

**Consistency of Logging with the
Robson Valley LRMP**

Complaint Investigation 050650



FPB/IRC/118

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Executive Summary

Background

The Fraser Headwaters Alliance (the complainant) alleged that logging by McBride Forest Industries Ltd. (the licensee) in the Rocky Mountain Trench, between McBride and the Mt. Robson Provincial Park gate, is not consistent with the objectives of a land and resources management plan (LRMP) for the area. The investigation examined visual quality management, logging in an area reserved for recreation, logging in a riparian management area, and preparation of forest development plan (FDP) amendment #20 (which was prepared in a new format).

In 1999, government approved the Robson Valley LRMP,¹ but did not make it a legally-binding higher level plan. Regardless, the licensee committed to follow its direction. In amendment #11 to its FDP, the licensee asked the district manager to allow it to meet a less demanding visual quality objective (VQO), if the licensee thought it could not log and treat the stand for root rot or mountain pine beetle. Although the district manager now has that authority, he did not have it when he approved that variance to the legislated requirements; therefore, the approval contravened the Forest Practices Code. However, the licensee never used that variance when it prepared its site plans for the area.

Besides compliance with legislated requirements, the Board evaluated the effectiveness of the licensee's logging in meeting the VQOs. With three exceptions, the licensee achieved those objectives.

The licensee logged a recreation and conservation management area to treat a chronic mountain pine beetle problem. The Board found that, although the licensee had logged more than just the infested pine trees, the licensee complied with the legislated requirements and was consistent with the LRMP.

The licensee also logged a cutblock within the Fraser River riparian management area. The Board found the licensee did not comply with the legislation when it logged a very small area in the riparian management reserve; moreover, the licensee should have obtained approval from the district manager to build a road in the riparian management area of the river. Both these infractions were minor in nature.

Originally, the complainant asked the Board to seek an administrative review of forest development plan amendment #20. Instead, the Board decided to explore the complexities of the amendment through this investigation. In the amendment, the licensee drew large administrative boundaries around what it calls "blocks" that ranged from 960 to 2800 hectares.

¹ <http://ilmbwww.gov.bc.ca/ilmb/lup/lrmp/northern/robson/toc.htm>

It called the areas to be logged “openings” within the large administrative boundary blocks. The amendment proposed strategies and objectives that the district manager approved for operating with the area.

The Board found that the large administrative boundary blocks are not actual cutblocks; they are more like forest development units in forest stewardship plans (FSP). The amendment needed to show the cutblock locations, whether or not the cutblocks would be clearcut, and the sizes of the cutblocks. Failure to do that compromised the public review and comment process. The licensee failed to comply with *Forest and Range Practices Act* (FRPA) transitional requirements in preparing the amendment, and the district manager failed to comply with the legislation by approving it.

Commentary

The mountain pine beetle epidemic adds one more dimension to an already complex task of managing the forest resource. The Board recognizes that the district is trying to facilitate the licensee’s ability to deal with forest health issues with amendments like amendment #20.

However, FRPA gives licensees and the Ministry of Forests and Range flexibility to deal with forest health issues and VQOs without going outside of the legislative regime.

An FSP under FRPA would also give the licensee flexibility to deal with the mountain pine beetle infestation. However, the licensee chose not to submit an FSP, choosing instead to amend its FDP under FRPA transitional requirements instead.² Besides the problem of not complying with the legislation, allowing the licensee to unilaterally make decisions about balancing the various forest resources is contrary to the intent of the Code, under which government, not a licensee, decides. It became clear during the investigation that a segment of the public believes the licensee has a conflict of interest—the licensee can balance other resource values against their logging interest. That perceived conflict of interest is eroding public confidence in forest management in the Robson Valley.

Complicating matters further is the status of the Robson Valley LRMP. Government approved the plan in 1999. In the intervening six years, circumstances have changed significantly. Now, the licensee is unsure of the LRMP’s relevance because of the recent mountain pine beetle epidemic, and the complainant sees current forest management practices that seem to conflict with the spirit and intent of the LRMP. The Board understands that, through the mountain pine beetle initiative, the Integrated Land Management Bureau (ILMB) will be looking at risks to LRMP values as a result of the mountain pine beetle situation in the Robson Valley. ILMB has hired temporary staff to help with this work and intends to establish and operate a plan implementation committee to help government keep land use plans relevant and current. The

² *Forest and Range Practices Act* (FRPA) transitional requirements are the requirements of the *Forest Practices Code of British Columbia Act* and its regulations that applied immediately before FRPA came into force. They apply until a licensee gets a forest stewardship plan approved under FRPA.

