

Bulletin Number: EBM-2016-05

Subject: 2016 Great Bear Rainforest Land Use Order and the Great Bear Rainforest Forest Management Act

Content Highlights:

Given the unique and complex nature of the Ecosystem-based Management (EBM) regime in the Great Bear Rainforest (GBR), this bulletin is intended to ensure greater clarity by providing:

1) Information regarding the expectations, intent and application of the Great Bear Rainforest Land Use Order (LUO).

Specific to the LUO, this bulletin clarifies and provides a common understanding of the intent of Part 1 objectives 5 and 7 which support associated implementation activities. This information will support the completion of landscape reserve designs required by objectives 5 and 7.

2) Frequently asked questions (FAQs) about the Great Bear Rainforest Forest Management Act (GBRFMA).

Item 1: Land Use Order – Part 1, Objectives 5 and 7

Background

Part 1 Objective 5 in the LUO specifies the requirement for landscape reserve designs and Objective 7 addresses restoration zones which are a subset of landscape reserve designs.

Part 1 Objective 5 of the GBR LUO requires licensees to prepare landscape reserve designs that:

- a) *Addresses the Minimum Old Forest Retention Levels specified in sections 4(1)(c) and 4(2), the Old Forest Representation Targets specified in sections 4(1)(a) and 4(1)(b) and the Managed Forest area specified in section 6(1)(a); and*
- b) *to the extent practicable simultaneously contributes to the protection and stewardship of:*
 - i) *Aboriginal Heritage Features, Aboriginal Forest Resources, and Aboriginal Tree Use;*
and

- ii) Red-Listed Plant Communities, Blue-Listed Plant Communities, habitat important for species at risk, ungulate winter range, and habitat for regionally important wildlife including, but not limited to, mountain goats, grizzly bears, northern goshawks, tailed frogs, and marbled murrelets.*

Part 1 Objective 7 sets out additional requirements for restoration zones within restoration landscape units. These are a subset of LRDs and apply to areas in specified restoration landscape units where old forest representation is significantly in deficit (less than 30% total).

Targets for each Landscape Unit/Site Series Group and landscape unit/timber harvesting land base combination are provided in a separate [implementation and guidance table](#). These targets provide a useful starting point in understanding the landscape unit contribution to the plan area targets in the GBR LUO. The landscape unit targets roll up to total the required plan area targets in the GBR LUO.

The new GBR LUO requires an amendment to all licensees' forest stewardship plans, to be submitted by July 28, 2016; six 6 months from January 28, 2016, the date the GBR LUO came into effect.

Implementation

It is intended that each landscape unit will have a single landscape reserve design. All licence holders operating in a landscape unit (including those that are exempt from landscape reserve design preparation) must coordinate and collaborate in their reserve design efforts so that landscape reserves collectively combine to meet targets and objectives for the landscape unit. This collaboration and coordination will occur at the Operational Implementation Committees which will be established in the next few months. Further communication will be provided regarding these committees, their mandate and participants but all licensees operating in the GBR will be invited to participate.

Landscape reserve designs must be completed in accordance with the 2016 Landscape Reserve Design Methodology (see below). Licensees' forest stewardship plans must specify intended results and strategies that describe how the license holder's operations will be consistent with the landscape reserve design objectives and the 2016 Landscape Reserve Design Methodology.

The timing requirements for completion of landscape reserve designs vary depending upon the specific status of the landscape unit as specified in the objectives for landscape reserve designs, restoration zones and restoration landscape units (see Appendix 1 for the relevant objectives).

There are some exemptions from the requirement to prepare a landscape reserve design. Holders of woodlot licences, community forest agreements, and the four non-replaceable

forest licences listed in Part 1 s. 1 are exempt from the order in its entirety. Holders of licences or tenures with an AAC of less than 20,000 m³/year are exempt from the requirement to prepare a landscape reserve design (GBR LUO Part 1 s. 5(6)). Licensees exempted from landscape reserve design preparation must still respect the boundaries of landscape reserve designs and meet the legal objectives in the GBR LUO, and for that reason they are encouraged to work with neighbouring licensees in their preparation.

Co-location of values listed in objective 5 (b) (i) and (ii)

In Objective 5 (b) (i) and (ii), the statement “*to the extent practicable simultaneously contributes to the protection and stewardship of...*” means that, to the extent practicable¹, when selecting retention areas for old forest representation, areas are to contain, and maximize, the features and values listed in Objective 5(b) (i) and (ii). All factors are to be carefully balanced, including consideration of the managed and natural forest objectives for the plan area.

Principles and Procedures for Landscape Reserve Design

The 2016 Landscape Reserve Design Methodology was developed to guide and support the effective co-location of values listed in objective 5 (b) (i) and (ii) within old forest retention areas. This policy document was developed for use in the creation of all landscape reserve designs in the Great Bear Rainforest area and must be referenced in FSPs submitted for approval. The process for landscape reserve design planning is outlined in the document entitled 2016 Landscape Reserve Design Framework. Both of these documents, when completed, will be emailed to you and will be available on the Great Bear Rainforest website at: <https://www.for.gov.bc.ca/tasb/SLRP/plan17.html>.

