

PROFESSIONAL RELIANCE REVIEW



**Submission from the Association of BC Forest Professionals
January 5, 2018**



ABOUT THE ABCFP

Created by government in 1947, the Association of BC Forest Professionals (ABCFP) has a mandate to serve and protect the public interest, working with government in the shared stewardship of BC's forests and ecosystems.

The ABCFP is comprised of 5,400 forest professionals who live and work in communities across BC, both rural and urban. Our members work for the provincial government, the forest industry, municipalities, the energy sector, forest and environmental consultants, First Nations, community forests, and teach within our post-secondary institutions.

To become a Registered Professional Forester (RPF) or Registered Forest Technologist (RFT), members must:

- have either a four-year degree or two-year diploma from an accredited forestry program;
- complete a two-year articling process under a sponsoring forest professional;
- successfully pass a series of association examinations to demonstrate their understanding of their obligations as a professional, knowledge of BC environmental regulations, and awareness of BC's operating context and environment in which forest professionals work;
- follow a code of ethics and professional standards of practice that require members to report illegal or unethical behavior;
- commit to only doing professional work they are competent to do based on their training and experience; and
- have their professional conduct and practice subject to oversight and enforcement by the ABCFP.

Independent public opinion research¹ for the past 20 years has consistently found the public ranks forest professionals as the most trusted source for providing information regarding BC's forest resources; more trusted than environmentalists and academics and twice as trusted as government managers and industry.

¹ The ABCFP has contracted external survey companies to conduct Public Opinion Polls every two or three years for the past 20 years in order to gauge how BC adults view forest professionals and forestry management.

EXECUTIVE SUMMARY

The government of BC has launched a review of the professional reliance system as it applies to natural resources in British Columbia. Thousands of environmentally responsible forest management decisions are made in BC every year. Professionals are relied upon to make many of them or provide advice to support others in decision making.

Professional reliance in forestry in BC has worked for 70 years. The enhanced professional reliance system introduced in 2004 through the results-based *Forest and Range Practices Act* (FRPA) was designed to allow both government and industry forest professionals to focus on the on-the-ground results as well as environmental and resource protection, rather than on process and paperwork.

When the professional reliance system was introduced, the government indicated that all participants would review the state of the system regularly to ensure that continuous improvement was implemented as participants gained experience using it. A review of professional reliance is therefore prudent, anticipated and essential good management practice.

The ABCFP believes the government's review should focus on all elements of the professional reliance system: how regulations are designed and whether they function well for the management of the environment and the economy, whether they are being implemented correctly, and the competence and performance of all participants in the professional reliance system. By reviewing the roles and responsibilities of all participants the government can better ensure important areas for improvement are not missed in the review, proposed solutions are focused on the right opportunities, and they do not have unintended effects.

In December 2017, the ABCFP participated in an audit performed by government that examined how the ABCFP:

- establishes the standards of education and experience required to practice as a forest professional;
- sets standards of professional practice, and ethical codes of conduct that forest professionals are required to follow; and
- implements a complaint and discipline process for the public and others to use so forest professionals can be held accountable if they do not meet their obligations.

The audit demonstrated the ABCFP administers a robust system in which the public can have confidence.

In the interests of protecting the public interest and in working with government in the shared stewardship of BC's forests and ecosystem, the ABCFP is now contributing recommendations to the professional reliance review that involve all participants and their roles and responsibilities in the professional reliance system – government, resource users, professionals, and professionals' associations.

The ABCFP has developed its recommendations based on the essential components that need to be in place for government and resource users to feel confident that they can rely on the work of professionals (qualified person, QP), and for the public to feel a professional reliance system can support responsible management of natural resources. Government has previously identified the essential components² as guidance, competency, and accountability. The ABCFP has added a fourth component, 'transparency,' because it feels this is important to ensure that all British Columbians have access to appropriate information on resource use.

The ABCFP's recommendations, with corresponding context regarding each recommendation, is detailed in the later pages of this submission following an introduction outlining the professional reliance system, the roles of all participants in the system, common misperceptions around professional reliance, and the reasons for relying on professionals.

The ABCFP strongly encourages the government to support and adopt the recommendations that include actions for all participants in the professional reliance system so that the system can be improved for the benefit of all British Columbians and BC's environment.

The ABCFP is committed to implementing recommendations within its jurisdiction, and within its financial, policy, and legislative constraints.

Because the success of the professional reliance system is jointly shared, the adoption of any recommendation, regardless of which party implements it, will likely require the engagement of multiple, or all, participants of the professional reliance system.

² BC Provincial Government. Framework for the use of Qualified Persons in the Natural Resource Sector. Nov 2014.

INTRODUCTION

What is the Professional Reliance system?

