

An Introduction to the Natural Resource Road Act

December 2011



Objectives

- **Raise awareness of the project.**
- **Discuss what we hope to achieve.**
- **Identify opportunities for staff and involvement of interested parties.**

Project Components

THE PROJECT:

- **Principles**
 - Keeping us on course
- **Issues & Opportunities**
 - The drivers
- **Policy Framework**
 - the solutions that will be reflected in the products
- **Business Design**

THE PRODUCTS:

- **Legislation:**
 - Act
 - Regulations
- **Policy & Processes**
- **Tools**
 - templates and information management

Key Messages

- **This is not “Bill 30 2008 revisited.”**
- **Government is expecting us to deliver a new Bill in the fall of 2012.**
- **Interested party involvement is critical and ongoing.**
- **The goal is to create a better regime that is fairer, more consistent, more efficient, and more effective).**

NRRA Goals

- **More efficient business environment.**
- **Fairness for those sharing the land base.**
- **Maintain or enhance competitive advantage.**
- **Maintain environmental standards.**
- **Safety provisions focused where the decisions are made.**

Sample of Key Policy Challenges

- Scope of Roads (what is to be covered?)
- Safety framework (rules of the road, liability, training).
- Cost sharing (who, what and when?)
- Dispute resolution.
- Rights and obligations on multiple user roads
- Information sharing, management and access
- Balancing certainty for clients with flexibility for government.
- Stabilization driven by Access Management
- Ownership of Bridges
- Government Resource Roads
- Public Watchdog

Sample of Key Policy Challenges

- Enhancing (and sharing costs of) control of invasive plants (Ranching)
- Equalizing Road Planning Requirements (Forest Majors)
- Access over and through private land (Mineral Exploration and Woodlot)
- Maintenance of high public/community dependent road roads (rural communities and residences)
- Re-establishment of pre-existing access post industrial operations (Ranching)

Sample of Key Policy Challenges

- Continuing the one stop shop function of Oil and Gas Commission (Oil and Gas sector)
- Use of qualified professionals (Joint Practices Board)
- Govt decision-maker considerations (e.g. cumulative effects, conflicting activities) (Govt)
- Gaps in Information (FPB, Govt, road users)
- Temporal road & trail management for recreational use in periods of no industrial activity (non-commercial recreation sector)
- Access Management to achieve resource management & economic objectives (everyone)

Project Timelines

Project Stages	Oct. 2011	Nov. 2011	Dec. 2011	Jan. 2012	Feb. 2012	Mar. 2012	Apr. 2012	May 2012	June 2012	July 2012	Aug. 2012
Gather Feedback	Active										
Analysis of Feedback			Active	Active							
Stakeholder/Govt working groups				Active	Active	Active	Active				
Issue Recommendations					Active	Active	Active	Active			
Drafting of the Act						Active	Active	Active	Active	Active	Active
Drafting of the Regulations								Thru to Summer 2013 if necessary			
Act (if passed) brought into effect.								Fall 2013			

Core Project Team Ministries

- **Forests, Lands & Natural Resource Operations**
- **Energy & Mines**
- **Environment**
- **Aboriginal Relations & Reconciliation**
- **Labour, Citizens' Services & Open Government**
- **Transportation & Infrastructure**
- **Agriculture**
- **Community, Sport & Cultural Development**
- **Jobs, Tourism & Innovation**

About the Project

- **Natural resource roads are important to all British Columbians.**
 - **Of the estimated 450,000 km of resource roads, 58,000 are Forest Service Roads, close to 200,000 are permit/licence roads and the balance are orphan or 'non-status' roads.**
 - **Government supports improved management of resource roads.**
 - **This project is a joint effort of the natural resource sector ministries and agencies.**
 - **Engagement with interested parties is key to ensuring a successful outcome.**

Why a New Act?