Board suggests that ILMB invite the parties to this complaint to be involved with the plan implementation committee for the Robson Valley LRMP.

Recommendation

The Board recommends that, rather than grandparent the large administrative boundary blocks, the licensee give the public an opportunity for public review and comment on them when it prepares its forest stewardship plan.

The Investigation

The Fraser Headwaters Alliance (the complainant), a local environmental organization in the Robson Valley, asserts that logging activities in the valley by McBride Forest Industries (the licensee) are inappropriate because they do not conform to the Robson Valley Land and Resource Management Plan (LRMP). The complainant is concerned about maintaining the scenic beauty of the area, the impact of logging next to the Fraser River, and logging in a recreation and conservation management area. The complainant also asserts that amendment #20 to the forest development plan (FDP) does not comply with FRPA and asked the Board to initiate an administrative review of amendment #20. The Board declined that request. The Board thought it would be better to explore the complexities of that amendment through a complaint investigation.

The Board investigated the following four issues:

1. Do the licensee's operations in the main trench of the Robson Valley vary from the visual quality objectives (VQOs) of the LRMP? If so, does using different VQOs comply with the *Forest and Range Practices Act* (FRPA)?
2. Does the licensee's harvesting in a recreation and conservation management area (RCMA) comply with the LRMP and FRPA?
3. Is the licensee's harvesting in a riparian reserve zone, and a riparian management zone along the Fraser River, consistent with the LRMP? Does it comply with FRPA?
4. Does amendment #20, approved January 31, 2005, meet FRPA requirements?

Background

In 1999, the provincial government approved the Robson Valley LRMP, but did not declare any part of it to be a higher level plan, which would have given it legal force. Even so, the licensee, in its 2001 forest development plan, committed to being consistent with it.

The LRMP has two resource management areas that are of concern in this complaint. The first is a special resource management zone, the Rocky Mountain Trench RMZ B. This area generally consists of the slopes above the main valley of the Rocky Mountain Trench. The primary objective for RMZ B (all polygons that begin with B in Diagram 1) is to maintain scenic values and wildlife habitat. The LRMP strategies for visual resources include partial cutting, minimizing road development, promoting early detection and rapid treatment of pests, and using computer simulations to predict visual impacts.

The second area consists of the valley bottom - the Settlement/Agriculture RMZ A³ (area marked A in Diagram 1). It includes traditional agricultural and settlement areas. It also includes area designated in a Crown Land Plan. The LRMP intent for this RMZ is to manage it as a Settlement/Agriculture RMZ, while recognizing wildlife and fisheries values.