Since 1947 with the introduction of the Foresters Act, the management of BC's forests has relied on forest professionals. Professional reliance took on greater significance in 2004 with the introduction of the Forest & Range Practices Act when professional reliance became a quality assurance strategy in the regulatory model. From that perspective, the simple meaning of professional reliance is "to rely upon the actions, judgment, or advice of a professional."

Today, the professional reliance **system** takes different forms across the natural resources sector. In general terms, it is a 'results-based' (professional reliance) regulatory model where, rather than reviewing and approving all plans or project designs, government instead:

- (1) sets the rules, objectives or results to be achieved;
- (2) relies on the professionalism of professionals hired by resource users to advise how those objectives or results will best be met; and
- (3) government monitors the results and environment, and enforces compliance among resource users through laws it has passed.

Professional reliance is a **dynamic system** where each component of the system needs to work for the entire system to function effectively. In forest management, the professional reliance system is often depicted using some iteration of the diagram³ shown in Figure 1.

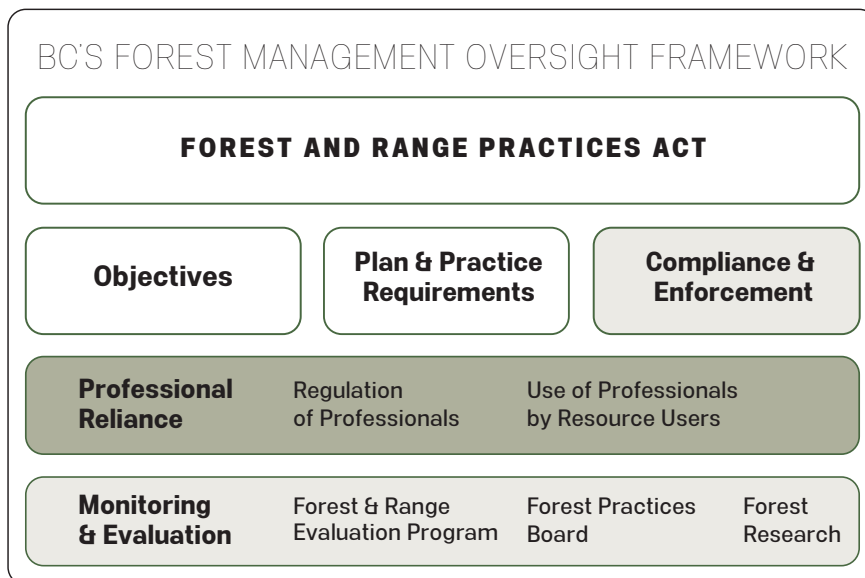


Figure 1. BC Forest Management Oversight Framework.

³ Figure adapted from the Office of the Auditor General of BC report titled: *An Audit of the Ministry of Forests, Lands and Natural Resource Operations' Management of Timber*. February 2012.

In this figure, the white boxes correspond to government roles and responsibilities.

The three upper white boxes (*Forest & Range Practices Act*, Objectives, Plan & Practice Requirements) are how the government “sets the rules, objectives, or results to be achieved” in forest management.

The other two lightly shaded boxes correspond to government responsibilities for Compliance & Enforcement (to ensure resource users are complying with the laws), and monitoring and evaluation (activities to monitor the environment and results on the land).

The shaded “Professional Reliance” box relates to the practice of relying on the professionalism of professionals. In order to rely on professional work, two fundamental underlying aspects must be met: (1) professionals must be regulated, and (2) their professional services must be used.

In **regulating the professional**, the professional association (regulator):

- establishes the standard of education and experience required to practice;
- sets standards of professional practice, and ethical codes of conduct which professionals are mandated to follow; and,
- implements a complaint and discipline process for the public and others to use so professionals can be held accountable if they do not meet their obligations.

The other critical aspect of professional reliance is that the **services of professionals are used**.

