

# KEEPING WATCH OVER BRITISH COLUMBIA'S PUBLIC FORESTS



2001 Annual Report

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# 2001 Annual Report



The Honourable Michael de Jong  
Minister of Forests

The Honourable Joyce Murray  
Minister of Water, Land and Air Protection

The Honourable Stan Hagen  
Minister of Sustainable Resource Management

The Honourable Richard Neufeld  
Minister of Energy and Mines

Dear Ministers:

It is with pleasure that I submit to you the Annual Report of the Forest Practices Board for the calendar year 2001, 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, 2001.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Bill Cafferata".

Bill Cafferata  
BOARD CHAIR  
VICTORIA, BRITISH COLUMBIA

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# The Forest Practices Board



The Forest Practices Board serves the public interest as the independent watchdog for sound forest practices in British Columbia. It exists to ensure forests are soundly managed to sustain the full range of forest values and forest resources for British Columbians.

The Board was created under the Forest Practices Code. The Board's mandate is to: audit tenure holders and government ministries for compliance with, and enforcement of, the Code; deal with complaints from the public regarding forest planning and practices under, and government enforcement of, the Code; carry out special investigations and issue special reports as the Board sees appropriate; request administrative reviews of approved forest development plans; participate on behalf of the public in reviews of penalty determinations; and participate in appeals to the Forest Appeals Commission.

Code legislation ensures Board independence from licensees and the government. While the Board provides reports to the Minister of Forests, the Minister of Water, Land and Air Protection, the Minister of Sustainable Resource Management and the Minister of Energy and Mines, its reports and findings are not provided to government for revision or comment in advance of public release. When the Board deals with an audit of, or complaint about, a government operation, that operation is entitled to the same level of information about the Board's preliminary findings as any other auditee or complaint subject.

The Board's funding comes directly from Treasury Board, which helps to insulate it from funding pressures that might arise from an association with any of the four Code ministries. The Board also has the authority of the *Inquiry Act* to compel the giving of evidence in the course of its work, and it has the authority to audit and investigate government's forest practices and enforcement actions.



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# Chair's Message



Forest Practices Board  
Chair Bill Cafferata

The Board received several complaints in 2001 about the size of cutblocks and how licensees propose to harvest beetle-infested stands.

The Forest Practices Board continued to see improved forest practices on the ground in 2001, by both licensees and the Ministry of Forests Small Business Forest Enterprise Program. Problems remain that could be avoided through well-defined and measurable direction at all forest planning levels. These problems concern managing for values other than roads and timber harvesting, such as species and habitat protection, public health and safety and forest health issues.

Several Board reports in 2001 identified issues where forest practices were at odds with threatened and red-listed species. The Board also received a greater-than-usual number of complaints about the size of cutblocks and how licensees propose to harvest beetle-infested stands. Public health and safety was also the subject of several complaint investigations over the past year, and was a significant enough trend in audits to merit a special report on bridge maintenance.

With respect to board membership, Mark Haddock resigned from the Board in 2001, seeking to better balance workload issues with his full-time law practice. Mark made a significant contribution to the Board, and his contribution is missed.



## International audiences

For the Board, which had previously focused its major communications efforts on the residents of British Columbia, it has become clear that the rest of the world is watching more closely to see how our forests are being managed. In addition to the attention received through marketplace boycotts of BC forest products, Canada is signatory to international

agreements and statements of intent that are leading to investigations of our forest practices by other governments.

The Board has credible and important information to offer on the state of forest practices in BC. Some examples: The Hooley Amendment, passed by the US government in June 2001, requires the US Congress to commission a

report on the impact of logging practices on BC's salmon-bearing streams. As well, the Committee on Environmental Cooperation—established under the North American Free Trade Agreement—has invited the Board to submit facts relevant to the Committee's investigation of a complaint that federal government regulations were contravened by a logging operation in BC.

Given these developments, it is appropriate for the Board to broaden the focus of its communications. With respect to the Hooley Amendment, the Canadian Ambassador to the US referenced a Board report on the management of streams in his response to the introduction of the bill. The Board is also scheduled to attend a major conference on responsible forest products trade to be held in Atlanta, Georgia in April 2002. We will continue to seek other ways to provide credible information to international audiences.

## Changes to forest policy

In the summer of 2001, government ordered a review of the fundamental purpose of all ministries, agencies, boards and commissions. The Board has completed its review, including a projection of the Board's structure and budget through to March 31, 2004. Cost reductions will be achieved through actions such as greater reliance on professional staff expertise developed since the Board was established, and reduced cost of office space.

The Board will maintain its core mandate, and continue to pursue its strategic directions:

- ♦ focus on the land base;
- ♦ be involved with the evolution of the Forest Practices Code of BC; and
- ♦ focus on informing, and being informed by, the public.

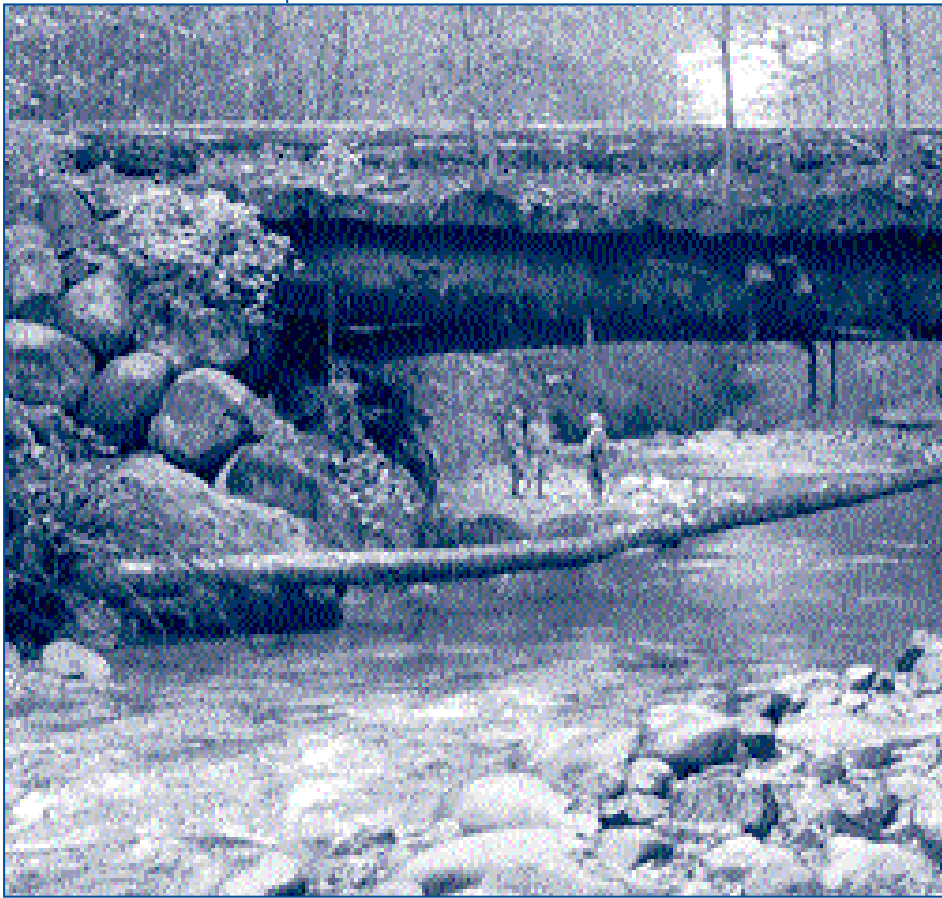
As explained in the audits section of this annual report, our shift to area-based audits will also increase efficiency.

Government is preparing for changes to forest practices laws, such as a results-based code. The Minister of Forests anticipates introduction of a new code in April 2003, following broad consultation on government's discussion paper expected in Spring 2002. The Board is confident that it will be able to



Species and habitat protection issues also arose in several Board reports in 2001.

contribute to the process, and make the adjustments necessary to fulfill our role as a watchdog for the public interest in BC's forests. The Board will encourage a focus on continued improvement of practices during the transition to a results-based code.



The Board issued a special report in 2001 on bridge maintenance issues.

## Goals for 2002

The Board has six primary targets for 2002:

- ♦ To report on the redesigned role of the Board;
- ♦ To report on the Board's input into the white paper for a results-based code;
- ♦ To publish audit, investigation and appeal manuals that inform the public about the new way the Board conducts its business;
- ♦ To conduct five sets of audits and two individual compliance audits;
- ♦ To bring 80 percent of investigations to a close within eight months of their receipt; and
- ♦ To achieve a greater percentage of complaints resolved through alternate dispute resolution.

Given that the Board's budget will be reduced in future years, funding to contract extra staff for Board functions such as audits, special investigations and legal reviews and appeals will be limited. Staff will seek additional skills training to support the Board's various functions, so the Board can continue to carry out its mandate despite funding constraints.

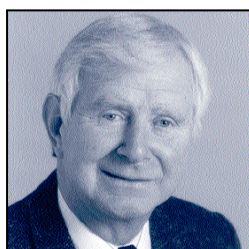
The Board looks forward to continuing to effectively serve the public during this time of dramatic change.

Overall, the Board met most of its objectives for 2001. We conducted a pilot enforcement audit, a pilot area-based audit, pursued closure on recommendations regarding improvements to forest practices, and were successful with reviews by the Ministry of Forests and appeals to the Forest Appeals Commission.

With respect to improved timeliness of reporting, we anticipate that 70 percent of complaints received in 2001 will be closed within 12 months of their receipt. Although this is short of the goal we set, it represents an improvement over the preceding year.



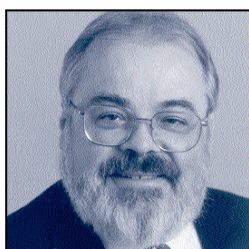
# Board Members



**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

## Financial Information

### Expenditures - January 1 to December 31, 2001 Unaudited Information

	Board Members & Executive	OPERATIONAL EXPENDITURES					Total
		Complaint Investigations	Audits	Reviews and Appeals	Spec. Projects & Communications	Administrative Expenditures	
Total Salaries and Benefits	370,865	656,062	829,862	297,657	396,203	248,014	2,798,663
Total Operating Costs	300,225	84,894	1,070,211	41,791	230,691	591,245	2,319,057
Total Capital Expenditures	0	0	0	0	0	107,847	107,847
<b>Total Expenditures</b>	<b>671,090</b>	<b>740,956</b>	<b>1,900,073</b>	<b>339,448</b>	<b>626,894</b>	<b>947,106</b>	<b>5,225,567</b>
<b>Budget</b>							<b>5,162,597</b>

#### Notes:

1. The calendar year 2001 combines the last three months of fiscal year 2000/2001 (January to March) and the first nine months of fiscal year 2001/2002 (April to December).
2. The Board's budget for calendar year 2001 was \$5,162,597. (This is the amount accounted for by the calendarized appropriations from fiscal year 2000/2001 and 2001/2002 of \$1,236,777 and \$3,925,820, respectively, allocated to the 2001 calendar year). During 2001, the Board's expenditures totalled \$5,225,567. On the fiscal year (Apr. 1, 2001 - Mar. 31, 2002) the Board will leave a small surplus.
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 Board files.

# Auditing Forest Practices and Code Enforcement

The Forest Practices Board undertakes periodic, independent audits of compliance with the Code and the appropriateness of government enforcement of the Code. The Board chooses which operations will be audited, using specialized software to randomly select licences and forest districts for audit.

## Accomplishments in 2001

With the experience gained over the past five years, the Board has evolved to fulfill a broader spectrum of its auditing mandate. As a result, the Board made several strategic changes to the 2001 audit program. These changes are expected to result in more balanced and comprehensive reporting on a wider array of licensed operations on public forestlands.



Auditors visited the Fort Nelson Forest District in 2001 during the Board's first area-based audit.

The Board continues to audit major licence holders and the Ministry of Forests' Small Business Forest Enterprise Program (SBFEP). Unlike previous years, however, audits now examine the entire range of forest activities subject to Code requirements. Where prior audits sometimes focused only on harvesting and road activities, in 2001, the audit scope was enhanced to include operational planning, silviculture and fire protection activities for all audits.

For the first time in 2001, the Board conducted an audit of all licensees within a defined landbase, in this case a cluster of landscape units. This type of audit allows the Board to report publicly on the Code performance of various licensees and tenure holders, as well as government's enforcement of the Code. There will be a report for each licensee and government enforcement body, plus an overarching report for the entire area. This audit, in the Fort Nelson Forest District, was conducted in the summer of 2001 and is due to be released this spring.

The Board included an audit of range activities as part of its 2001 audit program. Range activities are covered under the Code, as much of the forage supply for livestock comes from rangelands in the public forest. The audit

area was randomly selected from the forest districts with licensed range and hay-cutting activities. Both the appropriateness of government enforcement of the Code and the compliance of range operators with the Code were audited. The Board's first range audit, in the Horsefly Forest District, is due to be released later in 2002.

In 2001, the Board also started the first of five annual audits as stipulated in the Nisga'a treaty. These will include audits of both compliance and the appropriateness of enforcement on the Nisga'a lands. They will be similar to the area-based audits in that each audit in the series will look at all activities and enforcement on a specific parcel of land.

