

**BRITISH COLUMBIA
MINISTRY OF FORESTS**

Kitsumkalum-Kitselas Designated Area No. 1

Rationale for Allowable Annual Cut (AAC) Reduction

Effective June 12, 2018

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Deputy Chief Forester**

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Objective of this document

This document is intended to provide an accounting of the factors I have considered and the rationale I have employed as deputy chief forester of British Columbia (BC) in making an allowable annual cut (AAC) reduction for the Kalum Timber Supply Area (TSA) and Tree Farm Licence (TFL) 1 to account for the implementation of Ministerial Order (MO) No. 228/2018.

Statutory framework

Part 13 of the *Forest Act* (Sections 168 to 175) allows government to temporarily suspend forestry authorizations, obligations, and activities on Crown land within a “designated area” for up to 10 years. The establishment of designated areas and suspension of timber harvesting allows time for government to complete land base decisions (e.g., treaty settlement lands and protected areas).

Section 173(2) of the *Forest Act* stipulates that the deputy chief forester, by written order, may reduce the AAC of a TSA or a TFL if all or part of the TSA or TFL is a designated area. In doing so, the deputy chief forester may specify portions of the reduction that are attributable to different types of timber and terrain in different parts of the Crown land within the designated area.

AAC reductions under Part 13 of the *Forest Act* serve two purposes. They minimize the risk of an over concentration of harvesting in stands outside of the suspended harvest area, and they ensure the required temporary adjustments are made in a timely manner.

Kitsumkalum-Kitselas Designated Area No. 1

In 2015, the Kitsumkalum and Kitselas First Nations and the Governments of BC and Canada reached a milestone in the BC treaty process with the signing of the Kitsumkalum Agreement-in-Principle (AIP) and Kitselas AIP. The lands associated with the AIPs represent the area that will likely be included in the treaties once they are finalized and implemented.

An [Order in Council \(OIC\)](#) issued on September 19, 2016, established an area, including the AIP lands, as the Kitsumkalum-Kitselas Designated Area No. 1 under Section 169 of the *Forest Act* for the period ending June 30, 2025.

On June 12, 2018, [Ministerial Order No. M228/2018](#) was issued restricting the issuance of cutting and road permits within the Kitsumkalum-Kitselas Designated Area No. 1 and suspending the rights of permit holders. Cutting permits and road permits pertaining to woodlot licence W0144, or cutting permits, road permits, or timber sale licences listed in Schedule A of the Order were not suspended. Ministerial Order M228/2018 was amended three times through M001/2019, M260/2019, and M069/2020, adding various permits to Schedule A of the Order.

The Kitsumkalum and Kitselas First Nations signed Memorandum of Understanding (MOU), enabling the potential for forest harvesting to continue within the designated area through discussions with licensees, while treaty and land claim agreements with the Government are finalized. Minimal timber harvesting activity occurred through the MOUs with the agreements expiring in April 2022. Representatives from the Coast Mountains Natural Resource District indicate that there is no intent to renew or extend either of the MOU agreements.

The Kitsumkalum-Kitselas Designated Area No. 1 overlaps with three management units in northwestern BC, the Cascadia TSA, Kalum TSA, and TFL 1. On January 23, 2020, the chief forester completed a Section 173 Order reducing the AAC for the Cascadia TSA by 9310 cubic metres per year.

First Nations Consultation

BC created a framework for advancing reconciliation with Indigenous Peoples, in keeping with the Calls to Action of the Truth and Reconciliation Commission. The provincial government passed legislation in November of 2019 to implement the United Nations Declaration on the Rights of Indigenous People (UNDRIP). The 2019 *Declaration on the Rights of Indigenous Peoples Act (Declaration Act)* aims to create a clear process by which Indigenous Peoples are a part of the decisions that affect them, their communities, and their territories. As such, First Nations interests are an important consideration in making decisions related to timber supply.

The Kalum TSA overlaps with 18 First Nations territory's: Cheslatta Carrier Nation, Gitanyow Hereditary Chiefs Office, Gitga'at First Nation, Gitwangak/Lower Skeena Watershed (Gitxsan), Gitxaala Nation, Haisla Nation, Heiltsuk Nation, Kitselas First Nation, Kitsumkalum Band Council, Lax Kw'alaams Band, Metlakatla First Nation, Nee-Tahi-Buhn Indian Band, Nisga'a Nation, Nuxalk Nation, Skin Tyee Nation, Wet'suwet'en First Nation, Wet'suwet'en Yintah, and Xsamsisnak (Gitxsan Laxyip).

