



1997

Annual Report





Annual Report - 1997

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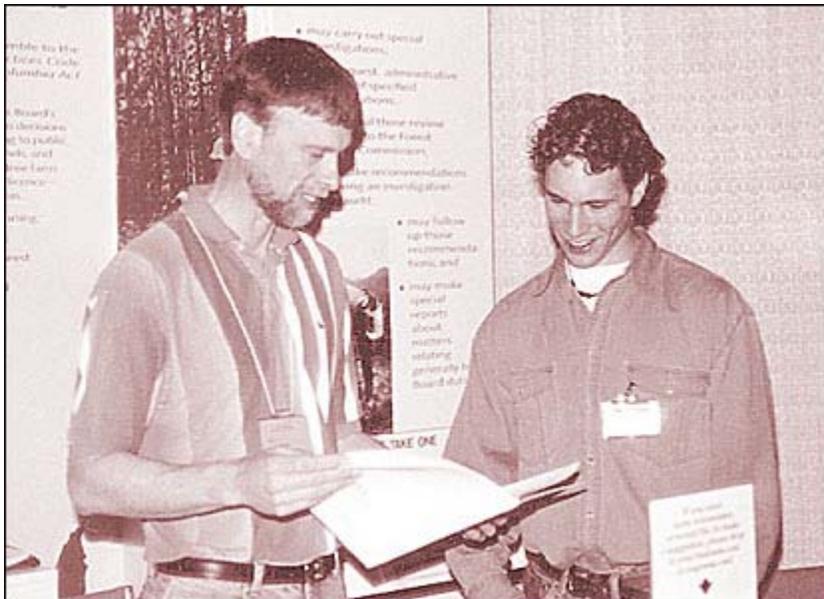
Statement from the Chair

This is the third annual report of the Forest Practices Board since its establishment in 1995. Previous annual reports describe the establishment of the Board and the development of procedures to undertake the responsibilities given to the Board when the Forest Practices Code was introduced in June 1995.

This Annual Report describes the results of the Board's work in each of our major program areas.

Audits

The Board completed reports for the audits of four forest licences and one Ministry of Forests Small Business Forest Enterprise Program (SBFEP) in 1997. These audits found that most practices of forest companies were generally in compliance with Code requirements. However, there were instances where Code requirements were not met. These more frequently involved road related practices, rather than harvesting practices, and usually involved streams or the management of water on roads. Serious concern with some plans for harvesting and road construction were identified in the SBFEP audit.



Chair of the Forest Practices Board, Keith Moore, speaking with an attendee at the Cattlemen's Association Annual General Meeting in Kamloops, BC.

As a result of the audits, and in response to Board recommendations, the companies audited and the Ministry of Forests have made improvements to their procedures and field practices to avoid similar problems in the future.

One important issue identified in the audit program involves maintenance responsibilities for old roads. The Code does not clearly assign responsibility for the maintenance of old roads that are under road permit but have not been used since the introduction of the Code. The Board found serious damage to the environment occurring as a result of the lack of maintenance on certain roads of this type, and brought this situation to the attention of government in late 1997. The Board believes that the government needs to clarify who is responsible to maintain or deactivate these old roads and who is responsible for fixing the environmental problems identified by the Board.

Investigations

Since 1995, the Board has completed eight complaint investigations involving a variety of public complaints about forest practices and planning. In five of the investigations the Board found that practices or decisions described in the complaint complied with the Code. In one investigation the Board found the decision-making process was flawed. Two investigations were closed to permit the Board to make recommendations to assist the parties to address the complaint issues. In one other investigation, complaint issues were also resolved by the parties even though the complaint ended up not being within the Board's authority to investigate.

The Board made several recommendations to government as a result of complaint investigations. Two recommendations involving higher level plans under the Code were addressed by the government, when the *Forest Practices Code of British Columbia Act* was amended in 1997. A number of policies and procedures were also clarified by government in response to the recommendations made in another investigation. A recommendation that the government amend section 40 of the Code so that plans for harvesting and road practices in the Ministry of Forests Small Business Forest Enterprise Program meet the same requirements as those submitted by major licensees was not implemented by government.

The Board initiated two special investigations in 1997, in addition to one that continued from 1996, and now has three under way.

Of particular interest is the special investigation into forest practices near streams in coastal BC. The rigorous approach that was used in this investigation means it has taken longer than expected to complete. At the same time it will provide a very high level of assurance that the findings of the investigation accurately reflect the state of forest practices near coastal streams. The three special investigations are expected to be completed in 1998.

Of equal importance to complaint investigations are the responses Board staff offer those who telephone or write to the Board to raise concerns about forest practices or forestry plans, but who do not wish to file a formal complaint. The Board is able to assist in resolving their concerns by providing information or directing people to the appropriate organization where their concern can be addressed.

Reviews and Appeals

The Board also gets involved in the Code's administrative penalty system as an advocate for the general public interest.

In 1997, the Board participated in 21 reviews and appeals of Code contraventions and penalties, including 13 hearings at the Forest Appeals Commission. The Board's participation in these appeal hearings brought a broad public perspective to Commission proceedings and helped to clarify important provisions of the Code. The Commission chose to make specific mention of the Board's contribution in its 1996 Annual Report.

The Board provided submissions to the Commission that helped clarify interpretation of the Code including, for example, that obligations to maintain a road begin as soon as the road is used: that a stream is considered a stream requiring protection even if it disappears underground for part of its length, and that stopwork orders can be issued to prevent environmental damage from occurring. The Board also provided legal argument that, except in unusual circumstances, major licensees are responsible for the actions of their contractors; and that the legal principle of "due diligence" is not a defence to Code contraventions, but that it is a consideration in the determination of penalties.



Keith Moore, Klaus Offermann, Tait Sharkey (staff) and Jack Toovey at one of several conferences the Board attended in 1977.



Board members spend time in the field to observe and understand Code issues. Cindy Pearce and Jack Toovey speaking with a local company forester.



Public meetings provide one forum for the Board to report its findings to the public, and hear the public's views about the Code. Keith Moore and Frances Vyse discuss issues with the Mayor of Port McNeill, Gerry Furney.

Changes to the Forest Practices Code

1997 was an important year in the evolution of the Forest Practices Code. Government was striving to streamline planning and approval procedures, reduce the operating costs associated with complying with the Code, and place greater responsibility on professionals and a greater emphasis on field results.

The Board participated in the review of draft proposed changes to the Act, which later became law with the passage of Bill 47 in June 1997. We also appreciated the opportunity to provide comments to government on proposed changes to several regulations which were under review and revision in late 1997.

Based on its experience in dealing with complaints, undertaking audits, and participating in reviews and appeals, the Board was able to provide constructive comment to reflect the its view that streamlining the Code and reducing associated costs was desirable and feasible. The process of changing and improving the Code is consistent with the Board's view that the Code needs to be a living and evolving piece of legislation measured by on-the-ground results.

The Board expressed concern that, while moving to a greater reliance on Where the Board has identified areas of non-compliance, recommendations have been made for improvement. The Board is pleased to note that many of its recommendations have been implemented. We are disappointed that several, relating to clarification or changes to the legislation, have not been implemented.

Finally, I wish to acknowledge the dedicated work of Board staff. The achievements noted in this report are a tribute to their conscientious hard work and their commitment to the role of the Forest Practices Board.

Keith Moore
Chair

How to Contact the Board

The Internet

Contact the Board at <http://www.fpb.gov.bc.ca> to obtain current information about the Forest Practices Board and its activities, and to download copies of Board reports and recommendations.

E-Mail

The Board has a new e-mail address: Fpboard@gems9.gov.bc.ca.

Call Toll Free

The 1-800 line, which was first established in 1995, continues to provide province-wide direct access to the Board:

- In Greater Victoria call: 387-7964.
- From all other areas of the province call toll free: 1-800-994-5899.

New Location

In late December 1997, Forest Practices Board personnel relocated to the 3rd Floor of 1675 Douglas Street in Victoria.

Mailing address

The Board's mailing address is:

P.O. Box 9905
Stn. Province Government
Victoria, B.C. V8W 9R1

Fax & Telephone

Tel: 250~387-7964
Fax: 250~387-7009

Auditing Forest Practices & Code Enforcement

One of the principal roles of the Forest Practices Board is to conduct periodic independent audits of forest practices in British Columbia and to report findings and conclusions to the public, the parties audited, and the ministers of Forests, Environment, Lands and Parks, and Employment and Investment.

Types of Audits

Under section 176 of the Forest Practices Code, the Board is obligated to conduct periodic audits of how well parties abide with the requirements set out in the Code. Few jurisdictions in the world provide a similar independent authority to conduct such audits.

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

1. **Forest Practices Audits** which assess the forest planning and practices of both agreement holders and government. These audits take the form of compliance, effectiveness or comprehensive audits.
2. **Enforcement Audits** which assess the appropriateness of government's enforcement of the Code and involve only government.

Only forest practices compliance audits have been implemented to date.

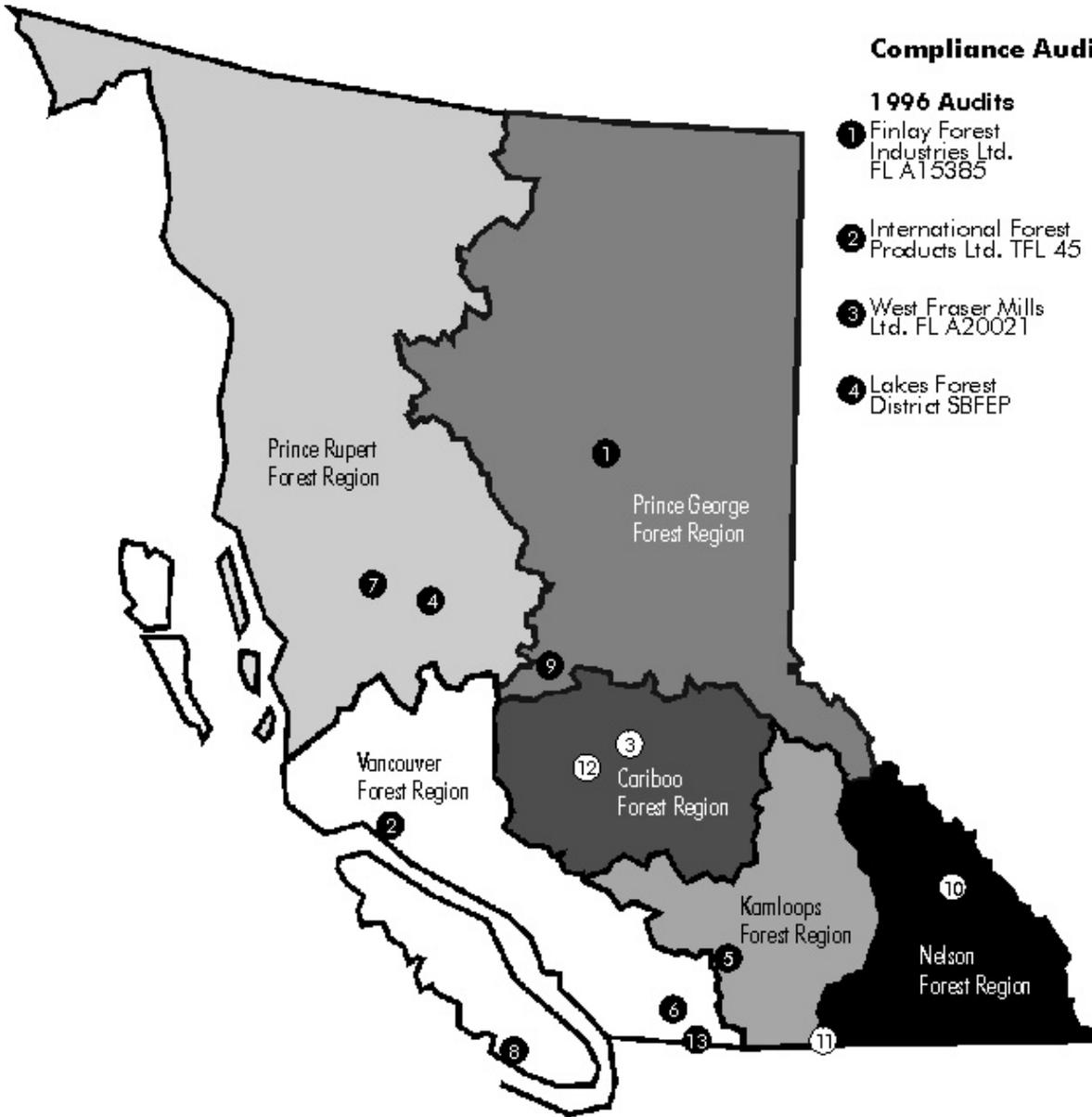
Compliance Audits

During 1997, final reports for the first four audits carried out in late 1996 were released and one of the 1997 audits (*see Table 1*) was completed.

