

# **BCTS Logging at Roberts Creek**

**Complaint Investigation 050653**



**FPB/IRC/117**

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# Executive Summary

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## Background

Between July and October 2005, the Board received a number of complaints about five British Columbia Timber Sales (BCTS) program cutblocks above Roberts Creek, on the Sunshine Coast. The complainants wanted the cutblocks withdrawn, a new planning process for Mt. Elphinstone established, and 1500 hectares above Roberts Creek protected.

The complainants are concerned that planned logging would affect a proposed 1500-hectare park that government is considering creating above the community of Roberts Creek. However, the investigation found that government is not considering protecting any more than the 140 hectares it already set aside in 1996, as part of an earlier land-use planning process.

The Board investigated the preparation and approval of the BCTS forest development plan for the cutblocks in question, and found:

- Cutblocks were all located away from landslide prone areas.
- Cutblocks did not interfere with a modified wildlife habitat proposal.
- BCTS harvest plans are sensitive to other resource users.
- BCTS is not required to do social or economic assessments, protect recreational trails or complete a watershed assessment.
- Veteran trees are being conserved in the area.

The Board also found that BCTS is dealing with the complainants' issues with the proposed site plans in a reasonable manner. Further, the Board considers that BCTS resolved two issues by delaying harvest and another issue by withdrawing a proposed road.

Although the district manager did not produce a written rationale when he approved the BCTS forest development plan, he explained that logging is permitted in the provincial forest and the planning process is designed to balance forest resources. The district manager views the BCTS development plan as a model of integrated use on Crown forest land. The Board agrees with the district manager.

Even though BCTS's harvest plans have been responsive to local needs and are modest in scale, the complainants want no harvesting in this area and believe it should be turned into a park. Until government decides to protect the 1500-hectare area through a land and resource management plan (LRMP) process, it is the Board's view that harvesting is permitted in this area of provincial forest.

## Board Commentary

The Ministry of Forests and Range and members of the community have been involved in debate, planning processes, and complaints to the Forest Practices Board about logging in this area for over ten years. The complainants say that Roberts Creek residents are unhappy with the results of past planning processes. On the other hand, BCTS and the Sunshine Coast Forest District perceive that most residents are happy with result of the planning. Board staff observed a frustrated group of local residents that would not accept BCTS plans for logging, and an equally frustrated government agency that spends a relatively large amount of time and money planning in the area.

The complainants would like government to initiate a LRMP for the Sunshine Coast. Government is completing LRMPs elsewhere, and the Integrated Land Management Bureau maintains that it does not have the capacity to add another LRMP process to its current workload. The Bureau does not know if or when it will initiate an LRMP for the Sunshine Coast.

In the absence of contrary intent in a government-sanctioned planning process such as an LRMP, it is the Board's view that timber harvesting can proceed in the 1500 hectare area until and unless proponents for the park get government approval. Until then, BCTS will have to continue planning and adjusting its logging proposals as best it can, to conserve those non-timber resources that are of greatest concern to local residents.

# The Investigation

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In February 2005, people recreating above Roberts Creek observed forestry development ribbons near the trails and called the Ministry of Forests and Range (MOFR) to find out what was planned for the area. That started some dialogue between BC Timber Sales (BCTS) program and residents about cutblocks planned for the area. In July 2005, the Board received ten complaints from five complainants about five cutblocks. In October, the Board received a related complaint from the Roberts Creek representative on the board of directors for the Sunshine Coast Regional District (SCRD). This complaint questioned whether BCTS and MOFR had considered local social and economic values when preparing and approving the forest development plan (FDP) amendment for the area. The district manager approved the FDP amendment on June 7, 2005.

The Board decided to deal with these complaints in one investigation. The Board investigated the following issues:

- Notification of FDP approval
- Proposing cutblocks in a proposed protected area
- Social and economic assessments
- Wildlife protection
- Terrain stability
- Flooding and water quality
- Protection of veteran trees
- Recreation trails

The complainants would like:

1. BCTS to withdraw the harvest proposals for the cutblocks, or have the district manager of MOFR rescind the approval of the cutblocks;
2. a planning process that provides the community with adequate input and influence on harvesting on Mt. Elphinstone; and
3. government to create a 1500-hectare protected area above Roberts Creek.

