



File: 97150-20/2005-02

May 24, 2006

Ken Oler
RR#1, Site 18, Box 19
Sundre, Alberta T0M 1X0

Dear Ken Oler:

Re: Forestry Audit: BC Timber Sales, Rocky Mountain Forest District

Thank you for your letter dated May 3, 2006. I appreciate you taking the time to write to me to express your concerns with respect to the recent audit report. I trust that you have since received the bound copies of the report you have requested.

Your letter documents several points of concern that you have brought forward previously to the audit team but feel have been ignored. I assure you that the concerns that you had brought forward were thoughtfully considered prior to finalizing the audit report. Your representation letter was assessed point by point by not only the audit team, but also the two member Board panel. Although the audit documented several non-compliances with the legislation, the key issue relates to Section 54(6)(c) of the *Forest Practices Code Act* which states:

54. Use of roads on Crown land for timber harvesting or other industrial activity

(6) A person who uses a road in accordance with this section must do so in accordance with all of the following:

- (a) this act, the regulations and the standards;
- (c) any cutting permit, road permit, road use permit, special use permit or timber sale licence that does not provide for cutting permits.

Based on the evidence gathered during the audit, it was found by the auditors and supported by the Board panel and myself that you failed to operate in accordance with the conditions of a road use permit for the Little Lamb Creek FSR. Although you agreed to several conditions to minimize sediment delivery to Little Lamb Creek, outlined in your representative's August 6, 2004, letter to the district manager, those conditions were not met.

A specialist hired by the Board to assess this road segment estimated that over 300 cubic metres of fine sediment eroded into Little Lamb Creek from the area hydrologically

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connected to the creek. The audit team's opinion, supported by the Board, is that Oler's road construction practices resulted in considerable sedimentation. The road drainage systems did not minimize sediment delivery to a stream, contrary to section 9(1)(c)(v) of the *Forest Road Regulation*.

This failure to follow the conditions of the road use permit and the sedimentation resulting from road construction practices were the primary reasons for the significant non-compliance finding in the audit report. The points raised in your letter, previously considered by the Board, did not lessen Oler's obligations to follow the conditions of the road use permit and minimize sediment delivery to the fish stream.

The Forest Practices Board was created under the Forest Practices Code of British Columbia Act (the Code) as an independent watchdog for sound forest practices in BC's public forests. The mandate of the Forest Practices Board is to provide independent assurance, to both the British Columbia public and the international marketplace, that forest and range licensees are carrying out sound practices and complying with legal requirements. Therefore, it is also the duty of the Board to report publicly when we find that a licensee has failed to comply with legal requirements and has adversely affected a public resource.

I am disappointed that you feel the Board process was not fair and that "it is possible for the Forest Practices Board to state anything in a report true or untrue without having to back it up or face the accused." I must challenge your statement as it is a requirement of our audits to base our opinion on sufficient appropriate audit evidence, and to provide potentially adversely affected parties an opportunity to be heard by the Board. In this case, auditors spent four days examining the road construction in the Little Lamb Creek area. Observations and finding were discussed with your representative in the field and later at an exit meeting in Cranbrook. Your written representation was considered in detail by the audit team, a panel of Board members as well as myself prior to this report being released publicly.

Consequently, I believe that our normal audit standards were met with this audit, as with all of our audits, and I would hope you would take the Board's advice and attempt to operate to a higher standard of practice when doing road work near fish streams in the future.

Although this audit file is closed, I will remind you that the Board is interested in the outcome of the Ministry of Forest and Range ongoing compliance and enforcement investigation with respect to this road segment and the corresponding sediment issues, and may undertake further investigation if the Board determines such action is warranted.

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I thank you for raising your concerns, however I can assure you that your points had previously been assessed fully, but did not mitigate the issue of the non-compliance noted.

As the Board is a public agency, we have a responsibility to act in a transparent manner, therefore when an auditee raises a concern with our process; we post those concerns, as well as our response, on our public website. Therefore your letter and my response will be posted on our website.

Once again, on behalf of the Board I would like to thank you and your staff for the cooperation shown throughout the audit.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Fraser".

Bruce Fraser, PhD
Chair

cc: Shane Bowden, BCTS
Steve Byford, BCTS