



Reference: 252691

December 31, 2019

VIA EMAIL: Skye.Dumond@bcfpb.ca

Kevin Kriese, Chair
BC Forest Practices Board
1675 Douglas Street
Victoria BC V8W 2G5

Dear Kevin Kriese:

The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) appreciates the important role that the Forest Practices Board (FPB) plays in providing oversight to both industry and government on the implementation of the *Forest and Range Practices Act* (FRPA) and the *Wildfire Act* (WA). Specifically, your special investigation report, "Appropriateness of Government's Compliance and Enforcement Framework for FRPA and the Wildfire Act" released in April 2019, informed a strategic shift to the Compliance and Enforcement Program that was endorsed by the Deputy Ministers of both this ministry and the Ministry of Environment and Climate Change Strategy (because of the implications for the Conservation Officer Service (COS)). This shift involves the Compliance and Enforcement Branch (CEB) moving away from patrol work (to be done by COS instead) and toward inspections and investigations. A key driver of this shift is to encourage the recruitment and retention of resource professionals to enhance CEB's capacity to enforce FRPA and the WA.

The following are CEB's responses to each of the recommendations from the special investigation report:

1. Develop an annual compliance and enforcement plan with measurable objectives and specific targets for proactive compliance monitoring as well as for investigating public complaints regarding FRPA and WA. Overall, the levels of compliance monitoring should provide a basis to inform the public about licensees' compliance with legislation.

Response: CEB's mandate does not include proactive compliance monitoring and they do not have targets for investigating public complaints. There are many mechanisms that inform the public about forest licensee compliance, including the Forest and Range Evaluation Program, certification regimes, enforcement work done by multiple enforcement agencies and the work of the FPB. Public complaints are an important source of information and can help indicate where further investigation is required. However, we are shifting away from

comprehensive response to public complaints and toward more emphasis on inspections and investigations.

CEB is in the process of developing an annual plan describing the program's operational priorities for next fiscal year. This plan will contain measurable objectives for both proactive and responsive enforcement and will be reviewed on a monthly basis.

a. Develop clear policy and procedures for implementation of the plan and ensure it is communicated to, and understood by, field staff.

Response: All policies and procedures are reviewed, updated annually, and posted on the CEB intranet. There are mechanisms in place to ensure proper and complete dissemination of all policies and procedures. CEB has an Operations Management Team (OMT) comprised of Regional Managers who meet weekly to direct operations. The OMT works in conjunction with the supervisors to ensure direction is consistently communicated and understood by Natural Resource Officers (NROs).

b. Develop stronger relationships with clients, stakeholders, and partners that focus on identifying mutual needs and ensuring compliance and enforcement is delivered consistently across the province.

Response: CEB has established a Board of Directors (BOD) made up of the Deputy Minister, the Associate Deputy Minister, and the Assistant Deputy Ministers representing all divisions in FLNRORD. The BOD is intended to strengthen relationships with CEB's clients and provides guidance to CEB on operational priorities. CEB will meet with the BOD quarterly to provide information and updates on the service provided.

CEB has formed Joint Management Teams with the COS, BC Wildfire Service, Timber Pricing, Water Management, and Resource Stewardship to collaboratively determine roles, responsibilities and business processes. In addition, CEB Regional Managers meet on a regular basis with the respective local Regional Management Teams to discuss and jointly resolve regional issues.

While outside the scope of the FPB, CEB has also formed local Water and Land committees comprised of NROs, Water Stewardship staff, and Land Authorizations staff. The committees were established to inform compliance and enforcement activities related to the *Land Act* and *Water Sustainability Act*. The committees foster a collaborative approach by combining subject matter and enforcement expertise.

CEB works actively with First Nations through the Aboriginal Liaison Program, Guardian Watchmen Program, and numerous other initiatives. Regional Managers also work directly with local Indigenous Communities to identify mutual interests and solutions.