Field work for nine compliance audits was also completed in 1997 (*see Table 2*).

Audits were undertaken in the six provincial forest regions and across British Columbia's diverse physiographic conditions (*see provincial map*). Seven licences and two Ministry of Forests Small Business Forest Enterprise Programs were randomly selected from among the 181 major licences and 41 SBFEPs across the province. Three audits were classed full scope and six limited scope.

Provincial Map. Forest Practices Board Audit Locations



Compliance Audits

1996 Audits

- 1 Finlay Forest Industries Ltd. FL A15385
- 2 International Forest Products Ltd. TFL 45
- 3 West Fraser Mills Ltd. FL A20021
- 4 Lakes Forest District SBFEP

1997 Audits

- 5 Tolko Forest Industries Ltd. FL A18696
- 6 Cattermole Timber Ltd. FL A19202
- 7 Northwood Pulp & Timber Ltd. FL A16828
- 8 South Island Forest District SBFEP
- 9 Slocan Group - Plateau Forest Products FL A18157
- 10 Slocan Group - Radium Division FL A18979
- 11 Boundary Forest District SBFEP
- 12 West Fraser Mills Ltd. FL A20020
- 13 Pretty's Timber Ltd. FL A19207

Between June and October 1997, Board staff and contractors spent many weeks in the field assessing roads, timber harvesting practices, silvicultural practices and other forestry activities for Code compliance.



Members of an audit team bring a variety of professions and expertise to the audit.

Board members joined audit teams in the field for a first-hand view of procedures. Board Chair Keith Moore with members of an audit team.



Culvert size and placement is assessed during an audit of road construction, maintenance and deactivation practices.

Audit Activities

Every forest practices compliance audit completed by the Board involves the following activities:

Planning — which includes notifying the auditee 30 days in advance of the audit, putting an audit team together, holding an entry meeting with the auditee to introduce the audit process, spending time with the auditee to look at the activities that form the scope of the audit, and selecting the locations and activities that will be audited.

Field Work — which may involve from three to six weeks of extensive on-site field work to inspect selected sites, and an exit meeting with the auditee to discuss preliminary findings and to obtain additional information relevant to the audit.

Reporting — which involves the assessment of audit results, and the drafting and discussion of a series of reports.

- the **Auditor's report**, which is delivered to the Board after conclusion of all field work.
- the **Board's draft report**, which provides persons who may be adversely affected by the findings or recommendations with an opportunity to make representations to the Board.
- the **Final report**, which is prepared and released only after the potentially adversely affected parties have had an opportunity to respond to the Board's draft report.

The Auditor's Report and the Board's Final Report are provided to the auditee, the ministers and the public.

Most of the field work undertaken is carried out by teams of consultants and contractors whose expertise is in the fields of forestry, biology, engineering, terrain stability and other disciplines. These specialists are engaged by the Board when required.

Board auditors inspected timber harvesting activities on several hundred cut blocks, and silvicultural activities on nearly a hundred cut blocks.

Auditors also examined hundreds of kilometres of road construction, maintenance and deactivation work. Both ground and air (helicopter) inspections were carried out (*see Table 3*).

Audit Results — Major Issues

The five audits released to date report that current operational practices and plans are generally in compliance with requirements of the Code. However, the audits did identify a number of areas where there was significant non-compliance, and in one situation an entire category of operational planning was found to be in non-compliance.

Areas of significant non-compliance, in general related to the protection of streams from forest activities, and road construction, maintenance, and deactivation.

- Non-compliance was found to be more frequent in road practices than harvesting.
- Road non-compliance occurs in construction, maintenance, and deactivation phases, and usually involves the management of water.

In every report that had non-compliance findings, the auditee advised the Board that action would be taken to address problems identified in the audit.

In each of the audits with non-compliance findings, the Board made a number of recommendations. The Board also requested that government and the auditee advise what actions they propose to take to address the Board's recommendations. See Appendix 3 for a summary of all recommendations made by the Board. Two major issues emerged from audits undertaken by the Forest Practices Board. They were:

1. The obligation to maintain roads that have not been “used” since the Code came into effect.

In one audit the Board found roads where significant damage to the environment is occurring due to lack of maintenance and deactivation work. These roads were covered by a road permit, but had not been used since the introduction of the Code.

While this would normally be a significant breach of the Code, the Board found that, under section 63 of the Act, a licensee who has not used the roads since the introduction of the Code is not responsible for their maintenance.

The Board suspects that this is an issue of broad significance.

The Board's view is that such environmental problems need to be fixed and the responsibility for these old roads that are still under road permit needs to be clarified. Further, the Board notes that if government intended licensees not to be responsible for these roads under the Code, then government needs to accept responsibility.

2. Exemption from requirements to prepare silviculture prescriptions (SPs)

This issue arose in the Burns Lake SBFEP audit and involved the interpretation of those sections of the Act that permit exemption from the requirement to prepare a SP.

In the Board's opinion, the Code requires a SP to be prepared when a planned clearcut operation exceeds one hectare, or when the volume of wood to be removed exceeds 500 cubic metres.

This was not the interpretation followed by the Ministry of Forests in Burns Lake when blocks infested with mountain pine beetle were harvested. Clearcuts much larger than one hectare and involving the removal of much more than 500 cubic metres of wood were undertaken without SPs.

The Board is of the opinion that the removal of this volume of timber and creation of this size of clearcut openings without planning and preparation of silviculture prescriptions is inconsistent with the intent of the Code, which emphasizes planning as a means to protect forest resources. Lack of silviculture prescriptions in these cases created a potential risk of harm to forest resources.

Based on the Ministry's interpretation and a lack of clear policy, the Board believes this may be occurring in other parts of the province. In the Burns Lake SBFEP audit report, the Board recommended that government clarify the interpretation of sections 22(1) and 30 of the Act and the conditions under which logging can be exempted from these requirements.

As the 1997 audits are completed, a clearer picture of the level of compliance with the Code will emerge.

Table 1. Completed Audits – Summary Information

Auditee/Allowable Annual Cut	Forest District Location	Activities Audited	Findings	Report Release Date
Finlay Forest Industries Ltd. FL A15385 174,342 m3	Mackenzie Forest District	Timber Harvesting and Road Practices	Practices generally in compliance with the Code, except for several situations of significant non-compliance related to: <ul style="list-style-type: none"> • inadequate stream protection • inadequate road maintenance 	February 1997
International Forest Products Ltd. TFL 45 220,000 m3	Campbell River & Port McNeill Forest Districts	Timber Harvesting and Road Practices	Practices generally in compliance with the Code, except for three situations of significant non-compliance related to: <ul style="list-style-type: none"> • piling of road construction debris that created a landslide potential • inadequate survey and design work at one site that resulted in a safety hazard • section with inadequate road maintenance 	March 1997
West Fraser Mills Ltd. FL A20021 127,004 m3	Horsefly Forest District	Silviculture	Practices generally in compliance with the Code	April 1997
Lakes Forest District Small Business Forest Enterprise Program 438,550 m3	Lakes Forest District	Operational Planning	Forest development plan and silviculture prescriptions generally in compliance with the Code, except for several situations of significant non-compliance related to: <ul style="list-style-type: none"> • lack of a strategy to address mountain pine beetle issues • failure to plan for protection of streams from road construction • improper exemptions from requirements to prepare SPs • Logging plans generally not in compliance with the Code 	July 1997
Cattermole Timber Ltd. FL A19202 155,534 m3	Chilliwack Forest District	Timber Harvesting and Road Practices, Operational Planning, Silviculture, Forest Protection	Planning, harvesting, silviculture and forest protection practices generally in compliance with the Code. Roads generally in compliance with the Code, except for two situations of significant non-compliance related to: <ul style="list-style-type: none"> • inadequate installation and maintenance of drainage structures • inadequate deactivation of a road system • Special issue on old roads also identified. 	January 1998

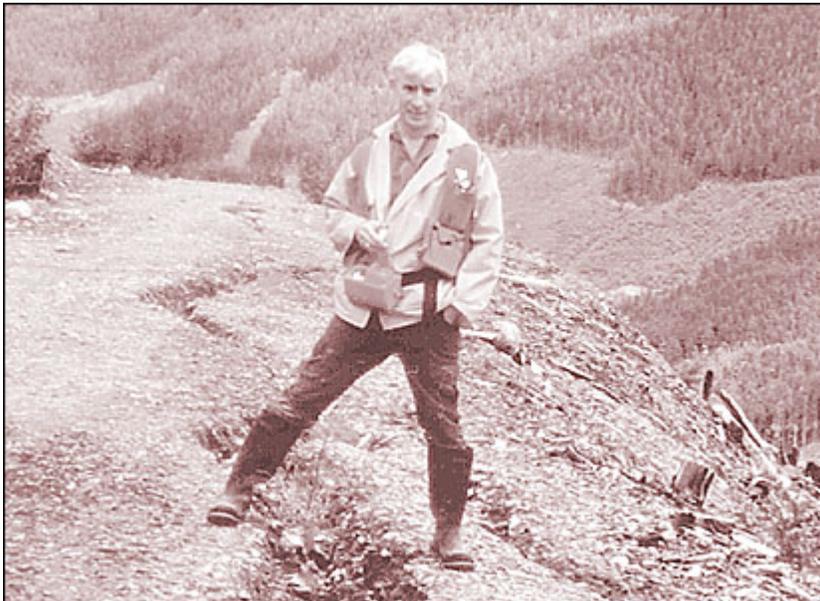
Update – Compliance Audit Reference Manual

In early 1997 the Board invited approximately 40 interested parties to comment on the Board's Compliance Audit Reference Manual. Participants in this process included representatives of licensees, environmental interests, resource agencies, and forestry and accounting professional associations.

Input received focused on the audit process and was the impetus for a one day workshop that was held on February 26, 1997, and that worked to establish standards that would be used in the 1997 compliance audits. The Board provided a detailed response to the issues raised at the workshop and outlined the reasons for all changes made to the audit reference manual.

Version 2.0 of the Compliance Audit Reference Manual was released in May, 1997, and may be purchased at Crown Publications in Victoria. It guided compliance audits undertaken in 1997. Changes made to the audit manual included:

- the clarification of the definition of “significance”.
- adding a section referring to arrangements (meetings) with the auditees, including the preliminary visit, pre-audit process, and follow-up requirements.
- adding a requirement (time line) that the auditor submit a final report to the Board 45 days after the exit meeting is held with the auditee.



