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The Honourable Jim Doyle
Minister of Forests

The Honourable Joan Sawicki
Minister of Environment, Lands and Parks

The Honourable Dan Miller
*Minister of Energy and Mines and
Minister Responsible for Northern Development*

Dear Ministers:

It is with pleasure that I submit to you the Annual Report of the Forest Practices Board for the calendar year 1999, in accordance with section 189(1) of the *Forest Practices Code of British Columbia Act*. This report contains information on the affairs of the Board for the year ending December 31, 1999.

Yours sincerely,

A handwritten signature in black ink, which appears to read "Keith Moore". The signature is fluid and cursive.

Keith Moore
Board Chair
Victoria, British Columbia

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Statement from the Chair



The end of 1999 marks the fifth anniversary of the establishment of the Forest Practices Board and the fifth year of the Forest Practices Code. It also marks the end of my five years as the first Chair of the Board.

This five-year milestone provides an ideal opportunity to evaluate the development of the Board and to review the current state of forest planning and practices in British Columbia following implementation of the Code. This Annual Report describes the work of the Board in detail and describes our findings about the state of compliance with the Code and the achievement of its intent. In my final statement as Board Chair, I provide report cards on the Board and on the state of practices in the province. I review some of the Board's highlights in 1999 and look to the challenges facing it in the years ahead as the complex issues involving British Columbia's forests continue to evolve rapidly.

A Report Card on the Board

When the Board was established on January 1, 1995, the government ministers of the day described it as "the public's watchdog on effective forest management." They had high expectations.

The Board began in 1995 with little more than an Act, some Regulations and six very dedicated Board members. We have come a very long way.

At the end of 1999, the Board is an effective and credible organization that has demonstrated its independence. It has developed the capacity to undertake its statutory obligations and to provide the public with clear and balanced reports that state the Board's findings and make recommendations for improving planning and practices in the province.

The Board now has a track record of completed audits, complaint investigations and major special investigations. It has acted on numerous occasions as a public interest advocate in challenging or supporting government decisions at the Forest Appeals Commission. The Board's staff is respected for its expertise and is frequently called upon to provide objective advice about the interpretation and application of the Code.

In 1999 we made good progress in reducing the time it takes to complete the investigation of complaints from the public but the Board still needs to make further improvement. Thus we began to explore new ways to deal with complaints. We continued to expand and diversify our other core programs. We also worked hard to improve our communication with the public interested in forestry issues and we completed more reports than in any previous year. All of our material is posted on our very active web site at www.fpb.gov.bc.ca.

The Board's mission is to contribute to the continuing improvement of forest planning and practices in British Columbia. I believe we have made good progress.



Important environmental resources and values in the forest—wildlife, scenery and recreational values, for example—are still not adequately protected in British Columbia.

A Report Card on Forest Planning and Practices

The Forest Practices Code has also come a long way since 1995. Although it has been criticized by many and has undergone numerous changes, the Code has brought a significant improvement in forest practices compared to those of the early 1990s.

It is a Code that has delivered results. The Board has observed and described the results of the improved practices that now occur. Since the Code came into effect, there is more protection provided to streams within cutting areas and less site disturbance associated with logging. There is better construction of logging roads, better bridges, ditches and culverts and more attention to maintaining and deactivating roads after logging. This improvement in practices has occurred at what foresters and biologists call the “stand level”—the specific cutblock that has been logged and roads that have been built.

However, important environmental resources and values in the forest—wildlife, scenery and recreational values, for example—are still not adequately protected in British Columbia. That’s because the measures that have been established in the Code to protect these values have largely not been implemented or are being limited in their application by government policy direction.

Many environmental forest resources and values need to be managed and conserved over larger areas of land than individual cutblocks and roads. The practices to protect these values need to be planned and implemented at “watershed” or “landscape” scales.

The Code does provide for many measures such as the establishment of winter ranges and wildlife management areas for wildlife, scenic areas for visual quality and old-growth management areas for biological diversity that are designed to protect environmental resources at the “landscape” level. In fact, effective implementation of the Code depends on the use of these types of measures. But, in most parts of the province, government has failed to implement these provisions of the Code. Thus, in most parts of the province, there is no effective legal requirement that companies or the government’s Small Business Forest Enterprise Program must describe wildlife or other environmental values in plans or provide the measures to protect them. Without a legal requirement, government has limited ability to enforce the Code provisions that were intended to protect environmental values.

As the public’s watchdog, the Board is pleased that practices have improved, but is also concerned that planning and practices do not yet protect many of the important environmental forest resources. Implementation of the Code

is still incomplete and unfinished four and one-half years after it became law. British Columbia faces serious repercussions if it is unable to demonstrate that wildlife, scenic and recreational values, and biodiversity are protected in forestry operations. With the current state of Code implementation, this appears to be the case.

It is the Board's view that, more than ever, British Columbia needs an efficient and effective Code. The Board supports initiatives that will lead to more efficient and cost-effective Code implementation. In our view these changes will largely be administrative. The most important need, however, is for government to implement the provisions of the Code that will provide effective protection for environmental forest resources. Thus, in 1999, the Board was active in recommending that government move quickly to implement higher level plans and the other "landscape level" measures in the Code that will protect these values in the forests.

The Board also repeated its call for a period of greater stability and consistency while Code provisions continue to be put into effect. This includes a stable legislation and supporting policy framework, stable funding and staff complements for the ministries that implement the Code, and stable operational plans. This theme of greater stability and certainty, while moving forward to fully implement the Code, was first raised in our 1998 Annual Report and has received very positive support from government and forest industry field staff alike.

Some Board Highlights in 1999

The Board's work in the past year is described in detail in this report. Each section includes a summary of accomplishments. Some are particularly significant and are worthy of note here.

The Board faced its first legal challenge in 1999 with a judicial review of the Board's report of an audit of forest practices. The British Columbia Supreme

The Code is still incomplete and unfinished four and one-half years after it became law.

Court firmly upheld the Board's responsibility to report the practices it observed in that audit and to make recommendations to improve the plans and practices on the ground, and to improve the Code legislation. This court decision provided strong support for the Board's approach to its role as a watchdog for sound forest practices. These court proceedings, which are still the subject of an appeal, are described in detail on pages 17 and 18.

In 1999, the Board continued to expand its public role in commenting to the public and government about important forestry issues related to the Code. In 1999, I spoke to a meeting of large North American buyers of British Columbia forest products who have a keen interest in our forest practices.

I also spoke to a House of Commons Standing Committee and to the Commission assessing a government proposal to transfer Crown land to private ownership as compensation for park creation. In addition, I made presentations to the annual general meetings of a variety of organizations and met with many groups around the province.

The completion of the first enforcement audit marked the expansion of our audit program into a new area—auditing and reporting publicly about the appropriateness of government enforcement of the Code. Development of the Board's unique audit program continued in 1999, and in 2000 we will begin field audits of government enforcement and will continue the difficult task of developing effectiveness audits to determine if field practices meet the intent of the Code.

In 1999, the Board received decisions on its challenges to the approvals of two forest development plans. These decisions confirmed the Board's view that the public must have a full and fair opportunity to comment on forest development plans. The Board also launched its first appeal of a penalty levied under the Code. This appeal resulted in the reinstatement of a significant penalty for contravention of the Code requirements to protect small streams.



Looking to the Future

As a watchdog, the Board deals with past and current plans and practices. However, the Board also strives to be relevant to the evolving forest practices issues in the province and seeks to contribute advice for the future. Two situations are emerging rapidly.

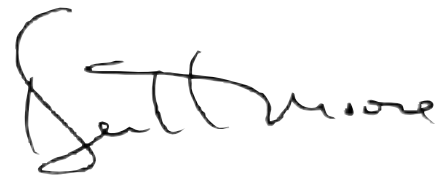
First, the Board expects that certification of forestry operations in the province will continue to expand. As an independent organization that conducts audits to determine compliance with provincial forest legislation, the Board is already, in effect, a certifier. I expect that as the number of completed Board audits grows and the Board's expertise and public credibility continue to increase, the Board will play a constructive and influential role in this very important area.

Second, the Board expects that the regulation of forest practices will continue to evolve. Since its inception the Code has been a "living document." At the moment, some fairly fundamental philosophical changes are being proposed as ways to achieve the government's desire for a "more results-based Code" are explored.

I expect that the Board will continue to effectively deliver its core programs, but it will also contribute significantly to this important emerging debate as well.

In 1999, the Board bid farewell to three past Board members and welcomed four new members. Each of them is an exceptional individual who has brought their experience and perspectives to bear on a consensus-based process that is strengthened by the diversity of views and experience of the Board members. The Board has an extremely competent and dedicated staff who exemplify the best in the public service.

I am proud of the achievements of the Board in the five years of my tenure. These achievements are a testament to the incredible contribution made by each of the Board members and every one of our staff. They bode well for the future. My successor, Bill Cafferata, has an excellent foundation to build on. I wish Bill and his fellow Board members continued success in expanding and improving the work of the independent watchdog for sound forest practices in British Columbia.



Keith Moore
Board Chair



The Board

Strategic Planning

Early in the year, the Board established its strategic directions for 1999. This exercise was undertaken to help establish Board priorities and effectively allocate resources for their achievement. A planning process was applied to specify how these higher order directions would be achieved, both by the Board itself and by the Board organization. The strategic planning and performance model used involved identifying actions, prioritizing, scheduling, resourcing, staging and reporting. This process was incorporated into the business plans of the individual sections, the achievements of which are documented in this report.

With four years of operational experience to draw upon, the Board determined the following strategic directions for 1999:

- Strive to maintain a consistent public focus.
- Assume a more proactive leadership in major forest practices issues.
- Focus on maintaining and building on existing core programs.
- Apply the experience of ongoing program work.
- Clarify how effectiveness and comprehensiveness audit development will proceed.
- Implement and apply a performance and accountability framework.
- Integrate dispute resolution and problems solving approaches in the conduct of its programs.

These strategies have been integrated into individual section business plans. While most of these initiatives were implemented this year, some are still in the early stages of fulfillment as the demands of an unexpected court case and other issues discussed in this annual report required a reallocation of Board and staff time and effort.

Board Members

In February, John Cuthbert was re-appointed to the Board to serve as vice-chair, while Jack Toovey and Cindy Pearce completed their terms. Klaus Offermann continued on in his term as a Board member. In March, the Board welcomed new Board members, Mark Haddock from Port Moody, Ingrid Davis from Merritt, Liz Osborn from Telkwa and Fred Parker from Castlegar. Frances Vyse completed her term in June. Keith Moore completed his second term at the end of this year, after serving as chair since inception of the Board in 1995.



Keith Moore
Full-time Chair
Forester and former consultant in forest land management and environmental assessment.
Resident of Queen Charlotte City, BC

John Cuthbert
Part-time Vice-chair
Forester with a long distinguished career with the Ministry of Forests, including nine years as Chief Forester for the province.

Resident of Summerland, BC



Klaus Offermann
Part-time Board Member
Former forestry worker representative with experience in forest policy development, sustainable forestry and land use planning.
Resident of Nelson, BC

Liz Osborn
Part-time Board Member
Consultant with wide experience and education in natural resources policy, planning and research.
Resident of Telkwa, BC



Fred Parker
Part-time Board Member
Forester with a wide range of experience in the forest industry in the BC interior.
Resident of Castlegar, BC

Ingrid Davis
Part-time Board Member
Forester and consultant with extensive experience in silviculture practices.
Resident of Merritt, BC



Mark Haddock
Part-time Board Member
Lawyer with significant experience in forest policy and law.
Resident of Port Moody, BC

1999 Forest Practices Board Budget and Expenditures (unaudited)

January 1 to December 31, 1999

	Board Members and Executive	Operational Expenditures					Total
		Complaint Investigations	Audits	Reviews and Appeals	Special Projects/ Communications	Administrative Expenditures	
Total Salaries and Benefits	\$ 334,380	\$ 518,890	\$ 430,123	\$ 271,097	\$ 184,551	\$ 116,866	\$ 1,855,907
Total Operating Costs	363,400	148,493	1,246,526	26,695	130,065	697,219	2,612,398
Total Capital Expenditures	401	0	535	0	0	26,027	26,963
Total Expenditures	\$ 698,181	\$ 667,383	\$1,677,184	\$297,792	\$ 314,616	\$ 840,112	\$ 4,495,268
Budget							\$ 5,152,142

Notes:

1. The calendar year 1999 combines the last three months of fiscal year 1998/99 (January to March) and the first nine months of fiscal year 1999/2000 (April to December).
2. The Board's budget for calendar year 1999 was \$5,152,142 (this is the amount accounted for by appropriations from fiscal year 1998/99 and 1999/2000 of \$1,414,948 and \$3,737,194, respectively, allocated to the 1999 calendar year). During 1999, the Board's expenditures totaled \$4,495,268.
3. Board members and executive expenditures cover those of the Chair of the Board, the part-time Board members, those associated with the office of the Executive Director, and those of staff providing direct support to the Board members.
4. Reviews and Appeals expenditures cover legal advice on all files of the Board.

Panels

In 1999, government amended the *Forest Practices Code of British Columbia Act* to allow the Board to carry out its work in panels, rather than requiring full Board participation on all files. Working as panels allows Board members to achieve greater efficiency,

and as a result, deal more effectively with a larger number of audit and complaint investigation files than in the past. The Board completed a policy on the use of panels and made it publicly available on its web site.

Mission Statement

**The Forest Practices Board
serves the public interest as
the independent watchdog
for sound forest practices in
British Columbia.**

Auditing Forest Practices and Code Enforcement

This year was very important for the Board's audit program; nine more compliance audits were undertaken, the first audit of government's enforcement of the Code was completed, and the Board's audit reporting process withstood its first legal challenge.

The *Audit of the Government of British Columbia's Framework for Enforcement of the Forest Practices Code* provided an independent, objective assessment of government's framework for Code enforcement. The audit also established a solid foundation for developing the Board's field-level enforcement audit program. Pilot enforcement audits will begin in 2000.

In November, the Board successfully defended the interpretation of its mandate to report what it observed in the field, and to make recommendations at the completion of a compliance audit.

Summary of Accomplishments

The field work for nine compliance audits was completed in 1999. These audits were undertaken in the six provincial forest regions and across British Columbia's diverse physiographic conditions. Seven forest company licences and two Ministry of Forests Small Business Forest Enterprise Programs (SBFEPs) were randomly selected from 235 major forest licences and 35 SBFEPs across the province. Forest licences and SBFEPs audited before were withdrawn from the selection process. Three of the audits, including one SBFEP, were full scope and six of the audits were limited scope (see Table 3).

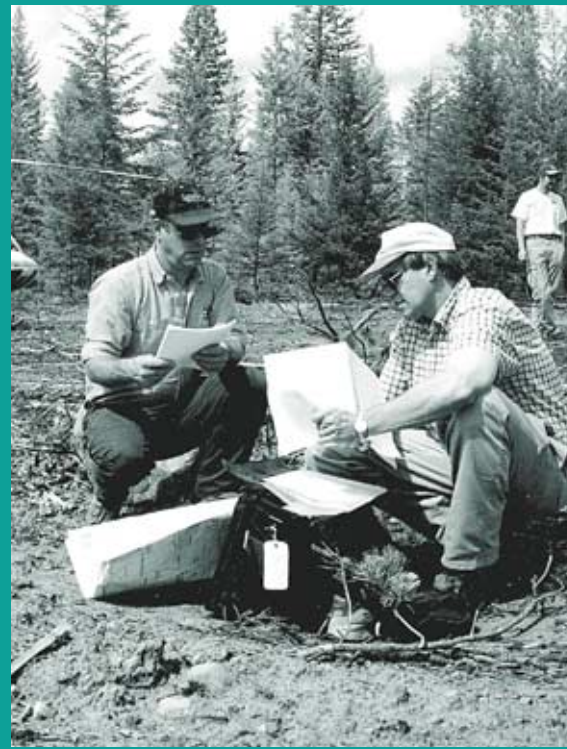
During 1999, eight compliance audit reports were completed. These reports finalized two audits undertaken in 1997, three in 1998 and three in 1999. Three of these were of the SBFEP and five were of major forest licences. As well, *An Audit of the Government of British Columbia's Framework for Enforcement of the Forest Practices Code* was released.

The reports on two audits undertaken in 1998 and the other five audits undertaken in 1999, are scheduled for completion in 2000.

Audit Program Developments

Audit Reference Manual

Board staff and consultants completed major revisions to the audit reference manual. These revisions involved substantial changes to the audit procedures and checklists that resulted in a more efficient field audit procedure without compromising the high level of audit assurance. These changes were made to reduce the amount of field time required at the licensees' premises. For the majority of 1999 audits, this proved to be the case. One of the 1999 audits was completed with only four field days.



