

**Audit of Timber Harvesting and
Road Construction, Maintenance
and Deactivation**

**Forest Licence A18696
Tolko Industries Ltd.**



August 1998

FPB/ARC/07

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A. Report from the Board

This is the Board's report on a compliance audit of Forest Licence A18696¹ held by Tolko Industries Ltd. (Tolko) and managed by the company's Nicola division in Merritt. Forest Licence A18696 is within the Merritt Timber Supply Area (see map on page C8). The audit examined planning and field activities for the period June 1, 1996 to June 15, 1997 to assess compliance with the *Forest Practices Code of British Columbia Act* and related regulations (the Code).

Prior to completing this report, the Board heard oral submissions from Tolko, the Ministry of Forests and the Ministry of Environment, Lands and Parks as required by section 182 of the Act.

Conclusions

The Board's conclusions are based on an audit of the following plans and practices:

- timber harvesting of 37 cutblocks, covering approximately 900 hectares,
- salvage harvesting of 18 beetle infested areas, with a total of 27.2 hectares,
- construction of approximately 30 kilometres of road,
- maintenance on 370 kilometres of road,
- deactivation of eight road sections, and
- operational plans related to the harvesting and roads activities.

Tolko informed the Board that the need to deal with a continuing spruce bark beetle outbreak had a major influence on Tolko's forest management planning and timber harvesting activities in the Merritt Forest District.

Riparian features, including trees and other vegetation, are important to the diversity and sustainability of wildlife habitat and vegetation within riparian areas, as well as fish habitat and aquatic ecosystems.

Tolko's timber harvesting and road construction, maintenance and deactivation practices generally complied with Code requirements. Some of their practices in certain riparian areas and streams did not comply with Code requirements and did not adequately protect forest resources. The practices that did not comply with the Code involved:

¹ The report from the auditor (Part C of this document) provides specifics about the operating areas of Forest Licence A18696, the forest planning and field activities of Tolko Industries Ltd. that were the subject of this audit, and the audit findings.

- harvesting trees from within riparian reserves,
- building a road in the riparian reserve of a fish-bearing stream when a practicable alternative route with no greater risk of sediment delivery existed;
- harvesting trees from across small streams and watercourses which had been inaccurately mapped in the approved plans, and
- installing culverts which created blockages to fish passage in three small streams.

These situations are described in more detail in the report from the auditor.

For the first two situations above, the Code provides specific directions to regulatory agencies regarding approval of plans. Harvesting in riparian reserves requires the approval of both the Ministry of Forests and the Ministry of Environment, Lands and Parks, and specific conditions must be fulfilled before the Ministry of Forests approves the location of roads in riparian management areas. The Board accepts that in two situations where Tolko's activities were approved by the ministries, the decisions followed much discussion between the ministries and Tolko, and extensive on-site consideration of the riparian features and the risks of the beetle infestations in those two areas.

In one situation where trees were harvested in a riparian reserve zone to control a beetle attack, the Board is of the opinion that a more detailed silviculture prescription was necessary. To address the complex riparian values and the beetle management issues at the site, the prescription should have specifically described the size and function of trees to be left standing in the reserve zone, and beetle management practices such as baiting.

With regard to the road in the riparian reserve, it is the Board's opinion that those involved in the field assessment of alternative road locations should have had a clearer understanding of section 3(2) of the *Forest Road Regulation*. This section requires that roads must be located outside riparian management areas, except for crossings, unless "no other practicable option exists, or, locating the road outside the riparian management area will create a higher risk of sediment delivery". In other words, the Code requires that a location outside the riparian management area, or the location which least affects the management area, must be selected if that location provides an equal or lower risk of sediment delivery.

The Board has been advised that the Ministry of Forests, the Ministry of Environment, Lands and Parks, and Tolko now recognize the need for thorough examination of alternatives which protect riparian features within beetle infested areas. The Board has been informed that the ministries have implemented procedures to improve documentation of these decisions, and the Ministry of Environment, Lands and Parks has developed guidelines for assessing alternatives. Continued innovation is encouraged to protect riparian features and meet Code requirements while removing trees to address beetle infestations as provided for in section 44 of the *Operational Planning Regulation*.