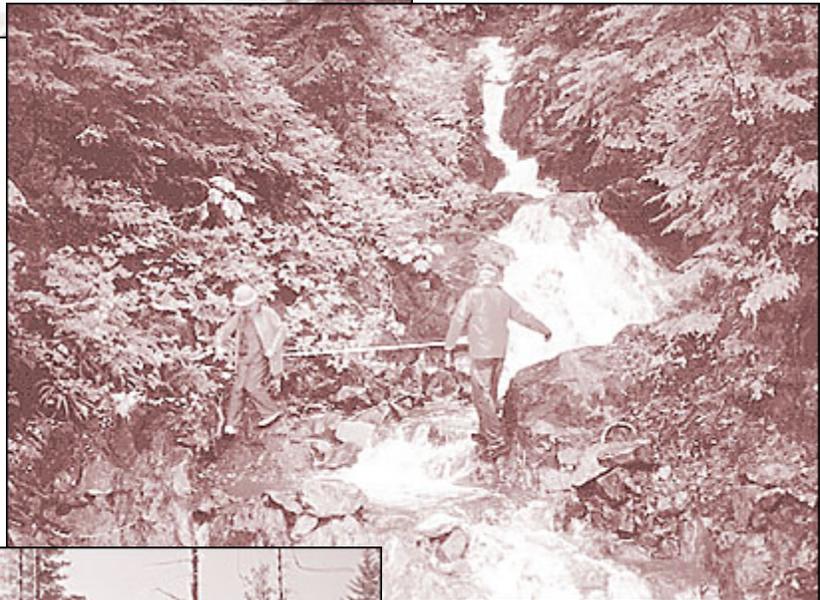
One of the 1997 audits identified a gap in the Code with respect to responsibility for maintenance of old roads. In this case, damage to the environment is resulting.

Table 2. 1997 Compliance Audit Summary Information

Auditee/Allowable Annual Cut	Ministry of Forest District Location	Activities Audited
Pretty's Timber FL A19207 168,641 m3	Chilliwack Forest District	Limited Scope Timber harvesting and road practices
West Fraser Mills FL A20020 192,450 m3	Williams Lake and Chilcotin Forest Districts	Full Scope Timber harvesting and road practices, operational planning, silviculture and forest protection
Boundary Forest District Small Business Forest Enterprise Program 176,000 m3	Boundary Forest District	Limited Scope Timber harvesting and road practices, operational planning
Slocan Group - Radium Division FL A18979 254,496 m3	Invermere Forest District	Limited Scope Timber harvesting and road practices
Slocan Group - Plateau Forest Products FL A18157 619,223 m3	Vanderhoof Forest District	Limited Scope Timber harvesting and road practices
South Island Forest District Small Business Forest Enterprise Program 360,000 m3 (proposed 97' volume)	South Island Forest District	Full Scope Timber harvesting and road practices, operational planning, silviculture and forest protection
Northwood Pulp and Timber Ltd. FL A16828 1,064,484 m3	Morice Forest District	Limited Scope Timber harvesting and road practices
Cattermole Timber FL A19202 155,534 m3	Chilliwack Forest District	Full Scope Timber harvesting and road practices, operational planning, silviculture and forest protection
Tolko Forest Industries FL A18696 268,954 m3	Merritt Forest District	Limited Scope Timber harvesting and road practices



An entomologist examines the stumps of trees that were harvested to control a beetle infestation.



Auditors measure a stream to determine whether it was classified correctly in an operational plan.



Hundreds of cutblocks were examined to assess compliance with operational plans and the Code.

Plans for 1998

Enforcement Audit Program – Status Report

In early 1997, the Board commenced development of a framework for audits of the “appropriateness of government enforcement” under the Code. The Board is required to audit government enforcement of the Code under section 176(b) of the Act.

It is intended that these audits evaluate the performance and appropriateness of government’s enforcement of the Code, represented by three regulatory agencies that carry enforcement responsibilities (i.e., the Ministries of Forests, Employment and Investment, and Environment, Lands and Parks).

The Board met with ministry representatives to better understand what enforcement activities and programs are in place and how they are carried out by the responsible agencies. This understanding is essential before the framework for the enforcement audit program can be developed. During 1998 the Board plans to continue establishing and testing elements of the enforcement audit program.

Forest practices Audit Program – Status Report

During 1998, the Board plans to carry out 9 to 11 **compliance audits**.

As part of the forest practices audit program and in addition to compliance audits, the Board intends to develop effectiveness and comprehensive audits in 1998.

Effectiveness audits will, in addition to compliance, evaluate the effectiveness of forest practices and determine if Code objectives are achieved.

At the present time standards and criteria for measuring effectiveness are lacking, and the Board is in the process of developing a framework for these types of audits.

Comprehensive audits will go a step further than effectiveness audits by also identifying planning and practices that are implemented in the field and not required by the Code, but which achieve the Code’s objectives. The framework for these audits is also being developed.

Table 3. Summary of Populations and Samples for All Auditees (1997)

Activity	Population Total	Ground Sample Total	Air Sample Total	% Population Sampled - Ground	% Population Sampled - Air	% Activity Sampled
Harvest blocks	562 blocks	197	143	35	25	60
Salvage harvest blocks	518 areas	7	30	1	6	7
Road construction	660 km	134	6	20	9	29
Road reconstruction/upgrade	75.6 km	14.3	4.7	19	6	25
Road maintenance	3789.8 km	759.6	undetermined amount	20	unknown	unknown
Road deactivation	231.8 km	39.4	20.6	17	9	26
Road construction sections	34 sections	22		65		65
Road maintenance sections	12 sections	8		67		67
Deactivation sections	84 sections	31	24	37	29	66
Silviculture activities	160 blocks	61	34	38	21	59

Investigating Forest Practices & Code Compliance

Another Principal Role of the Forest Practices Board is to investigate complaints from the public about forest planning and practices, and to report the findings and conclusions to the public and the ministers of Forests, Employment and Investment, and Environment, Lands and Parks.

Number of Complaints & Concerns in 1997

In 1997, the Board received 26 complaints about forestry matters from the public. *For more information on the complaints received in 1997, refer to Appendix 1.*

The Board also received 19 calls from persons looking for information or advice on how to deal with a specific concern they had with forest planning, practices or Code infractions, but where they had not yet filed a formal complaint. These calls are recorded as jurisdictional concerns.

In these situations, Board staff will discuss the concerns with the person and try to resolve the concerns before a complaint is filed. The Board encourages people to resolve concerns at the local level, and may refer the person to their local Ministry of Forests, or Ministry of

Environment, Lands and Parks office. The Board may also advise the person of any other options available to address their concerns, or may provide information about the Code's requirements to address questions they have.

A number of anonymous calls or messages about Code violations were also received. Although the Board can not investigate such calls, it passes on the information to appropriate government or forest company offices.

Individuals who contacted the Board to raise concerns about matters not within the Board's authority were also directed to the appropriate licensee or ministry office, or to the Ombudsman.

During 1997 the number of complaints decreased slightly over 1996, and the number of jurisdictional concerns dropped significantly.

Chart 1: Subject Matter of Complaints & Jurisdictional Concerns Received in 1997

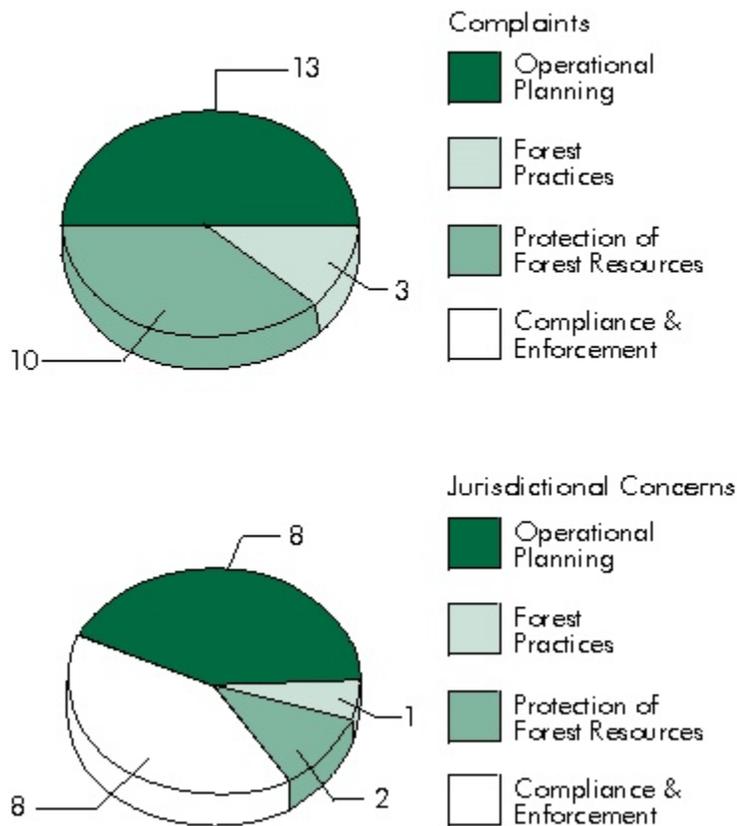
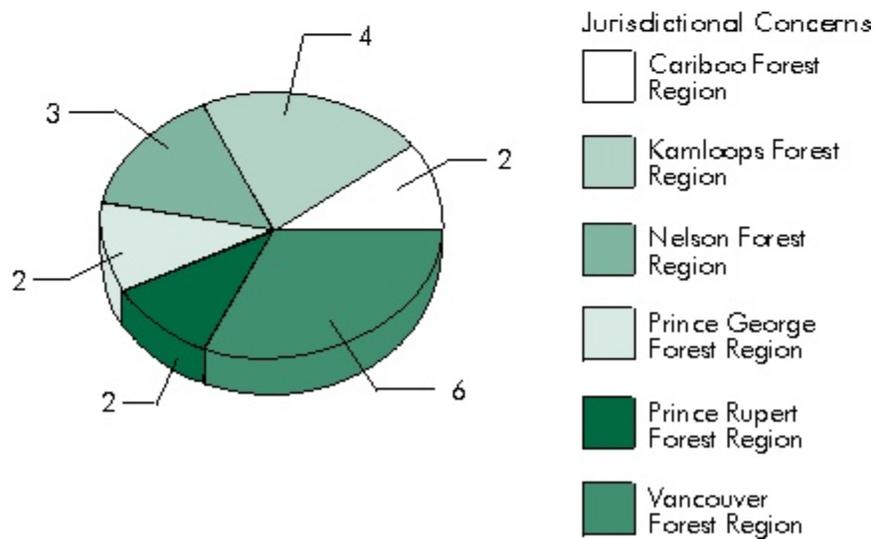
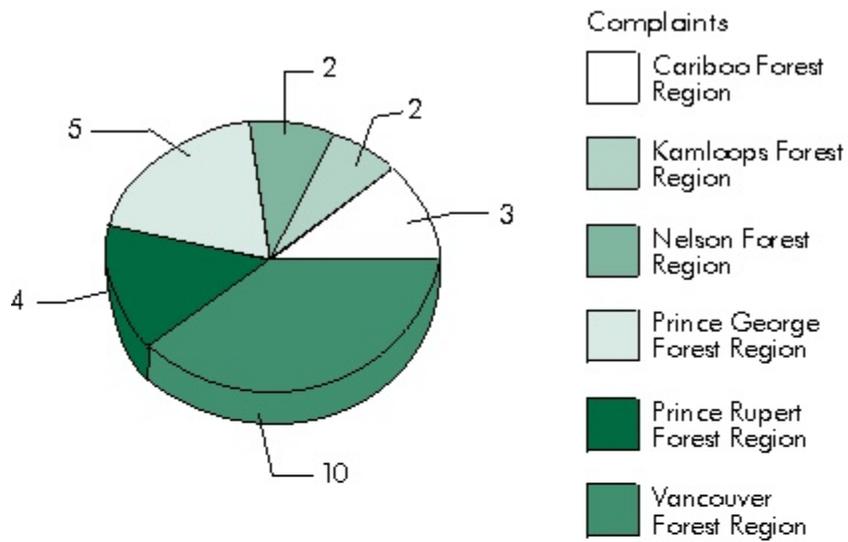


Chart 2: Geographical Location of Complaints & Concerns Received in 1997



Summary of 1997 Complaint Issues

Complaints filed in 1997 related primarily to concerns about operational planning and forest practices.