Version 4.0 of the *Compliance Audit Reference Manual* was released in May 1999. On June 7, 1999, the Audit section delivered a workshop in Richmond to describe the audit process and highlight the key changes to the audit reference manual. The workshop provided an opportunity for attendees to ask questions about the Board's audit program and processes. A separate two-day training program was provided to key audit contractors to ensure a consistent audit approach throughout the nine compliance audits conducted in 1999.

Audit Units Report

In May 1999, Board staff finalized a report, *Determination of Audit Units*, explaining the Board's procedures for selecting the licensees or forest districts that are audited each year. The report is available on the Board's web site.

Summary of Results

Compliance Audits

In the compliance audits completed and reported in 1999, the Board issued “clean opinions” on three audits of roads and harvesting activities and one audit of operational planning, road, harvesting, silviculture and fire protection activities. A clean opinion indicates that all of the activities examined during the audits complied with the Code in all significant respects.

The other four audits completed and reported in 1999 had a wide range of findings. One audit had a “qualified” opinion with one instance of significant non-compliance. Another audit had a “qualified” opinion with significant non-compliance noted in three areas. The final two audits had a “qualified” opinion for a portion of the audit, as well as an “adverse opinion” for road deactivation. One of these audits also had a “scope limitation” on road maintenance.

The results of these eight audits indicated a general move towards greater compliance with the Code than in previous years, however, continued improvement in forest practices is still required in some areas.

As in 1998, areas of significant non-compliance generally related to the protection of streams from forest activities, and the construction, maintenance and deactivation of roads.

*...results indicated
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practices is still
required in some areas.*

- Road non-compliance occurs in construction, maintenance and deactivation phases and continues to involve the management of water.
- Harvesting non-compliance usually involves practices around streams and riparian areas.
- Problems with the identification and classification of streams result in inadequate reserves and inappropriate practices.

In each of the audits with non-compliance findings, the Board made a number of recommendations. The Board also requested that the auditee and govern-

ment advise what actions they propose to take to address the Board’s recommendations. In many cases, the auditee advised the Board of actions already taken to address the recommendations and to correct the problems identified in the audit.

Three major areas emerged from audits undertaken by the Forest Practices Board.

Notable Forest Planning and Practices

Several of the audits reported in 1999 identified actions by licensees that exceeded basic Code requirements. The Board recognized the notable forest practices of these companies.

Public Involvement

The Board recognized one company’s efforts to prepare understandable plans, make them available to the public and encourage comments. The company used innovative methods to provide the public with an adequate opportunity to review and comment on its forest development plan.

Riparian Management

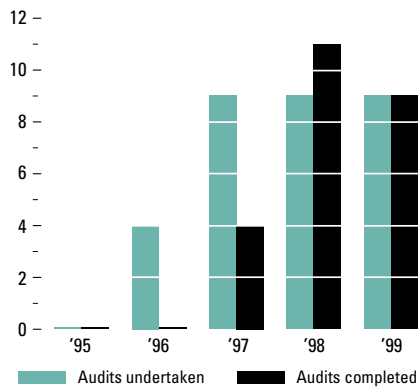
In three of the audits the Board recognized that the companies’ practices adjacent to small non-fish streams provided more protection than the Code requires. These measures help to protect the stream ecosystems and the diversity of wildlife habitat and vegetation.

Managing to Higher Level Plans

The Board recognized one company’s commitment to manage forest resources according to a local resource management



Forest Practices Board Audits
1995 – 1999



plan and landscape unit plans. Although not legally bound to incorporate the objectives identified in the local plans, the company's forest development plan was consistent with the spirit and intent of the management direction in the local resource management plan and landscape unit plans.

Adverse Opinions—Not in Compliance with Code Requirements

In two audits reported in 1999, the auditor gave adverse opinions. Adverse opinions are very serious and show that the operation did not comply with Code requirements for that section of the audit. This opinion could be considered the opposite of a clean opinion. An adverse opinion is much more serious than a qualified opinion because, with an adverse opinion, the auditor is informing the public that, overall, the licensee was not in compliance with the Code.

The audit of one forest licence and one SBFEP determined that the road deactivation practices were not in compliance with the requirements of the Code.

The forest licence audit examined 24 roads for deactivation activities. This included roads identified for deactivation in the

forest development plan and roads that were not included in the forest development plan. The audit concluded that the deactivation work carried out was not in compliance with the work set out and approved in the forest development plan. Consequently, regulatory agencies, third parties and the public were deprived of the opportunity to provide effective input to the forest development plan as a result of deficient information on planned road deactivation activities. Inadequate information about road deactivation could result in inappropriate limitation of access to forest road users and potential safety concerns.

The SBFEP audit found that the roads deactivated during the audit period were not identified for deactivation in the forest development plan. In addition, other non-compliance items regarding road deactivation practices, such as lack of approved deactivation prescriptions and inadequate cross ditches, were identified. The deficiencies were considered significant because they prevented adequate assessment of the planned deactivation activities by third parties, including the public. The inadequate deactivation caused sediment to enter a stream, as well as two slides.

In addition to the adverse opinion in this SBFEP audit, there was also a scope limitation with respect to road maintenance. The auditor was unable to provide an overall opinion on road maintenance because the forest district did not have complete information available regarding Forest Service roads accessing SBFEP harvesting areas. With the lack of information, the auditor could not conclude if overall road maintenance activities were, or were not, in compliance with the Code.

Lack of Legally Declared Higher Level Plans

Three audits have reported that forest development plans did not describe measures to protect important forest resources. The Code requires that a forest development plan specify measures that will be carried out to protect forest resources. Normally, broad objectives for the management of non-timber resources will be set out in higher level plans. This important component of the Code has largely not been implemented as government has not legally established higher level plans in most areas of the province. Without direction on the broad objectives, forest development plans do not have to describe measures to protect non-timber forest resources.

This gap was also identified by the Board during the audit of government enforcement. The lack of legally established higher level plans means that there is no legal requirement to ensure that important forest resources, including biodiversity, wildlife, scenic and recreational values, are protected. Government's ability to adequately enforce protection of these important resources is severely limited.

Summary of Audits Completed in 1999

Auditee/Allowable Annual Cut	Location	Activities Audited	Opinion	Findings	Report Date
Doman-Western Lumber Ltd. Tree Farm Licence #19 887 726 m ³	Campbell River Forest District	<ul style="list-style-type: none"> timber harvesting road construction, maintenance and deactivation (includes related operational planning)	clean	<p>Timber harvesting and road construction, maintenance and deactivation practices complied with the Code in all significant respects.</p> <p>The Board notes the high degree of compliance and commends Doman-Western's practices in riparian areas.</p>	February 1999
Small Business Forest Enterprise Program (SBFEP) 158 000 m ³	Arrow Forest District	<ul style="list-style-type: none"> timber harvesting road construction, maintenance and deactivation (includes related operational planning)	qualified	<p>Timber harvesting and road construction, maintenance and deactivation practices generally complied with the Code.</p> <p>One area of significant non-compliance involved:</p> <ul style="list-style-type: none"> biodiversity objectives, such as maintenance of mature and old timber within the district, would not be achieved with the present forest development plan. 	June 1999
Northwood Pulp and Timber Ltd., Houston Division Forest Licence A16828 1 064 484 m ³	Morice Forest District	<ul style="list-style-type: none"> timber harvesting road construction, maintenance and deactivation (includes related operational planning)	qualified for timber harvesting, road construction and maintenance adverse for road deactivation	<p>Timber harvesting, road construction and maintenance practices complied with the Code in all significant respects.</p> <p>Road deactivation practices did not comply with the Code.</p> <p>Significant non-compliance involved:</p> <ul style="list-style-type: none"> the alteration of natural drainage patterns, damaged culverts and safety hazards, and roads identified for deactivation in the forest development plan, had either no deactivation work done, or the planned level of deactivation was not carried out. <p>Northwood caused concentrated rutting and excessive compaction of soil by logging during wet weather. Since the levels of soil disturbance were within specified limits, this did not constitute non-compliance with the Code. However, the Board feels this is not consistent with sound forest practices.</p>	June 1999 released January 2000
Small Business Forest Enterprise Program (SBFEP) 176 000 m ³	Boundary Forest District	<ul style="list-style-type: none"> timber harvesting road construction, maintenance and deactivation (includes related operational planning)	qualified for timber harvesting, road construction opinion not possible for road maintenance adverse for road deactivation	<p>Timber harvesting, road construction and maintenance practices generally complied with the Code.</p> <p>Road deactivation practices did not comply with the Code.</p> <p>Significant non-compliance involved:</p> <ul style="list-style-type: none"> harvesting activities that did not comply with operational plans, adequate measures were not taken to preserve and protect cultural heritage resource values, and road drainage structures were not installed during road construction. <p>Road deactivation requirements of the Code were either not identified in the forest development plan or the deactivation work did not comply with code requirements.</p> <p>Due to scope limitation, a conclusion on compliance with road maintenance requirements cannot be provided. SBFEP roads which were examined generally complied with Code requirements.</p>	June 1999
Gorman Bros. Lumber Ltd. Forest Licence A18671 231 349 m ³	Penticton Forest District	<ul style="list-style-type: none"> timber harvesting road construction, maintenance and deactivation (includes related operational planning)	clean	<p>Timber harvesting and road construction, maintenance and deactivation activities complied with Code requirements in all significant respects. The instances of non-compliance identified were few in number and minor in nature.</p> <p>Gorman Bros. Lumber Ltd.'s practices adjacent to very small streams, seeps and seasonal drainages provided more protection than the Code requires.</p> <p>Gorman Bros. Lumber Ltd. also used innovative methods to provide the public with an adequate opportunity to review and comment on its forest development plan.</p>	October 1999

Summary of Audits Completed in 1999 continued

Auditee/Allowable Annual Cut	Location	Activities Audited	Opinion	Findings	Report Date
Small Business Forest Enterprise Program (SBFEP) 352 000 m ³	Port McNeill Forest District	<ul style="list-style-type: none"> operational planning timber harvesting road construction, maintenance and deactivation silviculture fire protection 	qualified	<p>The district SBFEP's operational planning, timber harvesting, silviculture, fire protection and road construction, maintenance and deactivation activities generally complied with the Code.</p> <p>The audit identified instances of significant non-compliance with the description of, and prescription for, forest health in forest development plans and silviculture prescriptions, with bridge construction, and with timber harvesting activities in riparian management areas.</p> <p>Despite the absence of formally designated higher level plans, measures to protect non-timber forest resource values should be incorporated into forest development plans.</p>	November 1999
Lignum Ltd. Forest Licence A20003 103 446 m ³	100 Mile House Forest District	<ul style="list-style-type: none"> timber harvesting road construction, maintenance and deactivation <p>(includes related operational planning)</p>	clean	<p>Timber harvesting, road maintenance and deactivation practices complied with Code requirements in all significant respects.</p> <p>The audit found no non-compliance in the areas of timber harvesting, road maintenance and road deactivation.</p> <p>The few instances of non-compliance in road construction were minor in nature and had no impact on the environment.</p>	December 1999
Pacific Inland Resources (West Fraser Mills Ltd.) Forest Licence A16830 311 562 m ³	Bulkley Forest District	<ul style="list-style-type: none"> operational planning timber harvesting road construction, maintenance and deactivation silviculture fire protection 	clean	<p>Operational planning, timber harvesting, silviculture, fire protection and road construction, maintenance and deactivation activities complied with the Code in all significant respects.</p> <p>Pacific Inland Resources practices adjacent to very small streams, seeps and seasonal drainages provided more protection than the Code requires. They also retained more trees and understorey vegetation within cutblocks than is required by the Code.</p> <p>Positive steps were taken in making a commitment to carry out their operations to meet the intent of the Bulkley Land and Resource Management Plan.</p>	December 1999
An Audit of the Government of British Columbia's Framework for Enforcement of the Forest Practices Code	Provincial	<ul style="list-style-type: none"> government's framework for enforcement of the Code. 	not applicable	<p>Adequacy of the Code as a legislative framework for enforcement:</p> <ol style="list-style-type: none"> 1. The Code serves as a reasonably adequate framework for enforcement. 2. Without higher level plans established, the Code is not fully implemented. One of the most important components of the Code has largely not been implemented because government has not legally established higher level plans in most parts of the province. <p>Inter-ministry co-ordination and ministry activities:</p> <ol style="list-style-type: none"> 1. The three ministries have not co-ordinated enforcement efforts, as was originally intended by government. 2. The involvement of Ministry of Environment, Lands and Parks in Code enforcement has been much less significant than anticipated, leading to a risk of gaps in enforcement of the Code. 3. The Ministry of Energy and Mines has effectively withdrawn from enforcement of the Forest Practices Code, but confusion over some responsibilities still exists. 4. The Ministry of Forests is the main agency undertaking enforcement of the Code. <p>Executive leadership:</p> <ol style="list-style-type: none"> 1. While there is communication at the executive level, there is a lack of effective inter-ministry direction to, and co-operation in, the field, potentially creating gaps and inefficiencies. 2. Government has not established measures to monitor and assess its enforcement performance, which is necessary to guide improvements. 	December 1999

Plans for 2000

Compliance Audits

During 2000, the Board plans to carry out nine compliance audits including seven major tenures and two SBFEPs. Before the audits begin, the audit reference manual and audit checklists will be revised to incorporate legislative changes that occurred in 1999, and will include experience gained from the 1999 field season.

To date, only three forest regions, (Vancouver, Nelson and Prince Rupert), have had forest districts selected for audits of their SBFEP because the Board uses a random selection process for SBFEP forest districts. Although the Board feels it is important to get balanced provincial coverage in the audits of the SBFEP, the Board stands by the use of a random selection process and will once again select two forest districts to be audited from a provincial population.

Enforcement Audits

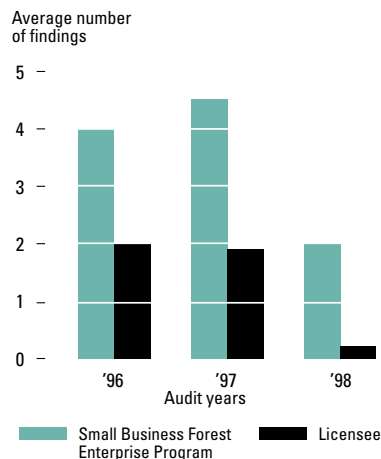
In 2000, the Board will develop a manual and procedures for audits of the “appropriateness of government enforcement” under the Code and will begin pilot enforcement audits. The Board is required to audit government enforcement of the Code under section 176(b) of the Act.

The Board intends these audits to evaluate the performance and appropriateness of Code enforcement by government, represented by three regulatory agencies that have enforcement responsibilities (the Ministries of Forests; Environment, Lands and Parks; and Energy and Mines).

Effectiveness Audits

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

Average Number of Significant Non-compliance Findings per Audit



The complexity of developing standards and criteria for measuring effectiveness has slowed the development of a program for these audits. This process has proven to be very difficult, and with no other similar forestry audits that the Board can learn from, the Board's progress in meeting this challenge is slower than expected. The Board is currently defining effectiveness and developing a framework for effectiveness audits. Effectiveness means different things to various interested parties and, as a result, the Board is carefully considering its definition.



Summary of Compliance Audits Undertaken in 1999

Auditee/Allowable Annual Cut	Location	Status	Activities Audited
Gorman Bros. Lumber Ltd. Forest Licence A18671 231 349 m ³	Penticton Forest District	report released	Timber harvesting and road construction, maintenance and deactivation, and related operational planning
Western Forest Products Ltd. Tree Farm Licence #25 779 000 m ³	Several coastal forest districts	ongoing	Timber harvesting and road construction, maintenance and deactivation, and related operational planning
MacMillan Bloedel Ltd. Tree Farm Licence #44 1 890 000 m ³	South Island Forest District	ongoing	Operational planning, timber harvesting and road construction, maintenance and deactivation, silviculture and fire protection
Pacific Inland Resources (West Fraser Mills Ltd.) Forest Licence A16830 311 562 m ³	Bulkley Forest District	report released	Operational planning, timber harvesting and road construction, maintenance and deactivation, silviculture and fire protection
Small Business Forest Enterprise Program 88 730 m ³	Mid-Coast Forest District	ongoing	Timber harvesting and road construction, maintenance and deactivation, and related operational planning
Lignum Ltd. Forest Licence A20003 103 446 m ³	100 Mile House Forest District	report released	Timber harvesting and road construction, maintenance and deactivation, and related operational planning
Small Business Forest Enterprise Program 88 000 m ³	Sunshine Coast Forest District	ongoing	Operational planning, timber harvesting and road construction, maintenance and deactivation, silviculture and fire protection
Canadian Forest Products Ltd. (Canfor) Tree Farm Licence #48 514 000 m ³	Dawson Creek Forest District	ongoing	Timber harvesting and road construction, maintenance and deactivation, and related operational planning
Riverside Forest Products Ltd. Forest Licence A20191 52 552 m ³	Arrow Lake Forest District	ongoing	Timber harvesting and road construction, maintenance and deactivation, and related operational planning

Comprehensive 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 will be developed once the framework for effectiveness audits has been established.

