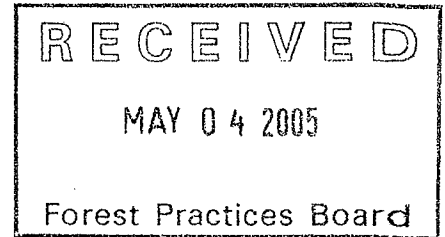




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MAY 04 2005

Dr. Bruce Fraser
Chair, Forest Practices Board
P.O. Box 9905 Stn Prov Govt
Victoria, British Columbia
V8W 9R1



Dear Dr. Fraser:

Please accept this letter as government's response to the Board's recommendations in its special report *Implementation of Biodiversity Measures under the Forest Practices Code, Implications for the Transition to the Forest and Range Practices Act (March 2004)*.

Recommendation 1

The Ministry of Forests and the Ministry of Water, Land and Air Protection should give clear direction on what the overall strategy for biodiversity is now, and how it applies under the Forest and Range Practices Act, making clear where changes have been made to the strategy.

The Forest Practices Code's approach to conserving biodiversity involved a "coarse filter – fine filter" approach, whereby multiple species would be addressed through landscape unit plans and objectives and riparian management areas, and individual species would be addressed through wildlife habitat areas and ungulate winter ranges. This approach to conserving biodiversity has not changed significantly with establishment of the *Forest and Range Practices Act* (FRPA). However, it is now incorporated into and guided by two pieces of legislation – the FRPA and the *Land Act*. For the purposes of this response, we will refer to these two pieces of governing legislation as the "FRPA framework".



FRPA regulations (notably the Forest Planning and Practices Regulation, or FPPR) contain government's objectives for wildlife, and for biodiversity at the landscape and stand levels. The FPPR also contains default practices requirements for cutblock size and green-up/adjacency, and also for wildlife tree retention. Other practices requirements in regulation apply to retention of wildlife trees and coarse woody debris. Under the *Land Act*, government's objectives for landscape-level biodiversity, including the *Order Establishing Provincial Non-Spatial Old Growth Objectives* (Old Growth Order), will guide conservation of biodiversity at the landscape level. Provisions for establishing landscape-level objectives

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will be transferred from the *Forest Practices Code of British Columbia Act* (FPC) to the *Land Act*, and this transfer is expected to be concluded in 2005.

Old-growth retention was the highest priority for conserving landscape-level biodiversity under the FPC. Work towards objectives for other elements of landscape-level biodiversity such as seral stage distribution, patch size and landscape connectivity, was not to delay the establishment of the priority old-growth objectives. Under the FRPA framework, these other landscape biodiversity components are not directly addressed in legislation; however, they are addressed indirectly through other stand and landscape-level biodiversity objectives and practices regulations.

Under the FRPA framework, statutory authority for the various biodiversity provisions has been clearly assigned to the responsible ministries, consistent with their mandates. The Ministry of Sustainable Resource Management (MSRM) has authority for land use plans and landscape-level objectives for biodiversity. The Ministry of Water, Land and Air Protection (MWLAP) has authority for establishing categories of species at risk, regionally important species and ungulate species. The Ministry will continue to exercise this authority for species at risk and regionally important wildlife through MWLAP's *Identified Wildlife Management Strategy*. As well, MWLAP has authority to establish wildlife habitat areas (WHAs), ungulate winter ranges (UWRs), and wildlife habitat features, as well as associated objectives and general wildlife measures. The Ministry of Forests (MOF) oversees stand-level biodiversity provisions contained in regulation, including wildlife tree retention, riparian management, and coarse woody debris. As well, the MOF has authority for lakeshore management zones and objectives. This clear assignment of statutory authority will ensure appropriate, efficient decision-making and accountability for implementation of biodiversity measures.

We will now describe in more detail how the FPC's approach to conserving biodiversity has been addressed under the FRPA framework.

Landscape units. Provisions for landscape units and objectives under the FRPA framework remain largely consistent with the FPC, but are being transferred from the *FPC Act* to the *Land Act*. Under the 2004 Old Growth Order, landscape unit boundaries and non-spatial old growth objectives have been legally established across the province. Established landscape units and non-spatial old growth objectives will guide subsequent establishment of spatially defined old growth management areas (OGMAs).

Biodiversity emphasis. Provisions for biodiversity emphasis under the FRPA framework remain largely consistent with the FPC. High, intermediate and low biodiversity emphasis areas are incorporated into the Old Growth Order and will guide licensee implementation of old growth objectives within landscape units. Specifically, licensees will use biodiversity emphasis assignments to determine how much and where old growth forest will be maintained.