Operational Planning

The Board had expected complaints about operational planning to decrease once the Code came into full effect in June 1997, but this did not happen.

Complaints about deficiencies in plans include:

- failure to provide adequate opportunity for review and comment on forest development plans,
- failure to meet objectives of higher level plans,
- failure to protect recreational values,
- failure to address biodiversity in forest development plans,
- failure to undertake watershed assessments in forest development plans, and
- inadequate silviculture prescriptions.

The proposed changes to the provisions for operational planning in the Code means that a new planning process will need to be understood and implemented across the province when the new requirements come into place.

The Board expects that concerns about planning issues will continue in 1998.

Forest Practices

During 1997, complaints about forest practices included:

- inadequate road maintenance,
- damage to soils caused by harvesting on steep or sensitive slopes,
- effects of logging on watersheds or volcanic soils,
- fish habitat destruction, and
- forest practices under a woodlot licence.

Deciding Whether to Investigate

The Board must deal with complaints from the public about operational planning, forest practices, protection of forest resources and enforcement of the Code.

When a complaint is received, it is assessed by the Board to determine whether it is within its jurisdiction to investigate, or whether there are any reasons why the Board should refuse to investigate.

The Board has 60 days to complete an assessment and notify the participant of its decision.

During 1997, increased staffing and a more streamlined assessment process helped to reduce the time it took to complete assessments.

In 1997, the Board completed 24 complaint assessments, including one received in 1996. By December 31, 1997, three complaint assessments were still underway.

Eleven of the 26 complaints received in 1997 were investigated by the Board.

Of the remainder, two are still under assessment, four were about matters over which the Board had no authority, and nine were not investigated for one of the following reasons:

- an administrative procedure to address the complaint was in place,
- the complaint was withdrawn, resolved or abandoned, or
- an investigation would not benefit the complainant (*see Chart 3A: Total Complaints not Investigated*).

Three complaints were rolled into a special investigation (*see Special Investigations*).

Three complaints were re-filed after the Board had decided not to investigate because there was another process that might resolve the issues.

After the complaint assessment process was completed, the Board decided to investigate one of the three re-submissions.

At the end of 1997, 15 complaints were under active investigation.

Four investigations were completed in 1997. As of December 31, 1997, three complaints were nearing the final report stage.

Despite the Board's decision to not investigate in several complaints, some type of action was initiated that resolved the problem to the complainant's satisfaction, or assisted the parties to find a mutually acceptable solution.

In several cases, government staff at the district level actively worked with the complainant to address concerns. The Board encourages affected parties to continue to work together to seek resolution.

Investigator's Manual

During 1997, the Board began to develop an investigator's manual. Once completed in 1998, this manual will be a resource for staff to help ensure complaints are assessed and investigated in a consistent and timely manner. It will also be useful to those involved with a Board complaint investigation.

Chart 3: Complaint Breakdown for 1997
Total Complaints = 26

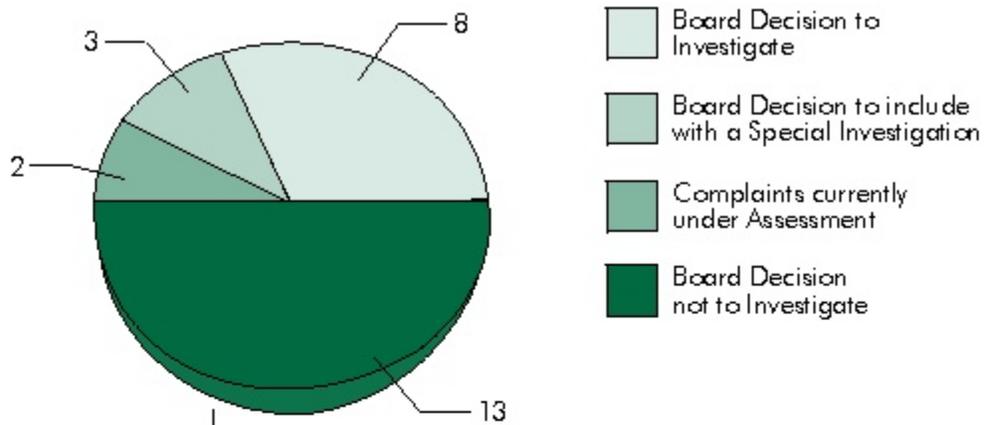
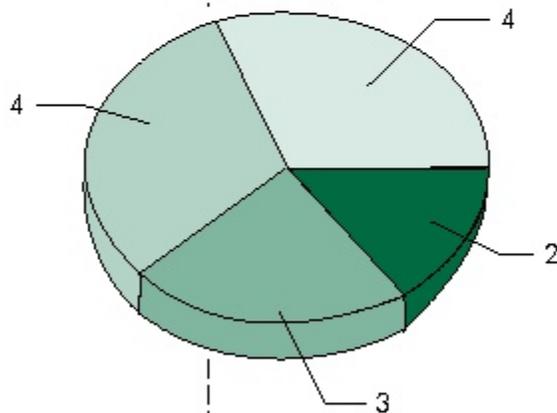


Chart 3A: Total Complaints not Investigated = 13



→ **Reasons Complaints not Investigated**

- 4 Not covered by Code or outside Board's mandate
- 0 Relates to actions over one year old, which the complainant knew or ought to have known about
- 4 Administrative procedures exist to address the complaint
- 0 Concerns a frivolous, vexatious or trivial matter
- 3 Further investigation unnecessary because the complaint was resolved, withdrawn or abandoned
- 2 Would not benefit the complainant

Examples of Complaint Assessments

Complaint 970098

Unregulated Harvesting of Botanical Forest Products

Complaint assessment

A resident of the upper Fraser Valley complained to the Board about the unregulated harvesting of moss in the Chilliwack Forest District.

The complainant was concerned about possible environmental damage from the large scale harvesting of moss and the lost opportunity for government to gain revenue from these activities.

Although the Board determined that the harvesting of moss was not covered by the Forest Practices Code, and therefore had no jurisdiction to investigate, it sent a letter to government to:

- suggest that a regulation was needed to ensure the sustainable use of botanical forest products as forest resources,
- recognize the efforts underway by the Ministry of Forests to develop a new regulation for the harvesting of pine mushrooms, and
- recommend that any new regulation be expanded to include all botanical forest products so that the harvesting of these products would be regulated under the Forest Practices Code.

Complaint 970125

Woodlot Licence

Complaint assessment

A complaint was received by the Board concerning the performance of a woodlot licensee and the Ministry of Forests.

The complainant asserted that the woodlot owner had cleared the complainant's private land without consent, that the land is permanently degraded, and that a fire hazard had been created. The complainant was also concerned about a possible expansion of the woodlot.

The Ministry of Forests' district manager had been unaware of the complainant's concerns prior to hearing from the Board, and ordered that a fire hazard assessment be carried out.

The Board concluded that it was not able to investigate because the actions occurred before the Code was enacted, and therefore were not within the Board's jurisdiction.

The Board was also unable to investigate concerns about the potential expansion of the woodlot because such decisions are made by the Ministry of Forests under the *Forest Act*, and the Board does not have jurisdiction on these matters.



The location of a bridge-crossing was the subject of a complaint investigation that was undertaken during 1997.



Operational plans were the subject of a number of complaints that were received in 1997.



The location of a fence needed for the grazing of cattle was the subject of a complaint investigation in 1997.

The fire hazard issue did fall within the jurisdiction of the Board, but the Board decided not to pursue the investigation because the district had completed a fire hazard assessment, and was in the process of discussing it with the complainant.

Although the Board did not investigate this complaint, inquiries made during the assessment process led to discussions between the district manager and the complainant. The Ministry of Forests has since pursued several of the complainant's concerns. The district manager also agreed to consult with the complainant before decisions about the future expansion of the woodlot are made.

Examples of Completed Investigations

Complaint 950034 Road Deactivation

Complaint

A member of the public observed a backhoe operator employed by a forest company carrying out pre-winter road maintenance in wet conditions on a hauling road southwest of Campbell River on Vancouver Island.

The complainant was concerned that as a result of this work silt was entering the Oyster River, causing damage to salmon eggs in the river. The complainant contacted a number of government agencies to express concern, and subsequently filed a complaint with the Board.

Investigation Outcome

The temporary road deactivation work that gave rise to the complaint was not required by the district manager, but was carried out on the licensee's initiative with the intention of minimizing environmental damage. The licensee was operating under a pre-Code forest development plan and therefore the licensee's temporary road deactivation was not in contravention of the Act. There may have been some temporary siltation into the Oyster River.

The investigation found that government staff responded to the complainant's concerns in a timely manner. The agencies and the licensee carried out site inspections in response to the complaint, but found no evidence of damage two weeks after the temporary road deactivation work.

The investigation also found that the complainant, due to a seasonal work schedule, had not been able to provide direct input into the public review and comment process for the operational plans for the Oyster River area.

Recommendations

The Board recommended that in the future the complainant should utilize the annual public review and comment process to express concerns, or provide comment indirectly through a public organization such as the Oyster River Watershed Society, Steelhead Society or BC Wildlife Federation. *For more information, see Complaint Investigation Summary (CIS) #6.*

Complaint 950030

Fence Construction on land designated for Grazing

Complaint

A property owner on the Horsefly River complained that the district manager of the Ministry of Forests' Horsefly Forest District had improperly approved construction of a 400 metre barbed wire fence across a strip of Crown land between two lots owned by a cattle rancher. The fence was needed for the grazing of yearlings for one month in early summer.

The complainant expressed concern that the fence had been approved in the absence of a valid range use plan, as required by the Forest Practices Code, and requested that if a fence were to be constructed at all, it be temporary rather than permanent.

Investigation Outcome

The Board found that there was no contravention of the Code.

Section 224 of the Act provides that pre-existing agreements under the Range Act for the use and development of Crown range are deemed to be range use plans during a transitional period after the Code comes into effect. Under this provision, the grazing permit that had been previously approved was considered to be a valid range use plan under the Code.

Consequently, the district manager's decision to approve the fence construction, was in compliance with Code requirements for a range use plan. The Board also found that the district manager had exercised his decision-making discretion in a reasonable manner. *For more information, see CIS #7.*

Example of an Investigation Underway

Maintenance of a Forest Service Road

Complaint

A resident along a forest service road complained that the Ministry of Forests was not meeting its obligations to maintain the road which provides access to several residences and a park, and is used by logging industry to access the area. The complainant asked that the Board investigate the matter to ensure that in the future the road is maintained.

Investigation Outcome

In addition to residents and recreational users, the road is being used by a number of different forest companies, each holding a road use permit.

Under the Code, the Ministry of Forests District Office is responsible for maintaining the road, even though it is also used for non-forestry purposes. The district is responsible for structural maintenance, while responsibility for surface maintenance is delegated to the primary user of the road through road use permits. The primary user, in turn, delegates certain maintenance responsibilities to the various secondary users of the road. Not all users adequately met their responsibilities last winter.

During the investigation, and at the direction of the district manager, the road users' committee met and agreed on a plan whereby one company completed the repair work. The repair costs were shared among all industrial road users and were based on volume and distance hauled.

