

Chief Forester Order Respecting the AAC Determination for the Nass Timber Supply Area

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

If... the chief forester considers that the allowable annual cut...is not likely to be changed significantly with a new determination, then...the chief forester by written order may postpone the next determination...to a date that is up to 15 years after the date of the relevant last determination, and must give written reasons for the postponement.

In considering whether to postpone the next allowable annual cut (AAC) determination for the Nass Timber Supply Area (TSA):

I note that the last relevant AAC determination for the Nass TSA, made on June 12, 2002, set the AAC at 865,000 cubic metres, including a partition of 200,000 cubic metres attributable to the Upper Nass¹ portion of the TSA. On June 20, 2007, the chief forester issued an order postponing the AAC determination for the Nass TSA until July 30, 2012.

In considering all of the factors required under Section 8 of the *Forest Act*, I have reviewed the following:

- *Rationale for the Allowable Annual Cut Determination for the Nass Timber Supply Area* (June 12, 2002);
- *Chief Forester Order Respecting the AAC Determination for the Nass Timber Supply Area* (June 20, 2007);
- *South Nass Sustainable Resource Management Plan Timber Supply Analysis Report and Information Package* (May 2008); and
- *Assessment of Needs for a Timber Supply Review III for the Nass Timber Supply Area* (March 24, 2011).

In reviewing each factor, I have discussed current practice and the availability of new information with Ministry of Forests, Lands and Natural Resource Operations (FLNR) Coast Mountains District (district) and Forest Analysis and Inventory Branch specialists.

In making his June 12, 2002 determination, the chief forester identified significant uncertainty associated with a number of factors, including: physical and economic operability; ‘problem’ forest types; regeneration assumptions and stocking standards; and the potential for good visual design to improve timber availability. In reviewing these factors, I find that the magnitude of the uncertainty associated with each factor is largely unchanged; therefore, I encourage FLNR staff to continue to undertake the appropriate studies, as described in the *2002 Rationale for the Allowable Annual Cut Determination for the Nass TSA*, in collaboration with local licensees, to help reduce these uncertainties prior to the next determination.

I am aware that new site index by biogeoclimatic ecosystem classification site series (SIBEC) information for the Nass TSA became available in 2011. The SIBEC information indicates that significant increases in site index for young, managed stands are likely warranted. As increases in managed stand productivity largely influence the long-term timber supply, it is unlikely that this factor would result in a change in the AAC, at this time. SIBEC information can only be used in conjunction with ecological site mapping, which is available from either predictive ecosystem mapping (PEM) or terrestrial ecosystem mapping. PEM of the Nass TSA was completed in 2004 but did not pass the

¹ Throughout this document, the term “Upper Nass” refers to that portion of the TSA subject to the AAC partition and “Lower Nass” refers to the remaining area of the TSA. The term “South Nass” refers to that portion of the Lower Nass identified in the Nass South Sustainable Resource Management Plan.

chief forester's quality standards for use in timber supply reviews. I note that postponement of the AAC determination at this time could afford staff the opportunity to investigate improvements to the PEM so that it can be used to incorporate SIBEC site indices in the timber supply analysis prepared for the next determination.

I am aware that the Nass South Sustainable Resource Management Plan (SRMP), completed in 2008, was developed to address Gitanyow's strategic land and resource management interests in their traditional territory in the Nass TSA that could be addressed by establishing the SRMP objectives as legal objectives under the Government Actions Regulation of the *Forest and Range Practices Act*, under the Land Use Objectives Regulation of the *Land Act*, or the *Protected Areas of British Columbia Act*. The SRMP includes objectives and targets for water quality and hydrology, biodiversity, botanical forest products, wildlife, fish, and cultural heritage resources and traditional uses. The SRMP also delineates special resource management zones, and proposes the designation of a new protected area – the Hanna-Tintina Conservancy.

Although Cabinet has not issued orders establishing legal objectives under the SRMP, government endorsed the SRMP objectives, as part of the *Gitanyow Land Use Plan* contained in the *Gitanyow Huwilp Reconciliation and Recognition Agreement* signed by the Province and the Gitanyow in 2012. In addition, district staff inform me that all forest stewardship plans are reviewed to ensure that the objectives of the SRMP are addressed. Furthermore, in letters to the district manager, all of the major forest licensees associated with the TSA commit to following the SRMP management objectives as part of their relationship-building and information sharing with the Gitanyow. On this basis, I conclude that the Nass South SRMP objectives, as endorsed by government in the agreement with the Gitanyow and as committed to by licensees, reasonably reflect current management in the portions of the Nass TSA, where the SRMP applies.

In addition to the SRMP, a Government Actions Regulation Order establishing mountain goat ungulate winter range (UWR) within the area of the Nass South SRMP, and areas outside of the SRMP in the Lower and Upper Nass, became effective in 2008. In combination, the Nass South SRMP and the mountain goat UWR in the SRMP area represent about a 12-percent decrease in the available timber supply in the Lower Nass. The mountain goat UWR outside of the SRMP area in the Lower and Upper Nass decreases timber availability by an additional one percent and two percent, respectively.

