

Annual Report 1996





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Chair's Statement



Board Chair, Keith Moore, in the field in the East Kootenays

The Forest Practices Board is the first of its kind in Canada. It makes reports and recommendations about compliance and enforcement issues related to British Columbia's Forest Practices Code, and about the achievement of the intent of the Code.

The Code is unprecedented in scope and is expected to regulate forest planning and practices across a tremendous diversity of forest and range landscapes. The challenges of implementing the Code have been substantial—for the industries striving to meet the new Code standards, for government ministries working to regulate according to the new requirements, and for the public trying to understand the implications of the legislation on activities in the province's forests. Similarly, the Board has faced substantial challenges in developing its role.

Early in 1995, the Board's first year of operation, we realized that to meet our responsibilities we would have to develop a number of new procedures, many of which are uncommon in forest management anywhere in the world. We also realized that this process would realistically require a three-year development period. Having now completed our second year, I am pleased to report that we have made substantial progress.

This second Annual Report of the Board describes the work we conducted in 1996, some of the forest practices issues we faced, and several issues that are emerging in each of our four major areas of responsibility. Those areas are:

- **audits** – The Board undertake periodic independent audits of forest practices and enforcement of the Code.
- **investigations** – The Board undertakes investigations to deal with complaints from the public about forest practices or enforcement of the Code. It may also initiate special investigations into Code related forestry issues.
- **review and appeals** – The Board may request administrative reviews of certain decisions by government officials and appeal review panel decisions or become a party to appeals of panel decisions to the Forest Appeals Commission.
- **reports** – The Board must provide reports to the public and the three ministers about our activities, findings and recommendations.

Our accomplishments in 1996 included the development and testing of a rigorous and comprehensive set of procedures for auditing compliance with the Code, as well as the release of an Audit Reference Manual. Using these audit procedures, the Board completed the field work in four audits of forest practices during the fall. Two assessed compliance of road and harvesting activities; a third assessed silviculture practices; and the fourth considered operational planning. While the reports for these audits were being prepared, we continued to consult with interested groups about ways in which the auditing procedures might be further clarified and improved. A revised Audit Reference Manual will form the basis of an ambitious audit program in 1997.



Board members maintain a field perspective

The Board also dealt with 37 complaints about forest planning or practices in 1996. We substantially improved our procedures for handling complaints and, by the end of the year, had succeeded in reducing a backlog. Two important reports were completed and are described in this Annual Report.

As well, we were very active in the area of administrative reviews and appeals. In this role, the Board represents the public interest in interpreting the legal provisions of the Code in a way that is fair and reasonable and that encourages good forestry practices. In 1996, we participated in 20 appeals at the Forest Appeals Commission, raising such issues as the liability of contractors and employees under the Code, the use of stop-work orders, the meaning of "damage to the environment," and the Code requirements for forest development plans. These, too, are described in more detail in this Annual Report.

We continued to place a high priority on maintaining a presence in forest communities around the province, meeting with the public, individuals and organizations representing a variety of sectors, and the media. This gave us the opportunity to explain our work directly to interested and affected people and to hear their views and concerns in turn. The Board also places a high priority on maintaining a field-level perspective. In 1996, Board members went to the field to look at wildlife and forestry issues in the East Kootenays, forest practices after the designation of the Cariboo-Chilcotin Land Use Plan in the Cariboo, and oil and gas exploration practices in the Peace River area. As well, each Board member participated in field work during development of the auditing procedures. We are committed to developing Board programs that interpret the legislation and enable us to carry out our mandate in ways that are fair and practical at the field level.

The Board's accomplishments in 1996 are significant and, at year-end, difficulties that we faced in coping with workload were being resolved. However, there were times during 1996 when it seemed that the promise we showed in our first year was not going to be possible to sustain in our second. In particular, we continued to have great difficulty responding promptly to complaints and were unable to initiate some complaint investigations, complete reports and consider requests for administrative review from the public. We were also unable to start work on other Code matters that we wished to initiate.

This situation-carried over from our first year-was the result of several obstacles, largely out of our control, that prevented us from hiring the number of qualified staff we needed to undertake our programs. The lack of sufficient qualified staff was the most frustrating and difficult aspect of our work. In the Board's 1995 Annual Report, I stated that, "In 1996, we must improve our ability to respond quickly to complaints, and move quickly to firmly establish our investigation, audit, review and appeal roles." That remains true as we enter 1997, and it is a goal I consider to be more important than ever.

I am happy to say that by the end of 1996 substantial progress was being made to overcome the problem of hiring staff. With further progress in the coming year, I am confident that many of the problems we have faced in coping with workload will be resolved.



Board members brief local media about the Board

Two other tasks completed by the Board in 1996 are also worthy of mention here. In October we provided a report to the three ministers, making recommendations about the future membership and structure of the Board, the process of appointing Board members, and the level of remuneration for members. We strongly endorsed the concept of a relatively small Board, made up of members who have a diversity of backgrounds and work experience and who come from different parts of the province. We stated that, for the Board to earn and maintain credibility with the public, members should not be appointed to represent particular sectors or viewpoints. Furthermore, to ensure the Board reflects a broader public interest, we recommended that one member be chosen from outside those sectors directly involved with the Code (namely, forests, range, oil and gas, and mineral exploration).



Looking at oil and gas exploration on northeastern BC – one of the sectors covered by the Forest Practices Code

At year-end, the Board was also preparing a detailed response to the recommendations made by a government committee for changing some aspects of the Code pertaining to operational planning and forest road activities. We support initiatives such as this, aimed at making the Code more efficient and better focused on results in the field. At the same time, we think that the implications of any proposed changes must be thoroughly considered and a range of interests and professional groups consulted before changes are made.

The Board bid farewell in 1996 to three of its original Board members - Clay Perry, Cathy Mumford and Gordon Baskerville. These individuals contributed significantly to the Board. Their commitment to ensuring the fair and reasonable implementation of the Code, and the energy with which they demonstrated that commitment, was invaluable in helping shape the Board and bring about many of its achievements.

Finally, I wish to acknowledge the dedication, commitment and perseverance of all Board staff. I am proud of the expertise we are developing in forest practices, forest auditing and forest law, and I appreciate the long hours that all staff members have devoted to achieving the goals of the Board and the Code. The accomplishments of 1996 described in this report are a tribute to the hard work and commitment to quality displayed by each and every one of our staff members.

The Board

"The Lieutenant Governor in Council must establish a Forest Practices Board."

Section 189 (3), *Forest Practices Code of British Columbia Act*

Legislative Foundation

The provincial government created the Forest Practices Board on January 1, 1995, to be "the public's watchdog on effective forest management." Announcing the Board's establishment, the Forests Minister of the day, Andrew Petter, described it as "the independent, expert monitor of forest management practices in B.C."

The Board's mandate and authority are described in the *Forest Practices Code of British Columbia Act* and the Forest Practices Board Regulation. (Appendix 1 contains Code provisions pertaining to the Board.) The Board reports to the public and to the ministers of the three ministries responsible for approving plans and administering and enforcing the Code: the Ministry of Forests, the Ministry of Environment, Lands and Parks, and the Ministry of Employment and Investment (formerly Energy, Mines and Petroleum Resources).



The six Board members held regular public meetings in communities around the province

The Code has three components: the *Forest Practices Code of British Columbia Act*; 18 Regulations; and 51 guidebooks, which detail recommended procedures, processes, and results for specific practices. The Act and the *Forest Practices Board Regulation* define the Board's statutory roles and responsibilities.

The legislation requires the Board to:

- undertake periodic independent audits (Sec. 176);
- deal with complaints from the public (Sec. 177);
- report findings, with reasons, of investigations and audits (Sec. 185); and
- submit an Annual Report to the three Ministers for presentation to the Legislative Assembly (Sec. 189).

To achieve its broader roles and responsibilities, the Board may:

- conduct special investigations (Sec. 176);
- request administrative reviews of specified determinations (Sec. 128);
- appeal those review decisions to the Forest Appeals Commission (Sec. 131);
- make recommendations following an investigation or an audit (Sec. 185);
- follow up those recommendations (Sec. 187); and
- make special reports on matters relating generally to the Board's duties (Sec. 189).



Board member Clay Perry

The Board has organized these roles and responsibilities into four major program areas, each of which is described in this Annual Report: contact with the public, audits, investigations, and reviews and appeals. The roles and responsibilities relate to compliance by parties with Parts 3 to 5 of the Act-which deal with operational planning, forest practices and protection of forest resources-and to the appropriateness of government enforcement under Part 6.

In addition, the Board has the ability to consider and report on matters that pertain more generally to the application and implementation of the Code, including the transitional provisions in Part 11 of the Act. The Board does not have the authority to address matters relating to:

- private land, except private land included in tree farm or woodlot licences;
- land-use decisions or strategic planning (Part 2 of Act);
- liability matters (Part 7); or
- any other legislation, such as the *Forest Act* or the *Land Act*.

The parties to whom the Board's roles and responsibilities apply are:

- agreement holders under the *Forest Act* and *Range Act*, including forest companies, mineral exploration companies, oil and gas exploration companies, ranchers, and woodlot owners operating on Crown land or on private land within tree farm licences or woodlot licences, as well as agreement holders under the Small Business Forest Enterprise Program administered by the Ministry of Forests; and
- the three government ministries responsible for the Code's administration.

The Board's activities are directed to the actions or decisions of government ministries and agreement holders, not to individuals.

The Board's primary role is to provide reports to the public and three ministers about the compliance and enforcement of the Code and the achievement of the Code's intent. It must report the findings and conclusions of all its investigations and audits and may make any recommendations it considers appropriate. It may also ask to be notified of steps that have been taken to implement a recommendation and can report further if it believes that no adequate or appropriate action has been taken.

The Board has no power to enforce the provisions of the Act or to levy penalties. These are solely the responsibilities of the three ministries.

Board Members

The Lieutenant-Governor-in-Council appointed the first Forest Practices Board on December 20, 1994.

The Board consists of:



Keith Moore, chair, forester and former consultant in forest land management and environmental assessment.



Gordon Baskerville, UBC forest resource management department head.



Cathy Mumford, agrologist with a background in range management and resource planning.



Cindy Pearce, forestry consultant in silviculture, forest resource education, and planning.



Clay Perry, consultant who has represented forestry workers at provincial, national, and international levels. (Resigned in August 1996.)



Jack Toovey, forester who has held executive positions in the private sector and forestry associations.

The Chair is full-time and has a three-year term. The five Board members serve part-time and have two-year terms. Gordon Baskerville and Cathy Mumford completed their terms on December 31, 1996, and chose not to seek reappointment. Cindy Pearce and Jack Toovey were reappointed to another two-year term for 1997 and 1998.

Board members have considerable experience in forest and range practices and planning, and have worked in many parts of the province. Three reside in small resource communities—one on the coast, one in the Kootenays, and one in the Cariboo. The Code of Conduct for Board members is presented in Appendix 2.