First Nations Engagement Objectives

First Nation information sharing and engagement is an important objective that applies throughout the GBR LUO. Licensees’ amended forest stewardship plans are to specify intended results and strategies that describe in detail how the license holder’s operations will be consistent with the objectives for First Nation Information Sharing and Engagement as per the Minister’s letter to Resource District Managers (January 29, 2016).

¹ Additional guidance on the term “where practicable” can be found in FRPA General Bulletin #3. (<https://www.for.gov.bc.ca/ftp/hth/external/!publish/Web/frpa-admin/frpa-implementation/bulletins/frpa-general-no-3-defining-practicable-under-frpa-jun-9-2005.pdf>)

Item 2: GBRFMA – Frequently Asked Questions

Purpose

What does this Act do?

The new Great Bear Rainforest (Forest Management) Act (GBRFMA) supports implementation of unique ecosystem-based management rules in the Great Bear Rainforest while ensuring normal rules under the *Forest Act* still apply.

Under the Act, a Great Bear Rainforest Forest Management Area is established, and a maximum allowable annual cut of 2.5 million cubic metres per year for 10 years is assigned. After 10 years, the allowable annual cut will be determined by the Chief Forester under Section 8 of the *Forest Act*, as is the case in other management units.

Under the legislation, two new timber supply areas (Great Bear Rainforest North TSA and Great Bear Rainforest South TSA) will be created, and existing TSAs will be reconfigured (the Vancouver Island portions of the Strathcona and Kingcome TSAs will be amalgamated into a new North Island TSA).

The designation of new special forest management areas, that prohibit commercial timber harvesting activities while allowing mining, hydroelectric and tourism (subject to their legal review processes), is also enabled under the GBRFMA.

Partitions of management unit allowable annual cuts are also enabled through regulation and partition orders may be specified at the licence level. A unique, extended (up to 10-years) cut control option will also be made available in the northern portion of the Great Bear Rainforest.

Allowable Annual Cut

What is the maximum AAC?

Under the Act, the allowable annual cut for the designated Great Bear Rainforest Forest Management Area will be set at 2.5 million cubic metres per year for 10 years – this is a decrease of about 24 % from the existing AAC of about 3.3 million cubic metres per year. This means that the AAC for *all* the timber supply areas and tree farm licences within the Great Bear Rainforest cannot exceed 2.5 million cubic metres per year. This is a new concept – with an AAC “cap” applying to multiple management unit and parts of management units

When does the new AAC take effect?

While the new AAC will come into legal force by regulation later this year. Harvest levels for the last few years in the Great Bear Rainforest have been averaging about 2.5 million cubic metres per year.

Was the Chief Forester involved in determining the AAC?

Yes. The Chief Forester was involved in the forest analysis that contributed to the recommended initial AAC of 2.5 million cubic metres. The Chief Forester will continue to participate in AAC discussions for the GBR forest management area during the 10-year AAC adjustment period and will resume authority for determining AACs for the area afterwards.

Management Units**Which timber supply areas and tree farm licences are within the Great Bear Rainforest?**

The North Coast and Mid Coast timber supply areas are entirely within the Great Bear Rainforest. The Strathcona and Kingcome timber supply areas contain land within the Great Bear Rainforest as well as on Vancouver Island. Tree Farm Licences 25 (Western), 39 (Western), 63 (formerly part of 43 (Kruger)), 45 (Interfor), and 47 (TimberWest), are either entirely or partially within the Great Bear Rainforest.

Why are you making two TSAs, instead of just one large TSA?

The creation of two TSAs reflects the difference in the timber profile and economic accessibility between the north and the south.

Why are regulations needed to adjust the timber supply areas?

The new regulations are needed to streamline, simplify and clarify the process of making the adjustments to the timber supply areas. The adjustments to the TSA's will create the flexibility needed to concurrently manage all of the adjustments (i.e., licences) to achieve the negotiated solutions.

Why are community forest agreements, First Nation woodland licences, and woodlot licences exempt from the requirements of the Act?

These are small area-based tenures with their own AACs and management regimes.

Allowable Annual Cut Reductions**Given the overall AAC is going down will each timber supply area and tree farm licence receive a proportionate reduction?**

No. Reductions vary and will consider each management unit's unique forest profile, including species that grow at different rates, relative amounts of old growth and second growth,

amount of timber that is economically available for harvesting, and the special forest management areas.

Are there licences that are not impacted by the AAC reductions?

Yes. Licences that will not be impacted by the AAC reductions include:

- First Nation licences directly awarded under section 47.3 of the *Forest Act*;
- Forest licences with an allowable annual cut of 10,000 cubic metres or less;
- The existing first nation woodland licence (issued to Wei Wai Kum First Nation), community forest agreements and woodlot licences; and
- Timber licences, which do not specify allowable annual cuts.

