



# FOREST ACT BULLETIN

Number 6

September 17, 2020

## Ministerial Orders for Old Growth Designated Areas

Information contained in this bulletin does not constitute legal advice. Practitioners within government should seek legal advice from the Ministry of Attorney General, while practitioners outside government should seek independent legal advice. Users of the bulletin should also always refer to the particular wording of the legislation and regulatory requirements referred to in the bulletin for the exact legal wording of the requirements.

DATE of previous FOREST ACT BULLETIN # N/A

### 1.0 Legislative Reference:

- Part 13 *Forest Act*.
- Ministerial Order M338 for Old Growth Order Designated Area No 1 BC Reg # 228/2020 [https://www.bclaws.ca/civix/document/id/oic/oic\\_cur/m0338\\_2020](https://www.bclaws.ca/civix/document/id/oic/oic_cur/m0338_2020)
- Order in Council 500 for Old Growth Order Designation Area No 1 Regulation [https://www.bclaws.ca/civix/document/id/oic/oic\\_cur/0500\\_2020](https://www.bclaws.ca/civix/document/id/oic/oic_cur/0500_2020)

### 2.0 Purpose:

To ensure harvesting operations within the Old Growth Designated Areas is consistent with the Ministerial Order.

### 3.0 Background:

On September 11, 2020, Order in Council 500 of 2020 took effect, establishing the Old Growth Designated Area No. 1 under Section 169 of the *Forest Act* (Part 13 Designation Order). The map of Old Growth Designated Area No .1 has a file name Old\_Growth\_PT13\_No1\_20200722 with GEOBC. Subsequently, the Minister of Forests, Land, Natural Resource Operations and Rural Opportunities (FLNRORD) issued an Old Growth Part 13 Designated Area Order in relation to nine of the areas designated under the Part 13 Designation Order that will be in effect until August 31, 2022 (the Minister's Order). Specifically, the Minister's Order does not apply to the area of Crown land shown outlined in heavy black and shaded grey on the map titled "Central Walbran Valley" in Schedule 2 of this Order included in the Part 13 Designation Order. The Minister's Order applies to all other areas designated under the Part 13 Designation Order. The purpose of the Minister's order is to ensure that old growth timber in the designated areas, an area totalling 352,739 hectares, are protected from forestry activities while the Province undertakes consultations respecting long-term management of old growth may proceed.

#### **4.0 List of old-growth areas subject to Minister's Order:**

1. Clayoquot Sound: 260,578 hectares. Renowned for its beauty and range of resource values, typical forests of the very wet Coastal Western Hemlock zone, with western hemlock, western red cedar, yellow cedar, balsam, berries, ferns and moss.
2. Crystalline Creek: 9,595 hectares. A tributary of the south fork of the Spillimacheen River, an intact watershed with wetland complexes and old and mature forests.
3. H'Kusam: 1,050 hectares. Pronounced kew-sum, this easily accessible area contains outstanding examples of culturally modified trees and intact stands of old-growth cedar.
4. Incomappleux Valley: 40,194 hectares. Inland rainforest with intact riparian habitats, more than 250 lichen species, lowland forests and old-growth forests estimated to be between 800 and 1,500 years old.
5. McKelvie Creek: 2,231 hectares. Intact valley of old-growth temperate rainforest and intact watershed providing rich wildlife and salmon habitat.
6. Seven Sisters: 4,510 hectares. A complete elevation sequence of forested ecosystems, with a blend of coastal, interior and northern features, habitat for many red- and blue-listed wildlife species.
7. Skagit-Silver Daisy: 5,745 hectares. Largely intact transition forest between coastal and interior types, with species representative of both, including sub-alpine fir, western and mountain hemlock, western red and yellow cedar and Douglas fir, home to wildlife including spotted owls.
8. Stockdale Creek: 11,515 hectares. Old and mature forests in an intact watershed, an important wildlife corridor with high-value grizzly bear habitat.
9. Upper Southgate River: 17,321 hectares. Coastal rainforest providing a rich habitat for wildlife and multiple species of salmon.