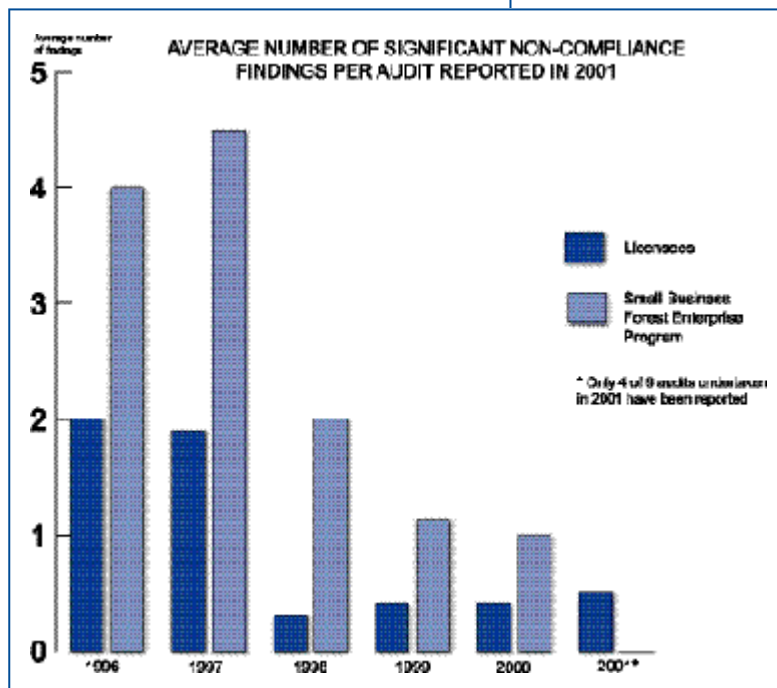
Although it was initiated in 1999, the Board reported on its first enforcement audit in 2001. The Vernon Forest District was chosen at random for the audit, which looked at whether the Ministry of Forests, the Ministry of Energy and Mines and the Ministry of Water, Land and Air Protection enforced the Code appropriately and adequately. The audit examined enforcement for all major forest licensees, SBFEP operations, woodlot operations and range tenures on Crown lands in the district between September 1, 1999 and September 30, 2000.

Overall, the Vernon audit found that district staff enforced many aspects of the Code appropriately, but some improvements are needed. The Ministry of Forests conducted an appropriate number of Code compliance and enforcement inspections during the audit period, but the Board was not assured that these inspections sufficiently detected and addressed forest practices that didn't comply with the Code. Trends in non-compliant practices weren't tracked in a way that would foster improvements.

The Ministry of Energy and Mines had no Code-related activities to enforce in the area during the audit period, and the Ministry of Water, Land and Air Protection's approach to Code enforcement does not include compliance inspections of forest activities.

The Board also found that supervision and management for the forest district's compliance and enforcement program could have been stronger. With respect to the district's SBFEP, the Board found that more attention is required to separate the compliance and enforcement functions from the operational function.

In all, six full-scope compliance audits and three audit sets averaging three audit components each were conducted in 2001, for a total of 15 audits. The full list of audits undertaken and completed in 2001 follows on Tables 1 and 2, and a map of the audit locations is on page 16.





## Findings on the ground

Good practices on the ground are continuing. Of 11 compliance audits completed and reported in 2001, 8 complied with the Code in all significant respects. The year before, 6 of 13 audits fit the same description. The Board is encouraged that substantive results have shown consistent improvement in forest practices and in achieving the Code's intent since it came into being in 1995.

At the same time, several Board audits noted the continued absence of higher level plans, as has been the case in previous years. Forest development plans (FDPs) must be consistent with any higher level plans that apply to the area. Higher level plans are defined in the Code to set objectives for broader areas of land. The creators of the Code envisioned identification of forest resources and establishment of the objectives for resource management zones through strategic planning with public involvement. This would then provide direction to FDPs.

The lack of complete, clear, measurable objectives for forest resources means it is not possible for an audit to determine if all forest resources have been addressed by a licensee's FDP. This lack of objectives diminishes the opportunity for public review and comment on the FDP, limits the licensee's obligations to manage or protect forest resources, and may limit government's enforcement role.

## Trends

Despite an overall trend towards greater Code compliance, an area of concern that arose in 2000 continued in 2001. Non-compliant bridge inspection and maintenance practices continued, creating issues of public safety. These instances of non-compliance represented a potential for harm to people using the bridges, as well as to the streams below the bridges. The trend was notable enough that the Board issued a special report, asking licensees to ensure that their bridge maintenance and inspection programs are up to date, as well as ensuring any required repairs are completed in a timely manner.

Audits conducted in 2001 also identified concerns with windthrow management and road construction. Overall, however, more clean audits are indicating improved forest practices. Although not all audits initiated in 2001 have been reported yet, those that have been reported complied with the Code in all significant respects. Audits where significant problems are found take longer to complete and report to the public.

## Future direction

The Forest Practices Board is mandated to conduct audits of forest practices to determine a licensee's compliance with the Code, and the appropriateness of government enforcement of the Code. In the Board's opinion, an evaluation of all forestry-related activities within a specified land base—one that combines both compliance and enforcement audit types—is moving us towards a more holistic and efficient approach to audits. This direction is in line with the Board's strategic direction to foster stewardship of the land base and promote evolution of the Code.

# TABLE 1 - Audits Completed in 2001

AUDITEE ANNUAL ALLOWABLE CUT LOCATION	ACTIVITIES AUDITED	FINDINGS
Small Business Forest Enterprise Program  234,250 m <sup>3</sup>  Kamloops Forest District	<ul style="list-style-type: none"> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> </ul>	<p>The Kamloops SBFEP complied, in all significant respects, with the Code requirements for timber harvesting and the construction, maintenance and deactivation of roads.</p> <p>Report released January 2001</p>
MacMillan Bloedel Ltd., West Island Timberlands (subsequently acquired by Weyerhaeuser Company Ltd.)  TFL 44  1,760,000 m <sup>3</sup>  South Island Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>MacMillan Bloedel complied, in all significant respects, with the Code's planning and practices requirements for silviculture, fire protection and road deactivation, and with the Code's forest development planning requirements. In Clayoquot Sound, practices were found to be in compliance with the Code. In those parts of the TFL with active operations, the audit identified significant non-compliance in windthrow management, road construction and bridge maintenance.</p> <p>Report released March 2001</p>
West Fraser Mills Ltd.  FL A16827  713,896 m <sup>3</sup>  Morice Forest District	<ul style="list-style-type: none"> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation (includes related operational planning)</li> </ul>	<p>Activities carried out by both Houston Forest Products Company and West Fraser Mills in this forest licence complied, in all significant respects, with the timber harvesting and road construction, maintenance, and deactivation requirements of the Code.</p> <p>Report released March 2001</p>
Weldwood of Canada Ltd.  FL A20017  504,062 m <sup>3</sup>  Cariboo Forest Region	<ul style="list-style-type: none"> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation (includes related operational planning)</li> </ul>	<p>Weldwood complied, in all significant respects, with the timber harvesting and road construction, maintenance, and deactivation requirements of the Code.</p> <p>Report released March 2001</p>
Small Business Forest Enterprise Program  105,000 m <sup>3</sup>  Robson Valley Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>The Robson Valley SBFEP complied, in all significant respects, with the Code requirements for operational planning, timber harvesting, road construction, maintenance and deactivation, silviculture and fire protection. The Board also noted that while many of the specific practices related to the Robson Valley land and resource management plan have yet to be fully determined, it was evident that key elements of the biodiversity strategies are being implemented.</p> <p>Report released April 2001</p>



# TABLE 1 continued

AUDITEE ANNUAL ALLOWABLE CUT LOCATION	ACTIVITIES AUDITED	FINDINGS
Ainsworth Lumber Co. Ltd.  FL A18690  209,124 m3  Kamloops Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>The audit identified a situation of significant non-compliance involving Ainsworth's bridge inspection and maintenance practices. Otherwise, the licensee's forest planning and practices were in compliance, in all significant respects, with Code requirements for operational planning, timber harvesting, road construction, maintenance and deactivation, silviculture and fire protection.</p> <p>Report released June 2001</p>
Audit of Government Enforcement of the Code  Vernon Forest District	<p>An examination of government's planning and field activities related to enforcement of the Code for:</p> <ul style="list-style-type: none"> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>Overall, the audit found that the Ministry of Forests' (MOF) Vernon District enforces many aspects of the Code appropriately, but some improvements are needed. Some district inspections did not sufficiently detect and address forest practices that didn't comply with the Code, and trends in non-compliant practices weren't tracked in a way that would foster improvements. The Board also found that MOF supervision and management for the district's compliance and enforcement program could have been stronger. With respect to the district's SBFEP, the Board found that more attention is required to separate the compliance and enforcement functions from the operational function.</p> <p>Report released November 2001</p>
Cowichan Lake Community Forest Co-operative  FL A52027  14,885 m3  South Island Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>The operational planning, timber harvesting, silviculture and road maintenance and deactivation activities carried out by the Cowichan Lake Community Forest Co-operative complied, in all significant respects, with the requirements of the Code. No opinion was provided regarding firefighting tools and equipment in the field, or road construction, due to lack of activity in those areas. This was the first Board audit of a licence held by a community forest co-operative.</p> <p>Report released December 2001</p>
Qwa'eet Forest Products Ltd.  Non-Replaceable FL A55525  60,000 m3  Merritt Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>Qwa'eet's planning and field activities complied, in all significant respects, with Code requirements for operational planning, timber harvesting, road construction, maintenance and deactivation, silviculture and fire protection.</p> <p>Report released December 2001</p>

# TABLE 1 continued

AUDITEE ANNUAL ALLOWABLE CUT LOCATION	ACTIVITIES AUDITED	FINDINGS
RFP Timber Ltd.  FL A20016  114,129 m3  Chilcotin Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>RFP Timber's operational planning, timber harvesting, road construction, maintenance and deactivation and silviculture complied with Code requirements in all significant respects.</p> <p>It was not possible to examine RFP Timber's compliance with Code requirements for fire equipment in the field due to lack of activity.</p> <p>Report released December 2001</p>
Tembec Industries Inc. (licence formerly held by Crestbrook Forest Industries Ltd.)  FL A20212  115,000 m3  Kootenay Lake Forest District	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>	<p>Tembec's operational planning, timber harvesting, road construction, maintenance and deactivation, silviculture and fire protection complied, in all significant respects, with Code requirements.</p> <p>Report released December 2001</p>



Auditors often find notable practices in the field, such as this “flapper” designed to reduce sediment runoff from uphill slopes which could wash out the road.

# TABLE 2 - Audits Undertaken in 2001

<b>AUDITEE ANNUAL ALLOWABLE CUT LOCATION</b>	<b>STATUS (AT DEC. 31, 2001)</b>	<b>ACTIVITIES AUDITED</b>
Skeena Cellulose Inc. TFL 1 611,000 m3 Kalum Forest District	Field work has been completed, and the audit is at the reporting stage	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>
Area-based audit  Slocan Forest Products Ltd. Oil and gas tenures Government enforcement (MOF, Oil and Gas Commission, MWLAP)  Eskai, Klua and Big Beaver landscape units in the Fort Nelson Forest District	Field work has been completed, and the audit is at the reporting stage	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> <li>♦ government enforcement of the Code</li> </ul>
RFP Timber Ltd. FL A20016 114,129 m3 Chilcotin Forest District	Report released (See Table 1)	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>
Tembec Industries Inc., (licence formerly held by Crestbrook Forest Industries Ltd.)  FL A20212  115,000 m3  Kootenay Lake Forest District	Report released (See Table 1)	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>
Nisga'a lands audit  Skeena Cellulose Inc. (FL A64298), SimGan Forest Corp. (FL A64299), West Fraser Mills Ltd. (FL A16882) Small Business Forest Enterprise Program Government enforcement  Kalum Forest District and Skeena Region of MWLAP	Field work has been completed, and the audit is at the reporting stage	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> <li>♦ district manager obligations</li> <li>♦ government enforcement of the Code</li> </ul>