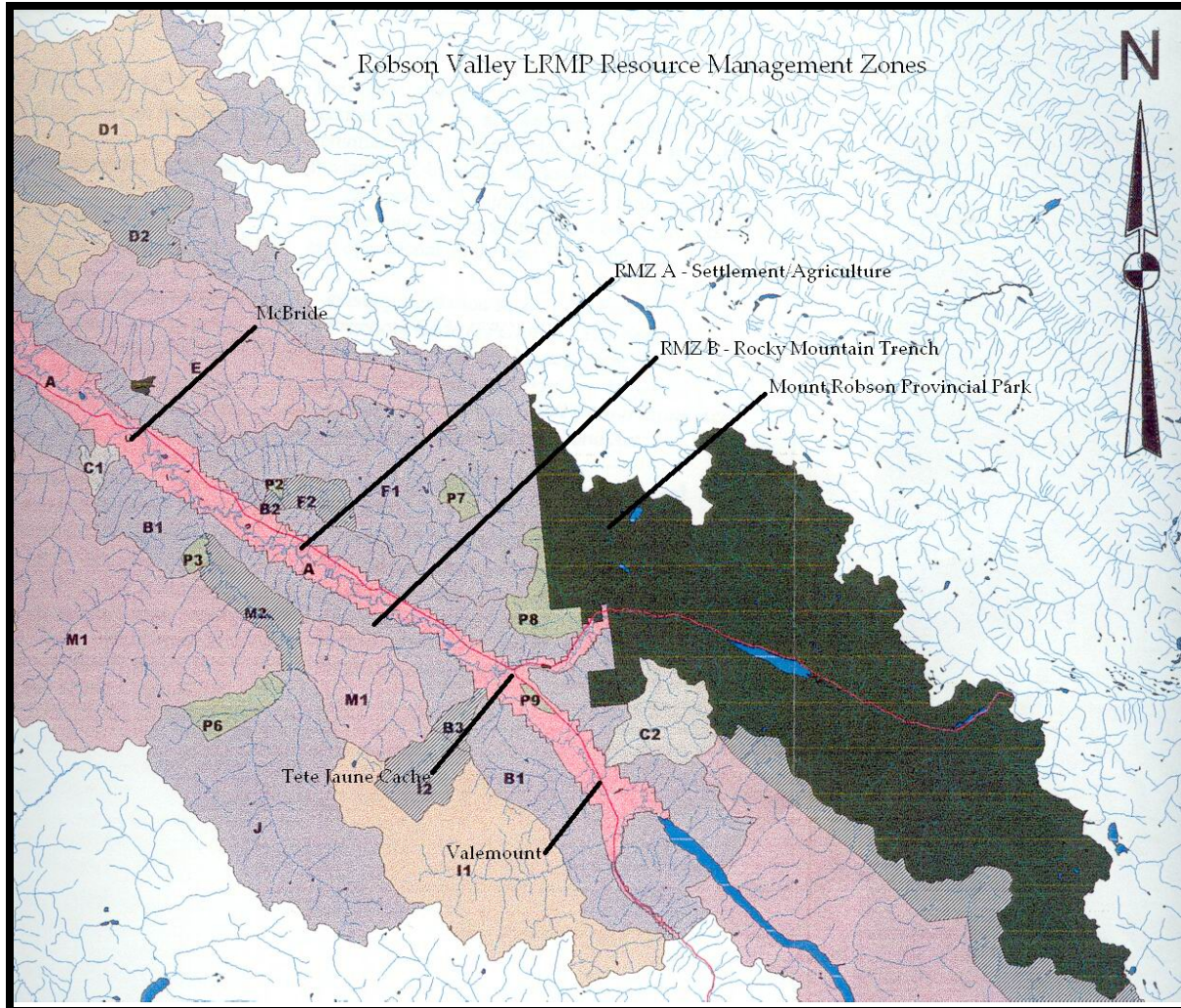


Diagram 1 – Robson Valley LRMP Resource Management Zones of Interest

Mountain pine beetle and armillaria root rot are forest health issues in both RMZs. Since 2000, the mountain beetle population has been increasing in the Robson Valley between Mt. Robson Park and McBride. In April 2001, the licensee started logging in the valley in an attempt to control the beetle epidemic. The population at that point had grown beyond the capability of the Ministry of Forests and Range (MOFR) to manage using single-tree fall and burn treatments. Therefore, operating areas were redrawn by mutual agreement between the district manager and the licensee, allowing the licensee into the area to deal with the beetles.

³ <http://ilmbwww.gov.bc.ca/ilmb/lup/lrmp/northern/robson/settle.htm>

The Headwaters Forest District reviewed FDP amendment #11 between January 6, 2004, and June 22, 2004, when the licensee submitted the final version to the district. The amendment said the licensee might not meet the visual quality objectives if there were certain forest health problems on the cutblocks. On June 23, 2004, the district manager approved that FDP amendment with that “variance.”

The first three issues in this complaint report deal with matters subsequent to that amendment. Amendment #20 was a significant change in the FDP format. The licensee changed the FDP to reflect a forest stewardship plan format.⁴

During the investigation, it became evident that many residents believe that the licensee is taking too much other timber with the pine. There is no operational planning, or forest practices, requirement for the licensee to take only pine, and the Board did not investigate this matter. The Board is aware that this is an emerging issue in the province, and is considering a special investigation to examine the appropriateness of harvesting practices (species profiles) in major beetle salvage areas. The Board is also completing a special investigation that, in part, examines whether biodiversity is adequately maintained in mountain pine beetle salvage areas.

Discussion

The complainant is concerned the licensee is not following the spirit and intent of the LRMP and that MOFR is not adequately monitoring forest planning and practices. The licensee is concerned about its ability to make a return for its investors while dealing with what it says are costly forest health issues. The licensee processes both saw and peeler logs, and needs species other than pine to operate its mill.

Could the district manager vary FRPA transitional requirements for VQOs?

The complainant asserts that the licensee is not meeting the VQOs of the 1999 LRMP. The licensee considers that it only needs to be consistent with VQOs established by the district manager under the Forest Practices Code (the Code) in 1998. There is no issue; both sets of VQOs are the same. Government decided, when it approved the LRMP, that “existing visual quality objectives (VQOs), which have been established under the Forest Practices Code (the Code), should guide commercial timber harvesting while recognizing the need for further public input at more detailed levels of planning.”⁵

However, in recent FDP amendments, the licensee has asked for a variance from the Code requirement to meet the established VQOs. The licensee wants to be able to reduce the VQOs

⁴ Currently, licensees are replacing forest development plans with forest stewardship plans under FRPA.