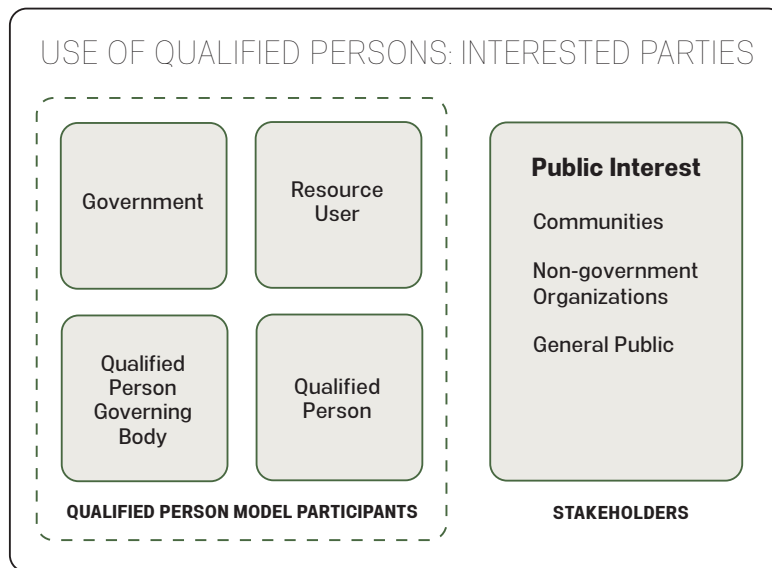
The *Forest & Range Practices Act* does not contain specific provisions directing resource users to use forest professionals, however should a resource user be found to have contravened environmental laws, a consideration in the assessment of the resource user’s diligence includes whether they relied upon the work or advice of a qualified professional.

The **government has also established the forest profession as a ‘right to practice’ profession**. This means the government made it illegal for anyone but a registered member of the forest profession to engage in the practice of professional forestry. This ensures that people practicing professional forestry are competent and can be held to account for their work and conduct by the public, the profession, and others.

Who is involved in the Professional Reliance Model?

Four participants play key roles in the professional reliance system⁴ :

1. government
2. resource users
3. professionals (qualified persons) and
4. professional associations (qualified person governing body)



The 'resource user' refers to the entity that is going to extract or use the resource and has been granted some form of tenure contract by the provincial government that allows them to have access to the land and resource. In the forest sector this is often a forest company (industry), but may also include government (BC Timber Sales), a woodlot owner, a municipality, a First Nation, or others.

Common Misperceptions About The Professional Reliance System In Forestry

Misperception #1 Government has handed over responsibility to forest professionals or resource users for BC's forests.

Incorrect. Government has retained the responsibility to set environmental laws, monitor the environment, and enforce the law. Rather than reviewing and approving all plans or project designs, or advising or carrying out the on-the-ground work itself, government relies on the knowledge and expertise of a professional who can be held to account for their work and conduct.

To protect the public's interest and ensure alignment with societal values and expectations, it is important for government to give direction to landscape level choices and the balance between broad economic and environmental objectives in order to guide the work of forest professionals and resource users.

⁴ BC Provincial Government. *Framework for the use of Qualified Persons in the Natural Resource Sector*. Nov 2014.

Misperception #2 Forest Professionals are involved with forest management work from start to finish.

Incorrect. Forest professionals employed or retained by resource users may be asked to take on either the role of advisor or implementer (sometimes both).

For example, a forest professional hired by a resource user may provide advice on how to undertake harvesting and reforestation activities to ensure that good forest stewardship is achieved. However, the forest professional may not be present when the activities are carried out on the ground, or be involved with follow up assessments or reporting after the work is completed.

It is important that the roles and responsibilities of all participants in the professional reliance system are clear and functioning as designed. The public, government, and resource users (those using the services of qualified professionals) must also share this common understanding.

Misperception #3 Forest Professionals make final management decisions.

Incorrect. In the FRPA, the resource user has the discretion and accountability to make the final management decision as they use the resource.

Forest professionals provide advice and recommendations to resource users based on their knowledge and expertise within the realm of the law and their professional obligations, and with respect to the balancing of multiple interests.

There may be opportunities to enhance the use of professional advice in the forest resource professional reliance system by requiring more documents to be certified by professionals, by certifying employers of professionals, and by bringing further clarity to how professionals discharge their responsibilities for professional independence in their work.



Why Use Professional Reliance?

BC's natural ecosystems are unique and varied, more so than almost anywhere else in the world. Sixteen biogeoclimatic zones, and terrain that varies from desert to mountaintops to floodplain. These diverse ecosystems require unique assessments and treatments.

In the 1990s, government imposed the *Forest Practices Code*, a prescriptive system for managing BC's forest ecosystems. At the time, it was thought that having a system that specifically stated how to deal with every different situation in the forest would ensure that forest resource utilization would occur in a consistent, environmentally sensitive way across BC.

By the late 1990s, government, the forest industry, and professionals agreed that the *Forest Practices Code* was expensive, cumbersome, and did not allow for judgements and interpretations to protect unique ecological/environmental attributes in different situations. Many examples came to light where explicitly following *Forest Practices Code* prescriptions resulted in inappropriate actions and poor stewardship on the land-base. As a result, government began developing a new legislative regime.

The new system, focused on outcomes, and was officially introduced in 2004. Known as the *Forest and Range Practices Act* (FRPA), it included professional reliance. This system explicitly recognizes that the success of a plan or activity would be assessed based on the resulting impact to the environment. That is, a desired outcome is known, and the forest professional advises how best to achieve that desired outcome.