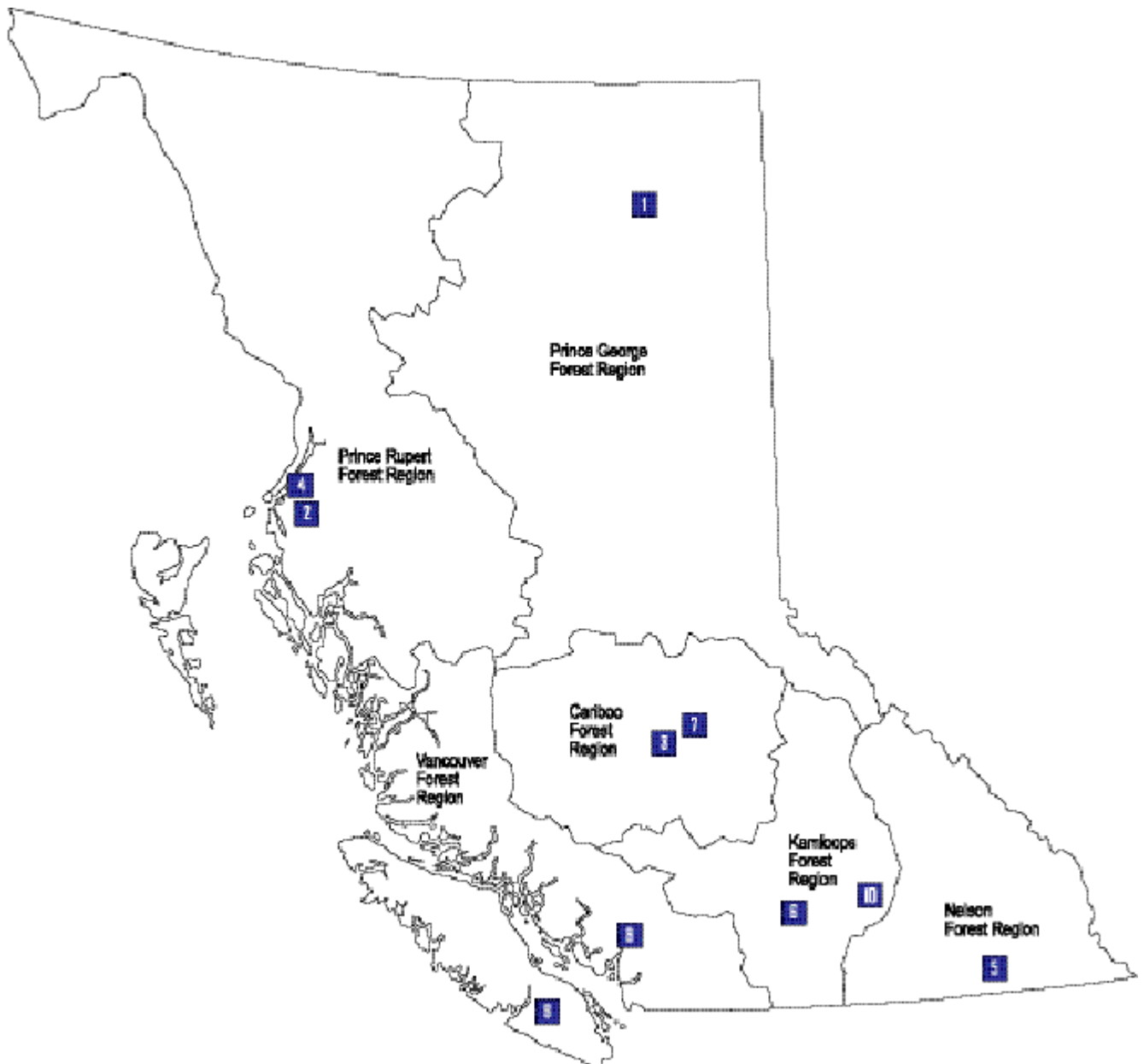
## TABLE 2 continued

AUDITEE ANNUAL ALLOWABLE CUT LOCATION	STATUS (AT DEC. 31, 2001)	ACTIVITIES AUDITED
Qwa'eet Forest Products Ltd.  Non-Replaceable FL A55525  60,000 m3  Merritt Forest District	Report released (See Table 1)	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>
Range practices audit  Range tenures Government enforcement  Horsefly Forest District, MWLAP	Field work has been completed, and the audit is at the reporting stage	<ul style="list-style-type: none"> <li>♦ practices on range tenures</li> <li>♦ government enforcement of the Code</li> </ul>
Cowichan Lake Community Forest Co-operative  FL A52027  14,885 m3  South Island Forest District	Report released (See Table 1)	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>
Small Business Forest Enterprise Program  109,717 m3  Squamish Forest District	Field work has been completed, and the audit is at the reporting stage	<ul style="list-style-type: none"> <li>♦ operational planning</li> <li>♦ timber harvesting</li> <li>♦ road construction, maintenance and deactivation</li> <li>♦ silviculture</li> <li>♦ fire protection</li> </ul>



Poor road maintenance can cause washouts, such as the one pictured at left.

# Forest Practices Board Audit Locations



## 2001 COMPLIANCE AND ENFORCEMENT AUDITS

### Compliance

1. Fort Nelson Forest District area-based compliance and enforcement audit
2. Skeena Cellulose Inc., TFL 1
3. RFP Timber Ltd., FL A20016
4. Nisga'a lands compliance and enforcement audit
5. Tembec Industries Inc., FL A20212
6. Qwa'eet Forest Products Ltd., FL A55525

7. Horsefly Forest District range compliance and enforcement audit
8. Squamish Small Business Forest Enterprise Program
9. Cowichan Lake Community Forest Co-operative. FL A52027

### Enforcement

10. Pilot audit of the appropriateness of government's enforcement, Vernon Forest District



# Investigating Forest Practices and Code Compliance

The Forest Practices Board investigates complaints from the public about operational planning, forest practices and enforcement of the Code. The Board also undertakes special investigations that may otherwise arise, whether through the course of an audit or investigation, or as a result of general observations. The Board must investigate complaints within its jurisdiction, unless the Chair is of the opinion that there is a reason to refuse, consistent with the reasons set out in the Code.

## Accomplishments in 2001

The Board noted a continued trend toward greater public use of the Board's complaint investigation function. The number of incoming concerns increased by 23 percent: from a previous high of 62 in 2000 to 76 in 2001. However, unlike previous years, the number of complaints the Board investigated remained about the same—23 in 2000 and 22 last year. Board staff interprets the increasing number of concerns as greater public awareness of and reliance on the Board's complaint investigation function, and a greater relevance of its work in promoting sound forest practices. The fact that more concerns did not translate into more complaint investigations probably reflects increasing efforts by Board staff to encourage complainants, licensees and regulatory agencies towards dispute resolution.

The Board cleared a backlog of eight investigations from previous years. With fewer active files and much greater use of panels of the Board (rather than the full Board) for complaints, the time required to complete investigations dropped to an average of 11 months from the previous 14-month average for report completion. Nevertheless, even faster complaint resolution is needed, so the Board will work towards a further reduction to eight months in 2002 and possibly to four months by 2005.

## Findings on the ground

Each investigation by the Forest Practices Board is unique. However, there are recurring themes in complaints about forest practices. In 2001, three common themes arose in complaints :

- ♦ inadequate protection of water resources;
- ♦ inadequate protection of habitat for vulnerable wildlife species; and
- ♦ inadequate planning of forest practices.

Investigations in 2001 continued to point to an area where the Code isn't always meeting its objective of environmental protection regarding the quality of water for drinking purposes. Five separate investigations into the protection of water quality last year indicated licensees and government took appropriate measures and complied with the Code in order to manage and conserve the timing and quantity of water flow. However, the Board had

concerns about the Code's ability to protect the quality of water used for public consumption and issued a special report on domestic water-user input in forest development planning in southeastern BC.

The Board had a greater concern with the continued failure of the Code to adequately manage and conserve the habitats of vulnerable wildlife species, including mountain caribou, mountain beavers and marbled murrelets. The Board found that Ministry of Forests (MOF) district managers failed to give adequate weight to wildlife habitat when approving road locations into caribou habitat near Prince George and through lakeside colonies of mountain beavers near Chilliwack.

The Board also had concerns with how MOF and the Ministry of Water, Land and Air Protection (MWLAP) agreed to manage risk to marbled murrelets in approving cutblocks in old coastal forests on southwestern Vancouver Island. The two agencies agreed to allow road building and logging in 11 of 15

cutblocks proposed in scarce old-growth forest in a watershed with very high-quality marbled murrelet nesting habitat. The agencies considered the activities to be acceptable because they would not "severely and irreparably damage" murrelet populations. The Board questioned whether such a standard was appropriate for a threatened species such as marbled murrelets.



While not a predominant trend in 2001, the Board did investigate complaints related to cattle grazing on public rangelands.

Forest development plan (FDP) content and the adequacy of public review and comment were common themes in complaints in 2001. However, unlike previous years, the Board concluded more frequently in 2001 that licensees and government had done all that was required under the Code. Two complaints about FDP content and two complaints about inadequate opportunity for public review and comment were not substantiated.

## Trends

The types of complaints received last year were slightly different from other years. The number of complaints about operational planning were about the same as last year, at 4, but there were 15 complaints about whether approved plans or practices were effective in managing and conserving the full range of

forest resources, compared to 11 last year. Those resources include biological diversity, wildlife habitats, water, recreation, soil and old growth.

Complaints last year continued to focus on how regulatory agencies manage, conserve and regulate the use of forest resources, rather than how licensees behave. There continued to be complaints about government enforcement of the Code, but none were substantiated. Nevertheless, two of those complaints raised a new issue of public safety. In one situation, there was a potential for vehicle collisions with livestock. In another, residences downslope from forestry operations were potentially at risk of damage from dangerous debris flows. The Board concluded in both cases that compliance with the Code is not always enough to meet requirements for public safety.

If these trends are as they appear, issues raised by the public in previous years are arising less frequently. The Board need not repeat past recommendations on such issues; it appears they are being applied in practice by regulatory agencies. However, there continues to be increasing public demand for investigations and recommendations on new issues. A results-based code will likely amplify this trend, as new forest management issues emerge.

## Meeting our own objectives

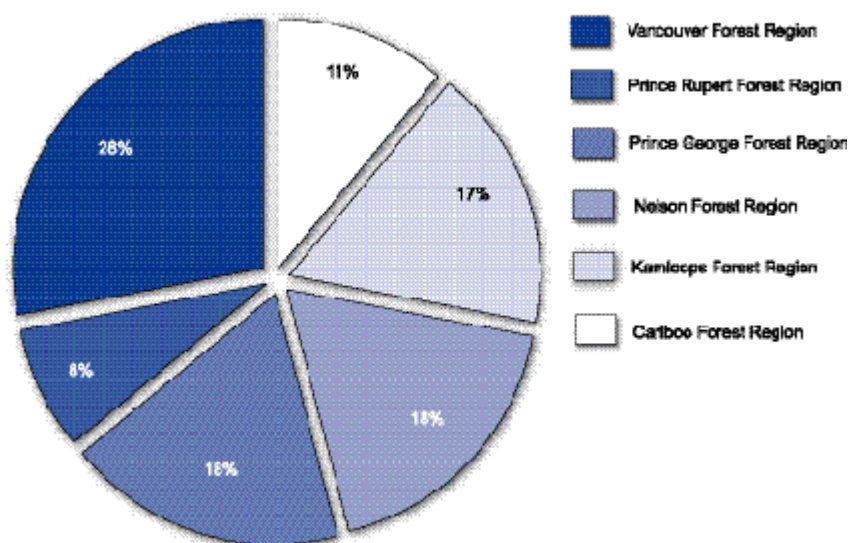
In the 2000 Forest Practices Board annual report, the Board stated it would improve the timeliness of complaint investigations, reducing the average complaint completion time from 14 months to less than 12. It was not possible to bring all active complaint files to closure within 12 months of their receipt, but the average completion time for complaints received in 2001 is expected to be 11 months.

The 2000 annual report also included a goal of developing a formal and detailed tracking process for all past investigation report recommendations, to ensure follow-up if the responses have been lacking or inadequate. Responses to all recommendations were tracked, considered and followed up where required.

## Future direction

The Board continues to look for ways to speed up the resolution and reporting of complaints. The Board will also complete its formal and detailed tracking process for all recommendations made in investigation reports.