In addition, the forest district completed structural maintenance work on an area of the road near the complainant's residence.

Although the remedy satisfied the complainant, the larger issue of who is responsible for road maintenance where there are a number of industrial, as well as public and residential users, was identified. The Board notes that there are a number of similar situations across the province.

Forest Development Planning in the Cariboo Forest Region

Update on Complaint 950038

Consistency of FDPs with Cariboo Chilcotin Land Use Plan (CCLUP)

In 1995 the Board received a complaint that 15 forest development plans in the Quesnel River watershed were not consistent with the CCLUP.

In the 1996 Annual Report of the Forest Practices Board it was reported that the complaint investigation had been concluded, and that the Board had made ten recommendations to government. These related to clarifying the relationship between the CCLUP, the Forest Practices Code, and forest development plans, and encouraging the incorporation of the timber and non-timber targets of the CCLUP into forest development plans as rapidly and completely as possible.

The government was asked to advise the Board by January 31, 1997, of the steps it proposed to take to respond to the Board's recommendations.

A response was received from government which outlined some initiatives the government was taking to address some of the recommendations. The letter also indicated that "the three ministers responsible for the CCLUP will be issuing a formal letter to affected statutory decision-makers and the public to clarify various aspects of CCLUP implementation."

Despite this response, the Board had some concerns with the overall adequacy of the response from government, and followed up with a letter mid-way through the year. Board staff also contacted the Ministry of Forests and the Land Use Coordination Office a number of times, and met with LUCO staff to discuss the government's response to the Board's recommendations.

The government's amendments to the Forest Practices Code, made in mid-1997, addressed two Board recommendations which related to higher level plans.

At the end of 1997, the letter from the three ministers still had not been issued, and a satisfactory response to the Board's remaining recommendations had not been received. In the meantime, the complainant filed two new complaints with the Board regarding the failure of the current forest development plans to meet the objectives set in the CCLUP. The Board will continue to pursue this issue in 1998.

Special Investigations

The Board may also choose to conduct a special investigation of Code-related forestry issues and must report the findings and conclusions to the public and the ministers. The Board has initiated three special investigations.

Forest Planning & Practices Near Streams in Coastal B.C.

In April 1997, the Board initiated a special investigation into forest practices in coastal areas with streams. This was in response to public concern and government's request that the Board investigate, following the release of a report on streamside forest practices by the Sierra Legal Defence Fund in February 1997.

The objective of the investigation is to determine if forest planning and practices around coastal streams comply with the Forest Practices Code and to protect streams and associated riparian habitat and features.

The field teams investigated 96 cut blocks selected from six of the Ministry of Forests' ten coastal forest districts. This represents approximately 25 per cent of all blocks under Code requirements in that time period. It includes the operations of 14 major licensees, and the Small Business Forest Enterprise Program in five forest districts.

The field work involved reviewing all operational plans and detailed field investigation and measurements in each of the selected cut blocks.

The field teams looked at 355 stream reaches, totalling over 50 kilometres of streams.

November 1997, was to be the completion date of this report. However, given the amount of data that was collected and is to be analyzed, the report's release has been delayed. The Board anticipates the report will be released in the summer of 1998.

Operational Planning in the Queen Charlotte Islands

In 1996 the Board decided to investigate operational planning in the Queen Charlotte Islands' Forest District.

This special investigation involved four major licensees and the Ministry of Forests' Small Business Forest Enterprise Program, and included examining cutting permits, and the application, approval, and amendment of forest development plans (FDPs) for the period June 16, 1995 through February 1996.

The investigation was undertaken in response to a complaint that a practice of frequent applications for harvesting and road construction activities and amendments to FDPs, were taking place without adequate opportunity for public review and comment, and as a result did not comply with the Code.

The Board is nearing completion of its investigation, but before the report can be finalized, parties that may be “potentially adversely affected” by the report must be given an opportunity to respond. Once this occurs, the Board will then make any necessary revisions, and produce the final report which will be released to all parties involved, the public, and the ministers. The Board anticipates that the final report will be released in the summer of 1998.

Forest Planning & Practices in the Fort St. James Area

In June 1997, the Board initiated a special investigation as a result of five complaints received between July 1996 and May, 1997, involving two licensees and the Fort St. James Forest District. For the convenience of all participants, the Board decided to include and review all the complaints in one special investigation.

The complaints raised involved possible damage to fish streams, enforcement issues, and a number of development plan deficiencies and irregularities.

The investigation is also reviewing a specific incident involving the field implementation of wetland classification and subsequent operations.

Assertions about forest development plan irregularities include examination of plan approvals and extensions.

Enforcement concerns centre around the Ministry of Forests’ enforcement of stopwork orders related to road construction activities.

The investigation, which is still underway, involves the process of reviewing the content of the 1997 development plan submissions, as a result of an assertion that plans were deficient and not available for public review.

The investigation team is carrying out a field inspection, compiling data and reviewing relevant government files.

A report on this special investigation will be released sometime in 1998.



During 1997, the Board heard a great deal about the classification and protection of streams and adjacent habitat.



Over 50 km of streams were assessed in the Board's special investigation into forest practices in areas with streams in coastal BC.



Board member John Cuthbert looks at forest practices along a stream during one of the Board's field trips.

Requesting Reviews & Appeals

Purpose & Extent of Board Involvement in Administrative Reviews & Appeals

The Code includes procedures to allow certain forest planning and enforcement determinations, made by a government official under the Code, to be reconsidered. Parties affected by a determination can request a review by a single reviewer or by a panel of government officials called a “review panel”.

Review decisions can be further appealed to the Forest Appeals Commission. The Commission’s decision can be appealed to the BC Supreme Court.

The Code permits the Board to act on behalf of the public. The Board can do this by requesting a review, launching an appeal on its own, or joining a review or an appeal initiated by another party. When representing the public interest in review and appeal proceedings, the Board’s objectives are to:

- 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.

Either the subject of a determination or the Board can request that a decision be reviewed or appealed, but only the Board can request the review of an approved forest development or range use plan, or a failure to make a determination.

The Board’s role in reviews and appeals is quite different from the impartial role it plays in audits and complaint investigations. In reviews and appeals, the Board acts as an advocate. Before requesting a review, launching an appeal, or joining an appeal as a third party participant, the Board reaches a conclusion about the validity of a determination or review panel finding.

The Board may then advocate that the original decision be supported, overturned, amended, or clarified. The Board may support the position of the appellant, of the government, or it may advance a unique position.

In the review and appeal process, the Board asks review panels, the Commission, and the Courts to interpret the Code in a way that:

- makes the legislation both effective and fair, and
- contributes to sustainable use of British Columbia’s forests.

Changes made to the Forest Practices Code of British Columbia Act in June 1997, will result in changes to the review and appeal process and may change the Board’s role. Regulations are currently being drafted.

Number of Reviews & Appeals in 1997

Seventy-seven reviews and appeals of determinations made under the Code were considered by the Board in 1997. The Board initiated one appeal and became a party to 20 appeals filed by others.

The Board participated in 13 hearings before the Forest Appeals Commission and one before the BC Supreme Court.

Issues Pursued by the Board

In 1997, the Board participated in appeals involving issues such as:

- the content requirements of a forest development plan,
- the definition of “stream” under the Code,
- when road maintenance requirements apply,
- the fairness of hearings,
- penalty reductions for leaving compensatory habitat, or where government actions contributed to the contravention,
- issues of due diligence/vicarious liability,
- use of stopwork orders, and
- double penalties for the same contravention.

The Board’s views on some of these issues are summarized on the following pages.

The Board’s written submissions are available by contacting the Board. Copies of the Forest Appeals Commission decisions are available from the Commission at (250) 387-3464. *Refer to Appendix 2 for a list of review and appeal cases.*

Forest Development Plan Requirements

Forest development plans are central to the Forest Practices Code. They are the highest level of operational plan, and offer the general public its only legislated right to review and comment.

In 1996, the Board requested a review of a district manager’s decision to approve a forest development plan for an area near Brooks Bay in the Klaskish River/East Creek watersheds on the northwest coast of Vancouver Island. This was the first, and so far the only request for a review of a forest development plan.

The Board appealed the review panel’s decision, and in 1997 the Forest Appeals Commission considered the appeal. The Board presented argument that the intent of forest development plans is to:

- enable government agencies and the public to assess the impact of proposed development on forest resources (including timber, water, wildlife, fisheries, recreation, botanical forest products, forage and biological diversity),
- propose measures to protect forest resources,
- provide an opportunity for public comment, and

- guide the preparation and approval of other plans and permits (such as silviculture prescriptions, logging plans, cutting permits and road permits).

The Board argued that the Brooks Bay plan did not adequately meet these requirements, and that government and the licensee had underestimated the size of the area that must be encompassed by such a plan.

At the end of 1997, the Forest Appeals Commission had not yet released its decision.

Stream Protection Requirements

In an appeal from the Dawson Creek area, a licensee was found in contravention of the Code for felling trees and moving machinery across a stream.

At the site of the incident, evidence indicated that the watercourse met the definition of “stream” provided in the Code. However, the licensee argued that the watercourse was not a stream because one kilometre downstream from the site of the incident the watercourse had no definable banks or sediment bed. In this short section, during the dry season, the stream travelled underground for approximately 50 metres because it met porous flood plain materials as it merged into a larger creek.

The Board supported the government and argued that the mere fact that a stream dissipates in such a way does not disqualify the entire watercourse from being a stream. The Commission agreed and upheld the contravention and the penalty.

Road Maintenance Requirements

In a case in the Clayoquot Sound area, a licensee argued that maintenance requirements of the Forest Road Regulation did not apply to a road that was still under construction.

The Board and government took the position that since the road was being used and had been subgraded, ditched, ballasted, culverted and graded, the licensee had a responsibility to maintain it according to the regulations.

In its decision the Commission agreed that once the road is being used maintenance requirements apply. The contraventions of the Code and the Forest Road Regulation were upheld, however the penalty was reduced.

Opportunity to Respond to Submissions during Reviews

During a panel review of a stopwork order (SWO) on the Queen Charlotte Islands, written submissions were exchanged. The licensee was given the opportunity to reply to government officials’ submissions. However, government officials (including the person who issued the order) were not given an opportunity to reply to the licensee’s submissions. The Board appealed this case because basic rules of fairness had not been followed.

The Board argued that there was a fundamental process flaw because both parties were not extended equal and fair opportunity to review one another’s submission. In order to reach good decisions and to maintain the integrity and credibility of the review process, review panels must ensure the process is fair and even-handed.

In response to the Board's appeal, the Vancouver Forest Region implemented procedures to avoid the recurrence of what was recognized as an error. The problem has also been brought to the attention of the ministry's Compliance and Enforcement Branch, and the Board will be monitoring actions in other regions to avoid similar problems. Recognizing that reforms had been initiated, and after confirming that the results in this case would unlikely be different even if the officials had been given an opportunity to reply, the Board withdrew its appeal.

Compensation for Wildlife Habitat

Should a penalty be reduced if the licensee voluntarily leaves compensatory tree habitat elsewhere?

A licensee inadvertently harvested a wildlife tree reserve area. In an effort to mitigate the situation, the licensee voluntarily reserved other patches of timber within the same cut block. The issue was whether the penalty should be reduced to give credit for the alternative trees that were left.

