

File: 97250-20/15059

January 26, 2016

VIA EMAIL

Dear Participants:

**Re: Complaint File 15059 – Harvesting in Moose Ungulate Winter Range
in the Okanagan District**

This is the Board's closing letter for a complaint filed by a resident of Lake Country.

The Forest Practices Board (Board) received a complaint on October 5, 2015, that Tolko Industries Limited (Tolko) did not meet the requirements of an Order under the *Government Actions Regulation* for Ungulate Winter Range #U-8-006 – Okanagan TSA¹ (the Order). The complainant asserted that Tolko overharvested trees in moose ungulate winter range in the Aberdeen Plateau, Power-Lambly, Salmon River and Bear Creek areas.

Background

On July 24, 2006, the Ministry of Environment signed the Order for moose winter range in the Okanagan Shuswap Forest District. The Order contained objectives for managing moose habitat that included restrictions on forest harvesting. The complainant said that in August 2015, he heard that Tolko had not met the requirements of the Order and that Tolko had applied for an exemption to the Order, but the request was denied. The complainant did not contact Tolko to discuss his concerns. After discussing his concerns with the Board, the complaint was filed.

To assess the complaint, the Board interviewed the complainant, forestry and wildlife staff of the Ministry of Forests, Lands and Natural Resource Operations (FLNR) and Tolko. The Board learned that Tolko had hired a wildlife biologist to develop an alternate approach to that required under the Order for managing harvesting and moose habitat. With that plan, it applied to FLNR for an exemption from the Order. FLNR reviewed the plan, verified some of its information on the ground, and then approved it on June 10, 2015.

On November 20th, the Board met with the complainant to review the results of the interviews with FLNR and Tolko. At that meeting, the Board discussed the benefit of the complainant contacting Tolko directly to review its plans and to establish a strategy for future communication regarding wildlife issues. Both the complainant and Tolko indicated that this was a reasonable approach.

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¹ http://www.env.gov.bc.ca/wld/documents/uwr/u-8-006_ALAL_ord.pdf

The GAR Order

The Order covers 22 individual moose ungulate winter range units and specifies general wildlife measures (GWMs) for forest harvesting and silviculture activities. The GWMs identify objectives for mature forest cover based on crown closure and height; young seral forest cover based on age; patch size; a deciduous component; and herbicide treatment.

The Order specifies that a step-down approach be used to meet the mature forest cover requirements when a deficit exists. The step-down process does not provide any guidance around the preferential spatial placement of the forest cover retention in relation to the key habitat elements of moose winter range such as lakes, ponds, wetlands, meadows and deciduous stands.

Clause 9(ii) of the Order allows harvesting for safety reasons or to recover timber damaged by fire, insects or other similar events when an UWR unit is in deficit of mature forest cover requirements.

Tolko's harvesting under the GAR Order

After the Order came into effect, Tolko harvested in several moose UWR units under clause 9(ii) to recover timber damaged by mountain pine beetle. The harvesting resulted in a deficit of stands needed to meet the mature forest cover objectives of the Order in the Aberdeen Plateau, Power-Lambly and Salmon River units.

Tolko felt the step down approach specified in the Order to meet the mature forest cover requirements often tied up mature stands of little to no value as winter habitat for moose and did not count some stands that were being used by moose because they did not meet at least one of criteria specified. Tolko hired a registered professional biologist to re-evaluate the three units to see if there was a better method of managing for moose. The re-evaluation included field-verifying the suitability of stands based on moose use, proximity to key habitat elements and stand structure.

Tolko prepared a plan for moose UWR management based on the field verification. The plan covered about 33 percent more area than what is required by the Order and included a mix of heights and crown closures, and recruitment areas.

The Exemption to the GAR Order

Because Tolko wanted to harvest healthy stands not covered by clause 9(ii) and did not want to follow the step-down approach for mature retention, it needed to obtain an exemption to the Order.

Tolko submitted an exemption request on May 21, 2015, that included the plan and a commitment to follow the plan if the exemption was approved. FLNR reviewed the plan using a helicopter overview flight; field review of stands that did not meet mature forest criteria in the Order; and by walking specific areas to review stand attributes and whether moose were using the area.

Contrary to the complainant's understanding, FLNR approved the exemption on June 10, 2015.

Conclusions

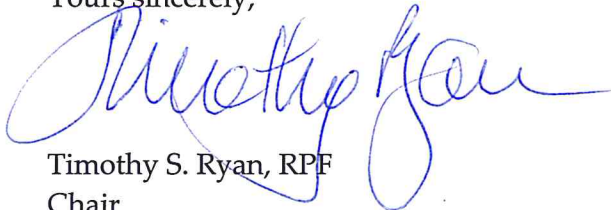
Tolko's harvesting resulted in a deficit of stands needed to meet the mature forest cover requirements in the Order. However, Tolko was compliant with the Order because the harvesting was done under clause 9(ii) to recover timber damaged by insects. Tolko also applied for and received an exemption to the Order regarding the mature forest cover objectives.

The Board considers that Tolko adequately addressed the management of moose in the Aberdeen Plateau, Power-Lambly and Salmon River units where stands needed to meet the mature objectives of the Order were in deficit. The process followed by Tolko to identify and manage suitable and recruitment moose habitat was prepared with the advice of a registered professional biologist, and field-reviewed and approved by FLNR. The resulting plan forms an integral part of the exemption. In addition, Tolko also maintains a tracking report that analyzes proposed development to ensure it is compliant with the exemption.

FRPA allows licensees considerable discretion with regard to how they communicate with the public and other stakeholders. Communication with those potentially affected, prior to harvesting, can help avoid conflict. In this case, the licensee communicated its intentions with government, but did not and was not required to advertise or discuss the exemption request with stakeholders. It can be challenging for a forest licensee to identify which activities warrant consultation when stakeholders or the interested public are difficult to identify and may not come forward until after the planning has been completed. Consequently, stakeholders and interested persons must also make a concerted effort to ensure that forest licensees are aware of their interests and concerns. The Board is encouraged that the complainant and Tolko have agreed to establish communication and discuss the exemption and approved management strategy.

This concludes the Board's involvement in this file. If you have any remaining questions or concerns, please contact Cam Leitch, RPF at 250 213-4728.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Timothy Ryan", is written over the printed name and title.

Timothy S. Ryan, RPF
Chair