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Via email: Great.Bear.Rainforest@gov.bc.ca

Great Bear Rainforest Land Use Order
Biodiversity, Mining and Tourism Areas
Conservancy Designations
Ministry of Forests, Lands
and Natural Resource Operations, West Coast Region
142 - 2080 Labieux Road,
Nanaimo, BC V9T 6J9

Re: Input on Proposed 2015 Great Bear Rainforest Order

Thank you for the opportunity to provide input on the draft *Great Bear Rainforest Order*.¹ The comments and suggestions that the Board provides below are informed by our audits of forest licensees, our complaint investigations, and our special investigations that included areas within the Great Bear Rainforest (GBR) area since the original Orders were established in 2007 and 2008. The most recent work that the Board completed specifically looked at the issue of spirit and intent of EBM in a portion of the South Central Coast Order (SCCO) area.²

The Board provides input from an overview level first, and then later on specific points in the Order.

Overview

The ultimate success of the ecosystem-based management (EBM) approach is predicated on a clear understanding of the intent. Each person involved in resource management—from the people designing new cutblocks, administering permits, to those carrying out forest activities—needs to know what the basic intent of EBM is and how it affects their work. The Board has found in a recent investigation that there is not necessarily a clear understanding of EBM among all stakeholders. The complexity of this draft Order and the lack of accompanying guidance, does not help. Key concerns at the overview level include:

1. **Implementation** – the more complex the Order, the greater the likelihood of alternative interpretations through on-the-ground activities. This speaks to the need for clear guidance and interpretations such as could be provided by a background and intent document. Although the preamble to the Order states that “implementation will be guided by a Background and Intent document”, this was not available on the public review website. The

¹ June 2015 version of the *Great Bear Rainforest Order* made available for public comment on the Strategic Land and Resource Planning website.

² Forest Practices Board, [Logging Old Forest on TFL 47, Sonora Island](#), 2015.

Board assumes that this is because it has not yet been prepared. As well, training, extension, and ongoing dialogue are required. *The effectiveness of these is fundamental to implementation within the spirit and intent of EBM.*

2. **Reporting and tracking** – it is not clear in the Order what the requirements are for reporting on implementation and amendments. Nor is it clear who will track this information and ensure that the targets in the Order continue to be met over time. Effective communication of information from practitioners to analysts and back to practitioners is fundamental to effective implementation, including ongoing variances from the main targets.
3. **Monitoring** – Monitoring is mentioned throughout the Order and is fundamental to ensuring that the complex targets and provisos in this Order end up achieving the desired outcome of ecological integrity while maintaining human well-being. Up to this point, the only monitoring we are aware of has been a scattering of samples (18-20) for a number of Forest and Range Evaluation Program (FREP) protocols and some benchmark sampling in conservancies by Coastal First Nations. We recognize that input on monitoring is not related to improving the Order itself, but it is related to the effective implementation of the Order. *It is imperative that a meaningful program of effectiveness monitoring will be implemented to explore specific EBM questions for this area.*
4. **Relationship with Forest Stewardship Plans** – Forest Stewardship Plans (FSPs) are meant to provide a venue for licensees to indicate, in an enforceable manner, through results or strategies, how they will meet government’s objectives. This Order lays out government’s objectives for the GBR. In the Board’s experience, most licensees have dealt with the precursor Orders (SCCO and NCCO) by copying or citing the relevant Orders in their FSPs.³ This works well only for the parts of the Orders that are written in a measurable or verifiable fashion, and that are clear enough and structured such that they can stand alone as a result or strategy with which to meet the objective. *What are government’s expectations for how licensees will deal with the Order’s objectives within individual FSPs?*

Overall, the Order lacks a unity of vision or expected outcome. We expect that governments are currently working on a background and intent document and a communication/training strategy that we hope will address this overall concern to promote a viable stewardship approach under EBM.

Specific Points

Part 1 Division 1: Definition of old forest

A small, but extremely important element of the draft Order is the definition of “old forest”. The Board had identified this as a problem with the South Central Coast Order (SCCO), and recommended that the meaning of “old forest” be clarified.⁴ There are now three definitions of old forest in the draft Order and together they cover more of the situations that are prevalent in

³ The Board is in the process of publishing a special investigation report (*Forest Stewardship Plans, Are They Meeting Expectations?*). This investigation looks in detail at a large sample of FSPs in BC. All of the FSPs sampled in the GBR area had copied or cited the Orders and did not have special results/strategies crafted for these objectives.