Recommendations

The Board recommends that the following actions be taken by Tolko Industries Ltd.

1. Review and revise existing operating procedures for planning and operations to ensure practices in riparian areas comply with Code requirements.
2. Complete remedial actions to remove the barriers to fish passage that were created on the small fish-bearing streams.

The Board requests that Tolko Industries Ltd. advise the Ministry of Forests and the Ministry of Environment, Lands and Parks, with a copy to the Board, by November 30, 1998, of the actions taken, and the timing to address the Board's recommendations.

Tolko has advised the Board that surveying and mapping procedures have been revised to ensure that streams are accurately located relative to block boundaries on plan maps and that plans are underway to replace the culverts identified during the audit.

As a result of the audit, the Board also recommends that the local offices of the Ministry of Forests and the Ministry of Environment, Lands and Parks continue to work cooperatively to develop procedures for approving plans that involve harvesting or road construction in riparian areas to ensure that plans comply with the Code.

Responsibility for deficient construction and maintenance of forest service roads when the district manager has not issued a road use permit

Road construction and maintenance deficiencies on several forest service roads were identified in the audit. These deficiencies consisted of unstable fill slopes and inadequate drainage structures that did not comply with the Code, and structural problems on two roads. Tolko had applied for the road use permit that is required to use the roads, but the Ministry of Forests had decided not to issue one. In the district manager's opinion, it was necessary to address damage to a number of roads and bridges that resulted from a major storm in November 1996, and to clarify which roads needed to be in the permit.

In the absence of a permit that clarified their responsibilities, Tolko was doing routine maintenance on these roads, but had not taken actions to address the structural deficiencies. In one instance, a portable steel bridge was installed on top of two older bridges which were at risk of collapsing. The Ministry of Forests and Tolko Industries were aware of the problem at the time of the audit and there were plans to replace the three bridges with a newer bridge.

These situations were not considered as non-compliance on the part of Tolko because a road use permit had not been issued by the Ministry. If a permit had been issued, it would have identified Tolko's maintenance responsibilities which may not have included responsibility for identifying and addressing the structural deficiencies.

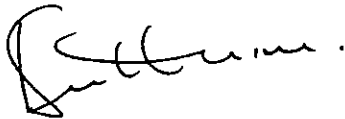
In September 1997, Tolko received a road use permit from the district manager authorizing the use of the forest service roads and limiting the maintenance responsibilities of Tolko to the surface maintenance of these roads. Since the audit, the deficient bridges have been removed and replaced with a single bridge by the Ministry of Forests.

Although the road use permit has clarified Tolko's responsibilities for surface maintenance, the unstable fill slopes and inadequate culverting on the forest service roads have not been addressed. The Ministry of Forests needs to address these deficiencies to ensure harm to persons or the environment does not occur.

The Board has been advised by the district manager that field meetings were held with forest company representatives to discuss forest road management practices within the Merritt Forest District. The companies have been directed to carry out a detailed road evaluation, including a risk assessment, on each road held under road permit and on all forest service roads on which they are designated the primary user. These inspections are to be completed during the summer of 1998 and submitted to the district with an action plan to address structural deficiencies identified as a result of the inspections.

Recommendation

The Board recommends that the Ministry of Forests ensure that road inspections on the forest service roads used by Tolko Industries Ltd. are completed, and that remedial actions to correct the structural deficiencies are considered by November 1, 1998. The Board requests that the ministry notify the Board of the actions taken on these matters by November 30, 1998.



Keith Moore
Chair

August 10, 1998

B. Forest Practices Board Compliance Audit Process

Audit standards and criteria

Audits by the Forest Practices Board are conducted in accordance with the auditing standards developed by the Board. These standards are consistent with generally accepted auditing standards.

The audits determine compliance with the Code based on audit criteria derived from the *Forest Practices Code of British Columbia Act* and the related regulations. The audit criteria were established for the evaluation or measurement of each practice required by the Code. These reflect judgments about the level of performance that constitutes compliance with each requirement.

The Board's audit reference manual, "Reference Manual - Compliance Audits, Version 2, May, 1997", sets out the standards and procedures for its 1997 compliance audits.