A client survey was conducted in the summer of 2019 to inform the priority setting process. A feedback loop was created based on client input via continuous interaction at the executive, regional and local levels, which helps CEB to continually update their plans. This also helps

to ensure that the relevant programs see the importance of the enforcement work that CEB does to support the achievement of their policy objectives.

With guidance from the BOD and input from the CEB Regional Managers, CEB will prepare its annual plan for next fiscal year, which will identify the branch's priorities.

c. Take an adaptive approach to reviewing priorities to ensure that emerging issues are not being missed.

Response: As noted above, engagement occurs on an ongoing basis at all levels between CEB and our clients to ensure that emerging issues are recognized and prioritized correctly. Some examples of recent work in response to emerging priorities (outside the scope of the FPB) are the implementation of the Pender Harbour Dock Management Plan, working with the Hupačasath First Nation on untenured float homes on Great Central Lake, the Foreshore Project in the Thompson Okanagan, and the Dams and Dugouts Project in the Northeast. Through a partnership with Archaeology Branch, CEB now employs an archaeologist who is providing greater focus on the enforcement of the *Heritage Conservation Act* (HCA), which is growing in significance in the context of the government's reconciliation mandate.

CEB utilizes a one team, one budget approach to prioritize their resource allocation. CEB will move officers and funding as needed to address the highest priorities identified around the province.

2. Develop performance measures that align with the annual plan's objectives and targets and enable compliance and enforcement to measure achievement of actions aimed at promoting compliance.

Response: CEB is developing performance measures to accurately reflect the results of its work in a manner that is meaningful to its clients. These performance measures will be consistent with what the BOD has requested and will inform future direction setting and priorities.

3. Report to the public annually on the results of compliance and enforcement efforts, including defensible information on compliance rates, enforcement actions, and outcomes.

Response: CEB's work is prioritized by risks that need to be managed across their many clients. Inspections are focused on where there is probable non-compliance, not on generating compliance rates. CEB enforces 52 pieces of legislation, and reporting compliance rates across all these Acts and regulations is not feasible.

CEB annually reports the results of their actions to the public, such as number of inspections, investigations, and enforcement actions. The current legislative restrictions only allow for partial reporting, and CEB is working towards legislation amendments to allow for more robust reporting across all their lines of business.

Kevin Kriese, Chair

4. Develop human resources plans and strategies that ensure recruitment, development, and support programs result in CEB employing staff with the capability to understand, interpret and enforce the requirements of FRPA and the *Wildfire Act*.

Response: The annual plan described above also outlines CEB's corporate activities that support their staff. This includes recruitment, training, systems, information management, and legislation.

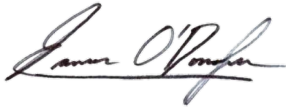
CEB has recently expanded the Integrated Enforcement Team (IET), which, beyond taking on complex investigations, serves as a source of subject matter expertise to NROs across the province. In addition to the HCA Specialist referred to above as well as a Land/Water Specialist, the IET has recently added two Forestry Specialists and a Wildfire/Damages Specialist (the latter three positions are all LSO 3, accredited forestry professionals).

CEB has also adjusted their strategic hiring and recruitment models, which has increased interest in the program. They have also instituted an adaptive and responsive recruiting mechanism, which has allowed them to increase the speed with which they replace outgoing staff.

These recommendations will require a strategic rethink of how CEB works with respect to forestry and range activities. The strategic rethink should also consider previous board reports on compliance and enforcement (2007 and 2013) to ensure other important factors, like risk-based planning and statistically valid reporting, are incorporated. The recommendations require that all aspects of the program, from guiding policies and procedures to operational tools, be aligned to the type of activities carried out in forestry and ensuring licensees are complying with the legislation and are held accountable if they are not.

As described at the beginning of this letter, a review of the program's direction has been undertaken and a strategic shift has been endorsed at the Deputy Minister level. The work to implement that shift is well underway and the current areas of focus include assessing training requirements and appropriate operational tools, as well as raising the awareness of the Board of Directors so that they are well positioned to provide direction on priorities for the 2020/21 fiscal year. CEB staff would be pleased to meet with you and your staff to discuss this work in greater detail with you.