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Seral stage distribution. Provisions for seral stage distribution under the FRPA framework remain largely consistent with the FPC. Under the FRPA framework, section 65 of the Forest Planning and Practices Regulation contains adjacency and green-up practice requirements that will indirectly address seral stage distribution. Licensees may propose alternative results and strategies in their forest stewardship plans (FSPs), but proposed alternatives must be consistent with FRPA objectives for biodiversity.

Old growth management areas. Provisions for OGMAs under the FRPA framework remain largely consistent with the FPC, but will be transferred from the *FPC Act* to the *Land Act*. As indicated under “Landscape Units”, non-spatial objectives for old growth have already been legally established under the Old Growth Order.

Patch size. Provisions for patch size under the FRPA framework remain largely consistent with the FPC. Under the FPC, the Operational and Site Planning Regulation provided maximum cutblock sizes. Under FRPA, patch size will continue to be addressed through maximum cutblock sizes, as per section 64 of the Forest Planning and Practices Regulation. Under FRPA, similar to under the FPC, the maximum clearcut size does not apply when the harvesting of larger clearcuts is designed to resemble natural disturbance.

Wildlife tree retention. Provisions for wildlife tree retention have changed from a general operational planning requirement under the FPC to a default practice requirement under the FRPA framework. Under FRPA, section 66 of the Forest Planning and Practices Regulation requires that a minimum of 7% of the total area of the cutblocks within a landscape unit be retained for wildlife trees and that each cutblock has a minimum of 3.5% wildlife tree retention.

Landscape Connectivity. Provisions for landscape connectivity under FRPA framework remain largely consistent with the FPC. Under the FRPA framework, landscape connectivity may be addressed indirectly, through riparian reserves and established objectives for old growth, wildlife, and other landscape-level resource values. Professionals who develop operational plans may incorporate these elements into landscape design to achieve connectivity.

Riparian reserves. Provisions for riparian reserves under the FRPA framework remain highly consistent with the FPC. Under FRPA, the Forest Planning and Practices Regulation (Part 4, Division 3) sets out practices requirements for riparian areas. Licensees may propose alternative results and strategies in their FSPs, but the proposed alternatives must be consistent with FRPA objectives for water, fish, wildlife and biodiversity within riparian areas.

Coarse woody debris. Provisions for coarse woody debris under the FRPA framework are different from the FPC. While the FPC had a general planning requirement for coarse woody debris, FRPA establishes minimum retention practices under section 68 of the Forest Planning and Practices Regulation. Timber merchantability specifications are a disincentive for licensees to leave merchantable pieces of coarse woody debris over the minimum

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requirements in regulation. To address this situation, the FRPA Joint Management Committee is working with the Revenue Branch and industry to develop a mechanism for licensees to leave suitable pieces of coarse woody debris without having to pay stumpage charges. Any future legislative or policy amendments that address coarse woody debris will be shared with the Board.

Ungulate winter ranges. Provisions for ungulate winter ranges under the FRPA framework remain largely consistent with the FPC. Under FRPA, section 13 of the Government Actions Regulation authorizes the Minister of MWLAP to establish a category of specified ungulate species for which a winter range is required. This category of specified ungulate species was established on May 2, 2004. Sections 9 and 12 of the Government Actions Regulation authorize the Minister of MWLAP to establish ungulate winter ranges and objectives and general wildlife measures for an ungulate winter range. In the absence of approved ungulate winter ranges, section 7 of the Forest Planning and Practices Regulation requires that FSPs specify results or strategies consistent with the wildlife objectives. This will be covered in more detail below under “Objectives set by government for wildlife”. At this time, the MWLAP has established 28 ungulate winter ranges, covering approximately 2,284,917 hectares of land in our province.

As the Board noted in its report, the ministries responsible for FRPA established a memorandum of understanding (MOU) in May 2003 to facilitate and streamline the confirmation and establishment of ungulate winter ranges and objectives across the province. This MOU will ensure co-operative and efficient establishment of ungulate winter ranges under the FRPA.

Wildlife habitat areas. Provisions for wildlife habitat areas under the FRPA framework remain largely consistent with the FPC. Under FRPA, section 13 of the Government Actions Regulation authorizes the Minister of MWLAP to establish categories of species at risk and regionally important wildlife. The list of species at risk for FRPA was established on May 3, 2004, and includes 39 species. Under section 10 of the Government Actions Regulation, the Minister of MWLAP may establish wildlife habitat areas and objectives for these areas. Where an objective has been established, FSP results or strategies prepared by the licensees must be consistent with the wildlife habitat area objective. General wildlife measures, established by the Minister of MWLAP under section 9 of the Government Actions Regulation, may also apply to wildlife habitat areas.