⁵ Robson Valley Land and Resources Management Plan, page 14. (Approved April 1999)

they have to meet by one category when they conduct a visual impact assessment, if effective treatment of forest health problems will result in a greater visual impact. If the licensee finds this is the case, the licensee submits a visual impact assessment that meets the reduced objective when it applies for the cutting permit. It does not amend the FDP.

The district manager maintains he had the authority to approve this variance. The district manager does have the authority to establish, cancel or vary VQOs, but that is not what happened. The district manager gave the licensee a conditional exemption or variance from meeting the VQO. The licensee could only use the exemption to accommodate forest health and could only reduce the VQO to partial retention; nevertheless it is a variance from the Code requirement.

The district manager maintains that he had the authority to approve the variance in the FDP through section 25 of FRPA, which states:

“The minister may exempt a person in writing from specified provisions of this Act...if the minister considers it necessary or desirable so that the person may follow a course of action specified by the minister for the purposes of limiting ... the spread of forest pests.”

The district manager did have that ability on subsequent FDP amendments, but the minister did not delegate that authority to district managers until July 2, 2004, which was after the district manager had approved the FDP amendment in question. The district manager believed he was acting on the intent of government; therefore, he approved the amendment, with its variance. Regardless of the intent, the Board found that this approval contravened the FRPA transitional requirements.

What is the licensee required to do under FRPA transitional requirements?

VQOs are objectives that the government sets for the area. The licensee is not required to actually meet VQOs following harvest. In the FRPA transition period, the licensee need only do a visual impact assessment (VIA), before logging, that shows cutblocks within a scenic area will meet the established VQO. There is no set format for a VIA; it must be done to the district manager’s satisfaction.

The licensee is fulfilling this requirement. The VIAs consist of a computer representation of what the logging will look like following harvest. FRPA does not require that a licensee submit a VIA to the district, but it must be available if requested. The licensee committed to automatically submit a VIA, forest health information and block-specific rationale with any cutting permit application, if it thought that it could not log in a way that would meet the established VQO. The licensee did VIAs that met the established VQOs. Therefore, the licensee did not submit the information with the cutting permit application, which complied with the transitional requirements of FRPA.

How effective was the licensee's logging at meeting VQOs?

Board staff drove the highway between McBride and Mt. Robson Park to evaluate the effectiveness of the licensees logging at meeting the VQO. The cutblocks ranged in size from 2 to 400 hectares. Three were a combination of partial-cut and clear-cut while the rest were partial-cut.

From what point should one evaluate a landform?

Board staff established viewpoints where alterations would be evident to most residents and tourists. Both the licensee and MOFR disagree with the methodology of the Board's assessment. The licensee maintains that assessments are only required at significant public viewpoints such as rest areas, pull outs, safe places to stop on a highway, or long duration frontal views from a car. The Board agrees with the licensee that viewpoints should be from significant public viewpoints. However, significance is an ascending value and it depends on the viewer. For example, when looking at a viewpoint from a car, its significance increases continuously from a short duration side view to a long duration front view. As well, the significance of a viewpoint from a local commercial tourism operator's place of business is different for the operator than it is for the logger. Board staff evaluated the landforms from what staff considered to be significant public viewpoints.

The district thinks the Board should use the viewpoints used in the inventory process or the viewpoints used to do the visual impact assessment and that it is inappropriate to use others. The Board disagrees. The *Visual Impact Assessment Guidebook* states that visual impact assessment viewpoints "may or may not correspond to those shown on the visual landscape inventory map." The Board views this guidebook as the best information for evaluating VQOs in British Columbia. It is the Board's view that if the VIA missed a significant viewpoint then it is appropriate to choose another. As stated above, the licensee complied with the transitional provisions of FRPA. The licensee conducted VIAs that met the VQO. However, the Board evaluated the effectiveness of the whole process, not adherence to the process, and for the most part the licensee was effective in maintaining visual quality.

What did Board staff find?

Most of the landforms observed by Board staff met the established VQOs. However, staff found three cases where the logging did not do so, all between Tete Jaune Cache and Mt. Robson Provincial Park. All three of the viewpoints had VIAs that met the retention VQO. For visual quality, retention⁶ means that an observer can see the alteration but that it looks natural. Therefore, if you can recognize it as logging then it does not meet the definition of retention. The existing visual condition of the landform, as seen from the viewpoints listed below, is no

⁶As defined in the *Forest Planning and Practices Regulation*---retention: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is: (i) difficult to see, (ii) small in scale, and (iii) natural in appearance.

longer retention; it has been reduced to partial retention.⁷ Partial retention means that one can recognize the alteration as logging but the logging does not dominate the landscape.