- Many resource roads serve multiple sectors and are used commercially and by the general public.
- Current legislation is largely single sector based (e.g. *Forest Act, Mineral Tenure Act, Land Act, Oil and Gas Activities Act*), each with unique processes, rights and obligations. This creates barriers to efficient road management and use.
- Safety, given all that variation, is hard to achieve.
- An opportunity to bring consistency to resource road law. So everyone knows what to expect and what is expected of them, anywhere in B.C.

Feedback on Bill 30 (2008)

- Reaction varied from conditional support to some anxiety.
- Benefits were acknowledged, along with concerns, primarily:
 - Bill 30 introduced before the policy work was completed.
 - Existing access rights might be compromised.
 - Several outstanding issues would continue to be unresolved.

What's Different This Time?

- **Commitment to have policy work completed before a Bill is introduced.**
- **All issues on the table.**
- **All options are being considered.**
- **Principles in place to guide policy.**
- **Interested Party input is acknowledged as critical.**



Interested Party Input

- **Phase 1:** Awareness, initial feedback regarding proposed policy framework and related issues (October 17 - December 15, 2011, broad audience).
- **Phase 2:** Themed issue analysis and option development (December 2011 to June 2012 via working groups of government and non-government).
- **Phase 3:** Proofing of draft legislation and regulations (April 2012 to April 2013 via a government and non-government team of 6-8 persons).



Project Principles

- **Alignment with government's desire for integrated decision-making and administrative streamlining.**
- **Predictable, fair and consistent.**
- **Due consideration for the environment.**
- **Rights to “use” balanced with authority to “control.”**
- **Concept of “intended use” applies to construction and maintenance obligations.**

Project Principles

- **Recognition that all roads require some level of maintenance, at a minimum, to mitigate environmental risks.**
- **Ensure resource roads offer safe opportunity to all users and ensure safety responsibilities are commensurate with authority.**
- **One administrative regime for all resource roads.**