The MWLAP will continue to convey information related to wildlife habitat areas through the Identified Wildlife Management Strategy (IWMS). Of note, the MWLAP released Version 2004 of the IWMS on June 1, 2004. This strategy provides up-to-date guidance to government staff on establishing, modifying and rescinding wildlife habitat areas, and on implementing strategic and landscape-level planning recommendations for wildlife. The IWMS also includes accounts and measures for managing identified wildlife. At this time, the MWLAP has established 320 wildlife habitat areas, covering approximately 658,930 hectares of land in our province.

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In the absence of approved wildlife habitat areas, section 7 of the Forest Planning and Practices Regulation requires that FSPs specify results or strategies consistent with the wildlife objectives in this section. This will be covered in more detail in the section below, "Objectives set by government for wildlife".

Objectives set by government for wildlife. Under the FRPA, section 7 of the Forest Planning and Practices Regulation sets out a broad provincial objective for wildlife. That objective is to conserve sufficient wildlife habitat in terms of the amount, distribution and attributes of areas of habitat for the survival of species at risk and regionally important wildlife, and the winter survival of specified ungulate species. However, in order to bring this objective into effect, the Minister of MWLAP must notify the licensee of the applicable species in its area, and must also provide indicators of the amount, distribution and attributes of wildlife habitat. Given this information, the licensee is then obligated to prepare FSP results or strategies consistent with this objective to conserve sufficient wildlife habitat, while being consistent with the specification in the objective of not unduly reducing the supply of timber from British Columbia's forests. The MWLAP prepared and distributed the required notices for all forest districts on December 30, 2004, and these notices apply immediately to bring the section 7 wildlife objective into effect.

This section 7 wildlife objective is intended to function broadly. In areas where wildlife habitat areas or ungulate winter ranges have not been established, this objective may be the only conservation objective specifically for wildlife. If, in the future, a wildlife habitat area, ungulate winter range, general wildlife measure, or wildlife habitat feature is established in the same area, the Minister of MWLAP must then exempt the licensee from the obligation to specify a FSP result or strategy for section 7, to the extent that the other designation or measure addresses the conservation of sufficient habitat for the applicable species.

Wildlife habitat features. Wildlife habitat features are localized habitats, such as nests, or significant mineral licks or wallows. The FPC provided for these specific features, as well as "any other localized feature" identified by the MWLAP. The approach to wildlife habitat features under the FRPA framework is consistent with the Code. Section 11 of the Government Actions Regulation authorizes the Minister of MWLAP to identify any feature on the list in regulation or "any other localized feature" that the Minister considers to be a wildlife habitat feature. Identification may be by category or type or, alternatively, by specific geographic location. Processes under the Government Actions Regulation apply, but once features are identified by the Minister of MWLAP, they trigger a practice requirement (i.e., operational activities must not damage or render ineffective a wildlife habitat feature).

Recommendation 1a

The Ministry of Water, Land and Air Protection should coordinate a review of the biodiversity strategy, including an evaluation of the science behind it, and revise the strategy where necessary.

We note that the Board's comments regarding the effectiveness of the FPC's approach to conserving biodiversity are based on anecdotal statements from some government staff

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across the province, rather than an analysis of the effectiveness of the FPC's approach to conserving biodiversity. While we value the Board's input, we do not want to divert staff and resources from the immediate task of establishing the objectives that are essential to support successful implementation of the FRPA framework.

However, in 2003, the government initiated a cross-ministry FRPA Resource Evaluation Program (FREP) to conduct evaluations of the effectiveness of forest and range objectives, strategies, results, and practices in managing and conserving resource values under FRPA. Over time, these evaluations will allow government to determine whether biodiversity provisions under the FRPA framework are scientifically sound, appropriate, and effective in conserving biodiversity. Where necessary, changes will be made to improve the legislation and policy governing biodiversity measures.

The FREP is discussed in more detail in response to Recommendation 3.

Recommendation 1b

The Ministry of Forests and the Ministry of Water, Land and Air Protection should ensure that there are default measurable results for stand and landscape level biodiversity in the act and regulations.

As described in response to Recommendation 1, the FRPA framework sets out measurable practice requirements for stand-level biodiversity components, including wildlife tree retention and coarse woody debris. Licensees must comply with practices requirements during their operations. Licensees must also propose measurable results or strategies in their FSPs that are consistent with established objectives for wildlife habitat areas and ungulate winter ranges. Alternatively, if they choose not to propose results or strategies, licensees must follow measurable default practice requirements that achieve the established objectives.

