



Ymir Community
Watershed Society
protectymirwatershed.com

To Whom It May Concern,

The case of the Ymir Community watershed presents very clear evidence of how the FRPA, in its current form, falls short of meeting the BC Provincial Government's fiduciary duty to act in the best interests of the residents of BC.

In fact, the current FRPA has already allowed forestry proponents to implement irresponsible development plans with impunity while endangering the most vital needs of BC communities, with no acceptable recourse available to those negatively impacted by development projects gone awry.

Residents can no longer suffer the injustice of shouldering all the risk, while receiving little to no benefit.

On April 19th, 2017 Ymir residents learned of a BCTS proposal for road-building and harvesting within the Ymir Community Watershed: the only viable and historically precarious source of drinking and fire hydrant water available to the community.

Residents were alarmed when news of the BCTS proposal became public – how could their own Provincial Government allow such a high-risk project to endanger the community's only drinking water source? It must be some kind of mistake. After all, the BC Provincial Government has a fiduciary duty to act in the best interests of BC residents... doesn't it?

Ensuring the long-term security of a community's only viable source of potable and fire hydrant water is most definitely in the best interests of the residents of BC.

Unfortunately, the residents of Ymir (an ardently pro-responsible-logging community) have been forced to find some sort of solution that would ensure the long-term security of their drinking water.

During regular meetings with the timber licensee (BCTS) over the last 26 months, local government and community stakeholders have presented evidenced-based concerns regarding current and historical seasonally extreme low water flows experienced in Ymir, and the imminent danger of seasonal water supply loss and acid rock poisoning posed by the development plans. During this time **BCTS has clearly and repeatedly illustrated that the concerns and “comments” heard from stakeholders and rights-holders would not sway their agenda.** Regardless of the imminent dangers to the community of Ymir, BCTS has been so far unwilling to adopt a risk-adverse planning strategy.

Despite local government (RDCK) concerns, the Ktunaxa LKB Council concerns, the concerns of local stakeholders, and the dangers the proposed development poses, **BCTS has been able to proceed with their proposal for logging and road-building within the tiny Ymir Community Watershed: claiming that development within the YCW is not a case of IF, but a case of WHEN.**

From the beginning of the process, and before any meaningful assessment (longer than 1 day) had been completed, the proponent’s narrative of “development within the YCW is not a case of IF but WHEN” clearly illustrates that under FRPA, the process of determining whether development can take place without negatively impacting stakeholders, is merely a formality and not intended to inform decision-making.

This state of affairs can no longer be allowed to continue.

Placing the most valuable resource of BC communities in danger in an attempt to meet timber objectives is **as ill advised as cutting off a leg to save the foot.**

In an effort to avert violence, civil disobedience, a potable water crisis, and a fire hydrant supply crisis for the community, a group of Ymir residents has been forced to work long hours throughout the past 2+ years, taking time away from their jobs and families, and paying out-of-pocket for a type of campaign that **should never have to be run**: the campaign to save their community's only viable source of potable water.

1- The current FRPA legislation and BC's Professional Reliance system require changes that ensure the obligation of protecting crucial life-sustaining values like drinking water will no longer fall on the shoulders of BC residents. **Protecting drinking water is clearly part of the fiduciary duty of the Provincial Government.**

2- We need to bring back meaningful stakeholder and rights-holder consultation in a form which requires forestry proponents to take their concerns and local knowledge seriously: proponents need to be required to seek consent from stakeholders and rights-holders that have a chance of being negatively impacted by forestry/ranges proposals near the place where they live and/or work.

3- The viability of forestry and ranges development proposals need to be informed by those parties that are most familiar with the areas in question (stakeholders, right-holders and local government) and by non-advocate QRPs agreed upon by all parties.

The Ymir Community Watershed Society's experience with BCTS over the past 2+ years has shown clearly that the current FRPA required "duty to accept comment" does nothing to protect communities, but is merely an attempt to streamline a process originally designed to safeguard residents against any negative impacts resulting from development.

Stakeholders should not have to pay out of pocket to ensure that their communities are protected from negative impacts resulting from irresponsible forestry/ranges projects, nor should they be forced to spend time away from their families

and jobs in an attempt to ensure the survival of their communities.

Continuing to place undue burdens on residents makes for dissatisfied voters. Based on Ymir's experience so far, and the similar experiences of over 40 consumptive-use watershed users in the Nelson-Creston constituency, there will most definitely be a great deal of scrutiny of candidates and incumbents leading up to the next election as well as an insistence on accountability.

Doug Donaldson's own Mandate Letter from Premier Horgan includes the following paragraph:

“In your role as Minister of Forests, Lands, Natural Resource Operations, and Rural Development I expect that you will make substantive progress on the following priorities ...

...Work with the Minister of Indigenous Relations, First Nations and communities to modernize land- use planning and sustainably manage B.C.'s ecosystems, rivers, lakes, watersheds, forests and old growth. “

Premier Horgan has promised the above and mandated Minister Donaldson to carry it out. The time for meaningful change to land-use planning and the proper management of watersheds (particularly consumptive-use watersheds) is now.