The Board took the position that leaving alternative trees should generally be encouraged, and that leaving habitat is usually better compensation than a monetary penalty. The Board further suggested that the following principles should be applied when considering a penalty reduction:

- the licensee must first establish that the contravention was an innocent and unintentional mistake.
- while credit should be given for voluntary compensatory tree retention, care must be taken to keep the penalty sufficiently high to remove all economic benefit, discipline the transgression, and deter reserve violations.
- the penalty should take into account all ecological values that have been compromised and reflect all other losses to the Crown.
- credit should be greater if the compensatory reserves are pre-approved by government officials — to discourage contraveners from simply locating such reserves in convenient places.
- it should be recognized that a licensee with a volume-based tenure is not actually giving up net volume by setting aside trees.



The Board's appeal of a decision to approve a forest development plan was heard by the Forest Appeals Commission in 1997.



Board legal counsel Calvin Sandborn and law co-op students (N. Aulakh pictured) represented the Board at a number of hearings before the Forest Appeals Commission in 1997.



The Board was involved in a case that determined when road maintenance requirements of the Code apply.

When officials contribute to a contravention

What should happen if government officials help to create the circumstances that lead to a contravention?

A citizen on Saltspring Island was penalized for cutting Crown timber on a right-of-way that crossed his private property. The citizen had completed title searches, but they failed to show the Crown right-of-way because the government title office had not placed certain old rights-of-way directly on title. The citizen had also contacted other officials, and from their comments concluded that the trees were not on a Crown right-of-way.

The Board was concerned that the penalty imposed on the citizen may not have adequately reflected the citizen's efforts to avoid a contravention, and that the actions of government officials may have contributed to the contravention.

While not taking a position on the facts of the case, the Board advocated the general principle that (1) if a person takes reasonable care, and (2) official actions help to trigger the contravention, the penalty should not economically disadvantage the citizen. If the cut trees are

Crown property, the Crown should be compensated, but a diligent citizen should not suffer a loss in a situation created by government officials.

In early 1998, the Commission decided that it would reduce the citizen's penalty on the basis that the error had been induced by officials.

Administrative Penalty System

The Code set up the administrative penalty "system" as an alternative to prosecuting offenders in the criminal courts. The Board was concerned that if concepts from the criminal court system were adopted (e.g., requirements of "proof beyond a reasonable doubt", the defence of due diligence, and provisions of the Charter of Rights), cases would become lengthy and complex, fewer would be pursued, and the Code's effectiveness would seriously be reduced.

The Board has argued that the criminal burden of proof (i.e., beyond a reasonable doubt) should not apply to administrative proceedings. A Commission decision is pending.

In a 1996 decision the Forest Appeals Commission agreed with Board arguments that section 11 of the *Charter of Rights and Freedoms* should not apply to administrative proceedings.

In 1997, the Board was involved in a number of cases where licensees maintained that they should be able to argue the defence of due diligence. This defence provides that even though the person committed a prohibited act, they can avoid liability by demonstrating that they took reasonable care to avoid committing the act.

The Board argued that licensees had the right to claim due diligence as a defence when facing "offences" under the Act, but not in administrative proceedings where there is no possibility of jail or conviction. In a number of rulings issued in 1997, the Forest Appeals Commission agreed that due diligence was not a defence to an administrative remedy proceeding. The Board also successfully argued that evidence of due diligence can be taken into account when determining the size of penalty.

The Act has now been amended to provide for two types of administrative penalties:

- no fault penalties — where the due diligence defence is not applicable, and
- fault penalties — where due diligence can be a defence.

These changes will come into force once new regulations are approved.

Clarifying SWO Provisions under the Code

Stopwork orders (SWOs) are one of the most important tools available to help prevent damage to British Columbia's forests. An official who considers that a contravention of the Code is taking place can issue a SWO to temporarily suspend forest operations.

During the Code's early implementation phase, the Board was concerned with the interpretation of SWO provisions. Some review panels appeared to assume that a field official was not empowered to issue a SWO unless they had *proof* of the contravention. The official Ministry of Forests SWO form incorrectly stated that "a contravention has occurred", instead of reflecting

section 123 of the Act which states that an official need only “consider” that a contravention is taking place.

In addition, SWOs were unfairly recorded and publicized as contraventions, when in fact they were not based on “proof” of contravention, but were instead based upon a field official’s “opinion”.

The Board was concerned that if SWOs were equated with contraventions and were voided (rather than just amended or terminated) every time they were unproven, field officials would be discouraged from using them. The Board noted that confusion around the SWO order form and the nature of SWOs led to unfair and inconsistent practices and enforcement.

The Board joined an appeal of a SWO near Alexis Creek, where the review panel had treated the SWO review as a contravention determination, and asked that these misunderstandings be addressed. The Commission agreed and stated that:

- field officials must only “consider”, on reasonable grounds, that a contravention is taking place to issue a valid SWO.
- SWOs should not be equated with contraventions, nor should they be voided when a contravention is not proven.
- the MoF form should be amended to clearly state that SWOs can be issued when the official “considers” a contravention is occurring.
- the MoF should not record or publicize a SWO as if it were a determination of contravention.

The SWO was upheld, but was varied to remove the reference to a determination of a contravention.

Shortly after a decision on this case was rendered, the Act was amended to remove the review/appeal option for SWOs. They are clearly not findings of contravention that fall under the review and appeal system. This change will come into force once new regulations are approved.

Avoiding SWOs by Halting Activities

Section 123 of the Act empowers an official to issue a SWO only if they consider an individual or company “is contravening” the legislation. This could be interpreted to mean that the contravention must be occurring at the time the order is issued, that an SWO can not be issued if operations are inactive, and that SWOs can not apply to past events.

The Board was concerned that an individual or company could avoid a SWO simply by halting all activities any time they saw an official approaching the operation.

In a decision released in 1997, the Forest Appeals Commission ruled that a SWO could not be issued at a time when a licensee had shut down work for the season. The SWO was determined to be involved. However, the Commission set out guidelines acknowledging the Board’s concerns.

Under the Commission decision, a shutdown only precludes a SWO if the person can show that the shutdown was voluntary, in good faith and that there were no plans for resuming activities in the near future.

The Forest Appeals Commission has gone on to recommend that section 123 be amended to allow SWOs to be issued for past and possible future activities.

Double Discipline – Redundant Penalties

Under the Code, a person can be found in contravention “twice” for a single act that breaches a single legal requirement. For example, a number of provisions of the Act prohibit a person from violating the regulations. If one of the regulations is breached, there is an automatic additional contravention of the Act.

The Board was concerned that persons could be disciplined twice for one act that violates the same rule. Such “double-disciplining” would be unfair to those working in the forest industry, and would make it difficult for the public to accurately gauge compliance with the Code.

The Board asked the Commission to address the fairness of recording two contraventions under such circumstances.

The Commission found that two contraventions would be acceptable, but only if two separate penalties were not imposed, and if government did not record two independent contraventions.

Special Report on Administrative Reviews

In 1997 the Board issued a special report which examined the administration review process and specifically addressed when panels should hold oral hearings, and when more than one panel member should be present.

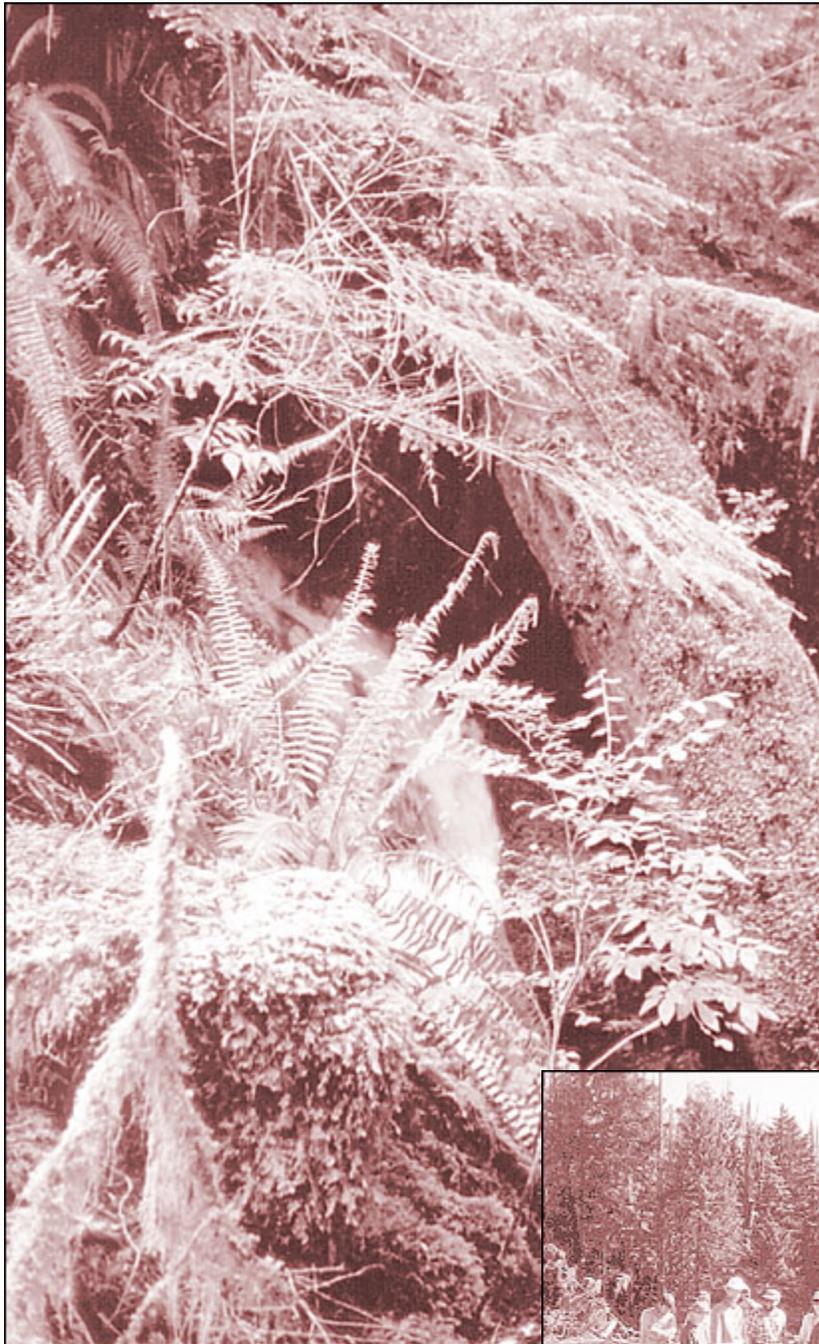
The report called on government to take steps to ensure that oral hearings be conducted before a three-member panel when:

- complex or important issues are to be heard,
- contradictory evidence is to be presented, or
- there is significant public interest in the case.

The Ministry of Forests has responded to the Board’s recommendations. Although the Ministry agrees that oral hearings offer the most effective method of review where cases involve complex or contradictory evidence, it does not agree with the Board’s recommendations.

For more information see the Board’s Special Report on Administrative Review Procedures: Oral Hearings and Review Panel Size.

Contact with the Public



Board Members John Cuthbert and Frances Vyse discuss the Board's work at a public meeting in Port McNeill.



Field visits permit the Board to see and understand on-the-ground forestry issues.



Board member Jack Toovey speaks with a forester at the annual meeting of the Association of BC Professional Foresters.

Direct public contact continues to be one of the Board's highest priorities.

Activities in 1997

In 1997 the Board continued its practice of holding some Board meetings in smaller communities around the province. These meetings took place in Squamish, Vernon, Nanaimo, Terrace, Burns Lake, Port McNeill, Houston and Smithers as well as Victoria.

A forum for open and candid information exchanges, these sessions allow the Board to meet directly with agreement holders, government staff, interested organizations and the local public in communities that may be interested in the Forest Practices Code.

In addition, Board members held open public meetings and met with media representatives in Squamish, Nelson, Terrace and Port McNeill.

During such meetings the Board also takes the opportunity to spend time in the forest to examine real on-the-ground Code issues.