The FRPA framework also requires that licensees propose measurable results and strategies in their FSPs that are consistent with established objectives for landscape-level biodiversity components, such as the Old Growth Order. Seral stage distribution, patch size, and landscape connectivity will be addressed indirectly, through measurable results, strategies, or practice requirements for other landscape and stand-level biodiversity components. Government's objectives for riparian areas, in the forest planning and practices regulation, also contribute to conservation of landscape-level biodiversity.

Measurable results, strategies, and practices requirements for landscape and stand-level biodiversity will help government assess (a) consistency of FSP results and strategies with FRPA objectives, (b) licensee compliance with FSPs and the FRPA, and (c) the effectiveness of FRPA objectives.

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Recommendation 2

The Ministry of Forests and the Ministry of Water, Land and Air Protection should clarify how proposals for wildlife habitat areas will be considered and prioritized after the one percent policy cap has been reached.

As the Board is aware, FRPA requires that resource objectives set by government do not unduly reduce the supply of timber from British Columbia's forests. Under current government policy, the timber-supply impact of FRPA objectives for identified wildlife may not exceed 1% of the short-term timber supply by forest district. The short-term timber supply represents the total mature timber harvesting land base in age classes older than 60 years for the Coast, and older than 80 years for the Interior forest regions. Government may reconsider this 1% impact cap if it does not deliver government's objectives for managing species at risk.

Beyond the 1% cap on impacts under the FRPA, proposals for wildlife habitat areas will be considered, prioritized, and implemented through existing and new strategic planning processes such as land use plans, land and resource management plans, and sustainable resource management plans. At this time, strategic planning processes are completed or underway for about 85% of the province. The remaining 15% of the province may have sustainable resource management planning processes underway or initiated in the future.

As well, Cabinet may directly consider and address high-profile species at risk, such as Spotted Owl or Marbled Murrelet, for which extreme risks to habitat, and public concerns, are best served by developing separate conservation or recovery strategies. Decisions by Cabinet may result in establishment of special protection or conservation measures to address these high profile and wide-ranging wildlife species.

Recommendation 3

The Ministry of Forests and the Ministry of Water, Land and Air Protection should work together to develop indicators to enable assessment of the effectiveness of measures to conserve biodiversity.

As indicated in response to Recommendation 1, the MOF, the MWLAP, and the MSRM initiated the FRPA Resource Evaluation Program (FREP) in 2003. The FREP oversees development of effectiveness indicators and methodologies for all resource values under the FRPA, including stand and landscape-level biodiversity. With the help of academics and other external partners (including the Board), the indicators will be used to conduct effectiveness evaluations that determine whether forest and range objectives, strategies, results, and practices, including biodiversity measures, are conserving resource values under the FRPA.

Effectiveness indicators for wildlife trees were developed and used for a wildlife tree evaluation conducted in 2001 (*Evaluation of Wildlife Tree Retention For Cutblocks Harvested Between 1996-2001 Under the Forest Practices Code*, March 2003). The Board tested some of the same wildlife tree indicators during its 2003 audit season. Indicators for other components of stand-level biodiversity have been developed, and were field tested in

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2004 as part of the FREP Resource Stewardship Monitoring Program Pilot. An approach to developing landscape-level biodiversity indicators is underway, and indicator development is expected to begin in 2005/06. Government will continue to share information with the Board on stand and landscape-level biodiversity indicators as they are developed, tested and refined.

Over time, evaluations of the effectiveness of stand and landscape-level biodiversity provisions will be conducted, and the results will be used to improve FRPA biodiversity objectives, practice requirements, and supporting policy guidance, and to improve the evidentiary requirements used to review FSPs.

Recommendation 4

The Ministry of Sustainable Resource Management should determine the frequency and nature of monitoring required for biodiversity measures, and ensure that monitoring occurs consistently across the province. The ministry should also ensure that there is a program in place to store biodiversity information digitally so that it is readily accessible for managers and auditors.

Monitoring biodiversity (i.e., the “state of the biodiversity resource”) and other resource values under the FRPA framework is the joint responsibility of the MOF, the MWLAP, and the MSRM. This resource monitoring requires commonly understood and accepted measurement criteria and indicators, which are currently being developed by the three resource ministries in consultation with external partners, including the Board. Once developed, the criteria and indicators will guide resource monitoring as well as effectiveness evaluations.