⁴ Forest Practices Board, [Logging Old Forest on TFL 47, Sonora Island](#), 2015, page 21.

the GBR, which will help with implementing the old forest objectives according to the spirit and intent of EBM. However, there are still issues:

- In definition (a), there is no indication of what a “stand” is, nor how age of the stand is determined. These mysteries bring up a number of questions. For example, how many old trees or how big an area of old trees is required for the area to qualify as a “stand”. Is the stand age determined by the average age of all the trees, just the co-dominant and dominant trees or in some other way? Is it weighted by volume of the trees? These questions were very important in a recent Board complaint investigation and are discussed within the complaint investigation report.⁵
- The GBR covers a huge area and definition (b) applies to only a subset of the old forest types in these forests. For example, (b) does not deal with the situation in CWHxm ecosystems, in which a definition might be better presented as “a young but dimorphic stand comprised of climax species and where old seral remnants are still present in the upper canopy.” The application of definition (b) would not result in retention of some stands with old forest attributes in the CWHxm. As well, there are likely other ecosystem types where potential old forest stands are not included in the definition.
- The use of the word “may” in the definition (b) is problematic (where old seral remnants *may* still be present in the upper canopy). If old seral remnants are not present in the upper canopy, this suggests that the old forest target could be met with scrubby non-productive stands that are not representative of coastal old forest.

It should be possible to provide definitions—or interpretations of definitions—if not in the Order itself, then in the companion Background and Intent document, that are broad enough to cover the various types of old forest in the GBR but flexible enough to allow a Qualified Professional to assess the presence of old forest stands in the field.

Part 1 Division 2: Design and amendment of SLRDs and RLUs

There are inconsistencies in the requirements for design and amendment of strategic land reserve designs (SLRDs) and restoration landscape units (RLUs):

- There is no requirement to have a qualified professional design the initial SLRDs and RLUs but there is a requirement for a qualified professional to develop amendments or alternatives to the designs.
- There are no instructions for the initial design of the SLRDs and RDU but there are detailed instructions for their amendment.

This creates such possibilities as having a poorly designed SLRD or Restoration Zone that ‘meets targets’ but that can be “modified to maintain or improve ecological outcomes” without a clear benefit to ecological integrity.

Part 1 Division 2: Landscape Reserve Designs

The deadline for design of SLRDs is tied to current or planned harvesting, which means that SLRDs are not required to be designed concurrently. We question whether it is possible to

⁵ Forest Practices Board, [Logging Old Forest on TFL 47, Sonora Island](#), 2015, page 12.

optimally co-locate SLRDs with various other resource values (clause 4(1)(b)) if the LUs are planned piecemeal.

The draft Order requires achievement of old forest representation targets in the year 2264. Hence, it is possible to select a one year old stand today to help meet the old forest requirement when there may be a 150-year old stand next door. In these cases, one can choose from a range of alternatives, from a one-year old stand, to the oldest available stand. One end of the alternative range puts achievement of the ecosystem side of EBM at highest risk, the other end puts human well-being at higher risk. A licensee in the GBR recently decided, when going through the process of AAC determination, to increase the risk to ecological integrity (even though it was already at risk) to benefit economics (human well-being).^{6,7}

It is clear that some flexibility is needed. One way to achieve this flexibility, while making it very clear what trade-offs and balancing has occurred, is to require qualified professionals to provide a rationale for cases where the path to achievement of old forest targets is not in the shortest time possible.

Part 1 Division 2: Type 1 and Type 2 Restoration Landscape Units

The concept of two types of restoration LU is confusing. Type 2 RLUs are identified because they have the potential to become Type 1 RLUs, but the desired outcome of this separate zoning is unclear. It appears the action required to maintain ecological integrity is to design Restoration Zones but there is no direction as to the desired attributes of forests within Restoration Zones and the types of management that should occur within them. Therefore, the benefit and intent of designing Restoration Zones is not apparent, nor is the purpose of completing this zoning within a short timeframe (more quickly than SLRD design). It is also not explicit what the relationship is between Restoration Zones and SLRD polygons.

Part 2 Division 2: First Nations Cultural Resources

When reviewing this section of the draft Order, the Board found many issues similar to those found in other parts of the draft Order. However, we understand that there has been extensive government to government discussion and consideration in writing the objectives within this section and we sense that with First Nations engagement and oversight, the expectation of achieving objectives is high. This is an example of how oversight of EBM implementation is critical to success.

Some examples of the issues found are:

- **Objectives for retention of western yew:** It is not clear in section 9(1) what is intended to be retained (within development areas, retain 80% of western yew). Is it 80% of the volume? Basal area? Individual trees? Age distribution?
- **Objective for Aboriginal Forest resources:** It will be challenging to measure or verify that aboriginal forest resources have been “maintained or enhanced” in “sufficient quantity.”