Sincerely,

Jason Leus
President
Ymir Community Watershed Society
Box 117
Ymir, BC V0G2K0

Appendix

(2 documents)

Document 1

Below is an itemized list of interactions between a group representing Ymir interests, RDCK representatives, BCTS Castlegar representatives (Arrow/Kootenay Lake District), BCTS contracted QRPs, Ministry of FLNRORD, and Ministry of Environment documenting major events from the first knowledge of BCTS's Quartz Operating Plan April 19, 2017 until December 16th, 2018. **Due to time constraints, this list is of major events only. More information can be made available on request. Email records and audio recordings can verify proof of everything compiled in the itemized list below. The single exception is Russ Laroche's comment to UBC students, which was witnessed by all in attendance at the event.**

QOP refers to the BCTS Quartz Operating Plan: a proposal for road building and logging within the YCW.

YCW refers to the Ymir Community Watershed, a consumptive-use watershed with the official "Community Watershed" designation. The YCW has specific attributes and existing challenges that place it outside the template that guides current decision-making at FLNRO/BCTS. The YCW is a tiny 600 Hectare steep bowl of land that is low-elevation and surface-collection-only. In the absence of precipitation the YCW dries out quickly, and relies heavily on its trees to provide the shade vital to slowing evaporation of moisture on its forest floor. Highly Acidic Acid Rock has been discovered within the YCW with very low ph. levels. The exposure of Acid Rock to air and water results in Sulphuric Acid.

The YCW is the only viable source of potable and fire hydrant water for the community of Ymir – no other source exists. The YCW is barely able to meet the needs of the community of Ymir as it stands now. The longer drier summers forecasted by Climate Change models alone will provide a serious challenge Ymir's current water supply.

Seasonal loss of Ymir's only viable source of potable and fire hydrant water would be disastrous.

YWAT (Ymir Watershed Action team) has become YCWS (Ymir Community Watershed Society) over the course of the events listed. Though their name has changed, their vision, mission, values, and core membership has remained the same. This documents references both entities.

YWAT/YCWS represents the interests of the community of Ymir, and are not opposed to responsible logging: in fact we support it as 30% of Ymir's adult population works in the Forestry Industry.

YWAT/YCWS advocates for the long-term security of our community's only viable and historically precarious source of potable and fire hydrant water. The status of the water in question will determine the future health and safety of Ymir residents and the survival of the community itself.

YWAT/YCWS will not support any development decisions that are made without thorough collection and analysis of data by non-advocate QRPs that informs evidence-based decision-making.

April 19, 2017

- Ymir learns of Quartz Operating Plan to build roads and log within the Ymir Community Watershed.
- A 6 page "hydrology Phase 1 report" accompanies the QOP. The Phase 1 report "green-lights" the Quartz Operating Plan based on 1 day of observations by a hydrologist within the YCW, and does no due diligence whatsoever in ascertaining if there is a history of challenges plaguing the YCW.

May 29, 2017

- YWAT and RDCK meet with BCTS representatives in MLA Michelle Mungall's constituency office in Nelson, BC.
- YWAT alerts BCTS of the historical challenges of the YCW: extreme low flow rates during Summer and Autumn months, historical discoveries of Acid Rock within the YCW, the fact that the YCW provides the only viable potable water source for the community, and clearly illustrates the community's concern that the proposed development could not be sustained by the YCW.
- George Edney of BCTS claims, "The area has to be logged because it's all going to burn anyway".

June 22, 2017 meeting at BCTS Castlegar

- BCTS Castlegar announce they will proceed with logging and road-building within the YCW (Ymir Community Watershed) based on the 6 page report from Alan Bates of Streamworks Consulting, resulting from 1 day of observations at the base of Quartz Creek within the YCW.
- BCTS claim the timber sale is not expected until 2021
- YWAT and RDCK refute the adequacy of the Alan Bates's 6-page report.
- BCTS representatives choose to disregard YWAT and RDCK's refutations.
- BCTS informs RDCK and YWAT that a Quartz Operating Plan "referral period" will be announced in July gauge public concern by accepting public comment sent to BCTS Castlegar office.

June 27, 2017

- BCTS publicizes the start of the Quartz Operating Plan referral period to accept stakeholder comment

July 18, 2017

- **All RDCK Area Directors express unanimous support for Ymir's position** and send letters decrying the project to BCTS, Minister FLNRORD Doug Donaldson, Deputy Minister FLNRORD Tim Sheldan, Renee Ansel (Environmental Health Officer, Interior Health), and Paul Rasmussen Regional Executive Director Kootenay Boundary, FLNRORD.

August 1, 2017

- **Ktunaxa Lower Kootenay Band Councilor Jared Basil expresses council support for the Ymir position.**

August 18, 2017

- Ymir Community Association sends letters decrying the Quartz Operating Plan to Ministers Donaldson, Heyman, pleading for them to intervene before irreversible damage is done.
- No replies addressing the concerns are received by the YCA.

August 18, 2017

- YWAT requests a written letter of support for the Ymir position from Michelle Mungall
- Michelle Mungall does not provide letter of support.