Certification

The Board is continuing to monitor developments in the certification of forest practices. As an independent organization that conducts audits to determine compliance with provincial forest legislation, the Board has expertise and experience to offer. The Board expects to play a constructive and influential role in this growing area.

The Board is continuing to monitor developments in the certification of forest practices.

Forest Practices Board Audits Locations

1996 Audits

- 1 Finlay Forest Industries Inc.
Forest Licence (FL) A15385
- 2 International Forest Products Limited
Tree Farm Licence (TFL) #45
- 3 West Fraser Mills Ltd.
FL A20021
- 4 Lakes Forest District
Small Business Forest Enterprise Program

1997 Audits

- 5 Tolko Industries Ltd.
FL A18696
- 6 Cattermole Timber Ltd.
FL A19202
- 7 Northwood Pulp and 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 Prettys' Timber Co. Ltd.
FL A19207

1998 Audits

- 14 Small Business Forest Enterprise Program
Port McNeill Forest District
- 15 Doman-Western Lumber Ltd.
TFL #19
- 16 West Fraser Mills Ltd.
(Skeena Sawmill Division)
TFL #41
- 17 Canadian Forest Products Ltd.
(Fort St. James Operations)
FL A40873
- 18 Small Business Forest Enterprise Program
Arrow Forest District
- 19 International Forest Products Ltd.
TFL #10
- 20 Tolko Industries Ltd. – QuestWood Division
FL A20010
- 21 Slocan Group – Slocan Division
FL A20192
- 22 Riverside Forest Products Ltd.
– Armstrong Division
FL A18689

1999 Audits

- 23 Gorman Bros. Lumber
FL A18671
- 24 Western Forest Products Ltd.
TFL #25
- 25 MacMillan Bloedel Ltd.
TFL #44
- 26 Pacific Inland Resources
(West Fraser Mills Ltd.)
FL A16830
- 27 Small Business Forest Enterprise Program
Mid-Coast Forest District
- 28 Lignum Ltd., Cariboo Forest Region
FL A20003
- 29 Small Business Forest Enterprise Program
Sunshine Coast Forest District
- 30 Canadian Forests Products Ltd. (Canfor)
TFL #48
- 31 Riverside Forest Products Ltd.
FL A20191



Northwood Inc. v. Forest Practices Board

It is clear that the Board has legal jurisdiction to report findings of non-compliance with the Code. What has been less clear is whether the Board may comment on forest practices that comply with the Code. May the Board say, for example, that a practice is not consistent with sound forest practices, even though the practice complies with the Code? May the Board comment on practices that not only comply with the Code, but exceed basic Code requirements?

That question was answered in late 1999 by a decision of the British Columbia Supreme Court. The case before the court concerned a compliance audit report on Northwood Pulp and Timber Ltd.'s Houston operations, Forest Licence A16828, which commented on soil disturbance:

Northwood's timber harvesting and road construction practices complied with the Code in all significant respects.

The auditors commented on concentrated rutting and excessive compaction of soils that had occurred on ten cut-blocks during timber harvesting. Since the levels of soil disturbance were within limits specified in approved silviculture prescriptions, this did not constitute non-compliance with the Code. The soil compaction and rutting were caused by logging equipment operating during wet conditions. Although the levels of site disturbance were within approved limits, the Board is concerned about the frequency and extent of

compaction and rutting. This affects soil productivity and will have long-term impacts on tree establishment and growth. This is not consistent with sound forest practices. Northwood could have prevented this situation by using different equipment or operating during drier conditions.

The report recommended changes in the company's forest practices and recommended that government change the legislation to address the issue.

Before the Board released the report publicly, the company applied for judicial review and obtained an interim court order preventing public release of the report pending determination of the judicial review.

The company argued that, under section 176 of the *Forest Practices Code of British Columbia Act*, the Board did not have authority to comment that practices were not "sound," or to say that something was "excessive," when the practices met Code requirements.

The Board argued that both section 176 and section 185 of the Code Act allow these types of comment.

In his decision, upholding the audit report, Judge Brenner said:

The Board's function is to provide an independent review of the forest practices being conducted on the public lands of the province. It is independent of the Ministry of Forests and other government departments. In order to effectively discharge that function it is in my view essential that the Board's s. 185 powers not be restricted to simply reporting on compliance.

The Board and its staff have expertise in auditing and forestry. By virtue of their oversight role, they are uniquely positioned to see what is happening on the ground on the province's public forestlands. Neither the Board nor its staff can force parties to do or not do anything. The Board's jurisdiction is limited to making recommendations. In my view the legislature intended that the Board be able to make the recommendations it considers appropriate as a result of what it sees during the course of compliance audits.

The Code is a highly detailed scheme. But that does not mean it will not require amendments in order that it can be improved. One of the ways that can come about in a coherent and comprehensible fashion is if the Board is able to make recommendations consequent upon its audits. So that its recommendations can be understood and so that an informed debate about any future changes to the Code can take place, it is important that the recommendations be issued in a factual context. It is also important that the Board have the freedom to express its views as was done with the impugned statements. This supports the conclusion that the Board be able to issue the type of statements that it did in the case at bar.

The Court decision confirmed the Board's legal right to comment on the practices and the impact of the practices that it sees in the field. The Board believes it must comment, in appropriate cases, for several reasons:

- One of the objectives of auditing forest practices is to report fairly and objectively to the public which owns the land and resources. It would not be fair to the public to report, in an audit of operations under a licence, that forest practices met Code requirements, without also reporting that the practices caused damage to the environment.

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- Furthermore, an audit which simply ignores real and obvious problems is not a credible audit because it may appear that the audit did not identify the problem. It is important, therefore, to report on the problem and to report that the practice complied with the Code.
- The Board also needs to be able to comment on notable practices—practices that comply with the Code but provide more protection than the Code regulates.
- Finally, one of the Board's most important functions is to recommend improvements in practices and in the legislation itself. The Board needs to be able to explain its recommendations by explaining that there was a problem.

Northwood appealed the decision and applied for an interim order from the Court of Appeal to prevent the release of the report until after the appeal had been decided. The Board opposed the application and the Court of Appeal approved the release of the report. The Court of Appeal chambers judge said that:

... any harm to Northwood resulting from official publication of the portions of the report in issue are outweighed by the harm to the public interest caused by further delay in the exercise of the Board's statutory duties.

The appeal was still pending as of the end of 1999.

The British Columbia Supreme Court decision in *Northwood Inc. v. Forest Practices Board*, S99-1820 can be found at <http://www.courts.gov.bc.ca/jdb-txt/sc/99/18/s99-1820.htm>.

The Court of Appeal decision on the interim order (2000 BCCA 7) can be found at <http://www.courts.gov.bc.ca/jdb-txt/ca/00/00/c00-0007.htm>.

Investigating Forest Practices and Code Compliance

The Board improved its responsiveness to public complaints.

Summary of Accomplishments

In 1999 the Board improved its responsiveness to public complaints. The Board finally approached its objective of timely investigation and reporting. By year-end, the average time taken to investigate a complaint had been reduced from 33 months (in 1996) to 10 months.

The number of new concerns dealt with (46) was close to the peak of 47 in 1997. Fifteen new investigations were started, more than in any previous year (8, 11 and 13 for 1996, 1997 and 1998). Two special investigations were also started. Special investigations are initiated by the Board itself, rather than as a result of a complaint. Twelve investigation reports were completed, compared to four in each of 1996 and 1997, and nine in 1998.

In December, the Board released a *Complaint Investigation Reference Manual*. The manual provides information to parties, potential complainants and interested or affected persons by describing the investigation process in detail, including the Board's legal mandate and guiding principles. The manual is available on the Board's web site.



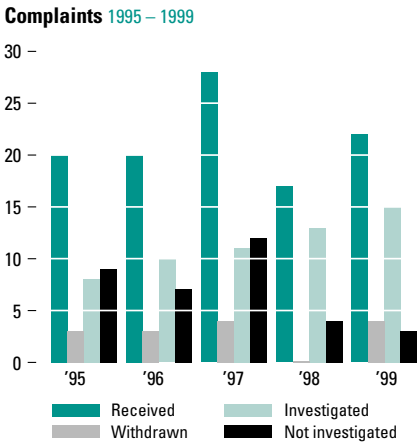
Numbers of Complaints and Concerns Received

The Board received 46 calls or letters from the public about forest planning, practices or possible Code infractions during the year. That was an increase of one-third over the previous year, and almost equal to the peak year of 1997. Twenty-three of these concerns were dealt with before they were submitted as formal complaints. In some cases, the person was referred to local government offices or to licensees to resolve the concern locally. Others raised matters that were clearly beyond what the Board can investigate.

Twenty-three concerns became formal complaints to the Board. Five of those were subsequently withdrawn or abandoned by the complainants. Two of the withdrawals were due to efforts by Board staff to have participants resolve the matter locally without an investigation. Another three complaints were assessed but found to be outside the Board's jurisdiction.



The remaining 15 complaints became investigations. Of those, one was completed during the year. In addition, 11 complaints from earlier years were completed. The 12 reports identified a number of issues and made recommendations for improvements to forest practices and to administration of the Code (see Appendix 1).



Summary of Complaint Investigation Issues Reported

Seven of the 12 investigation reports released in 1999 concerned operational planning. Five addressed enforcement of the Code. The reports continued to show that Code requirements are usually met; seven found compliance, four found non-compliance, and one had compliance on one complaint issue and non-compliance on another. The non-compliance involved inadequate or inaccurate content in plans, poor forest practices and non-enforcement of the Code.

However, regardless of compliance, communication was the biggest problem. Poor communication about operational planning and poor communication between regulatory agencies caused public concern; fully two-thirds of the complaints involved communication problems.

On a related matter, the Board criticized some Code decision-makers for not properly documenting the reasons for their decisions. A written rationale is certainly not required for all decisions, but the Board and public expect government to explain decisions to interested members of the public. In particular, those affected by a decision and those

Category	Number of 1999 Complaints Under Investigation
Operational plan review, comment and approval	3
Impacts on biodiversity, wildlife and old growth	5
Improper forest practices	4
Impacts on traplines and furbearer habitat	1
Planning and practices to address mountain pine beetle infestations	2

who made submissions during the decision-making process need clear reasons when standard operating procedures, or recommended practices, are not followed. Keeping a documented rationale for not following normal practices and explaining reasons to the public may help to reduce public complaints in the future.

Investigation Program Developments

The program continued to change in 1999 to improve the timeliness of investigation reporting. Board staff placed increased emphasis on trying to help resolve complaints, both before and during investigations. The Code was amended to allow the Board to act as panels of one to three Board members, rather than the full Board. Use of panels reduced the time required to complete investigations and facilitated the use of

faster oral hearings for simple complaints. Where issues are clear and straightforward, oral hearings are not only faster but allow more direct interaction between the participants and panel members. In addition, the Board delegated more authority to staff.

As a result of these changes, average complaint investigation completion time has now dropped substantially. The Board expects to continue to explore additional methods to further reduce investigation completion time in the coming year.

Recommendations

The Board made recommendations in its reports to improve public awareness and opportunity for review of operational plans, as well as communication between government and the public. All recommendations and the response to those recommendations are included in Appendix 1.

- A complaint from Queen Charlotte Islands led to an investigation which found problems caused by frequent amendments to forest development plans. The plans were not kept current, and the Board recommended that up-to-date forest development plans, including all amendments, be available for review by resource agencies and the public. The Board suggested that government agencies and licensees set out a process for orderly review of amendments. The Board recommended that the district manager should provide written reasons when the public is not given an opportunity to review amendments.

The Board also made some recommendations with province-wide application. Government should

The Board made recommendations in its reports to improve public awareness and opportunity for review of operational plans, as well as communication between government and the public.



restrict approval of amendments only to situations that required response to unforeseen circumstances. The Board also recommended that government should examine options to streamline the plan amendment process without compromising conservation of forest resources.

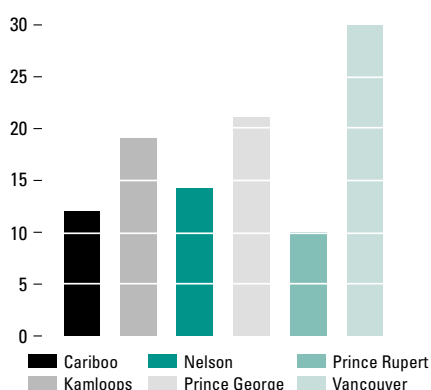
- A contentious bridge crossing over the Babine River was approved in northwestern British Columbia. There was a lack of communication with the locally affected public and between regulatory government agencies. The Board was concerned about a dispute between the Ministries of Forests and Environment, Lands and Parks, and

recommended that the ministries update their agreement on joint Code administration. This would ensure that disputes about environmental values are addressed before decisions are made. The Board recommended that the regulatory agencies provide a contingency in case the Ministry of Environment, Lands and Parks is unable to review and comment on planned forest practices. The Board also recommended that the Ministry of Environment, Lands and Parks assess the risk to resource management caused by its policy of limiting review of forest development plans. Finally, the Board recommended that statutory decision-makers record and retain specific reasons for approving forest development plans and explain those reasons to the public.

agencies had failed to identify that the road differed from normal Code requirements. The Ministry of Forests failed to record whether alternatives to the proposed practices were considered or how they were evaluated. The Board recommended that resource agencies should routinely identify where a proposed practice differs from normal practice and document reasons for approval in such situations.

The Ministry of Forests responded to the recommendations on July 23, 1999. The ministry stated that the district has become more consistent in documenting the reasons for decisions.

Complaints by Forest Region
1995 – 1999



- Even in the publicly sensitive environment of Clayoquot Sound, resource agencies failed to keep written reasons for approval of a controversial road that encroached into a riparian management area. The investigation found that the road complied with Clayoquot Sound Scientific Panel recommendations for the area, which had been included in the forest development plan. However, resource

- An investigation on the Sunshine Coast found that incomplete and inaccurate plans had been approved. The Board recommended that district staff take sufficient time to carefully review operational plans for required content and consistency with other plans. The plans approved harvesting in a rural residential area but the government did not effectively explain to local residents what was proposed. The Board recommended that the Ministry of Forests be more proactive in its communications with the public when forest operations are planned in rural residential areas.