The Board has 13 staff to support its work. An Executive Director reports to the Board and is the link between the Board members and the staff. Appendix 3 describes the Board's organization.

Values and guiding principles

The Board has defined the following values and guiding principles to assist it and staff in implementing its roles and responsibilities.

The Board will:

- represent the public's interests, not those of any single group;
- be accessible and non-adversarial;
- treat all people with respect, fairness, and sensitivity;
- be unbiased and non-partisan;
- try to solve problems rather than find faults;
- carry out its mandate with integrity, cost-efficiency, and accountability;
- base deliberations and decisions on knowledge, experience, and common sense;
- provide timely, clear, and concise reports to the public; and
- contribute to continuing improvements in forest planning and practices.

The Board's Achievements



In its second year as the "public's watchdog on forest practices," the Board took major steps in each of its four program areas. Among these:

- Launched 26 complaint investigations.

Four investigations were completed and 12 were settled or withdrawn after involvement of the Board. The Board also made progress by year end in reducing a backlog of complaints that had occurred as a result of staffing problems.

- Produced two significant complaint investigation reports.

Key recommendations included: amendments to the *Forest Practices Code of British Columbia Act* and the *Biodiversity Guidebook*; development of policy to ensure information provided by the public is considered while plans are being reviewed for approval; and a speedier implementation process for a regional land use plan in the Cariboo-Chilcotin.

- Initiated one special investigation into the forest development planning process on the Queen Charlotte Islands.
- Developed standards and procedures for the Board's compliance audits, which are set out in a Compliance Audit Reference Manual and the associated audit checklists. The standards were field-tested in 10 locations prior to release of the manual.
- Completed the field work for four limited-scope audits, which will be reported publicly in early 1997.

- Initiated a comment and consultation process to review the Audit Reference Manual.
- Initiated 2 appeals and joined as a party to a further 18, all of which involved important issues related to interpretation of the Forest Practices Code.
- Requested one administrative review of an approved forest development plan, and subsequently appealed the decision of the review panel to the Forest Appeals Commission.
- Continued the development of Board policy and interpretation of the Code legislation pertaining to the Board.

Important issues included representation by parties that might be affected by a Board report or recommendation (section 182), the format of reports, freedom of information, protection of privacy and confidentiality, the process for dealing with agents, and conflict of interest guidelines for staff.

- Held public meetings in five communities around the province and made presentations at 10 conferences.
- Met with many individuals and groups representing government, industry, environmental groups, forest workers and First Nations.

Hired senior staff, including an Executive Director, a Director of Investigations, three auditors and a complaint analyst.

Contacting the Public

"If the chair considers it to be in the public interest, he or she may...comment publicly respecting a matter relating generally to the exercise of the board's duties.."

Section 189 (3), *Forest Practices Code of British Columbia Act*

The Board places a high priority on continuing its contact with the public, both to inform the public of the Board's work and to hear the public's expectations of the Board.

Activities in 1996

During 1996, the Board maintained contact with many organizations: those interested in the implementation of the Forest Practices Code and those representing agreement holders who might be affected by the work of the Board. A range of communication approaches—from telephone conference calls and presentations at meetings, to Board participation in conventions and major conferences—has been used, responding to the preferences of the organizations. In all, Board members made 44 presentations over the year to a wide range of audiences and spoke at 10 conferences.



Board Chair Keith Moore speaks to a public meeting in Victoria

The Board also continued to hold its regular meetings in various regional locations to maintain contact with the public throughout the province. During 1996, these meetings were held in Prince George, Fort St. John, Cranbrook, and Williams Lake. These sessions included several meetings with local interest groups and government agencies, field trips focussed on particular forest practices, interviews with local media, and broadly advertised public meetings in each location along with the regular Board meeting. A public meeting was also held in Victoria in conjunction with another regular Board meeting.

These sessions exposed the Board to the wide range of issues and views held by the public about the implementation and impact of the Forest Practices Code. This information assisted the Board in providing a response to the government's proposed changes to the Code, which were released at year's end.

Written materials were also produced during the year to inform the public of the status of the Board's work and highlight some of the issues being faced. These materials were distributed at presentations and conferences, as well as to individuals and organizations on the Board's extensive mailing list. Recognizing the growing use and benefits of electronic communication, the Board also initiated an Internet web page in 1996. Further development and expansion of the initial set-up is planned for 1997.



Board members organize field trips with local industry, government and interest groups to look at Code related issues

Publications released in 1996 included:

- *Information Bulletin: Compliance Audit Standards*
- *Complaint Investigation Summary #1*
- *Complaint Investigation Summary #2*
- *Complaint Investigation Summary #3*
- *Complaint Investigation Summary #4*
- *Final Report: Forest Practices Board Complaint 950036*
- *Final Report: Forest Practices Board Complaint 950038*
- *Forest Practices Board 1995 Annual Report*
- "The Forest Practices Board's Role in Reviews and Appeals" in the Proceedings of the conference, "Forestry Law in B.C.," sponsored by the Canadian Institute and held in November 1996, Vancouver)

(See the publications list and order form on the last page of the report.)



One of the boards field trips, near Campbell River

The Board also issued seven press releases and was in contact with the news media in Vancouver, Victoria and many smaller communities during the year.

A 1-800 line continues to provide province-wide direct access to the Board. When the line was initially set up, a large number of the calls related to issues falling outside the Board's jurisdiction. Many were general inquiries about forestry matters or questions about specific Code requirements. As public awareness of the Board's mandate grew during the second year of operation, the calls pertaining to matters within the Board's jurisdiction increased—a trend that is expected to continue in 1997. All calls not related to the Board's work are forwarded to the appropriate government agencies.

Issues

In 1995, its first year of operation, the Board distributed a number of pamphlets and summaries of its work to a large mailing list of individuals and organizations with a broad range of interests. For a number of reasons, the Board was unable to prepare and distribute the same kind of information as regularly as it wished in 1996.

For 1997, the Board has set as a priority the timely preparation and distribution of information explaining its work. To this end, it is proposing both to expand its contacts and to develop communications approaches that provide clear, accurate information efficiently and effectively.

Among the groups with which the Board would like to establish better contact are municipal and regional governments, First Nations, and the range and mineral sectors. The Board is committed to developing a mutually satisfactory working relationship with these groups—one that accommodates their individual needs as well as their interests in forest planning and forestry

practices. The Board will continue its regular communication and consultation with groups and individuals representing forest industry, environmental and government interests.

As a first step in enhancing its communication approach, the Board plans to place more of its documents on the Internet. In this way it will be able to make most of its reports and recommendations widely available almost as soon as they are released. This will complement the efforts to increase the distribution of Board information through printed materials, presentations, and press releases.

Special Reports

In addition to undertaking audits and special investigations, the Chair may comment publicly or make a special report to the three ministers about a matter relating generally to the Board's duties.

By the end of 1996, the Chair was preparing one such special report, which is planned for release in 1997. It addresses the way in which administrative reviews are conducted.



Board members at a public meeting in Williams Lake

Auditing Forest Practices and Code Enforcement

"[The] board must carry out periodic independent audits..."

Section 176, *Forest Practices Code of British Columbia Act*



Coastal harvesting practices were the subject of two audits undertaken in 1996

One of the principal roles of the Forest Practices Board is to conduct periodic independent audits of forest practices in British Columbia and provide the conclusions from those audits to the public, the three ministers and the parties audited. Few jurisdictions in the world provide for a similar independent authority to conduct such audits.

The Act requires the Board to undertake two types of audits:

- audits of compliance with the forest practices requirements of the Code – "forest practices audits" – which involve agreement holders and government; and
- audits of the appropriateness of government enforcement of the Code – "enforcement audits" – which involve only the government.

Forest Practices Audits

The Board has proceeded carefully with the development of its program for auditing forest practices. Its philosophy is to implement an audit program that is field- and results-oriented. This has required effective integration of the auditing and forestry disciplines.

To meet its responsibilities for auditing forest practices and reporting to the public about compliance with the Code and achievement of its intent, the Board feels its forest practices audit program must include the following types of audits:

- compliance audits to determine if Code requirements have been followed;
- effectiveness audits to determine whether practices implemented in the field are achieving the Code's objectives; and
- comprehensive audits to assess good forest management practices that are being implemented in addition to those required by the Code and that achieve the Code's objectives.

In 1996, the Board focused on completing the development of its compliance audit program and initiating its first audits. To do this, the Board first had to decide the scope of its compliance audits. The Act requires the Board to undertake audits to determine whether a party has acted in compliance with Parts 3, 4 and 5 of the Act and the regulations made in relation to those parts. A "party" is defined as an agreement holder under the *Forest Act* or *Range Act*, or government in the case of the Small Business Forest Enterprise Program.

To audit compliance by a party, the Board determined that its approach would have to:

- facilitate efficient and manageable audits;
- provide results within a defined geographical area that are understandable to the public; and
- ensure that the accountability for the results of an audit are clear.



Board members observe road building practices, the subject of three of the forest practices audits undertaken in 1996

The Board therefore decided that compliance audits must focus at the licence level or, in the case of larger licences, at the operating division level. In the case of the Small Business Forest Enterprise Program, the focus is at the district level. The Board also decided that it would select its audits from the regional level (that is, the six Forest Regions) for the forest tenures and from the provincial level for the Small Business Forest Enterprise Program and range tenures. Selection of a licence or district for audit is to be done randomly and not on the basis of location or past performance.

To assist in developing audit criteria and standards the Board retained Price Waterhouse and KPMG on a contract in March 1996. Both firms are nationally recognized for their expertise in forestry auditing. About 15 sub-consultants brought resource sciences and auditing expertise to the task.

Audit criteria, derived from the Act and related regulations, were established for the evaluation or measurement of each practice required by the Code. These criteria reflect judgements about the level of performance that constitutes compliance with each requirement.

The draft audit standards were field-tested in 10 different locations across the province. All of the field tests involved agreement holders who volunteered their operations for this purpose. Numerous changes and improvements to the procedures were made as a result of the tests and a final version was approved by the Board.

In September 1996, the Board's Audit Reference Manual, "Compliance Audits: Version 1" was completed. It sets out the standards and procedures for compliance audits. The Board used this reference manual to undertake its first four audits in the fall of 1996. Later in 1996, the Board began a consultation process with interested parties and invited comments on Version 1 of the Audit Reference Manual. This process is expected to result in revisions and the release of Version 2 in 1997 prior to our initiating the 1997 audit program.

Compliance Audit Process

At the outset of an audit, the audit team analyzes each forestry activity in the auditee's operations (such as the cutting and removing of trees from a specified area) to identify the items (cutblocks harvested or roads constructed, for example) that make up the activity over the time period subject to audit. The items composing each forest activity are referred to as a "population."

