

## **Area-Based Allowable Annual Cut Trial Program Agreement for TFL 57**

THIS AGREEMENT, dated October 4, 2004

BETWEEN:

The DEPUTY MINISTER OF FORESTS, on behalf of  
HER MAJESTY THE QUEEN IN RIGHT  
OF THE PROVINCE OF BRITISH COLUMBIA,  
(the "Deputy Minister")

AND:

Iisaak Forest Resources Ltd.  
(the "Licensee")

WHEREAS:

- A. The Licensee is the holder of Tree Farm Licence 57.
- B. On October 27, 1999, the Minister of Forests gave his consent to the transactions leading to the creation and transfer of TFL 57 from Weyerhaeuser Company Limited to Iisaak Forest Resources Limited. Consequently, administrative adjustments were required for the AACs of TFLs 44 and 57.
- C. On January 31, 2000 the deputy chief forester rendered a decision relative to the AACs of TFLs 44 and 57 as recorded in the "Record of the administrative adjustment of the AAC for TFLs 44 and 57."
- D. As a result of the administrative adjustment on January 31, 2000, the allowable annual cut for the tree farm licence area was set at a maximum level of 123 800 m<sup>3</sup> with the understanding that the actual volume achieved would be dependent on the outcome of the Clayoquot Sound Scientific Panel Watershed Planning Process.
- E. The Licensee has advised the Ministry of Forests that it is interested in participating in a trial program pursuant to which the next allowable annual cut determination for the tree farm licence area would be based on the amount of land from which timber is to be harvested annually, rather than the volume of timber that is to be harvested.
- F. The Licensee has agreed to provide such additional information and analyses as the Chief Forester may require to make an area-based allowable annual cut determination.
- G. Authority to implement the trial program rests with the Lieutenant Governor in Council, under section 151.3 of the *Forest Act*.

THE PARTIES agree as follows:

## **1.00 ESTABLISHING THE TRIAL PROGRAM**

- 1.01 If the regulation referred to in paragraph 1.04 is enacted, and subject to its provisions, the parties will implement a trial program, pursuant to which
- (a) the entire tree farm licence area covered by Tree Farm Licence No. 57 will be established as a trial management unit for the purposes of the trial program,
  - (b) during the period that the tree farm licence area is established as a trial management unit, the allowable annual cut will be determined on the basis of the amount of land from which timber is to be harvested annually, and
  - (c) during the period that the tree farm licence area is established as a trial management unit, Tree Farm Licence No 57 will be administered in a manner that is consistent with the area-based allowable annual cut referred to in subparagraph (b).
- 1.02 The parameters and goals that will provide the basis for recommendations respecting the trial program, which will be made to the Lieutenant Governor in Council under paragraph 1.04, are set out in Appendix 1.
- 1.03 The term of this Agreement
- (a) begins on October 25, 2004 and
  - (b) ends on the earlier of the following:
    - (i) the date on which the trial program is terminated under Part 2.00;
    - (ii) the date on which the regulation referred to in paragraph 1.04 is repealed;
    - (iii) the date on which the regulation referred to in paragraph 1.04 is amended to rescind the establishment of the tree farm licence area as a trial management unit;
    - (iv) the date on which section 151.3 of the *Forest Act* is repealed.
- 1.04 Subject to paragraph 1.05 (a), the Deputy Minister will recommend to the Lieutenant Governor in Council that a regulation be enacted under section 151.3 of the *Forest Act* to
- (a) implement the trial program, in a manner that is consistent with the parameters and goals referred to in paragraph 1.02,
  - (b) vary the *Forest Act* to the extent necessary for this purpose,
  - (c) establish the tree farm licence area as a trial management unit for the purposes of the trial program, and
  - (d) vary Tree Farm Licence No. 57 to the extent provided for in this Agreement.
- 1.05 The Deputy Minister will consult the Licensee prior to