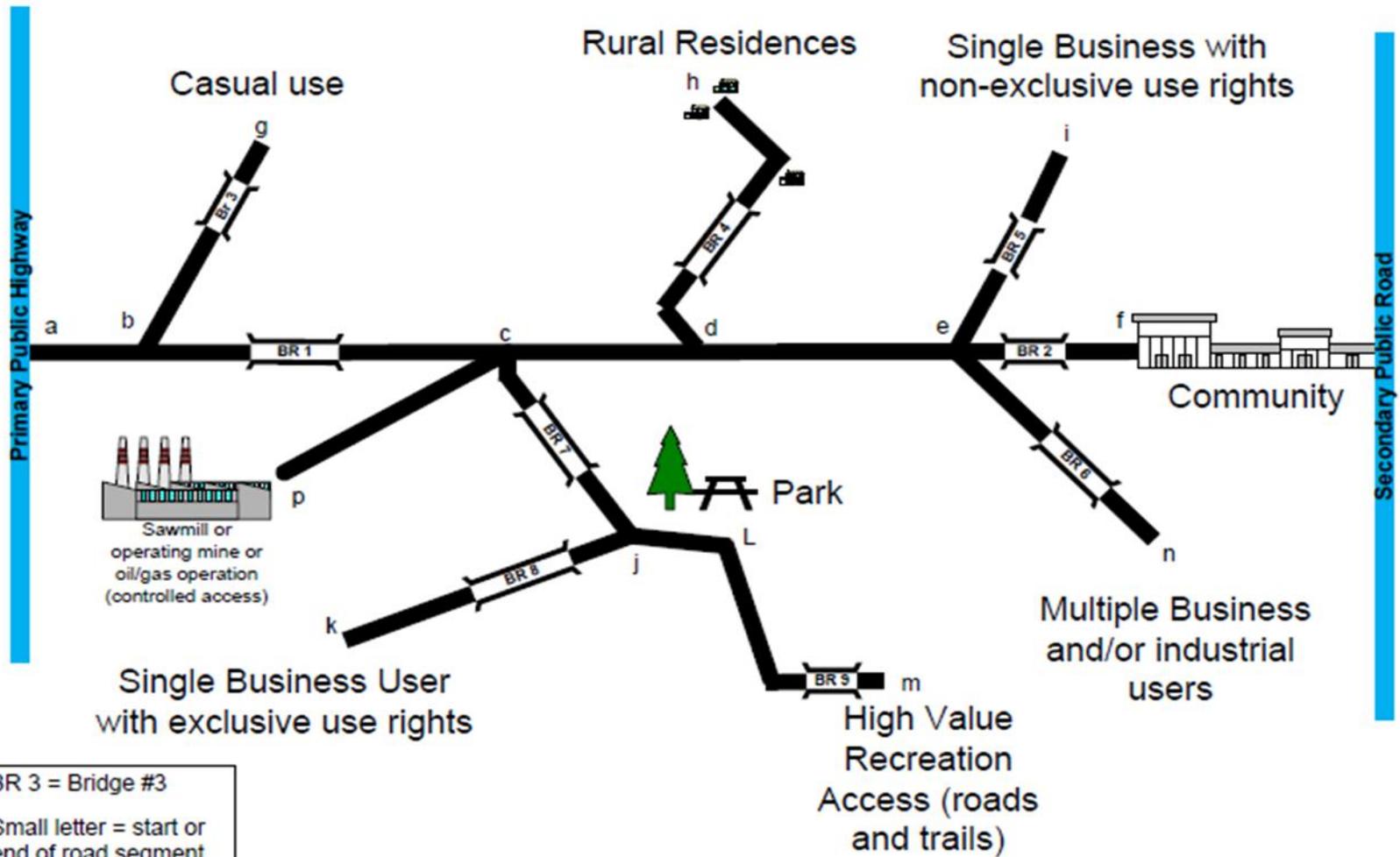
“Straw Dog” Policy Framework

- To begin the conversation the project team has proposed a number of ideas for interested parties to consider and respond to. These ideas are discussed at a high level in the Discussion Paper posted to the project website.**
- Together, they are intended to provide a framework to overcome issues while remaining consistent with the project principles and goals.**
- When posing solutions, always ask yourself the question: what will it take to make it work?**

Phase Two: Offering Solutions

- **The transition from identification of issues to development of possible solutions had occurred.**
- **The decision-makers in government must have a fair and balanced assessment of each option put before them.**
- **The assessment must examine each solution from the point of view of builders, maintainers, users and govt.**
- **It must also consider the many use circumstances that commonly occur.**

Common Road Use Circumstances



The Policy Framework Ideas

SCOPE OF THE NRRRA

- **Applies to roads utilized by motor vehicles on Crown land and any third-party roads or road use on private land that is authorized by government.**
- **Does not apply to:**
 - **Public roads (highway, municipal, federal).**
 - **Private roads on private land.**
 - **Roads within a controlled mine site.**

The Policy Framework Ideas

CONTRIBUTING TO MAINTENANCE

- **Under which circumstances should a user be expected to contribute to maintenance?**
 - **The Act will confirm the thresholds of use that trigger this obligation and will provide mechanisms in the event agreement cannot be reached by the parties.**
 - **The Act will also define that activities to be cost shared.**

The Policy Framework Ideas



- **Rights and obligations determined by the road use objectives of:**
 - **Builders.**
 - **Users.**
 - **Government.**

The Policy Framework Ideas

INTENDED USE

- Design, build and maintain roads for intended use while providing for protection of the environment and user safety.



Example: Skid road built for timber harvesting, not automobiles.

The Policy Framework

OPEN ROADS

- Roads if open are open to the public (everyone) except as required to meet government land use objectives, protect the road, the environment or the safety of road users.
- Anyone using a resource road will be responsible for damage they cause to the road.

A blue and white bus is driving on a dirt road through a forest. The bus is kicking up a cloud of dust behind it. The bus has "RAT BUS" written on its side. The road is unpaved and appears to be a resource road. The surrounding area is a dense forest with tall trees.

Many resource roads are used by industries, commercial operators and the public. The NRRA will confirm the right to use, but also the obligations that fairly accompany that use.