For each population, the audit team chooses the most efficient means of obtaining sufficient information to allow it to conclude whether there is compliance with the Code. Sampling is usually relied on to obtain audit evidence, rather than inspection of all activities.

As individual sites and forest practices within populations have different characteristics (such as the type of terrain or the logging method), each population is subdivided into "strata" on the basis of common characteristics (for example, steep terrain versus flat ground). A separate sample is then selected for each population. Greater audit effort, such as more sampling, is allocated to the strata where the risk of non-compliance is higher.

The audit work in the field includes assessments from helicopters and intensive ground-based procedures such as the measuring of road widths and other specific features.



Board members participated in field trials of the audit procedures

Audit conclusions

The Board recognizes that compliance with many Code requirements is a matter of degree, rather than of absolute compliance. As a result, auditors are required to exercise professional judgement within the direction provided by the Board in the Audit Reference Manual.

In performing the audit, auditors collect, analyze, interpret and document information to support the audit results. This requires the audit team first to determine whether forest practices are in compliance with Code requirements and then, for those practices judged not to be in compliance, to assess the degree of severity of non-compliance—that is, its significance. Significance is assessed relative to the actual or potential harm that might be caused to people or the environment.

As part of the assessment process, auditors categorize their audit findings into one of four levels of compliance:

Compliance: where the auditor assesses that practices meet Code requirements.

Not significant non-compliance: where the auditor, after reaching a non-compliance conclusion, assesses that the non-compliance event or condition, or the accumulation of a number of non-compliance events or conditions, is not significant.

Significant non-compliance: where the auditor, after reaching a non-compliance conclusion, assesses that the non-compliance event or condition, or the accumulation of a number of non-compliance events or conditions, is significant. Included in this category are situations in which non-compliance has resulted in harm to persons or the environment, even if remedial action has already mitigated the consequences of the non-compliance to a minor level; and situations in which there is potential for harm as a result of non-compliance even though no harm has yet occurred.

Significant breach: where the auditor, after reaching a non-compliance conclusion, assesses that significant harm has occurred or is beginning to occur to persons or the environment as a result of the non-compliance event or condition. A significant breach can also result from the cumulative effect of a number of non-compliance events or conditions. Should a possible significant breach be identified, the auditor must conduct tests to determine its extent. If it is clear from the tests that a significant breach has occurred, the auditor must then advise the Board immediately, the person being audited, and the three ministers.

Audit report and opinion

To reach an overall opinion, assessments are made at various levels. In all cases, an assessment is made of a forest practice or group of forest practices followed by assessments at each forest activity level, such as road construction or harvesting practices.

If all of the forest activities subject to audit are in compliance with the Code in all significant respects, the overall opinion reflects this conclusion and is referred to as a "clean opinion." The use of the words "in all significant respects" recognizes that there may be minor instances of non-compliance that either were not detected by the audit or were detected but were not worthy of inclusion in the report from the auditor.

In situations where significant non-compliance is identified, the type of overall opinion depends on the magnitude and frequency of the non-compliance.

A "qualified opinion" is appropriate where the significant non-compliance is neither pervasive nor of a sufficient magnitude to warrant an overall negative conclusion. The words "except for" are used to draw attention to the details of the significant non-compliance, to "qualify" the overall opinion of compliance, in all significant respects with Code requirements. The words "in all significant respects" recognize that there may also be instances of not significant non-compliance that either were not detected by the audit or were detected but were not worthy of inclusion in the report from the auditor.

An "adverse opinion" is an overall negative conclusion. It is appropriate when significant non-compliance is sufficiently pervasive or of sufficient magnitude to indicate that, overall, one or all of the forest activities subject to audit were not in compliance with Code requirements.

Further Developments in the Compliance Audit Program

During the development of its compliance audit program, the Board has continued to receive advice from the audit reference group it formed in 1995. Members of this group were selected for their expertise in auditing and various aspects of forestry.

The Board also invited about 40 other interested parties to comment on the Board's Audit Reference Manual. Their input will be the focus of discussion at a one-day workshop in early 1997, after which the Board will finalize the standards for use in its 1997 compliance audits.

Limited-scope audits

The Board initiated its compliance audit program in 1996 and undertook four limited-scope audits. These included two audits of harvesting and roads (one in the interior and one on the coast), one audit of silviculture practices and one of operational planning (both in the interior):

- The audits of the timber harvesting and road construction, maintenance, and deactivation practices were performed on Forest Licence A15385 held by Finlay Forest Industries Inc., located in the Mackenzie Forest District; and Tree Farm Licence 45 held by International Forest Products, located in the Campbell River and Port McNeill forest districts.
- The audit of the silviculture activities was performed on Forest Licence A20021 held by West Fraser Mills Ltd., located in the Horsefly Forest District.
- The audit of operational planning was conducted on the Small Business Forest Enterprise Program of the Lakes Forest District (Burns Lake) located within the Lakes Timber Supply Area.

A summary of what was audited is shown in Table 1. The final reports on all four audits will be released in early 1997.

Table 1. Audit summary information for 1996

Auditee and the Ministry of Forests district location	Allowable Annual Cut	Activities Audited	Number of Cutblocks Examined	Roads Examined
Finlay Forest Industries FL A15385 Mackenzie Forest District	1,174,342 m ³	Timber harvesting and road activities	59 cutblocks viewed by air 26 cutblocks ground-checked (timber harvesting practices)	73.5 km construction ground-checked 49 deactivation roads viewed by air 17 deactivation roads ground-checked 110.2 km maintenance ground-checked - large unquantified amount of maintenance viewed by air
International Forest Products TFL 45 Port McNeill and Campbell River Forest Districts	220,000 m ³	Timber harvesting and road activities	14 cutblocks viewed by air and ground-checked (timber harvesting practices)	16.7 km construction ground-checked 0.8 km deactivation ground-checked 62 km maintenance ground-checked
West Fraser Mills FL A20021 Horsefly Forest District	127,004 m ³	Silviculture	17 cutblocks viewed by air and ground-checked (mechanical site preparation and planting)	N/A
Lakes Forest District Small Business Forest Enterprise Program Burns Lake	438,550 m ³	Operational planning	1 forest development plan 14 silviculture prescriptions 16 logging plans 4 silviculture exemptions	N/A



Board members learn about oil and gas exploration activities near Fort St. John

The experience gained from all four limited-scope audits has been invaluable in preparing the Board to expand its compliance audit program in 1997.

Enforcement Audits

With three additional staff hired late in 1996, the Board was able to begin its development of a framework for auditing the appropriateness of the Code enforcement being carried out by the three ministries responsible. The Board plans to establish and test elements of an enforcement audit program as they are developed throughout 1997.

Issues

During 1996, the Board faced a number of challenges in developing and implementing its audit program. Many of these were directly related to the unique nature of the Board's responsibility to conduct audits of forest practices.

The lack of established models and the considerable risks associated with an inadequate audit process required the Board to proceed carefully in developing the framework for its compliance audits. Defining the most effective format of audit reports and the relationship between the Board and the auditor took much effort. An important step was assessing the needs of the public to determine how Board audits could best provide meaningful information.

In a number of matters-such as determining risk, defining the concept of significance, and choosing a sampling method to select cutblocks-the Board looked at developments in other fields, including auditing and forest engineering. However, extensive work was needed to adapt concepts to Board audits.

The lack of standard criteria and indicators for use in effectiveness and comprehensive audits has also hampered the Board's establishment of these areas of its forest practices audit program. The same problem has delayed development of the enforcement audit program. Additional challenges were posed by interpretation of Code requirements and Board responsibilities, and by the effect of transitional provisions which, in many cases, allowed for standards of practice that differed significantly from full Code compliance.

Apprehension expressed by many parties over the newness of the Board's audit program created another challenge. Companies subject to the Board's first audits had no sense of how they would be affected. Their concerns ranged from the amount of extra work the audit imposed on their staff, to the public's possible reaction to the audit findings reported. Forest industry associations questioned what immediate and long-term effects Board audits might have on the forest industry, including the amount of effort required of their member companies in being audited and the international reaction to audit results. Regulatory agencies expressed concern about their lack of active involvement in the audits and about how findings might reflect on them.

Many of these issues will likely continue to affect the Board and its work in 1997. A number of new issues are anticipated as well, for example:

- Before the Board finalizes an audit report, it is required to give adversely affected parties an opportunity to make representations (in accordance with section 182 of the Act). At the same time, the Board has decided that its conclusions and recommendations should (in accordance with section 185) be released along with each report from the auditor. Together these obligations will put pressure on the Board to satisfy all parties and still meet the 30-day requirement for publicly releasing reports.
- In moving to implement its full compliance audit program, the Board has worked hard to encourage the development of contractor expertise in the area of forestry auditing. Nevertheless, it will continue to have difficulty finding qualified independent contractors to undertake work on its behalf during the limited field seasons. This may hamper the Board's ability to complete its ambitious program for 1997.
- In conducting its compliance audit program in 1997, the Board will need to consider how its work might be affected by other initiatives that involve audits of forest planning and practices, such as the international ISO 14000 standards, the national CSA standards, and programs of government and forest companies. Not only will the Board increasingly have to compete for the services of contractors experienced in forest auditing, but it will also have to stay current with progress elsewhere that might have a bearing on its own work, such as the development of criteria and indicators for effectiveness audits.

Investigating Forest Practices and Code Compliance

"[The] board must deal with complaints from the public respecting prescribed matters that relate to this Act."

Section 177(1), *Forest Practices Code of British Columbia Act*

"[The] board...may carry out special investigations..."

Section 176, *Forest Practices Code of British Columbia Act*

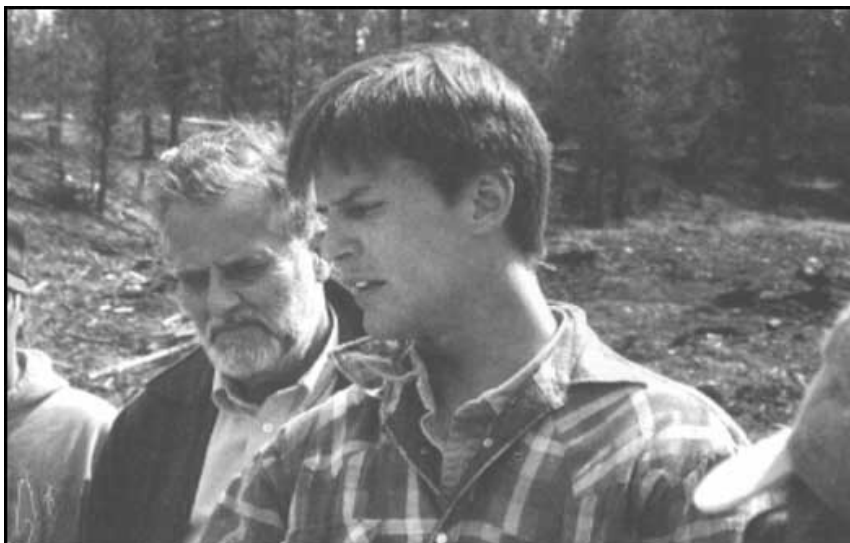
Dealing with Public Complaints

One of the important responsibilities of the Board is to deal with complaints from the public about forestry matters included in the Code. As well, it has decided that it will consider complaints filed by agreement holders and government agencies.