Complaints Received in 1999

Forest Practices Board File Name	Date Received	Forest District	Assertion of Complaint	Board Decision ¹	Year-end Status
Adams River	February 18 1999	Clearwater	<ul style="list-style-type: none"> poor road building practices and improper utilization of timber in the Upper Adams River and Blue River areas 	Investigate	Open – Near completion
Khtada Lake	April 7 1999	North Coast	<ul style="list-style-type: none"> forest development plan proposes nine years of cutblocks in a five-year period public review was impaired 	Do not investigate	Closed
Raush Valley	March 22 1999	Robson Valley	<ul style="list-style-type: none"> Raush Valley is not included within a five-year development plan even though the licensee planned to log various parts of the valley no public comment and review 	Complaint with-drawn	Closed
Mara Lake	April 7 1999	Salmon Arm	<ul style="list-style-type: none"> landslide debris flow caused by poor forest practices Ministry of Forests and Ministry of Environment, Lands and Parks enforcement inadequate 	Investigate	Open – Under investigation
Elkford Valley	April 20 1999	Cranbrook	<ul style="list-style-type: none"> forest development plans did not adequately address social issues, biodiversity and wildlife public received inadequate information 	Investigate	Open – Under investigation
Upper Lay Creek	May 11 1999	Mackenzie	<ul style="list-style-type: none"> damage to fur-bearer habitats and trapline values during powerline clearing and construction 	Investigate	Open – Under investigation
Hurtado Point Trail	July 2 1999	Sunshine Coast	<ul style="list-style-type: none"> recreational access improperly managed by district manager 	Investigate	Report released December 1999
Westbank	June 10 1999	Penticton	<ul style="list-style-type: none"> ministries and companies are determining and removing timber from land which complainant and other Okanagan Nation members have aboriginal rights and titles unauthorized harvest and trespass 	Do not investigate	Closed
Yard Creek Timber Sales	June 8 1999	Salmon Arm	<ul style="list-style-type: none"> fraud, corruption and improper awards of sales of timber theft, libel and slander alleged 	Do not investigate	Closed
Babine Lake	June 11 1999	Lakes	<ul style="list-style-type: none"> forest practices have damaged fish habitat, cultural values, fur-bearer habitat and trails fuel spillage associated with barge operations inadequate public opportunity to review and comment on operational plans 	Investigate	Open – Near completion
Mount Rose Swanson	June 3 1999	Vernon	<ul style="list-style-type: none"> forest practices in 1996 altered the hydrology of a hay field, causing crop losses inadequate public opportunity to review and comment on plans as required by the Code logging, road construction, maintenance and deactivation on Crown land did not comply with Code requirements 	Investigate	Open – Near completion
Skaiaikos Point	June 24 1999	Sunshine Coast	<ul style="list-style-type: none"> authorization and enforcement of road construction management of old growth, biodiversity and recreational values 	Investigate	Open – Under investigation
North Coast Forest Development Plan	July 8 1999	Kalum	<ul style="list-style-type: none"> inadequate public opportunity to review and comment on operational plans which showed nine years of cutblocks 	Investigate	Open – Under investigation
McClure Creek	July 21 1999	South Island	<ul style="list-style-type: none"> forest management plan did not address requirements for ecological principles or biological diversity 	Investigate	Open – Under investigation

Complaints Received in 1999 continued

Forest Practices Board File Name	Date Received	Forest District	Assertion of Complaint	Board Decision ¹	Year-end Status
100 Road	July 23 1999	Williams Lake	<ul style="list-style-type: none"> forest road was not built to the standards required by plans 	Complaint abandoned	Closed
Wolverine Road	July 26 1999	Columbia	<ul style="list-style-type: none"> Ministry of Forests failed to properly investigate and enforce requirements to maintain roads 	Complaint with-drawn	Closed
Tranquille Creek	August 24 1999	Kamloops	<ul style="list-style-type: none"> impact on wilderness values on three square miles of clearcutting pine bark beetle infestation 	Investigate	Open – Under investigation
Twenty Mile Creek	August 11 1999	Mackenzie	<ul style="list-style-type: none"> cutting area to control pine beetle infestation is too large cutblocks were approved for the area before the access roads were approved 	Investigate	Open – Under investigation
Mount Elphinstone	August 20 1999	Sunshine Coast	<ul style="list-style-type: none"> Ministry of Forests has not provided adequate protection for the regionally significant biodiversity values 	Investigate	Open – Under investigation
Leo Creek	August 26, 1999	Fort St. James	<ul style="list-style-type: none"> inadequate presentation of forest development plans for review by affected persons 	Complaint with-drawn	Closed
Takla Narrows	September 1 1999	Fort St. James	<ul style="list-style-type: none"> exclusion of complainant from direct participation in forest development plans and operational planning economic intimidation and prevention from participation in economic benefits derived from timber harvesting 	Investigate	Open – Under investigation
Jones Lake	September 27 1999	Chilliwack	<ul style="list-style-type: none"> road building, for the purpose of logging, into a sensitive wildlife habitat 	Investigate	Open – Under investigation
Brittain Murrelets	December 16 1999	Sunshine Coast	<ul style="list-style-type: none"> approval of a 1999–2000 Small Business Forest Enterprise Program forest development plan does not manage and conserve Marbled Murrelet habitat 		Open – Under assessment

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

- Communication with individuals affected by proposed logging in Little Cayuse Creek near Castlegar was also a problem. There, the public was concerned about maintenance of water quality. While the concern was understandable, the Board found that the district manager had acted reasonably. There was a problem with a slow response to some questions from a member of the public, so the Board recommended more frequent and direct communication between those making decisions under the Code and those affected. The Board also repeated a theme of the Queen Charlotte Islands report—timely written responses should be provided to explain

precisely why significant decisions were made.

- A lack of adequate notification about the public review of forest development plans led to a complaint in the Fraser Valley. The Ministry of Forests relied on a small, vague and ineffective advertisement to notify the public of the opportunity to review and comment on district forest development plans. The Board recommended that the district should use more effective advertisements, mail notices directly to local residents, post notices and enlist local media to give the interested public a chance to comment on future plans.

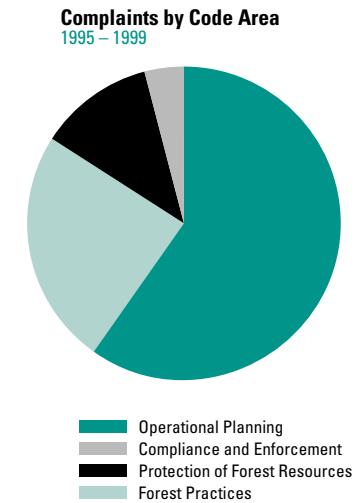
The Ministry of Forests responded on September 2, 1999. The ministry committed to completing a list of interested persons, to including drainage-specific information in advertisements, and to adding the forest development plan to the district web site.

- The Board identified problems with road maintenance on a Forest Service road on Vancouver Island. Although the complaint concerned a single road, the problem likely exists in other areas of the province as well. Under the current administrative process, it is very difficult for government and licensees to make secondary

industrial users of Forest Service roads do their fair share of road maintenance. That difficulty creates a risk that Forest Service roads are not properly maintained. The Board recommended that the Ministry of Forests ensure effective enforcement of road maintenance responsibilities. A second problem was that the public use of Forest Service roads is for purposes other than forest practices, such as recreational or residential access. The Board recommended that government implement effective procedures province-wide to allocate road maintenance costs among all users, but left the details to government.

- Another concern with roads arose in northwestern British Columbia. Terrain stability information was not shared between the Ministry of Forests and a licensee. Consequently, the licensee left an unstable road cut exposed for an extended period and the road slumped. The Board recommended that licensees, when carrying out forest practices, use the most current information available to them, not just what was available at the time plans were approved. The Board also recommended that district managers give greater consideration to submissions from the public when investigating possible contravention of the Code.

The Ministry of Forests responded on October 29, 1999. The district advised the Board that it would arrange project meetings and assign individuals to



ensure compliance with the Code and to ensure that information would be shared. The district will also ensure that all relevant information is considered during an investigation.

- The content of a forest development plan and the approval of large cutblocks were the subject of a complaint in the McGregor River area, east of Prince George. The Board found that the plan did not comply with the content requirements of the Code, and because it was incomplete, the plan was not adequate for public review. The Board recommended that the Ministry of Forests ensure that licensees comply with Code requirements to submit forest development plans to the ministry at approximately the same time as they are made available to the public. The Board also recommended that licensees and the ministry document their reasons when

proposing and approving cutblocks larger than is normally permitted by the Code.

The Board requested that the Ministry of Forests respond to the recommendations by April 15, 2000.

Plans for 2000

The major task in 2000 is to continue to improve the timeliness of complaint investigations. Of the 23 investigations under way at year-end, seven are more than one year old.

Investigations staff will put additional effort into resolving complaints before and during investigations, on the principle that it is preferable to resolve a problem rather than simply to report it.

Investigations staff will also increase their contact with the public by attending more community meetings to ensure that the public remains aware of the Board's complaint investigation function.

The Board will explore the effectiveness of oral hearings in complaint investigations, both to collect responses to draft reports and also to resolve complaint issues on site. Oral hearings could be faster and more efficient, especially for relatively non-complex complaints. Equally important, oral proceedings increase the interaction between participants and Board members, including the Chair.



Special Investigations and Reports



In addition to conducting audits and responding to public complaints, the Board initiates investigations on its own from time to time. The Code allows the Board to undertake special investigations related to compliance with, and government enforcement of, the Code. The Chair of the Board can also make special reports to the ministers on matters related to the exercise of the Board's duties or a specific audit or investigation. In addition to complaints from the public, which the Board must investigate, and audits of compliance and enforcement of the Code, which the Board must undertake, other issues sometimes arise that the Board wishes to address. The special investigation and special report program allows the Board to pursue these other issues as a means of encouraging sound forest practices. Now that the audit and complaint programs are running smoothly, the Board is turning more attention to some of these other issues.

Current Special Investigations

Significant Breach of the Code on Powerline Corridor

While investigating a complaint about the impact of machinery on a water intake during the construction of a powerline for a mine, Board staff reported a significant breach of the Code to the ministers and licensee. The powerline corridor had not been properly deactivated, as required by the logging plan approved under the Code, and harm to the environment

was occurring at a number of stream crossings. Because the issue was not part of the original complaint, the Board began a special investigation. The investigation is considering whether the licensee complied with Code requirements during the clearing and deactivation of the powerline and whether government enforcement of Code requirements was appropriate.

Road Proposed through Caribou Habitat

In another case in 1999, the Board received anonymous information about the proposed construction of a logging road through high value caribou habitat. There was enough concern raised that the Board decided to conduct a special investigation of the situation. The investigation will consider whether the public had an opportunity to comment on the proposed road, and whether the decision to approve the road was consistent with sound forest practices.

Special Projects Initiated by the Board

In May, the Board considered the important issues that had arisen out of its work in audits and investigations, which require further review and analysis. The Board identified its priorities for those issues it wished to pursue. Two priorities were identified for the 1999/2000 fiscal year. One is a roll-up of all audit results from the first four years of compliance auditing into a summary report. This special report will provide an overview of Code compliance, identify any trends, and provide a summary of the important issues that have resulted from the Board's audits. The report will be published in spring 2000.



Forest Development Planning Project

The other priority the Board identified was a need to assess the state of forest development planning in the province. Since 1995, the Board has received many complaints regarding forest development plans. Complaints assert that plans did not meet the content requirements of the Code, or did not provide an adequate or fair opportunity for public review and comment. In addition, Board compliance audits undertaken between 1996 and 1998 also reveal shortcomings with some forest development plans. Board investigations and audits have pin-pointed deficiencies in the following:

- content and quality;
- public review process and opportunity for public input;
- consistency with higher level land-use plans; and
- consideration of other resource values.

The Board has also heard many concerns about the overall forest development planning process in its meetings with licensees, ministries and interested public groups in a number of communities throughout the province. For example, some company and ministry officials complain that few members of the public attend plan viewings, and that

...the forest development planning process is not working efficiently or effectively for anyone involved—forest companies, government agencies or the public.

the cost and effort of organizing those events outweigh any benefits. Meanwhile, some members of the public complain that they are unable to understand the information presented at plan viewings, or they feel their comments are ignored so they do not participate in review and comment opportunities. Based on its experience to date, the Board is concerned that the forest development planning process is not working efficiently or effectively for anyone involved—forest companies, government agencies or the public. This review will examine the state of forest development planning and identify recommendations for improvement.

The project consists of several components:

- a review of past Board investigations, audits and other work that has looked at forest development planning to find common trends or issues;
- an evaluation of the content of 18 forest development plans, randomly selected from around the province; and
- interviews with a variety of persons involved in forest development planning—plan preparers, plan reviewers, plan approvers, interested groups, organizations and members of the general public—to identify strengths and weaknesses and suggest improvements for consideration.

The Board will produce a report with recommendations for government, licensees and the public to consider. Development of the terms of reference for the project took place in the fall of 1999. A variety of groups and organizations with an interest in forest development planning were invited to provide comments and suggestions on the terms of reference and the proposed approach for the project. Those comments were considered and some incorporated in the final terms of reference.

The plan reviews and interviews are expected to take place throughout the spring of 2000, with a final report ready in the summer of 2000.

Changes in Law



*The Board follows
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encouraging sound
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Initially, the Board did not consider it appropriate to be involved in discussing changes to legislation that it might later be called upon to apply. However, by June 1997, recognizing that it is not unusual for government to consult with independent boards to seek the benefit of their experience, the Board requested the opportunity to comment on proposed changes to the Code in Bill 47, 1997.

Since then, the Board has been active in reviewing and commenting on proposed changes to forest practices legislation. The Board has a unique perspective because of its independence from government, combined with the knowledge gained from its work and the knowledge and skills of Board members and staff. Recognizing this, in 1999 the Board decided to draw on its experience to propose suggestions for improvements to the Code from time to time, as part of its strategic approach to provide proactive leadership in major forest practices issues. In providing such comments, the Board follows the principles of encouraging sound forest practices, licensee responsibility, appropriate protection of resource values, and respect for public input.

Freedom of Information and Protection of Privacy

The *Freedom of Information and Protection of Privacy Act* does not yet apply to the Board. The Board has concerns that the application of the Act to investigations and audits could seriously interfere with the Board's legislated mandate and has asked that the application of the Act be delayed so that these concerns may be addressed.

The Board has two main concerns. The first is the need to protect the confidentiality of people who provide information to the Board. The second is the need to complete audits and investigations before information must be provided publicly. *Under the Freedom of Information and Protection of Privacy Act*, these two concerns are addressed under the law enforcement category. However, the definition of law enforcement may not apply to Board investigations and audits.

A legislative committee is currently reviewing the Act. Government has recommended to that committee that the definition of law enforcement be amended. The proposed amendment would appear to address the Board's concerns.

With the exceptions noted above, the Board wishes to be subject to *Freedom of Information and Protection of Privacy Act* and hopes that this can be resolved in 2000. In the meantime, the Board acts in the spirit of the Act and seeks to quickly and fully provide any documents to the public that would be available under the *Freedom of Information and Protection of Privacy Act*.

Reviews and Appeals

*The Board acts as an
advocate in reviews
and appeals.*



The Code provides the right to appeal key government decisions. For example, companies can appeal fines and government orders. The first level of appeal is a “review,” heard by civil servants. From there, appeals can be taken to the independent Forest Appeals Commission. Appeals on points of law (but not disputes about the facts of the case) can then proceed to British Columbia Supreme Court.

As a representative of the public interest, the Board has been given a unique right to appeal: (a) decisions to enforce Code requirements; (b) failures to enforce those requirements; and (c) the approval of forest development and range use plans. In addition, the Board has the right to become a “party” to all Forest Appeals Commission proceedings.

The Board’s role in reviews and appeals is different from the impartial role it plays in audits and complaint investigations. In reviews and appeals, the Board acts as an advocate, asking

the Review Panels and the Forest Appeals Commission to make decisions that will foster a fair, effective and efficient Code. The Board is independent; sometimes it supports a company’s position, sometimes it supports government, and often, the Board takes its own positions on the specific cases involved on behalf of the public.

The Board’s written submissions, and copies of review decisions where the Board requested the review, are available from the Board office on request and may be obtained on the Board’s web site. Copies of Forest Appeals Commission decisions are available from the Commission at (250) 387-3464, and summaries are available at www.fac.gov.bc.ca.

Bill 47, 1997

Changes to the review and appeal system were initiated in the *Forest Statutes Amendment Act, 1997* (Bill 47). Although not yet in force, the changes would affect the Board’s review and appeal role in two important respects. First, the administrative penalty system would be changed. At the present time the Forest Practices Code enables senior officials to determine whether there has been a Code contravention and to levy a penalty. The Board may seek administrative review of determinations under this section.

The Bill 47 changes would create two types of determination, each with a

possible penalty attached. The first would be a “contravention penalty” and the second would be a “performance penalty” (for lack of due diligence). The Board would not have the right to seek administrative reviews of contravention penalties.

The other Bill 47 change affecting the Board’s review and appeal mandate would enable review panels to refer questions of law to the Forest Appeals Commission without giving the Board the ability to participate in the referrals. At the present time, the Board has a right to participate in all matters before the Commission arising under the Code.

The Code ministers have acknowledged that the Bill 47 changes were not intended to alter the Board’s mandate. They have committed to try and resolve these issues and to consult closely with the Board on the regulation governing the contravention (sometimes referred to as “compensatory”) penalty and on how the Board could participate as a party to a review if there is a referral of a question of law arising out of the review.

At the end of 1999, these issues were still outstanding. However, the Bill 47 changes were not yet in force.

Summary of Accomplishments

In 1999 the Board:

- initiated three appeals to the Forest Appeals Commission—one resulted in the penalty being reinstated, and at year end, no decision had been rendered in the other two;
- initiated one appeal (administrative review) of a forest development plan and considered appealing five others;
- considered appealing or joining as a party to an appeal in 21 review decisions and appeals of determinations made under the Code;
- received four Commission decisions from Commission proceedings where the Board had been a party to appeals filed by others; and
- received two review decisions on reviews requested by the Board.

Administrative Reviews of Forest Development Plans

At the request of concerned citizens, or acting of its own accord, the Board can represent the public interest by appealing the approval of a forest development plan or range use plan when it appears that the plan has been prepared in contravention of the Forest Practices Code.

When it receives a request from concerned citizens, the Board evaluates whether there has been a contravention of the Code and whether there is a significant public interest issue.



Forest development plans are of primary importance in the implementation of the Code. As the highest level of operational plan, they set the direction for all future logging and road construction in a particular area. They also offer the public its only legislated right to review and comment on operational plans.

The Forest Practices Board is the only body that has the right to appeal (“review”) a district manager’s decision to approve a forest development plan, and, if necessary, appeal the review panel’s decision to the Forest Appeals Commission.

Issues arose in 1999 concerning the time limit for appealing forest development plans, the Board’s inability to appeal forest development plans prepared by government, and a government policy. The importance of public review and comment on forest development plans continued to be a focus for the Board and for members of the public contacting the Board.