Local commercial tourism operation

The first instance that did not meet the VQO was a cutblock above a local rafting tourist operation. It is recognizable as logging from the centre of the rafting base area, so it did not meet the VQO of retention. However, as one walks around the base area, vegetation sometimes screens the cutblocks. These cutblocks were less visible from the highway and so were considered to be borderline between retention and partial retention at that viewpoint.

Yellowhead Highway travel corridor

The second instance of failure to meet the VQO was the northwestern slope of Mt. Terry Fox, south east of the Fraser River. The logging is clearly visible from vehicles traveling the Yellowhead Highway. The licensee believes that there is no significant viewpoint along that portion of the highway, but the Board disagrees. The logging is clearly visible across the valley while driving to and from the Mt. Robson Provincial Park gate.

Mt. Terry Fox Interpretive Forest

The third failure to meet the VQO is in an area noted on maps as a future demonstration or interpretative area. Locals know it as the Terry Fox Interpretive Forest; however, government has never established objectives or strategies for the area. The licensee clearcut part of the block to control root rot. The FDP proposed a variance to meet forest health concerns for armillaria root rot but, according to a forest health assessment done before the licensee logged, the cutblock did not actually contain armillaria root rot.⁸ This cutblock is immediately adjacent to the Yellowhead Highway near the Mt. Terry Fox viewpoint. The logging is not visible from the viewpoint itself, but one can catch a glimpse of the clearcut portion while driving, and can easily recognize the partial cut area next to the highway as logging. Again, the licensee disagrees with the Board's assessment; in its opinion, simply traveling along the road looking down hill at logging does not meet the requirements of a significant public viewpoint.

The Board recognizes that the management approach for visual quality in scenic areas is geared for mid- to long-range viewing. It does not apply well to logging immediately adjacent to a viewpoint or to a highway.⁹ In all three cases, the significance of the viewpoint depends on the viewer. For example, the complainant considers the second viewpoint significant, but the licensee does not. Nevertheless, it is the Board's opinion that these are all significant public viewpoints. The alterations to the forest are clearly recognizable as logging, and therefore do not meet the visual quality objective of retention.

⁷ As defined in the *Forest Planning and Practices Regulation*---partial retention: consisting of an altered forest landscape in which the alteration, when assessed from a significant viewpoint, is (i) easy to see, (ii) small to medium in scale, and (iii) natural and not rectilinear or geometric in shape.

⁸ When on this site, Board staff found what looked like armillaria root rot.

⁹ For more information see the Board's report Audit of Visual Resource Management Campbell River Forest District at: <http://www.fpb.gov.bc.ca/audits/ARC71/TOC.htm>.

In summary, the licensee's logging operations that the Board evaluated for effectiveness, generally met the established VQOs between McBride and Tete Jaune Cache. However, they did not meet the established VQO in three cases between Tete Jaune Cache and Mt. Robson Provincial Park. Even so, there is no FRPA requirement to meet the VQO following harvest. The licensee did visual impact assessments that showed they would meet the established VQOs. That was enough to comply with the transitional requirements of FRPA.

Did the harvesting meet the intent of the LRMP?

The LRMP states that planning and practices in the Rocky Mountain Trench should "maintain scenic values." The Board interprets that to mean the logging was to achieve the established VQO. The licensee did not do this in three cases where the VQO was retention. Therefore, in these specific areas, the licensee did not meet the intent of the LRMP. However, the licensee is generally meeting the intent of the LRMP for visual quality.

Did harvesting in a recreation conservation management area comply with FRPA?

In 1985, the Ministry of Agriculture and Lands¹⁰ developed a Robson Valley Crown Land Plan. The subsequent Robson Valley LRMP adopted and recommended implementation of the Crown Land Plan. The LRMP generally puts the main valley bottom in a resource management zone "Settlement/Agriculture RMZ A." That RMZ has a value called "Crown Land Plan." An objective for that value is to "ensure the Crown Land Plan remains current to manage for a variety of land use and conservation purposes." A strategy for that objective is that there will be "no commercial timber harvesting ... in Recreation and Conservation Management Area[s]" (RCMA). Neither the LRMP nor the Crown Land Plan formally define commercial timber harvesting. The Board interprets commercial harvest to mean that the primary purpose of the logging is for profit.

