and after considering all the information that is available to me, I am not aware of aboriginal interests or treaty rights that may be affected by the postponement of the AAC determination. However, if any new information does arise, then I will consider it in the next AAC determination.

Noting the future mitigating effects of accounting for "dead potential" wood volume on currently unknown factors that may reduce timber supply in the future, I conclude that, although the downward trend in timber supply in future decades remains, the decadal decline is within reasonable limits based on analysis of the base case output by MoFR staff, and that the AAC would not change significantly if a new determination was to be made at the present time.

The licensee has requested a postponement of the AAC determination to December 31, 2008. However, with the forgoing in mind, my decision is to postpone the AAC determination for about 8.5 years from the date of the last relevant determination to December 31, 2009. This will allow time to complete initiatives such as the delineation of OGMAs and to collect and analyse improved information.

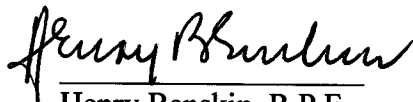
During the term of the postponement I expect that the licensee will complete follow-up actions regarding the deputy chief forester's recommendations in the 2001 determination such as (i) bolstering the assumption that the nature of unsurveyed streams is the same as surveyed streams, (ii) developing a local estimate for TFL 6 to account for wildlife tree patches, and (iii) tracking and reporting on actual management practices in riparian

management zones. The Crown benefits by having the best information available in a timber supply review.

I further include the following instructions in this postponement:

- I ask that for the next AAC determination the licensee provide a scientific analysis of opportunities to further refine site index and minimum harvestable age assumptions.
- I request that the licensee provide estimates of dead potential volume specific to the TFL and to monitor and report performance on harvesting this dead wood.
- I request that by January 1, 2008 the licensee provide me with a work plan that includes a schedule for completing the timber supply review and details the status of initiatives and availability of improved information.

I am authorized to rescind this order under Section 8(3.2) of the *Forest Act* if I conclude that circumstances on the TFL that influence timber supply have changed significantly during the interim. I will also rescind this order if any new issues arise in respect of First Nations rights, treaty settlements or other measures that may impact timber supply.



Henry Benskin, R.P.F.
Deputy Chief Forester



June 14, 2007
Date