Forest Development Plans Must Have Clear, Accurate Information for the Public

In late 1998, the Board challenged an approval of two cutblocks near Government Creek in the Queen Charlotte Islands. The two cutblocks



were located in an unlogged watershed that has cultural, traditional, biodiversity and recreation values, as well as timber values. Logging in the area has been contentious for some time.

The proposed plan that went out for public review stated that development of the two blocks would be “deferred until a local planning process recommenced.” As a result, some people did not comment on the proposed cutblocks because they assumed that final approval was not being sought for these cutblocks.

However, in the end, the Ministry of Forests gave final approval for the cutblocks, with no provision for deferral.

The Board applied to set aside the approval of the two cutblocks, arguing that the public had not been given adequate opportunity to review the forest development plan. The Board did not challenge the other 104 cutblocks in the plan.

The review panel set aside the approval of the two cutblocks, as the Board requested. The panel decided that the licensee had not intended that the cutblocks be finally approved, and that the district manager had erred in issuing the approval.



The panel made an important statement about the importance of public review and comment, emphasizing that public consultation is a fundamental Code principle, and that it is important that proposed forest development plans present clear and accurate information.

This was the first time that a review panel had set aside an approval under a forest development plan at the request of the Board. The panel decision is available on the Board's web site, or through the Ministry of Forests.

In another case, a review panel overturned a district manager's approval of over 50 cutblocks in the Scotia Creek area east of Prince Rupert and around Surf Inlet, south of Hartley Bay.

The plan had more than 300 proposed cutblocks, including many "I" blocks – for information only. The "I" category was created by the new *Operational Planning Regulation* in June 1998. "I" blocks are deemed not to be part of the plan and licensees have no obligation to consider public comments about "I" blocks. On the other hand, proposed "A" blocks are intended to be approved by the district manager and are intended to receive public review and comment.

The plan was revised during the review and comment period. As a result it had conflicting information about what cutblocks were proposed for logging. In a letter to the district manager, the licensee stated that some of the "I" blocks should now be considered proposed "A" blocks—but these blocks were still shown as "I" blocks on the forest development plan maps made available to the public.

In other words, these blocks were actually proposed for harvesting but the maps did not show this. This caused some public confusion. Misleading information about some of the blocks had been widely distributed in the region's major newspaper. The district manager approved over 50 of these blocks.

The review panel—three individuals from the Ministry of Forests—agreed with the Board. The panel said that the plan did not include maps describing the cutblocks "proposed for harvest" during the period of the plan (1999–2003), as required by the Code. The panel overturned the approval of the cutblocks.

Other Cases Considered by the Board

The Board decided in 1999 not to appeal a forest development plan amendment for an area near Grenville Channel and Kumealon Lagoon on the North Coast. The Board had received a request from the public in 1998. The request raised issues concerning the adequacy of the opportunity for review and comment and concerning the district manager's obligation to be satisfied that a forest development plan will adequately manage and conserve forest resources. The Board agreed with the general analysis provided in the request, and found it to be consistent with positions taken by the Board in the past. However, the Board was of the opinion that there was not sufficient evidence to conclude that there had been a contravention in the preparation of the plan.

Two other possible forest development plan reviews were still being considered by the Board at the end of the year. One

is based on a request from the public. The second is based on an issue identified by the Board during a complaint investigation.

Time Limit for Requesting Administrative Review of Forest Development Plans

The Board has been concerned about the need for a realistic time limit for the Board to request an administrative review of a forest development plan.

Although there is a clear time limit of three weeks for the Board to request reviews of penalty determinations and remediation orders, it is less clear whether the time limit also applies to requests for reviews of forest development plans and range use plans. In any event, the Board believes that a three-week time limit, beginning on the approval date, is unrealistic.

The Board could not respond to one case in 1999 because the Ministry of Forests did not grant an extension of time—the case did not come to the attention of the Board until some time after the plan had been approved.

In 1999 the Ministry of Forests and the Board agreed to an amendment to the *Forest Practices Code of British Columbia Act* to provide for a time limit to be established by regulation. Government agreed that the time limit established by the regulation would not be less than 45 days. Consultations will take place before the regulation is made. The provision was included in the *Forest Statutes Amendment Act 1999* (Bill 82, 1999), section 31. It has not yet been proclaimed, pending the consultations.



Inability to Appeal Government Forest Development Plans

In 1999, the Board was asked to appeal a forest development plan prepared for a Small Business Forest Enterprise Program (SBFEP). The Board was concerned that the plan appeared to have been approved using an incorrect interpretation of the Code. However, unlike the situation with licensee-prepared plans, it appears that the Board may not have jurisdiction to request review of forest development plans prepared by district managers. At the end of 1999, the Chair was preparing a Special Report calling for changes to the Code to allow the Board to appeal the approval of such plans. This would put SBFEP plans on the same footing as licensee plans.

Encouraging Change in Government Policy on Approving Forest Development Plans

The Code requires district managers and, in some cases, designated environment officials to be satisfied that forest development plans will “adequately manage and conserve” resources before they may approve them. In a sense, this requirement lies at the heart of the Code, reflecting one of the fundamental purposes of the legislation.

In 1999, the Board became concerned about a bulletin advising Code decision-makers on how to interpret and apply this requirement. The Board felt the advice was contrary to the intent of the Code and could lead to flawed decisions, and to the approval of plans that fail to adequately manage and conserve resources as the legislation intended.

Among other things, the Board was concerned that the bulletin incorrectly implied that decision-makers should be reluctant to reject forest development plans, or to ask for revisions. The bulletin suggested that officials should withhold approval of a plan only in situations where there is an unacceptable risk that a forest resource could be “seriously and irreparably damaged.” The Code legislation is more protective of forest resources than this.

The bulletin also inappropriately downgraded the value of information provided by members of the public.

In June 1999, the Chair of the Board requested that government withdraw the bulletin. The government advised the Board that they were analyzing the Board’s comments and were considering making changes.

Issues Pursued by the Board in Appeals to the Forest Appeals Commission

Penalties for Violating Riparian Areas

The Board has become concerned about the number of small and zero penalties being imposed for unauthorized logging in riparian zones. At the very least, penalties should remove all economic benefit derived from a contravention. In addition, the penalty should reflect environmental damage inflicted on riparian areas, which are generally areas of high ecological value.

In one case, a district manager fined a licensee \$12,875 for improperly harvesting 7.2 hectares of riparian management zone. The licensee left far fewer trees standing than was required in its approved plans.

However, when the licensee appealed to a review panel, the reviewer upheld the findings of contravention, but reduced the penalties to zero. The reviewer decided that the licensee had not benefited economically from the contravention, reasoning that the volume harvested could have been harvested elsewhere in the volume-based tenure.

The Board appealed the decision, and obtained a consent order from the Forest Appeals Commission restoring the original penalty, and recognizing that both economic and non-economic factors should be considered in setting such penalties.

In another case, a licensee clearcut a riparian area without authorization. The district manager estimated that almost 800 trees were improperly cut, and imposed a fine of almost \$40,000.

However, on appeal, the review panel sent the case back to the district manager, instructing the manager to recalculate the penalty and substantially reduce the fine. Although the panel estimated the licensee’s economic benefit at more than \$23,000, it recommended an approach that would reduce the penalty to only \$8,000. Thus, the licensee would appear to have profited from its Code contravention.



The Board appealed the panel decision. The appeal will be heard by the Forest Appeals Commission early in the year 2000.

A Test of the Code's Prohibition Against Damaging the Environment

A landslide destroying a substantial amount of timber occurred in the Okanagan Valley. It was caused by improper drainage on a logging road and backspur trail. Among other things, the licensee was found to have contravened section 45 of the Code—the section prohibiting forest practices that damage the environment.

The licensee appealed, arguing that it could not be held liable for “damage to the environment” because it had not breached a specific condition of a permit or plan. It relied upon the provision in section 45 that provides a defence if the forest practice was “in accordance with” a permit or logging plan.

The Board participated in the appeal, because the company's interpretation of the law would have undermined the key Code provision against environmental damage. The Board argued that complying with a plan or permit only gives a good defence for reasonable implementation of the plan or permit—not for all possible environmental damage that occurs as a result of the operations.

The Commission agreed with the Board's submissions, ruling that the defence provision in section 45:

...protects a licensee from liability only for reasonable implementation of the specific activities authorized by the approved plans and permits. It is not intended to give complete immunity for any and all environmental damage that may result from licensees operating under such plans and permits.

On the facts of this case, the Commission also found that the licensee had not been in full compliance with its plans and permits.

On a related issue, the licensee argued that section 45 could not apply, because the landslide had occurred several months after its logging operation had ceased. The company's interpretation would have excluded a great deal of potential environmental damage caused by forestry activities from the ambit of section 45. The impact of forest practices on the environment is often delayed.

The Board argued, and the Commission agreed, that the damage need not happen at the same time as the activity for section 45 to apply, as long as the damage was clearly traceable to the licensee's forest practices.

A Case That Threatened the Effectiveness of the Code Penalty System

A landowner on Quadra Island was given an administrative penalty for taking timber from adjacent Crown land without authorization. Officials had offered him an opportunity to present his side of the case before issuing the penalty, but he refused to provide additional information and evidence. He was apparently concerned that evidence he presented might be used against him, if the Crown launched an offence prosecution later.

Subsequently, the landowner appealed the penalty, claiming that he had been denied a fair hearing because he remained silent.

The Board participated in the appeal, because a decision in favour of the landowner would have had a major impact on enforcement of the Code. Essentially, parties could force administrative proceedings to be delayed or abandoned, by refusing to testify—and then overturning the penalty because their hearing had not been fair.

The Board argued that a person should not be able to argue unfairness, unless they could show that they would be prejudiced in a later prosecution. Here, the landowner could have provided his side of the case to forest officials, and



then used the Charter of Rights and Freedoms to prevent use of his testimony in a later case. Therefore, he could not claim that the penalty hearing was unfair.

At the Commission hearing, the landowner acknowledged the Board's arguments, and abandoned the appeal on that issue. The Commission went on to raise the fine against the landowner to approximately \$55,000, and drew a negative conclusion from the fact that the landowner refused to testify. The landowner has now appealed the fact that the Commission drew a negative conclusion from his refusal to testify, and that matter was still before the Courts at the end of the year.

Review Panel Omits Key Evidence

A government official became concerned about two bridges that were constructed across coho salmon-bearing streams in the Queen Charlotte Islands. The official was concerned that the crossings had been built during a time when construction was prohibited in an attempt to protect fish from silt. There was concern that the structures might collapse when construction equipment moved over them, and that sand from the bridges was falling into the stream.



The official issued a stopwork order, which the licensee appealed to a review panel. The reviewer overturned the stopwork order. The Board appealed the decision because it was concerned that the reviewer made the decision without the government witness being able to present photos and other key documents and because it appeared that the reviewer had applied the wrong legal test when he overturned the stopwork order (see the 1997 Annual Report for a discussion of this issue).

The Board was concerned that the decision could undermine public confidence in the Code. By year's end, no decision had been received from the Commission.

Administrative Penalty System Issues

Again in 1999, the Board received Commission decisions on the issues of due diligence and redundant penalties—issues that affect the effectiveness and fairness of the administrative penalty system of the Code. These decisions were consistent with previous decisions, which are discussed in the 1998 Annual Report.



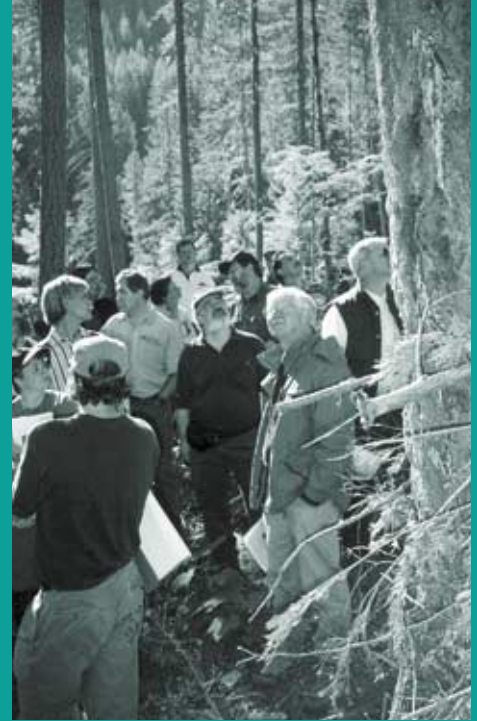
Public Contact

The Board organizes meetings with representatives from environmental groups, tourism organizations, forest companies and conservation groups.



As British Columbia's watchdog for sound forest practices, the Board focuses on regular contact with the public in several different ways. This includes the distribution of Board reports, meetings with interested groups, community visits, giving presentations at conferences, providing media interviews and posting information and speaking notes on the Board's web site.

Each year the Board sets up a series of community visits. Board members meet directly with agreement holders, government staff, interested organizations and local residents at various locations throughout the province. This year community visits were held in Vanderhoof, the Queen Charlotte Islands, Port Alberni, Salmon Arm, Quesnel, Grand Forks and Kamloops. These meetings provide a valuable opportunity for the Board to receive input from interested individuals and groups and to explain the findings, conclusions and recommendations arising from its work. Community meetings supplement the regular distribution of reports and news releases after the completion of an audit or investigation and allow for the exchange of views and information. These sessions help Board members identify Code-related concerns from people from all parts of the province who are interested in forestry-related issues.



The Board provides regular news releases to the media, and the Chair or other Board members give interviews to local newspapers and radio stations in each of the towns they visit.

Ensuring the effectiveness of this contact also involves ongoing maintenance of the Board web site and circulating reports via e-mail to established distribution lists. To improve timing and efficiency, the Board increasingly relies on electronic distribution, while ensuring printed materials are mailed to those without e-mail access. Interested parties are able to sign up as a subscriber on the Board's web site to receive current audit and investigation report releases on a regular basis.

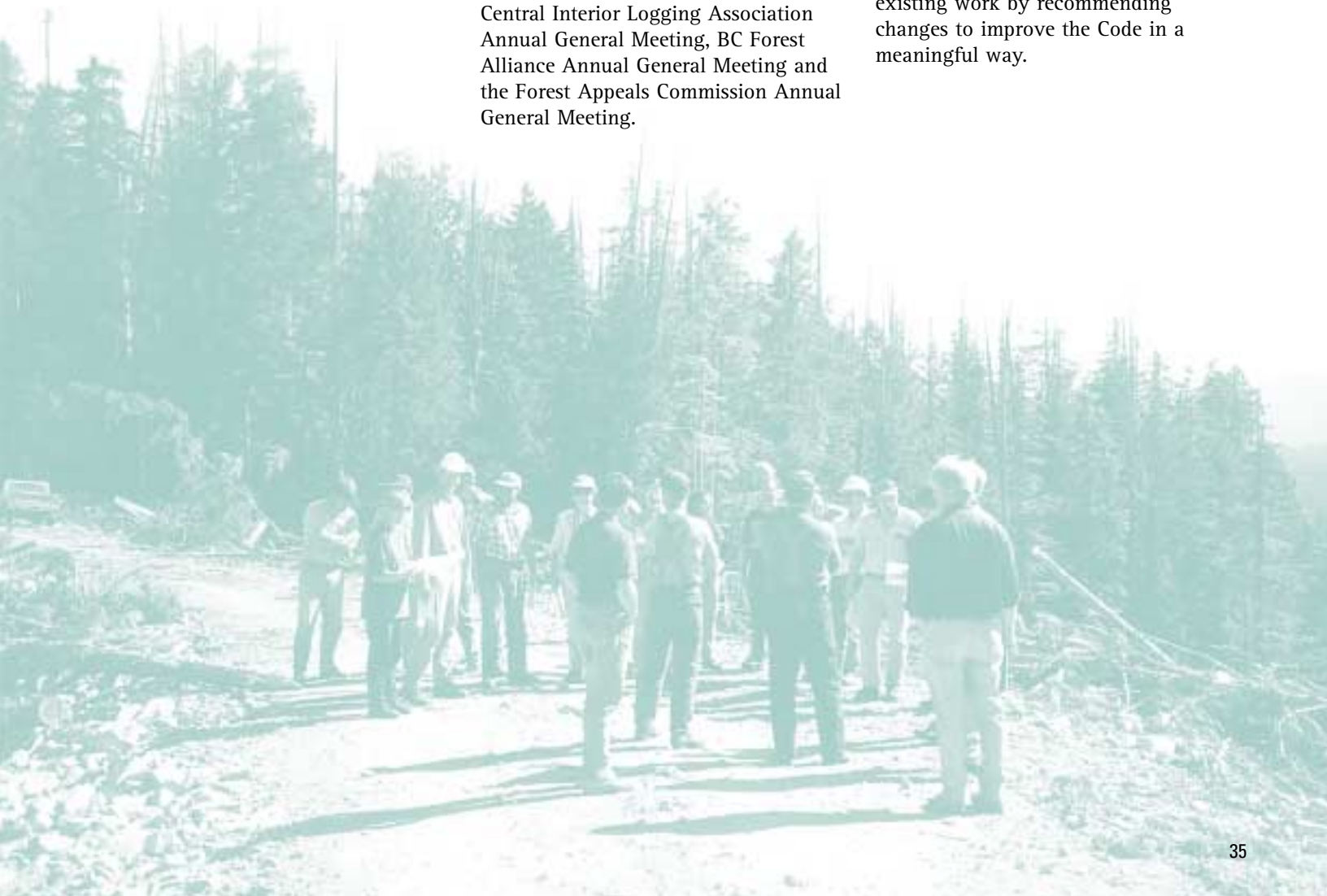
Board members seek a regular exchange of information with individuals and representatives from interested groups in communities throughout the province. The Board participates in conferences, conventions and annual general meetings. Here Board members and staff are able to meet with people from a wide range of disciplines with diverse backgrounds and interests. The Board also organizes meetings with representatives from environmental groups, tourism organizations, forest companies and conservation groups.