The Crown Land Plan defines RCMA as "land set aside for future parks, recreation areas for public community groups and for management of heritage sites." RCMA's are "recorded by the Ministry of Lands and Parks and managed by BC Parks." The Robson Valley LRMP Strategy Database, a document written following the approval of the LRMP, identifies "Lands" as the lead agency for RCMA's.

RCMA's, like many other Lands map notations, are typically in the provincial forest. The Ministry of Forests and Range can grant cutting rights in the provincial forest. However, where multiple agencies share responsibility, MOFR usually refers proposals for harvesting to the other responsible agencies.

There is an RCMA adjacent to Highway 16 between McBride and Dunster that pine beetle has repeatedly attacked. The licensee recently took over the responsibility for the area from BCTS

¹⁰ In 1985 this ministry was known as Ministry of Lands and Parks.

which, over a number of years, tried to control the bark beetle infestation by letting salvage loggers harvest timber from successive attacks in the RCMA. That strategy was locally ineffective and pine beetle continued to attack pine in the RCMA. The licensee decided that it would be better to sanitize the area by removing all the pine trees. It preferred to do so in a single entry into the area. Staff of the Integrated Land Management Bureau,¹¹ the agency responsible for the Lands function, met with the licensee. They agreed with this solution on the condition that the licensee target only pine trees. The district manager approved the cutblock in FDP amendment #11. When the licensee logged the block, it targeted only pine, but getting to some of the pine required harvesting aspen and commercial species such as spruce and Douglas-fir. (The aspen remains decked on the landings and is available for firewood cutters.)

The salvage logging of only beetle-infested pine had not controlled the beetle population, so taking non-infested trees is logical as a control strategy. The licensee maintains that, even though it may have made some money harvesting the timber, the primary purpose of its logging was to control the pine beetle.

The Board verified that the licensee left much of the non-pine commercial timber on site following the logging operation, confirming that the primary purpose of the logging was to remove the infested and potential host trees. Since the primary objective of the harvesting was to control the mountain pine beetle population, the Board considers that the licensee's recent logging in the RCMA is best characterized as sanitation harvesting rather than commercial harvesting as contemplated by the pre-beetle Crown Land Plan. As well, ILMB, the lead agency, approved the harvest. Therefore, it is the Board's opinion that the harvest in the RCMA was consistent with the LRMP, and complied with the transitional provisions of FRPA.

Does the harvesting in the Fraser River Riparian Zone comply with FRPA?

The Settlement/Agriculture Special RMZ A includes important rivers as a value. An objective of that value is to "manage riparian areas adjacent to the Fraser River to ensure fish and wildlife habitat and recreational values are maintained." The following LRMP strategy meets that objective.

"Areas along the Fraser River in the Provincial Forest...will have a 50-metre riparian reserve zone and a 50-metre riparian management zone above the high water mark. Partial cutting harvest systems will be used in the riparian management zone."¹²

Did the licensee harvest in the riparian reserve?

Staff visited cutblock 594-G, the block that raised the complainant's concern on this issue. The licensee had harvested a sliver of about ten trees into, and along the edge of, the riparian

¹¹ The agency was called Land and Water BC at the time.

¹² Robson Valley LRMP, page 13.

reserve zone. This harvesting was due to inaccurate boundary placement, and it had no detectable impact on fish or wildlife habitat, or on recreation values. It is the Board's opinion that this unauthorized harvest was not significant or intentional.

Was the licensee authorized to build a road in a riparian management area?

The complainant is also concerned that there are roads and landings in the riparian management area. The road runs through the narrow long cutblock and, for about one third of its length, it is within the riparian management area. The landings themselves are outside the riparian management area. The transitional FRPA requirements are found in the *Forest Road Regulation*. Section 4(2) requires that a licensee locate a "road outside the riparian management area [unless it] will create a higher risk of sediment delivery to a stream." Section 5.1(1)(a) requires the licensee to get a road layout and design approved by the district manager if "the road is proposed to be located within a riparian management area." Even then, a district manager cannot approve such a road unless there is no other practicable option. In this case, the licensee did not submit a road layout and design. Therefore, when the licensee built the road in the riparian management area, it did not comply with the transitional FRPA requirements.

Did the road compromise the objectives of the management area?

The site plan map indicates that, where the road is within the riparian management area, most of it could have been located outside. Where it could not be located outside the riparian management area, it could nevertheless have been located further away from the river than it was.

The licensee maintains that moving the road further away would have resulted in a much larger cutbank and greater soil disturbance. The licensee also points out the riparian management zone was partial cut, so it still maintains the integrity of the RRZ.

