



McBride Community Forest

Complaint Investigation 070814

FPB/IRC/142

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Board Commentary

The *Forest and Range Practices Act* provides a number of exemptions from the requirement to prepare site plans. The Board was surprised at the extent of intermediate cutting done in the community forest without site plans under such an exemption. The Board intends to examine this issue on a broader scale, to better understand the extent and implications of this practice.

It is clear from this investigation that the complainants and the McBride Community Forest Corporation (MCFC) have a strained relationship. The MCFC has made several offers to discuss issues with the complainants, but the complainants appear to have a high level of distrust of the MCFC management and staff and have not yet found common ground.

The participants in this investigation are likely to have to deal with each other over the long term, and there will continue to be strong differences in opinion about what the community forest should, and can, deliver in terms of benefits to the local community. Therefore, the Board encourages both parties to regroup, reconsider, reconcile and work together to try to resolve such issues at the local level.

The Complaint

In January 2008, the Forest Practices Board received a complaint from four residents of the Robson Valley (the complainants) about the McBride Community Forest Corporation (MCFC) and the Ministry of Forests and Range (MFR) regarding forest practices being carried out by the MCFC. The complainants view MCFC's as unsustainable, harmful and in violation of legislation.

The complainants raised a number of issues, some within and others outside the Board's jurisdiction. This report addresses the following issues that are within the Board's jurisdiction:

1. The state of the Mountainview forest service road (FSR), northwest of McBride, which the complainants allege has been damaged because of use as a skid trail and landing over the past four years. As well, the complainants say that when the situation was presented to MFR compliance and enforcement (C&E) staff, there was no response.
2. The state of Edgar's Road, which the complainants say has also been used as a skid trail and landing over the past four years, with resulting damage and, at times, complete blockage of the road.
3. The state of water in Sunbeam Creek, which the complainants say is jeopardized by a road that runs above the domestic water intakes of at least 15 households. In 2006, MCFC gave a local resident permission to build this road.
4. Slash debris near the 3.5 kilometre point of the Mountainview FSR, which has been piled in standing timber, and will likely cause damage to the standing timber when it is burned. Logging near a trap line, which one complainant says he was not appropriately notified about.

Background

The MCFC signed a long-term community forest agreement (CFA) on February 28, 2007. Under the CFA, MCFC has the exclusive right to harvest 50,000 cubic metres of timber annually from the 60,000 hectare community forest. The Village of McBride is the sole shareholder of the MCFC.

Through the community forest program, government provides long-term opportunities for communities to achieve community objectives. The long-term vision of MCFC is to serve the social, environmental and economic needs of the community.

The four complainants each have roots in the Robson Valley, reaching back to before the village of McBride was established. The first complainant is a retired science teacher who spent 28 years of his career in McBride. The second has managed a woodlot for 17 years, is a past director of the MCFC, and has been a logging contractor for 30 years. The third has been a trapper all his life and is a past president of the BC Trappers' Association. The fourth complainant owned and operated a sawmill in McBride for 10 years and currently farms there.

All of the complainants are passionate about seeing Robson Valley residents benefit from the local forestry resource and all want to ensure that forest practices are carried out on a sustainable basis.

Through the course of this investigation, it became clear that there are differing expectations within the community regarding the management of the community forest and the benefits it provides.

Discussion

Issue 1: Mountainview Forest Service Road (FSR)

MCFC holds a road use permit (RUP) for the Mountainview FSR. Under the *Forest Planning and Practices Regulation*, MCFC, as a RUP holder, must maintain the road to ensure that its structural integrity and clearing width are protected and that the road's drainage systems are kept functional, so industrial users can use it safely. In addition, the *Forest Service Road Use Regulation* prohibits damage to a FSR. Subject to these requirements, MFR permits licensees to pile wood beside the FSR.

The complainants say that the Mountainview FSR, located northwest of McBride, has been damaged because it has been used periodically as a skid trail and landing for four years, and in particular they were concerned about accumulation of debris. The complainants also say that when they presented this issue to MFR C&E staff, they received no response.

The Board considered whether or not the FSR was damaged, and if MFR's response to the complainants' concern was appropriate.

The Board found that, upon receiving the complaints, MFR inspected the Mountainview FSR three times during the summer of 2007. On June 6, 2007, MFR found that activities occurring on that road complied with legal requirements. The inspector's report stated:

FSR appears to be maintained suitable for travel and hauling. Active harvesting ongoing at ~ 5.5 km. Skidding taking place on FSR. Licensee as RUP holder to ensure road is open for access beyond. Licensee to ensure road is free of debris. Licensee to ensure that upon completion of logging that FSR is graded, specifically where skidding is affecting the road surface.

Records show that MCFC arranged for the road to be graded after MFR inspection.

On June 27, 2007, MFR noticed that brush on the side of the road was obscuring some sightlines and kilometre marking signs. The inspector issued a compliance notice to MCFC, instructing it to brush the road and to keep it free of debris.