I am aware that work is currently underway to establish new moose UWR and grizzly bear wildlife habitat areas (WHA) in the Nass TSA. Given the serious concerns regarding declining moose populations in north-western BC, including the Nass TSA, I encourage staff to establish and implement moose and grizzly bear objectives as soon as possible. In the interim, I take some measure of comfort that the Nass SRMP provides management objectives for these species within the area of the TSA subject to the SRMP and that work is currently underway by the Nisga'a Lisims Government (NLG), Gitanyow Nation and FLNR to develop and implement a Nass Wildlife Area Moose Recovery Strategy. I note that postponement of an AAC determination at this time could allow for the completion and implementation of the recovery strategy and new WHAs and that these new requirements could then be considered when the AAC is determined.

I am aware that due to market factors and poor quality timber, there has been significant under-harvesting of the AAC for the Nass TSA. For the ten-year period 2002 - 2011, there was no harvesting in the Upper Nass and minimal harvesting in the Lower Nass. The average harvest level for the seven-year period 2006 – 2012 represents about nine percent of the AAC. This has resulted in the accumulation of over seven million cubic metres of unused volume since 2002. I recognize that the timber supply impact of the SRMP has effectively absorbed about 1.9 million cubic metres of this

unused volume. The remaining unused volume exists as standing timber that continues to contribute to timber supply, which represents a 100-percent increase and a 53-percent increase in available timber in the Upper and Lower Nass, respectively. In May 2013, the regional executive director “reconciled” all unused volume accumulated to December 31, 2010, about 2.8 million cubic metres, making this volume unavailable for disposition under tenure. If the remainder of the unused volume from the previous cut control period remains unused due to low harvest levels, then significant amounts of unused volume will be eligible to be reconciled within five years (or by 2017).

Based on my review of the Section 8 factors, I note that there are three additional factors that may affect timber supply, including: log grade changes; re-stocking of old, fire originated non-sufficiently restocked (NSR) stands not previously contributing to timber supply; and impediments to reforestation due to needle blight (*Dothistroma septosporum*). Of these factors, log grade changes and restocked NSR lands affect short-term timber supply. Log grade changes represent a six-percent increase in the available timber supply in both the Lower and Upper Nass, and the restocking of NSR stands represents a two-percent increase in the available timber supply for the Lower Nass only.

In combination the SRMP objectives and the Government Actions Regulation Order establishing new mountain goat UWRs suggest that the 2001 base case overestimates short-term timber supply by about 13 percent in the Lower Nass and two percent in the Upper Nass. These downward pressures on timber supply are more than offset by the effect of the following factors: the log grade changes (six-percent upward pressure on timber supply); the confirmed stocking of fire origin stands that were previously identified as NSR and not contributing to timber supply (two-percent upward pressure on timber supply); and the significant accumulation of unharvested volume (after accounting for the portion absorbed by the impact of the SRMP represents up to a 53-percent upward pressure on the timber supply for the Lower Nass and up to a 100-percent upward pressure on the timber supply in the Upper Nass). From this I conclude, that the net effect of the upward pressure on timber supply is more than sufficient to offset the 10-percent-per-decade decrease in timber supply projected in the 2001 base case. In addition, the historic and ongoing under-harvest of the AAC means that information regarding the effect of these changes in forest management is limited and further increases the likelihood that a determination at this time is unlikely to result in a significant change in the AAC.

First Nations Consultation

I am aware of the Province’s legal obligation stemming from court decisions to consult First Nations on proposed decisions concerning various forest management decisions. First Nations/Nations whose traditional territories cover all or part of the Nass TSA include: NLG, Gitxsan (various Houses), Gitanyow, Tahltan and Skii Km Lax Ha. District staff informed me that consultation initiation letters were sent to the First Nations/Nations in July 2011 and that these letters were followed up by phone and email. Meetings were held with a Gitanyow representative, Skii Km Lax Ha, and Gitxsan hereditary chiefs/Gitxsan Treaty Society representatives to discuss the timber supply review process and potential postponement of the AAC determination. Comments and/or concerns were addressed by FLNR staff at the meetings or through subsequent correspondence.

In May 2012, letters were sent to all of the First Nations/Nations indicating that I was considering postponement of the AAC determination for the Nass TSA and a date for response was provided. Intended decision letters were sent in January 2013, to First Nations/Nations indicating that I was moving towards a decision on the postponement and that I would send a decision outcome letter once the decision was completed.