Audit methodology

At the outset of an audit, an analysis of each forestry activity, such as the cutting and removal of trees from a specified forested area (harvesting of a cutblock), is used to identify the items, e.g., cutblocks harvested or roads constructed, that comprise the activity during the period subject to audit. The items comprising each forest activity are referred to as a "population".

The most efficient means of obtaining information, to conclude whether there is compliance with the Code, are chosen for each population. Because of limited resources, sampling is usually relied upon to obtain audit evidence, rather than inspecting all activities.

As individual sites and forest practices within each population have different characteristics, such as the type of terrain or the type of yarding, each population is divided into distinct sub-populations ("strata") on the basis of common characteristics (e.g., steep terrain versus flat ground). A separate sample is selected for each population, such as the cutblocks selected for auditing timber harvesting. Within each population, more audit effort (i.e., higher sampling) is allocated to the strata where the risk of non-compliance is greater.

The audit work in the field includes assessments from helicopters and intensive ground procedures such as the measurement of specific features, e.g., road width.

Audit conclusions

The Board recognizes that compliance with many Code requirements is a function of degree, rather than of absolute compliance, and requires the exercise of professional judgment within the direction provided by the Board.

In performing the audit, auditors collect, analyze, interpret and document information to support the audit results. This requires the audit team, comprising of professionals and technical experts, to first determine whether forest practices are in compliance with Code requirements, and then to evaluate those practices judged not to be in compliance to assess the degree of severity of non-compliance - that is, its significance. Significance is assessed relative to the actual or potential harm to persons or the environment.

As part of the assessment process, auditors categorize their audit findings into the following levels of compliance:

Compliance - where the auditor assesses that practices meet Code requirements.

Not significant non-compliance - where the auditor, upon reaching a non-compliance conclusion, assesses that the non-compliance event or condition, or the accumulation of a number of non-compliance events or conditions and the consequences of the non-compliance, are not significant.

Significant non-compliance - where the auditor, upon reaching a non-compliance conclusion, assesses that the event or condition, or the accumulation of a number of non-compliance events or conditions, is significant.

Included in this category are situations where non-compliance has resulted in harm to persons or the environment, even if remedial action has already mitigated the consequences of the non-compliance to a minor level.

Significant non-compliance also includes situations where potential for harm is probable, that is, harm has not yet occurred as a result of non-compliance, but there is a strong likelihood that it will. "Harm", in Board audits is defined as an adverse change from existing conditions that affects person(s) or the environment, and is brought about as a result of non-compliance.

Significant breach - where the auditor, upon reaching a non-compliance conclusion, assesses that significant harm has occurred or is beginning to occur to persons or the environment as a result of the non-compliance event or condition. A significant breach can also result from the cumulative effect of a number of non-compliance events or conditions.

Identification of a possible significant breach requires the auditor to conduct tests to determine the extent of the breach. If it is determined, after conducting tests, that a significant breach has occurred, the auditor is required by the *Forest Practices Board Regulation* to immediately advise the Board, the person being audited, and the three ministers.

Audit opinion

To reach an overall opinion, assessments are made at various levels. In all cases, an assessment is made of a forest practice or group of forest practices, followed by assessments at each forestry activity level (e.g., roads constructed).

If all of the forestry activities subject to audit are in compliance with the Code, in all significant respects, the overall opinion reflects this conclusion - and is referred to as a “**clean opinion**”. The use of the words “in all significant respects” recognizes that there may be minor instances of non-compliance that either may not be detected by the audit, or that are detected by the audit but not worthy of inclusion in the report from the auditor.

In situations where significant non-compliance is identified, the type of overall opinion is dependent upon the magnitude and pervasiveness of the non-compliance.

A “**qualified opinion**” is appropriate when the significant non-compliance is neither pervasive nor of a sufficient magnitude to warrant an overall negative conclusion. The words “except for” are used to draw attention to the details of the significant non-compliance to “qualify” an overall opinion of compliance, in all significant respects, with Code requirements. The words “in all significant respects” recognizes that there may be instances of not significant non-compliance that either may not be detected by the audit, or that are detected by the audit but not worthy of inclusion in the report from the auditor.