## Background - Land Use Issues

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A common issue is at the root of all the complaints; the complainants believe that the harvest level set for this area is unsustainable. The Board does not have the ability to investigate these strategic land use decisions, but focuses on whether forest practices are sound and consistent with land use decisions. This investigation continues that same approach.

Government allocated the area above Roberts Creek to BCTS, and most timber has reached an age and size that makes it harvestable. Theoretically, BCTS could log its entire annual allocation from this area, until legislated constraints require it to log elsewhere. However, given a history of strong public concern, BCTS has decided to harvest an average of only 27 hectares a year here.

The complainants are not satisfied with BCTS's decision. They believe that there is strong community support for a 1500-hectare protected area above Roberts Creek. In 2000, the Board investigated a complaint about protection of biodiversity in this same area.<sup>1</sup> In that case, the Board disagreed with the argument that the only effective way to conserve biological diversity on Mt. Elphinstone was to designate a 1500-hectare protected area.

In 1996, government considered a public proposal for such a protected area. Government did not accept the proposal: instead, it established three sites, totalling 140 hectares, as Mt. Elphinstone Provincial Park. Many local residents still want government to protect the entire 1500 hectares and believe that government is still considering the 1500 hectare proposal. However, BC Parks told the Board that it is not considering creating a new park or extending the existing park.

Nevertheless, the complainants want harvesting above Roberts Creek deferred until government makes a decision to create a park. It is the Board's view that unless government makes such a decision, this area is in the provincial forest, which means BCTS can log there as long as it complies with forest practices legislation and regulations. Therefore, it was reasonable for BCTS to propose logging in this area.

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<sup>1</sup> <http://www.fpb.gov.bc.ca/COMPLAINTS/990215/irc31.pdf>

## Discussion - FDP issues

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This section looks at how BCTS dealt with issues raised in the complaints in the FDP and proposed site plans. It then focuses on the decision that the district manager made to approve the FDP.

### Terrain Stability

The complainants claim that the government approved the cutblocks in the absence of terrain stability studies and without data about a 1983 debris flow on Clough Creek. In 1983, a debris flow originated on a site that had been logged approximately 15 years earlier at the headwaters of Clough Creek. A heavy rainfall saturated soils that slumped into the creek, picked up old logging debris and flowed approximately six kilometres down slope. People had to evacuate their homes and the debris flow resulted in property damage. The complainants are concerned that the proposed logging will cause a similar event.

If an interested party raised the issue of the debris torrent in the review and comment period for the FDP, then BCTS would have to consider the comment and make changes if it felt they were appropriate. However, BCTS did not receive any such comments before the district manager approved the FDP.

Past landslide activity indicates landslide-prone slopes and the legislation requires FDP maps to show areas prone to landslides. If BCTS proposes a cutblock in such an area, then it has to carry out a detailed terrain stability field assessment.

One complainant referenced a 1989 terrain-ecosystem inventory report by the Sechelt Forest District, which mapped the potentially unstable and unstable areas above Roberts Creek. BCTS did not use this terrain stability mapping on the FDP maps; however, the FDP map showed all areas with more than 60 percent slope. The legislation requires BCTS to show the more detailed terrain stability mapping, rather than use the default 60 percent slope criteria. In this case, the Board considers the use of the default mapping criteria is a minor non-compliance with the *Forest and Range Practices Act* (FRPA) transitional requirements. The terrain mapping was 15 years old, and both the terrain map and default slope map show similar areas that would require detailed terrain stability field assessments.

The site plans situate the cutblocks well away from any mapped potentially unstable or unstable areas. Board staff saw no indicators of slope instability on the cutblocks.

Since the blocks are located well away from landslide-prone areas, and there were no indicators of slope instability on the cutblocks, BCTS did not need to do detailed terrain stability field assessments.

## Wildlife

### Wildlife Habitat Generally

One complaint asserts that clear-cutting will eliminate a range of wildlife. Logging a cutblock changes its environment and may displace wildlife. However, most populations are resilient enough to respond to a disturbance, such as logging, and will re-populate an area when it has re-grown. However, if government identifies wildlife that is not as resilient then it can establish wildlife habitat areas (WHAs) to accommodate the species.

