

SBFEP Carry Forward

It is Interfor's contention that the SBFEP does not have the legislative authority to accumulate carry forward volume for sale in a subsequent Management Plan or from year-to-year. Interfor's rationale is based on the following:

- The TFL 45 licence document, dated January, 2000 states:
 - 1.09 *Each* year during the term of this Licence, the Regional Manager or the District Manager may dispose of the following volumes of timber of a type specified in paragraph 1.03¹ from a type of terrain specified in paragraph 1.04², provided the timber is within areas of Schedule B Land agreed to under paragraph 1.12 or specified under paragraph 1.13:
 - subject to paragraph 1.17, 10 080 m³ of the allowable annual cut, under non-replaceable timber licences; and . . .
 - 1.12 Subject to paragraph 1.13³, the District Manager and the Licensee will agree upon areas of Schedule B Land for the purposes of paragraphs 1.09, 1.10, 1.11, and 1.18, having regard to:
 - the management plan in effect under this Licence and the forest development plan approved in respect of this Licence,
 - any potential interference with the operations of the Licensee under this Licence, and . . .
 - 1.15 The Regional Manger will only specify an area under paragraph 1.13, and the Minister will only delete an area under paragraph 1.14, where the Regional Manager or the Minister, as the case may be, is satisfied that the specifying or deleting the area will not
 - compromise the management plan in effect under this Licence or a forest development plan approved in respect of this Licence, or
 - unreasonably interfere with the Licensee's operations under this Licence.
- In accordance with Licence document, paragraph 1.09 clearly states that the volume available for disposition, or sale, is only available *each* year. There is no stated provision in the licence document that provides the District Manager or the Regional Manager the ability to offer for sale volume in excess of the volume specified in 1.09(a) in any one year.
- Further, in accordance with Licence document, paragraph 1.12 states that areas disposed of must have regard for the Management Plan in effect under this Licence.
 - The Chief Forester has determined AAC based on timber supply analysis. The timber supply analysis includes any SBFEP undercut volume in the standing inventory, and the projected harvest, therefor any undercut SBFEP or Licensee is lost opportunity.

¹ Section 1.03 defines the type of timber on Schedule A and Schedule B lands

² Section 1.04 defines the type of terrain on Schedule A and Schedule B lands

³ Section 1.13 states that if the District Manager and the Licensee are unable to agree, the Regional Manager will specify the areas, having regard for 1.10 and 1.14

- An attempt to carry forward volume on the part of the SBFEP will compromise rate of cut considerations with respect to seral stage management and may unreasonably effect future harvest flow opportunities.
- In consideration of the above rationale, and the following points it is reasonable to consider that the SBFEP “obligation period” coincides with the term of the management plan in effect:
 - SBFEP has no cut control period;
 - The volume available to SBFEP each year arises as a result of the authority of the TFL licence document;
 - The TFL licence document requires the preparation of a Management Plan; and
 - Area and volume made available to SBFEP must have regard for the Management Plan in effect.

Furthermore, the strict definition of the term “each” is . . . “regarded separately”⁴ or “considered individually”⁵. In conclusion, there is no legal basis for the sale of volume, each year, in excess of volume indicated and apportioned according the Management Plan approval letter.

⁴ The Pocket Oxford Dictionary, 8th Edition, 1992

⁵ Funk & Wagnalls Standard Dictionary, 1980