An “**adverse opinion**” is an overall negative conclusion and appropriate when significant non-compliance is sufficiently pervasive or of a sufficient magnitude to warrant an overall negative conclusion. An adverse opinion would either indicate that, overall, the forest activities subject to audit were not in compliance with Code requirements or a particular forest activity subject to audit was not in compliance with Code requirements.

Representation process

Following the audit, the Board reviews the Report from the Auditor and reaches preliminary conclusions and recommendations concerning the audit. These conclusions and recommendations form the basis for the Report from the Board.

Under section 182 of the *Forest Practices Code of B.C. Act*, if the Board makes a report or recommendation that may adversely affect a party or person, it must inform the party or the person of the grounds and give them an opportunity to make representations before the Board decides the matter and issues a final report to the public and the government. The representations allow the potentially adversely affected parties to present their case to the Board to ensure that the information on which the Board bases its decision is complete.

Representations may be written or oral at the discretion of the Board. Oral representations, which may also include supporting written representation, are generally provided for the potentially adversely affected party if there are significant non-compliance issues involved.

After fully considering the information provided in the representation, the Board will decide whether or not it needs to amend its report. If the Board amends the report, it must then consider if there are any newly adversely affected parties, in which case, additional representations will be required.

Once the representations have been completed, the report is finalized and released: first to the auditee and then to the public and government.

C. Report From the Auditor

1. Introduction

As part of the Forest Practices Board's 1997 compliance audit program, Forest Licence A18696 was selected for audit from the population of major forest licences within the Kamloops Forest Region. The licence, held by Tolko Industries Ltd., was selected randomly and not on the basis of location or level of performance.

Forest Licence A18696 is managed by Tolko Industries' Nicola Valley Division in Merritt and is within the Merritt Timber Supply Area, as shown on the attached map. The current operating area consists of:

- a main area south of Merritt along the Coquihalla Highway (as far as the tollbooth), mainly east of the highway, bounded by Manning Park to the south, and the Merritt – Princeton highway to the east; and
- a smaller area located to the northeast of Merritt near Douglas Lake.

The licence covers an area of 249,950 hectares (2500 square kilometres) and has an allowable annual cut of 269,000 cubic meters.

2. Audit scope

The audit examined the planning and field activities related to timber harvesting and road construction, maintenance, and deactivation. These activities were assessed for compliance with the *Forest Practices Code of British Columbia Act* and related regulations (the Code), including the transitional provisions of the Code.

All timber harvesting and road construction, maintenance and deactivation activities for the period June 1, 1996, to June 15, 1997, were included in the scope of the audit. This involved examining all aspects of operational planning - such as forest development plans, silviculture prescriptions and logging plans - that supported the activities examined during the audit period and included:

- operational plans *approved* in the period covered by the audit; and
- operational plans that were *developed and/or approved before* the audit period.

The audit also examined operational plans that were *developed and approved during the audit period* and which had not yet been implemented.

The field activities that were carried out during the audit period and were therefore subject to audit are described below:

- the harvesting of 37 cutblocks;
- the salvage harvesting of 18 beetle-infested areas, each less than 2,000 cubic metres of timber;
- the construction of 26 road sections totaling 30 kilometres;
- the maintenance of approximately 370 kilometres of road under road permit; and
- the permanent deactivation of 8 road sections.

In addition to the roads identified above, Tolko Industries uses and maintains approximately 150 kilometres of forest service roads without the necessary road use permit. These forest service roads, which are roads constructed or maintained by the Ministry of Forests, were included in the audit scope and are discussed in section 4.

3. Audit findings

The audit work on selected roads and cutblocks included assessments from the air using helicopters and ground-based procedures. The audit examined:

- timber harvesting practices on 18 cutblocks, and a limited review of a further 2 cutblocks and 2 salvage areas of less than 2,000 cubic metres;
- the construction of 15 road sections totaling 19 kilometres;
- the engineering lay-out of 4 road sections totaling 7.5 kilometres;
- the maintenance of 57 kilometres on 6 roads under road permit;
- the deactivation of 4 road sections totaling 1.3 kilometres;
- the maintenance of 9 bridges; and
- the maintenance of 21 kilometres on 3 forest service roads.