During 1997 the Board went on two field trips which focused on forest practices in riparian areas, and how the Code has changed the way operations are conducted in the woods.

This type of information exchange provides the Board with some perspective as to how the Code is viewed, and more specifically how it is being implemented by people carrying out their day-to-day work responsibilities in the forests of British Columbia.

Discussions with individuals at public meetings provide the Board with simple and direct opportunities to explain its role and mandate, to listen to interested and concerned parties, and to identify first-hand what are the Code-related issues that provoke the interest of the public and the local industry.

In 1997, members of the Board held over thirty meetings with a variety of groups and organizations. Individuals who participated at meetings included representatives from

environmental organizations, forest industry associations, individuals from specific forest companies, and local and head office personnel of the Ministries of Forests, Employment and Investment, and Environment, Lands and Parks.

Individual Board members made speeches and presentations at six events, including the Forestry Law Conference held in Vancouver, and an international conference on Sustainable forest management and certification of forestry operations held in Prince George.

Board members attended fifteen conferences, conventions and annual general meetings where they informally met with people of diverse work backgrounds and interests, and who posed questions and sought information about the Code and the Board's role.

Publications

During 1977, the Forest Practices Board has effectively evolved from its initial "start-up and development phase" to an active "implementation phase".

Also during 1997, greater emphasis was placed on carrying out audits and investigations, participating in reviews and appeals, and conducting special investigations. As a result, several publications were updated and a number of audit and investigation reports were published. Reports were distributed at meetings, conferences and other public events, and were also sent to individuals and organizations on the Board's extensive mailing list.

Publications Released in 1997

Publications released in 1997 include:

- An Introduction Brochure (revised)
- The Forest Practices Board's Role in Responding to Public Complaints (revised)
- The Role of the Board in Reviews and Appeals (adapted from a speech by the Chair at a conference on Forestry Law in BC)
- Complaints Summary for 1996
- Final Report: Forest Practices Board Complaint 950030
- Complaint Investigation Summary #5 - Forest Development Near a Park
- Complaint Investigation Summary #6 - Road Deactivation
- Complaint Investigation Summary #7 - Fence Construction on Grazing Land
- Forest Practices Board - 1996 Annual Report
- Audit of Road and Timber Harvesting Practices: Finlay Forest Industries Inc., Forest License A15385
- Audit of Silviculture Practices: West Fraser Mills Ltd., Forest License A20021
- Audit of Road and Timber Harvesting Practices: International Forest Products Ltd., Tree Farm License 45
- Audit of Operational Planning: Ministry of Forests, Lakes Forest District, Small Business Forest Enterprise Program
- Special Report on Administrative review Procedures: Oral Hearings and Panel Size

To order publications

To order publications or to be placed on the Forest Practices Board's mailing list, complete and mail, or fax the order form found on page 38 of this report.

To access publications on the internet

Many of the reports listed are also available on the World Wide Web. Download publications by accessing the Board's web page at: <http://www.fpb.gov.bc.ca>

The Board

Values and Guiding Principles

The Board has defined the following values and guiding principles to assist it and staff in implementing the Board's 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.

Board Members

In 1997 three new members were appointed to the Forest Practices Board. Frances Vyse of Kamloops, John Cuthbert of Summerland, and Klaus Offermann of Nelson replaced three original members who left in 1996. Two other

original Board members, Cindy Pearce of Revelstoke, and Jack Toovey of North Vancouver were re-appointed to second terms, with Cindy Pearce named Vice-Chair.



Keith Moore, Chair

Forester and former consultant in forest land management and environmental assessment.



Cindy Pearce, Vice-Chair

Forester and consultant with experience in silviculture, forest resource education, and planning.



John Cuthbert

Forester with a long distinguished career with the Ministry of Forests, including nine years as Chief Forester for the province.



Klaus Offermann

Former forestry worker representative with experience in forest policy development, sustainable forestry and land use planning.



Jack Toovey

Forester who has held executive positions in the private sector and forestry associations.



Frances Vyse

Geographer, naturalist and parks planning consultant, with experience in the conservation and forest sectors.

Budget & Expenditures

The calendar year 1997 combines the last three months of fiscal year 1996/97 (January to March) and the first nine months of fiscal year 1997/98 (April to December).

Total Budget

The Board's budget for calendar year 1997 was \$4,409,763.

This is the amount accounted for by appropriations from fiscal year 1996/97 and 1997/98 of \$673,042 and \$3,836,721, respectively, allocated to the 1997 calendar year.

Total Expenditures

During 1997 the Board's expenditures totalled \$4,118,047.

Table 4 shows expenditures for the period January 1 to December 31, 1997.

Table 4. Operational Expenditures

	Board Members Expenditures ¹ \$	Complaint Investigations \$	Audits \$	Reviews & Appeals \$	Administrative Expenditures ² \$	Total \$
Total Salaries and Benefits	143,095	271,168	345,765	279,859	392,628	1,441,715
Total Operating Costs	154,770	251,118	1,578,882	23,970	568,651	2,577,191
Total Asset Acquisitions	684	515	9,568	0	88,354	99,141
Total Expenditures	298,549	522,801	1,943,035	303,629	1,049,833	4,118,047

¹Board members' expenditures cover strictly those of the Chair and part-time Board members.

²Administrative expenditures include costs incurred to provide support for the operations of the Board, the offices of the Executive Director and the Director, Special Projects, and staff providing direct support to Board members.

Staffing

A number of new staff joined the Board in 1997 and the total staff complement grew to 24. However, the Board continues to rely on contractors to carry out much of the work on individual audit projects.

The Board is developing an exceptional blend of expertise in forestry, auditing, law, and other disciplines. The Board's dedicated support staff are also essential to keeping the organization functioning.



Tait Sharkey responds to inquiries and provides the public with information about the Board and the Code.



The Board meets once a month, usually at its offices in Victoria, and also holds weekly conference calls to conduct Board business.

Appendix 1

Complaints received in 1997

FPB File Number/Name	Date Received	Location	Description of Complaint	Board Decision ¹	Reasons if decision not to Investigate	Current Status
970093/Cariboo Chilcotin Land Use Plan	1997/02/04	Cariboo Chilcotin	logging plans, SPs, and road permits - don't meet Code requirements	Not to investigate	177(2)(e) - would not benefit the complainant	Closed
970094/Squamish Forest Development Plan	1997/02/21	Squamish	decision to simultaneously advertise all FDPs for Squamish Forest District	Not to investigate	177(2)(b) - administrative procedures exist to address the complaint	Closed
970096/Halfmoon Bay/Homesite Creek	1997/03/14	Sunshine Coast	operational plans - flawed silvicultural prescription	Investigate		Investigation Completed - Report Released
970098/Botanical Forest Products	1997/05/07	Mission	concerned about the harvesting of moss and possibly other botanicals	Not within Board's jurisdiction to investigate.		Closed. Complaint issues followed up by a letter from the Board to the ministers.
970099/Hillcrest Road	1997/05/13	Hillcrest Road	forest service road not adequately being maintained for safe use by residents	Investigate		Investigation Near Completion
970102/Klaskish Management Plan	1997/04/17	Klaskish/East Creek	concerned the COMP defers the issues of rate of cut/dispersion of harvesting	Not within Board's jurisdiction to investigate		Closed
970103/Skidegate Channel	1997/04/23	Skidegate Channel	depositing of sediment into channel	Not within Board's jurisdiction to investigate		Closed
970104/Harold Price	1997/05/12	Harold Price Creek near Smithers	lack of decision by DM re: snowmobilers and skiers	Not to investigate	177(2)(b) - administrative procedures exist to address the complaint	Closed

FPB File Number/Name	Date Received	Location	Description of Complaint	Board Decision ¹	Reasons if decision not to Investigate	Current Status
970105/Sustut	197/04/22	Sustut River	see special investigation	Special Investigation ²		Special Investigation ²
970106/Miner Lake	1997/05/07	Miner Lake, Horsefly	unnecessary access road has been built in hunting area	Not to investigate	177(2)(d) - further investigation unnecessary because the complaint was resolved, withdrawn, or abandoned	Closed
970107/Sustut	1997/05/05	Sustut River	see special investigation	Special investigation ²		Special Investigation ²
970108/Sustut	1997/05/05	Sustut River	see special investigation	Special investigation ²		Special Investigation ²
970109/Woodlot Licence	1997/05/26	40 - 50 km outside of Prince George	woodlot licence expansion	Not within Board's jurisdiction to investigate.		Closed
970112/Cariboo-Chilcotin Land Use Plan (CCLUP)	1997/06/05	Cariboo-Chilcotin Forest Region	1997 operational plans are not consistent with CCLUP	Under Assessment - no decision yet		Assessment
970113/Pitt River Valley	1997/06/02	Lower Mainland - Upper Pitt River Valley	destruction of fish habitat	Not to investigate	177(2)(b) - administrative procedures exist to address the complaint	Closed
970114/Klaskish/East Creek-Review & Comment	1997/06/05	N. Vancouver Island - Klaskish River	decision to refuse to extend public review and comment period	Investigate		Under Investigation
970121/Klaskish/East Creek - Plan Extension	1997/08/26	N. Vancouver Island - Klaskish River	forest development plan was not amended promptly following the extension of the FDP	Not to investigate	177(2)(d) - further investigation unnecessary. Board to reconsider at conclusion of R/A 96-39 appeal	Closed

FPB File Number/Name	Date Received	Location	Description of Complaint	Board Decision ¹	Reasons if decision not to Investigate	Current Status
970122/Crazy Creek/Wap Creek	1997/08/01	Salmon Arm - Perry River	plugged ditches, water courses, post cutblock layout, harvesting induced landslides	Not to investigate	177(2)(b) - administrative procedures exist to address the complaint	Closed
970123/Twin Two Creek	1997/08/26	Mt. Currie/Lillooet	flooding damage caused by road built close to a creek	Investigate - ended up not being under Board's jurisdic.		Closed
970124/Klaskish River - Soil Disturbance	1997/08/29	N. Vancouver Is. - Klaskish River	damage to soils from harvesting on steep, sensitive terrain	Investigate		Under Investigation
970125/Woodlot Licence	1997/09/15	40 - 50 km outside of Prince George	woodlot licence, trespass and slash hazard	Not to investigate	177(2)(e) - would not benefit the complaint	Closed
970126/Bulkley Valley	1997/09/24	Bulkley Valley - Harold Price Cabin/Meadows	approved management plan flawed, motorized access to back country ski areas	Investigate		Under Investigation
970127/Gun Lake	1997/09/26	Lillooet - Upper Bridge River, Gun Lake	effect of approved FDP on watershed, visual assessment, effect of logging on volcanic soils	Investigate		Under Investigation
970131/Little Cayeuse Creek	1997/11/07	11 km NW of Castlegar, Little Cayeuse Creek	watershed assessment not undertaken - level 2 or 3 IWAP; operational plans should be amended	Investigate		Under Investigation
970135/Tobermory Creek	1997/12/15	West of Invermere	FDP - biodiversity guidelines - not addressed	Under Assessment - no decision yet		Assessment
970136/Little Boulder Creek	1997/11/24	Little Boulder Creek Chetwynd	FDP did not take biodiversity concerns into consideration for an unlogged watershed	Not to investigate	177(2)(d) - investigation unnecessary (complaint withdrawn/resolved/abandoned)	Closed

¹If a complaint is within the Board's jurisdiction, it must be investigated. The reasons the Board may refuse to investigate a complaint are set out in section 177(2) of the Code.

²The Board may choose to deal with a complaint by conducting a special investigation, rather than a complaint investigation.