- (a) making the recommendations referred to in paragraph 1.04, provided the Licensee
    - (i) abides by applicable confidentiality protocols, and
    - (ii) if requested to do so, enters into a confidentiality agreement, or
  - (b) implementing such supporting policies or procedures as may be required to implement the trial program, if
    - (i) the regulation referred to in paragraph 1.04 is enacted, and
    - (ii) these policies or procedures could affect the manner in which the Licensee administers Tree Farm Licence No. 57 or otherwise conducts its affairs in respect of the Licence.
- 1.06 Both parties acknowledge that the decision to implement the trial program, by enacting the regulation referred to in paragraph 1.04, rests solely with the Lieutenant Governor in Council.
- 1.07 The following provisions of this Agreement are effective only to the extent the regulation referred to in paragraph 1.04 varies the provisions of Tree Farm Licence No. 57 in accordance with the provisions of this Agreement:
- (a) paragraphs 4.01 through 4.03 inclusive;
  - (b) paragraph 5.01 through 5.04 inclusive;
  - (c) paragraph 6.01 and 6.02.

## **2.00 TERMINATING THE TRIAL PROGRAM**

- 2.01 Subject to paragraph 2.02, the parties may, by mutual agreement, terminate the trial program at any time.
- 2.02 The date on which the trial program is terminated must be no earlier than 60 clear days after the date on which the parties agree that the trial program should be terminated.

## **3.00 EXTENDING THE TRIAL PROGRAM**

- 3.01 If the parties decide, by mutual agreement, that it would be beneficial to extend the trial program beyond the time period currently provided for in
- (a) the regulation referred to in paragraph 1.04, or
  - (b) section 151.3 of the *Forest Act*,
- then the Deputy Minister will recommend to the Lieutenant Governor in Council that appropriate amendments be made to the regulation, or that appropriate legislation be introduced in the Legislature, as applicable.
- 3.02 Both parties acknowledge that the decision to authorize an extension referred to in paragraph 3.01 rests solely with the Lieutenant Governor in Council or the Legislature, as applicable.

#### **4.00 INFORMATION REQUIREMENTS FOR ALLOWABLE ANNUAL CUT DETERMINATIONS UNDER THE TRIAL PROGRAM**

- 4.01 During the trial program,
- (a) information provided by or on behalf of the Licensee under paragraph 2.03 or 2.06 (b) of Tree Farm Licence No. 57, and
  - (b) timber supply analyses provided by or on behalf of the Licensee under paragraph 2.21 or 2.24 (b) of Tree Farm Licence No. 57,
- must be consistent with the Information Requirements Report, and paragraphs 2.04 and 2.22 of Tree Farm Licence No. 57 are deemed to have been amended accordingly.
- 4.02 During the trial program, the following requirements are waived:
- (a) the requirement, under paragraph 2.04 (c) (ii) of Tree Farm Licence No. 57, to identify assumptions respecting growth and yield;
  - (b) the requirement, under paragraph 2.22 of Tree Farm Licence No. 57, to use assumptions respecting growth and yield in a timber supply analysis.
- 4.03 During the trial program,
- (a) the Chief Forester may request that the Licensee submit any information that the Chief Forester reasonably requires to determine an allowable annual cut for the tree farm licence area on the basis of the amount of land from which timber is to be annually harvested, and
  - (b) the Licensee must provide the requested information within a reasonable period of time.

#### **5.00 CUT CONTROL DURING THE TRIAL PROGRAM**

- 5.01 During the trial program, paragraph 6.02 of Tree Farm Licence No. 57 is waived to the extent that the cut control provisions of the *Forest Act*, as varied under the regulation referred to in paragraph 1.04, provide that the Licensee's cut control requirements are to be based on the amount of land from which timber is harvested during a calendar year.
- 5.02 For the purpose of administering the cut control provisions of the *Forest Act*, as amended by the regulation referred to in paragraph 1.04, the parties both acknowledge that the following information is appropriate for use in determining the amount of land from which timber is harvested:
- (a) information that is collected under section 46 of the Timber Harvesting and Silviculture Practices Regulation enacted under the *Forest Practices Code of British Columbia Act*;

- (b) information that is collected under a provision of a regulation enacted under the *Forest and Range Practices Act* that replaces the reporting requirements set out in section 46 of the Timber Harvesting and Silviculture Practices Regulation;
- (c) any other information that the parties, by mutual agreement, decide is appropriate for use in the context of the trial program.