August 28, 2017

- Russ Laroche of BCTS makes the following claims to UBC forestry students and YWAT representative Jason Leus during a UBC Forestry field trip in the Nelson area: "no BCTS project has ever been stopped by a hydrology report", and that "BCTS has never once given in to public pressure". Both sentiments are not indicative of a corporate culture and attitude meant to assure communities of the existence of a fair process designed to protect long-term potable water supplies for BC communities.

August 30, 2017

- Over 5000 referral process letters from stakeholders decrying the proposed Quartz Operating Plan have been sent to BCTS office within the referral period.
- Despite repeated requests from YWAT over the following months, BCTS is unwilling to talk about the results of the referral process until a November 22nd meeting. BCTS representatives admitted they only

responded to sixty letters, claiming that they did not want to waste their time. Instead, the “stack” of letters received from “all across Canada” were dismissed as an annoyance that “plugged up [their fax] machine”, in the words of George Edney (BCTS representative).

July 7, 2017

- YWAT asks BCTS to provide a letter to support a YWAT application for funding in their effort to pay for a non-advocate hydrology assessment.

July 18, 2017

- BCTS rep Ken Scown denies the request: stating that such a study would be redundant.

September 2017

- BCTS contracts Lars Uunila to complete a hydrology assessment of the YCW, and ascertain risk levels of the proposed road building and logging.

September 5th, 2017

- Phone call with Michelle Mungall, RDCK Area G Director Hans Cunningham, Jason Leus (YWAT), Isabelle Herzig (YWAT)
- An update on progress was given to MM and her advice requested.
- Instead of working to assure the issues are not overlooked, MM advised RDCK and YWAT to “trust in the process”.
- RDCK Directors and YWAT members understand that the current “process” will do nothing to ensure the long-term viability of Ymir’s only source of potable water.
- **FRPA, BCTS’s FSP, and BC’s Professional Reliance model all assure that BCTS and FLNRORD development projects are unencumbered by stakeholder concerns or comments. The “duty to consult” stakeholders died when FRPA replaced the Forest Practices Code, and BC’s Professional Reliance model does not serve the best interests of the residents of BC.**

October 23, 2017

- YWAT representatives travel to BC Legislature for the 1st time.
- YWAT request to meet with MLA/Minister MEPR Michelle Mungall is unanswered.
- YWAT meets with FLNRO MA Tim Renneberg, BCTS Director of Operations Ray Luchkow, and BCTS Executive Director Mike Falkiner.
- Discuss the critical water situation in Ymir and concerns about Acid Rock: providing a document with pictures and details of the unique challenges faced by the YCW.

- The importance for extreme caution and the inadequacy of the 6 page Phase 1 hydrology report are emphasized.
- YWAT/YCWS reps ask for more study of the YCW before development with a focus on extreme low flows and Acid Rock.
- BCTS and FLNRO reps were cordial but did not follow up with any discernable action

November 22 2017 meeting at BCTS Castlegar

- Ymir once again refutes that adequacy of the **BCTS-contracted “hydrology Phase 1 report”** by Alan Bates of Streamworks Consulting based on the facts that the a 6 page report contained no flow data from the YCW, showed no due-diligence in determining whether historical issues with water quality, quantity, or dangers of Acid Rock Drainage existed (in fact, both water quantity and Acid Rock pose a threat to Ymir's only supply of potable water).
- BCTS representatives maintain that the report provides adequate grounds to continue.
- BCTS representatives inform YWAT and RDCK that a Phase 2 hydrology report is planned and will be authored by BCTS contracted attendee Lars Uunila
- YWAT pose questions to Lars concerning details of his planned assessment and Phase 2 report
- Meeting time limits YWAT questions to Lars.
- Lars Uunila promises answers to all questions in writing after the meeting.

December 2017 and January 2018

- YWAT attempts to get answers in writing from Lars Uunila
- Some answers were provided but not all
- BCTS rep Ken Scown blocks YWAT from receiving further answers to questions and requests that YWAT not contact Lars Uunila directly: citing incurred costs to BCTS.

December 9 2017

- YWAT inquires of BCTS why no meeting minutes have been circulated to attendees for approval since the beginning of the process
- All minutes up to this date are a BCTS version of events as documented by Al Skakun (BCTS contractee).
- Minutes of the February 19, 2018 meeting will be the only ones circulated for approval. YWAT will propose meeting amendments supported by audio recordings of the meeting.
- Al Skakun will include no YWAT-proposed amendments to the minutes.

- No approval of the minutes will be given by YWAT.
- BCTS will declare that meeting minutes will no longer be taken after February 19, 2018. Instead, only Action Items will be recorded.

February 2018

- Jason Leus telephones Lars Uunila to determine why the release of the Hydrology Phase 2 report has been delayed beyond its promised release (start January 2018).
- Lars Uunila explains the reason for delay is a lengthy “internal review”. The internal review consists of the assessment being reviewed by his company (he and his wife), his study team (he and the author of the phase 1 hydro report), 2 hydrologists within FLNRO, and anyone whom BCTS wished to see it. Lars revealed that during the internal review comments would come back to him and **“whether or not he agrees he will make edits and go from there”**.