Complaints, concerns, and contacts

Individuals and groups can approach the Board in a variety of ways to raise matters involving forest planning, forest practices and related issues. The Board describes these various approaches as filing a complaint, raising a concern, and establishing a contact.

A complaint is a matter that is brought to the Board in writing and includes the information required in a Notice of Complaint, as described in the Act. It is the most formal of the three approaches, but is the only one in which the Board will consider investigating the matter raised. The procedure for investigating complaints is described below.



Board member Clay Perry looks at an operational plan for harvesting in the East Kootenay. Operational plans were the subject of complaints to the Board

A concern is a matter brought to the Board's attention, but not as a formal complaint in the form required by the Act. The Board cannot investigate a concern. Though initially received as phone calls or letters, some concerns may later be filed as complaints.

A concern that involves a forestry matter within the Board's jurisdiction, but is not written down and filed as a complaint, is referred to as a jurisdictional concern. A concern that appears to involve a matter that is outside the Board's authority – for instance, a tenure or timber supply decision – is referred to as a non-jurisdictional concern.

If a concern appears to fall within the Board's jurisdiction, Board staff advise the person raising the concern to contact the appropriate party (government agency or agreement holder) to try to find a remedy locally. The person is also told that if contact with the appropriate authorities does not resolve the matter, then it might be one about which they could file a complaint. If a concern does not fall within the Board's jurisdiction, staff try to direct the person to the appropriate person or agency that can provide information.

A contact is a phone call or letter to the Board about a forestry matter, but it requests no action from the Board. Often the letters received are copies of letters addressed to government agencies or agreement holders, forwarded to the Board for information. They are not complaints or concerns. The Board acknowledges these contacts, but takes no action.

Procedure for dealing with complaints

Notice of complaint

An individual or group that wishes to file a complaint with the Board must submit a Notice of Complaint, including in it:

- the grounds of the complaint;
- a statement describing the relief requested;
- the complainant's name and address; and
- if the complaint is submitted by someone on behalf of the complainant, that person's name.

The Board has decided that each notice must be signed by the person making the complaint.

Although the written notice must include the complainant's name, the Board can provide anonymity for complainants and the subject of complaints, if requested, and if the Board agrees. Complainants can choose to make their identity known if they wish. If the complaint is filed by an agent on behalf of another person, the Board requires confirmation that the complainant has appointed the agent to act on his or her behalf.

Assessment of complaints

When a complaint is received, Board staff send a letter of acknowledgement to the complainant. Staff then undertake an assessment to determine whether the matter is within the Board's jurisdiction to investigate. As part of this process, staff generally contact the subjects of the complaint, as well as other parties that could be affected. This assessment establishes that the complaint:

- involves actions or decisions made after June 15, 1995;
- is about compliance with a part of the Code pertaining to operational planning, forest practices, protection of forest resources, or the appropriateness of government enforcement; and
- relates to Crown forest and range lands or private land in a woodlot licence or tree farm licence.

Staff must consider whether any of the circumstances described in Section 177 (2) of the Act are reasons that might cause the Chair to refuse to investigate. Such circumstances include the availability of other administrative remedies or evidence that the complaint is frivolous, trivial, or not made in good faith.

The merits or validity of the complaint are not considered during the assessment. This phase considers only the issues of jurisdiction and whether circumstances exist that may cause the Chair to refuse to investigate.

Decision to investigate

When the assessment is complete, staff present their recommendation to the Board to either investigate or refuse to investigate. The Board must make its decision within 60 days of receiving the complaint.

The Board must notify in writing the complainant and the other parties named in the complaint of its decision. It must also notify in writing other parties it considers to be affected by the complaint. If its decision is to investigate, the Board must describe in its letter the nature of the complaint. If its decision is not to investigate, it must state the reasons for its refusal.

Investigation procedure

If the Board decides to investigate a complaint, staff determine the facts and circumstances of the complaint and report their findings to the Board. Face-to-face interviews with the complainant and parties are initiated, as well as field inspections where required.

The Board has chosen to emphasize a problem-solving rather than a fault-finding approach. If there is an opportunity to help the complainant and the subject of the complaint resolve differences and find remedies, the investigator will pursue it.

Principles of complaint assessment and investigation:

- investigate the actions or decisions of agreement holders and government ministries only, not of individual workers, professionals, or government employees;
- expect complainants to make reasonable attempts to resolve problems locally before approaching the Board; the Board can refuse to investigate if the chair is of the opinion that there are administrative procedures available that have not been used to find a remedy;
- to the extent possible, find solutions to complaints and assist parties to resolve disputes; assist in finding solutions rather than finding fault or assigning blame;
- be a fair and unbiased investigator of a complaint rather than an advocate for the complainant's views; and
- in investigating complaints about decisions, consider whether the decision was fair, reasonable and technically sound given the information available at the time; confirm the decision makers' responsibility to make appropriate decisions in a timely and effective manner.

It is important for all parties to a complaint to understand that the Board is an independent, neutral investigator, not an advocate on behalf of the complainant. Board staff have no authority to act as mediators, but can encourage dialogue and assist in negotiations between the complainant and parties to help resolve problems.

Completing an investigation

A complaint investigation is completed through the following process.

If a full investigation is completed by the Board, it closes the proceedings with a report detailing its findings and possibly including recommendations. The complaint may be resolved by the parties, with or without the Board's assistance, during the investigation. In this situation, the Board closes the investigation with a report that describes the solution found. The Board must inform any party or person that may be adversely affected by its report or recommendations, and give the party the opportunity to make representations before the Board reaches a final decision on the matter.

The final report that concludes a complaint investigation is provided to the parties and may be provided to the three ministers. The Board generally makes its reports public, but will protect privacy where, in the Board's opinion, it is appropriate to do so.

The Board cannot levy penalties or overturn decisions as a result of an investigation, but it can recommend actions to the ministries responsible for the Code's administration and enforcement.

Number of complaints and concerns in 1996

In 1996, the Board reviewed a total of 36 complaints. Twenty-six of these were new complaints received during the year and 10 were carried over from 1995. The Board decided to investigate 8 of the 26 new complaints.

Of the 36 complaints, four investigations were completed during the year and several others were nearing completion at year's end. Reports are set for the Board's review in early 1997. Twelve files were closed after the assessment period. Twenty complaints were either under assessment or investigation at years end.

The complaints received came from all regions of the province. Some were filed by individuals and some were filed by organizations; several covered more than one forest district and involved several agreement holders; all involved two or more parties. Most of the complaints pertained to Parts 3, 4 and 6 of the Code and were related to operational planning issues and, to a lesser extent, forest practices.

As well as complaints, the Board received a total of 103 concerns during the year, 40 of which fell within its jurisdiction.

Appendix 4 provides a detailed breakdown of complaints and concerns for 1996.

To better inform all parties involved in investigations about how the process works, the Board made several public presentations throughout 1996, in conjunction with its investigation activities.

Complaint Examples

The following examples illustrate the range of topics raised by the complaints received in 1996. These examples are real-the facts are from actual complaints. Details have been changed or omitted to maintain the privacy of the individuals and organizations involved.

Example 1

An organization submitted a Notice of Complaint about the refusal of a Ministry of Forests district manager to extend the minimum 60-day public review period for several forest development plans. The complainant had sought an extension of almost two months to allow for detailed review of hundreds of planned cutblocks and to compensate for a delay in receiving maps and other information. The district manager considered the request and agreed to extend the review period by 10 days. The complainant argued that this did not allow adequate time for people to review and comment during the public review period. The Board assessed the complaint and initiated an investigation. At year's end, Board staff were completing the investigation report.

Example 2

A letter was received by an individual with a complaint about closed roads that restricted access to Crown lands. The complainant asserted that while some groups had access to certain areas, he had been told by Ministry of Forests staff that he could not travel on a number of roads because of wildlife considerations. The complainant was also concerned that closed roads could hamper wildfire suppression. The Board examined the details of the complaint and decided that the issues dealt with land use planning, a subject outside the Board's jurisdiction to investigate. The Board also determined that there was opportunity for the complainant to have input into access management plans being developed at the local forest district.

Example 3

A First Nations organization submitted a Notice of Complaint stating that improper road layout, construction, and maintenance practices had resulted in a landslide into a small stream. The complainant asserted that the slide had caused damage to the environment by introducing sediment into the stream and damaging the stream bank. Of particular concern was the damage reported to habitat used by tailed frogs. The Board completed an assessment of the complaint and decided to investigate. By year's end, Board staff had initiated the investigation and begun contacting the various parties, collecting information, and planning interviews with agency staff and the complainant.

Issues

In responding to public complaints in 1996, the Board addressed and resolved a number of significant issues. These were related mainly to operational planning, the public review process, and the Board's own investigations process.

Operational planning and public review issues

Two complaint investigations in particular prompted the Board to make several key recommendations to government and agreement holders. In one case, after investigating a complaint that logging had been approved within the habitat of an extremely rare species of mushroom, the Board recommended that:

- section 40 of the Act be made consistent with section 41 to ensure that operational plans prepared by a district manager under the Small Business Forest Enterprise Program meet the same legal requirement as those plans submitted by agreement holders, to satisfy the district manager that the plan will adequately manage and conserve forest resources.
- the *Biodiversity Guidebook* be amended to clarify situations in which special efforts may be needed to protect the habitat of individual species; and
- the public review process for operational plans be adjusted to ensure that substantial new information that comes to light after the public review and comment deadline has passed is still recorded and considered.

In the other case, where five local organizations complained that approved forest development plans were not consistent with a designated land use plan (a higher level plan), the Board concluded its investigation by making 10 recommendations. These recommendations were intended to clarify and speed up the government's planning process so that agreement holders could ensure the operational plans they prepare are consistent with higher level plans. The Board also recommended that government take steps to improve the implementation process for higher level plans across the province, avoid creating future misunderstandings and false expectations among the public.

The Board anticipates that inconsistencies between higher level plans and operational plans will remain an issue in 1997, and it will continue to encourage cooperation and problem-solving at the local level.

Another important issue addressed by the Board in its investigations program was the adequacy of the public review and comment period. Several complaints were received about the length of the period of public review (complainants felt it was too short), the notification process ("needs improvement"), the information made available ("lacks detail"), and the comment process ("overview comments are inadequate"). The Board recognizes the need to find creative solutions for ensuring that both the public review process and the interagency referral process are adequate in length, and that the overall approval period for operational plans is not unnecessarily prolonged.