Sincerely,



Eamon O'Donoghue
Acting Associate Deputy Minister

pc: John Allan, Deputy Minister of Forests, Lands, Natural Resource Operations
and Rural Development
Rick Manwaring, Associate Deputy Minister of Forests, Lands, Natural Resource
Operations and Rural Development
Matt Austin, Assistant Deputy Minister, Integrated Resource Operations Division



File: 97325-20/2017-16

March 4, 2020

Rick Manwaring
Associate Deputy Minister
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
3rd Floor – 441 Columbia St.
Kamloops BC V2C 2T3

Dear Rick Manwaring:

Re: Response to Board recommendations

On December 31, 2019 Eamon O'Donoghue responded on your behalf to the Board's recommendations in its "Appropriateness of Government's Compliance and Enforcement Framework for FRPA and the Wildfire Act" special investigation report.

The Board understands that Compliance and Enforcement Branch (CEB) is in the midst of implementing a strategic shift. Significant changes include:

- some patrol work is being transferred to the Conservation Officer Service, allowing Natural Resource Officers (NRO) to focus on inspections and investigations;
- new specialist positions will support NROs;
- there will be less emphasis on comprehensively responding to public complaints; and
- a Board of Directors has been established to improve communication and accountability between programs and divisions.

The response indicates that CEB will not be involved in proactive compliance monitoring. Instead, CEB will rely on programs (clients) for monitoring while it focuses its efforts on investigations and enforcement. Other processes (e.g. certification bodies and the Forest Practices Board) will continue to provide assurance.

While we appreciate that the work of the Board and certification bodies play a useful role in overall public assurance of the forest practice system, none of those bodies undertake *compliance inspections* related to FRPA or the Wildfire Act.

In the new model, if monitoring indicates that enforcement is required, the client will forward the issue to CEB to handle. As CEB is not in control of the number or type of issues that clients will provide, the branch will not implement the Board's recommendation to "Develop an Annual Compliance and Enforcement Plan with measurable objectives and specific targets for proactive compliance monitoring as well as for investigating public complaints regarding FRPA and WA."

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The Board's special investigation examined the appropriateness of government's compliance and enforcement framework for FRPA and the *Wildfire Act*. The Board's requirements to audit or investigate Part 6 of FRPA, and the recommendations we make in our report, are focused on the entire compliance and enforcement function, not just the role played by CEB. It is reasonable that other parts of government undertake monitoring and inspection activities. However, the Board expects that this approach would be supported by:

- a clear definition of who is accountable for those activities, supported by plans for how and when they will undertake those activities;
- public reporting of the results; and
- appropriate training, tools and authority provided to those branches or divisions to undertake compliance activities.

In light of the significant change in the way that government will undertake its compliance and enforcement responsibilities, we are asking for additional information to help us assess government's response to our recommendations.

We understand that CEB is preparing a plan that will describe operational priorities for the next fiscal year and we would appreciate a copy when it is complete. As CEB indicated that other branches of the Ministry will be responsible for proactive compliance monitoring, please provide us with descriptions of their roles, and the plans they have for undertaking that function. If other branches of the Ministry (or other Ministries) will play a role in compliance under Part 6 of FRPA, we ask that you ensure they have received our report as well as this letter. If they have questions or wish to discuss our report and recommendations, we would be pleased to meet with them.

The public expects that someone in government is clearly responsible and accountable for inspecting activities under the *Forest and Range Practices Act* and the *Wildfire Act*, and that effective enforcement will take place if compliance issues are detected. The overall goal is ensuring compliance with legislation. The Board believes this remains an essential pillar of the FRPA framework and an essential requirement to meet the intent of Part 6 of the *Forest and Range Practices Act*.

I look forward to hearing from you by June 30, 2020, with this additional information.

Yours sincerely,



Kevin Kriese
Chair

cc: John Allan, Deputy Minister, Forests, Lands, Natural Resource Operations & Rural Development
Matt Austin, Assistant Deputy Minister, Integrated Resource Operations Division