5.03 If the trial program begins or ends part way through a cut control period, the formulae set out in Appendix 2 will be used to determine the licensee's under-cut or over-cut position for the cut control period.

5.04 During the term of the trial program,

- (a) paragraph 5.02 of this Agreement, and
- (b) paragraph 5.03 of this Agreement, including Appendix 2, which is referenced in that paragraph,

are deemed to have been added to Part 6.00 of Tree Farm Licence No. 57 as paragraphs 6.03 and 6.04 respectively of that Licence.

## **6.00 ADMINISTERING THE MINISTRY'S RIGHTS TO THE ALLOWABLE ANNUAL CUT DURING THE TRIAL PROGRAM**

6.01 During the trial program, paragraph 1.09 of Tree Farm Licence No. 57 is deemed to have been replaced by the following paragraphs:

"1.09 Each year during the term of the Licence, the Regional Manager or District Manager may dispose of the following timber of the type specified in paragraph 1.03 from a type of terrain specified in paragraph 1.04, provided the timber is within areas of Schedule B Land agreed to under paragraph 1.12 or specified under paragraph 1.13:

- (a) subject to paragraph 1.17, whichever of the following is applicable, under non-replaceable timber sales licences:
  - (i) 13 410 m<sup>3</sup> of the allowable annual cut, when the allowable annual cut is based on the volume of timber that is to be harvested;
  - (ii) timber located on an amount of land determined in accordance with the following formula, when the allowable annual cut is based on the amount of land from which timber is to be harvested annually:

$$\frac{13\,410\text{ m}^3}{\text{VAAC}} \times \text{AAAC}_1$$

Where

VAAC = the allowable annual cut, expressed in cubic metres, in effective immediately prior to the effective date of the AAAC<sub>1</sub>

AAAC<sub>1</sub> = the first allowable annual cut, expressed in hectares, that is determined by the Chief Forester under the trial program

- (b) either a volume of timber or an amount of area, as applicable, not exceeding one half of one percent (0.5 %) of the portion of the allowable annual cut the Chief Forester determines is attributable to Schedule B Land, under free use permits.

1.09.1 The Deputy Minister will ensure that, during the trial program, the Ministry of Forests,

- (a) exercises the rights conferred under paragraph 1.09, and
- (b) conducts any activities on the tree farm licence area that are associated with those rights,

in a manner that is consistent with the trial program.”

6.02 When, during the trial program, the allowable annual cut for the tree farm licence area is based on the amount of land from which timber is to be harvested annually, a reference to a volume of timber in paragraphs 1.10 (b), 1.14, 1.17, and 1.18 of the Licence is deemed to be a reference to an amount of land from which timber may be harvested.

## **7.00 EVALUATION OF TRIAL PROGRAM**

7.01 The parties will carry out an evaluation of the trial program in accordance with Appendix 3.

7.02 The parties will maintain such records as they decide, by mutual agreement, are required to facilitate an evaluation of the trial program.

7.03 To facilitate the evaluation referred to in paragraph 7.01, the parties will

- (a) share information relevant to the evaluation criteria set out in Appendix 3, and
- (b) review and comment on draft documents describing the results of the evaluation,

in a timely manner.

## **8.00 LIMITATION OF LIABILITY**

- 8.01 Neither party is liable to the other party for any losses, expenses, costs or damages incurred or suffered as a result of
- (a) either party's participation in the trial program, or
  - (b) anything done or omitted by or on behalf of a party in the implementation or intended implementation of the trial program.