In 1996, the Board also reviewed a variety of complaints and concerns related to damage to the environment and sustainable use of the province's forests. Most of these matters were associated with the planning process. Once the Code is fully implemented in June 1997, it is anticipated that the majority of complaints will shift to a greater emphasis on forest practices. In 1997, the Board will continue to assist the public to resolve their concerns, with the aim of minimizing the need for formal complaints.

Administrative issues

As most agreement holders and government agencies are discovering, the Code is complex and requires a structured set of operational plans. Over the past 18 months that the legislation has been in effect, the Board has faced its own unique challenges in handling public complaints with inadequate staffing and lack of experience in dealing with the many requirements of the new Act and its accompanying regulations and guidebooks.

Overall, the Board was not satisfied with the number of complaints and investigations it completed in 1996. However, staffing changes and staff additions expected to be in place in 1997 will relieve the backlog of investigations and improve the timeliness of response to public complaints. The Board is also looking for ways to streamline the investigation process.

As an outcome of the investigations it did complete, the Board better understands the value of all parties having face-to-face contact at the local level early in the investigation process. The Board has also learned that assessing each complaint as quickly as possible and getting an investigation under way is a more effective approach than "wait and see." Although the latter approach was successful in some investigations, delay often meant that other planning processes overtook the complaint issues.

Special Investigations

In addition to responding to the complaint of an outside party, the Board may decide on its own accord to undertake a special investigation of a matter. This may occur where:

- a certain practice or planning process has produced a high volume of complaints;
- a matter of public interest and concern has been raised;
- a request to undertake such an investigation has been received by the Board; or
- a complaint investigation is not, in the Board's opinion, the appropriate method through which to consider matters raised in a complaint.

During 1996, the Board initiated one special investigation. An organization filed a complaint that frequent amendments to forest development plans by an agreement holder had precluded any real opportunity for public input. The Board decided to expand its investigation to cover the forest development plans of all agreement holders in the area and to include other organizations interested in making comments on plans. This investigation is still under way. Some of the issues it is examining include the development planning process, the amendments to forest development plans permissible under the Code, and the requirement to allow public review and comment on amendments.

Requesting Reviews and Appeals

"The board may request a review of a determination,...a failure to make a determination,... and... a determination with respect to approval of a forest development plan or range use plan..."

Section 128(1), *Forest Practices Code of British Columbia Act*

"[After] receiving a review decision...the board may appeal the decision by delivering to the commission a notice of appeal..."

Section 131(1), *Forest Practices Code of British Columbia Act*



The Board considers forest and range management issues in its review and appeal program

The Code includes review and appeal procedures to allow certain forest planning and enforcement determinations made under the Code to be reconsidered.

Agreement holders directly affected by enforcement determinations have a right to request administrative reviews. Other interested parties cannot request reviews on their own. Instead, the Board has the authority to request reviews of certain types of determinations, including:

- administrative penalties imposed under the Code;
- remediation orders and certain other orders (but not stop-work orders);
- approval of forest development plans, range use plans and amendments to those plans; and
- failures to make determinations.

In exercising its review and appeal function, the Board seeks to represent the broad public interest, rather than the interests of a particular group or groups.

Reviews and Appeals Procedure

The Board has three weeks to request a review of a determination, and six months to request a review of a failure to make a determination.

Administrative reviews are conducted by a panel set up for each review. A panel consists of one or more government employees appointed to conduct the review. The panel conducting the review can:

- uphold, change, or cancel the original determination;
- refer it back to the official who made the determination; or
- make a determination.

Each review may involve oral hearings or written submissions.

The Board also has the right to appeal (to the Forest Appeals Commission) the decision of a review panel, or it may choose to become a party to an appeal initiated by the subject of the determination. The Act and the *Administrative Review and Appeal Procedure Regulation* require that the Board be notified of all requests for review, all review hearings, all review decisions, and all appeals to the Forest Appeals Commission.

Number of Reviews and Appeals in 1996

The Board considered 122 determinations in 1996 to see if it wished to request administrative reviews. In most cases, the Board's reason for not requesting a review was that the agreement holder had already decided to do so. The Board accepted that it would have a subsequent opportunity to consider the issue once the review panel had made a decision. The Board considered appealing 41 review panel decisions. It initiated two appeals, both of which were heard in 1996. The Board also considered becoming a party to 22 appeals initiated by agreement holders. It joined 18 of these appeals, five of which were heard by the Forest Appeals Commission in 1996.

Principles to guide review and appeal decisions

In February 1996, the Board established a set of criteria to use in deciding whether it should initiate an administrative review or the appeal of a decision. The Board considers whether a review or appeal will:

- help to improve forest management;
- help to sustain public confidence in forest management;
- encourage the fair and consistent application of the Code;
- provide clarification or interpretation of important sections of the Code; and
- in cases where the Board has received a complaint, help to solve the problem.

The Board may also consider, where it believes the circumstances are appropriate:

- whether there is a better way to address the issue;
- what the financial and legal resources of the subject of the determination are;
- whether it has been asked to seek a review or an appeal; and
- what the likelihood is that the issue will be addressed in a review or appeal by the subject of the determination (agreement holder) or the government.



Road construction practices were the subject of several appeals the Board participated in

Issues

The Board's reviews and appeals program dealt with a wide range of interpretation- and process-related issues in 1996.

Several appeals that the Board participated in pertained to issues of due diligence and the liability of agreement holders and their contractors, employees and agents for contraventions of the Code. The Board believes that administrative remedies under the Code were designed to be very different from offence prosecutions in the criminal courts. Their effectiveness would be undermined if concepts from prosecutions, such as the defence of due diligence, were brought to the administrative system. The Board recognizes, nevertheless, that due diligence should be taken into account in setting the amount of a penalty after a contravention has been found.

On the matter of liability, the Board believes that it is fair that agreement holders-as parties who have been given the privilege of operating on public lands-be held accountable for the actions of their contractors and agents in all but the most extreme circumstances.

One of the challenges the Board grappled with in 1996 was the development of a fair policy on the issue of "double jeopardy." A single action by an agreement holder could lead to numerous alleged violations of the Code. However, imposing penalties for more than one violation arising from the same action may not always be fair. The Board will continue its work on this matter in 1997.

Five of the appeals the Board participated in before the Forest Appeals Commission were aimed at clarifying the nature of stop-work orders issued under section 123 of the Act. A number of review panel decisions have equated such orders with findings of contravention (that is, proven violations). The Board's view, however, is that a stop-work order can be issued when an official considers that a contravention is occurring. The official does not have to have sufficient evidence to prove that a contravention has actually taken place. In some cases, no contravention may result, but the stop-work order will have been used as a precaution. For this reason, the Board believes that ministry records should not record stop-work orders as though they were proof of contravention committed by an agreement holder.

In the Board's opinion, a broader interpretation of section 123 would encourage effective and proactive enforcement while eliminating potential unfairness to those carrying out forest practices. The Board has presented its case on this matter to the Forest Appeals Commission.

Other appeals of the Board concerned interpretation of section 45(1) of the Act, which states that individuals must not carry out "a forest practice that results in damage to the environment." The Board takes this to mean that any damage to the environment is a contravention-it does not have to be "significant damage" or "irreparable damage," terms that have been used in some review panel decisions.

In another issue related to interpretation, the Board requested an administrative review of the approval of a forest development plan. This was the first such review under the Code. The Board's position was that the plan had been prepared in a way that contravened the Code. It argued that, in keeping with the spirit and intent of the Code, a forest development plan ought to be "more than the sum of its individual and often unrelated parts." The review panel did not make a final decision about whether the Code does or does not legally require this. The Board has subsequently appealed and asked the Forest Appeals Commission to clarify the Code's requirements for forest development plans.

Work in the reviews and appeals program also continued on finding ways to balance results and efficiency with fair process and sound forestry and legal interpretations. For example, the time limit established by the Code for requesting administrative reviews make it almost impossible for the Board to represent the public interest when field investigation of circumstances is necessary, or when there is a request to seek a review of a forest development plan. In most cases, the Board cannot possibly learn about the issue, go to the field to look at a situation or review the plan in sufficient detail to reach a conclusion, and then convene to make a decision, all within 21 days of the subject of the determination being notified.

Another concern has been how to avoid burdening the administrative remedy system with excessive technical, procedural defences. The Board believes that the administrative remedies under the Code were designed to replace actions in the criminal courts and should not be encumbered with defences such as those that are available to individuals who face possible jail sentences. The Forest Appeals Commission agreed with the Board on this matter in a 1996 decision.

In the future, the Board expects the emphasis of the reviews and appeals program to shift from issues of interpretation and process to matters related to the appropriateness of enforcement (for example, size of penalties, sections of Code used, and failures to make determinations) and the consistency of Code application. Increasingly, the Board's work will be driven by identified priorities and specific issues, rather than-as in 1996-by review panel decisions.

Budget and Expenditures

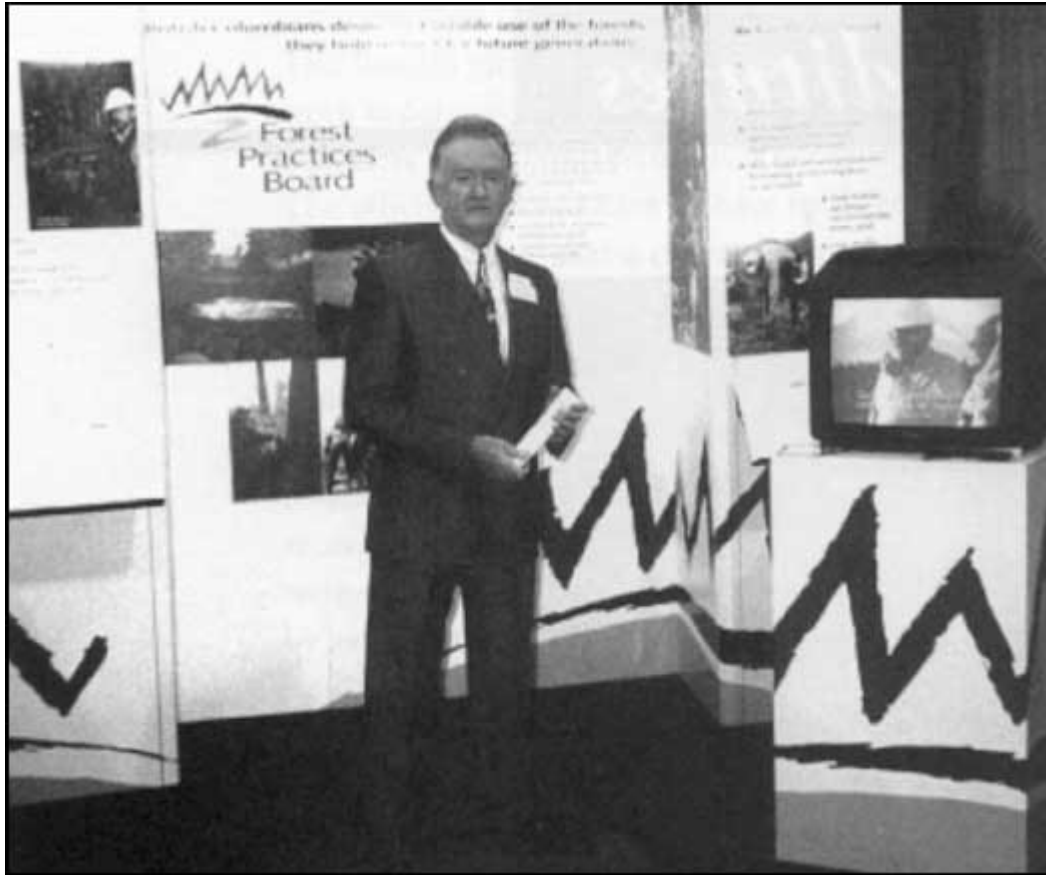


Seismic line in northeastern BC

The Board's budget for calendar year 1996 was \$4,381,470. (This is the amount accounted for by appropriations from fiscal years 1995/96 and 1996/97 of \$662,512 and \$3,718,958, respectively, allocated to the 1996 calendar year.)