The MSRM has a mandate to support resource monitoring by establishing mechanisms and infrastructure that will deliver cost effective, timely, accurate, and relevant land and resource information. Consistent with its mandate, the MSRM is working with the other resource ministries and external partners to identify measurement criteria and indicators, and will continue to work with the other resource ministries to foster coordinated resource monitoring. In addition, the MSRM is establishing resource inventory and monitoring methods and standards (for information acquisition, and data management standards and processes), and is developing the Land and Resource Data Warehouse (LRDW). The LRDW will digitally store information on biodiversity and other resource values, and will make it accessible to government decision-makers and others.

As the Board has recommended, the three resource ministries will endeavour to monitor biodiversity consistently across the province, once measurement criteria and indicators, and monitoring standards and the LRDW, are in place. However, the frequency and scope of monitoring will depend largely on available resources. A data storage protocol is currently under development, and this data will enable government and others to analyze trends in biodiversity conservation. In turn, this information will help government evaluate the effectiveness of forest and range practices, results, strategies, and objectives in conserving biodiversity.

To Dr. Bruce Fraser

In closing, we trust this response clarifies government's actions to address the Forest Practices Board's recommendations. If the Board has any questions or requires further information, please contact the following ministry specialists:

- Nancy Densmore, Biodiversity Specialist, Forest Practices Branch, MOF, 356-5890;
- Judy Godfrey, Policy Analyst, Biodiversity Branch, MWLAP, 356-5545; or,
- Liz Williams, Ecosystems and Habitat Planning Specialist; Forest, Lands and Marine Branch, MSRM, 356-6605.

Yours truly,

 Doug Konkik Deputy Minister Ministry of Forests	 Gordon Macatee Deputy Minister Ministry of Water, Land and Air Protection	 Chris Trumpy Deputy Minister Ministry of Sustainable Resource Management
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pc: Jim Snetsinger, Chief Forester, MOF
Tim Sheldan, ADM, Operations Division
Nancy Wilkin, ADM, Environmental Stewardship Division, MWLAP
Ken Baker, ADM, Resource Management Division, MSRM
Cindy Stern, Regional Executive Director, Coast Forest Region
Bill Warner, Regional Executive Director, Northern Interior Forest Region
Phil Zacharatos, Regional Executive Director, Southern Interior Forest Region
All District Managers
Nancy Densmore, Biodiversity Specialist, Forest Practices Branch, MOF
Judy Godfrey, Policy Analyst, Biodiversity Branch, MWLAP
Liz Williams, Ecosystems and Habitat Planning Specialist; Forest, Lands and
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File: 97350-20/2002-02

June 20, 2005

Doug Konkin
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Chris Trumpy
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Ministry of Environment
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Dear Doug Konkin and Chris Trumpy:

**Re: Government's Response to the Board's Recommendations in its Special Report:
*Implementation of Biodiversity Measures under the Forest Practices Code***

Thank-you for your letter of May 4, 2005, responding to the Board's recommendations from the above report. The Board accepts the response you have provided as setting out government's approach to conserving biodiversity under FRPA. It is apparent that some elements of the biodiversity strategy, particularly landscape level elements such as seral stage, patch size distribution and landscape connectivity, will not be addressed directly under FRPA. Rather, they may be addressed indirectly as residual outcomes of other FRPA requirements, or they may be addressed by licensees at their own discretion.

The Board continues to have concerns about how this approach will conserve landscape level biodiversity on the ground and we will monitor forest stewardship plans as they are submitted and approved, as well as examining outcomes through our audits and investigations. We also continue to have concerns about how species-at-risk will be adequately conserved and will continue to monitor that issue. The majority of complaints the Board has received from the public in the past year have to do with impacts of timber harvesting on plant and animal species that are at risk. This is a continuing public concern that has not been clearly addressed in FRPA and the Board may choose to comment further on these issues in future.

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Doug Konkin and Chris Trumpy

June 20, 1005

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We will also continue to support the work FRPA Resource Evaluation Program is doing by testing criteria and indicators for stand and landscape level biodiversity through our audit program. We are currently conducting a biodiversity audit of TFL 37 on Vancouver Island in cooperation with CANFOR, using newly developed criteria and indicators, and look forward to discussing the results with you later this year.

It appears from the ministry reorganization announced last week, that biodiversity data and the species at risk coordination function will now be housed in the Integrated Land Management Agency within the Ministry of Agriculture and Lands. The Board looks forward to an early opportunity to discuss the combined approach to setting objectives for biodiversity by the three ministries, and the results and implications of our biodiversity effectiveness audit. Thank-you for your response to our recommendations. We accept your response and consider this particular file to be closed.

Yours sincerely,

A handwritten signature in black ink that reads "Bruce Fraser". The signature is written in a cursive, flowing style.

Bruce Fraser, PhD
Chair

cc: Larry Pedersen, Deputy Minister
Ministry of Agriculture and Lands