## **9.00 MISCELLANEOUS**

- 9.01 The notice provisions set out in Part 18.00 of Tree Farm Licence No. 57 apply to this Agreement.
- 9.02 This Agreement will enure to the benefit of, and be binding on, the parties and their respective heirs, executors, successors and permitted assigns.
- 9.03 Appendices 1, 2 and 3, attached to this Agreement, are deemed to be part of this Agreement.

## **10.00 DEFINITIONS AND INTERPRETATION**

- 10.01 In this Agreement, unless the context otherwise requires,
- (a) "cut control period" means the "5 year cut control period" defined in the *Forest Act*, or any other cut control period provided for in that Act;
  - (b) "*Forest Act*" means the *Forest Act*, R.S.B.C. 1996, c. 157, as amended from time to time, or the successor to this Act if it is repealed;
  - (c) "Information Requirements Report" means the report entitled "Area-Based Allowable Annual Cut Determination Recommended Information Requirements for Tree Farm Licences", dated November 2002, prepared by Friesen Rea and Company and Nemus Consulting;
  - (d) "tree farm licence area" means all of the Schedule A Lands and Schedule B Lands described in Tree Farm Licence No. 57;
  - (e) "Tree Farm Licence No. 57" means the Tree Farm Licence No. 57, dated June 1, 2002, as amended from time to time;
  - (f) "trial management unit" means an area established as a trial management unit, for the purposes of the trial program, under a regulation referred to in paragraph 1.04;
  - (g) "trial program" means a trial program implemented under a regulation referred to in paragraph 1.04, pursuant to which the allowable annual cut for a trial management unit will be determined, in whole or in part, on the basis of the amount of land from which timber is to be annually harvested.

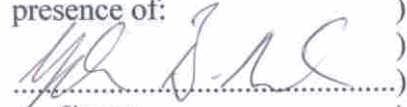
- 10.02 Unless otherwise provided in paragraph 10.01, if a word or phrase used in this Agreement is defined in the *Forest Act*, the regulation referred to in paragraph 1.04, or Tree Farm Licence No. 57, then that definition applies to this Agreement, and where the word or phrase in the Act, regulation or Licence is replaced by a new word or phrase, this Agreement is deemed to have been amended accordingly.
- 10.03 A power or duty of the Deputy Minister under this Agreement may be exercised or carried out by any appropriate official within the Ministry of Forests.
- 10.04 In this Licence, unless the context otherwise requires,
- (a) the singular includes the plural and the plural includes the singular, and
  - (b) the masculine, the feminine and the neuter are interchangeable.
- 10.05 This Licence is divided into parts, paragraphs, subparagraphs, clauses and subclauses, illustrated as follows:
- 1.00 part,
    - 1.01 paragraph,
      - (a) subparagraph,
        - (i) clause,
          - (A) subclause;

and a reference to a subparagraph, clause or subclause is to be construed as a reference to a subparagraph, clause or subclause of the paragraph, subparagraph or clause, as the case may be, in which the reference occurs.

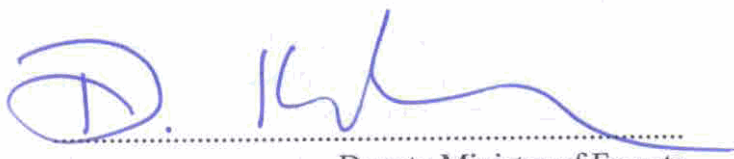


IN WITNESS WHEREOF this Agreement has been executed by the Deputy Minister and the Licensee on the date first written above.