COMPLAINTS BY FOREST REGION



# TABLE 3 - Complaints received in 2001

FILE, LOCATION AND DATE RECEIVED	COMPLAINT	STATUS AT DEC. 31, 2001
000280 - MacDougall Bridge Fort St. James Forest District Jan. 2, 2001	The Ministry of Forests approved construction of a bridge that would provide new public access without adequately managing the impacts of that access.	Open - under investigation
010287 - Ptarmigan Creek Prince George Forest District Jan. 8, 2001	The Ministry of Forests' approval of salvage of damaged timber in the Robson Valley includes excessive volume from healthy trees.	Open - under investigation
010291 - July Creek Amendment Boundary Forest District Jan. 30, 2001	The Ministry of Forests approved forest practices that will increase arsenic content in water and may destabilize a slope near a major highway.	Open - under investigation
010298 - East Coast SBFEP South Island Forest District Feb. 27, 2001	The Ministry of Forests approved harvesting of scarce old growth and advanced second growth habitat on the east coast of Vancouver Island without considering potential impacts on private land use.	Open - under investigation
010302 - Salmon Arm SBFEP Salmon Arm Forest District Mar. 5, 2001	The Ministry of Forests ineffectively advertised a public review and comment opportunity by using a very small newspaper notice.	Withdrawn
010305 - Demon Heronry Queen Charlotte Islands Forest District Mar. 16, 2001	The Ministry of Forests did not enforce road building and harvesting requirements in two cutblocks in an efficient or timely way after a public complaint about potential problems.	Open - under investigation
010306 - Mission Creek Penticton Forest District Mar. 22, 2001	The Ministry of Forests and licensees failed to adequately protect environmental values that include soils, wildlife and biodiversity during forest practices in a community watershed.	Open - under investigation
010307 - Barclay Creek Pipeline Arrow Forest District Apr. 5, 2001	The Ministry of Forests failed to protect a creek as required by the Code when the BC Gas southern crossing pipeline was constructed.	Investigated and closed
010308 - St. James Timber Sales Fort St. James Forest District Apr. 5, 2001	The Ministry of Forests approved silviculture prescriptions for its SBFEP that do not reflect visual impact assessments.	Complaint abandoned
010304 - Twain Creek Lakes Forest District Apr. 10, 2001	A licensee carried out forest practices that damaged fish habitat, culturally-modified trees, trails, cultural heritage values and traplines.	Stopped investigation



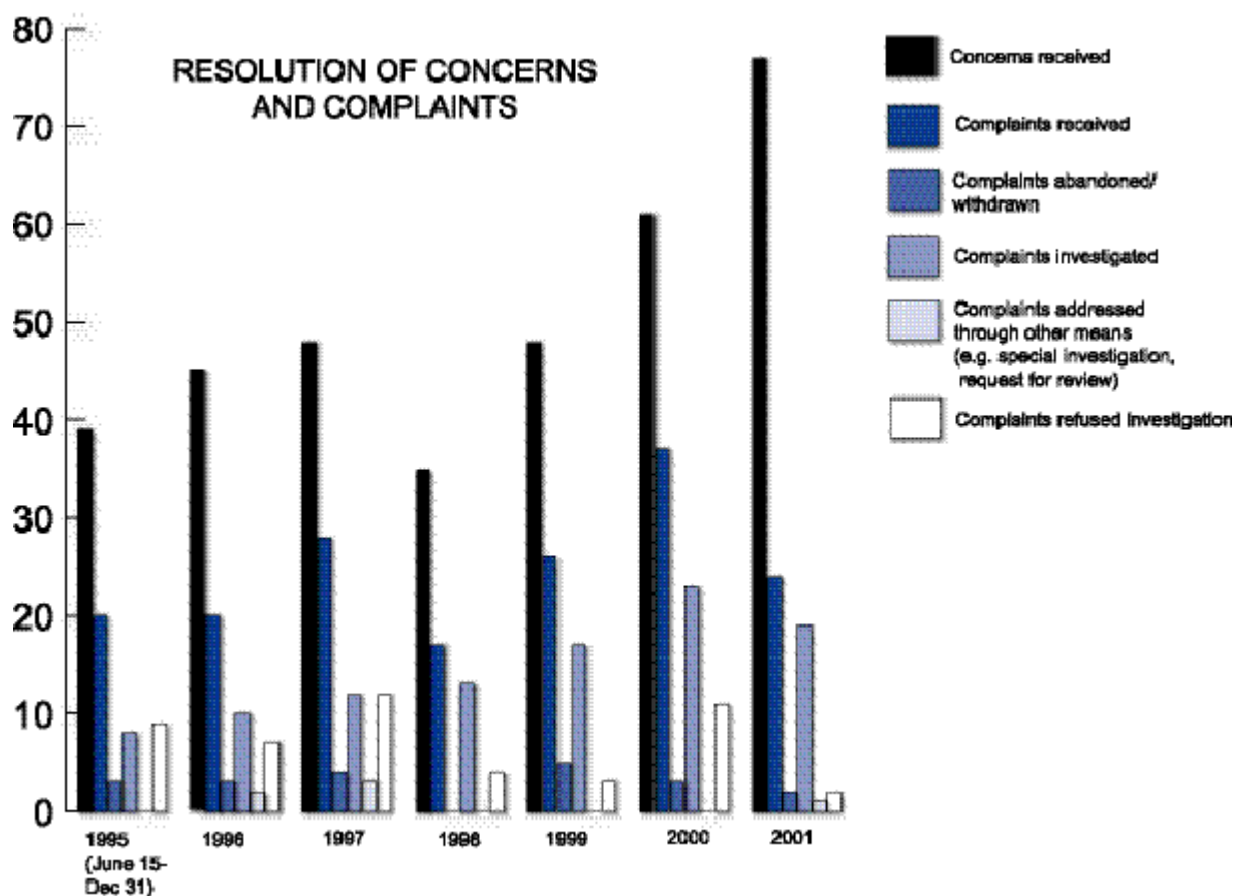
# TABLE 3 continued

FILE, LOCATION AND DATE RECEIVED	COMPLAINT	STATUS AT DEC. 31, 2001
010317 - Knight Inlet Port McNeill Forest District May 9, 2001	The Ministry of Forests asked a licensee to remove useful information about environmentally sensitive areas from a forest development plan, which impaired the public review and comment process.	Open - under investigation
010320 - Shawnigan Lake Community Watershed South Island Forest District May 29, 2001	The Ministries of Forests and Water, Land and Air Protection failed to ensure that water quality and biodiversity were protected when approving forest practices in a community watershed.	Open - under investigation
010327 - McBride Public Review Robson Valley Forest District July 3, 2001	The Ministry of Forests unreasonably limited public review to 10 days for an expedited major salvage proposal.	Open - under investigation
010318 - Elk Mountain Chilliwack Forest District July 6, 2001	The Ministry of Forests inappropriately authorized a licensee to harvest by helicopter on unstable ground.	Not investigated
010323 - Blaeberry Columbia Forest District July 12, 2001	A licensee did not comply with Code requirements for public review and comment on a forest development plan.	Closed - converted to appeal
010329 - Boundary Timber Boundary Forest District July 18, 2001	A licensee refused to send a printed copy of a forest development plan and maps to a member of the public when requested, impairing the public review and comment process.	Closed - report released
010354 - Holmes Creek Robson Valley Forest District July 19, 2001	The Ministry of Forests approved inappropriately large cutblocks, with a high component of non-susceptible timber, under the guise of controlling the spread of mountain pine beetle.	Open - under investigation
010337 - Boulder Creek Dawson Creek Forest District Aug. 16, 2001	The Ministry of Forest approved, and a licensee carried out, forest practices in a sensitive drainage that created flash flooding and major debris movement into the Pine River.	Open - under investigation
010346 - Puggins Mountain Road Dawson Creek Forest District Oct. 11, 2001	The Ministry of Forests is requiring deactivation of roads that will eliminate long-standing public access.	Open - under investigation
010348 - Noke Creek Cranbrook Forest District Oct. 25, 2001	A rancher and the Ministry of Forests allowed cattle to pollute the complainant's water supply.	Open - under investigation



# TABLE 3 continued

FILE, LOCATION AND DATE RECEIVED	COMPLAINT	STATUS AT DEC. 31, 2001
010352 - Old Fort Morice Forest District Oct. 31, 2001	The Ministry of Forests allowed a licensee to salvage large blocks that include beetle-damaged trees and undamaged trees, impacting the complainant's wilderness-based business.	Open - under investigation
010353 - Freeman Brook Salmon Arm Forest District Nov. 15, 2001	A rancher and the Ministry of Forests allowed cattle to contaminate a domestic water supply in a community watershed.	Open - under investigation
010358 - Reiser Creek Bulkley/Cassiar Forest District Dec. 17, 2001	The Ministry of Forests did not adequately enforce the Code when a licensee built a road in a special management area that caused a slump when bridge supports were put in.	Open - under investigation
010357 - Bonaparte Watershed 100 Mile House Forest District Dec. 28, 2001	The Ministry of Forests approved forest practices by several licensees that are excessively disturbing the slopes along Bonaparte Lake.	Open - under investigation



# Special Investigations and Reports

In addition to audits and investigations of complaints, the Board undertakes special investigations and produces special reports to the public and Code ministers about matters relating to the Board's duties and important Code-related forestry issues. This role differs from the audits and investigations role, in that the issues investigated aren't random or generated by public complaints. This is where the Board members choose the scope and subject matter they investigate and report on. Special projects are often sparked by observations in the course of regular audits and investigations.

## Seismic line crossings of streams

The special investigation into seismic line crossings of streams began in 2000 and concluded in 2001. At issue were stream crossings along a newly completed seismic line in the Little Hay River area near Fort Nelson, BC. The Board decided to conduct a special investigation of the matter, looking into whether a seismic exploration company complied with the Code when it built stream crossings for seismic lines, and whether government's enforcement of the Code for this activity was appropriate. Participants in the investigation included the Ministry of Forests, Ministry of Water, Land and Air Protection, the Oil and Gas Commission and the seismic company that constructed the crossings.

The Board found that the licensee did not correctly classify all streams as required by the Code and did not follow the approved logging plan on 3 of 21 stream crossings. In the winter, temporary stream crossings use snow as fill and must be located, built and removed in a way that protects the stream channel and stream bank. There was not enough evidence for the Board to conclude whether the removal of the snowfill on two stream crossings adequately prevented damage to fish habitat and water quality.

The Board also found differing opinions between—and even within—the different agencies about how much debris can be placed in snowfill crossings. There are no standards in the Code and no advice in guidebooks regarding what, if any, volume of slash and debris could be deposited in a stream without damaging fish habitat or water quality.

This regulatory vacuum left the licensee without adequate guidance on acceptable snowfill crossing practices. It also creates a problem for the various agency staff in understanding precisely what is enforceable.

Accordingly, the Board made several recommendations to address the lack of guidance for snowfill crossings and the gaps in communication and enforcement responsibility between government agencies.

## Range special project

The Board has conducted audits, complaint investigations and special projects on forest practices over the past five years, but it has not yet examined range

practices in detail. In order to address this gap, the Board undertook both an audit and a special project on range practices during 2001.

The primary focus of the special project was a field-based assessment of the condition of riparian areas around streams, lakes and wetlands on Crown rangelands. The project also examined whether there are any missing components of the Code that may improve management of these areas. The project is a one-time assessment, looking at the current condition of riparian areas on some 400 sites in the Kamloops, Penticton, Cranbrook and Horsefly Forest Districts. The health of riparian areas was evaluated along 100-metre sections of streams, lakes and wetlands within pastures that were used by cattle for grazing in the weeks prior to the assessments. The results of the work are currently being analyzed and the Board expects to release the final report in Spring 2002.

The range project team coordinated its work with the Board's audit section, which undertook compliance and enforcement audits of range practices in the Horsefly Forest District. Riparian results from the Horsefly work will feed into the special report described above. In addition, the project team looked at ungulate winter ranges and seedling plantations in the Horsefly district to assess how well they were maintained by range practices. This assessment of the effectiveness of range practices in maintaining important resource values will feed into the audit results and will be considered by the Board as part of the audit reporting process. This approach will allow the Board to consider compliance, enforcement and effectiveness on the ground in a holistic manner.

## Bridge maintenance

For the first time, the Board issued a special report to expand on a concern noted in many of the compliance audits carried out over the past several years. The Board saw a trend of bridge maintenance problems—17 of 19 recent audits identified bridge maintenance concerns of varying significance. Half of the 277 bridges inspected by Board auditors showed some level of non-compliance with the Code. Because inadequate bridge maintenance can present a risk to the environment and to public safety, the Board Chair decided to issue the special report to inform all licensees of the issue and to encourage them to ensure bridges under their responsibility are inspected and repaired or removed, as required. Based on feedback, the report was well received and the Board will likely issue more of these types of reports in the future.

## The future

Over the next three years, the Board intends to carry out more special projects examining forest planning and practice issues that are relevant and important to the public. As we move to a results-based code, it will become ever more important that the Board can evaluate how well the intended results of forest practices are being achieved on the ground. In anticipation of these changes, the Board evaluated the effectiveness of range practices in achieving stated objectives, and will continue to do so in future special projects and investigations. In addition, we will continue to issue public reports about trends in forest practices that are observed through audits, investigations and other work of the Board.

# Managing for Wildlife Habitat

In 2001, the Board investigated a number of complaints asserting that forest harvesting and road development did not adequately address risks to wildlife. In September 2001, the Board reported on a special investigation based on its own concerns about how the approval of a road in a forest development plan (FDP) amendment could affect caribou habitat. This investigation illustrates one of the issues most frequently addressed in the Board's work in 2001, that of managing for values other than road and timber harvesting.

On November 20, 1998, a minor amendment to Carrier Lumber Ltd.'s (the licensee) FDP in the Prince George Forest District was approved. The amendment changed the location of a road from north of an approved cutblock to south of the cutblock. The original northern road location was in an area with unstable terrain. The proposed southern route was located in more stable terrain, but went through about two kilometres of medium- and high-value caribou habitat.

Before approving the amendment, the district manager met with the licensee, the Ministry of Water, Land and Air Protection (MWLAP) and Ministry of Forests (MOF) staff to discuss the proposed amendment. Following that meeting, and despite concerns that the road would provide easier access for predatory wolves and backcountry snowmobilers, the amendment was approved.



The Board thought too little weight was given to caribou habitat as a forest resource in this situation. The Board recommended that the Prince George LRMP resource management zones and objectives be formally established under the Code, which would require a licensee to follow the advice in the LRMP for managing caribou. This will provide greater certainty with respect to other forest resources in addition to caribou management requirements.

The Board has said consistently that decisions faced by district managers need to be guided by strategic planning decisions made at the level of elected officials. If strategic guidance was in place, a different decision might have been made. If government carries out the Board's recommendations in this case, the Code will be stronger because the landscape unit plans and wildlife habitat areas will provide more concrete guidance for operational planning.