The results-based FRPA legislation was designed to allow both government and industry forest professionals to better focus on the on-the-ground results as well as environmental and resource protection, rather than on process and paperwork.



The shift from the focus and dependence on government approval of several types of detailed plans to results-based, resource-user driven approach was predicated on several assumptions:

- that society can and should rely on the resource management professions and their professionals;
- a strong, independent auditing system would be maintained through the Forest Practices Board;
- robust compliance and enforcement of environmental laws with tough penalties for non-compliance;
- government would implement effectiveness monitoring through the *Forest and Range Evaluation Program (FREP)* that would evaluate how well forest and range practices are conserving the 11 objectives identified in FRPA, and to identify opportunities for continuous improvement; and
- all parties would review the state of the system regularly to ensure that continuous improvement was implemented as all parties to the professional reliance system gained experience using it.

Since the introduction of the FRPA, several of these assumptions have not occurred as anticipated. Notably, adequate effectiveness monitoring and regular reviews of the state of the system have been lacking.

The 11 Objectives in the *Forest and Range Practices Act*:

- 1 Soils;**
- 2 Visual Quality;**
- 3 Timber;**
- 4 Forage and Associated Plant Communities;**
- 5 Water;**
- 6 Fish;**
- 7 Wildlife;**
- 8 Biodiversity;**
- 9 Recreation Resources;**
- 10 Resource Features;**
and
- 11 Cultural Heritage Resources.**



Why do we need professionals?

The public interest has been to both conserve and use the natural resources of BC. Through the statutes that establish self-regulating professions, the public has an expectation that its **interests are safeguarded because professionals will act competently and with integrity**, reducing the risk involved with the management and extraction of natural resources.

Thousands of environmentally responsible forest management decisions are made in BC every year. Professionals are relied upon to make many of them or provide advice to support others in decision making. These forest management activities facilitate economic activity and job creation, particularly in the 140 communities in the province that are dependent on forest activity and where there are few alternative economic development options. In 2016, the forest industry generated \$33 billion in output and \$12.9 billion in GDP. It also generated one out of every 17 jobs in the province, or more than 140,000 total jobs.⁵

It is impractical to assume that all decisions, approvals, assessments, and other resource management activities can be done by government-employed professionals. Government's intention presumably has been to assign medium to low risk decisions to third parties (e.g. resource users and their professionals) to implement in order to keep forest sector activity and the resulting jobs and economic activity efficient and free of unnecessary administrative burden for both government operations and resource users alike.

The cost for government to return to a regulatory model where all forest authorization decisions, plans, and prescriptions are made by government professionals and monitored by government professionals would be high, assuming also that government was able to find the required number of forest professionals interested in working for government. **Improving the professional reliance system makes more sense. The system is working well. Like any other management system, there are improvements that can, and should be, made.**

⁵ PricewaterhouseCoopers. September 2017. British Columbia's Forest Industry and the B.C. Economy in 2016.

ABCFP RECOMMENDATIONS

For Improvement of the Professional Reliance System

In a 2014 report⁶, government stated there are three essential components that need to be in place for government and resource users to feel confident that they can rely on the work of professionals (qualified person, QP), and for the public to feel a professional reliance system can support responsible management of natural resources:

Guidance: resource, technical, and professional guidance for professionals. Includes objectives, standards, guidelines, codes of practice, best management practices, land use designations, resource use priorities, etc. May be legal and non-legal.

Competency: Appropriate education, training, and experience. May include specialization, professional development, re-certification, etc.

Accountability: Measures to ensure acceptable performance. Accountabilities for:

- Professionals: to the public, their employer, professional association.
- Professional Associations: to the public, government.
- Resource Users: to the government.
- Government: to the public.

These three essential components of guidance, competency, and accountability have been used to outline the ABCFP's recommendations. In addition, the ABCFP has included recommendations to address issues of **transparency** to ensure all British Columbians have access to appropriate information on resource use.

⁶ BC Provincial Government. Framework for the use of Qualified Persons in the Natural Resource Sector. Nov 2014.

GUIDANCE

Clear Objectives. Balancing social, cultural, economic, and ecological objectives is an integral part of independent professional judgement. This challenging task is made more daunting when resource objectives have not been legally established or are not clear.

Forest professionals often encounter challenges related to land use choices and the desires of public interest groups or other parties outside of a government/tenure holder relationship. These challenges are typically referred to as non-statutory expectations (NSE), as these challenges exist outside of legislated requirements. A non-statutory expectation is an expectation, condition or circumstance held by others that a forest professional can achieve an outcome when no legislation or authority exists for the professional to ensure the outcome occurs. In these circumstances, professionals are left to draw on their own knowledge and consult with others to propose suitable objectives, which may or may not be undertaken.