SIGNED by the Deputy )  
Minister on behalf of Her )  
Majesty the Queen in Right )  
of the Province of )  
British Columbia in the )  
presence of: )

  
Signature )

JOHN B. KOCH )  
Printed Name )

  
Deputy Minister of Forests

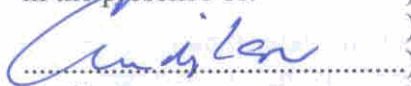
THE COMMON SEAL of )  
the Licensee was affixed )  
in the presence of: )

..... )  
Signature )

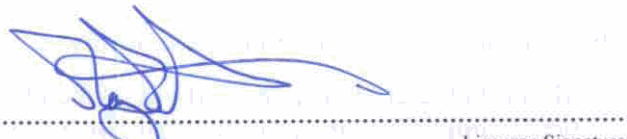
..... )  
Printed Name )

(or)

SIGNED by the Licensee )  
in the presence of: )

  
Signature )

CINDY VERSCHOOR )  
Printed Name )

  
Licensee Signature

R.S. Bartram JBA )  
General Manager )  
Printed Name and Title

## **APPENDIX 1**

### **Parameters and Goals for the Trial Program**

The parameters for the trial program are as follows:

1. The primary focus of the trial program is on the allowable cut determination process rather than on the associated cut control process. While some changes to the cut control process will be required to ensure compatibility with an area-based allowable annual cut determination process, these changes will be limited to the minimum necessary for this purpose.
2. Information submitted in the context of an allowable annual cut determination under the trial program will be assessed for consistency with the recommendations contained in the report entitled, “Area-Based Allowable Annual Cut Determination Recommended Information Requirements for Tree Farm Licences” (Friesen Rea & Company and Nemus Consulting, November 2002).
3. Information submitted in the context of the cut control provisions of the Forest Act, for the purposes of determining the amount of land that is harvested, will be assessed for consistency with the recommendations contained in the report entitled “Defining the Boundary and Content of a Disturbance” (B.C. Forest Service, January 2003).
4. In the context of points 2 and 3 above, “consistency” is not to be confused with “strict adherence”. Licensees are to be afforded reasonable flexibility in exploring alternative approaches to an area-based allowable annual cut determination process, in keeping with the goals set out below and any requirements imposed by the Lieutenant Governor in Council in an regulation enacted to implement the trial program.

The goals for the trial program are as follows:

1. Maintain the credibility and rigour of the allowable annual cut determination process while simplifying the requirements for information and analysis that support area-based allowable annual cut determinations.
2. Simplify the allowable annual cut determination itself.
3. Reduce dependence on growth and yield data, especially for allowable annual cut determinations.
4. Strive for allowable annual cut determinations that are more easily understood by the public.
5. Streamline associated administrative processes wherever possible.
6. Provide forest managers with a greater incentive to maximize the value rather than volume of the forest resource.
7. Ensure information needs are similar for tree farm licences, timber supply areas, and woodlots.

**APPENDIX 2**  
**Determining Overcut Or Undercut When the Allowable Cut Is Based On Volume For Part Of A Cut Control Period And Area For Another Part Of The Same Period**

The following formula will be used for the purpose of determining overcut or undercut during a cut control period referred to in paragraph 5.03 of the Agreement:

$$\text{Overcut or undercut} = (100\% - \text{TC}) \times \text{AAC} \times \text{CPP}$$

Where

Overcut = the product of the formula when TC is greater than 100 %

Undercut = the product of the formula when TC is less than 100 %

TC = the total amount of timber harvested, based either on volume or area, as applicable, expressed as a percentage of the sum of the allowable annual cuts that were available to the Licensee during the applicable cut control period, as determined in accordance with the formula set out below

AAC = the allowable annual cut that is

(a) in effect for the tree farm licence area during the cut control period that immediately follows the cut control period in which the trial program begins or ends, and

(b) is available to the Licensee

CCP = a cut control period during which the amount of timber harvested from the tree farm licence area was regulated by volume for part of period and by area for part of the period