### Wildlife Habitat Area

Another complaint asserts that BCTS should not have placed a cutblock over a proposed WHA. In January 2004, the Sunshine Coast Conservation Association (SCCA), a local environmental group, submitted a proposal to government for a wildlife habitat area (WHA) between Gough and Clack Creeks, for coastal tailed frog. This species is blue listed, which means it is considered at risk and although not immediately threatened, it is sensitive to human activities or natural events. In May 2004, the Minister made an order under section 11(1) of the *Government Actions Regulation* naming coastal tailed frog. That order allows government to designate a WHA to provide protection for the frog.

In the review and comment period for the FDP, the SCCA sent a letter to BCTS explaining that they had a WHA proposed for coastal tailed frog. SCCA said the proposed WHA overlapped one cutblock. BCTS was aware of the WHA proposal and asked the SCCA to keep it informed of progress.

By April 2005, the Ministry of Environment decided that the proposed WHA was too large. Government has set a limit of one percent on the total amount of land that it can use for WHAs in a district.<sup>2</sup> This proposed WHA would take too much of the allocated land, thereby reducing the land available for other species. Tailed frogs normally remain within 50 metres of a stream, so the Ministry of Environment biologist suggested a smaller area that still maintained the best habitat of the tailed frog. The site plan situated the cutblock outside this smaller area and included a buffer to protect the WHA from impacts. Therefore, BCTS saw no need to change the amendment. It is the Board's view that BCTS responded appropriately to the proposed WHA.

### Wildlife Habitat Feature

Another complainant is concerned that a bear den next to a road in a cutblock will not be usable following harvest. Board staff saw a large hollow log—that a bear could use as a den—next to a proposed road in a cutblock. BCTS was not aware of this issue until the complainants filed the complaint. Government has not designated bear dens as wildlife habitat features, so the legislation does not require that licensees protect them when logging. However, BCTS

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<sup>2</sup>For more information see the Identified Wildlife Management Strategy at [http://www.env.gov.bc.ca/wld/identified/strategy\\_info.htm](http://www.env.gov.bc.ca/wld/identified/strategy_info.htm)



explained that new information such as this is welcome and they are willing to modify their site plan when the field crew finalizes it.

## **Social and Economic Assessments**

The SCRCD director representing Roberts Creek says that BCTS and the district manager may have considered the economic interests of the forest sector but made no attempt to assess the social and economic impact logging would have on the whole community of Roberts Creek.

The legislation does not require BCTS to conduct a social or economic assessment before submitting a forest development plan. The SCRCD representative did not directly raise this issue before the district manager approved the FDP. However, the SCRCD did submit comments just after the review and comment period ended. A SCRCD committee reminded BCTS about alternate economic values of the area, using mushroom harvesting as an example. The committee also recognized logging as a legitimate activity there. Another comment from a resident, a member on the SCRCD committee, suggested BCTS take a gentler approach to logging. BCTS saw no need to modify the FDP as a result of those comments. The Board agrees with BCTS; the comments either infer or state that logging is expected.

## **Multi-Use Recreational Trails**

The complaints assert that logging will ruin recreational trails within the cutblocks.

Board staff saw well used trails that the public maintains. Mountain bikers have improved the trails to provide easy riding for beginners and constructed stunts to challenge the best riders. The local community holds an annual mountain bike race on some of the trails. In the past, MOFR authorized the race under section 16 of the *Forest Recreation Regulation*.

Legislation allowed MOFR to designate trails as recreation trails with objectives. Then, if the government made these trails “known,” licensees who carried out forest practices near them needed to ensure their practices were consistent with the objectives.

However, MOFR had not designated the Mt.

Elphinstone trails as recreation trails or made them

known when the district manager approved the FDP. Further, it is illegal to create, maintain or improve a trail on Crown land without permission from the government. The government never approved work on the trails.

Unauthorized trails, especially those constructed by mountain bikers, are an emerging issue in BC and around the world. Government is concerned about the environmental impact of these trails and has liability concerns because many trails feature stunt structures, built to varying standards. In February 2006, many of the functions regarding forest recreation, including the approval of work on trails and authorizing sporting events, have been transferred to the Ministry of Tourism, Sport and the Arts. That ministry is developing a policy paper for government on mountain biking and reports that government will decide whether or not to accept structures on trails and may consider standards for trails and signage.

The Sunshine Coast Regional District submitted comments asking BCTS to re-route or recondition the recreational trail running through one cutblock. BCTS committed to do that on

known established recreation trails. Since the recreation trails are not officially known recreation trails with objectives, that commitment does not apply.

