FIBRE RECOVERY PROCESS

FOREST TENURES BRANCH

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PREAMBLE

The process outlined in this paper was developed by the Forestry Fibre Working Group and may be followed in those Natural Resource Districts (districts) where:

- There is a clear demand for low quality residual fibre from Secondary Users (SUs),
- Residual fibre is available but it is not being used by Primary Harvesters (PHs) or SUs through existing Business to Business (B2B) relationships.

In this situation, there may be lost opportunities to utilize the residual fibre and the Natural Resource District Manager (DM) and Timber Sales Manager (TSM) will use this fiber recovery process to improve fibre utilization.

In districts where the residual timber is being utilized, or where there is no demand, or where removal is clearly uneconomical, or for another reason as determined by the DM/TSM, this process will not be used.

INTRODUCTION

The process outlined in this paper is intended to improve the utilization of lower quality fibre that remains on roads and landings (residual fibre) when primary harvesting is completed. It builds upon a number of current legislative tools (fibre recovery tenures; orders not to destroy timber), and is based on:

- Facilitating the development of B2B relationships between PH and SU wherever possible;
- The timely sharing of information between PH and SUs with respect to fibre needs and potential opportunities to harvest residual fibre; and
- Promoting planning and practices that lead to cost-effective removal of residual fibre (e.g. an integrated or “one pass” harvesting).

While the implementation of this process falls within the existing legislative framework, its implementation and success is largely founded upon the good will and behavior of the parties involved.

It is recognized that the principles of continuous improvement need to be applied to the process, which will include monitoring for efficiency and effectiveness, and making changes when necessary to achieve the desired results. In addition, future updates will focus on identifying, addressing, and relieving PH obligations when SUs are conducting operations on their cutblocks and roads.
For this paper, the definition of PH includes all major licensees (as defined in the Forest Act) and B.C. Timber Sales (BCTS) including timber sale licence (TSL) holders. SU are defined as those parties that require residual fibre. Residual fibre is defined as timber (including slash) left on roads and landings after primary harvesting. It does not address timber that remains dispersed throughout a block after primary harvesting.

PROCESS

STEP 1: PH and SU Information Sharing

- Where there is clear demand for an unused supply of residual fibre within a District/BCTS Operating Area, and SUs are advising that there is economically viable residual fibre available, then the DM/TSM will make it known to all PHs and SUs within the District that there is an expectation that they share operational information (i.e. potential supply and demand for residual fibre). The DM/TSM will make this determination based on input from local primary and secondary users with the understanding that information sharing leads to B2B relationships forming.

- **SU Responsibilities:** The district will maintain a registry of SU interested in residual fibre in the District. It will be the responsibility of the SU to make sure they are on the registry.

- **PH Responsibilities:** On a semi-annual basis, applicable PH(s) will obtain the current list of SUs and send information on future operations directly to those on the list. The information will include the approximate timing of harvest, location, estimated total volume/species of the original stand, contact information and any other information the PH or potential PH believes may be relevant (access, operational issues etc.).

- In addition to the above, the PH should share information by utilizing any or all of the following.
  1. Discussions at timber supply area (TSA) steering committee if it includes broad based licensee representation.
  2. Advertising in local papers.
  3. Meetings with SUs.
  4. Posting to a dedicated website.

  The best approach to share information between SU and PH should be tailored to the specific district.

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1 Applicable PH – this will vary by district and may include larger licensees, or all licensees including woodlots, first nation woodland licences, and community forest agreements. Direction should be sought from the district manager.
• The notice, advertisement or sales schedule posting must include a deadline for a SU to express interest in the residual fibre (suggest this be 30 days from the date of the advertisement).

• The DM may choose to take on the role of assisting with information sharing between SU and smaller licensees (WL; CFA; FNWL) or other industrial activities that requires the harvesting of Crown timber.

**BCTS:**

• The TSM, as part of the posting of the annual sales schedule will seek input from the SUs on the proposed BCTS sales they maybe interested in obtaining residual fibre from. Posting of the sales schedule is normally done before April 1 of each year.

**STEP 2: B2B negotiated between PH(s) and SU(s)**

• SUs that are interested in accessing residual fibre must contact each PH and express that interest within the timeframe included in the letter from the PH, advertisement or sale schedule.

• PH and SU will negotiate B2B agreements to remove and use the residual fibre.

• Both parties should make all reasonable attempts to successfully conclude agreements.

• The PH has full discretion as to which SU(s) to do business with.

• The DM is not part of these discussions.

**BCTS:**

• SUs that are interested in accessing the residual fibre must contact the TSM and express their interest within the specified timeframe.