For the purposes of the formula set out above, TC is to be determined in accordance with the following formula:

$$\text{TC} = 100\% \times \left[ \left( \frac{\text{VP}}{\text{CCP}} \times \frac{\text{VH}}{\text{VC}} \right) + \left( \frac{\text{AP}}{\text{CCP}} \times \frac{\text{AH}}{\text{AC}} \right) \right]$$

Where

VP = the sum of the years or fractions of years, as applicable, within the CCP, during which the allowable annual cuts that were in effect for the tree farm licence area were based on the volume of timber that may be harvested

- CCP = a cut control period during which the amount of timber harvested from the tree farm licence area was regulated by volume for part of period and by area for part of the period
- VH = the total of
- (a) the volume of timber that was actually harvested during the VP, and
  - (b) if applicable, the volume of timber that is deemed, pursuant to the cut control provisions of the *Forest Act*, to a volume that was harvested during the CCP
- VC = the sum of the allowable annual cuts, in effect for the tree farm licence area and available to the Licensee, that, during
- (a) a year within the CCP, or
  - (b) a fraction of a year within the CCP, in which case the allowable annual cut is to be pro-rated accordingly,
- as applicable, were based on the volume of timber that may be harvested
- AP = the sum of the years or fractions of years, as applicable, within the CCP, during which the allowable annual cuts that were in effect for the tree farm licence area were based on the amount of land from which timber may be annually harvested
- AH = the total of
- (a) the amount of land from which timber was actually harvested during the AP, and
  - (b) if applicable, the amount of land that is deemed, pursuant to the cut control provisions of the *Forest Act*, to be an area from which timber was harvested during the CCP
- AC = the sum of the allowable annual cuts, in effect for the tree farm licence area and available to the Licensee, that, during
- (a) a year within the CCP, or
  - (b) a fraction of a year within the CCP, in which case the allowable annual cut is to be pro-rated accordingly,
- as applicable, were based on the area from which timber may be harvested

## **APPENDIX 3**

### **Evaluation of the Trial Program**

Evaluation of the trial program will be based on the parameters and goals set out in Appendix 1. The evaluation will involve one or two phases:

1. one or more interim evaluations, which will occur annually or midway through the trial, as determined, by mutual agreement, by the Licensee and the Ministry of Forests.
2. a final and more complete evaluation upon re-determination of the allowable annual cut under the trial program.

These two phases are described in more detail below.

#### *Interim Evaluation(s)*

The Licensee and the Ministry of Forests should assess the success of the trial program during its term to

- (a) identify any policy, procedure, or legislation adjustments which might enable the trial program to better achieve its goals, and
- (b) determine if it is worthwhile to continue the trial program.

In the context of an interim evaluation, consideration should be given to the following:

- |  |  |
|--|--|
| -public acceptance and credibility   | -planning and operational flexibility                                    |
| -quality of forest management  | -administrative procedures and costs                                     |
| -staff satisfaction  | -review of billing records (species, grade and volume)                   |
| -ease of determination of trial allowable cut (entire process from analysis to the determination itself) | -relevance of all the requirements of Section 8 of the <i>Forest Act</i> |
| -cut control   | -certification and development of sustainable forest management plans    |

The above list should not be seen as restrictive, nor should all the items be viewed as obligatory.

### Final evaluation

The final evaluation of the trial program will be carried out during the determination of the allowable annual cut for the applicable trial management unit that follows the first determination based on area. Through the determination process, the Licensee and the Chief Forester will perform a thorough review of management practices, harvest level, stewardship, etc.

Items considered during the interim evaluation(s) that are not specifically addressed in the context of the allowable annual cut determination (for example, those related to tenure administration) should also be reviewed both to evaluate any policy and procedural improvements which may have been made at that time and to allow the opportunity for recommending further improvements if appropriate.

The Ministry of Forests will advise the Lieutenant Governor in Council of the results of the final evaluation so that the government may determine whether or not area-based allowable annual cut determinations should be provided for, on an on-going basis, under the *Forest Act*.