In the absence of refreshed land use plans, review of the objectives established in FRPA against societal expectations, and objectives being formalized in ministerial orders and government action regulations, the frequency and extent of NSE pressures experienced by forest professionals has increased substantively since FRPA's inception.

To support forest professionals to balance social, cultural, economic, and ecological values, the ABCFP established a series of papers in 2012 around managing non-statutory expectations. Engaging the public to determine or balance their interests should not however, rest solely on the shoulders of the individual professional.

Government needs to provide clear guidance about what outcomes it wants to occur on the landscape. Government has the authority and responsibility to determine what Crown resources will be utilized by whom and how. In instances where government is concerned that there are health and safety issues, environmental issues or third party impacts that are difficult to balance, government should retain the authority to determine how resources are utilized and give clear, timely direction to professionals and resource users.

Government direction for landscape level choices and trade-offs or mitigation of cumulative impact concerns, and broad economic and environmental objectives should be:

- made on regular intervals and
- based on informed evidence, robust public engagement and other consultation.

To achieve this, government may need more robust tools, processes, and capacity to support activities such as land use planning, public engagement, aboriginal engagement, monitoring programs, and research.

RECOMMENDATION 1:

Government should retain its authority for land and resource use decisions with high-risk consequences. The Government should clearly define values, clarify desired results, set objectives and values, and establish a hierarchy for objectives on the landscape. These will provide much clearer direction and guidance to professionals, especially where multiple objectives and values need to be balanced across the landscape.

Government Intervention in Operations. In circumstances where land use objectives and other broad balancing decisions are not adequately specific, or where a new significant environmental risk arises, there should be a government mechanism to intervene.

Government should provide clear direction about the limitations to this discretion, so that the interests of a few do not unreasonably interfere with the interests of a resource user that has been given tenure (and the commitment of business certainty) to an area of land. Additionally, any government intervention in a forest operation should be undertaken by a forest professional with the required knowledge and competence.

RECOMMENDATION 2:

Government (potentially through the role of the District Manager) should strengthen its ability to intervene in forest operations when previously unknown environmental risks that may create material adverse effects on any of the 11 FRPA objectives arise.

Conflict of Interest. When decisions are made about the use of forests that don't reflect the current preference of some members of the public, the government, or other stakeholders (even if the decisions meet legislative requirements and legally established objectives), concerns are sometimes raised that the professional has breached their professional obligations and/or ignored public interests in favor of those of the resource user.

Forest professionals have received ABCFP direction about conflicts of interest (the Code of Ethics directs professionals to refuse assignments that create conflicts, and the ABCFP Standards of Professional Practice speak to professional independence). However, additional guidance could be beneficial to forest professionals to assist them in mitigating potential, perceived, or real conflicts of interest in professional practice.

RECOMMENDATION 3:

The ABCFP will continue to provide guidance to its members about mitigating the potential for real or perceived conflicts of interest in professional practice.

Targeted and Mandatory Guidance. Many forest professionals are experienced in the regulatory regimes that predate the current professional reliance system and accompanying reduction in detailed regulations and policy.

They have indicated that there is a considerable difference between regulated practice standards, guidelines in a handbook, and non-mandatory “best practices” when it comes to their ability to encourage good environmental performance in the field, and when it comes to reporting incidents to government. Professionals have also identified that standards previously considered mandatory, are now frequently treated as optional. There are also situations where industry resource users have been expected to implement recommendations made by the Forest Practices Board or Auditor General, and while they have followed through, the corresponding government resource users have not⁷.

RECOMMENDATION 4:

The ABCFP, Resource Users, and Government should collaborate on the development of more specific guidance in areas of professional practice where public concerns warrant more careful and consistent application.

RECOMMENDATION 5:

The ABCFP and Government should clarify which standards are guidance and which are mandatory, and why.

Equal Guidance for all Users on Forested Land-Base. Field level forest professionals say there are inconsistencies in the environmental standards required from one resource industry to another. For example, forest companies, which have a two-decade history with forest practices regulation, are expected to follow standards for a number of environmental values (streams, old-growth forest, wildlife habitat areas, etc.) that are not expected of newer industries operating on the forested land-base.

RECOMMENDATION 6:

Government should make mandatory guidance documents apply equally to all resource users operating on the Crown forested land-base.

⁷ Forest Practice Board Special Report. December 2017. Opportunities to Improve the Forest and Range Practices Act.

COMPETENCY

Competence of Professionals. The ABCFP must ensure the competence of its members and professionals must have appropriate education, training, and experience across the span of their professional career.