• If the TSM is satisfied there is a good business case to remove the residual fibre than the following statement will be added to the TSL tender package:

  **Fibre Utilization Opportunities**

  TSL AXXXXXX is located geographically close to the city/town/village/community of XXXXX and there is significant interest regarding the utilization and disposal of non-sawlog and residual fibre in this area. The TSL holder is encouraged to maximize fibre utilization. Opportunities exist for, and BCTS encourages and fully supports, B2B relationships that address non-sawlog and fibre utilization as a means to debris disposal

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2 Including this information in the TSL document does not add any authority or requirement that is additional to what is currently supported by legislation. i.e. do not destroy orders can be placed on TSLs without this statement in the tender.
obligations for this TSL. Contact BCTS to discuss opportunities, prior to bidding. If demand for residual fibre exists at the TSL holder may be ordered to declare their whether or not they intend to abandon residual fibre and this may include a do not destroy order.

- The SU should approach the successful TSL applicant and attempt to enter into a B2B relationship for the removal of the residual fibre.

If negotiations are successful then business may carry on and the DM/TSM has no reason to be involved.

If negotiations are not successful the process moves on to the next steps, which would generally be initiated by the SU through an application to the DM/TSM.

**STEP 3: Fibre Recovery Review**

- The DM/TSM may conduct a review of the potential for accessing and using the residual fibre in question.

- The review will include:
  
  i. An assessment of the business case for the fibre being removed. In making this assessment the DM/TSM should examine the current level of utilization of residual fibre in the area. Higher levels of utilization would indicate that the fibre could potentially be removed.
  
  ii. Whether the PH and SU have made reasonable efforts to share information and establish B2B relationships as outlined in earlier steps.
  
  iii. The reasons that B2B relationships have not developed.

- The outcome of the review may result in the DM or the TSM doing any of the following:

  - No further action (no reasonable opportunity exists to utilize the residual fibre);
  
  - Encourage the PH and SU to make another attempt at negotiating a B2B arrangement; or
  
  - Implement regulatory tools as outlined in step 4 (only where there is a reasonable opportunity to utilize the residual fibre).

- For BCTS this step assumes a TSL has been issued, there is an interest in the residual fibre from a SU, and the TSL holder has indicated they do not intend to use the fibre and they have not entered into a B2B arrangement with a SU.
STEP 4: Implementation of regulatory tools

The DM/TSM may decide to do any of the following:

1. Establish a Fibre Recovery Zone (FRZ) – see below for explanation;

2. Issue one or more Fibre Recovery Tenures to the SU (do not utilize a Do Not Destroy Order).

3. Issue a Do Not Destroy Order(s) to the PH(s) and one or more Fibre Recovery Tenures to the SU(s); or

4. Issue a standalone Do Not Destroy Order(s) to the PH(s);

Note – a FRZ can be used as a standalone tool, or in conjunction with Do Not Destroy Orders, and/or Fibre Recovery Tenures. In addition, different tools may be applied to individual licences, parts of licences, or specific blocks depending on the circumstances.

Fibre Recovery Zone

A FRZ is a geographic area that can cover the whole or any part of a District. A FRZ has no legal standing, but in establishing a FRZ the DM is informing applicable parties of the intention to facilitate the improved utilization of fibre within the FRZ. This may lead the DM/TSM requiring that applicable PH provide notice in accordance with Forest Act section 79.1 that they have abandoned or intend to abandon the residual fibre. It is not a legal requirement for the DM to establish a FRZ in order to use the regulatory tools described above.

Do Not Destroy Order(s) to the PH and issuing one or more Fibre Recovery Tenures to SU(s)

• This option includes engaging the notification process under S.79.1, and establishing a Fibre Recovery Zone and issuing a Do Not Destroy Order and issuing one or more FRTs.

• The result of awarding rights under a Fibre Recovery Tenure is that one specific SU will be awarded the rights to the fibre and the PH being relieved of hazard abatement obligations. These obligations are automatically transferred to the SU when the Fibre Recovery Tenure is issued.

• Forest Tenure Branch has a website dedicated to Fibre Recovery Tenures. Among other things, a detailed “Fibre Recovery Tenures Administrative Guide” is posted on the site at http://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm. The Administrative Guide will be updated from time to time to address areas of concern as more experience is gained using the Fibre Recovery Process.
Fibre Recovery Tenures without Do Not Destroy Orders

- This decision includes engaging the notification process under S.79.1, and establishing a Fibre Recovery Zone and issuing fibre recovery tenures but without issuing a Do Not Destroy Order. Using this option is applicable where there are no concerns that the PH will destroy the residual fibre before it could be removed by the SU.