The audit found that forest planning and practices of Tolko Industries were generally in compliance with Code requirements. A number of instances of non-compliance were identified by the audit where riparian areas and streams were not adequately protected. These forest practices do not represent a significant breach because significant harm had neither occurred nor was beginning to occur at the time of the audit.

Forest practices in riparian areas and around streams

Background

Riparian areas are the areas next to streams, lakes and wetlands. These areas contain a high number of the plants and animal species found in the forest, including critical habitats and travel corridors for wildlife. Riparian vegetation protects water quality, stabilizes banks, and is essential to aquatic ecosystems. Many of the organisms that come from overhanging vegetation and bordering trees are food for fish.

The Code's objectives for riparian areas are to minimize or prevent impacts of forest use on stream channel dynamics, aquatic ecosystems, and water quality, as well as on the diversity and sustainability of wildlife habitat and vegetation in these areas.

The Code defines riparian management areas, which consist of a management zone and, for certain larger fish-bearing classes of streams and lakes, a riparian reserve zone. Each of the zones has specific width requirements which are based on the stream, lake or wetland classification. Constraints to forest practices are applied within both zones, with the most stringent requirements for the riparian reserve zones.

Findings

The audit identified a number of riparian areas and streams where Tolko Industries' practices did not adequately protect those forest resources.

1. Timber harvesting within riparian reserves

Tolko Industries removed a substantial portion of a riparian reserve along a 300 metre section of an S2 stream (fish-bearing stream of between 5 and 20 metres in width) and a large number of trees from a lakeshore riparian reserve. Many of the stumps of trees that were removed showed no evidence of damage from spruce bark beetle or other pests that may have necessitated the removal of those trees from the riparian reserves.

The main areas of the Code to which this non-compliance relates are sections 39(2)(h) and 44(a) of the Operational Planning Regulation and section 67(2)(d) of the *Forest Practices Code of British Columbia Act*.

2. Road constructed within a riparian reserve

Tolko Industries constructed a 150 metre section of road within the riparian reserve of an S3 stream (fish-bearing stream of between 1.5 and 5 metres in width).

The construction of the road within the riparian reserve was approved by the Ministry of Forests and the Ministry of Environment, Lands and Parks without any reference to an alternative location. Section 3(2) of the Forest Road Regulation allows the construction of a

road within a riparian reserve only if, in the opinion of the district manager (a Ministry of Forests official), no practicable option exists or locating the road outside the riparian management area will create a higher risk of sediment delivery.

The audit found that the company could have built the road in an alternative location that was outside the riparian reserve and would not have created a higher risk of sediment delivery. Consequently, a portion of the riparian reserve zone was removed unnecessarily.

3. Unauthorized removal of trees from riparian areas

On four cutblocks, Tolko Industries harvested timber from outside the boundaries approved in plans. This involved the removal of trees from across streams and watercourses that are clearly shown on maps as outside the approved boundaries. The trees were removed because the approved plan boundaries were not accurately set out in the field.

The main area of the Code to which this non-compliance relates is section 67(1) of the *Forest Practices Code of British Columbia Act*.

4. Construction of stream crossings affecting fish passage

During the construction of three sections of a road, the installation of culverts on three S4 streams (fish-bearing streams of less than 1.5 metres in width) rendered the streams impassable for fish. At the time the culverts were installed, these low gradient streams were deemed fish-bearing because the work required to confirm the absence of fish was not performed.

This practice is contrary to section 12(1)(h) of the Forest Road Regulation, which requires that crossings in fish streams be constructed in a way that provides safe fish passage.

Subsequent to the installation of the culverts, fish inventory work on one of these streams has determined that it does not contain fish.

4. Other issues - use of forest service roads

Tolko Industries uses a number of forest service roads for which the maintenance obligations are not defined, because the Ministry of Forests' district manager has not required a road use permit. In the absence of a permit, it was unclear which party had responsibility for actions under section 17(3) of the Forest Road Regulation to address any road deficiencies identified during maintenance inspections.

The audit identified a number of older forest service roads used by Tolko Industries that had sections where the slope of the road fill was unstable. The audit also found structural deficiencies on two of these roads.