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With the heightened interest in British Columbia's forest practices nationally and internationally, there have been more opportunities for Board members to talk about the state of forest practices in British Columbia. This year, the Board Chair was invited to speak to American buyers at the "Forum on Sourcing Environmentally Responsible Forest Products" in San Francisco. Delegates included major North American buyers of paper and wood products. The Chair also gave a presentation at a federal all-party standing committee on natural resources in Vancouver. This committee traveled to British Columbia to examine the federal government's role in international trade issues relating to forestry. This year, the Chair was also invited to speak at the Forestry Law Conference, Truck Loggers Association Convention, Pulp Paper and Woodworkers of Canada Seminar, the Central Interior Logging Association Annual General Meeting, BC Forest Alliance Annual General Meeting and the Forest Appeals Commission Annual General Meeting.

It is the Board's experience that people who live and work in communities throughout British Columbia are often able to offer valuable expertise and insight. Sometimes information from local residents can be more useful and more thoroughly understood than that available through government or company officials. The information received from those who work in forestry and deal with the Code in their day-to-day lives is very important. This information and feedback can be particularly helpful to the Board in its role of recommending ways that government can improve the Code.

In its unique role, the Board is able to provide an independent, objective assessment of the state of forest practices in British Columbia. Using ideas and input from the public, the Board has an opportunity to add value to its existing work by recommending changes to improve the Code in a meaningful way.



Publications Released in 1999

AUDIT REPORTS ON COMPLIANCE

1. Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Doman-Western Lumber Ltd. – Tree Farm Licence #19
2. Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Small Business Forest Enterprise Program – Arrow Forest District
3. Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Small Business Forest Enterprise Program – Boundary Forest District
4. Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Gorman Bros. Lumber Ltd. – Forest Licence A18671
5. Audit of Forest Planning and Practices – Small Business Forest Enterprise Program – Port McNeill Forest District
6. Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Lignum Ltd. – Forest Licence A20003
7. Audit of Forest Planning and Practices – Pacific Inland Resources, a Division of West Fraser Mills Ltd. – Forest Licence A16830

AUDIT REPORTS ON ENFORCEMENT

1. An Audit of the Government of British Columbia's Framework for the Enforcement of the Forest Practices Code

COMPLAINT INVESTIGATION REPORTS

1. Maintenance of the Hillcrest Forest Service Road – Southern Vancouver Island
2. Logging Plan Approval and Enforcement at Homesite Creek
3. Fire Tools and Enforcement at Homesite Creek
4. Watershed Assessments for Little Cayuse Creek, Near Castlegar, BC
5. Road Slump Near Fiddler Creek, Northeast of Terrace, BC
6. Road Approval Within a Riparian Management Area on Catface Mountain in Clayoquot Sound
7. Proposed Logging on Durieu Ridge, Near Mission BC – Terrain Stability Requirements and Opportunity for Public Review and Comment
8. Approval of a Bridge Across the Babine River, Near New Hazelton, BC
9. Forest Practices Code Enforcement in Upper Bridge River, Northwest of Gold Bridge, BC
10. Adequacy of a Forest Development Plan in the McGregor River Area, East of Prince George
11. Hurtado Point Trail – Improvement of Trails Under the Forest Practices Code

SPECIAL INVESTIGATION REPORTS

1. Forest Development Planning in the Queen Charlotte Islands Forest District Between June 15, 1995, and February 15, 1996

Recommendations Made by the Forest Practices Board

Recommendations made by the Forest Practices Board in 1999 and Responses Received

AUDIT PROGRAM COMPLIANCE AUDITS

Port McNeill Forest District (SBFEP) – November 1999

The Port McNeill Forest District should review the implementation of the district's Small Business Forest Enterprise Program (SBFEP). They should determine the causes of non-compliance identified during the audit, and adjust existing procedures to ensure that SBFEP planning and practices comply with the code.

1. With regard to forest health planning, the district should:
 - a) record and evaluate all forest health factors that occur in the district in its operational plans for the SBFEP and, where a factor is a significant risk, include measures to address the risk,
 - b) address site level windthrow risk in silviculture prescriptions, and
 - c) continue to improve the location of cut-block boundaries to address windthrow risk and the risk to forest resources caused by windthrow.
2. With regard to bridge construction, the district should:
 - a) investigate, take enforcement actions and adjust procedures to address the non-compliance of the bridge construction with the operational plans,
 - b) improve the monitoring in the field of SBFEP bridge construction to ensure that practices comply with approved operational plans, and
 - c) ensure that any in-stream work complies with recognized timing windows by:
 - i) requesting the Ministry of Environment, Lands and Parks to identify appropriate timing windows for in-stream work in the district so that the district manager can implement them, and
 - ii) implementing the timing windows identified in the *Riparian Management Guidebook*, until district timing windows are identified.

3. With regard to timber harvesting in riparian management areas, the district should:
 - a) properly identify and classify all streams, including small streams, in operational plans,
 - b) prescribe harvesting practices and riparian treatments in operational plans that are appropriate for the site conditions and can be implemented on the ground,
 - c) develop and implement operating procedures so that staff and licensees respond when streams that are not identified in operational plans are discovered during timber harvesting, and
 - d) ensure that field inspections and monitoring of timber harvesting activities in the SBFEP are adequate to ensure that practices in riparian areas comply with appropriate operational plans.

Port McNeill Forest District should ensure that SBFEP forest development plans incorporate currently available information on non-timber forest resources in the district, include objectives for their management and specify measures that will be taken to protect these resources.

Port McNeill Forest District should advise the Board by February 29, 2000 of the actions it has taken to implement these recommendations.

Response requested by February 29, 2000

Boundary Forest District (SBFEP) – June 1999

1. With regard to timber harvesting, the Boundary Forest District should:
 - a) ensure that operational plans for partial cutting systems accurately reflect stand conditions.

Response: Ministry of Forests responded September 27, 1999. The steps taken to address the recommendations are:

- a) data collection requirements were increased for silviculture prescriptions prepared under contract, the use of silviculture prescription check-lists were implemented, one staff person was assigned the task of completing office and field reviews of all silviculture prescriptions, and assurance was given that the appropriate staff would attend training on partial cutting systems.
- b) ensure that all licensees have the necessary skills and equipment to carry out operational plans, particularly where these plans are complex,

- b) all licensees will be required to attend an on-site pre-harvest review meeting, the use of individual tree marking in partial cuts was increased rather than relying on faller-select methods, and all Timber Sale Licenses are risk-rated.
- c) review and revise existing procedures to ensure that licensees comply with approved operational plans,
- c) emphasis has been increased on the on-site pre-harvest review meeting as described in b) 1 above, all Timber Sale Licenses have been risked-rated, the inspection frequency has increased on all SBFEP Timber Sale Licenses in the 1999/2000 harvesting season.
- d) ensure that district monitoring and supervision of operations is appropriate for the complexity of operational plans and the capabilities of the operators, and
- d) since 1997, steps have been taken to refine and improve inspection procedures as outlined in b) and c) above.
- e) investigate and take enforcement actions to address the non-compliance with operational plans, including the cutting of more trees than permitted and the construction of unauthorized bladed skid trails, described in the report from the auditor.
- e) since 1997, steps have been taken to refine and improve inspection procedures as outlined under b) and c) above, and will continue to investigate all suspected non-compliance and take enforcement actions where necessary.

2. With regard to unidentified resource features, the Boundary Forest District should develop and implement operating procedures so that staff and licensees respond when qualified people identify resource features, such as cultural heritage resources. This will ensure that resource features are protected.
2. Although the district disagrees with the audit findings, it will investigate the need to develop operating procedures to ensure that previously unidentified resource features are protected.
3. With regard to road construction, the Boundary Forest District should ensure that the construction of ditches complies with the Code and that culverts are installed at the time of road construction.
3. The district will ensure that ditches are built to standard and that culverts are installed at the time of road construction.

4. With regard to road construction, the Boundary Forest District should ensure that roads, for which the SBFEP is responsible, are adequately identified in the forest development plan.

4. Refined and improved administrative practices will ensure that:

- a) road and layout designs more accurately reflect site conditions,
- b) road construction supervisors are hired under contract to assist ministry staff in monitoring road construction contracts, and
- c) road construction associated with Timber Sale Licenses is risk-rated and an appropriate inspection frequency is assigned to ensure compliance with the road layout and design.

The district is investigating this issue with the Forest Practices Board to ensure they are fully compliant with the Forest Practices Code.

5. With regard to road deactivation, the Boundary Forest District should:
 - a) ensure that all planned and completed road deactivation is identified in the forest development plan,
 - b) ensure that completed deactivation activities are adequate to control water flow and stabilize roads,
 - c) ensure that all necessary signs are in place to identify deactivated roads, and
 - d) complete remedial actions on those sites where inadequate deactivation was identified.
5. a) it was an oversight that the road deactivation was not identified and it has since been corrected. A complete schedule of deactivation has been shown in all subsequent forest development plans,
- b) all road deactivation is inspected to ensure it is adequate to control water flow and stabilize roads,
- c) this deficiency has been corrected—all deactivated roads are now posted, as of the 1998 harvesting season, and
- d) the district has confirmed that all remedial actions as a result of the Board's audit have been completed.

Northwood Pulp and Timber Ltd. – Forest Licence A16928 – June 1999

1. With regard to rutting and soil compaction, Northwood should prevent loss of soil productivity by avoiding concentrated rutting and soil compaction during harvesting operations. Northwood should include measures such as:
 - a) adequately identifying sensitive or wet soils,

- b) specifying, in silviculture prescriptions, seasonal and site constraints,
- c) specifying, in silviculture prescriptions, soil disturbance levels that reflect actual site conditions and prevent loss of soil productivity, and
- d) avoiding the use of heavy equipment during wet seasons or on wet soils.

Response requested by March 31, 2000

2. With regard to road maintenance, Northwood should ensure that its road maintenance complies with Code requirements. This should include reviewing and continuing to develop and implement operating procedures for inspecting roads and carrying out road maintenance.
3. With regard to road deactivation, Northwood should:
 - a) ensure that all planned and completed road deactivation is identified in forest development plans, and
 - b) complete the deactivation activities identified in the 1996–2001 forest development plan.

The Board requested that Northwood advise the Ministry of Forests, Houston Forest District, with a copy to the Board, by March 31, 2000, of the actions taken and the timing to address the above three recommendations.

The Board requested that the Ministry of Forests, Houston Forest District, confirm by June 30, 2000, that:

- recommendations 1 and 3 are being addressed in Northwood's silviculture prescriptions and forest development plans, and
 - that road deactivation has been completed according to the forest development plans.
4. With regard to soil conservation, the Board recommended that those who prepare silviculture prescriptions for Northwood, and approve them on behalf of the Ministry of Forests, must ensure that the prescriptions contain adequate measures to prevent loss of soil productivity from rutting and soil compaction during timber harvesting.

The Board recommended that the government amend section 30(1) of the *Silviculture Practices Regulation* so that the definition of "inordinate soil disturbance" includes situations of concentrated rutting and excessive soil compaction that affect soil productivity.

The Board requested that government advise the Board, by March 31, 2000, of the actions taken to address the above recommendation.

Northwood Pulp and Timber Ltd., Houston Division, should advise the Board by March 31, 2000, of the actions taken to address the above recommendations.

Arrow Forest District (SBFEP) – June 1999

1. Arrow Forest District should ensure that forest development plans achieve the commitments agreed to by the Ministry of Forests and the Ministry of Environment, Lands and Parks in the Memorandum of Understanding to implement biodiversity objectives established in the *Kootenay-Boundary Land Use Plan Implementation Strategy*.

1. The district acknowledges that the proposed two cutblocks in the 1998 forest development plan were somewhat inconsistent with old-growth retention targets. As soon as the inconsistency was noted, the cutblocks were voluntarily deferred from harvesting and will remain deferred until Old Growth Management Areas are established across the district.

AUDIT PROGRAM ENFORCEMENT AUDITS

An Audit of the Government of British Columbia's Framework for Enforcement of the Forest Practices Code – December 1999

The Code has been in place for almost five years and there has been substantial valuable experience and learning gained. This year was an appropriate time to evaluate and adjust the way enforcement of the Code is carried out. Accordingly, the Board made the following recommendations under section 185 of the *Forest Practices Code of British Columbia Act*.

1. The inter-ministry memoranda of understanding and Code enforcement structures should be reviewed and either reaffirmed or replaced, and the current gaps in Code enforcement should be addressed. Government's enforcement framework should:
 - ensure that all Code aspects are addressed, including all non-timber forest resources,
 - ensure that all forest practices are addressed, including those on Crown lands used for access roads and power transmission corridors associated with mining exploration and development,
 - build on the good work that has already been accomplished, and
 - consider a more co-operative (rather than just consultative) approach between ministries, especially at the field level, to make the most efficient use of the limited funds and staff all three ministries have available.
2. Government should support its field staff in delivering a credible, effective enforcement effort by ensuring adequate training, funding and staff are provided, and by encouraging prompt decision-making when Code compliance issues are identified.

3. Government should proceed with immediate implementation of higher level plans to legally establish strategic landscape level objectives. These objectives should be translated into enforceable measures so that they can be incorporated into operational plans to ensure all forest resources are adequately managed and conserved, consistent with the intent of the Code. Government should also review the Code, and make amendments if necessary, to ensure that it adequately provides for enforcement of higher level plan objectives by requiring them to be addressed in forest development plans.

4. Ministry executives should complete the Code enforcement framework, including:

- completing the policy framework,
- establishing clear objectives for fair and consistent compliance and enforcement,
- developing measures to monitor and assess performance of compliance and enforcement, and
- improving reporting to the public about all aspects of Code enforcement.

5. Ministry of Forests should address the inherent conflict of interest that arises because the district manager has responsibility for both management and enforcement in the SBFEP.

a) The ministry should, at a minimum, consistently apply its own policy that:

- enforcement in the SBFEP should be carried out by staff who are outside the SBFEP program, and
- regions should monitor and audit enforcement in the SBFEP.

b) The ministry should develop procedures to ensure enforcement in the SBFEP is consistent with that for licensees.

c) The ministry should develop and implement additional ways to address the district manager's inherent conflict of interest that arises because of the organizational structures within the ministry.

6. Government should re-examine its interpretation of fettering and ensure that ministry executive is providing adequate and consistent guidance to district managers to allow them to meet corporate objectives and priorities for Code enforcement, without fettering their decisions in specific cases.

INVESTIGATIONS PROGRAM

Adequacy of a Forest Development Plan in the McGregor River Area – December 1999

The Board made the following recommendations:

1. Ministry of Forests should ensure that licensees comply with the Code requirement to submit copies of forest development plans to district managers at approximately the same time (before or slightly after) as they are made available to the public.
2. Licensees should include detailed explanations in forest development plans to justify proposed blocks larger than the maximum size specified in the Code. In approving forest development plans, district managers should include reasons for the approval of large blocks. These reasons should be available to the public upon request.
3. Forest development plans be made available to the public for review and comment should be retained by licensees and by Ministry of Forests as long as the plans are in effect.
4. The district manager of the Prince George Forest District should designate landscape units, set objectives for biodiversity and establish a maximum cutblock size for each landscape unit in the Prince George Forest District.

Response requested by April 15, 2000.

Approval of a Bridge Across the Babine River, near New Hazelton, BC – August 1999

The Board made the following recommendations:

1. The Ministry of Forests, Prince Rupert Forest Region and Ministry of Environment, Lands and Parks, Skeena Region, should update the regional *Memorandum of Understanding Regarding Joint Administration of the Forest Practices Code*. The memorandum should provide a contingency for any inability by Ministry of Environment, Lands and Parks to respond to referrals.