February 19, 2018 meeting at BCTS Castlegar

- BCTS reiterates that logging and road-building within the YCW is “not a case of IF but WHEN”
- YWAT points out the danger of making development decisions that are not based on the collection and interpretation of site-specific stream-flow data.
- BCTS representative George Edney states that he does not want to set a precedent for site-specific data collection pre-development to inform development decision-making within consumptive-use watersheds.
- YWAT postulates that such a precedent would in fact be a good thing.
- YWAT presses the issue of Ymir’s current water problem and emphasizes the concerns that the proposed logging and road-building would exacerbate one of the current challenges of the YCW (extreme low flows during dry summer months)
- George Edney of BCTS suggests Ymir residents ration water by implementing water restrictions if negative impacts result from the proposed Quartz Operating Plan.
- BCTS makes it clear that the responsibility of locating a new water source should fall to RDCK (as suggested in the hydrology Phase 2 report) if the negative impacts to Ymir’s precarious supply result from logging.
- YWAT and RDCK reps reiterate that exploration for alternative water in the early 2000s concluded that none existed that were economically viable.
- BCTS offers bottled water deliveries as a contingency plan solution.

- YWAT and RDCK reps point out that bottled water cannot be used by the fire department, to shower, or meet other domestic needs and is therefore not a solution.

April 2018

- Lars Uunila's Hydrology Phase 2 Report is finally released (over 3 months late).
- Hydrology Phase 2 Report (Lars Uunila, Polar geoscience) contracted by BCTS includes no Baseline Study. (Report available on request)
- No flow data from Quartz Creek (Ymir Community Watershed) is used to inform its conclusions.
- Its author whose area of expertise does not include road building makes recommendations concerning road building.
- The report concludes that the proposed logging is "low risk" and that "the effects of climate change will overshadow the negative impacts of the proposed logging".

May 28, 2018

- YWAT representative Jason Leus visits BC Legislature for the 2nd time.
- Jason leus's request to meet with MLA/Minister MEPR Michelle Mungall is unanswered.
- Meets with FLNRO MA Tim Renneberg, BCTS Director of Operations Ray Luchkow, and BCTS Executive Director Mike Falkiner.
- Jason Leus provides updates and points out procedural unfairness on behalf of BCTS Castlegar representatives (see attached letter), and stresses the critical need for a slow and careful approach in the YCW including the mandatory collection of site-specific stream flow and SWE data.
- Tim Renneberg and Ray Falkiner requested an email from Jason Leus detailing all instances of procedural unfairness and asks for FLNRO/BCTS.

June 7, 2018

- -YWAT send requested email detailing all instances of procedural unfairness and asks for FLNRO/BCTS.

June 20, 2018

- YWAT receives email response from Ray Luchkow denying any procedural unfairness on behalf of BCTS

- None of the asks of Government were responded to by FLNRO MA Tim Reneberg or any other members of BCTS or FLNRO

July 16 2018 Meeting at BCTS Castlegar

- BCTS maintain that logging and road building remains a case of WHEN and not IF.
- YWAT reps press them on this matter and George Edney of BCTS insists there would be no evidence compelling enough to stop logging.
- YWAT pressed that a long-term contingency plan that provides a solution in case of negative impacts to Ymir's only source of potable and fire hydrant water as a result of logging and road building.
- BCTS reps claimed they would think about it and have an answer "by Christmas".
- YWAT asks BCTS if they will agree to the recommendations made in a non-advocate peer review of the Phase 2 hydrology report.
- BCTS do not agree to commit to any of the recommendations
- BCTS finally admits there have always been plans for three different phases of logging within the YCW.
- Ymir learns that there are actually 9 planned phases of logging within the YCW at the October 24, 2018 meeting.

July 2018

- BCTS representatives knowingly mislead YWAT (the Ymir Watershed Action Team) and RDCK (Regional District of the Central Kootenay) as to the reason for helipad construction within the YCW.
- BCTS claimed that the helipads were "standard procedure" for providing field crews (scientists and QRPS) with access, and that the helipads would provide an advantage for fighting fires within the YCW.
- YCWS debunks BCTS helipad claims with the help of non-advocate QRPs and wild land fire fighters.
- BCTS builds helipads within the YCW regardless.

September 2018

- BCTS contracts Randy McWilliams to complete an Acid Rock Assessment along proposed forestry roads within the YCW. The sum total of Randy's education is an undergraduate degree in Earth and Ocean Sciences plus a 4-day Acid Rock field course.

October 2018

- Over a period of weeks, YCWS repeatedly asks BCTS for the Terms of Reference for the Acid Rock Assessment
- When it is finally provided by BCTS, it clearly indicates that road construction within the YCW will take place regardless of what the Acid Rock assessment learns.
- **The Terms of Reference** for the Acid Rock assessment in question indicate that if Acid Rock or "problematic" materials are identified in the path of any proposed road in the YCW, the road will be built regardless and a Material Management Plan will be implemented to "mitigate" the negative impacts of the newly exposed Acid Rock/problematic material's resultant drainage... on a hillside... above the only viable potable water intake for an entire community.