Maps of these old-growth areas immediately subject to the Minister's Order, can be found at:

[ftp://ftp.geobc.gov.bc.ca/sections/outgoing/dss/GeoBC\\_Digital\\_Media/PART13/Old\\_Growth\\_PT13\\_No1\\_20200722/](ftp://ftp.geobc.gov.bc.ca/sections/outgoing/dss/GeoBC_Digital_Media/PART13/Old_Growth_PT13_No1_20200722/)

#### **5.0 Interpretation and Practice Requirements:**

The Minister's authority to issue the Minister's Order is in accordance with Section 170 (2) of the *Forest Act* which is within Part 13 of the Act.

The Minister's Order effectively suspends all harvesting rights under the *Forest Act* and *Forest and Range Practices Act* within the designated areas where the forest cover projected stand age (i.e. projected Vegetation Resource Inventory (VRI) stand age as of "today") as determined by FLNRORD is greater than 212 years for the natural disturbance type 1, 2, and 4, and greater than 119 for the natural disturbance type 3. Licensees are required to stop all active timber falling operations within these areas immediately. District Managers and Licensees should work together to ensure notification is provided to the District Manager for all cutting authorities when and where operations have been suspended.

The Minister's Order also directs decision makers not to issue harvesting authorities in the designated areas where the forest cover projected stand age is greater than 212 years for the natural disturbance type 1, 2, and 4, and greater than 119 for the natural disturbance type 3.

The active cutting authorities that are not suspended or for which new authorities may be issued are for the following circumstances:

- Harvest of second growth, or the removal of previously felled old growth.
- Free use permits for indigenous or personal use (i.e. firewood or single Christmas Tree) (section 48 (1), (a.1), (b), (g) or (h) of the *Forest Act*)
- Salvage activities under licence to cut issued under section 47.6 (2)(d) of the *Forest Act* that pertains to the cutting, damage or destruction of standing timber described in section 2 (1) of the Licence to Cut Regulation or a cutting permit, timber sale licence or forestry licence to cut referred to in section 72 (2) of the *Forest Act*, as that permit or licence pertains to the cutting, damage or destruction of standing Damaged Timber .
- Maintenance and deactivation of existing roads.

The Minister's Order does not apply to the cutting, damage or destruction of timber under the *Park Act*, *Wildfire Act*, or the *Transportation Act*.

The attached diagram (Figure 1) illustrates an example of the area that would not be permitted for harvest with the designated area. The hatched area represents a stand of trees within the one cut block of a cutting permit that must not be harvested as it contains trees that are greater than 212/119 years of age according to the VRI. If the holder of the cutting authority wishes to proceed with harvesting of the surrounding trees outside the suspended harvest area, licensees are advised to contact the local forest district to discuss the specific harvest proposal.

#### **6.0 Roles and Responsibilities:**

Licenseses: must suspend all operations within Old Growth Designated Area that the projected stand age is 212 years today for Natural Disturbance Type 1, 2, and 4 or 119 years today for Natural Disturbance Type 3.

Forest Tenures Branch staff: support and continue to provide guidance on the interpretation of this legislation to stakeholder including FLNRORD staff

Area Tenures staff: communication to District staff

District/Compliance and Enforcement staff: compliance and enforcement of this Minister's Order

District Manager/Regional Executive Director ensure consistency with the Minister's Order

Other Agency staff, including FLNRORD Branch staff: continue to evaluate the implementation of the Minister's Order

## 7.0 Attachments/References:

- Figure 1: Example of a suspended area within a cutting permit located in a Old Growth Designated Area
- maps on file with GeoBC, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, with the file name Old\_Growth\_PT13\_No1\_20200722  
[ftp://ftp.geobc.gov.bc.ca/sections/outgoing/dss/GeoBC Digital Media/PART13/Old Growth PT13 No1 20200722/](ftp://ftp.geobc.gov.bc.ca/sections/outgoing/dss/GeoBC_Digital_Media/PART13/Old_Growth_PT13_No1_20200722/)
- Biogeoclimatic layer including Natural Disturbance Type  
<https://catalogue.data.gov.bc.ca/dataset/bec-map>