However, BCTS reported that it contacted some local mountain bike clubs to review the site plans. The site and harvest plan maps identify the mountain bike and hiking trails in or near the cutblocks. The site plans contain measures to protect some trails, re-established trails, and accommodate mountain bike races.

### **Flooding and Water Quality**

The complainants say that BCTS should assess the potential for flooding and for soil erosion. Further, they said that BCTS needs to protect domestic water intakes from the impact of logging.

An FDP must show any known domestic water intakes that logging may impact, which this FDP did.

If BCTS proposes a cutblock in a community watershed, or if a designated environment official or district manager determines an assessment is required, then BCTS must carry out a watershed assessment. Watershed assessments evaluate the potential flooding hazard and map soil erosion potential.

Since the Roberts Creek area is not a community watershed, and neither the district manager nor designated environment official has determined an assessment is necessary, BCTS did not need to carry out a watershed assessment.

When doing site plans field crews survey streams to see where they flow, classify and map them. The site and harvest plans have riparian assessments attached to them that contain detailed prescriptions for harvesting near each stream, thereby reducing the risk of flooding and debris torrents. The maps also show registered domestic water supply intakes, and BCTS requires that the timber sale holder contact the domestic water licensee one week before starting harvest.

Finally, BCTS is responsible for road maintenance until it permanently deactivates the roads. Permanent deactivation requires BCTS to remove the culverts and restore natural drainage patterns. Road deactivation will also reduce the risk of flooding and debris torrents.

It is the Board's opinion that BCTS is protecting water quality and taking measures to reduce the hazard of flooding and debris torrents.

### **Veteran Trees**

One complainant asserts he found four veteran trees in one cutblock but only one, right next to the in-block road, is marked for retention.

Veteran trees are trees that survived the last stand initiating event, such as a major fire or logging. Such events have left veteran trees scattered across Mt. Elphinstone. The complainants say BCTS must preserve all veteran trees. The legislation does not require BCTS to preserve veteran trees, but the original FDP committed to follow the Mt. Elphinstone Plan (MOFR prepared the Mt. Elphinstone Plan in the mid 1990's to guide forest activities on Mt. Elphinstone). The plan recommended retaining as many veteran trees as possible, although it also said that BCTS could remove unsafe trees.

Since the district manager approved the original FDP, the government has designated old growth management areas (OGMAs) for the Chapman landscape unit. The Chapman landscape unit plan, a higher-level plan, commits to protecting veteran trees; and when government designated OGMAs, it incorporated veteran trees into them. BCTS considers that the landscape unit plan replaces the Mt. Elphinstone Plan. Therefore, BCTS removed the reference to the Mt. Elphinstone Plan when it amended the FDP.

Board staff saw some of the large trees that could be veteran trees reserved from logging on the cutblocks. BCTS reports that when a veteran tree is identified on a cutblock, it tries to protect it either singly or in a wildlife tree patch.

It is the Board's opinion, since OGMAs incorporate veteran trees and BCTS still tries to reserve veteran trees when developing site plans, veteran trees are being conserved in the area.

### **FDP Review and Comment**

BCTS submitted amendment #11 for 60-day public review in July 2004. BCTS must report what comments it receives during the review and comment period, and make appropriate changes to the amendment. The review and comment period ended in September 2004. BCTS went further; it considered comments made up until the final submission to the district manager in May 2005.

Following the review period, one of the complainants asked the district manager to notify him when he approved the FDP amendment. The district manager approved the amendment June 7, 2005, and two weeks later, district staff advised the complainant that the district manager had approved the FDP. The complainant asserts that notification was inadequate. It is the Board's opinion that the district notified the complainant within a reasonable time after the approval.

The district manager did not produce a written rationale so the Board could not review the reasoning he had at the time he made the decision. Even so, the district manager and his staff took some notes during the determination meeting, which indicate that they knew BCTS considered the comments made during and after the review and comment period.

In 2002, the Board produced a special report that explains all parties have a right to see or know that discretion was exercised at the time such a decision is made, and that the reasoning, “should be substantiated in writing.”<sup>3</sup>

The district manager is aware of the controversial nature of logging in this area. The area had also been the subject of a local resource use plan in the mid 1990s. He knew that members of the public had made comments and were interested in his reasoning. Therefore, it is the Board’s opinion that the district manager should have produced a written rationale when he approved this amendment.