During 1996, the Board's expenditures totalled \$3,010,700. The wide difference between the budget allocation and the expenditures (an amount of \$1,370,770) is explained by the considerable delays the Board experienced in recruiting staff, a situation that also delayed the delivery of a larger audit program and therefore meant fewer expenditures. During the year, the Board was also requested by Treasury Board, as were all government-funded entities, to reduce its level of expenditures to assist the government in meeting its budgetary targets.

Table 2 shows expenditures for the period, January 1 to December 31, 1996. Board members' expenditures cover strictly those of the Chair of the Board and the part-time Board members. Administrative expenditures include those incurred to provide support for the operations of the Board, those associated with the office of the Executive Director, and those of staff providing direct support to the Board.



Board member Jack Toovey at one of the conferences the Board attended in 1996

In the audit area, expenditures were mainly for the development of the audit programs, including audit protocols and their testing, and for the conduct of four limited-scope audits. Most of this work had to be performed through contracted services because of the Board's recruitment difficulties. Consequently, the operating costs of the audit section included approximately \$781,950 for contracted resources during the calendar year.

Table 2. Unaudited information for the period from January 1 to December 31, 1996^a

	Operational Expenditures					
	Board Members Expenditures	Complaint Investigations	Audits	Reviews & Appeals	Administrative Expenditures	Total
Salaries and Benefits	144,901	234,673	112,319	211,931	424,510	1,128,334
Operating Costs	242,864	>96,225	1,009,209	13,938	399,945	1,762,181
Asset Acquisitions	3,348	9,518	43,544	8,098	55,677	120,185
Total	391,113	340,416	1,165,072	233,967	880,132	3,010,700

^aThe calendar year 1996 combines the last three months of fiscal year 1995/96 (January to March) and the first nine months of fiscal year 1996/97 (April to December)

Definitions

ADMINISTRATIVE PENALTY

...a penalty levied by any of three ministries against a person who has contravened the Code.

ADMINISTRATIVE REVIEW

...a government review of certain types of determination, which can lead to confirmation, cancellation, or variation of the determination, or to a new determination.

AGREEMENT HOLDER

... holder of an agreement under the *Forest Act* or *Range Act*.

ASSESSMENT

...the process through which the Board determines whether or not it must investigate a complaint.

AUDIT CRITERIA

...the criteria against which field practices are tested.

AUDIT OPINION

...is expressed in three ways:

- clean opinion;
- qualified opinion; and
- adverse opinion.

BOARD'S FOREST PRACTICES AUDIT PROGRAM:

- compliance audits;
- effectiveness audits; and,
- comprehensive audits.

COMPLAINT

...filed in writing and includes information required in a *Notice of Complaint*.

CONCERN

...a matter brought to the Board's attention but not filed as a formal complaint.

CONTACT

...a phone call or letter to the Board about a forestry matter that does not request any Board action.

DETERMINATION

...any act, omission, decision, procedure, levy, order or other determination made under the Code by an official.

ENFORCEMENT AUDITS

...involve only the government.

FOREST APPEALS COMMISSION

...the independent tribunal that hears appeals from administrative review decisions made under the Code.

FOREST PRACTICE

...an activity such as timber harvesting, road construction, road maintenance, road use, road deactivation, silviculture treatments, botanical forest product collecting, grazing, hay cutting, fire use, control and suppression.

FOREST PRACTICES AUDITS

...involve agreement holders, government, and licensees under the Small Business Forest Enterprise Program.

FOUR LEVELS OF COMPLIANCE:

- compliance;
- not significant non-compliance;
- significant non-compliance; and
- significant breach.

JURISDICTIONAL CONCERN

...one that involves a forestry matter within Board's jurisdiction, but is not written down and filed as a complaint.

LIMITED-SCOPE AUDITS

...an audit of some, not all, of the requirements of the Code.

MINISTRIES RESPONSIBLE

...ministries responsible for Code administration:

- the Ministry of Forests;
- the Ministry of Environment, Lands and Parks; and,
- the Ministry of Employment and Investment.

NON-JURISDICTIONAL CONCERN

...one that appears to involve a matter that is outside the Board's authority.

OPERATIONAL PLANNING

...processes and work for preparing forest development plans, silviculture prescriptions, logging plans, range use plans, access management plans, five-year silviculture plans and stand management prescriptions.

PARTY

...the government or agreement holders under the *Forest Act* or *Range Act*.

REMEDICATION ORDERS

...an order to an agreement holder to do work to remedy a Code contravention, including any damage to the land.

SELECTION OF AUDITEE

...the selection of an auditee is done randomly, not on the basis of location or past performance.

SPECIAL INVESTIGATIONS

...an investigation initiated by the Board, and not based solely on a single complaint from the public.

Appendix 1

Code provisions pertaining to the Board

Forest Practices Code of British Columbia Act

Part 6

Compliance and Enforcement

Division 4 - Administrative Review and Appeals

Forest Practices Board may have determination or decision reviewed

128. (1) The board may request a review of

- (a) a determination made under section 82, 95(2) or 117 to 120,
- (b) a failure to make a determination under section 82, 95(2) or 117 to 120, and
- (c) if the regulations provide and in accordance with the regulations, a determination under Division 5 of Part 3 with respect to approval of a forest development plan, range use plan or amendment to either of those plans.

(2) To obtain a review of a failure to make a determination, the board must deliver a written request for a review to the deputy minister of the Ministry of Forests, and to the person who would be subject to the determination, not later than 6 months after the occurrence of the event that would have been subject of the determination.

(3) To obtain a review of a determination, the board must deliver a written request for the review to the review official specified in the notice of determination, and to the person who is the subject of the determination, not later than 3 weeks after the date the notice was given to the person who is the subject of the determination.

(4) Before or after the time limit in subsection (3) expires the regional manager may extend it.

(5) If the board does not deliver the request for a review within the time specified, the board loses the right to a review.

Appeal

131. (1) Not later than three weeks after receiving a review decision under section 129 (6), the person or the board may appeal the decision by delivering to the commission a notice of appeal that meets prescribed requirements.

(2) Before or after the time limit in subsection (1) expires, the chair or a member of the commission may extend it.

(3) If the person or the board does not deliver the notice of appeal within the time required, the person or board loses the right to an appeal.

(5) The government, the board, if it so requests, and the person who is the subject of the determination are parties to the appeal.

Appeal to court

141. (1) The minister or a party to the appeal before the commission may, within 3 weeks after being served with the decision of the commission and by application to the Supreme Court, appeal the decision of the commission on a question of law or jurisdiction.

Part 8 Forest Practices Board

Division 1 - Definition

Definition

175. In this Part and the regulations related to this Part "party" means the government or the holders of agreements under the Forest Act or Range Act.

Division 2 - Complaints and Audits

Audits and special investigations

176. In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine

- (a) compliance with the requirements of Parts 3 to 5 and the regulations and standards made in relation to those Parts by a party, and
- (b) the appropriateness of government enforcement under Part 6.

Complaints

177. (1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to this Act.

(2) Despite subsection (1), the board may refuse to investigate, or may stop investigating a complaint if, in the opinion of the chair, any of the following applies:

- (a) the complainant knew or ought to have known of the determination to which his or her complaint relates, more than one year before the complaint was received by the board;
- (b) the law or existing administrative procedure provides a remedy adequate in the circumstances for the person aggrieved and, if the person aggrieved has not taken

advantage of the remedy, there is no reasonable justification for the failure to do so;

(c) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(d) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;

(e) in the circumstances, investigation would not benefit the complainant.

(3) The board must promptly notify, in writing, the complainant and the party of its decision and the reasons for it and may indicate any other recourse that may be available to the complainant if it decides

(a) to not investigate or further investigate a complaint, or

(b) that the complaint has not been substantiated.

Powers of investigation

178. (1) Without limiting sections 176 and 177, for the purposes of those sections the board may investigate a determination.

(2) The board may conduct an audit or special investigation or complaint investigation despite a provision to the effect that a determination is final and whether or not there is a right of appeal.

(3) The board may not investigate conduct occurring before the commencement of this Act.

(4) If a question arises as to the board's jurisdiction to investigate a case or class of cases, the chair may apply to the Supreme Court for a declaratory order determining the question.

Power to obtain information

179. (1) The board may require a party to provide information or records related to an audit, a special investigation or a complaint investigation.

(2) The board may require the party to provide the information in the form and manner the board considers appropriate.

(3) The party must comply with a requirement of the board under subsection (1) or (2).

(4) Without restricting subsection (1), the board may do all of the following:

(a) at any reasonable time enter and inspect business premises occupied by a party, speak in private with any person there and otherwise investigate matters within the board's jurisdiction;

(b) require a person to provide information or produce a record or thing in his or her possession or control that relates to an investigation at a time and place the board specifies;

(c) make copies of information provided or a record or thing produced under this section.

(5) If the board obtains a record or thing under subsection (4) and the person from whom it was obtained requests its return, the board must, within 48 hours after receiving the request, return it to the person, but the board may again require its production in accordance with this section.

(6) In conducting an audit, a special investigation or a complaint investigation, the board members have the powers given to a commissioner by sections 15 and 16 of the Inquiry Act.

Power to obtain information limited

180. The board must not require information or a record to be produced if the Attorney General certifies that the giving of the information or record may

(a) interfere with or impede investigation or detection of offenses,

(b) involve the disclosure of the deliberations of the Executive Council, or

(c) involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be harmful to the public interest.

Notification and consultation

181. (1) If the board conducts an audit or investigation, the board must notify the party affected and any other person the board considers appropriate.