October 24, 2018 meeting with BCTS at 4-mile Arrow office

- Meeting attended by BCTS, YCWS, RDCK, and Michelle Mungall staff
- All concerns about the development are reviewed, and YCWS representatives press the critical need for a hydrology Baseline Study to be completed pre-development.
- YCWS strongly contests the suitability of Randy McWilliams as an Acid Rock Assessor on a project with consequences of this magnitude: based on Randy's limited education.
- YCWS offers to pay for a more suitable non-advocate Acid Rock Assessor in the form of Steven Emerman (Ph.D. Geophysics, resume attached)
- BCTS provides a Total Chance Plan map requested by YCWS.
- The Total Chance Plan clearly shows plans for one century of logging and road building within the YCW – a total of 9 project phases and 8 new road networks.
- YCWS reps press BCTS once again on the subject of inevitable logging in the YCW regardless of evidence pointing to risks to the community of Ymir.
- George Edney finally concedes that if all risk assessments determined the project to be "very high risk" BCTS would not go ahead with development. (An incredibly unlikely scenario)
- BCTS rep Ken Scown promises to consult hydrologist Lars Uunila about the need for a hydrology Baseline Study
- No response has been given to YCWS concerning the Baseline Study request as of December 16th, 2018

November 19, 2018

- Final non-advocate peer review of the BCTS-contracted Hydrology Phase 2 report is completed by GW Solutions (attached)
- Recommendations in the peer review include robust site-specific collection of flow and SWE data to inform decision-making pre-development

November 27(?), 2018

- BC Liberal Forestry Critic John Rustad contacts Minister Donaldson regarding the need for proper data collection to inform decision-making within the YCW

December 5th, 2018

- YCWS sends email to FLNRO Minister Doug Donaldson and Deputy Minister John Allan calling for actions to ensure **FLNRORD and BCTS** fulfil their fiduciary duty to protect the interests of the residents of Ymir by following the recommendations in the non-advocate hydrology peer review that was attached to the email.
- No reply received

December 10^t, 2018

- John Rustad's office receives word from Doug Donaldson's staff that they have committed to talking to BCTS about Ymir.
- No details as to the results of the "talk".

December 14th, 2018

- BCTS sends email and written notice of the new "Operating Plan #17 Stewart E", and the start of a new referral period ending February 9, 2019. It is unclear if "Operating Plan #17 Stewart E" is a replacement for the current "Quartz Operating Plan" and is requesting a entirely new stakeholder referral period to gauge public concern over some road changes, or if the document is offering a referral period concerning the road changes alone.

December 14th, 2018

- **After multiple reminders over a period of 7 weeks, BCTS rep Ken Scown has still not reported the promised information regarding a Baseline Study.**

Document 2

Originally sent January 2019

January, 2019

The Honourable Premier John Horgan
The Honourable Doug Donaldson,
Minister of Forests, Lands, Natural Resource
Operations and Rural Development
Parliament Buildings
PO Box 9049 Stn Prov Govt Victoria, BC V8W

Honourable Premier and Minister:

RE: Procedural unfairness by BC Timber Sales in the proposed development of the Quartz Creek Watershed

On behalf of the Ymir Community Watershed Society (YCWS), we hereby submit a formal complaint regarding BC Timber Sales (BCTS) procedural conduct during the planning process of their proposed development of the Quartz Creek Watershed in Ymir, BC.

The Quartz Creek Watershed is a small, six square kilometre, low-elevation, surface-collection-only watershed which serves as the only potable water supply for the town of Ymir. The watershed is historically precarious, relying completely on the timing of rain and snow runoff for a consistent supply. As such, the watershed already experiences profound low flows in the hot and dry summer months. The watershed also contains acid rock, which, if disturbed, could contaminate the water supply with acid and toxic heavy metals. With both the quantity and quality of the Ymir's water supply at stake in this proposed development, YCWS has rightfully demanded procedural fairness, transparency and consultation from BCTS. In making its decisions on this matter, BCTS has failed to provide this to the community on a number of occasions.

More specifically, BCTS has exhibited procedural unfairness in the following ways:

1. BCTS has failed to:
 - adequately consider the critically important fact that there is no treatable or economically-viable alternative to Ymir's water supply and
 - commit to adequately replacing the water supply and restoring the status quo if the logging renders it unusable or inadequate for the community's needs.
2. BCTS has prejudged the issue by asserting on multiple occasions that this is not a question of *if* the proposed development will take place but *when* the development will take place.

3. BCTS has failed to adequately assess the facts about the relevant water issues at stake because it has:
 - not used site-specific hydrometric data in its assessment of the Quartz Creek Watershed to inform their decision-making and
 - rejected the request to support YCWS in applying for funding to pay for a non-advocate hydrology assessment.
4. BCTS has failed to communicate openly with the concerned public. It has limited Alan Bates and Lars Uunila, the experts who authored BCTS's Phase 1 and 2 Watershed Assessments, respectively, from providing written answers to questions regarding their work.
5. BCTS is placing the risk of logging -- and the onus of coping with that risk -- completely on the residents of Ymir, even suggesting that residents could adapt by reducing their individual water consumption.
6. BCTS failed to adequately consider and take seriously the over 5000 stakeholder and public concern letters submitted during BCTS's stipulated six-week referral period after advertising the Quartz Operating Plan.