Response requested by October 31, 1999.

Response received, but more detail was requested.

The memorandum should stipulate how decision-makers (district managers) should apply section 41(1)(b) of the Act when information or input from Ministry of Environment, Lands and Parks is not provided. Both ministries should provide direction to decision-makers regarding the use of the *Memorandum of Understanding* and its conflict resolution measures, with the expectation that it will be enacted, especially in the case of inter-ministry disagreements.

2. Ministry of Environment, Lands and Parks, Skeena Region, should assess the risk to resource management caused by the current practice of limiting review of forest development plans. Ministry of Environment, Lands and Parks should advise the public about its ability to review forest development plans and explain how it manages the risks created by limited review of forest development plans.

3. Ministry of Environment, Lands and Parks should clarify how forest development plans and other operational plans referred to the ministry will be reviewed whenever forest ecosystem specialist positions are vacant.

4. Due to the significance of the decision to approve forest development plans, statutory decision-makers should record and retain specific reasons for those approvals. The regional director of Ministry of Environment, Lands and Parks and the regional manager of the Ministry of Forests should advise the statutory decision-makers that potentially contentious decisions to approve forest development plans require a clear written rationale.

5. Decisions that follow significant public interest and involvement should be publicly communicated. Individuals with a known interest, or who are directly affected by a decision, should be advised of those decisions.

Proposed Logging on Durieu Ridge, near Mission, BC – Terrain Stability and Opportunity for Public Review and Comment – July 1999

The Board recommended that the Chilliwack Forest District, in advertising the next opportunity for the public to review the SBFEP forest development plans, should:

1. Use more effective ads to notify the public about opportunities to review and comment on forest development plans. For example, the district should consider ads that are larger, are featured in more prominent sections of local papers and describe the location of planned activities in locally recognized terms so that interested members of the public could determine if they wish to provide comments.
2. Use additional means of informing the public about the opportunity to review and comment. For example, other ways of informing the public might include mailing notices to interested and affected groups and individuals and posting notices in public locations. Contacting local media and arranging tours, such as the district manager did in this case, could also be useful if undertaken before or during the opportunity for public review.

Response: Ministry of Forests responded on September 2, 1999.

For the 2000–2004 forest development plan, the Chilliwack Forest District will be enhancing the Notice for Public Review and Comment by:

- completing the stakeholder's list and advising them of the forest development plan review process,
- including some drainage specific information in local newspapers (the review process is for the whole district and includes >1000 cutblocks spread over 1.2 million hectares),
- loading the forest development plan on to the district web site, and
- moving the advertisement to the 'community news' section in the Mission Paper as requested by members of the public.

Road Approval within a Riparian Area on Catface Mountain in Clayoquot Sound – June 1999

The Board made the following recommendations:

1. There was no written comment from the Ministry of Forests and Ministry of Environment, Lands and Parks about the road being proposed in the Scientific Panel riparian reserve zone at both the forest development plan review stage and the road permit approval stage. Resource agencies should fulfill their responsibility to identify where a proposed practice differs from the default Code practice in their review comments, especially about areas where the public has indicated a high level of interest and concern.

Response: The Ministry of Forests responded on July 23, 1999.

Ministry of Forests, South Island District, informed the Board that no work has been done on the road in question since the release of the report.

With respect to the forest development plan recommendations:

1. Ministry of Forests recognized the need to identify where proposed practices varied from default Code practices and to provide a rationale for decisions. The district had become more consistent in documenting the rationale for decisions as staff gained experience with implementing the Forest Practices Code. The MoF will inform decision-makers of the Board's recommendations to emphasize the need for continued diligence
2. Although the approval of the road location technically complied with the *Clayoquot Sound Scientific Panel Recommendations* and the Code, the lack of written rationale made it difficult to review the level of consideration that went into the approval,

including consideration of abandonment. A district manager should document reasons for approving road locations in riparian management areas. The rationale need not be so detailed that it creates significant additional workload, but it should demonstrate what alternatives to the proposed practices were considered and how they were evaluated.

2. Ministry of Forests has a commitment to implement the Scientific Panel Recommendations and to ensure that forestry operations are carried out as per the approved plans.
3. While the Board concluded that the approval of the road location within the Scientific Panel reserve zone was legitimate in this case, such encroachments must be avoided whenever possible, as recommended by the Scientific Panel.
3. The district will work with licensees to ensure that future forest development plans for Clayoquot Sound show a clear commitment to implement the Scientific Panel Recommendations, including hydriparian standards.
4. When construction of the road resumes, the appropriate conditions of the Scientific Panel should be enforced.
5. All future forest development plans for the Catface area should provide clear, unambiguous information on riparian zones and be specific on the extent to which *Clayoquot Sound Scientific Panel Recommendations* apply.

Road Slump Near Fiddler Creek, Northeast of Terrace – BC June 1999

The Board made the following recommendations:

1. Licensees should incorporate the most current terrain mapping information regardless of when that information becomes known and regardless of whether plans and permits have previously been approved. Districts have the same responsibility if district staff or district managers become aware of terrain mapping information.

Response: Ministry of Forests responded on October 29, 1999.

1. The Kalum has established an inventory of inventories for staff to reference; all terrain maps are being stored in one location and geographically referenced; data sharing agreements have been signed off with most licensees; and as part of road permit applications, licensees including SBFEP, sign certification schedules, stating their construction plans are consistent with terrain assessments.

2. The district managers should consider any submissions from the public that are relevant to the circumstances, when investigating possible contraventions of the Code.

2. The district will ensure that all relevant information, including information from the public, is considered in any opportunity to be heard resulting from an investigation.

3. The Kalum Forest District should review its internal information-sharing protocol. The instability near No-Name Creek was known to some district staff, so the slump may have been prevented with more effective internal communication. Likewise, Kalum Forest District did not provide the information to the licensee in a timely manner. Procedures to ensure provision of information to licensees also require review.

3. Where licensees and the SBFEP jointly share road construction costs, a road construction project meeting will be held to assign individuals responsible to ensure Code compliance; data sharing agreements have been signed with most licensees; Forest Service staff will be designated to ensure Code compliance where licensees and SBFEP are sharing a road; all required terrain stability field assessments are tracked through the forest development plan and silviculture prescription; and before a road use permit is issued, the road permit holder and other industrial users must sign a road maintenance agreement.

4. The Kalum Forest District should ensure that all staff are directed to follow up all issues of concern noted during inspections.

4. A risk assessment will be created and completed for all road construction projects. Based on the risk rating, an inspection frequency will be established; and FS 107 Harvest Inspection Report will be completed for all field monitoring. In addition to the Enforcement Action, Administrative Review and Appeal Computer Tracking System (ERA), these will be used as a tracking system for follow-up inspections/actions.

5. The Kalum Forest District should revise its investigation procedures to ensure that enforcement effectively considers a full range of possible Code violations and that all facts are revealed. Assistance or guidance from regional personnel may be appropriate.

5. All district compliance staff have completed basic law compliance and enforcement training; the investigative procedures and policy are being followed to include the range of potential Code violations for the statutory decision-maker to consider in determinations; and regional compliance specialists will be consulted in complex cases.

The Board has requested a more detailed response with respect to recommendations #2 and #4. Response expected January 2000.

Watershed Assessments for Little Cayuse Creek, Near Castlegar – May 1999

The Board made the following recommendations:

1. Statutory decision-makers should be encouraged to communicate directly with parties who are affected by decisions and who have expressed concerns. Direct communication is an appropriate way to provide a reason for a decision. When direct communication does not resolve the concern, or when a member of the public requests a written explanation, statutory decision-makers should provide written reasons.
2. Written responses to requests for reasons for decisions should be timely and should clearly address the concerns raised by the concerned member of the public.

Response not requested at this time.

Logging Plan Approval and Enforcement at Homesite Creek – April 1999

The Board made the following recommendations:

1. With regard to Sunshine Coast Forest District practices, the Ministry of Forests should ensure that:
 - a) District staff should devote sufficient time to carefully review all operational plans for required content and for consistency with other plans, regardless of operational pressures. Given the reduced content requirements of operational plans due to changes to the Code, district staff must be especially attentive when they have an approval function. That attentiveness is even more critical when operations occur in areas that have become controversial.
 - b) District staff should be diligent during field inspections to identify non-compliance with the Code.
2. Ministry of Forests needs to be proactive in its communications with the public when forest operations are planned in rural residential areas.
3. Ministry of Forests should ensure that there is effective communication between the ministry, the licensee and the public after operational plans are approved and before operations commence in rural residential areas. In this case, good communication between the parties about the terms and conditions of the logging plan might have avoided operation during a restricted period and the controversy that ensued. It is especially important to maintain effective communication when public concerns have been expressed about operations.

Response not requested at this time.

Maintenance of the Hillcrest Forest Service Road – South Vancouver Island – April 1999

The Board made the following recommendations:

1. The district managers should:
 - annually review the designation of responsibility for maintenance of Forest Service roads to ensure that those responsible for maintenance have an active presence on the road during the operating season, and
 - notify those responsible for maintenance when small business timber sales are awarded and road use permits are issued.
2. The Ministry of Forests should ensure that an effective means exists, and is applied, for enforcing maintenance responsibilities of secondary users of Forest Service roads. For this purpose, the ministry should evaluate the effectiveness of such measures as:
 - cancellation of road use permits for non-performance of maintenance,
 - forfeiture of road use permit deposits,
 - penalties and remedial orders under the Code,
 - road user committees, and
 - reimbursing primary users when small business users default, and/or maintenance by district offices when SBFEF users default.
3. Government should assess and implement effective procedures for:
 - identifying Forest Service roads that should be maintained at a level that ensures the safety of all users,
 - ensuring that such roads are maintained outside the operating season as required for public safety,
 - providing for equitable sharing of the cost of maintaining such roads,
 - considering other options for maintaining Forest Service roads with significant public use,
 - ensuring that local governments consider access maintenance requirements in land use zoning so that builders and developers anticipate that access and access maintenance are not guaranteed if access is currently provided by a Forest Service road, and
 - ensuring that a process for identifying the responsibility for access road maintenance is initiated at the time of the establishment of parks.

No response requested, as Ministry of Forests was in the process of resolving the problem.

SPECIAL INVESTIGATIONS

Forest Development Planning in the Queen Charlotte Islands Forest District Between June 15, 1995 and February 15, 1996

The Board made several recommendations concerning district procedures as well as recommendations to the Ministry of Forests as a whole.

At the district level, the Board recommended that:

1. Up-to-date forest development plans are to be made available for review by other agencies and the public.
2. The district manager, licensees and referral organizations should agree on a process for review and approval of amendments. Referral organizations should identify the types of amendments they want to review and the information needed to review them, and licensees should provide this information directly to the referral organizations. The district manager should then make a notice under the Code defining when referrals are required which would clarify the time-frame and responsibility of the licensees in considering referral input.
3. District managers should routinely provide written reasons whenever exemptions are granted from public review and comment and should explain why plans or amendments would not materially affect persons.

At the ministry level, the Board recommended that:

1. Government should provide policy direction to generally restrict approval of amendments to situations requiring response to unforeseeable circumstances.
2. Government should examine options for streamlining the amendment process without compromising conservation of forest resources, or public opportunity for review and comment where an amendment materially changes the results or objectives of an operational plan.
3. Government should provide policy direction interpretation of wording in section 43 of the Act (approval of minor changes in operational plans) and section 7 of the *Operational Planning Regulation* (referral of operational plans).
4. Government should provide guidance on how to provide adequate opportunity, for Code purposes, for review and comment by First Nations if extenuating circumstances disrupts normal planning processes.
5. Government should amend section 19 of the Act to prevent application for cutting permits for cutblocks before the cutblocks are approved in a forest development plan.

There is a need for public clarification of the current state of forest development planning in the district. Therefore, the Board recommends that Ministry of Forests and Ministry of Environment Lands and Parks publicly clarify the current state of forest development planning in the Queen Charlotte Islands Forest District.

Response not requested at this time.

Responses Received up to December 31, 1999 to Recommendations Made by the Forest Practices Board up to December 31, 1998

AUDIT PROGRAM

South Island Forest District (SBFEP) – December 1998

1. The district should establish procedures to ensure there is no harvesting outside of cut-block boundaries or within riparian reserve and management zones.

Response: The district manager responded on March 31 1999.

1. The district has standards and procedures in place that apply to boundary marking under timber sale licenses.
2. The Board requests to be advised how the SBFEP is monitoring cutblock and riparian boundaries to ensure that logging only occurs where it is approved.
2. Boundaries will be established on the ground to designate the external boundaries of the timber sale licenses, riparian reserve zones, silvicultural systems, internal wildlife tree patches and where required, riparian management zones.
3. The district should develop and implement operating procedures to ensure that structures, such as bridges, are properly installed.
3. An operating procedure covering SBFEP directly funding bridge projects will be drafted and signed by the district manager prior to the next bridge installation or removal. The district will inspect all SBFEP bridge installations under a road permit as a separate activity and use a risk rating system to schedule inspections.
4. The district should complete a comprehensive road and bridge registry to ensure that all the roads and structures in the SBFEP are accounted for, inspected and maintained.
4. The district has strengthened the SBFEP roads, including pre-Code roads that are being reviewed against current standards for road deactivation.
5. The district should take appropriate actions to ensure adequate inspection and maintenance of roads and bridges is done to prevent problems such as plugged culverts and erosion.

5. The district has strengthened the SBFEP stand-alone organization model by placing road and bridge survey, design, construction, maintenance and deactivation under the responsibilities of qualified staff unencumbered by non-related duties. The district engineering officer will monitor the SBFEP road and bridge inspection and maintenance, and will report to the district manager any shortfalls or deficiencies noted.

6. The district should ensure proper road deactivation work, including effective placement of cross ditches to prevent problems such as plugged culverts and cracks in the road surface.

6. The district agrees that plugged culverts and cracks in road surfaces are a problem. Their existence does not necessarily represent non-compliance with the Code. These events will be reported and repaired through a routine maintenance schedule. Our road maintenance planning, risk assessment of hazards and consequences will be used to schedule and complete repairs.

SPECIAL INVESTIGATIONS

Forest Practices Board Forest Planning and Practices in Coastal Stream Areas Technical Report

To remedy the problems identified during the investigation and encourage continued improvements in forest planning and practices in coastal British Columbia, the Board presents a detailed list of recommendations (see section 4 of the Technical Report). The Board's key recommendations are listed here:

1. Government, working with the forest industry, should provide standards, guidance and training to improve stream inventories, identification and classification. A clear definition of a "stream" is also essential.

Response: Ministry of Forests responded on December 22, 1999.

1. The definition of a stream has been revised in order to ensure all watercourses under the Code are correctly identified and appropriately managed.
2. Government should develop more specific requirements and recommendations for retention of trees and vegetation in riparian management zones, to meet objectives for biodiversity and habitat management.
2. Government will develop clearer objectives for integrating site-level objectives for riparian habitat with landscape-level objectives for wildlife and biodiversity. The objectives are:
 - a) to maintain streambank and streambed integrity by minimizing scour, excess sediment accumulation and the direct physical impact to streams from falling and yarding,

- b) to keep logging debris out of streams and minimize the potential for downstream transport of that material,
- c) to maintain stable structural woody debris in stream channels, and
- d) to leave sufficient streamside vegetation to maintain appropriate water temperatures (through shade) and nutrient conditions.

3. Government and the forest industry should work together to improve planning and practices around small streams, particularly to prevent the transport of debris in non-fish streams.

3. Government will improve the level of attention to the transport potential in smaller streams, (S4s and S6s), further stress the desirability that logging debris be cleaned out of small streams where there is a risk of downstream transport and to encourage the application of best management practices in the *Riparian Management Area Guidebook* for tree retention.

4. Government and the forest industry should prepare plans that are clearly written and practical for the sites they address, so they can be implemented in the field.

4. The amendments to the Timber Harvesting Practices Regulations prohibits the introduction of excavated soil material into streams, prohibits harvesting in riparian management zones adjacent to fish streams and streams in community watersheds and requires tree retention in riparian management zones consistent with the range of basal area retention specified in the forest development plan, even if the stream is not identified or correctly classified in an operational plan.

5. Government and industry should consider undertaking long-term assessments to monitor the effects of specified forest practices in controlling or preventing such occurrences as blowdown.

5. Training to support implementation of the Fish Stream Identification and Riparian Management Area guidebooks has been underway since July 1998. The help ensure consistency in how streams are assessed for fish presence, government will recommend to the BC Forestry Continuing Studies Network that training methods for conducting fish-presence inventories to be offered as a complementary course to existing *Riparian Management Area Guidebook* training.

Summary of Board Activities and Events and Reports Released

The following is a brief overview of Board activities during 1999.

JANUARY

Board Chair gives a presentation at the Forestry Law Conference held in Vancouver.

