

File: 10350-00

October 17, 2006

VIA EMAIL

To: All Regional Executive Directors
All District Managers
All Branch Directors

From: Jim Langridge
Director
Resource Tenures and Engineering Branch

Re: Decision Making Authority under Section 47.3 of the *Forest Act*

A new *Forest Act* General Bulletin, "Decision Making Authority under Section 47.3 of the *Forest Act*" (Act) has just been completed. This bulletin provides provincial direction to regional executive directors to exercise the minister's authority found under Section 47.3 of the Act, if the minister has already entered into an agreement with the First Nation respecting treaty-related measures, interim measures or economic measures.



Electronic copies will be made available on the RTEB Intranet website shortly at the following address:

<http://gwww.for.gov.bc.ca/hth/timten/forest-act-bulletins.htm>

If you have any questions regarding this bulletin, please contact Dennis McPhail, Senior Timber Tenures Forester, Resource Tenures and Engineering Branch at (250) 387-8330.

A handwritten signature in black ink, appearing to read "Jim Langridge".

Jim Langridge
Director
Resource Tenures and Engineering Branch

Attachment(s): 1

pc: Bob Friesen, Assistant Deputy Minister, Tenure and Revenue Division
Darrell Robb, Director, Aboriginal Affairs Branch
Jim Gowriluk, Manager, Timber Tenures, Resource Tenures and Engineering Branch
Dennis McPhail, Senior Timber Tenures Forester
Resource Tenures and Engineering Branch
Rhonda Morris, Negotiator, Aboriginal Affairs Branch

Decision Making Authority - Section 47.3 of the *Forest Act*

*This bulletin is provided for the information of Forest Service staff, primarily regional executive directors and district managers. While every effort has been made to ensure accuracy, this bulletin is only intended to provide an overview. It should **not** be interpreted as ministry policy or legal advice, and it should **not** be used in place of the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act, the Forest Act, the Range Act or their associated regulations.*

Purpose

The purpose of this bulletin is to provide guidance and streamline the administration and issuance of direct award forest tenures under Section 47.3 of the *Forest Act* (Act) in order to more effectively deliver direct award harvesting rights to First Nations and other impacted persons.

It does this by providing direction to Regional Executive Directors to exercise the Minister's authority found under section 47.3 of the Act, if the Minister has already entered into an agreement with the First Nations respecting treaty-related measures, interim measures or economic measures.

What is the Issue?

Current process requires the Minister to make several decisions, or to formally direct others to undertake specific actions. These include; entering into an FRO or similar forest tenure, inviting applications from a First Nation, and directing the Regional Executive Director or District Manager to enter into the direct award agreement. This process is overly bureaucratic and is not necessarily the most efficient and timely method of delivering forest tenure opportunities to First Nations.

Legislative Reference and Description

Section 47.3 allows the Minister of Forests and Range to invite applications from First Nations for a forest licence, community salvage licence, woodlot licence or forestry licence to cut, and to direct the Regional Executive Director to enter into the licence, if this licence is entered into to further an agreement between the First Nation and the government respecting treaty-related measures, interim measures or economic measures, i.e. Forestry and Range Opportunity Agreement (FRO). This section is also applicable to non-First Nations persons impacted by treaty-related measures, interim measures, etc.

Discussion

Section 1(2) of the *Forest Act* provides for an appropriate official of the Ministry of Forests and Range to deal with matters identified as the decision of the Minister. Legal counsel from the Ministry of the Attorney General is of the opinion that, although not free from doubt, Section 1(2) provides a basis on which to have a Regional Executive Director exercise the authority of Section 47.3 of the Act, once the Minister has entered into an agreement (i.e. FRO) that provides a First Nation with an opportunity to apply for direct award tenures. The Minister has already indicated his intent, by signing an agreement to provide direct award tenure and the associated invitation, that the First Nation be awarded the committed forest tenure.

Contacts

For more information or any questions regarding this update, please contact:

Resource Tenures and Engineering Branch:

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