The following sections will discuss each assertion individually. The evidence supporting each claim is referenced in the footnotes and corresponding attached Appendices.

BCTS has failed to:

- **adequately consider the critically important fact that there is no treatable or economically-viable alternative to Ymir's water supply and**
- **commit to adequately replacing the water supply and restoring the status quo if the logging renders it unusable or inadequate for the community's needs.**

In the late 1800s to early 1900s, Ymir was the location of a high-production gold mine, and as such, a presence of heavy metals in the area's groundwater has limited the water supply to the surface-collection-only Quartz Creek Watershedⁱ. In the early 2000s, Mould Engineering conducted an exploration in the Quartz Creek Watershed, concluding that they could find no treatable or economically-viable alternative water source for the community of Ymirⁱⁱ.

This information was provided to BCTS Castlegar contractee Al Skakun on two separate occasions but has been continually downplayed. While the lack of alternatives is referenced in BCTS's Phase 2 Hydrology report and is identified as a risk, BCTS has not put forward a realistic long-term contingency plan should the water source become contaminated or depleted by this developmentⁱⁱⁱ.

In a June 22, 2017 meeting between BCTS representatives and YCWS members, it was made clear that there is no site- or condition-specific contingency plan in place for the proposed development^{iv}. Bottled water was proposed as a partial solution to water depletion, but that does not address need for a water supply for fighting fires^v. One cannot fight fires with bottled water.

The contingency plans discussed in this meeting make no reference to the fact that there is no alternative water supply, do not address the issue of water quantity, do not propose any

long-term or permanent solutions and clearly indicate BCTS's lack of engagement on this matter^{vi}.

BCTS has prejudged the issue by asserting on multiple occasions that this is not a question of *if* the proposed development will take place but *when* the development will take place.

During the October 24, 2018 meeting between members of YCWS and BCTS, at the Kootenay Lake Forestry Centre, George Edney, a Woodlands Manager at BCTS, was asked directly about comments regarding the inevitability of the development. In response, Edney stated that the Quartz Creek Watershed is part of their Timber Harvesting Land Base, and as such "it's not a question of 'can we go in there'... it's a question of how we're going to do it, when we're going to do it, where exactly we're going to do it"^{vii}.

This attitude has been apparent since the release of the Phase 1 hydrology report, a seven-page letter that was widely seen by non-advocate hydrologists as insufficient and lacking in important data^{viii}. Edney stated that this report "didn't raise any red flags" and provided "no reason why we wouldn't harvest in the watershed"^{ix}.

The irresponsible prejudgement of the issue has prevailed throughout the planning and consultation process, leaving YCWS and the community of Ymir rightfully concerned about the integrity of BCTS's process.

BCTS has failed to adequately assess the facts about the relevant water issues at stake because it has:

- **not used site-specific hydrometric data in its assessment of the Quartz Creek Watershed to inform their decision-making and**
- **rejected the request to support YCWS in applying for funding to pay for a non-advocate hydrology assessment.**

Due to a lack of historical flow data for the Quartz Creek Watershed, BCTS's Phase 2 hydrology report instead uses the Anderson Creek Watershed as a surrogate for streamflow analysis due to an absence of site-specific hydrometric records^x. YCWS contends that this is not sufficiently accurate. As per the Province's *Compendium of Forest Hydrology and Geomorphology in British Columbia* ("*Compendium*"), using other watersheds "as baseline information sources, or extrapolating baseline data to them" without recognizing landscape variability and uniqueness "is often inappropriate"^{xi}.

BCTS claims that time and budget constraints prevent them from conducting robust flow data collection within the watershed. However, when YCWS approached BCTS requesting a letter of support in their application for funding to pay for a non-advocate hydrology assessment, YCWS was flatly denied. BCTS Woodlands Supervisor Ken Scown responded to this request stating that "further studies are redundant" and BCTS "[does] not see value in this additional work"^{xii}.

It is BCTS's responsibility to practice professional due diligence and take all necessary steps to demonstrate that appropriate consideration was given to all relevant factors^{xiii}. This includes having robust, complete, site-specific information to inform their decision-

making and ensuring that the proposed development does not negatively impact the community of Ymir or the water supply on which it depends.

BCTS has failed to communicate openly with the concerned public. It has limited Alan Bates and Lars Uunila, the experts who authored BCTS's Phase 1 and 2 Watershed Assessments, respectively, from providing written answers to questions regarding their work.

Lars Uunila has only been made available to respond to public questions on one occasion. On November 22, 2017, Lars Uunila participated in a meeting with members of BCTS and YCWS where he was able to respond orally to questions regarding the Phase 2 Watershed Assessment.