The ABCFP has a robust process in place to ensure that forest professionals are fully competent. Upon entrance to the profession, applicants are carefully assessed against national standards of education and must complete a minimum two-year articling process under a sponsoring forest professional where they must pass a series of examinations and complete independent professional documents to a specific standard.

The ABCFP has a mandatory professional development program. Forest professionals must maintain their competence in their aspects of practice and each year must confirm they are only working in areas in which they are competent, as well as keeping up to date in their professional accountabilities. However, training opportunities have diminished in recent years. The ABCFP also does not have a common method that allows members to track and report what professional development they have completed.

The ABCFP conducts a regular program of practice reviews and peer reviews of its members' professional competence and conduct. In addition to assuring resource users and the public that individual members are competent, the reviews have identified trends that has resulted in additional professional guidance and direction being provided to all members.

RECOMMENDATION 7:

The ABCFP should identify new training opportunities specific to areas of practice and provide a way to allow its members to track and report their compulsory professional development.

ACCOUNTABILITY & TRANSPARENCY

Clear mechanisms for accountability should exist for all participants in the professional reliance system with consequences if performance is unacceptable, and for transparency to improve public trust and confidence.

Public Rosters of Professionals in Good Standing. To help users of professional services and the public ensure that forest professionals are in good standing with the ABCFP when hired, the association maintains a roster of members in good standing as well as publishing the results of discipline cases that find members in breach. The information is available to users of professional service and the public but may not be easy to find or search.

RECOMMENDATION 8:

The ABCFP will ensure the names of qualified professionals in good standing with the association, along with the names of members found in breach and currently facing sanctions due to disciplinary action, are more easily accessible and transparent to members of the public.⁸

Public Involvement in Regulation of Professionals. To instil confidence that the public interest is being served through the work of the association, and to promote transparency in the profession's work, including the review of complaints against its members, the ABCFP has incorporated public lay members onto its Council and involved them in complaint and discipline matters. This has improved the ability of the ABCFP to ensure that it is more transparent and performing and communicating in a way that the public can understand and appreciate.

While lay members participate in ABCFP activities, the ABCFP does not currently have a specific way for its lay members to communicate to the public about how they perceive the ABCFP serves the public interest and how it ensures the integrity of its and its members' professional practices.

RECOMMENDATION 9:

The ABCFP will incorporate a public lay member component in its annual report that outlines observations from the perspective of public lay members on Council on the association's efforts to protect the public interest.

RECOMMENDATION 10:

The ABCFP will increase the number of public lay members involved in the discipline processes of the ABCFP.

⁸ With potentially a few exceptions to respect the legal rights of individuals, corporations, or organizations as described in the *Freedom of Information and Protection of Privacy Act*.

Transparency in Complaints and Discipline. The ABCFP currently produces, and makes publicly available, the results of complaint processes that result in sanctions and disciplinary action at the conclusion of each discipline process. The ABCFP does not currently summarize or report on the status of complaints and discipline activities undertaken over the past number of years or identify broad trends in complaints and steps being taken by the profession to mitigate concerns that are raised.

RECOMMENDATION 11:

The ABCFP will develop periodic discipline and accountability reports to enhance public transparency and awareness of broad trends in complaints and steps being taken by the profession to mitigate them.

Countering Concerns That Professionals May Find Themselves in Perceived, Potential, or Real Conflicts of Interest. The need to find balance between sometimes competing interests is the essence of professionalism and professional independence.

The ABCFP is aware there has been concern that forest professionals' independence may be compromised if a resource user was to try to compel the forest professional to recommend the least costly practice even if that practice may not meet professional reliance standards. This places forest professionals in a difficult situation.

In response to this concern, some have recommended that there be restrictions on which professional the resource user can hire, or that government or associations should monitor who gets hired. It is impractical to place restrictions on the hiring process of resource users, particularly since forest professionals live in remote areas of the province where there may not be alternative employers or other forest professionals. It is also unrealistic (costs, capacity) for government to impose rules that interfere with a commercial arrangement between a resource user and a forest professional. Complicating this matter is the fact that ABCFP members provide advice, and resource users (industry and governments) can either take the advice of a forest professional or not. Consequently, the advice of the forest professional may be appropriate but it may not have been implemented. This leaves the forest professional in a difficult situation and open to criticism since there is no public record of their advice upon which they can rely to defend their reputation.