TFL 1 overlaps with 15 First Nations territory's: Gitanyow Hereditary Chiefs Office, Gitga'at First Nation, Gitwangak/Lower Skeena Watershed (Gitxsan), Gitxaala Nation, Haisla Nation, Kitselas First Nation, Kitsumkalum Band Council, Lax Kw'alaams Band, Metlakatla Band Council, Nisga'a Nation, Skin Tyee Nation, Tsetsaut Skii Km Lax Ha, Tsim An Makhl (Gitxsan Laxyip), Wet'suwet'en First Nation, and Wet'suwet'en Yintah.

Consultation with First Nations on the proposed AAC reductions were carried out by the Forest Analysis and Inventory Branch (FAIB). On January 13 and January 17, 2023, initial engagement letters were sent to all potentially affected First Nations explaining the Section 173(2) proposed AAC reduction decision and requesting feedback on Aboriginal Interests or treaty rights that may be affected by the decision.

The Gitanyow Hereditary Chiefs Office responded that they support a reduction in AAC for TFL 1.

The Gitxaala Nation responded that they do not have any objections, comments, or concerns regarding the proposed AAC reductions at this time.

The Heiltsuk Nation indicated that they do not object to the proposed reduction for the Kalum TSA, should the following conditions be met: the proposed reduction does not lead to an unintended increase in harvest pressure within the Great Bear North TSA or any other provincial management unit located within Heiltsuk territory, and in future matters, the Office of the Chief Forester commits to working proactively with Heiltsuk to establish policy prior to the referral stage in a manner reflective of the government-to-government nature of the relationship.

Kitselas First Nation had four requests:

1. Implement a second-growth harvest partition utilizing *Forest Act* Section (5).

Kitselas First Nation is concerned that stands are being harvested before they reach culmination of mean annual increment and that second-growth stands are being targeted for commercial thinning, diminishing their value.

I note that the purpose of the AAC reduction decision is to ensure timber harvesting does not become overly concentrated in areas outside of the Kitsumkalum-Kitselas Designated Area No. 1. The AAC reduction should help relieve pressure on second-growth harvest as licensees currently attempt to meet their AAC in a reduced land base as harvesting is prohibited within the Kitsumkalum-Kitselas Designated Area No. 1. FAIB staff provided data from the 2022 Provincial Timber Management Goals, Objectives, and Targets report for the Kalum TSA and TFL 1. Information for the Kalum TSA indicates that seven percent of the area harvested over the 2017 to 2021 period has been from the 40- to 60-year-old age class and 0.5 percent from the 60- to 80-year-old age class. Most of the harvest in the Kalum TSA has come from the 250 years and greater age class at 75 percent. In TFL 1, 20 percent of the area has been harvested from the 40- to 60-year-old age class and six percent from the 60- to 80-year-old age class, during the same period. The majority of the harvest in TFL 1 has also come from the 250 years and greater age class at 65 percent. The following implementation instruction was issued in the *2021 TFL 1 AAC determination*: “harvest performance – I expect the licence holder and district to monitor the harvest of young, low volume stands to ensure that these stands are reaching maturity prior to harvest.” I am aware that there are existing best management practice guidelines for harvesting in second-growth forests within the Coast Mountains Natural Resource District and I am encouraged to hear that new guidance is being prepared. I will not implement a second-growth partition at this point in time, but I ask district staff to continue working with First Nations and licensees to monitor the harvesting of second-growth forests and report back to me if issues arise.

2. The Minister’s apportionment decision be made known prior to determining the temporary AAC reduction.

Kitselas indicated that as the purpose of the Ministerial Order and subsequent temporary AAC reduction decision is to advance Treaty decisions, and their current apportionment represents a small portion of the TSA, they were concerned with how the AAC reduction would be apportioned.

Kitsumkalum First Nation also requested further information on how the AAC reduction would impact licensees’ volume apportionment.

The apportionment of the AAC following an AAC reduction is outside the scope of my authority and is the responsibility of the Minister of Forests. As per Section 173(3) of the *Forest Act* if the allowable annual cut of a TSA or TFL is reduced as a result of a designated area, the Minister may distribute all or part of the reduction among the forest licences in the management unit in accordance with Section 63(2) of the *Forest Act*. A separate consultation process will occur for this subsequent decision.

