



CLOSING LETTER

FPB/IRC/84

File: 97250-20/020396

September 27, 2002

Dear Participants:

The purpose of this letter is to report the results of the Forest Practices Board's investigation of the Tindill Creek complaint.

The Complaint

On June 28, 2002, the Forest Practices Board received a complaint from a Robson Valley resident who has a grazing lease on Crown land near Tindill Creek, 50 kilometres southeast of McBride.

In March 2002, a contractor working for McBride Forest Industries (the licensee) began harvesting a 49-hectare cutblock on the grazing lease. On April 1, 2002, the complainant discovered what appeared to be an oil spill at a landing in the cutblock. Snow was melting and the oil flowed downhill with the melt water.

The complainant takes drinking water from Tindill Creek and his cattle and wildlife drink from a spring in the cutblock. He was concerned that the oil could contaminate the spring and Tindill Creek.

A wildlife tree patch within the cutblock surrounds the spring. However, the complainant maintains that a stream flows out of the wildlife tree patch, eventually draining into Tindill Creek. The complainant is also concerned that a skidder drove through this stream and created a rut.

The complainant would like machines to be kept away from the spring and streams in the area, and for any future oil spills to be contained and cleaned up immediately.

The Board decided to investigate whether or not a machine drove through a stream, and if government's response to the oil spill was appropriate.

Discussion

1. Did machinery drive through a stream?

The Timber Harvesting Practices Regulation prohibits a person from allowing the wheels or tracks of machinery to come within five metres of a stream bank during timber harvesting, except in certain circumstances. The complainant said a machine made ruts through a stream in the cutblock. No streams were identified within the cutblock in the riparian assessment or the silviculture prescription.

The Operational Planning Regulation defines a stream as:

- ...any reach, flowing on a perennial or seasonal basis having a continuous channel bed, whether or not the bed or banks of the reach are locally obscured by overhanging or bridging vegetation or soil mats, if the channel bed
- (a) is scoured by water, or
- (b) contains observable deposits of mineral alluvium.

The complainant said water sometimes pools at the base of the aspen and alder in the area, and his cattle drink from the pools. The ministry and the licensee did not dispute the complainant's description of the area, but they maintain that it is not a stream as defined in the Forest Practices Code of BC Act (the Code). The licensee confirmed that there is a skidder tire rut in a wet area between the wildlife tree patch and the cutblock boundary.

Board staff visited the cutblock on August 28, 2002 and looked at the rut. It appeared that a skidder tire spun out, creating a 3.5-metre rut approximately 30 centimetres deep. Although the area is certainly wet at certain times of the year, it is not a stream as defined in the Code because there is no channel bed and no deposits of mineral alluvium. As a result, operations complied with the Code.

2. Was government's response to the report of an oil spill appropriate?

The complainant reported the alleged spill to the Ministry of Forests on May 13, 2002, six weeks after he first discovered it. The complainant said that the cause of the reporting delay was his difficulty in finding the appropriate government agency to report the spill to. The ministry inspected the site the next day and again on May 21, 2002, but no evidence of a spill was found.

On May 22, 2002, an environmental safety officer with the Ministry of Water, Land and Air Protection visited the site, accompanied by staff from the Ministry of Forests and the licensee. He observed an oily sheen on some puddles, and attempted to take a sample using a special pad that adsorbs petroleum products. The substance would not adsorb. The environmental safety officer concluded that the sheen appeared to be the result of naturally decomposing organic material.

Ministry of Forests staff visited the site the day after the spill was reported, and further inspections were conducted with the appropriate government personnel. In my opinion, government's response to the alleged spill was prompt and appropriate.

Conclusion

Government's response to the report of an oil spill was appropriate and a machine did not drive through a stream. Operations complied with the Code.

As a domestic water user, the complainant is certainly interested in and potentially affected by forest development near Tindill Creek, so it is important that the complainant and the licensee maintain open communication about further development. Past discussions have certainly been worthwhile. For example, the complainant identified the spring area and the licensee responded by creating the wildlife tree patch to protect it. The Board encourages continued cooperation between the licensee and the complainant, especially in light of the fact that operations within the block are not yet complete.

This concludes the Board's involvement in this matter.

Yours sincerely,

W.N. Cafferata R.P.F.
Chair