I would like to thank the Tahltan Nation, Skii Km Lax Ha First Nation, Gitxsan First Nation, Gitanyow Nation and the NLG for their participation in this process and I have considered all of the information

provided that relates to timber supply and this postponement decision. I have also considered the responses provided by district staff and in addition to their responses, I note the following:

- Gitxsan expressed concern that the harvest level in the Nass TSA may not be sustainable if harvesting is focused on pockets of good quality timber rather than the broader profile used to define the timber harvesting land base. Gitxsan also questioned why the AAC is not being reduced immediately by ten percent in recognition of the 2001 base case projection (NLG made a similar comment). District staff suggested, and I concur, that the 200,000-cubic metre partition for the Upper Nass significantly reduces the risk of overharvesting better quality timber. In addition, the recent harvesting in the Lower Nass represents only 17 percent of the AAC for this area and this further reduces the risk. Due to the low level of harvesting, the majority of the growing stock assumed to contribute to timber supply during the first decade in the 2001 base case remains available for harvest. Consequently, the projected 10-percent decline in harvest levels will occur later than indicated in the 2001 base case.
- Gitanyow expressed concern regarding timber harvesting sustainability and the apparent concentration of harvesting within the Gitanyow Territories and want to see a timber supply analysis to support determination of a Gitanyow Territories AAC, partitioned at the Wilp level. In response, I note that the SRMP contains sustainability objectives, including: equivalent clear cut area limitations by watershed; patch size distribution recommendations; and seral stage targets for landscape units by biodiversity emphasis options. As discussed earlier, the SRMP objectives are being implemented by the district and forest licensees. Postponement of the AAC determination could provide time for the Gitanyow and the Province to work through the *Gitanyow Huwilp Recognition and Reconciliation Agreement*, and to define strategically and operationally the concept of Wilp sustainability. The results, where applicable, could be incorporated in the timber supply review and considered during the AAC determination. Regarding a Gitanyow Territories AAC, the chief forester's authority to determine AACs is restricted to timber supply areas (TSA) and tree farm licences (TFL); however, the chief forester does have the authority to establish partitions in the TSA/TFL-level AAC for particular geographic areas and/or timber types, as evidenced by the current AAC partition.
- The NLG maintain that the current AAC determined in 2002 and 2007 AAC determination postponement did not satisfy the *Nisga'a Final Agreement* (NFA) consultation requirements. Furthermore, the NLG indicate that it was not provided with all of the relevant information and potential adverse environmental impacts associated with this current decision. FLNR staff maintain that the consultation requirements for the two previous decisions were met and that they are continuing to follow the NFA in consultation efforts with the NLG.
- The NLG acknowledge that the significant undercut accumulated since the 2002 AAC determination is an important consideration when deciding to postpone the AAC determination. However, based on the limited information received, the NLG has concerns regarding extension of the current AAC. NLG is concerned that this decision will have adverse environmental effects on Nisga'a interests such as: commercial recreation tenures; angling guide licences; cultural and heritage values; fish/fish habitat/fish management and wildlife/wildlife habitat/wildlife management. I agree with the response provided by the district, namely that AAC determination postponement is a strategic administrative decision and as such, does not directly approve any of the 'on the ground' activities listed above. District staff indicated that subsequent decisions related to this strategic administrative decision will be consulted upon with the Nisga'a Nation as per the NFA, the Interim Protocol, and the General Protocol currently under negotiation.
- The NLG indicated that the last *Vegetation Resources Inventory (VRI) Strategic Inventory Plan for the Nass TSA* (2007) identified the need for a new inventory and that government has not

allocated the necessary resources for this work. In response, district staff noted that government is currently directing inventory funding to those areas of the province that were impacted by the mountain pine beetle epidemic. For the purposes of this decision, I accept that the current inventory is the best available information and as such would be used in any timber supply review undertaken in support of an AAC determination at this time.

- The NLG noted that since the current AAC was determined there have been significant changes, such as implementation of the Nass South SRMP, establishment of new ungulate winter ranges, and forest health factors, such as pine plantation failures due to *Dothistroma* sp. needle blight. Staff have informed me of these changes, and as discussed throughout this document, I have considered their influence on timber supply and any influence they might have on the current AAC.

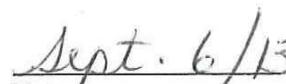
Overall, in reviewing the consultation processes and responses received from First Nations, I am satisfied that the appropriate measures were taken by the district to consult First Nations regarding this postponement decision. In addition, I note that district staff continue to be available to meet and consult with First Nations on specific issues which can be addressed at the operational planning level. If additional new information becomes available that may affect timber supply, I am prepared to re-visit the Nass TSA allowable annual cut determination.

In view of the historic and current low level of harvest activity, I conclude that postponement of the determination and hence maintenance of the AAC at its current level, represents little or no risk to the timber supply of the TSA. In the event that there is a significant increase in harvest activity, the AAC could be revisited earlier than the postponement date.

Postponement decision

In summary, given the limited availability of new data; limited information regarding the implementation of new forest management requirements; the net upward pressure on timber supply that completely offsets the timber supply decreases projected in the 2001 base case; the low risk to timber supply due to the historic and current under-harvest of the AAC and my knowledge of the timber supply dynamics of this unit, I have determined that the AAC for the Nass TSA would not likely change with a new determination made at this time. Therefore, under my authority as outlined in Section 8(3.1) of the *Forest Act*, I hereby postpone the next AAC determination to a date prior to July 30, 2017 which is 15 years since the last determination. If additional new information becomes available and/or significant changes in forest management requirements or harvesting of unused volumes occurs that may have a significant effect on timber supply, I am prepared to revisit the next Nass TSA determination at an earlier date.


J.D. Peterson RPF
Chief Forester


Date