The Board continues to push for landscape unit planning so that species like caribou, which are especially sensitive to forest practices, can be managed and conserved at a broader scale than cutblock by cutblock.

This road was central to a special investigation the Board undertook in 2001.

# Reviews and Appeals

Just as companies can appeal fines and government orders, the Forest Practices Board can appeal both government decisions and the failure to make decisions. The Board also has a unique right to request reviews of forest development plan approvals under the Code where the public interest would be served by doing so.

The Board's role in reviews and appeals is different from the impartial role it plays in audits and complaint investigations. Here, the Board acts as an advocate for the public interest, asking the review panels and the independent Forest Appeals Commission to make decisions that will foster a fair, effective and efficient Code in support of sound forest practices.

The Board monitors all decisions made by review panels around the province. In addition, it receives requests for reviews and appeals from members of the public. In 2001, the Board conducted reviews and appeals that touched on a number of issues, including public comment opportunities, penalties, the need for fair hearings, reliance on government officials, liability of private landowners and conservation of threatened species.

## Opportunity to review forest development plans

The Board was asked to review a decision responding to a community water user group's request that the Columbia Forest District extend the public review and comment period on a proposed FDP. The group wanted more time to analyze recently-released technical documents. The district manager said all the blocks of interest to the complainant group had been approved. This was not correct. Two of the blocks had been proposed, not approved. Thus, the district manager had not given adequate consideration to the group's request for more time to analyze a large amount of technical materials that the licensee had given to them only two weeks before the end of the review and comment period.

As a result of his error regarding cutblock status, and his error in believing he was legally constrained from granting an extension, the district manager may have failed to exercise his statutory discretion properly, contrary to sections 27(1), (5) and (8) of the *Operational Planning Regulation*.

All parties to the review agreed to an order rescinding the approval of the cutblocks and directing the district manager to ensure that the water users got advance notice if the cutblocks were resubmitted, and an appropriate amount of time to comment on the new submission.

## Setting penalties

The Board continued its interest in whether penalties being imposed under the Code are being applied according to appropriate principles. There were new developments in the cases discussed in last year's annual report. A new review panel set the penalty in the Takla Lake case discussed last year at \$35,919, approximately four times the original review panel's penalty. The



company has appealed that penalty to the Forest Appeals Commission. The Board is a party to the appeal because the case stands as an important precedent for the principle that Code penalties need to reflect the amount of environmental damage caused.

Two new cases on penalties were pursued in 2001. In a case involving a landslide in the Arrow Forest District, a licensee failed to clean logging debris out of a creek. This caused a three-kilometre slide that washed out a road, destroyed timber in the slide path and dumped debris into a fish-bearing stream. The Board appealed the district manager's \$19,000 penalty because it did not appear to reflect damage to timber that was scoured by the slide, the full cost of repairs to the road and culvert, and damage to fish habitat.

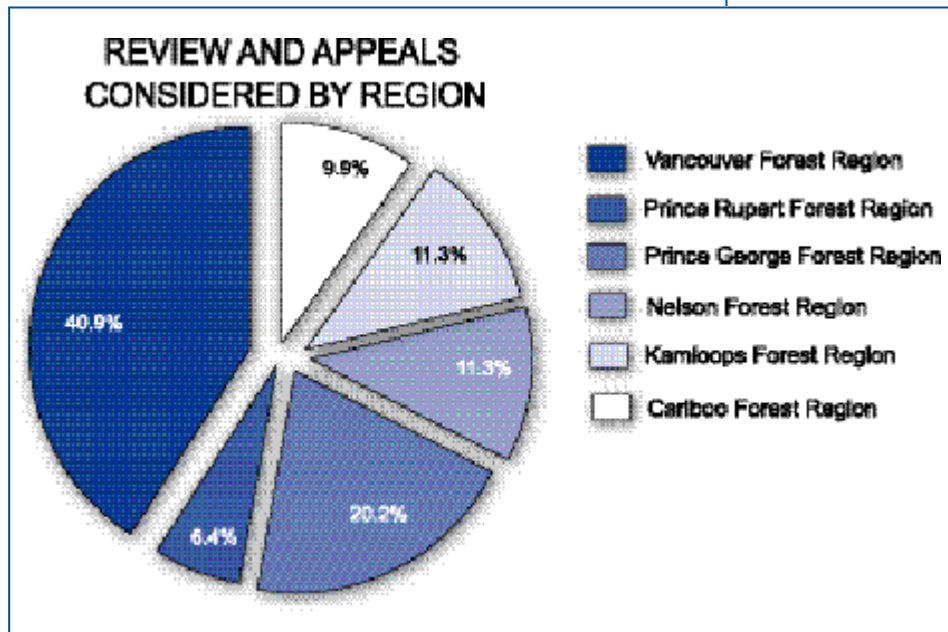
The review panel directed the district manager to consider the volume and value of timber impacted, the extent of riparian values damaged along the slide path and the impacts of the slide deposition into the creek—as well as all public expenditures necessitated by the incident. Upon reconsideration, the district manager doubled the penalty to \$38,776.

In another case, a licensee failed to install the required water bars and cross-ditches when deactivating a logging road near Forget-Me-Not Creek in the Robson Valley Forest District. This triggered a landslide, which washed out a road. The licensee repaired the forest road at a cost of \$70,000. However, it received a \$44,000 stumpage reduction because it had made the repairs.

The district manager imposed a fine that, among other things, recaptured the stumpage reduction. The district manager noted that it was not appropriate for the Crown to pay for the repairs. However, a review panel then reduced the fine to \$5,000, noting that government had not lost any money from the stumpage reduction because other licensees made up the shortfall.

The Board appealed, challenging the penalty reduction in light of the fact that the licensee benefited from a stumpage reduction of \$44,000, which paid for most of its repair costs. The Board felt the effect of the review panel's fine reduction was that other licensees or government paid for most of the repairs. Neither government nor other licensees should pay to fix a licensee's mistake.

By the end of the year, no decision had been made on this appeal.



## Fairness and responsibility for contractors

Under a common industry contract, when a contractor contravenes the Code the contract can be cancelled. The contractor can also be required to compensate the licensee for the amount of the penalty.

A licensee was found in contravention of the Code for work done by a contractor near Dawson Creek. During hearings before the district manager and review panel, the licensee claimed that the contractor was responsible for the contraventions. However, the contractor was not given the opportunity to participate at either the determination hearing or the review. The contractor appears to have been denied the opportunity to know the allegations being made against it, what was going on in the proceedings, and which documents were being submitted. Initially, it was even refused a copy of the determination.

The contractor cited this unfairness when it asked the Board to appeal. It argued that by deciding the contractor had breached the Code, the review panel made the contractor liable for the amount of the fine, made the contractor subject to termination of its contract, and adversely affected its reputation. Yet it did not get to participate in the hearing.

The Board filed an appeal, hoping to ensure a fair hearing. The appeal had not been conducted by the end of 2001.

In another case related to contractors, landowners located next to a provincial forest were held liable for timber trespass committed by their contractor. The Board became a party to their appeal, to address the extent to which a non-licensee can be held responsible for contractor actions.

Under the Code, licensees are absolutely liable for their contractors' activities. The licensee cannot use the defence of due diligence (i.e., that they used reasonable care and should not be held responsible). In this case the Board argued that, unlike licensees, non-licensees are not absolutely liable for contractors' actions. Under section 96 of the Code, non-licensees are liable for actions taken at their direction or on their behalf, but they are not absolutely liable.

The Board argued that the broad liability of licensees under the Code arises from the unique situation of licensees, in that they have been given the privilege of logging on Crown land. They profit from operating on public land, and have entered into licences, implying that they have voluntarily agreed to a certain level of regulation. They hold longstanding commercial agreements with the Crown, operating a business on Crown land. They also hire and control many people who work on Crown land, so they are best situated to control the people who work on the land in order to prevent contraventions.

In this case the Board successfully argued that non-licensees are in a fundamentally different position, and that the drafters of the Code did not intend to make them absolutely liable. They are liable for contractor actions only if the contractor acted at their direction or on their behalf.

Even applying this principle to this case, the Commission still held the landowners liable. They have appealed the case to BC Supreme Court, where the Board is a party.

## Reliance on government officials

An individual in the Peace River Forest District was penalized for harvesting Crown timber without authorization, contrary to section 96 of the Code. He claimed that government officials told him the area he planned to harvest was not Crown land, but part of his own private property. He said he trespassed because he relied upon those officials.

In the course of deciding the case, the review panel ruled that it was not a defence to show that officials had caused the trespass by providing incorrect information. The panel stated that “officially induced error” is not a defence to Code trespass cases. The Board became a party, to argue that fairness required that “officially induced error” be available as a defence to administrative penalty trespass cases, where appropriate. However, a successful appeal would not prevent a civil suit by government to recover the value of trees that had been taken. No decision had been received by year’s end.

## Marbled murrelets

In 2001, the Board proceeded with two cases about whether FDPs adequately managed the threatened marbled murrelets.

In one case, the Board requested a review of the approval of road construction and harvesting of a block in the Slane River valley at the head of Jervis Inlet, on the southern BC coast. The Board argued that the district manager should not have approved that block in a 2001-2005 FDP because the block had the attributes of good nesting habitat for marbled murrelets. This case is featured in greater depth starting on page 30.

In a continuation of another case, the Board argued that a Queen Charlotte Islands FDP did not adequately conserve marbled murrelet habitat when it included logging in areas of high importance to marbled murrelets. Under previous plans, the areas had been designated as draft forest ecosystem networks, to be specially managed for the seabirds. However, the approved plan did not address murrelet needs. In addition, the Board challenged whether the plan was consistent with watershed assessment requirements.

The case was argued before the Forest Appeals Commission in the fall of 2001, and a decision is pending.

## Northwood resolved

In last year’s annual report, the Board discussed “Northwood Inc. v. the Forest Practices Board,” in which a licensee challenged the Board’s authority to criticize forest practices that comply with the Code. The BC Supreme Court upheld the Board’s jurisdiction in 1999 and that decision was under appeal at the end of 2000. In 2001, the Court of Appeal agreed with the BC Supreme Court and upheld the Board’s jurisdiction. The licensee sought leave to appeal to the Supreme Court of Canada, but leave was denied. The end result is confirmation of the Board’s right to make recommendations it considers appropriate as a result of what it sees in the course of compliance audits, and to provide the necessary factual context.

## Reviews and appeals on the Internet

The Board also updated the profile for reviews and appeals on its website in 2001. Board submissions, statements of points and final decisions of review panels and the Forest Appeals Commission going back to 1995 are now available on the Board website at [www.fpb.gov.bc.ca](http://www.fpb.gov.bc.ca). In addition, the Board produced a step-by-step guide on how members of the public can ask the Board to take review and appeal action.

## Future direction

The Board will continue to increase communication with, and participation by, the public. Efforts will be made to seek more feedback from participants in the review and appeal system. As the province moves to a results-based code, this information should be useful in creating a more effective and efficient code.

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# Table 4 - Reviews and Appeals

Files initiated by public request .....	11
New FDP reviews requested by the Board .....	2
Administrative review panel decisions considered ..	28
Administrative review panel decisions appealed .....	2
Licensee appeals considered .....	5
Appeals by licensee where the Board joined as a party .....	4
Forest Appeals Commission decisions received and considered .....	2

## North Jervis Review

Concern over the impacts of logging on wildlife and habitat touched all areas of the Board's work in 2001, as illustrated in the following case.

In August, the Board was asked by the Sunshine Coast Conservation Association to seek an administrative review of a district manager's August 1, 2001 approval of International Forests Products' 2001-2005 forest development plan (FDP). Interfor planned to harvest in North Jervis Inlet in the Sunshine Coast Forest District, where there are serious marbled murrelet habitat concerns.

The marbled murrelet was added to Canada's list of threatened species in 1990 following a decline associated with logging of old-growth forests affecting its habitat. Under the Code, the marbled murrelet is designated as identified wildlife requiring special management. Specifically, murrelets are believed to need large patches of old-growth forest—at least 200 hectares—to nest successfully.

Potentially suitable marbled murrelet nesting habitat was already in short supply throughout the Sunshine Coast Forest District, at seven percent, and what remained was rapidly being fragmented into areas too small for successful nesting.

The Board was concerned that one 18-hectare cutblock would compromise the integrity of a 320-hectare patch of potential marbled murrelet habitat. The Board submitted that the district manager's approval of that block was contrary to section 41(1)(b) of the Code, because he could not have been reasonably satisfied that the FDP would adequately manage and conserve marbled murrelet values.

The licensee and district manager maintained that, until formal wildlife habitat areas were designated, the licensee's FDP did not have to describe measures for managing marbled murrelet habitat.

On December 20, 2001, a review panel of three government officials supported the Board's appeal and overturned approval of block N1 in the FDP. The review panel concluded that a flaw in preparing the FDP prevented them from being satisfied that the marbled murrelet would be adequately managed and conserved in this cutblock, so part of the approval was overturned.

The panel interpreted the Code to mean FDPs must provide enough information to show that forest resources that are particularly sensitive to logging—such as marbled murrelet—can be adequately managed and conserved regardless of whether they are specifically referred to in regulations under the Code.