(2) The board must consult with a party if the board receives a request for consultation from the party before the board has made its report under section 185.

Opportunity to make representations

182. If it appears to the board that there may be sufficient grounds for making a report or recommendation under this Act that may adversely affect a party or person, the board must inform the party or person of the grounds and must give the party or person the opportunity to make representations, either orally or in writing at the discretion of the board, before it decides the matter.

Evidence not admissible

183. If evidence given by a person in proceedings before the board and evidence of the existence of the proceedings are inadmissible against the person in a court or in any other proceeding of a judicial nature except for the following:

- (a) the trial of a person for perjury;
- (b) the trial of a person for an offense under section 154;
- (c) an application for judicial review or an appeal from a decision with respect to that application.

Expenses

184. If a person incurs expenses in complying with a request of the board for production of documents or other information, the board may, at its discretion, reimburse that person for reasonable expenses.

Division 3 - Remedies

Report and recommendations

185. (1) After completing an audit or investigation, the board must report its conclusions, with reasons, to any complainant, to the party and, if the government is not the party affected by the audit or investigation, to the ministers.

(2) If the board makes a report under subsection (1), it may make recommendations it considers appropriate.

(3) Without limiting subsection (2), the board may make any of the following recommendations:

- (a) a matter be referred to the appropriate party for further consideration;
- (b) an act be remedied;
- (c) an omission or delay be rectified;
- (d) a decision or recommendation be canceled or varied;
- (e) reasons be given;
- (f) a practice, procedure or course of conduct be altered;
- (g) an enactment or other rule of law be reconsidered;
- (h) any other steps be taken.

(4) Without limiting subsection (1), the chair may, if the regulations provide and in the manner they provide, make an application under section 128 for a review of a determination or failure to make a determination.

Party to notify Board of steps taken

186. (1) If the board makes a recommendation under section 185 the board may

(a) request that the party notify it within a specified time of the steps that have been or are proposed to be taken to give effect to its recommendation, or

(b) if no steps have been or are proposed to be taken, the reasons for not following the recommendation.

(2) If, after considering a response made by a party the board believes it advisable to modify or further modify its recommendation, the board must notify the party and the complainant of its recommendation as modified and may request that the party notify it

(a) of the steps that have been or are proposed to be taken to give effect to the modified recommendation, or

(b) if no steps have been or are proposed to be taken, of the reasons for not following the modified recommendation.

(3) The party must respond promptly to the board's request under subsection (1) or (2).

Report of board if no suitable action taken

187.(1) If within a reasonable time after a request by the board under section 186 no action is taken that the board believes adequate or appropriate, the chair may, after considering any reasons given by the party,

(a) submit a report on the matter to the ministers, and

(b) after submitting a report under paragraph (a), make a report to the Lieutenant Governor in Council respecting the matter.

(2) The chair

(a) must attach to the report a copy of the board's recommendation and any response made to the board under section 186,

(b) must delete from his or her recommendation and from the response any material that would unreasonably invade any person's privacy, and

(c) may in his or her discretion delete material revealing the identity of a member, officer or employee of a party.

Complainant to be informed

188. After a complaint investigation, if the board makes a recommendation pursuant to section 185 or 186 (2) and no action that the board believes adequate or appropriate is taken within a reasonable time, the board must inform the complainant of its recommendation and make such additional comments as it considers appropriate.

Annual and special reports

189. (1) In accordance with the regulations, the chair must report annually on the affairs of the board to the ministers.

(2) The minister must promptly table the report with the Legislative Assembly.

(3) If the chair considers it to be in the public interest, he or she may make a special report to the ministers or comment publicly respecting a matter relating generally to the exercise of the board's duties under this Act or to a particular case investigated by the board.

Division 4 - General

Establishment of the Forest Practices Board

190. (1) The Lieutenant Governor in Council must establish a Forest Practices Board.

(2) The board consists of a chair, one or more vice chairs and other members the Lieutenant Governor in Council may appoint.

(3) Appointments under subsection (2) may be for a term of up to 3 years.

(4) The Lieutenant Governor in Council may

(a) appoint a person as a temporary member to deal with a matter before the board, or for a specified period or during specified circumstances, and

(b) designate a temporary member as chair.

(5) A temporary member has all the powers and may perform all the duties of a member of the board during the period or under the circumstances or for the purpose of the appointment.

(6) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of

(a) the chair, vice chair and other members of the board, and

(b) persons appointed under the regulations to carry out audits.

Staff

191. (1) Employees necessary to carry out the powers and duties of the board may be appointed under the Public Service Act.

(2) In accordance with the regulations, the board may engage or retain specialists, consultants and auditors that the board considers necessary to carry out the powers and duties of the office and may determine their remuneration.

(3) The Public Service Act does not apply to the retention, engagement or remuneration of specialists, consultants and auditors retained under subsection (2).

No hearing as of right

192. A person is not entitled to an oral hearing before the board.

Delegation of powers

193. (1) The chair may in writing delegate to a person or class of persons any of the board's powers or duties under this Act, except the power

(a) of delegation under this section, or

(b) to make a report under this Act.

(c) [Repealed 1995-18-41.]

(2) A delegation under this section is revocable and does not prevent the board exercising a delegated power.

(3) A delegation may be made subject to terms the chair considers appropriate.

(4) If the chair makes a delegation and then ceases to hold office, the delegation continues in effect as long as the delegate continues in office or until revoked by a succeeding chair. (5) A person purporting to exercise a power of the board by virtue of a delegation under this section must, when requested to do so, produce evidence of his or her authority to exercise the power.

Forest Practices Board Regulation

Part 1 Definitions

Definitions

1. In this regulation: `Act' means the Forest Practices Code of British Columbia Act; `party' has the same meaning as in section 175 of the Act; `significant breach' means

(a) with respect to a party's level of compliance with the requirements of Parts 3 to 5 of the Act and the regulations and standards made in relation to those Parts, a breach of one or more of those requirements that has caused or is beginning to cause significant harm to persons or the environment, and

(b) with respect to the appropriateness of government enforcement under Part 6 of the Act, a breach of the government's enforcement duties under that Part that has caused or is beginning to cause significant harm to persons or the environment.

Part 2 Audits

Audit standards

2. The board may develop standards for the purpose of the periodic independent audits required under section 176 of the Act.

Appointment of auditors

3. (1) In accordance with this section, the board must appoint auditors to carry out the periodic independent audits.

(2) The board must not engage or retain an auditor to carry out the periodic independent audits unless, in the opinion of the board, the auditor is

(a) familiar with the Act, the regulations and the standards established by the chief forester under section 8 of the Act,

(b) capable of assessing the environmental impact of forest practices,

(c) capable of performing the audits in accordance with the standards developed under section 2, and

(d) independent of the person being audited.

(3) If an audit is to be carried out

(a) by a single auditor, that auditor must be a member in good standing of an accredited professional body approved by the board, or

(b) by a team of auditors, at least one member of the team must be a member in good standing of an accredited professional body approved by the board.

Significant breaches

4. (1) If an auditor identifies a probable significant breach, the auditor must

(a) contact the person being audited, and

(b) conduct audit tests to

(i) ascertain the extent of the breach, and

(ii) address any information provided by the person being audited.

(2) If the auditor determines, after carrying out the requirements of subsection (1), that a significant breach has occurred, the auditor must immediately advise the following persons of the significant breach:

(a) the board;

(b) the person being audited;

(c) the ministers.

Release of final audit report

5. The board must make a final audit report available

(a) to the any person within 30 days of its submission by the auditor, and

(b) to the person being audited at least 7 clear days before the report is made available under paragraph (a).

Part 3 Complaints

Scope of complaints

6. The matters on which a person may make a complaint to the board under section 177 of the Act are the following:

(a) a party's compliance with the requirements of Parts 3 to 5 of the Act and the regulations and standards made in relation to those Parts;

(b) the appropriateness of government enforcement under Part 6 of the Act.

Notice of complaint

7. (1) A person who wishes to make a complaint to the board must deliver a written notice of complaint to the board.

(2) A notice of complaint must contain

(a) the name and address of the complainant, and the name of the person, if any, making the request on the complainant's behalf,

(b) the address for service of the complainant,

(c) the grounds for the complaint, and

(e) a statement describing the relief requested.

Deficient notice of complaint

8. If a notice of complaint does not comply with section 7, the board

(a) must deliver to the complainant written notice of the deficiencies, inviting the complainant, within the period specified in the notice, to submit further material remedying the deficiencies, and

(b) need not proceed with the investigation of the complaint until an amended notice of complaint, with the deficiencies corrected, is delivered to the board.

Procedures following receipt of notice of complaint

9. (1) The board must acknowledge in writing any notice of complaint, or any amended notice of complaint with the deficiencies corrected.

(2) Within 60 days after receipt of the notice of complaint or of the amended notice of complaint, the chair must determine whether the complaint is to be investigated or if, in the opinion of the chair, any of the criteria referred to in section 177 (2) of the Act applies.

(3) The board may, at any time, consult with a party

(a) to attempt to settle the complaint, or

(b) for any other purpose related to a complaint or investigation.

Notice for complaint investigations

9.1 If the board investigates a complaint, the notification under section 181 of the Act must be in writing and must set out the nature of the complaint being investigated.

Part 4

Annual Report

Content

10. (1) By March 31 of each year, the chair must submit the annual report for the immediately preceding calendar year required by section 189 of the Act.

(2) The annual report referred to in subsection (1) must specify

- (a) the number of audits initiated and completed during the year,
- (b) the persons audited,
- (c) the resources used in carrying out the audits,
- (d) a summary of the results of audits completed during the year,
- (e) the number of complaints received during the year,
- (f) the number of special investigations carried out as a result of the complaints received during the year,
- (g) a summary of the results of the complaints heard, and special investigations carried out during the year, and
- (h) the resources used in carrying out the hearings and special investigations resulting from those complaints.

[Provisions of the Forest Practices Code of British Columbia Act relevant to the enactment of this regulation: Part 10]

Appendix 2

Board's Code of Conduct

Preamble

WHEREAS:

- i) members of the Forest Practices Board must fulfill their statutory duties in a fair and impartial manner free of personal considerations and interests;
- ii) members of the Forest Practices Board, other than the Chair, are appointed on a part-time basis;
- iii) all members of the Forest Practices Board are appointed because of their expertise in areas covered by the *Forest Practices Code of British Columbia Act*; and,
- iv) members of the Forest Practices Board may have on-going private interests related to matters covered by the *Forest Practices Code of British Columbia Act*.

THEREFORE, the Forest Practices Board, as master of its own procedure, adopts the following *Code of Conduct*:

Definitions

1. "Board" means the Forest Practices Board as defined and established in the *Forest Practices Code of British Columbia Act*.

"Chair" means the Chair of the Forest Practices Board.

"Family" means the Board members' parents, siblings, children, or spouse.