Appendix 2

Review and Appeal Cases the Board was involved with in 1997

Case	Forest Appeals Commission (File No.)	Location by Forest District	Issues of Interest to Board	Decision by the Forest Appeals Commission (date released)
Repap British Columbia Inc. v. Government of B.C. & Forest Practices Board	97-FOR-02	Kispiox	Due diligence.	Jan. 9, 1998
Canadian Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-03	Vanderhoof	Due diligence.	May 26, 1997
Canadian Forest Products Ltd. v. Government of B.C. (and Forest Practices Board)	97-FOR-06	Prince George	Due diligence and vicarious liability	Oct. 10, 1997
Hayes Forest Services Ltd. v. Government of B.C. & Forest Practices Board	97-FOR-07	Duncan	Double jeopardy	Feb. 4, 1998
TimberWest Forest Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-08	Duncan	Due diligence and vicarious liability.	No (appellant withdrew)
TimberWest Forest Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-09	Duncan	Due diligence and vicarious liability.	No (appellant withdrew)
TimberWest Forest Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-10	Duncan	Due diligence and vicarious liability.	Feb. 11, 1998

Case	Forest Appeals Commission (File No.)	Location by Forest District	Issues of Interest to Board	Decision by the Forest Appeals Commission (date released)
Slocan Forest Products Ltd. v. Government of B.C. & Forest Practices Board	97-FOR-11	Robson Valley	Due diligence and vicarious liability.	No (appellant withdrew)
Hollis v. Government of B.C. and Forest Practices Board	97-FOR-13	Arrow	Standard of proof for administrative penalties under the Code	No
Orenda Logging Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-15	Kalum	Due diligence and vicarious liability.	No (appellant withdrew)
Canadian Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-16	Dawson Creek	Definition of "stream" under the Code	Feb. 16, 1998
Canadian Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-17	Prince George	Factors to consider when setting penalties	No
Hengstler v. Government of B.C. and Forest Practices Board	97-FOR-19	Duncan	Factors to consider when setting penalties.	Feb. 24, 1998
Forest Practices Board v. Husby Forest Products Ltd. & Government of B.C.	97-FOR-20	Queen Charlotte	Administrative fairness.	No (Board withdrew)
Slocan Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-22	Robson Valley	Due diligence; whether roads originally authorized before the passage of the Code Act are exempt from Code requirements; double jeopardy; adequacy of Review Panel's reasons for decision.	No
Slocan Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-23	Robson Valley	Due diligence; whether roads originally authorized before the passage of the Code Act are exempt from Code requirements; double jeopardy.	No
Slocan Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-24	Robson Valley	Definition of "stream" under the Code; double jeopardy; quantum of the penalty.	No

Case	Forest Appeals Commission (File No.)	Location by Forest District	Issues of Interest to Board	Decision by the Forest Appeals Commission (date released)
Canadian Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-25	Squamish	Due diligence and vicarious liability.	No (appellant withdrew)
Canadian Forest Products Ltd. v. Government of B.C. and Forest Practices Board	97-FOR-30	Fort St. James	Remediation orders	No
Yaremchuk v. Government of B.C. and Forest Practices Board	97-FOR-31	Lillooet	Due diligence	No
TimberWest Forest Ltd. v. Government of B.C. and Forest Practices Board	no Forest Appeal Commission file number	Duncan	Due diligence and stop work orders.	No (appellant withdrew)

Appendix 3

Recommendations made by the Forest Practices Board up to December 31, 1997

Recommendations made up to December 31, 1997	Responses Received up to Dec. 31, 1997
Audit Program	
96001 Finlay Forest Industries Inc. - February 1997	
Finlay Forest Industries Inc. continue to address all of the significant non-compliance findings the audit.	April 1997 - <i>Finlay Forest Industries advised the Board that actions were being taken in response to the audit findings.</i>
Ministry of Forests and Ministry of Environment, Lands and Parks review the significant non-compliance events related to streams and blocked culverts.	November 1997 - <i>Ministry of Forests has conducted inspections. The Board is not aware of any enforcement actions being taken.</i>
Finlay Forest Industries Inc. with Ministry of Forests review inadequate maintenance of some "inactive" roads.	November 1997 - <i>Finlay Forest Industries addressed this issue through its forest development plan, which was approved by the Ministry of Forests.</i>
96002 International Forest Products - March 1997	
International Forest Products continue to address significant non-compliance issues.	February 1997 - <i>Interfor advised the Board that actions were being taken in response to the audit findings.</i>
Ministry of Forests review the significant non-compliance related to road construction and decide if further actions are necessary.	April 1997 - <i>Ministry of Forests reviewed the audit findings and determined that no enforcement actions were necessary.</i>
96004 Lakes Forest District SBFEP - July 1997	
<p>The District Manager of the Lakes District:</p> <ul style="list-style-type: none"> • classify riparian areas for operational planning in the future • begin preparation of a comprehensive mountain pine beetle management strategy • continue to improve operational plans at the harvesting stage for the 	July 1997 - <i>Lakes District advised the Board that actions were being taken in response to the audit findings.</i>

<p>SBFEP including: classification and location of streams, wetlands and riparian areas; and the quality of maps and their consistency with other operational plans</p> <p>The government clarify the interpretation of sections 22(1) and 30(1)(c) 30(2) and 30(3) of the Act regarding preparation of silviculture prescriptions and the conditions of exemptions and provide policy guidance to district managers and the public on implementation of this interpretation</p>	<p>October 1997 - <i>Ministry of Forests advised the Board that it does not intend to follow the Board's recommendation.</i></p>
<p>97003 Cattermole Timber - December 1997</p>	
<p>Ministry of Forests and Ministry of Environment Lands and Parks address the damage to the environment that is occurring as a result of the lack of maintenance on certain old roads.</p>	
<p>Investigations Program</p>	
<p>950036 Rare Mushroom Habitat - August 1996</p>	
<p>If the District Manager chooses to allow logging to proceed, the District Manager should extend the timber sale by the length of time logging has been delayed, giving consideration to seasonal constraints on logging the remaining blocks.</p>	<p>September 1996 - <i>Although changes to the Act or Guidebooks were not made, the Ministry of Forests clarified policies with regional and district staff with respect to the issues raised in the investigation.</i></p>
<p>MoF and MELP review their referral agreements to ensure adequate opportunity exists for consideration of substantial information about biological values that becomes available after a public review and comment deadline and before an operational plan is prepared.</p>	
<p>The government amend section 40 of the Act to be consistent with section 41. Specifically, sub-section (b) of section 41(1), which states "the district manager is satisfied that the plan or amendment will adequately manage and conserve the forest resources of the area to which it applies" should be added to section 40(1).</p>	
<p>The government clarify the interpretation of the Biodiversity Guidebook regarding when "special efforts may be needed" to protect the habitat of individual species.</p>	
<p>Responses to comments during public review and comment periods be documented, and reasons be provided when no action is taken on written requests to accommodate forest resources in plans.</p>	
<p>950038 Forest Development Planning in the Cariboo - December 1996</p>	
<p>The government publicly clarify the apparent discrepancy between the</p>	<p>January 1997 - <i>Ministers to write a letter to decision makers clarifying this (not</i></p>

requirements of the Forest Practices Code, the timetable for implementation of the CCLUP and the various expectations Regarding consistency of the 1996-2001 forest development plans with the higher level plan.	<i>done yet). Local operational guidance will be provided by sub-regional plans (under development). Strategic guidance will be provided by integration report (see below).</i>
The IAMC and RRB complete the <i>Final CCLUP Integration Report</i> as quickly as possible.	<i>Report was approved in principle by RRB, and is pending approval by IAMC.</i>
Sub-unit planning processes be initiated by the RRB and the IAMC as quickly as possible, beginning with the Special Resource Development Zone sub-units.	<i>Development of sub-regional plans under way, and they incorporate Special Resource Development Zone sub-units.</i>
That cooperative sessions to review forest development plans in each sub-unit be considered as an alternative to the current step-by-step approach to review of forest development plans and that the district managers initiate these cooperative sessions.	<i>Government encouraging agreement holders to consult, but not leading co-operative sessions.</i>
That government review the CCLUP implementation process to ensure there is adequate financial support for RRB.	<i>No further funding required in government's view.</i>
When agreement cannot be reached on integration of timber and non-timber targets and the interpretation of the CCLUP, and the dispute resolution process already in place does not provide for prompt resolution, the Board recommends that an independent arbitrator make interim decisions.	<i>Government does not agree that an independent arbitrator is required.</i>
The option to extend the approval of the 1995-2000 plans, for six months to June 15, 1997, be explored. If not practical, clarify for the public how the 1996-2001 forest development plans will be reviewed to ensure they address all the timber and non-timber targets.	<i>Not extended. Additional clarification not provided.</i>
If the 1995-2000 forest development plans are extended, any silviculture prescriptions, logging plans and road permits approved after December 15, 1996 for roads and blocks approved in the 1995-2000 forest development plans should be assessed and amended to ensure consistency with the requirements in the <i>Final CCLUP Integration Report</i> .	<i>Not applicable since plans not extended.</i>
In order to avoid false expectations about other land use plans in future, the government state whether higher level plans are to be implemented in advance of formal declaration or whether they do not take effect until declared. The authority for implementation in advance of formal declaration must be clear.	<i>June 1997 - Addressed in Bill 47, 1997 amendments to the Forest Practices Code of British Columbia Act.</i>
The Board recommends that implementation guidelines and a timetable for incorporating the objectives into operational plans be developed before a higher level plan is declared.	<i>(see immediately above)</i>

Review & Appeals Program

97350-30 Special Report on Administrative Review Procedures - May 1997

Administrative reviews that involve contradictory and complex evidence should allow for oral presentation of that evidence.

September 1997 - *Ministry of Forests agrees that oral hearings offer the most effective method of review where cases involve complex or contradictory evidence.*

Review hearings should be oral, public hearings when there are public involvement/interests or particularly significant issues involved.

Ministry of Forests does not agree that public interest in a case necessitates oral hearings or multi-person panels. Oral hearings would only be necessary where critical issues turn on complex evidence.

Review panels consist of at least three members in the above types of cases.

Other

Changes to Bill 47 - July 1997

Enable the Board to participate in referrals of questions of law to the Forest Appeals Commission.

Government did not address in Bill 47, but agreed to consult with the Board on how the issue could be addressed through regulation.

Enable the Board to request administrative review of penalties for contraventions.

Government did not address in Bill 47, but agreed to consult closely with the Board on the regulation governing compensatory penalty.

Appendix 4

Glossary of Terms

Agreement Holder

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

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 determinations, which can lead to confirmation, cancellation, or variation of the determination, or to a new determination.

Complaint

a matter that is brought to the Board in writing and includes information required in a Notice of Complaint.

Complaint Assessment

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

Concern

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

Determination

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

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

Full Scope Audit

an audit of all the requirements of the Code.

Jurisdictional concern

involves a forestry matter within the Board's jurisdiction, but is not written down and filed as a complaint. The Board's jurisdiction covers matters under Parts 3 to 6 of the Code, matters carried out by a party under the Code, and matters that have taken place since June 15, 1995.

Limited Scope Audit

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

Non-jurisdictional concern

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

Party

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

Remediation Orders

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

Road Deactivation

measures taken to stabilize roads and logging trails during periods of inactivity, including the control of drainage, the removal of sidecast where necessary, and the re-establishment of vegetation for permanent deactivation.

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 immediately advise the Board, the person being audited, and the three ministers.

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.

Small Business Forest Enterprise Program

Small Business Forest Enterprise Program (SBFEP) enables individuals or companies that are registered in the program to acquire rights to harvest Crown timber under a timber sale licence. SBFEP licensees are not responsible for most forestry planning and management requirements. These requirements are fulfilled by the Ministry of Forests.