Professional certification of work and required documents can place more focus on resource planning and improve the professional environment for independence. However, currently only FRPA (section 16 (1.01)) and section 22.1 of the *Forest Planning and Practices Regulation (FPPR)* provides for certification (of Forest Stewardship Plan (FSP) content that must be approved by the delegated decision maker). To date this mechanism has rarely been applied and is only available for limited subjects such as the certification of content for visuals, or invasive species. Additionally, only a limited number of professional documents have been enabled through regulation, for example: FPPR (sec 77.(1)(b) requirement to prepare *As Built Drawings of bridges or major culverts*, the development of which is professional work. Other legislations have established stronger certification requirements, such as Work Safe OHS 20.78, requiring written instructions certified by a qualified registered professional, and maintained on the work site. Other policy mechanisms are used to a limited extent, such as the Coast and Interior Appraisal Manual flowing from the *Forest Act*, contain requirements for forest professionals to submit appraisals and to make changed circumstance certification statements.

Expanding the use of professional certifications, assurance and conformance statements and other similar mechanisms may help reduce real or perceived concerns that a forest professional has provided poor advice, or that a resource user may not use the advice of a professional. It may also ensure that certain decisions or activities have been directed by a professional who is accountable for ensuring professional independence in their work. These types of tools and mechanisms should focus on areas of practice with heightened public interest, public safety risks, environmental risk or financial risk. Taking measures to increase transparency in the work that supported the decision, made either by a professional or by a resource user with the advice of a professional, will help reduce public perceptions of conflict.

RECOMMENDATION 12:

Government and Resource Users in consultation with the ABCFP, should define what work products are ‘professional documents,’ and subsequently require professional services and sign off in their production.

Fostering Professionalism & Reducing Infringement of Professional Practice. The ABCFP has observed, and the Forest Practices Board has found in investigations, that the behavior and practices (culture) of the resource user and government can lead to a practice standard not being met (e.g. the resource user did not use a professional when they should have, they changed the plan of a professional without advising them, they failed to implement the plan prepared by the professional).¹⁰

The corporate practices and culture of resource users (employers and clients) play an important role in ensuring the success of professionals in their employ, and the ability of professionals to exercise their professional obligations, such as around professional independence, a pillar of professional reliance. A positive culture that supports sound forest management is something that all British Columbians should encourage.

The ABCFP believes it is important to recognize and promote resource users that use forest professionals, appropriately use their advice to reduce instances of practice infringement, and enhance the ability of the professional to meet their professional obligations.

A resource user certification program that provides recognition and promotes resource users that maintain a professionally-enhanced program to comply with the Acts, Bylaws, and guidance that govern the use of professionals and that demonstrates an understanding of the professional obligations and responsibilities of their professional staff, will provide a means of establishing a standard of employer achievement. Such a program would recognize resource users that:

- use forest professionals to do work that is the practice of professional forestry;
- give weight and credibility (respectful regard) to the work products, opinions, and judgments of professionals, and provide constructive feedback when differences arise;
- as a best practice, obtain independent second reviews by another forest professional when the professional’s advice may be highly subjective (by necessity), or where public expectations are challenging;

¹⁰ Forest Practices Board. September 2017. Resource Road Construction in Steep Terrain, page 9 “Are Professional Standards Being Met?”

- ensure there are adequate resources to carry out work to professional standards (such as the need for expert, specialist advice);
- respect the need for professionals to provide appropriate and balanced plans and advice within the legal framework; and
- are open to discussing and helping professionals reconcile possible conflicts that might arise between obligations to the public, the profession, the employer/client, and stewardship of the resource.

Development of a resource user certification scheme will require time and a substantial resource commitment.

RECOMMENDATION 13:

The ABCFP will consider a program to certify resource users that employ professionals and who foster a culture of professional reliance.

Sustaining Public Confidence that the Environment is Being Safeguarded. The ABCFP has noted, along with others including the BCGEU in their December 2017 report¹¹, that the level of monitoring, and the amount of compliance and enforcement by government within the forest sector has substantially declined or been limited in recent years. In November of 2017, the Forest Practices Board released a special report on the state of the monitoring and evaluation program (FREP) which supports the professional reliance system. The Forest Practices Board found that while a great deal of monitoring information was collected, the program was not yet meeting its intended outcome to improve practices or lead to adjustment of the legislation and regulations based on findings.

Government staff indicate that they have implemented a risk-based approach to monitoring, and compliance and enforcement to ensure that they are overseeing activities with the most risk to the environment or society. While it is unclear what the correct level of monitoring, compliance and enforcement should be in the forest sector; ABCFP members and others remain concerned whether the existing level is sufficient to not only be a deterrent to poor practices, but to also demonstrate that practices are compliant and effective.

RECOMMENDATION 14:

Government should undertake more robust effectiveness monitoring and forest research so it can better ensure its environmental laws and policies are safeguarding the environment, and make changes based on evidence if they are not.