### **District Manager’s Rationale**

Although he did not provide a written rationale, the district manager told the Board that he views forest management on Mt. Elphinstone as a model of integrated use in a provincial forest. The district manager thinks that government expects commercial timber harvesting that manages and conserves other resources in a provincial forest. He said there is a balancing process that occurs at all levels of planning from the provincial scale (such as timber supply area definition) to the site planning level (such as wildlife tree patch and riparian area definition). The district manager knows the current strategic and operational plans ensure significant portions of Mt. Elphinstone will remain unlogged and open to public access.

The Board agrees with the district manager. The government expects logging to occur in the provincial forest while, at the same time, expecting licensees to conserve the other forest values. The review and comment period is the time for people who have interests in the area to bring them forward, so that the licensee and district manager can accommodate them. In this case, BCTS even considered all comments it received up until it submitted the amendment.

It is the Board’s opinion that BCTS gave due consideration to issues raised in comments, and the FDP reflected the overall direction that government has given through its forest policy. Although it is unfortunate that the district manager did not provide a written rationale, the Board accepts his post-approval rationale, and is of the opinion that the decision to approve the FDP amendment was reasonable under the circumstances.

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<sup>3</sup> <http://www.fpb.gov.bc/special/reports/SR08/SR08.pdf>

## Resolved Issues

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### Site 3 of Mt. Elphinstone Provincial Park

BCTS proposed a cutblock in an indentation in the boundary of site three of Mt. Elphinstone Provincial Park. The complainants believe that logging this block will alter the environment of the park and make it less able to fulfil its purpose—habitat for a rare mushroom.

After the complainants submitted the complaint, BCTS delayed the planned logging date for this block to 2010 as a good faith gesture to allow residents, local government, and provincial government time to resolve this issue. The Board considers that delay a resolution. However, one complainant points out that, rather than resolving the dispute, the delay merely postpones resolution of the issue.

It is the Board's view that the decision to create the park around the proposed cutblock was a land use decision; therefore, BCTS can now harvest the cutblock. Even so, BCTS is willing to delay harvest for four years to allow resolution of this issue. The Board is encouraged by this positive offer and hopes that government (BC Parks and BCTS) can identify the habitat requirements and develop a management strategy for the mushroom.

### Negotiations for a Green Space Above Roberts Creek

One complainant is a member of the Roberts Creek Official Community Plan<sup>4</sup> Commission. The regional district seeks planning input from the commission. The complainant points out the commission is negotiating with a company that holds private timberland, adjacent to Crown land, above Roberts Creek. The company would like approval to subdivide some land in exchange for a community benefit. The community benefit that the commission is seeking is a riparian forest corridor above Roberts Creek. Logging on the company's private lands, and logging one of the timber sales of concern in this complaint, could preclude an intact forest corridor.

Neither the commission nor the private timber holding company informed BCTS or the forest district about the negotiations. Therefore, neither BCTS nor the district manager could consider how logging the timber sale might affect the negotiations.

Now that BCTS knows about the negotiations, it is deferring the logging in this cutblock until 2011. The Board considers this issue to be resolved for the time being, and urges the commission to actively seek a settlement that will be acceptable to all levels of government and the private company.

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<sup>4</sup> The Roberts Creek Official Community Plan is a bylaw of the Sunshine Coast Regional District.

## **Proposed Road Across Malcolm, Robinson and Clough Creeks**

The complainants asked BCTS about a marked road location between two cutblocks. While laying out the cutblock locations, the BCTS field crew thought they found a better place to locate a road, even though it ran across numerous streams, including Malcolm and Robinson Creeks.

BCTS does not have authorization to build a road along the new location; an FDP amendment is required. When the complainants pointed out problems that the road could cause, BCTS decided not to pursue approval.

## **Conclusions**

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In 1996, the government made a land use decision to include this area in provincial forest. Government is not considering protection of this area. Therefore, harvesting in the 1500 hectare area that some residents want protected is reasonable. BCTS's FDP amendment provides for logging, while at the same time gives consideration to other important forest values in the area above Roberts Creek.

The district manager should have produced a written rationale for approval of the FDP amendment. Even so, the Board is satisfied the district manager's approval of the FDP was reasonable under the circumstances.

The Board found that the BCTS site plans take the appropriate steps to deal with wildlife, terrain stability, flooding, water quality, veteran trees and recreation trails in the area.