A follow-up inspection by MFR on August 27, 2007, revealed ditches blocked by debris, water pooled on the road and a contractor skidding logs on the FSR. The inspector issued two more compliance notices to MCFC. The first required MCFC to ensure the road was cleared of debris and graded when logging was complete. The second required that an “active logging” sign be posted.

When Board staff visited McBride in April 2008, new kilometre marking signs had been installed and the road had been brushed to improve sightlines. There was no evidence of damage to the road.

In the Board’s view, the ministry’s response to public concerns about the road was appropriate. Inspections were timely, and compliance notices issued to correct the problems were observed. The result was compliance by the licensee. Government enforcement was also appropriate.

However, MFR staff did not adequately advise the complainants of the outcome of its compliance and enforcement efforts, so it is the Board’s opinion that communication between MFR, the MCFC and the complainants could have been more effective.

Issue 2: Edgar’s Road

Edgar’s Road is a non-status forest road that accesses Crown land, as well as private land owned by one of the complainants. A non-status forest road is a road on Crown land that is not being used under any authorization by a government agency. Contractors for the MCFC have used Edgar’s Road as a landing and for hauling wood during salvage harvesting operations.

The complainants say that Edgar’s Road has been used as a skid trail and landing for four years, resulting in damage and, at times, complete blockage.

The Board considered whether or not Edgar’s Road was damaged or passable.

In December 2005, one complainant contacted the general manager of MCFC with concerns about the condition of Edgar’s Road. The complainant said it was rutted, blocked by logs, and that he could not access his private land. The general manager visited the site that afternoon, and later advised the MCFC Board of the complaint and condition of the road. Two days after the complaint was filed, MCFC suspended operations and prepared a set of conditions that its logging contractor had to agree to before operations would resume. One condition was that, “Edgar’s Road must be kept open and free of obstruction at all times.” The contractor agreed to the conditions and, upon clearing the road, resumed operations 10 days later.

In September 2007, the complainant e-mailed a former director of the MCFC with concerns that Edgar’s Road was once again being used as a landing. Three days later, MCFC’s general manager inspected the road and found it to be clear of debris and passable.

Upon inspecting the road in April 2008, the Board determined that Edgar's Road was passable.

However, as a result of this complaint, MFR told the Board that it has forwarded the issue to its C&E staff for investigation because a person cannot haul timber on a road without a road permit. No permit was issued in this case. If a road permit had been issued, there would be enforceable surface maintenance requirements.

In light of this, it is the Board's view that MFR is the more appropriate body to investigate and address the complainants' concerns. As a result, the Board did not investigate conditions of Edgar's Road any further.

Issue 3: Sunbeam Creek

The complainants say that in 2006, MCFC gave a local resident permission to build a road to Sunbeam Creek above the domestic water intakes of at least 15 households. The complainants are concerned that the road is jeopardizing the water source of these households.

The Board considered whether or not MCFC authorized construction of the road.

In the fall of 2005, a licensed water user (the road builder) planned to build an access road to his water intake on Sunbeam Creek. He discussed his plan with the MCFC's general manager. The general manager said that he had no concerns from the perspective of the community forest because he understood that no timber was to be felled or removed.

The road builder built the road, and in January 2006, another water licensee on Sunbeam Creek noticed the road and became concerned about the impact of it on her household water supply. This water licensee contacted MFR and the staff at MCFC with her concerns.

In an email to the concerned water user, the MCFC general manager stated,

"As [the builder] was not intending to harvest or salvage any timber as part of this activity we told him that we had no problem with him doing this work. Our OK was not one of authorizing him to do the work, but rather one of referral comment i.e. his work did not affect us in any appreciable way."

During the course of the Board investigation, the road builder told the Board that he discussed his plans with the general manager as a courtesy because he knew that the MCFC had considered operating in the area in the past. He also conceded that he should have obtained permission from the appropriate government agency before building the road. With regard to perceived permission from the MCFC, the general manager did not have authority to approve the construction of the road, nor did he believe he was providing it, so this complaint issue is unsubstantiated.

However, MFR and the Integrated Land Management Bureau (ILMB) are now aware of the road that has been built at Sunbeam Creek.

Issue 4: Slash piled in standing timber

In early 2008, a contractor for MCFC logged an area near the 3.5 kilometre point of the Mountainview FSR. The contractor piled logging slash in two large piles against standing timber. The complainants are concerned that if the piles are burned in place, the fire will damage standing merchantable timber. As an example, the complainants identified an adjacent logged area where slash was burned on a landing. About 10 trees were killed and fire scars were visible high up the stems of Douglas fir trees. The complainants also provided pictures of slash piled against standing timber near the 3.5 kilometre point of the Mountainview FSR.

The Board considered whether or not the complainants' concern was reasonable, and determined that it was; if the piles are burned in place without additional harvesting, standing timber, including cedar and fir, will be damaged or killed. Leaving the slash piles in place and waiting for markets to improve may be contrary to the *Wildfire Act*. The *Wildfire Act* requires MCFC to assess the fire hazard and abate it, if necessary, within a specified time.