3. List of issued permits, licences, or plans within the designated area.

FAIB staff provided Kitselas with the 2018 Ministerial Order where Schedule A provides a list of permits that were not suspended. They also informed Kitselas that there are no pending decisions for the issuance, suspension, or varying of permits within the designated area.

4. Additional information about the analysis and rationale for the estimated temporary AAC reduction.

FAIB staff provided further details of the analysis and explained the potential AAC adjustment method to be used that is described in Part 4 of the Allowable Annual Cut Administration Regulation of the *Forest Act*.

The Gitga'at First Nation, Metlakatla First Nation, Nee-Tahi-Buhn Indian Band, and Nisga'a Nation indicated that they received the consultation package but provided no further feedback. The remainder of the First Nations consulted did not respond during the process.

Based on the information presented to me by Ministry staff, I am satisfied that all potentially affected First Nations were consulted in accordance with current provincial guidance and applicable case law. Although no formal public review was conducted regarding these orders under Part 13 (Section 173) of the *Forest Act*, a public engagement process will be completed prior to the next AAC determinations for the Kalum TSA and TFL 1.

Timber Supply Analysis

Two assessment methods were developed by FAIB staff to estimate the effect of the Ministerial Order on the Kalum TSA and TFL 1 timber supply. These methods included the THLB ratio and volume contribution method:

1. THLB ratio method: The THLB ratio method involved calculating a ratio of the management unit AAC (cubic metres/year) to the total THLB area (hectares) within the management unit, resulting in an estimated AAC contribution per hectare of THLB (cubic metres/year/hectare). This ratio is then multiplied by the THLB area being removed due to the Kitsumkalum-Kitselas Designated Area No. 1 MO, deriving an estimated adjustment to be deducted from the AAC (cubic metres/year). The AAC and the THLB used in the calculation are obtained from the most recent AAC rationale and supporting timber supply analysis for the management unit.

The THLB ratio method assumes that forest attributes (e.g., age class and site productivity) within the designated area are similar to the average across the entire management unit that formed the basis of the AAC determination. This method is described in the Allowable Annual Cut Administration Regulation of the *Forest Act*.

2. Volume contribution method: The volume contribution is similar to the THLB ratio method but differs in that the THLB value is replaced by existing merchantable timber volume. Specifically, the volume contribution method involved determining the proportion of the merchantable inventory volume within the THLB area being removed due to the Kitsumkalum-Kitselas Designated Area No. 1 MO relative to the total merchantable volume within the THLB of the management unit. This proportion is then multiplied by the AAC deriving the estimated adjustment to be deducted from the AAC.

The volume contribution method can be useful where the age class distribution within the designated area differs from the broader management unit, considering the availability of existing mature volume which may better capture short-term timber supply implications.

Kalum TSA

The most recent timber supply review (TSR) for the Kalum TSA was completed on February 16, 2011, when the AAC was set at 424 000 cubic metres. During the period of 2012 to present, there has been 1 709 357 cubic metres of accumulated unharvested volume.

The Kitsumkalum-Kitselas Designated Area No. 1 contains 18 989 hectares of THLB that contribute towards the Kalum timber supply. The THLB ratio method indicated that removing the designated area results in an AAC impact reduction of 22.4 percent, while the volume contribution method suggested a 24.3 percent reduction.

After reviewing the adjustment assessments, I conclude that the THLB ratio method estimate of 22.4 percent most accurately reflects the last TSR and provides the best representation of short-term timber supply.

TFL 1

The most recent timber supply review for TFL 1 was completed July 20, 2021, when the AAC was set at 322 000 cubic metres. During the cut control period of 2017 to 2021 there has been 770 244 cubic metres of accumulated unharvested volume. TFL 1 is held by Coast Tsimshian Resources Limited Partnership, which is wholly owned by the Lax Kw'alaams Band.

The Kitsumkalum-Kitselas Designated Area No. 1 contains 5481 hectares of THLB that contribute towards the TFL 1 timber supply. The THLB ratio method indicated that removing the designated area results in an AAC impact adjustment reduction of 8.0 percent, while the volume contribution method suggested a 5.6 percent reduction. The divergence of the two assessments indicates that the Kitsumkalum-Kitselas Designated Area No. 1 may contain a greater proportion of stands that have a lower volume per hectare than the rest of the TFL management unit. Stands within the designated area could be comprised predominantly of younger age classes or lower productivity sites.