- On the Tulameen forest service road, a portable steel bridge was placed on top of two older bridges. There is a risk that the older bridges may collapse and undermine the stability of the top bridge. In addition to the safety issue, any failure of the bridges will affect the S2 stream (fish-bearing stream of between 5 and 20 metres in width) below it. The Ministry of Forests and Tolko Industries are aware of the problem and there are plans to replace the three bridges with a newer bridge.
- On the Lawless Britton forest service road, the audit identified a recent small slide. The slide resulted from inadequate culvert placement in an area to which additional water was directed as a result of the disruption of natural drainage by the original road construction. Two previous slides were also noted on the road, one occurring within the last two years and the other occurring about eight years ago. The more recent slide is clearly related to the drainage deficiencies.

These issues were not considered as non-compliance on the part of Tolko Industries because maintenance responsibilities were not prescribed by a road use permit. Section 54(2) of the Act states that "a person must not use a forest service road for timber harvesting and related forest practices, or for any other industrial purpose, unless the person is authorized to do so under a road use permit. The Ministry of Forests district manager chose not to issue a road use permit, which Tolko Industries had applied for, while allowing Tolko Industries to use the forest service roads.

The lack of clarity around maintenance responsibilities increased the risk of harm to persons or the environment. Although the company chose to undertake routine maintenance on the forest service roads it uses, the risk of harm was not being adequately addressed for structural deficiencies on these roads.

Subsequent to the audit period examined, Tolko Industries received a road use permit from the district manager authorizing the use of the forest service roads and limiting the maintenance responsibilities of Tolko Industries to the surface maintenance of these roads.

5. Audit opinion

In my opinion, except for the significant non-compliance described in the following paragraph, the timber harvesting and road construction, maintenance and deactivation activities carried out by Tolko Industries Ltd. on Forest Licence A18696 from June 1, 1996, to June 15, 1997, were in compliance, in all significant respects, with the road and harvesting requirements of the Code as of June 1997.

As described in section 3, the audit found that the practices of Tolko Industries did not adequately protect certain riparian areas and streams on Forest Licence A18696. These situations involved harvesting trees from within riparian reserves, building a road in the riparian reserve of a fish-

bearing stream, harvesting trees from around streams and watercourses that were outside approved plan boundaries, and installing culverts which affected fish passage. However, the significant non-compliance was neither sufficiently pervasive nor of sufficient magnitude to warrant an overall negative opinion.

In reference to compliance, the term "in all significant respects" recognizes that there may be minor instances of non-compliance that either may not have been detected by the audit, or that were detected but not considered worthy of inclusion in the audit report.

Without qualifying my opinion, I also draw attention to section 4 which describes the use by Tolko Industries of forest service roads for which the Ministry of Forests' district manager had not required a road use permit. In the absence of such a permit, the obligations with respect to maintenance on forest service roads were unclear. Since the audit, the district manager has issued a road use permit authorizing the use of the forest service roads and specifying maintenance responsibilities.

Sections 2 and 3 of this report from the auditor describe the audit work that formed the basis for reaching this qualified opinion. The audit was conducted in accordance with the auditing standards of the Forest Practices Board. Such an audit includes examining sufficient road and timber harvesting practices to support an overall evaluation of compliance with the Code.