This case illustrated two important points: the Forest Practices Code continues to improve and serve BC better as specific practices are challenged and examined; and district managers need to be guided by strategic planning decisions at a broad, landscape level.

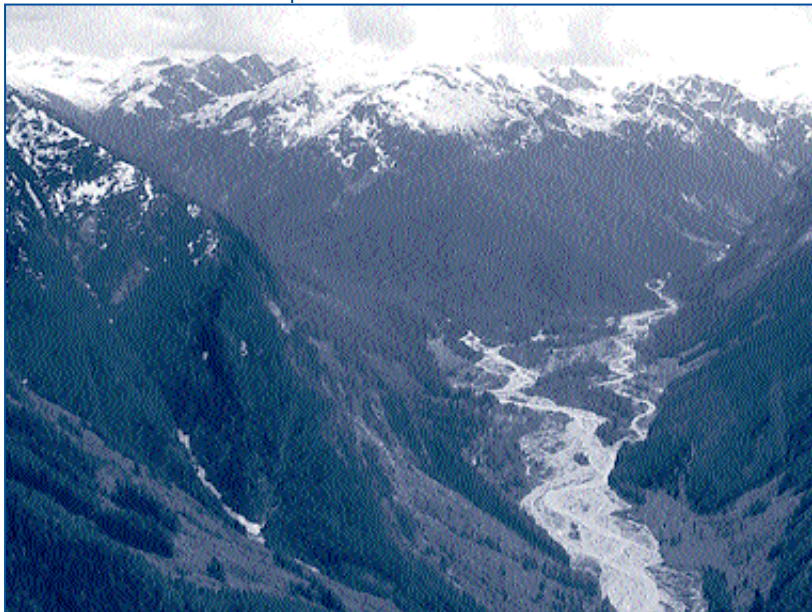
Strategic guidance in the form of a designated wildlife habitat area would have ensured habitat protection for the marbled murrelet.



# Public Contact

The Board published 37 reports in 2001, once again the highest number completed in a given year. These included 22 complaint investigations, 10 audits, 2 special investigation reports, 2 special reports and the 2000 annual report (see page 34).

Public contact continued to be an important focus for the Board. The Board participated in 28 conferences, trade shows and annual general meetings. Staff and Board members gave presentations at 14 different events involving a variety of groups, organizations and members of the public. These included presentations at conferences, speaking to students at BC universities, speaking at local Chambers of Commerce and other community-based events. Over the course of the year, eight meetings were held with government, industry, environmental and other groups interested or affected by the work of the Board. These meetings provide opportunities to discuss Board reports, as well as issues and challenges related to forest practices.



Board members travelled to the Skeena region in 2001 to exchange information with the public.

One of the Board's key goals as a public watchdog is to generate an exchange of information with the public. This involves informing the public about what the Board does and how to access its services and, just as importantly, seeking information from the people whose lives and work are directly affected by forestry issues. In keeping with this goal, each year Board members visit communities across the province to meet with local forest companies, government staff, First Nations, environmental groups and others interested in forest practices.

Excursions to view field operations help Board members and staff keep abreast of emerging issues and innovative practices. For example, this year the Board participated in a field trip to view methods of variable retention harvesting on Vancouver Island.

In 2001, Board members and staff visited Penticton, Port Alberni, Ucluelet, Tofino, Mackenzie, Smithers, Prince Rupert, Lillooet, Merritt, Nelson, Creston and Nanaimo. Among the top-of-mind issues discussed at these meetings were mountain pine beetle, land use planning, professional accountability, private certification, access management, Code provisions for non-timber forest resources, and the move towards a results-based code.

Both government and industry staff expressed concerns about varying interpretations of Code provisions for large cutblocks used to control beetles. Discussions of land use planning focused on the slow nature of the LRMP process, as well as fair representation among the different interest groups. Some people supported a move to a less prescriptive code but raised concerns about accountability. Would a results-based code place the burden of

accountability on the individual professional rather than the licensee? And how will private certification schemes affect the Board's role as public watchdog? Some wondered if private certification would render the Board's role redundant. Others felt that private certification is predominantly a marketing tool, while the Board reports on Code compliance.

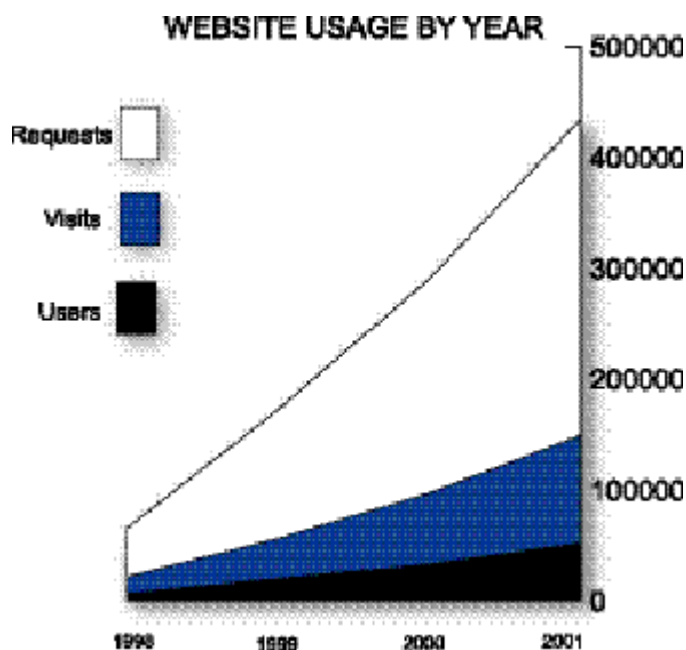
All in all, the community visits generated a great deal of valuable discussion and stimulating brainstorming among a diverse set of interest groups.

## Future direction

In its first six years, the Board has focused its public information activities here in BC. This was appropriate, as the Board serves British Columbians by monitoring forest practices on the land that belongs to us all. However, in recent years there has been growing interest in the work of the Board from national and international quarters. Most consumers of BC forest products are outside of the province, but they have a vested interest in understanding the state of forest practices here. The growing certification movement has contributed to this increasing interest from Europe, the United States and elsewhere.

The Board has decided that it must expand its communication focus from solely provincial to more international. Over the next year, the Board will work on expanding its contacts to provide information to a much broader audience, in addition to continuing to report locally on the state of forest practices.

Our movement to more electronic communication, identified in last year's annual report, has been very successful, with many people signing up for e-mail receipt of reports and news releases. Visits to the Board's website increased significantly last year, to nearly 1.5 million from just over 350,000 in 2000. Over the next year, in line with budget reductions, the Board plans to eliminate the printing of most reports, relying instead on electronic distribution. Printed copies will be provided to those people without access to the Internet or e-mail, upon request.



Web requests are hits accessing content.

A visit is a series of consecutive requests from a user.

A user is anyone who visits the site at least once.

# Publications Released in 2001

## SPECIAL REPORTS

Bridge Maintenance not up to Code – Forest Practices Board Non-Compliances in Bridge Inspections and Maintenance (FPB/SR/05)

Domestic Water-User Input in Forest Development Planning in the Nelson Forest Region (FPB/SR/06)

## SPECIAL INVESTIGATION REPORTS

Road Relocation through High-Value Caribou Habitat near Tsus Creek, East of Prince George (FPB/SIR/07)

Seismic Line Crossing of Streams, East of Fort Nelson, BC (FPB/SIR/08)

## AUDIT REPORTS ON COMPLIANCE

Kamloops Forest District Small Business Forest Enterprise Program - an audit of Timber Harvesting and Road Construction, Maintenance and Deactivation (FPB/ARC/36)

MacMillan Bloedel Limited, West Island Timberlands (subsequently acquired by Weyerhaeuser Company Limited), TFL 44 - an Audit of Forest Planning and Practices (FPB/ARC/37)

West Fraser Mills Limited, FL A16827 - an Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation (FPB/ARC/38)

Weldwood of Canada Limited, FL A20017 - an Audit of Timber Harvesting and Road Construction, Maintenance and Deactivation (FPB/ARC/39)

Robson Valley Forest District Small Business Forest Enterprise Program - an Audit of Forest Planning and Practices (FPB/ARC/40)

Ainsworth Lumber Company Limited - an Audit of Forest Planning and Practices (FPB/ARC/41)

Cowichan Lake Community Forest Co-operative, FL A52027 - an Audit of Forest Planning and Practices (FPB/ARC/42)

Qwa'eet Forest Products Ltd., Non-Replaceable FL A55525 - an Audit of Forest Planning and Practices (FPB/ARC/43)

RFP Timber Ltd., FL A20016 - an Audit of Forest Planning and Practices (FPB/ARC/44)

Tembec Industries Inc., (licence formerly held by Crestbrook Forest Industries Ltd.), FL A20212 - an Audit of Forest Planning and Practices (FPB/ARC/45)

## COMPLAINT INVESTIGATION REPORTS

Skaikos Point Road Construction and Logging of Old-growth Trees near a Proposed Hiking Trail near Sechelt Inlet (FPB/IRC/37)

Range Use near Midway, BC (FPB/IRC/38)

Water Quality in the East Blackpool Watersheds (FPB/IRC/39)

Effect of Powerline Clearing on Trappers near Upper Lay Creek (FPB/IRC/40)

Impact of a Logging Road and Helicopter Landing on Wildlife Habitat near Jones Lake (FPB/IRC/41)

Adequacy of a Forest Development Plan for a Woodlot Licence (FPB/IRC/42)

Potential Effects of Logging on Drinking Water Quality at Scum Lake (FPB/IRC/43)

Enforcing the Code on Range Land near Oliver, BC (FPB/IRC/44)

Number of Cutblocks in a Forest Development Plan on the North Coast of BC (FPB/IRC/45)

Slocan Valley Watershed Assessments (FPB/IRC/46)

Timber Salvage near Ptarmigan Creek, East of Prince George (FPB/IRC/47)

A Large Aggregate Cutblock in the Heller/Tranquille Creek Watersheds Northwest of Kamloops (FPB/IRC/48)

Public Review of a Forest Development Plan in the Salmon Arm Forest District (FPB/IRC/49)

Forest Practices and the Hummingbird Creek Debris Flow (FPB/IRC/50)

Enforcement of Trespass on Salmon Arm Timber Sales (FPB/IRC/51)

Barclay Creek Pipeline (FPB/IRC/52)

Public Request for Copy of Forestry Plan (FPB/IRC/53)

Did Construction of Road 200 in the Hasty Creek Watershed Meet Forest Practices Code Requirements? (FPB/IRC/54)

Was the Harvesting of 81-year-old Trees near Hall Creek Appropriate? (FPB/IRC/55)

Adequacy of a Plan to Harvest Damaged Timber (FPB/IRC/56)

Was Marbled Murrelet Habitat Adequately Protected in the Brand Valley? (FPB/IRC/57)

Approval of Development over the Goat River Trail and near the Goat River (FPB/IRC/58)

# Appendix 1 - Recommendations and Responses

Recommendations made by the Board and responses received by the Board between Jan. 1 and Dec. 31, 2001

## COMPLIANCE AUDITS

**MacMillan Bloedel Ltd., West Island Timberlands (subsequently acquired by Weyerhaeuser Company Limited) TFL 44** - March 2001

### RECOMMENDATION

Weyerhaeuser should assure the Board that its windthrow management, road construction and bridge maintenance practices comply with relevant provisions of the Code, and confirm that the remedial measures reported to the Board in these areas of practice have been implemented. Further, the South Island Forest District should confirm to the Board that Weyerhaeuser has implemented the requested remedial measures.

### RESPONSE

Responses from Weyerhaeuser and the South Island Forest District are not yet complete.

## ENFORCEMENT AUDITS

**Audit of the Government of British Columbia's Enforcement of the Forest Practices Code in the Vernon Forest District** - November 2001

### RECOMMENDATION

The Ministry of Forests should continue to develop, refine and implement the remaining components of the provincial compliance and enforcement framework as a means of achieving key compliance and enforcement (C&E) objectives. In particular, MOF should continue to develop:

- ♦ the reporting component of the compliance procedures, to enable district staff to analyze trends in licensee practices to promote continuous improvement and enable district management to achieve more effective monitoring and control of C&E activities; and
- ♦ appropriate C&E models for the range, silviculture and woodlot programs, which would enable flexible approaches to complement the unique nature of each program while providing for sufficient independence in compliance and enforcement activities.

### RESPONSE

No response required until January 31, 2003.

### RECOMMENDATION

To address the inherent conflict in the district SBFEP C&E program, MOF should:

- ♦ at headquarters, establish an appropriate and consistent means of managing the conflict, as previously recommended in the *Audit of the Government of British Columbia's Framework for Enforcement of the Forest Practices Code* (IPA), and ensure these means are adopted in districts.; and



- ♦ in the Vernon district, establish improved internal controls to increase the level of independence of compliance inspections for SBFEP activities.

#### RESPONSE

No response required until January 31, 2003.