The Policy Framework Ideas

SAFETY

- A safety regime that applies to all resource roads and users, consistent in many respects to the Motor Vehicle Act and Off Road Vehicle Management Framework.
- Appropriate definition of worksite and duty of prime contractor.

**Human
Action
47%**

Driver Error
Speeding
Failure to Yield
Following too closely

**Human
Condition
32%**

Inattention
Impairment
Distraction
Fatigue

**Environmental
Condition
19%**

Weather
Road conditions
Wildlife

**Vehicle
Condition
2%**

Tires/mechanical etc

The majority of collisions in B.C. are due to human error either through driving error itself or through choices made before driving (driving while fatigued or otherwise impaired).

The Policy Framework Ideas



Road washout as the result of a plugged culvert.

USE AT YOUR OWN RISK

- To encourage maintainers and government to keep more roads open, we will be taking steps to limit third party liability to acts of misfeasance.

The Policy Framework Ideas

ROAD ASSESSMENT

- **Users must first assess a road for suitability before commencing use.**
 - **Sensible for anyone using a resource road for the first time (in a while) to proceed with caution. The rigour of the assessment will vary with risk.**



The Policy Framework Ideas

DESIGNATED MAINTAINER

- Only one person may be designated as the maintainer at a time.
- Any user can offer to be the maintainer.
- What are the barriers to folks agreeing to be the maintainer?



*(C) Okanagan Trail Riders Association
(example of where non-industrial users
with a vested interest have taken
responsibility for maintenance)*

The Policy Framework Ideas

LIMITED OBLIGATIONS OF THE DESIGNATED MAINTAINER

- **Responsible only for satisfying their own use needs and the needs* of those who contribute fairly to maintenance (while mitigating environmental risk and protecting the road).**
- **Maintainer obligations may be transferred, either temporarily or permanently, but remain in effect until government grants relief.**

**Includes mitigation of known hazards or fair warning to other users regarding those hazards.*

The Policy Framework Ideas

RELIEF FROM MAINTENANCE OBLIGATIONS

- The designated maintainer may apply for relief when they are truly finished with a road or when another user wishes to take over.
- Government will approve valid applications and may attach relief conditions (such as deactivation) consistent with government's road use objective (or default relief conditions will apply).