⁶ The base case in the recent TFL 47 AAC rationale was for achievement of the objectives in the longest permissible time (250 years).

⁷ FLNRO, *Tree Farm Licence 47 Rationale for Allowable Annual Cut (AAC) Determination*, 2014.

Part 2 Division 3: Objectives for Important Fisheries Watersheds

Objective 10 (2)(b) and (c) do not provide enough direction to be meaningfully implemented. For example:

- It is not clear in (2)(b) what is meant by a coastal watershed assessment or similar assessment to guide the Qualified Professional. The Board has found problems in past investigations where an assessment is required by a strategy in a Forest Stewardship Plan, but is not adequately defined, causing that portion of the plan to be unmeasurable or unverifiable.
- The coastal watershed assessment process (CWAP) was created over two decades ago and many existing CWAPs are quite old. How meaningful is a 20 year old assessment?
- It is not clear if the recommendations of the assessment are to be implemented, or if the assessment will have recommendations, action plans, or some kind of results to be implemented.
- The terms used in clause (c) are not defined clearly enough to be measurable and verifiable.⁸ For example, what is meant by "natural hydrological and fluvial processes" and what is the intended outcome of sustaining these? The 2008 Background and Intent document provides clarification regarding the intent including the statement "sustain natural hydrological and fluvial processes such that the water quality and quantity is maintained within the natural range of variation" It would be helpful to have enough information in the objective itself, or in the forthcoming guidance, so that it is clear. This does not necessarily reduce flexibility and it would provide a more solid basis on which to assess.

Part 2 Division 4: Objectives for red- and blue-listed plant communities

Targets are identified to retain red and blue-listed plant communities by site series (listed in Schedules P and Q), but a description is not provided of the subset of each site series that is at risk. Without a specific indication of which attributes of these communities are at risk, such as a specific seral stage, in the Order itself or in the Background and Intent document, this objective is unenforceable. The recent FPB report, *Logging Old Forest on TFL 47, Sonora Island*, found that the portions of the SCCO that dealt with red and blue-listed plant communities were difficult or impossible to enforce. The draft Order is very similar to the SCCO with respect to red and blue-listed plant communities.

Part 2 Division 4: Objectives for grizzly bear habitat

There is no description of class 1 and class 2 grizzly bear habitat, therefore it is not clear what is meant by "to maintain class 1 and class 2 grizzly bear habitat." For example, does this mean no alteration or timber harvesting? Since the reference to class 1 and class 2 habitats is to a spatial data layer in schedule D, how can a Qualified Professional reasonably assess that alteration or harvesting will result in no net loss of class 1 grizzly bear habitat (clause 18(3)(b)(ii))?

⁸ Does government expect licensees to make it so in their FSPs – if so, that is only possible if the intent is clear.

Part 2 Division 4: Objectives for Kermode habitat

There is no description of critical black bear habitat – without this, how does one assess compliance with the direction to not alter that habitat (clause 20(1)(c))?

Conclusion

This draft Order includes some significant changes and corrections from the Orders that it will replace. For example, the definition of old forest has been improved, an SLRD requirement has been added and the problem with the 250 years from ‘now’ requirement has been fixed. The Board notes that there are still some issues of concern.

Several of the issues relate to guidance documents and ongoing support. This Order cannot be considered a stand-alone document. EBM is too complex. The nature of government orders means they cannot and should not cover every eventuality. The ‘slack’ must be picked up by well thought-out guidance documents, training, extension and ongoing dialogue.

Other issues relate to monitoring. The subject of implementation and effectiveness monitoring is brought up five times in the draft order. However, how this will come about and who will do it is not mentioned. How will government know if the objectives are being met and are effective in meeting the spirit and intent of EBM? In our experience, and to the best of our knowledge, existing monitoring of EBM in the GBR has not been adequate.

A third group of issues relate to the measurability or verifiability of actions to meet objectives. The “FRPA way” is for licensees to write measurable results or verifiable strategies to meet government’s objectives. Alternatively, for many FRPA objectives, licensees can undertake to comply with practice requirements that are provided by government. Many parts of the Order are written like FRPA practice requirements and could potentially be used as results or strategies in an FSP. Other parts of the Order are not so readily transferable to an FSP. Yet, with the SCCO and NCCO Orders, most licensees cited the Orders or copied the Orders verbatim into their FSPs. The draft Order needs to be changed to reflect the way existing Orders are being used, or government should clarify how it expects the Order and its objectives will be reflected in FSPs.

The Board would like to acknowledge the hard work and extensive effort that has gone into creating this draft Order. We hope this feedback is useful and we are available to discuss EBM and the draft Order at your convenience.

Yours sincerely,



Timothy S. Ryan, RPF
Chair