#### RECOMMENDATION

The Vernon district should implement improvements in C&E inspections through:

- ♦ improved planning of inspections to ensure they focus on key site risk features;
- ♦ provision of focused compliance inspection training for staff to improve the quality of inspections; and improved monitoring and assessment of the performance of C&E functions to ensure C&E is conducted effectively.

#### RESPONSE

No response required until January 31, 2003.

#### RECOMMENDATION

In keeping with IPA recommendations that ministries work cooperatively and government ensure that non-timber resources are addressed, the district MOF and MWLAP staff should develop a joint strategy to ensure that C&E activities fully consider and address water, fish and wildlife resources.

#### RESPONSE

No response required until January 31, 2003.

### COMPLAINT INVESTIGATIONS

#### **Effect of Powerline Clearing on Trappers near Upper Lay Creek – February 2001**

#### RECOMMENDATION

The Ministry of Forests (MOF) should ensure that the elimination of logging plans for a licence-to-cut will be accompanied by assignment of clear accountability and adequate resources for establishing and enforcing measures to protect the environment.

#### RESPONSE

MOF responded that there is still a requirement for logging plans for such licences. If they are eliminated, harvesting methods could be controlled through contractual obligations. In regard to accountability and resources, government relies on informal agreements with other resource agencies and the Oil and Gas Commission. Enforcement priority is based on risk management.

#### RECOMMENDATION

MOF should ensure that large-scale projects subject to the Code, but not requiring forest development plans (FDPs), undergo a public review and comment process similar to that for FDPs.

#### RESPONSE

MOF responded that the Code provides no authority for district managers to require public review and comment for activities that are not subject to operational plans. Large projects such as the Kemess powerline go through public review under the Environmental Assessment Act. The impacts of smaller projects on other licensed users of land can be constrained under the Land Act. For oil and gas projects and pipelines,

there are public communication guidelines put out by the Oil and Gas Commission.

**Impact of a Logging Road and Helicopter Landing on Wildlife Habitat near Jones Lake – May 2001**

RECOMMENDATION

Government should take steps to foster and encourage an organizational environment that recognizes and reinforces the benefits of cooperation and respect amongst the Code ministries. Government should develop measures to monitor and assess achievement of a positive working environment.

RESPONSE

No response was received. No deadline was given to respond to this recommendation.

RECOMMENDATION

MOF and the Ministry of Water, Land and Air Protection (MWLAP) should provide interim direction to staff on the designation of wildlife habitat features until formal policies are developed.

RESPONSE

No response was received. No deadline was given to respond to this recommendation.

RECOMMENDATION

MOF and the MWLAP should re-evaluate the potential impact of the road on grizzly bear habitat.

RESPONSE

No response was received. No deadline was given to respond to this recommendation.

**Potential Effects of Logging on Drinking Water Quality at Scum Lake – May 2001**

RECOMMENDATION

MOF should ensure there are adequate measures in place to prevent unreasonable risks to residential drinking water due to cattle having direct access to water sources that may flow into Scum Lake or Haines Creek.

RESPONSE

The Chilcotin Forest District reviewed conditions in the range use plan and carried out water quality sampling. The district explained to the Board how the review showed that the authorized livestock grazing has not resulted in unreasonable risks to surface-sourced residential drinking water. In addition, the district committed to continue to monitor compliance with the Act and the range use plan in the future.

**Number of Cutblocks in a Forest Development Plan on the North Coast of BC – June 2001**

RECOMMENDATION

MOF should initiate changes to the *Operational Planning Regulation* to require licensees to consider all comments received in the review and comment period.

RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy

recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

#### RECOMMENDATION

MOF should initiate changes to the *Operational Planning Regulation* to limit the number of cutblocks that can be protected to be approximately five years' worth of volume unless an approved landscape unit plan allows protection beyond five years.

#### RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

#### **Did construction of Road 200 in the Hasty Creek Watershed meet Forest Practices Code Requirements? – October 2001**

#### RECOMMENDATION

Licensees, appropriate to the level of public concern about forest resources, should include information in their FDPs beyond the minimum Code requirement.

#### RESPONSE

No response received or expected, as this was a general suggestion for all licensees.

#### RECOMMENDATION

Riparian assessment reports should contain maps of riparian features consistent with the classification of the feature.

#### RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

#### RECOMMENDATION

Code ministries should review the appropriateness of the *Riparian Management Area Guidebook* procedures with regard to classification of wetlands with substantially treed margins.



The Goat River near McBride was the subject of an investigation that drew the public's attention in 2001.

## RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

### **Was Marbled Murrelet Habitat Adequately Protected in the Brand Valley? – November 2001**

## RECOMMENDATION

Government should complete landscape unit plans as soon as possible. Landscape unit plans should provide clear and measurable objectives for the full range of forest resources and provide meaningful guidance to operational plans.

## RESPONSE

No response required until May 2002.

## RECOMMENDATION

Government should accelerate progress on the establishment of wildlife habitat areas, particularly for red-listed species affected by changes to forest habitat.

## RESPONSE

No response required until May 2002.

### **Approval of Development over the Goat River Trail and near the Goat River – December 2001**

## RECOMMENDATION

The MOF district manager should provide a rationale for his selection of a final road location to the Board and the public. The rationale should revisit the requirements to adequately manage and conserve forest resources, and to locate roads outside of riparian management areas unless exceptions in the *Forest Road Regulation* apply.

## RESPONSE

No response received or required until approval of a final road layout and design.

## RECOMMENDATION

Approving a road in a riparian management area is an exception to normal practice and must meet conditions set out in the regulations. District managers should therefore document reasons for approving a road in a riparian management area.

## RESPONSE

No response received or expected, as this was a general suggestion for all district managers.

## **SPECIAL INVESTIGATIONS**

### **Road Relocation through High-Value Caribou Habitat near Tsus Creek, East of Prince George - September 2001**

## RECOMMENDATION

The Prince George land and resource management plan resource management zones

and objectives should be formally established under the Code. This will provide greater certainty with respect to other forest resources, including caribou management requirements.

#### RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

#### RECOMMENDATION

The Forest Practices Code should be amended to give district managers the authority, in some circumstances, to revoke an approved cutblock, silviculture prescription, cutting permit and road permit.

#### RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

#### RECOMMENDATION

MOF and MWLAP should ensure that conflict resolution procedures contained in the 1995 *Provincial Memorandum of Understanding Regarding Joint Administration of the Forest Practices Code* apply to disagreements about decisions under the Code. The ministries should direct statutory decision-makers to use conflict resolution procedures when agencies disagree on significant issues, even in regard to decisions under the Code. The ministries should stress that statutory decision-makers must give notice to other ministries of adverse decisions prior to making the decision. This will allow for conflict resolution procedures that will help ensure that all necessary information is available to the statutory decision-makers.

#### RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board rejected that response because orderly, structured and balanced dispute resolution would be desirable with or without a results-based Code. A response from government is expected in early 2002.

#### **Seismic Line Crossing of Streams, East of Fort Nelson, BC – November 2001**

#### RECOMMENDATION

Prior to 2001-2002 winter seismic operations, MOF, MWLAP and the Oil and Gas Commission should meet, discuss and agree on the expectations for snowfill crossings. The agencies should also agree on an approach for enforcement of the Code, in the absence of a formal, structured enforcement system.

#### RESPONSE

The agencies met in December 2001 and worked out their expectations for snowfill crossings. A letter outlining the expectations was sent to all licensees.



## RECOMMENDATION

Government should complete the draft *Stream Crossing Guidebook for Fish Streams* to provide licensees and agency staff with advice on minimizing dirt and debris entering streams as a result of forest operations and stream crossings.

## RESPONSE

No response required until June 2002.

## RECOMMENDATION

The Oil and Gas Commission should complete its review of the compliance and enforcement framework. In implementing a new enforcement framework, special attention should be given to interministry responsibilities and communications. The Commission's review of its enforcement program should look at:

- ♦ the availability of staff to conduct inspections and respond to licensee inquiries;
- ♦ the protocols and procedures for working with MOF and MWLAP to link inspection, activity, compliance determinations and enforcement action where warranted;
- ♦ clear establishment of roles and responsibilities among agencies; and
- ♦ government should support its field staff by ensuring adequate training, funding and staff levels are provided for compliance and enforcement.

## RESPONSE

No response required until June 2002.

## SPECIAL REPORTS

### **Domestic Water-User Input in Forest Development Planning in the Nelson Forest Region – October 2001**

## RECOMMENDATION

The Board recommends that water users in domestic watersheds should consider applying for community watershed designation, thereby enhancing their opportunity for representation in watershed assessments and the maximum protection offered under the Code.

## RESPONSE

No response was required. This was more of a suggestion to domestic water-users, to be implemented if they individually think the recommendation is useful.

## RECOMMENDATION

The Board recommends changes in legislation to enable the designated environmental official to require watershed assessments in non-community watersheds without the agreement of the district manager, and to allow flexibility in frequency of watershed assessments when applied to non-community watersheds.

## RESPONSE

In November 2001, MOF asked that it not be required to reply until a restructured results-based Code has been completed. MOF promised to address the Board's policy recommendations during development of the new Code and to respond to the Board in writing once the new Code is complete. The Board accepted that interim response and extended the response deadline to Fall 2002.

## Responses to Board recommendations made in 2000

### COMPLIANCE AUDITS

#### **Canadian Forest Products Ltd. (Canfor) - Forest Licence A40873 – August 2000**

##### RECOMMENDATION

The Board requested that the Ministry of Forests, Fort St. James Forest District, confirm by Feb. 28, 2001, that Canfor's operational plans and beetle management strategies include information that addresses the Board's recommendation.

##### RESPONSE

The District responded in February 2001. The response described several methods introduced by Canfor to meet the above recommendations. These included a commitment to use the recently-developed Fort St. James Forest health priority rating system, development of a list of individual beetle epicentres requiring attention, the use of comprehensive beetle probes and completion of a forest health assessment for their area, among others.

##### RECOMMENDATION

The Board recommends that the Code ministers expedite the development and establishment of higher level plans, including landscape unit objectives, or have the district manager identify or make known certain forest resources in a way that assists Canfor in addressing non-timber forest resources in its forest development plans.

The Board requested that the Code ministers advise the Board by Nov. 30, 2000 of the actions taken to implement this recommendation.

##### RESPONSE

The ministry responded in April 2001. The Ministry referred to the approval and implementation of the Fort St. James LRMP, stating that it provided guidance to FDP preparers, and also provided guidance in the development of landscape unit plans and objectives in the district.

#### **Mid Coast Forest District (SBFEP) – November 2000**

The Board requests that the district advise the Board by Jan. 31, 2001 of the actions taken and the timing to address these recommendations.

##### RECOMMENDATIONS

1. With regard to timber harvesting, the Board recommends that the Mid Coast Forest District:

- ♦ carry out its proposed plan to conduct post-harvest dive assessments to determine whether the results of the audit were pervasive or isolated, and to address the cause(s) of the findings. The Board recommends that the district's follow-up on causes of the findings should emphasize the prevention of excessive amounts of wood debris being deposited on the marine foreshore;
- ♦ implement a program to monitor A-frame logging practices, which includes conducting post-harvest dive assessments to determine whether excessive amounts of wood debris have been deposited on the marine foreshore of A-frame logged cutblocks; and
- ♦ adequately monitor contractor operations and follow up on non-compliant activities.

##### RESPONSE

A response was received from the Mid Coast Forest District in January 2001. The Board is currently evaluating the response.

## RECOMMENDATION

With regard to road construction, the Board recommends that the Mid Coast Forest District:

- ♦ implement its plan of remedial actions to rehabilitate the stream identified in the finding of significant non-compliance;
- ♦ ensure that road layouts and designs reflect correct stream classifications and are communicated effectively to contractors of the SBFEP; and
- ♦ adequately monitor contractor operations and follow up on non-compliant activities.

## RESPONSE

A response was received from the Mid Coast Forest District in January 2001. The Board is currently evaluating the response.

### **Canadian Forest Products Ltd. (Canfor) - Tree Farm Licence 48 – November 2000**

## RECOMMENDATION

The Board recommends that Canfor ensure that all future bridge inspections comply with the requirements of section 16 of the *Forest Road Regulation*. Section 16 of the *Forest Road Regulation* contains requirements such as including the date of the next scheduled inspection, a recommendation for any repairs that may be required and a schedule for those repairs.

In accordance with section 186 of the Act, the Board requests that Canfor advise the Board by Jan. 31, 2001 of the actions taken and the timing involved to address this recommendation.

## RESPONSE

Canadian Forest Products Ltd. responded in January 2001. Canfor advised that a system has been implemented that would generate regular schedules of tasks to be completed, including all information required to complete bridge inspections. As evidence, Canfor included completed bridge inspection report that was incorporated into a road management monitoring/inspection form. This assured the Board that required inspections would be completed in the future.

### **Western Forest Products Ltd. - Tree Farm Licence 25 – October 2000**

## RECOMMENDATION

Western Forest Products Ltd. should conduct a field performance review of the newly introduced stream assessment process and standard operating procedures to ensure compliance with the Code.

Western Forest Products Ltd. should review its current methodology for assessments prepared by specialists and develop technical checklists for forestry professionals and technical staff receiving these assessments.

