

Harvesting prescribed in Arrow Mountain subunit plan in the Kootenay Lake Forest District

Summary Report

FPB/CIS/03

November 1996

This report provides a summary of a complaint investigation concluded by the Forest Practices Board in October, 1996. Investigation of public complaints is a primary responsibility of the Board under the Forest Practices Code of British Columbia Act (the Code). The names of the complainant and the subject of the complaint are not disclosed to protect the privacy of those individuals.

The Complaint

The Board received a complaint from an environmental society concerning a silvicultural prescription that was inconsistent with a local resource use plan. The complaint asserted that:

- The Ministry of Forests failed to adequately address issues raised by the complainant by not providing evidence of root rot in two areas where harvesting was proposed because of disease problems and that the Ministry's response to this and other concerns were inadequate;
- Silviculture prescriptions were prepared and approved that were not in compliance with a local resource use plan that had been in existence since 1993. Specifically, the approval of the cutblocks resulted in exceeding the maximum allowable five year cumulative volume of wood to be sold for the area as specified in the approval local resource use plan;
- The proposed harvesting for one cutblock is not in compliance with the Code since harvesting methods are inappropriate and are not scientifically proven to address root rot problems;
- That the forest district failed to allocate opportunities for single tree selection sales for horse loggers; and
- That the complainant has been unable to get the Ministry of Forests to respond to repeated requests to obtain permission under the Code to construct a trail.

The Board's Decision to Investigate

In assessing this complaint, Board staff considered whether the complaint was within the jurisdiction of the Board and whether circumstances existed which could lead the Board to refuse to investigate.

The Board decided to investigate part 2 of this complaint since it concerns matters that occurred after June 15, 1995 that relate to operational planning matters within its jurisdiction. Specifically, the approval of the silvicultural prescription was to be investigated.

The Board declined to investigate parts 1 and 4 of this complaint because these complaints did not deal with prescribed matters under the Code. Part 3 related to conduct which took place before the Code Act came into effect on June 15, 1995.

Part 5 was withdrawn by the complainant.

Summary of the Facts of the Investigation

Investigators for the Board spoke to the complainant and representatives from the Ministry of Forests.

From these discussions it was determined that:

- The annual cut prescribed in the local resource use plan is not covered by the Forest Practices Code of British Columbia Act (the Code).
- The local resource use plan was not declared a higher level plan.
- Section 12 of the Code was recently amended to exclude the need for a silvicultural prescription to be consistent with a "higher level plan" if a forest development plan is required under the Code for the area under the prescription. Therefore, even if the local resource use plan had been designated as a "higher level plan", there are no requirements under the Code for the silvicultural prescription to adhere to this plan.
- The silviculture prescription must conform to the forest development plan.
- Essentially, the specific issues under investigation such as the rate of harvest and selling of timber are not covered by the Code.

The Board concluded its fact finding and provided both the complainant and licensee with letters explaining its conclusion and decision.

Board's Conclusion

The Board concluded that the complaint has not been substantiated since:

1. the prescribed annual cut in the local resource use plan is not a matter within the jurisdiction of the Board;
2. there is no Code requirement which restricts preparation of an operational plan that will be in violation of the prescribed cut; and
3. the Code does not require the silvicultural prescription to be in compliance with the local resource use plan which has not been designated as a higher level plan under the Code.

Complaint Status

Closed