The LRMP strategy is to use partial cutting in the riparian management zone. The LRMP describes partial cutting as including clearcutting with reserves. That means trees are retained, either uniformly or in small groups, for purposes other than regeneration.

The FDP specifies that riparian management zone "treatments will range from full clearcut/directional falling to 100 percent basal area retention. Specific treatments will be determined at the Silviculture Prescription stage." The legislation has now changed. Site plans have replaced silviculture prescriptions but, even though the legislation changed, site plans must still be consistent with the FDP. The site plan required a 50-metre no-harvest zone next to the river. Except for the minor trespass identified above, the licensee met that requirement. The site plan had no strategy for the entire 100-metre riparian management area, and the site plan map did not identify the 50-metre riparian reserve zone or the 50-metre riparian management zone.

The licensee left a small ribbon of trees between the riparian reserve zone and the cutblock boundary. The site plan prescribed removing all pine trees greater than 17.5 centimetres

diameter and all Douglas-fir trees between 27.5 and 72.5 centimetres diameter. The licensee calculated that prescription would leave 225 stems per hectare on site. The licensee did not achieve that level of dispersed retention. Nevertheless, a few trees remained in the cut portion. As well, if the narrow band of trees between the block boundary and riparian reserve are included, the Board considers that the licensee met the definition of clearcut with reserves and therefore the definition of partial cut.

The cutblock boundary runs at the top of the slope above the river and is not recognizable as a clearcut from the river. The objectives for the riparian management area next to the Fraser River are “to ensure fish and wildlife habitat and recreational values are maintained.” In the Board’s opinion, the cutblock does not compromise either the recreational or fish and wildlife habitat objectives.

In summary, the licensee did not comply with the requirement to submit a road layout and design when it built the road in the riparian management area. The licensee also trespassed, to a minor extent, into the riparian reserve zone. However, it is the Board’s opinion that fish and wildlife habitat and recreational values were maintained. That means that the practices were consistent with the LRMP objectives for the Fraser River riparian zone.

Does Amendment #20 comply with FRPA requirements?

Did the FDP amendment meet the requirements of the legislation?

The licensee submitted amendment #20 on January 21, 2005, and the district manager approved it on March 1, 2005. The licensee has started harvesting under the authority of that amendment.

There are four very large areas or “blocks” shown in the amendment, ranging from 960 to 2800 hectares. Both the licensee and district maintain that these blocks are the actual cutblocks. The amendment calls the areas that are to be logged “openings” within these larger cutblocks. In its preamble, the amendment recognizes that:

the blocks are very large ‘Administrative Boundaries’ that will have a set of strategies and objectives to adequately manage and conserve the forest resources within the terms of the Forest Practices Code of British Columbia, specifically for domestic water, recreation, range, biological diversity, first nations and visual resource management.

The amendment proposes strategies and objectives similar to what would be included in a forest stewardship plan under FRPA. The amendment resembles a forest stewardship plan’s requirements in another way; the large administrative boundary blocks are similar to the forest development units required in a forest stewardship plan. However, the licensee has not submitted a forest stewardship plan; the document remains an amended forest development plan.

To be clear, throughout the rest of the report such areas will be called administrative boundary blocks; the Board views them as areas that can be developed without having to show the actual boundaries of the areas that will be harvested. The legislation calls areas that will be harvested cutblocks and an FDP must show cutblock sizes, locations, and if they are to be a clearcut.

Although the legislation allows an exemption from the content requirements of an FDP, the licensee does not have an exemption in this case. Alternatively, the minister could exempt the licensee from such requirements under section 25 of FRPA. However, there is no written ministerial exemption allowing the licensee to not comply with these transitional requirements. Therefore, the amendment does not meet the legislated requirements and does not comply with section 41(1)(a) of the Code.

Was the licensee's public review of the amendment adequate?

The licensee put these strategies and very large administrative boundary blocks out for public review and comment. It did not know where it would place the cutblocks. Therefore, since there was little detail in the amendment, the public had little information to make informed comment.

The licensee explained that it does much more than simply put out information for the legally-required review and comment provisions. It involves the public both before and after the district manager approves the amendment--through meetings, paid articles in the local newspaper, and contacting adjacent landowners. That is a progressive, action-oriented way to involve the public, and the licensee reports that most people are very satisfied with the results.

The Board did not investigate people's satisfaction. However, there is an obvious shortcoming with the public involvement process that emerged after approval of this amendment. When a licensee receives a comment in the prescribed review period, it must consider the comment and forward the comment and its response with the amendment to the district manager for approval. The district manager can then adjudicate any conflict between competing values and interests. Relying on public input after an amendment is approved does not provide that adjudication option. The district manager is not informed of post-approval comments. Even if the public were to direct its concerns to the district, the district manager at that stage has no mechanism to require the licensee to change the plan in response. Under the process used by the licensee, members of the public such as the complainant feel that they are left to go to the licensee and request consideration. They feel that MOFR has abandoned its resource management obligations.