Jason Leus of YCWS then sent a list of questions to Alan Bates and Lars Uunila to obtain their written responses for a clear, distributable record of their expert opinion on the proposed development^{xiv}. This request was blocked by Ken Scown, who contended that the questions were already answered satisfactorily during the meeting. Scown also insisted that any further communication with the experts be conducted through BCTS, which raises obvious concerns about neutrality and transparency^{xv}. After being further pressed, Scown agreed to have Uunila and Bates answer questions that may not have been fully covered in the meeting due to time constraints and lack of clarity, but refused to provide anything further, citing the cost of their contracted experts^{xvi}.

BCTS has demonstrated an unwillingness to communicate openly and transparently, and has made clear that the accessibility of information to the public is not a priority, in contrast to its duty as a Provincial entity.

BCTS is placing the onus on the residents of Ymir to cope with potential changes to the water supply, even suggesting that residents could adapt by reducing their individual water consumption.

In response to community concerns about the proposed development diminishing Ymir's water supply, George Edney of BCTS suggested that residents could adapt by reducing their individual water consumption^{xvii}. By saying "in order to maintain fish downstream and all you[r] water supplies in town maybe you're going to have to, you know, even sides of the street should water on one day and odd on the other", Edney was not only making light of the potentially life-threatening consequences of a contaminated or depleted water supply, but also indicated BCTS's desire to evade responsibility.

This is not an isolated incident. In the Phase 2 Hydrology report Lars Uunila places the onus on the community and the Regional District of Central Kootenay (RDCK) by claiming that climate change will have a greater impact on the watershed than the timber activities, seemingly relieving BCTS of their contributory responsibility:

"All of these climate-related hydrologic effects are likely to have potential consequences on future Ymir's water supply. Climate change impacts are likely to overshadow the identified potential future effects of timber harvesting. With or without any planned timber development, it would seem incumbent that RDCK develop/update its drought management plan

for the community of Ymir, and within this plan examine all possible options to secure a back-up source of water for the community.”^{xviii}

This attitude exhibited by BCTS and their contractors is directly in conflict with the principles of procedural fairness and meaningful consultation. The party that stands to benefit from the development should bear the potential consequences. That party is BCTS, not the innocent residents of Ymir.

BCTS failed to take seriously the over 5000 stakeholder and public concern letters submitted during BCTS’s stipulated six-week referral period after advertising the Quartz Operating Plan.

Part of BCTS’s procedure is to prepare an Operating Plan, which identifies the proposed forest development and serves as a vehicle through which to conduct public engagement.^{xix} The Operating Plan is advertised to the public to allow for a “reasonable opportunity for review and comment” and ensure that “any written comments received will be responded to”^{xx,xxi}. During the six-week referral period (June and July 2017) for the Quartz Creek Operating Plan, there were over 5000 referral process letters decrying the proposed Operating Plan sent to BCTS and FLNRO^{xxii}.

BCTS only responded to sixty letters, claiming that they did not want to waste their time^{xxiii}. Instead, the “stack” of letters received from “all across Canada” were dismissed as an annoyance that “plugged up [their fax] machine”, in the words of George Edney^{xxiv}.

By failing to take seriously the concerns and input of the public during the only period in which the public had the opportunity to participate in the decision-making process, BCTS rendered their commitment to consultation and fair decision procedures meaningless.

Conclusion

BCTS’s procedural conduct during the proposed development of the Quartz Creek Watershed has been inconsistent with the principles of procedural fairness, transparency and consultation.

An examination of these matters is necessary to maintain public confidence in the Provincial government’s ability to manage forestry practices, protect natural resources and prioritize vulnerable BC communities.

Sincerely,

Kersey Collins, Law Student

Calvin Sandborn, Barrister and Solicitor

Notes

- ¹ Murray, G. (2016). A Brief History of Mining in Ymir. [online] Ymirbc.com. Available at: <http://ymirbc.com/a-brief-history-of-mining-in-ymir/>
- ¹ See the Mould Engineering Report at Appendix A
- ¹ See Polar Geoscience Ltd. Phase 2 Watershed Assessment at Appendix B, p. 162
- ¹ See June 22, 2017 Meeting at BCTS Castlegar (Transcript and Audio Recording) at Appendix C, p. 1
- ¹ *Ibid* at p. 1
- ¹ *Ibid* at p.2
- ¹ See October 24, 2018 Meeting at the Kootenay Lake Forestry Centre (Transcript and Audio Recording) at Appendix D, p. 1
- ¹ See Streamworks Consulting Inc. Review of Proposed Harvesting in the Quartz Creek Watershed at Appendix E
- ¹ *Supra* note 7, at p.2
- ¹ *Supra* note 3, at p. 87
- ¹ Pike, R.G., T.E. Redding, R.D. Moore, R.D. Winker and K.D. Bladon (editors). 2010. Compendium of forest hydrology and geomorphology in British Columbia. B.C. Min. For. Range, For. Sci. Prog., Victoria, B.C. and FORREX Forum for Research and Extension in Natural Resources, Kamloops, B.C. Land Manag. Handb. 66, online: <www.for.gov.bc.ca/hfd/pubs/Docs/Lmh/Lmh66.htm>
- ¹ See Letter from Ken Scown (BCTS) Denying Grant Application Support at Appendix F
- ¹ Larock, M., Mitchell, P. (2018) Professional Practice Guidelines: Watershed Assessment and Management of Hydrologic and Geomorphic Risk in the Forest Sector.
- ¹ See E-mail Chain Regarding Request for Written Responses from Experts Lars Uunila and Alan Bates at Appendix G, p. 8
- ¹ *Ibid* at p.8
- ¹ *Ibid* at p. 3
- ¹ See February 18, 2018 Meeting at BCTS Castlegar (Transcript and Audio Recording) at Appendix H, p. 1
- ¹ *Supra* note 3, at p. vii
- ¹ BC Timber Sales Kootenay Business Area. (2017). Forest Stewardship Plan #601. Available at: <https://www.for.gov.bc.ca/ftp/TKO/external!/publish/FSP/Approved-FSP-2017-2022/Approved%202017%20to%202022%20FSP%20-%20BCTS%20Kootenay%20-%20May%201,%202017.pdf>
- ¹ *Ibid*
- ¹ BC Timber Sales Kootenay Business Area. (2017). Support Document for the BC Timber Sales Forest Stewardship Plan #601. Available at: <https://www.for.gov.bc.ca/ftp/TKO/external!/publish/FSP/Approved-FSP-2017-2022/Supporting-Information/Support%20Document%20for%202017%20to%202022%20FSP%20-%20BCTS%20Kootenay%20-%20May%201,%202017.pdf>
- ¹ Jason Leus of YCWS personally faxed over 3000 letters to the BCTS Castlegar office during the referral period, with the remainder being sent from other residents and stakeholders.
- ¹ See February 18, 2018 Meeting at BCTS Castlegar [Part 2] (Transcript and Audio Recording) at Appendix I, p.2
- ¹ *Ibid*, at p.1 & 2