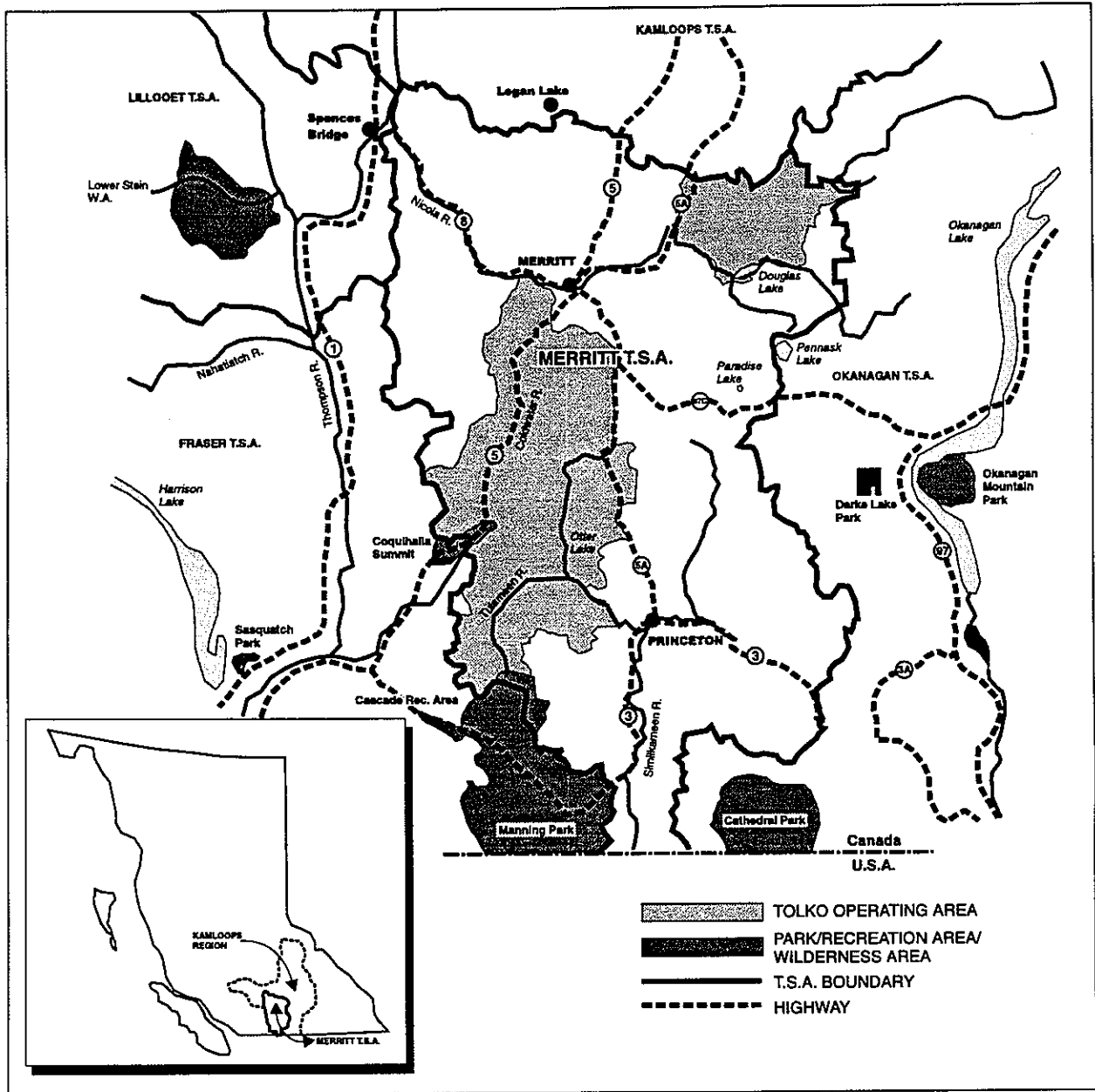
Sucha More, CA
Auditor
Forest Practices Board

Victoria, British Columbia
February 12, 1998

Tolko

Nicola Valley Division

Operating Area



Endnotes

- 1 A forest development plan is an operational plan which provides the public and government agencies with information about the location and scheduling of proposed roads and cutblocks for harvesting timber over a period of at least five years, except under special circumstances. The plan must specify measures that will be carried out to protect forest resources (including biological diversity, water, fisheries, wildlife and other forest resources). It must also illustrate and describe how objectives and strategies established in higher level plans, where they have been prepared, will be carried out. Site specific plans are required to be consistent with the forest development plan
- 2 A silviculture prescription is a site specific operational plan that describes the forest management objectives for an area (cutblock - a specific area authorized for timber harvesting). It describes the management activities proposed to maintain the inherent productivity of the site, accommodate all resource values including biological diversity, and produce a free growing stand capable of meeting stated management objectives. Silviculture prescriptions must be consistent with higher level plans that encompass the area to which the prescription applies.
- 3 A logging plan is an operational plan that details how, when, and where timber harvesting and road construction activities will take place in a cutblock in accordance with the approved silviculture prescription and forest development plan for the area. Information about other forest resource values, plus all current field information for the area, must be clearly shown in the logging plan.



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