RECOMMENDATION 15:

Government should increase the level of effectiveness monitoring, and compliance and enforcement work activities it undertakes in the forest sector.¹²

¹¹ https://www.bcgeu.ca/compliance_and_enforcement_in_b_c_forests

¹² These work activities should be undertaken by qualified professionals so that reviews of the work of forest professionals is carried out by forest professionals registered by the association with the same or greater levels of training, and education

Accessibility of Professional Documents. Sometimes government decision makers need and want advice from government agency experts but the information no longer exists within government because forest professionals are providing this information directly to resource users. Government forest professionals may feel hampered because the professional reliance system requires they be able to verify proponent field information which they no longer have. This deprives decision makers of an important independent second opinion. It also affects the quality of information provided to senior management or reported to government. Transparency for the public is also limited since government and the forest professional have less information to provide to the public.

There is a tension between what is proprietary property of the resource user (tenure holder), intellectual property of the professional, and what is needed in the public domain to support public confidence in resource management.

FRPA currently requires resource users to make specific documents publicly available within a reasonable time, on request, at the place of business of the resource user. Technology has advanced since the establishment of this requirement, as has people's expectations about the speed and ease with which they may have access to information. Additionally, people are often interested in key supporting documents that informed the advice or decision of the documents that are currently publicly shared.

Government should work with resource users to identify related supporting information (to already required publicly shared professional documents) that could be deemed publicly available¹³ to help address the tension between what is proprietary and intellectual property and what is needed in the public domain to support public confidence in resource management. The appropriate information should be made readily available online.

RECOMMENDATION 16:

Government should work with Resource Users to make professional documents and supporting information publicly available online.

Availability and Access to Forest Resource Information. Detailed and accurate knowledge of the number and types of trees, and the growth and health of our forests is needed by forest professionals to best manage the resource, as well as by the public to maintain its confidence in the overall state of the forest resource and its ongoing sustainability.

RECOMMENDATION 17:

Government should increase its investment in inventories, LIDAR, Growth and Yield data and modelling. The data should be managed and made public through a government led Provincial Growth and Yield Cooperative, so it can be shared with all resource users and the public to ensure transparent understanding of facts about our resource and inform complex management of multiple resource industries.

¹³ Consistent with the requirements of the Freedom of Information and Protection of Privacy Act.

Shared Commitment to Continuous Improvement. At the outset of implementing the *Forest & Range Practices Act*, a government-established task force¹⁴ determined there was a need for professionals and their organizations, employers (resource users), and government to work together and individually, to ensure the professional reliance system was effectively working in order to achieve the full potential of professional reliance within the forest and range practices management framework. A professional reliance committee was established among participants in the model for the first several years but lost momentum in later years. The Forest Practices Board, in fulfilling its role within the professional reliance system, has sought to encourage a number of continuous improvements for all participants in the professional reliance system.

In December of 2017, the Forest Practices Board reported it made dozens of recommendations to government aimed at improving the *Forest and Range Practices Act* and encouraging public confidence in the stewardship of BC's forest resource. The report stated: "Government has said it accepts almost all of the recommendations made by the Board in the last seven years and has outlined the actions it will take to address them. While many "soft" improvements have occurred, for example, to guidance, training and information technology, there are many recommendations where government promised to look into issues and carry out follow-up work, but there is little evidence that has actually happened. This is particularly true of actions to review and strengthen FRPA legislation through a process of continuous improvement."

Continuous improvement in the application of the professional reliance system requires all participants to regularly meet to maintain a dialogue on professional reliance, including its successes, challenges with application, evolving concepts and to discuss the status and undertake meaningful actions to address known areas of required improvement (such as those identified and recommended through the Forest Practices Board).

RECOMMENDATION 18:

Government should establish a forum where Government, Resource Users, and resource professions meet at least annually to maintain a dialogue on professional reliance in forestry.

¹⁴ From Concept to Practice, Professional Reliance Task Force, July 2006

CONCLUSION

Natural resources are embedded in the identity of British Columbia and forests in particular have and will continue to be an integral part of the BC economy. With vast amounts of BC's natural resources being publicly owned, every citizen justifiably has a desire to ensure our natural resources are well managed, both from a sustainability and economic perspective.

BC has a strong record of good forest management with forest professionals playing a key role. The professional reliance system in BC has been effective at allowing professionals to work directly with the public to create site-specific, innovative solutions. It has been effective at reducing the administrative burden, and it has protected the environment.

That's not to say there isn't room for improvement to make the professional reliance system stronger. Such improvements would ensure BC's environmental regulations continue to be considered top class on the world stage; improvements could make every participant in the model – professionals, professional associations, government, and resource users – better at implementing their responsibilities within the system.

The ABCFP encourages government to consider in its review how all participants in the professional reliance system can work together to improve it.



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