The community forest said it plans to go back to the area to harvest the fir when markets improve. The landings will not be burned until logging is complete and no standing timber will be damaged. The piles should be burned in the fall of 2008.

Issue 5: Notification of logging near a trap line

One of the complainants is a trapper, and he said he was not aware that logging was planned near his trap line at the 3.5 kilometre point of the Mountainview FSR. Harvesting in this area was approved under the MCFC's 2003-2007 forest development plan (FDP).

The Board considered whether or not MCFC appropriately advised the trapper of its intentions.

When the district manager approved the FDP under the old *Forest Practices Code of British Columbia Act* (the Code) in 2003, he exempted "minor harvesting operations" from the requirements of sections 10-13 of the *Woodlot Licence Forest Management Regulation*. In the case of the MCFC, minor harvesting operations meant harvesting no more than 25,000 cubic metres of timber over a five-year cut control period. Therefore, MCFC could harvest up to 25,000 cubic metres of timber over a five-year period from the community forest without showing the proposed harvesting on a map or in a plan.

However, the FDP stated that, when conducting minor harvesting, MCFC would notify MFR and conduct referrals as required. Nevertheless, MFR did not require the licensee to refer minor harvesting plans to anyone, including other resource-users such as the complainant. It is not surprising that the complainant did not know about the harvesting until he discovered it – it

never appeared in any plan, and so, for the complainant, the question becomes, could harvesting take place now or in the future without the complainant knowing about it?

MCFC's forest planning and practices are now governed by FRPA and associated regulations. While FRPA requires road and cutblock information in site plans, it only requires those plans to be publicly available upon request at the licensee's office. Licensees are not required to consider public comments on site plans, or to notify the public when site plans are available.

FRPA also provides exemptions from both the requirement to prepare site plans and the requirement to establish a free growing stand on harvested areas. Two of the reasons for exemption are:

1. the harvest of "special forest products" or,
2. "commercial thinning, removal of individual trees, or a similar type of intermediate cutting," referred to by both the MCFC and MFR as "pick and poke" harvesting.

"Special forest products" are defined in the *Special Forest Products Regulation* as Christmas trees; firewood; mining timbers; stakes and sticks; cants; posts and rails (split and round); shake and shingle blocks, bolts and planks; and shakes.

"Intermediate cutting" is not defined in FRPA or in the *Forest Planning and Practices Regulation* but presumably, after an intermediate cutting, the stand would still meet stocking standards.

When harvesting under these two exemptions, licensees must ensure that, for 12 months after harvest, the harvested area conforms to stocking standards set out in the forest stewardship plan which, under FRPA, have replaced the Code's FDP requirements.

Approximately 85 percent, or 22,000 cubic metres, of the wood from the community forest that was scaled between January and April 2008, was harvested under cutting permit (CP) 991. CP 991 permits the harvesting of greenwood and special forest products. Requirements of the CP include providing a map and GPS coordinates of trees removed, and also indicating whether harvesting is "select removal" or is of special forest products.

No site plans were prepared for this harvest activity, and none are required because the MCFC is exempt under the regulation, and so the MCFC did not notify the trapper or the public of where this activity might take place. Therefore, the only way a person can determine where or when logging might occur in the future is to talk to the staff at the MCFC.

The Board determined that this complaint issue is substantiated. To address the complainant's concern, MCFC has committed to notifying the complainant about any future harvest plans that might affect his trap line.

Conclusions

Issue 1: Mountainview Forest Service Road (FSR)

MFR's response to public concerns about the Mountainview FSR was appropriate. Inspections were carried out and compliance notices were issued. However, the complainants did not hear back from MFR, an indication of a gap in community relations.

Issue 2: Edgar's Road

Concerns about Edgar's Road have been forwarded to MFR C&E staff for investigation, as MFR is the appropriate body to investigate concerns about that road. The Board did not investigate this further.

Issue 3: Sunbeam Creek

Although the complainants believed that the MCFC authorized a person to build a road to Sunbeam Creek, this did not happen. The person who built the road was responsible for acquiring proper permitting, and should have sought permission from the appropriate government agency.

Issue 4: Slash piled in standing timber

MCFC plans to go back to the harvested area at the 3.5 kilometre point of the Mountainview FSR when markets improve. MCFC said that standing timber will not be damaged when the piles are burned.

Issue 5: Notification of logging near a trap line

One complainant did not know that logging was planned near his trap line because it was not shown in the FDP or on a site plan, and the MCFC did not refer its plans to him. MCFC has committed to notifying the trapper about any future harvest plans that could affect his trap line.

Recommendations

In accordance with section 131(2) of the *Forest and Range Practices Act*, the Board recommends that the Ministry of Forest and Range's compliance and enforcement staff contact the complainants to advise them of the outcome of any and all investigations into reported complaints and concerns.

The Board also requests that, as a courtesy, the Ministry of Forests and Range forward their final report regarding the investigation into Edgar's Road to the Board for review.