How will individual licences be reduced?

Reductions for each licence will be specified by regulation expected later this year.

Which licensees operate in the Great Bear Rainforest and are affected by the land use order and the legislation?

A & A Trading Ltd.	Bella Bella Asset Holdings Ltd.
BC Timber Sales	Da'naxda'xw/ Awaetlala First Nation
Canadian Overseas Log & Lumber Ltd.	Gitga'at Forestry Inc.
Dean Channel Forest Products Ltd.	Gitxaala Forest Products Ltd.
Interfor	Gwa'nak Resources Ltd.
Kruger Products L.P. Produits Kruger S.E.C.	Gwawaenuk Tribe Forestry (Kwa-wa-aineuk Timber)
Lemare Lake Logging (also Lone Tree Logging)	Homalco Forestry Limited Partnership
Lions Gate Forest Products Ltd.	Kitasoo Forest Company Ltd.
Mill & Timber Products Ltd.	Kvamua Enterprises Limited Partnership
Northwest Hardwoods Canada Inc.	Kwiakah First Nation
Richmond Plywood Corporation Ltd.	Metlakatla Forestry Corporation
Sonora Logging Ltd.	Lax Kw'alaams Tribal Resources Ltd.
SWC Holdings Ltd	Nanwakolas Forestry Ltd. Partnership
TFL Forest Ltd.	Nuxalk Forestry Limited Partnership
TimberWest Forest Corp.	Qwe'Qwa'Sot'Em Forestry Ltd. Partnership
Triumph Timber Ltd.	T'se'kame Forestry Limited Partnership
Western Forest Products	WWK Forestry Limited Partnership

Allowable Annual Cut Partitions

What is the partition making authority under this legislation?

Under the *Forest Act*, the Chief Forester sets partitions of an AAC. However, under the Great Bear Rainforest (Forest Management) Act, partitions will initially be set by regulation – this is

consistent with the AACs for each management unit and for each licence within the Great Bear Rainforest initially being set by regulation. The Chief Forester will resume all authority for partitions following the 10-year AAC adjustment period.

Will licensees be compensated for reduced allowable annual cuts associated with the Great Bear Rainforest Land Use Order?

No. This follows well-established principles. There is no compensation required for an allowable annual cut reduction associated with land use decisions under the *Land Act* or with normal AAC determinations made under the *Forest Act*. Licensees will be compensated for loss of logging rights associated with the creation of special forest management areas.

Special forest management areas

How will existing harvesting rights be affected by the special forest management area designation?

The allowable annual cut of forest licences impacted by the creation of special forest management areas will be reduced.

How will commercial harvesting be restricted by the special forest management area designation?

The special forest management area designation will restrict existing commercial harvesting rights, including issued cutting permits, and will prevent the issuance of new licences or cutting permits for commercial harvesting purposes. The Act establishes the list of licences, agreements and permits that are subject to restricted harvesting rights within a special forest management area.

Is the ability to refuse road permits a new authority? Why is it needed?

Yes. The proposed legislation provides the ability to refuse to issue a road permit within a special forest management area, if the construction and maintenance is considered to significantly impair the management and conservation of the ecology for the area.

It is anticipated that the new authority will enable government decision-makers to work with tenure holders to ensure that any required roads minimally impair the management and conservation of forest resources in special forest management areas.

Cut control

Why are you changing the cut control period from 5 years to 10 years and why is this in the northern Great Bear Rainforest only?

Forestry is by nature a cyclical industry and harvesting in the northern portion of the GBR is challenging. Extending the cut control period to 10 years will give licensees more flexibility in timing harvesting to optimal market conditions.

Will you look at extending cut control periods to 10 years in other parts of the province?

No. A 10 year cut control is only being provided in the northern portion of the Great Bear Rainforest as part of the balancing of interests required in the GBR to achieve ecosystem-based forest management and reflects the unique economic issues there.

What happens if the AAC adjustment puts a licence in an unavoidable overharvest situation?

Under the legislation the Minister will have the ability to grant full or partial relief from a cut control penalty. This provision is based on a similar provision in the *Forest Act* and provides a reasonable safety valve, should the licensees find themselves facing cut control penalties where a contributing factor was caused by a change under the Act that was beyond their control, and for which they could not have planned, such as an AAC reduction that is lower than the volume already harvested.

Regulations

Why is the ability to make regulations with regard to the *Forest and Range Practices Act* needed under this Act?

The Great Bear Rainforest is a unique area and requires unique solutions. In implementing ecosystem-based management, some of the requirements are different than those that exist under the *Forest and Range Practices Act* and regulations, so additional regulatory authority is required under the GBRFMA.

Contacts and Further Information:

Land Use Order

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GBR (Forest Management) Act

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