In addition to the FAIB assessment, I was also presented with information from the timber supply analysis that was completed as part of the 2019 Coast Tsimshian Resources LP Management Plan No. 11. A sensitivity analysis demonstrated that the removal of the Kitsumkalum AIP lands would result in a timber supply reduction from the base case by 7.6 percent in the short term and 8.7 percent in the long term. This analysis provides assurance that the THLB ratio method produces a reasonable estimate of the timber supply implications of the land base removal.

Determination

I have considered and reviewed the adjustment assessments as documented above, including the risks and uncertainties of the information provided. Both methods for assessing the effect of the Ministerial Order on the Kalum TSA and TFL 1 timber supply are necessary simplifications that allow for expedient short-term adjustment of the AAC. The volume contribution method provides insight into the forest inventory of the removal area, but I believe it is overly simplistic to rely on for this adjustment decision. The THLB ratio is a well understood method that is enacted in the AAC Administration Regulation and the estimated adjustment for TFL 1 using this method was supported by a similar estimate produced through recent timber supply analysis. Therefore, I will base my decision on the adjustment estimates derived using the THLB ratio method.

It is my determination that the AAC for the Kalum TSA will be reduced by 94 976 cubic metres, and the AAC for TFL 1 will be reduced by 25 760 cubic metres. These reductions are effective June 12, 2018, and remain in effect until MO No. 228/2018 expires. I acknowledge the substantial accumulated unharvested volume within the Kalum TSA and TFL 1. These accumulations were assessed against the AAC prior to my adjustment and will now need to be reassessed as the difference between the adjusted AAC and actual harvest levels which will result in lower totals. Therefore, my decision to make the Section 173 Orders retroactive to the start date of MO No. 228/2018 assists with mitigating this issue until the next timber supply reviews are completed.

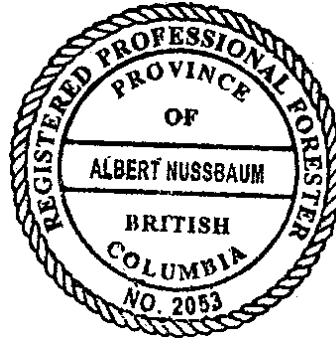
The intention of these reductions is to support sustainability in the areas of the management units which are not directly protected by the OIC, until such a time that an AAC determination is completed.

If additional significant new information is made available to me, or major changes occur in the management assumptions upon which I have predicated this decision, I am prepared to revisit this determination prior to the expiry of MO No. 228/2018.



Albert Nussbaum, RPF
Deputy Chief Forester

August 22, 2023



Appendix 1: Information Sources

In considering all the factors required under Part 13, Section 173 of the *Forest Act*, I have reviewed the following:

Legislation

- Province of BC. *Forest Act* Part 13, Sections 173(2), 173(3);
- Ministerial Order No. M228 (2018) [Ministerial Order 228/2018 \(gov.bc.ca\)](#);
- Ministerial Order No. M001 (2019), amending MO M228 (2018), [Ministerial Order 1/2019 \(gov.bc.ca\)](#)
- Ministerial Order No. M260 (2019), amending MO M228 (2018), amended by MO M001 (2019), [Ministerial Order 260/2019 \(gov.bc.ca\)](#);
- Ministerial Order No. M069 (2020), amending MO M228 (2018), amended by MO M001 (2019) and M260 (2019), [Ministerial Order 69/2020 \(gov.bc.ca\)](#);
- Order in Council No. 672 (2016) [Order in Council 672/2016 \(gov.bc.ca\)](#).

Timber Supply and other related documents

- Coast Tsimshian Resources LP Tree Farm Licence 1 Management Plan #11;
- Official map: Kitsumkalum-Kitselas Designated Area No.1 K2_PT13_No1_20160609 with GEOBC;
- Province of BC. Tree Farm Licence 1 Rationale for Allowable Annual Cut (AAC) Determination, Effective July 20, 2021;
- Province of BC. Kalum TSA Rationale for Allowable Annual Cut (AAC) Determination, Effective February 16, 2011;
- Provincial Timber Management Goals, Objectives & Targets Report for the Kalum TSA, September 12, 2022;
- Provincial Timber Management Goals, Objectives & Targets Report for Tree Farm Licence 1, September 12, 2022.

First Nations consultation

- Province of BC. First Nations consultation summary as per the Timber Supply Review binder: Allowable Annual Cut Reduction Determination for the Kalum TSA & TFL 1.