"Forest Practices Code" means the *Forest Practices Code of British Columbia Act* and *Regulations*.

"Friend" means a person with whom there is a close personal friendship based on social interaction and shared interests outside the work or professional environment, and which usually involves entertainment or social activities in the home and with other family members.

For the purposes of interpreting this *Code of Conduct*, "friend" does not include an individual with whom there is a personal relationship based only on shared professional or workplace related interests.

"Member" means a member of the Forest Practices Board

"Private Interest" is any interest, financial or non-financial, direct or indirect, personal or pertaining to another, that is not a public interest.

"Public Interest" is an interest arising from the exercise of an official power or the performance of an official duty or function that:

- (a) applies to the general public; or,
- (b) concerns the remuneration and benefits of a member or an officer or employee of the Forest Practices Board.

"Statutory duty" means any duty, power or function granted to the members of the Board under the *Forest Practices Code of British Columbia Act*.

Conflict of interest

2. (1) A Board member has a conflict of interest when the member exercises a statutory power and at the same time knows, or with the exercise of reasonable diligence should know, that in the performance of the statutory duty there is the opportunity to further his or her private interest.

(2) A Board member has an apparent conflict of interest where there is a reasonable perception, which a reasonably well-informed person could properly have, that the member's ability to exercise a statutory duty must have been affected by his or her private interest.

Conflict of interest prohibition

3. A Board member shall not exercise a statutory duty if:

- (a) the Board member has a conflict of interest or an apparent conflict of interest; or,
- (b) the Board member's family or friends might receive or appear to receive preferential treatment.

Disclosure statements

4. (1) A Board member shall within 60 days of appointment to the Board, and thereafter annually, file a disclosure statement with the Board. The disclosure statement must be provided by the Board member to the administrative co-ordinator of the Board.

(2) The disclosure statement shall include:

- (a) any activity, including employment, carrying on a business, or holding an office or directorship, which is related directly or indirectly to the *Forest*

Practices Code of British Columbia Act, of which the Board member is involved in or has been involved in during the last 12 months;

(b) a statement regarding the nature of assets, liabilities, and financial interests of the member and the member's spouse which may relate to the Forest Practices Board;

(c) a list of organizations that the Board member belongs to that are directly or indirectly related to matters covered under the Forest Practices Code;

(d) a list of the Board member's family members who are involved in any activity including employment, carrying on a business, or holding an office or directorship, which is related directly, or indirectly, to the *Forest Practices Code of British Columbia Act*, along with a description of the activity and the name of the business involved; and,

(e) a statement of the steps that the Board member has taken to eliminate conflicts of interest or perceived conflicts of interest.

(3) A Board member must file an amended disclosure statement if there is a material change in circumstance with respect to any item listed in Section 4(2)(a) through (e). The amended disclosure statement must be filed with the administrative co-ordinator within 60 days of the material change in circumstances.

(4) A Board member's disclosure statement may be made available to the public at the discretion of the Chair.

Acceptance of gifts or extra benefits

5. (1) A Board member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her statutory duties.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol of social obligations. If a gift is received in such a situation, it becomes the property of the Board and not the individual Board member.

(3) A Board member shall refrain from accepting any benefit, the acceptance of which might erode public confidence and trust in the integrity, objectivity, and impartiality of the Board member.

(4) The Board is responsible for paying all travel costs of a Board member when such member is traveling on Board business; however, it is not a contravention of this *Code of Conduct* for a member to accept the benefit of travel in cases where there is no reasonable alternative, and there is no personal benefit to the member.

Insider information

6. (1) A Board member shall not use information that is gained in the execution of his or her statutory duty that is not available to the general public to further, or seek to further, the Board member's private interest.

(2) A Board member must at all times maintain the confidentiality of information and records obtained in the course of fulfilling his or her statutory duties, until such time as it becomes a matter of general public knowledge.

Conflicting activities

7. A Board member shall take all reasonable steps to limit his or her activities which may conflict with his or her statutory duties under the *Forest Practices Code of British Columbia Act*. If a conflict or perceived conflict does arise, the Board member must follow the steps outlined in Section 8 of this *Code of Conduct*.

Procedure on conflict of interest

8. (1) Where, during the exercise of any statutory duty, a matter arises with respect to which a Board member has reasonable grounds to believe that he or she has a conflict of interest, he or she shall immediately disclose, in writing, to all Board members, the general nature of the conflict of interest and shall withdraw from all participation in the matter including, but not limited to:

- (a) participation in discussions with other Board members concerning the matter;
- (b) review of any written material with respect to the matter;
- (c) attendance of any meeting, or portion of a meeting, in which the matter is discussed;
- (d) voting on a resolution in any way connected with the matter; and,
- (e) attempting, in any way, to influence other Board members.

(2) If a Board member is at a meeting of the Board and a matter arises which gives that member reasonable grounds to believe that he or she has a conflict of interest, the Board member shall:

- (a) disclose the general nature of the conflict of interest; and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

(3) Where a Board member has complied with subsection (2), the following shall be recorded in the minutes:

- (a) the Board member's name and disclosure;
- (b) the general nature of the conflict of interest disclosed; and,
- (c) the time of the withdrawal of the Board member from the meeting.

(4) Where a Board member declares a conflict of interest, the administrative co-ordinator will ensure that other Board members do not receive information which may create a further conflict of interest with their activities.

Duty of Board members to resolve and refrain from conflicts of interest

9. (1) A Board member shall make all reasonable efforts to resolve any conflict of interest or apparent conflict of interest in favour of the public interest.

(2) A Board member shall arrange his or her private affairs in conformity with the provisions of this *Code of Conduct*, and shall make every reasonable effort to prevent conflicts of interest from arising.

Non-compliance with the Code of Conduct

10. (1) The Chair may rule on whether there has been compliance with this *Code of Conduct*, including whether a Board member is in a conflict of interest.

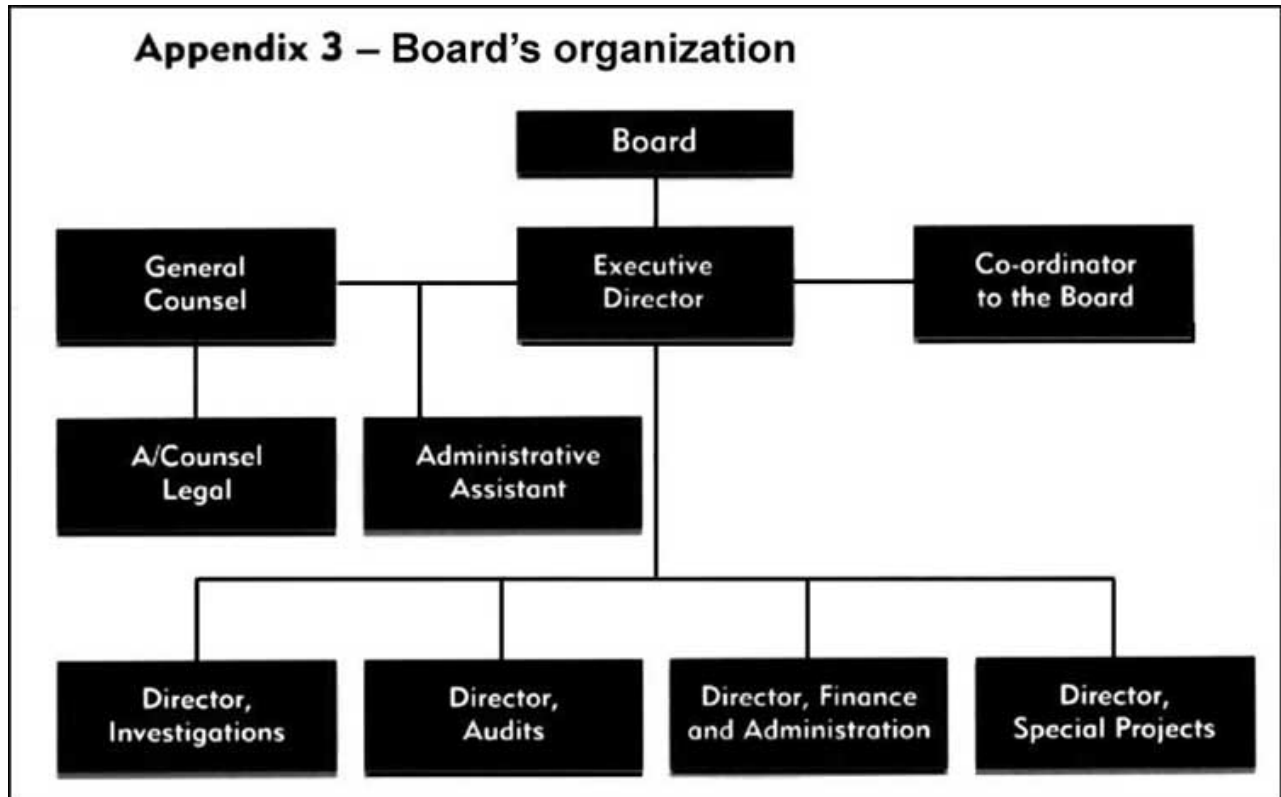
(2) If the Chair finds that the provisions of this *Code of Conduct* have been violated by a Board member, he or she may:

- a) require discontinuance of the private activity creating the conflict; or,
- b) make recommendations to the Lieutenant Governor in Counsel with respect to actions that should be taken.

(3) If the Board members find that the provisions of this Code of Conduct have been violated by the Chair, they may make recommendations to the Lieutenant-Governor-in-Counsel with respect to actions that should be taken.

Appendix 3

Board's organization



Appendix 4

Complaints and concerns

1. Complaints by status	
Number of complaints reviewed in 1996 (Jan. 1 to Dec. 31)	36
Number of open complaint files at Dec. 31	20
under investigation or pending other Board actions	17
under assessment	3
Number of closed files	12
not covered by Code or outside the Board's mandate	3
relates to actions over a year old, which the complainant knew or ought to have known about	1
administrative procedures exist to address the complaint	2
concerns a frivolous, vexatious or trivial matter	0
further investigation unnecessary because the complaint was resolved, withdrawn or abandoned	5
would not benefit the complainant	0
complaint issues addressed by other Board actions	1
Number of completed investigations	4
2. Subject matter of complaints	
Total number of complaints	36
Part 3 - operational planning	20
Part 4 - forest practices	11
Part 5 - protection of forest resources	0
Part 6 - compliance and enforcement	5
3. Geographical location of complaints	
Vancouver Region	7
Prince Rupert Region	4
Nelson Region	8
Cariboo Region	7

Kamloops Region	4
Prince George Region	6
4. Concerns	
Total number of concerns	103
Jurisdictional concerns	40
Non-jurisdictional concerns	63
5. Subject matter of jurisdictional concerns	
Part 3 - operational planning	17
Part 4 - forest practices	18
Part 5 - protection of forest resources	2
Part 6 - compliance and enforcement	3