Board Chair participates on a panel discussion entitled "Certification – Marketing Tool or Good Forest Management?" at the 56th Annual Truck Loggers' Association Trade Show held in Vancouver.

FEBRUARY

Jack Toovey and Cindy Pearce complete their terms as members of the Board.

John Cuthbert is re-appointed for a two-year term as Board Vice-Chair.

The Board Chair visits Kamloops and meets with licensees, government staff and local community groups.

The Board releases an audit report: *Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Doman-Western Lumber Ltd. – Tree Farm Licence #19*. The Board notes a high degree of compliance and commends Doman-Western's practices in areas next to streams.

The Board initiates a review that leads to cancellation of the approval of logging on two cutblocks in the Government Creek watershed on Moresby Island in the Queen Charlotte Islands.

The Board welcomes the government's announcement of the 'Identified Wildlife Management Strategy,' and calls for implementation of other Code measures to protect wildlife and biodiversity.

Board staff gives a presentation at the Insight Conference: Structuring Resource Development Arrangements between Aboriginal Communities and the Forest Industry, held in Vancouver.

MARCH

The Board releases a special investigation report: *Forest Development Planning in the Queen Charlotte Islands Forest District Between June 15, 1995 and February 15, 1996*. The Board concludes that there was a breakdown in orderly forestry planning processes in this forest district. The need to understand the importance of anticipating regulatory changes and in being prepared to conduct planning in a thorough and careful manner from the outset was identified.

The Board Chair gives a presentation to forestry students at the University of British Columbia.

Four new members are appointed to the Forest Practices Board: Fred Parker, Liz Osborn, Ingrid Davis and Mark Haddock.

The Board Chair visits Port Alberni and meets with licensees, government staff and local community groups.

APRIL

The Board releases three complaint reports: *Maintenance of the Hillcrest Forest Service Road – Southern Vancouver Island*. The complaint reveals an issue regarding maintenance of Forest Service roads around the province. And *Logging Plan Approval and Enforcement at Homesite Creek*, and *Firetools and Enforcement at Homesite Creek*. The reports raise technical issues with Code compliance along with the need for open communication, good planning and sound practices when logging operations are planned near urban areas.

The Board Chair presents a "Report Card on the Code" at the Pulp, Paper and Woodworkers of Canada Forestry Seminar, held in Vancouver.

MAY

The Board Chair speaks to American buyers about forestry practices at the Forum on Sourcing Environmentally Responsible Forest Products in San Francisco.

The Board Chair gives a presentation to the Standing Committee on Natural Resources and Government Operations in Vancouver. The Committee traveled to British Columbia to investigate the boycott by Greenpeace of the "Great Bear Rainforest" and to examine the role of the federal government in international trade issues relating to forestry.

The Board releases a complaint report: *Watershed Assessments for Little Cayuse Creek, Near Castlegar*. The Board finds that logging in Little Cayuse Creek watershed meets Code requirements.

The Board Chair presents a "Report Card on the Code" at the Central Interior Logging Association AGM, held in Prince George.

JUNE

The Board Chair presents a “Report Card on the Code” at the BC Forest Alliance AGM, held in Vancouver.

The Board Chair speaks at the Forest Appeals Commission AGM in Victoria.

Board members meet in Vancouver with environmental groups interested in Board activities.

The Board holds a workshop in Richmond for licensees, consultants, environmental groups and interested parties from throughout the province on release of its *Audits Reference Manual*, Version 4.0.

The fieldwork begins for two audits: Gorman Bros. Lumber Ltd. – Forest Licence A18671, and Western Forest Products Ltd. – Tree Farm Licence #25.

The Board releases two audit reports: *Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Small Business Forest Enterprise Program – Arrow Forest District*. The Board finds that the SBFEP met most Code requirements but biodiversity issues were identified. The second report, *Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Small Business Forest Enterprise Program – Boundary Forest District* is released. The Board finds compliance with most requirements of the Code, but there was poor performance in several important areas.

The Board releases a complaint report: *Road Slump Near Fiddler Creek, Northeast of Terrace, BC*. The Board finds that both Skeena Cellulose Inc. and the Ministry of Forests district office contributed to the slump, which resulted from an oversteepened cutslope in unstable terrain.

The Forest Practices Board makes a submission to David Perry on the proposed transfer of Crown forest lands to MacMillan Bloedel as compensation for park creation.

The Board completes an audit report on Northwood Pulp and Timber Ltd.’s Forest Licence A16828, and sends report to Northwood. A Court Order prevents public release of the report.

JULY

The fieldwork begins for two audits: Pacific Inland Resources – Forest Licence A16830, and MacMillan Bloedel – Tree Farm Licence #44.

The Forest Practices Board’s 1998 *Annual Report* is tabled in the legislature.

The Board releases a complaint report: *Road Approval Within a Riparian Management Area on Catface Mountain in Clayoquot Sound*. The Board recommends that district managers should document reasons for approving road locations in riparian management areas. The Board recommends that the Clayoquot Sound Scientific Panel’s conditions be enforced, which state that encroachments into stream reserve areas must be avoided whenever possible, and the Board recommends that all future forest development plans for the Catface area provide clear, unambiguous information on riparian zones.

The Board notifies the three Code ministers of significant breaches of the Forest Practices Code associated with the construction of a power line for a mine. The breaches were identified during the investigation of a public complaint.

AUGUST

The fieldwork begins for two audits: Small Business Program in Mid-Coast Forest District, and Lignum Ltd. forestry operations near 100 Mile House.

The Board releases two complaint reports: *Proposed Logging on Durieu Ridge, Near Mission, BC – Terrain Stability Requirements and Opportunity for Public Review and Comment*. The Board finds that there was not adequate opportunity to review and comment on the plans during the public review and comment period; and *Approval of a Bridge Across the Babine River, Near New Hazelton, BC*. The Board finds problems in the approval process for the Babine bridge location.

SEPTEMBER

Board members visit Vanderhoof and meet with licensees, government staff and local community groups.

The fieldwork begins for three audits: one full scope audit of Sunshine Coast Small Business Forest Enterprise Program; and two limited scope audits of Canfor Forestry Operations – Tree Farm Licence #48, and Riverside Forest Products – Forest Licence A20191.

Board members attend the University of Northern British Columbia summer field tour and equipment demonstration in association with the Northern Silviculture Committee meeting in Vanderhoof, BC.

Board members visit Queen Charlotte City and meet with licensees, government staff and local community groups.

Staff and Board members give a series of presentations in Kamloops, Burnaby, Smithers, Vanderhoof, Prince George and Victoria, organized by the Association of BC Professional Foresters.

The Board holds regular meeting in Nelson and attends workshops and fieldtrips in the area.

The Board and staff members attend the Union of BC Municipalities AGM, held in Vancouver.



OCTOBER

Board members attend the Federation of BC Woodlot Association 12th AGM, Conference and Trade Show, held in Kamloops.

Board members visit Salmon Arm and meet with licensees, government staff and local community groups.

The Board's audit of Northwood's Forest Licence A16828 is challenged in British Columbia Supreme Court.

Board members and staff meet with the Council of Tourism Association of BC at their Board Meeting held in Vancouver.

The Board releases a complaint report: *Forest Practices Code Enforcement in Upper Bridge River, Northwest of Gold Bridge, BC*. The Board stresses the importance of effective communication between the government and the public regarding the management of forest resources.

The Board releases an audit report: *Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Gorman Bros. Lumber Ltd. – Forest Licence A18671*. The Board finds that the practices of Gorman Bros. Lumber Ltd. complied with the Code in all significant respects.

NOVEMBER

Board members visit Quesnel and meet with licensees, government staff and local community groups.

Board members visit Grand Forks and meet with licensees, government staff and local community groups.

The Supreme Court releases its decision on the Northwood Audit. Judge Brenner upholds Forest Practices Board's freedom to comment.

The Board releases an audit report: *Audit of Forest Planning and Practices – Small Business Forest Enterprise Program – Port McNeill Forest District*. The Board found that most of the planning and practices in the Port McNeill District complied with Code requirements. However, the number of non-compliance situations was higher than in most of the other audits that have been done.

DECEMBER

Board Chair Keith Moore's appointment is extended by three months until the end of March 2000.

Board members meet with Gary Wouters and staff conducting the Forest Policy Review.

A review panel upholds a request by the Forest Practices Board to overturn government approval of over 50 cutblocks in the north coast area. The decision affects International Forest Products (Interfor) operations in a forest licence in the Scotia Creek area east of Prince Rupert and around Surf Inlet south of Hartley Bay.

The Board releases two audit reports: *Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation – Lignum Ltd. – Forest Licence A20003*; and *Audit of Forest Planning and Practices – Pacific Inland Resources, a Division of West Fraser Mills – Forest Licence A16830*. The Board finds that the practices of Lignum Ltd. and Pacific Inland Resources complied with the Code in all significant respects.

The Board releases two complaint reports: *Adequacy of a Forest Development Plan in the McGregor River Area*. The Board finds that the Ministry of Forests district manager should not have approved Northwood's 1997–2001 forest development plan; and *Hurtado Point Trail – Improvement of Trails Under the Forest Practices Code*.

The Board releases an audit report on Code enforcement: *An Audit of the Government of British Columbia's Framework for the Enforcement of the Forest Practices Code*. The Board finds that since the inception of the Code, government has developed a substantial infrastructure for enforcement and has done a great deal of positive work. However, the framework for Code enforcement is not yet complete and does not ensure that enforcement is effective in supporting achievement of the Code's objectives, as stated in the Preamble to the Code.

Northwood appeals the Supreme Court decision to the British Columbia Court of Appeal.



Glossary of Terms

ADMINISTRATIVE PENALTY is a penalty levied by any of three BC ministries—Forests; Environment, Lands and Parks; or Energy and Mines—against a person who has contravened the Forest Practices Code (the Code).

ADMINISTRATIVE REVIEW is a BC-government review of certain types of determinations. It can lead to confirmation, cancellation or variation of the determination, or to a new determination.

ADVERSE OPINION is an overall negative conclusion which is appropriate when significant non-compliance is sufficiently pervasive or of sufficient magnitude to warrant an overall negative conclusion.

AGREEMENT HOLDER is the holder of an agreement under British Columbia's Forest Act or Range Act.

CLEAN OPINION is when all of the forestry activities subject to audit are in compliance with the Code, in all significant respects, the opinion will be referred to as a "clean opinion." The statement "in all significant respects" recognizes that there may be minor, or insignificant, instances of non-compliance.

COMPLIANCE is when the auditor finds that practices meet Code requirements.

COMPLAINT is a matter brought to the Forest Practices Board (the Board) in writing. It includes information specified in the "Notice of Complaint."

COMPLAINT ASSESSMENT is the process by which the Board determines whether or not it must investigate a complaint.

CONTRAVENTION PENALTY was created by Bill 47, 1997 but is not yet in force. It is an administrative penalty for contravention of the Forest Practices Code and takes into account a number of factors, including the effect of the contravention on the government's ability to adequately manage and conserve forest resources.

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

DETERMINATION is an act, omission, decision, procedure, levy, order, or other action made or taken by an official under authority of the Code.

FOREST APPEALS COMMISSION is the independent tribunal that hears appeals from administrative review decisions made under the Code.

FOREST PRACTICES BOARD is the independent watchdog for sound practices in British Columbia. The Board works on behalf of the public interest.

FULL-SCOPE AUDIT is an audit of forest practices for performance under all of the requirements of the Code.

LIMITED-SCOPE AUDIT is an audit of forest practices for performance under some, but not all, of the requirements of the Code.

NOT SIGNIFICANT NON-COMPLIANCE is when the auditor, upon reaching a non-compliance conclusion, determines that a non-compliance event, or the accumulation and consequences of a number of non-compliance events, is not significant and is not considered worth reporting.

PARTY is the government or the agreement holder(s) under the *Forest Act* or the *Range Act*.

PERFORMANCE PENALTY was created by Bill 47, 1997 but is not yet in force. It is an administrative penalty in addition to a contravention penalty, imposed where the licensee did not exercise due diligence.

QUALIFIED OPINION is when significant non-compliance is found, but it is neither pervasive nor of a sufficient magnitude to warrant an overall negative conclusion.

REMEDIAL ORDERS to an agreement holder are orders to do work to remedy a Code contravention, including any damage done to the land.

ROAD DEACTIVATION, which is done during periods of commercial harvesting inactivity, consists of measures to stabilize roads and logging trails. It includes controlling drainage, removing side-cast where necessary, and re-establishing vegetation for permanent deactivation.

SIGNIFICANT BREACH may follow a non-compliance conclusion, if the auditor determines 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. If a possible significant breach is identified, the auditor must conduct tests to determine its extent. If it is clear from those tests that a significant breach has occurred, the auditor must then immediately advise the Board, the party being audited, and the three ministers.

SIGNIFICANT NON-COMPLIANCE also follows a non-compliance conclusion—after the auditor has reached a non-compliance conclusion—when the auditor 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 (SBFEP) is a Ministry of Forests program that enables registered individuals or companies to acquire rights to harvest Crown timber under a timber sale licence. Responsibility for most forestry planning and management requirements is held by the Ministry of Forests.

1999 Annual Report Response Card



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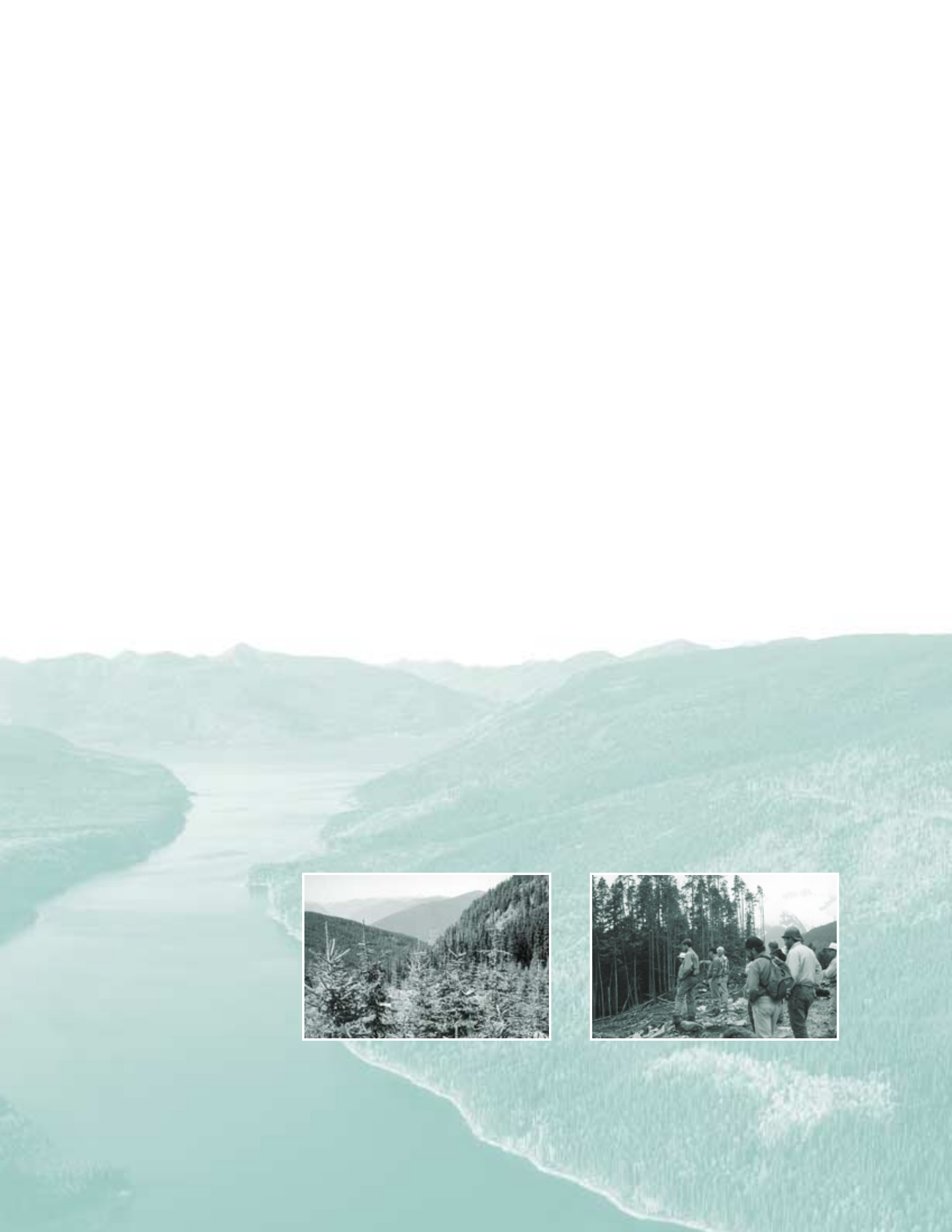
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