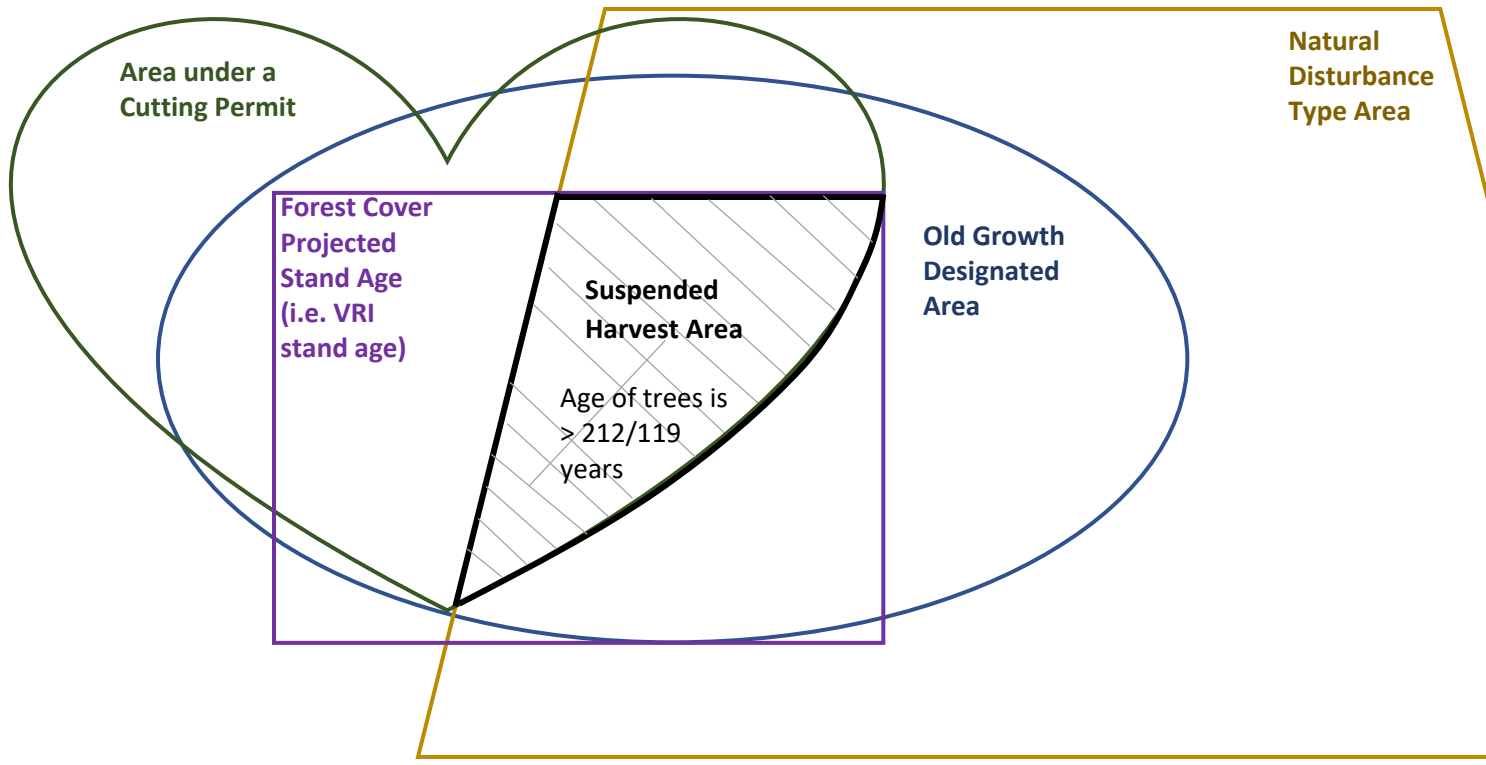


Figure 1: Example of a suspended area within a cutting permit located in a Old Growth Designated Area