In most cases, if the PH is cooperating with the SU to ensure residual fibre can be utilized the DM/TSM will issue a Fibre Recovery Tenure to the SU, which will relieve the PH of their hazard abatement obligations.

Standalone Do Not Destroy Orders

- This option includes engaging the notification process under S.79.1, and establishing a standalone Do Not Destroy Order applicable to the PH if the intention is to abandon the residual fibre.

- Prior to issuing a Do Not Destroy Order, a DM should determine the PH(s) that the Order will apply to. The Order should not be applied to PHs who are using the residual fibre or have existing B2B relationships with SH to use the residual fibre.

- The consequences of this option are that the PH will remain responsible for hazard abatement without having the option to destroy the timber to meet those obligations.

- While this narrows the options for the PH, it maintains the discretion with the PH as to how they ultimately deal with the fibre and who they may employ or conduct business with to address the fibre situation.

Considerations that a DM/TSM will make when deciding which tool(s) to implement:

- The preferences of the PH and SU.

- Whether the PH has left the material in accordance with guidelines so that the recovery of the material by a SU is as efficient as possible. If they have, the DM may be more likely to issue the Fibre Recovery Tenure. If they have not, the DM may be more likely to end the process with an “Order Not to Destroy Timber”.

- The level of cooperation and reasonableness has been displayed by the PH and SU throughout the process to date. An uncooperative/unreasonable PH may support a Do Not Destroy Order only and an uncooperative/unreasonable SU may support a tenure offer only.

- The proportion of the residual fibre the SU wants - if it is only a small proportion, a Fibre Recovery Tenure over that material may be the best solution. Alternatively, if the SU is
indicating that they will take most or all of the material and do not destroy order only may be the best alternative.

- Whether there is more than one SU interested in the residual fibre. If there is, a competitive award of a Fibre Recovery Tenure may be warranted.
APPENDIX A
SECTION 79.1 OF THE FOREST ACT

Order respecting notice

(1) During the term of an agreement under section 12, the minister may order that the agreement holder must notify the minister, in accordance with the requirements specified in the order, whether the agreement holder has abandoned or intends to abandon any rights the agreement holder has in respect of Crown timber that has been cut under the agreement but has not been removed from an area specified in the order.

(2) If an agreement holder referred to in subsection (1) notifies the minister that the agreement holder has abandoned or intends to abandon the rights referred to in subsection (1), the minister may order the agreement holder not to destroy or otherwise deal with the Crown timber referred to in that subsection.

(3) If an agreement holder referred to in subsection (1) notifies the minister that the agreement holder has not abandoned and does not intend to abandon the rights referred to in subsection (1), the minister may order the agreement holder not to destroy the Crown timber referred to in that subsection, if the minister is satisfied that a market exists for that Crown timber.

(4) A person to whom an order under this section has been given must comply with the order.

Note: Templates for DM orders under S. 79.1 are included in the “Fibre Recovery Tenures Administrative Guide” posted on the following website:

http://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm
APPENDIX B

KEY FEATURES OF FIBRE RECOVERY TENURES

Fibre Forestry Licence to Cut (FFLTC)
- Generally used for small, short-term “one-off” operations limited to small areas such as a few cutblocks.
- Term of the licence will likely be less than one year.
- Can be directly awarded.
- Used where a quick turn-around is needed.
- Used to deal with short-term situations.
- Would need to set up.

Implications:
Fibre Forestry Licence to Cut
- Can be used for quick turn-around.
- Can be directly awarded.
- Need to establish a fair practice if more than one SH is interested (i.e. rotating list).
- Should be used to deal with a short-term issue.
- Should be used to deal with relatively smaller-scale operations.
- Could be used to “test drive” the process prior to issuing a FSLTC.
- Could be used to meet the need while a FSLTC is being advertised and awarded.

Fibre Supply Licence to Cut (FSLTC)
- A longer-term licence covering a larger geographic area.
- Overarching licence with fibre recovery permits issued pursuant to the licence.
- Maximum term of the licence is five years.
- Can only be direct awarded under certain circumstances (i.e. to a First Nations pursuant to a treaty-related agreement).
- In all other cases, the FSLTC will be competitively awarded.

Implications:
- With some exceptions must be competitively awarded.
- Takes longer to put into place (FN consultation; advertise; award) (6 months).
- Use if the situation appears to be longer-term issue.
- Puts the rights into the hands of one SU for the established geographic area.
- Should be used for larger-scaled operations (district wide; majority of PH).