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- ⁱ Murray, G. (2016). A Brief History of Mining in Ymir. [online] Ymirbc.com. Available at: <http://ymirbc.com/a-brief-history-of-mining-in-ymir/>
- ⁱⁱ See the Mould Engineering Report at Appendix A
- ⁱⁱⁱ See Polar Geoscience Ltd. Phase 2 Watershed Assessment at Appendix B, p. 162
- ^{iv} See June 22, 2017 Meeting at BCTS Castlegar (Transcript and Audio Recording) at Appendix C, p. 1
- ^v *Ibid* at p. 1
- ^{vi} *Ibid* at p.2
- ^{vii} See October 24, 2018 Meeting at the Kootenay Lake Forestry Centre (Transcript and Audio Recording) at Appendix D, p. 1
- ^{viii} See Streamworks Consulting Inc. Review of Proposed Harvesting in the Quartz Creek Watershed at Appendix E
- ^{ix} *Supra* note 7, at p.2
- ^x *Supra* note 3, at p. 87
- ^{xi} Pike, R.G., T.E. Redding, R.D. Moore, R.D. Winker and K.D. Bladon (editors). 2010. Compendium of forest hydrology and geomorphology in British Columbia. B.C. Min. For. Range, For. Sci. Prog., Victoria, B.C. and FORREX Forum for Research and Extension in Natural Resources, Kamloops, B.C. Land Manag. Handb. 66, online: <www.for.gov.bc.ca/hfd/pubs/Docs/Lmh/Lmh66.htm>
- ^{xii} See Letter from Ken Scown (BCTS) Denying Grant Application Support at Appendix F
- ^{xiii} Larock, M., Mitchell, P. (2018) Professional Practice Guidelines: Watershed Assessment and Management of Hydrologic and Geomorphic Risk in the Forest Sector.
- ^{xiv} See E-mail Chain Regarding Request for Written Responses from Experts Lars Uunila and Alan Bates at Appendix G, p. 8
- ^{xv} *Ibid* at p.8
- ^{xvi} *Ibid* at p. 3
- ^{xvii} See February 18, 2018 Meeting at BCTS Castlegar (Transcript and Audio Recording) at Appendix H, p. 1
- ^{xviii} *Supra* note 3, at p. vii
- ^{xix} BC Timber Sales Kootenay Business Area. (2017). Forest Stewardship Plan #601. Available at: <https://www.for.gov.bc.ca/ftp/TKO/external/!publish/FSP/Approved-FSP-2017-2022/Approved%202017%20to%202022%20FSP%20-%20BCTS%20Kootenay%20-%20May%201,%202017.pdf>
- ^{xx} *Ibid*

^{xxi} BC Timber Sales Kootenay Business Area. (2017). Support Document for the BC Timber Sales Forest Stewardship Plan #601. Available at: <https://www.for.gov.bc.ca/ftp/TKO/external/!publish/FSP/Approved-FSP-2017-2022/Supporting-Information/Support%20Document%20for%202017%20to%202022%20FSP%20-%20BCTS%20Kootenay%20-%20May%201,%202017.pdf>

^{xxii} Jason Leus of YCWS personally faxed over 3000 letters to the BCTS Castlegar office during the referral period, with the remainder being sent from other residents and stakeholders.

^{xxiii} See February 18, 2918 Meeting at BCTS Castlegar [Part 2] (Transcript and Audio Recording) at Appendix I, p.2

^{xxiv} *Ibid*, at p.1 & 2

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