The Board requests that Western Forest Products Ltd. advise the Queen Charlotte Islands, North Coast and Mid-Coast forest district managers of the actions taken and the timing involved to address the above recommendation by Jan. 31, 2001, with a copy to the Board.

## RESPONSE

Western Forest Products responded in January 2001. The response included details of a revision to the stream and watercourse assessment form, and reported on the development of an instruction sheet for use with the guide. Also, the response showed that Western Forest Products had completed a review of its current methodology for assessments prepared by specialists and had developed technical checklists for staff in reviewing the assessment reports.

## RECOMMENDATION

The Board recommended that the Ministry of Forests implement a review process for slope failures and allow licensees to report slides without the implicit admittance to contravention of section 45 of the Act.

## RESPONSE

The Ministry of Forests responded in April 2001, to say policy work is under way to develop a Code slope failure reporting procedure. In addition, the ministry assured the Board it actively encourages licensees to report slope failures and other soil erosion events to districts. The Board will keep this segment of the file open pending implementation of the policy changes proposed in the ministry's response.

### **Sunshine Coast Forest District (SBFEP) – October 2000**

## RECOMMENDATION

The Board recommends that the Sunshine Coast Forest District review its procedures for fire tool inspections to ensure that timber sale licensees have the necessary tools on-site during the entire fire season.

## RESPONSE

The Sunshine Coast Forest District responded in January 2001. The district indicated that it was working with licensees to ensure they understand their legal obligation to have fire tools on-site throughout the fire season, undertake compliance monitoring to verify whether fire tools are on site, and then take appropriate compliance or enforcement actions if tools are not on site.

## RECOMMENDATION

The Board recommends that, to ensure full compliance with the appropriate legislation, the Ministry of Forests:

- ♦ review the conduct of fire preparedness planning within the SBFEP;
- ♦ determine the content requirements for plans;
- ♦ implement appropriate roles and procedures for completing plans; and
- ♦ amend legislation if necessary.

## RESPONSE

In February 2001, the ministry responded that they had completed a review of the effectiveness and efficiency of fire preparedness planning and, based on the review, the is developing amendments to the *Forest Fire Prevention and Suppression Regulation* that will streamline but retain the effectiveness of fire preparedness planning.

## RECOMMENDATION

The Board recommends that the government expedite the adoption of higher level plans, including landscape unit objectives, within the Sunshine Coast Forest District.

## RESPONSE

The Ministry of Forests responded in April 2001, detailing strategic resource management plans in effect for the SBFEP's operating areas, and confirming that MOF and MWLAP staff from the Sunshine Coast Forest District are working to establish landscape unit objectives.

## INVESTIGATIONS

### **Biodiversity Conservation on Mt. Elphinstone, Sunshine Coast - July 2000**

#### RECOMMENDATION

Sound forest management means that forest resources must be managed and conserved, regardless of whether the timber is allocated to small businesses or larger licensees. Section 40 of the Code should be revised to ensure this happens.

#### RESPONSE

The *Operational Planning Regulation* has been amended to bring the SBFEP in line with requirements for all forest licences. District managers must now be satisfied that the SBFEP plan or amendment “will adequately manage and conserve the forest resources of the area to which it applies” before giving it effect.

#### RECOMMENDATION

Given the apparent biological diversity in the Mount Elphinstone area, the Board recommends that the district manager re-examine whether a low biodiversity emphasis is appropriate and accelerate landscape unit planning.

#### RESPONSE

The Ministry of Forests responded in December 2000 and, at the Board’s request, provided additional information in January 2001. The Ministry advised that assignment of a low biodiversity emphasis was done in collaboration with the Ministry of Water, Land and Air Protection. The Ministry also stressed that landscape-level planning had begun in the area before there was provincial direction. The Board is satisfied with both responses.

#### RECOMMENDATION

The Board also recommends that the district manager continue to make silviculture prescriptions for the Mount Elphinstone area available for the public to review.

#### RESPONSE

The ministry promised continued consultation with the complainants and other interested groups on all operational plans in the area, including silviculture prescriptions. The Board is satisfied with this response.

### **Salvage of Hemlock Looper-Killed Timber in the Robson Valley - July 2000**

#### RECOMMENDATION

Forest managers should deal proactively with forest health issues such as hemlock looper outbreaks.

#### RESPONSE

The Ministry responded in December 2000 and, at the Board’s request, provided supplemental information in February 2001. The Ministry noted that while many forest health issues were amenable to proactive measures, hemlock loopers – with their unpredictable periodic outbreaks – were not. Nevertheless, the ministry was actively involved in researching such natural disturbances. The Board accepted that response as adequate.

#### RECOMMENDATION

If large cutblocks are essential for salvage purposes, operational plans should manage biological diversity at both the landscape and stand level. Government should assign a



high priority to the designation of landscape units with biological diversity objectives where widespread salvage is planned. Then, if stand-level management becomes impractical, biological diversity can be increased in other stands in a landscape unit to compensate.

#### RESPONSE

The Ministry of Forests responded that landscape unit planning was well under way, and that the unit affected by hemlock looper had been assigned a high biodiversity status to reflect the importance of maintaining that resource. The Board was satisfied with that response.

#### RECOMMENDATION

The district manager should implement a landscape-level plan for the area affected by the hemlock looper salvage that addresses biodiversity management and sets aside old growth to compensate for the larger cutblocks required for salvage.

#### RESPONSE

The district manager responded that the district had already implemented the recommendation by completing a total chance plan for the landscape unit to provide for biodiversity management. The Board accepted that response.

#### RECOMMENDATION

District managers should be prepared to explain to the public whenever a significant number of large blocks is required.

#### RESPONSE

Ministry of Forests responded that rationales for approval of significant numbers of cutblocks are now being included in operational plans. The Board was satisfied with that response and closed the file.

### SPECIAL INVESTIGATIONS

#### **Significant Breaches of the Forest Practices Code Along the Power Line Corridor for the Kemess South Mine - June 2000**

#### RECOMMENDATIONS

The Board recommends that:

- ♦ The licensee provide a road deactivation plan and stream remediation plan to government by June 30, 2000.
- ♦ The licensee complete summer work by Oct. 31, 2000 and winter works by May 31, 2001.
- ♦ The government address the widespread non-compliance and environmental harm reported along the entire power line using provisions in the Forest Practices Code.
- ♦ The three ministries should work co-operatively to ensure that the licensee provides the road and stream remediation plans and does the work as planned. In addition, government should make explicit plans to monitor the licensee's work and to ensure the work is done if the licensee fails to do so.
- ♦ The three ministries reconsider penalties for past non-compliance by the licensee.
- ♦ The government provide Forest Practices Code enforcement training to senior officials and field staff in all the regulatory ministries that results in appropriate co-ordinated Code enforcement.

## RESPONSE

Responses were received in July 2000, but were not considered adequate. Additional responses were received in February 2001. The Board continued to have concerns about enforcement standards on the Kemess powerline, so it reported to the ministers in April. Having raised the concerns to the ministerial level, the Board decided that it had done what it could and closed the file. See the Board's website for details.

### **Forest Practices and Planning in the Sustut Valley North of Smithers, BC - September 2000**

## RECOMMENDATION

One of the licensees should develop proactive and efficient long- and short-term strategies to successfully manage bark beetles in its operating areas.



An auditor checks for fire equipment during a 2001 audit.

## RESPONSE

The licensee responded in June 2001 with details of its annual detection, evaluation and treatment process for the short term. For the long term, the licensee indicated that the company incorporates two strategies by the Ministry of Forests, one for the district and one for the timber supply area. The Board required additional information and, after further discussions with staff of the Ministry of Forests district office, accepted the response as adequate.

## RECOMMENDATION

Both licensees should produce well-organized and legible forest development plans that meet the full content

requirements of the Code. The plans should be presented in a way that can be understood by the general informed public.

## RESPONSE

Both licensees responded in June 2001 but the Board was not satisfied with either response. Board staff carried out further investigation at the licensees' offices in September. As a result, the Board was convinced that recent forest development plans met the Code content requirements and were much better presented for public review.

## RECOMMENDATION

In approving forest development plans that propose departures from standard forest practices, the district manager should include reasons that are available to the public.

## RESPONSE

The district manager provided a detailed response in February 2001 to show that a forest development plan checklist was being used. The district issued an open statement of expectations to give licensees guidance for operational plans. In addition, the district was posting reasons for controversial decisions on its website for general public scrutiny. The Board was pleased with that response.

## RECOMMENDATION

One licensee should develop standard operating procedures to deal with extraordinary conditions, such as presence of very fine soils, that may arise in newly-accessed areas.

## RESPONSE

The licensee responded in June 2001 that it now operates under a comprehensive environmental management system, which identifies fine textured soil areas and appropriately deals with them. The Board was satisfied with that response.

## **Implementation of the Cariboo-Chilcotin Land-Use Plan in Forest Development Plans - December 2000**

### RECOMMENDATIONS

The ministers should identify the specific targets, objectives and strategies of the CCLUP that constitute the higher level plan.

The Board recommends that government develop a process to have the ministers endorse amendments to the higher level plan that have significant impacts, and to have public review and consultation prior to making such changes.

The process should also allow senior regional staff to make amendments to the higher level plan that do not have significant impacts.

Government should amend the higher level plan to clarify its timber access targets.

Government should ensure that its direction for implementation is consistent with the higher level plan regarding road access, visual quality, early seral targets and harvesting in high-elevation caribou habitats.

Statutory decision-makers should make the location of areas where backcountry and no-harvest values are to be achieved known so that they may be managed in future forest development plans.

Government should clarify two specific targets. The absence of strategies, described by the CCLUP as necessary for the ongoing achievement of the higher level plan's targets and objectives, is putting implementation of the higher level plan at risk and creating legal uncertainty. Strategies should be developed as described in the CCLUP and, wherever feasible, the strategies or key portions of those strategies adopted as part of the higher level plan. Specifically, the Board recommends that government should amend the higher level plan to adopt strategies to achieve plan objectives for biodiversity, backcountry recreation and access.

Government should develop an effective way to monitor, and let the public comment on, whether forest development plans are achieving the higher level plan's objectives.

## RESPONSE

Government responded in May 2001, but the Board was not satisfied with the initial general response. Board staff met with the deputy minister of the Ministry of Sustainable Resource Management in August 2001 to review the Board's concerns. Government promised to clarify targets and objectives in the higher level plan and to accelerate sub-regional planning. Some issues continued to concern the Board but, given a new government and significant government reorganization, the Board accepted the commitments as adequate.

## SPECIAL REPORTS

### **A Review of the Forest Development Planning Process in British Columbia - December 2000**

#### RECOMMENDATIONS

The Board recommends that:

- ♦ Government complete landscape unit plans as soon as possible. Landscape unit plans should be broadened in scope to provide clear and measurable objectives for the full range of forest resources and provide meaningful guidance to operational plans. Landscape unit plans must involve the broad public during their development. This will allow the public to have input into objectives for resource management and conservation at the landscape level.
- ♦ Once landscape unit plans are in place, as recommended, government should review the Code requirements for FDPs and make appropriate changes to achieve streamlining, such as reducing FDP content to eliminate duplication with landscape unit plans. Code requirements should also be reviewed and amended to enable greater flexibility and adaptability to respond to changing circumstances.
- ♦ Government promote a working environment that encourages and recognizes the benefits of co-operation and respect among those involved in the forest development planning process.

#### RESPONSE

Government provided a response to these recommendations in March 2001. However, the government has since changed and that response is no longer relevant. A new response to the recommendations from the Ministry of Sustainable Resource Management is expected in 2002.

### **Enhancing the Board's Ability to Appeal Forest Development Plan Approvals - January 2000**

#### RECOMMENDATIONS

In 2000, the Board recommended section 2 of the *Administrative Review and Appeal Regulation* should be amended to explicitly enable the Board to appeal the approval of forest development plans that have been prepared by Ministry of Forests officials for the Small Business Forest Enterprise Program. Specifically, the regulation should give the Board the ability to request administrative reviews of section 40 decisions to "give effect to" such FDPs.

Section 40 of the Forest Practices Code of British Columbia Act should be amended to be consistent with section 41. Specifically, the provisions of sub-section (b) of section 41(1), which require the district manager to be satisfied that the plan or amendment will "adequately manage and conserve the forest resources of the area to which it applies" should be added to section 40(1).

#### RESPONSE

In March 2001, government essentially implemented the changes recommended by the Board. Section 2 of the *Administrative Review and Appeal Regulation* has been amended to explicitly enable the Board to appeal the approval of forest development plans that have been prepared by MOF officials for the SBFEP. As well, the *Operational Planning Regulation* has been amended to bring the SBFEP in line with requirements for all forest licences. District managers must now be satisfied that the SBFEP plan or amendment "will adequately manage and conserve the forest resources of the area to which it applies" before giving it effect.

# 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.

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

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

**COMPLAINT** is a matter brought to the Forest Practices Board in writing. It includes information specified in the “Notice of Complaint.”

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

**CONCERN** is a matter brought to the Forest Practices 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 Forest Practices Code.

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



**REMEDIATION ORDERS** to an agreement holder are orders to do work to remedy a Forest Practices 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 Forest Practices 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.



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