The Policy Framework Ideas



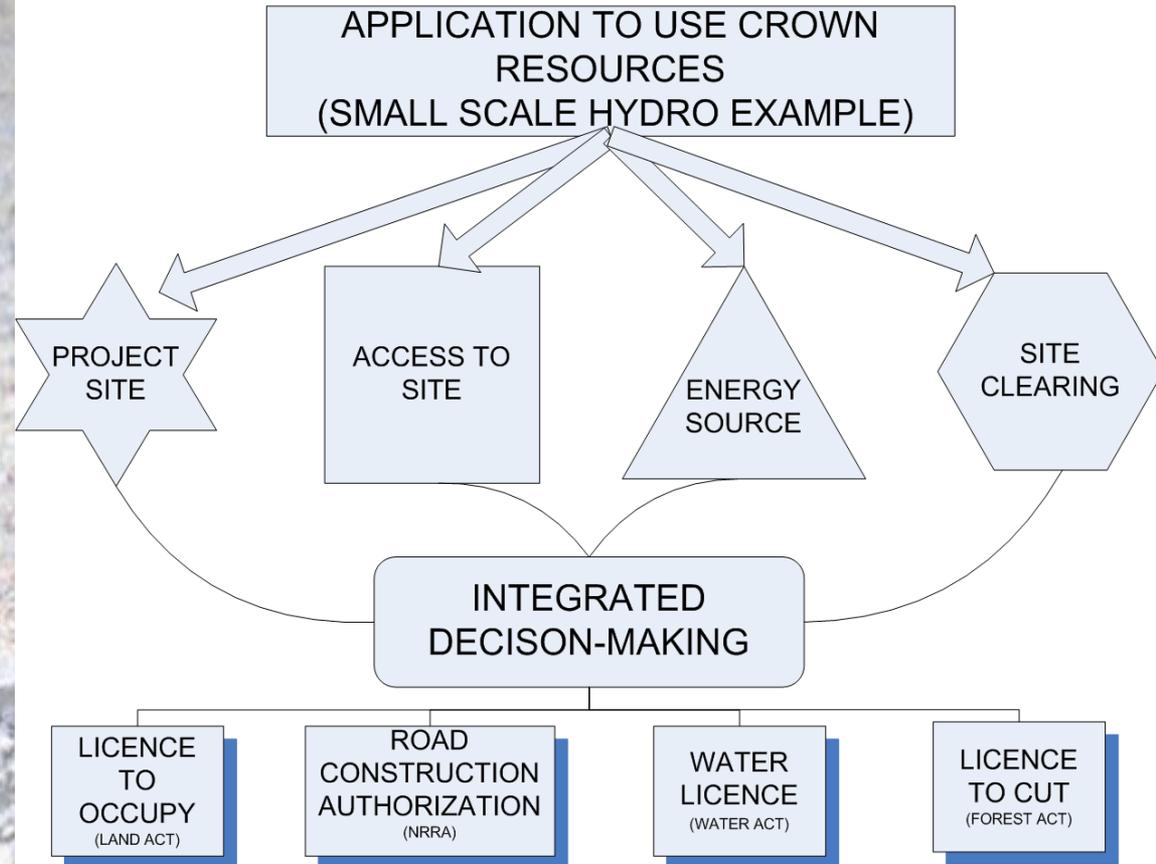
STABILIZATION

- To mitigate environmental risks?

The Policy Framework Ideas

ADMINISTRATIVE EFFICIENCY

- Integrated decision-making.
- Integrated authorizations.



The Policy Framework Ideas

NRRA AUTHORIZATIONS

- **Authorizations limited to:**
 - **Construction.**
 - **Modification outside the right-of-way.**
 - **Works within the right-of-way (e.g. Power line).**
- **Rights and obligations regarding use will be contained in the legislation.**

The Policy Framework Ideas

NRRA ORDERS

- **“Orders” will be used to assign/relieve designated maintainer obligations (currently the case on Forest Service Roads only) and for enforcement of the Act for all resource roads.**



The Policy Framework Ideas

STANDARDS: CONSTRUCTION & MAINTENANCE

- The NRRRA will primarily reflect a results-based regime (what must be achieved, not how).
- It will also provide for a prescriptive approach to be used for those who cannot be expected to succeed under “results-based”.
- The Act will include limited standards for things such as engineered structures, stream crossing design, and reporting requirements to ensure certainty and consistency and appropriate use of qualified persons.

The Policy Framework Ideas

COMPLIANCE AND ENFORCEMENT

- Based upon the compliance and enforcement regimes of the *Forest and Range Practices Act*, the *Oil and Gas Activities Act* and aligned with the Off Road Vehicle Management Framework
- Government is looking for innovative ways to encourage compliance particularly regarding road use.

The Policy Framework Ideas

INFORMATION SHARING AND REPORTING

- **Notifications (only for those obligated to share maintenance).**
- **Reporting.**
 - **As-built road and structure locations.**
- **Retention and access to pertinent information.**
 - **Bridge design and as-built.**
 - **Inspection records and known hazards.**
 - **Contributing users and relative contributions (%) (at time of application for relief).**

Milestones For Legislation

- **Act brought into force by regulation:**
 - summer/fall 2013 (also providing for further transition if required)
- **Bill ready for introduction to the house:**
 - October 1, 2012
- **Bill final draft:**
 - August 1, 2012

Business Design And IT

- Opportunity to have the application support the business rather than drive the business and keep us within the law.
- Opportunity to affect content of the DRAFT NRRA Act going forward for approval.
- Participation on Business Design Team in many different capacities (mapping business processes, developing the future process, reviewer etc.).