The submission of amendment #20 occurred under the transitional provisions of FRPA. The Board has identified that when licensees move to full implementation of FRPA by submitting FSPs for approval, FSPs will not contain the detail to which the public is accustomed to in FDPs. As well, public review will occur less frequently. Therefore, the Board has developed an information bulletin¹³ which identifies a shift in responsibility for public review of forest

¹³ http://www.fpb.gov.bc.ca/bulletins/FSP_Review.pdf

stewardship plans and site plans. Basically, the new legislative regime puts a much greater onus on the public to identify its interests to licensees. The bulletin concludes that following the approval of the forest stewardship plan, whether public concerns about forest activities are resolved is a matter of negotiation and trust between the reviewing public and timber licensees. However, for this complaint, FRPA transitional procedures continue to apply for forest development plan amendments.

Can the district manager rely on the licensee's strategies?

Since this amendment was for a forest development plan and not a forest stewardship plan, section 41(1)(b) of the Code applied. That section required the district manager to be satisfied that the plan adequately manages and conserves forest resources. In this case, the district manager relied on the licensee's broad strategies and objectives in the FDP amendment.

That approach creates potential problems, as can be illustrated with the visual quality resource issue. In the amendment, the strategy for visual quality allows the licensee "to lower the VQO from retention to partial retention..." for armillaria root rot or mountain pine beetle control. In fact, only the district manager or a higher level plan can establish and alter VQOs; that function cannot be delegated to a licensee. In this case, the district manager has approved a plan that allows the licensee to meet a reduced VQO if the licensee decides that it needs the reduction to deal with root rot or mountain pine beetle. In effect, the district manager has delegated the balancing of the scenic values, timber values, and any other competing values to the licensee.

The amendment also states that "although the purpose of this plan is to provide flexibility needed to better manage for mountain pine beetles and reduce timber value losses to the beetles, blocks that do not have any bark beetles may also be developed under this plan." Again to be clear, blocks in the quote above refer to cutblocks, not large administrative blocks. Therefore, it appears that the approval of the amendment allows the licensee to develop the administrative boundary blocks as it wishes—without further public review and comment or adjudication from the district manager—until a FSP replaces the FDP. That could take years.

Furthermore, if one were to consider the large administrative boundary blocks as cutblocks, they would now be "approved category A" cutblocks. That means they are eligible for grandparenting as forest development units into a future forest stewardship plan. The effect may be to eliminate any future public review and comment in these large administrative boundary blocks. In addition, the strategies and objectives currently approved by the district manager would continue to guide forest harvesting, and over-ride any FSP strategies and objectives that conform to policies approved by the minister. This seems unreasonable in the circumstances. It is the Board's opinion that district manager's approval did not comply with the FRPA transitional requirements.

In summary, amendment #20, approved March 1, 2005, does not meet FRPA transitional requirements. The large administrative boundary blocks are not actual cutblocks; they are more like forest development units. The amendment needed to show the cutblock locations, whether

or not the cutblocks would be clearcut, and the sizes of the cutblocks. Failure to do that compromised the public review and comment process. The licensee failed to comply with FRPA in preparation of the amendment, and the district manager failed to comply with FRPA by approving it.

Conclusions

1. The licensee is using the VQOs that the Robson Valley LRMP identified and, with a few exceptions, is generally maintaining the VQOs with its harvest operations.
2. The district manager granted the licensee authority to meet a lower VQO if the licensee cannot meet the established VQO and manage armillaria or mountain pine beetle. The district manager did not have the authority to approve that variance and the approval therefore contravened the transitional provisions of FRPA.
3. The licensee's harvesting in a recreation and conservation management area complies with the LRMP and FRPA.
4. The licensee trespassed in a small area in the riparian reserve zone of the Fraser River. The licensee also failed to submit a required road layout and design to get approval to construct a road in the riparian management area. Even so, neither of the non-compliances compromised the values of the riparian management zone.
5. Amendment #20 does not meet FRPA transitional requirements. The licensee failed to comply with FRPA in preparation of the amendment, and the district manager failed to comply with FRPA by approving it.

Recommendation

The Board recommends that, rather than grandparent the large administrative boundary blocks, the licensee give the public an opportunity for public review and comment on them when it prepares its forest stewardship plan.