



BCTS

BC Timber Sales

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Advisory Bulletin No. 05/15/08 – Multiple Employers on Timber Sale Licences

This advisory bulletin provides advice to BC Timber Sales (BCTS) staff on the matter of multiple employers on timber sale licences (TSLs). This bulletin replaces all previous advice on this matter.

Basic Principles

This bulletin addresses those cases wherein BCTS hires a contractor to undertake certain tasks within a TSL cutting authority area at the same time that the holder of the TSL is conducting timber harvesting (including road-building) activities.

The holder of a TSL is the “Owner” of the workplace. In order for BCTS to fulfill its mandate and foster an optimal safety circumstance for TSL holders, it is important that BCTS respect and facilitate the TSL holders’ ownership.

The matter of having two “Owners” (BCTS and the Licensee) of a workplace leads to confusion which must be resolved by establishing a “prime contractor”. To facilitate the optimal safety circumstance mentioned above, and to uphold the TSL holder as “owner” of the workplace, and to permit the licensee to freely meet its business interests and obligations, **BCTS must not direct the TSL holder to assume the roles and responsibilities of a “prime contractor”**. Rather, the situation is better addressed by a mutual and documented agreement between the two owners.

Owner of the Workplace

The Workers’ Compensation Act (W.C. Act) defines “Owner” as including

- (a) a trustee, receiver, mortgagee in possession, tenant, lessee, **licensee or occupier of any lands** or premises used or to be used as a workplace, and
- (b) a person who acts for or on behalf of an owner as an agent or delegate.

Thus, the holder of a TSL is an “Owner” of the workplace, and the “workplace” is the cutting authority and/or permit area.

Duties of an Owner

Every owner of a workplace must

- (a) provide and maintain the owner's land and premises that are being used as a workplace in a manner that ensures the health and safety of persons at or near the workplace,
- (b) give to the employer or prime contractor at the workplace the information known to the owner that is necessary to identify and eliminate or control hazards to the health or safety of persons at the workplace.

The W.C. Act defines an “Employer” as including every person having in their service under a contract of hiring or apprenticeship, written or oral, express or implied, a person engaged in work in or about an industry.

Formation of a Multiple-employer workplace

A "multiple-employer workplace" means a workplace where workers of 2 or more employers are working at the same time. Thus, when BCTS contracts with another party to undertake certain tasks (e.g. cone collection; waste assessments) on a TSL area at a time when TSL holder is also undertaking activities (e.g. logging; road building), a "multiple-employer" workplace is created.

Effect of creating a Multiple-employer workplace

Whenever a multiple-employer workplace is created, a "Prime Contractor" must be established.

In relation to a multiple-employer workplace, the "Prime Contractor" is

- (a) the directing contractor, employer or other person who enters into a written agreement with the owner of that workplace to be the prime contractor for the purposes of this Part, or
- (b) if there isn't such a written agreement, the owner of the workplace.

The prime contractor of a multiple-employer workplace must

- (a) ensure that the activities of employers, workers and other persons at the workplace relating to occupational health and safety are coordinated, and
- (b) do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Part and the regulations in respect of the workplace.

Each employer of workers at a multiple-employer workplace must give to the prime contractor the name of the person the employer has designated to supervise the employer's workers at that workplace.

BCTS position in Multiple-employer workplaces on TSL's

BCTS does not generally have the expertise to assume the position of an Owner or prime contractor on a harvest operation. Further more, if BCTS were to assume that position, either directly or via a contracted resource, that act would affect the market opportunity afforded the licensee through the licence and be contrary to the BCTS mandate of market pricing.

Therefore, BCTS must approach the TSL holder requesting permission to proceed with the works and proceed with said works only after a suitable prime contractor is established and agreed upon in writing.

It is not appropriate for BCTS to exercise pressure on the licensee to accommodate those works. If mutual agreement on a primary contractor cannot be achieved, BCTS will have to pursue suitable alternative arrangements. **In most circumstances, however, it is likely that the appropriate prime contractor would need to be the harvesting contractor on the site.**

Actions

For new TSLs:

If it is expected that BCTS will need to access a TSL area or to work adjacent to that area in pursuit of other program goals, BCTS should include this expectation in the Notice to

Intending Bidders. BCTS must not, by TSL clause or other instrument, compel the licensee to accept this possibility.

For existing TSLs:

BCTS will formally notify the TSL holder that it wishes to proceed with works, will seek to mutually agree upon prime contractor arrangements, and establish those arrangements in writing.

BCTS Contractors:

All BCTS contractors and licensees engaged on multi-employer worksites created by BCTS will be notified in writing as to the prime contractor responsibilities and subordinate contractor responsibilities. It is recommended that a joint meeting of all parties be held to discuss any concerns of any party and to ensure that all parties understand their respective expectations and roles.

Contacts

For further information regarding this bulletin please contact Tom Jackson, Manager, Safety Initiatives, or John Stephen, Tenures Forester, BCTS Headquarters at (250) 387-8637.

