



**Forest
Practices
Board**

**Consistency of forest development
plans with Cariboo-Chilcotin land use
plan**

**FPB/IRC/03
Complaint 950038**

December 1996

Table of Contents

1. Introduction	1
1.1 The complaint	1
2. Complaint investigation process	2
3. Decision	5
4. Issues and recommendations arising from the investigation	8
4.1 Expectations, definitions and the timetable for implementing the CCLUP	8
4.2 Implementation at the sub-unit level	10
4.3 Delays in the implementation process	13
4.4 Approval of the 1996-2001 forest development plans	14
4.5 Declaration and implementation of other higher level plans	17
5. Request to be notified of response to recommendations	19
6. Summary	20
7. Appendix 1: List of Participants	21
8. Appendix 2: Letter announcing the Board’s decision to investigate the complaint	22
9. Attachment	26
10. Appendix 3: The effect of the declaration of the CCLUP as a higher level plan	27
11. Endnotes	31

1. Introduction

One of the obligations of the Forest Practices Board is to investigate complaints from the public about operational planning, forest practices and protection activities undertaken by government and agreement holders, and the enforcement activities of government under the *Forest Practices Code of British Columbia Act* (the Act).

The Board is an independent government body with a mandate to provide reports to three ministers and the public. After concluding the investigation of a complaint the Board must report its conclusions and may make recommendations. The Board can request that it be notified of the steps taken, or proposed to be taken, to give effect to its recommendations, but does not make binding decisions and cannot require actions.

This report is provided at the conclusion of a complaint investigation.

1.1 The complaint

On December 12, 1995, a complaint was filed with the Board by representatives of five organizations. The complaint involved the 1995-2000 forest development plans for areas within the Quesnel River watershed. This included 15 forest development plans prepared by five agreement holders and the Small Business Forest Enterprise Program in four Forest Districts. These plans had been approved in mid-December, 1995.

The complaint named five agreement holders and four district managers who prepared and approved the plans as subjects of the complaint, as well as the Cariboo-Chilcotin Regional Resource Board (RRB) and the Cariboo Mid-Coast Interagency Management Committee (IAMC). The Board identified the Ministry of Environment, Lands and Parks and the Land Use Coordination Office (LUCO) as potentially affected by this investigation. The complainants, the subjects of the complaint and the affected parties are listed in Appendix 1. For ease of discussion, these 18 organizations are described as participants.

This complaint involved forest development plans and the Cariboo-Chilcotin Land-Use Plan (CCLUP). In their notice of complaint, the complainants made a number of assertions regarding the 1995-2000 forest development plans in the Quesnel River watershed. These included the following statements¹:

"Our contention is that the non-timber objectives set forth in the CCLUP cannot possibly be achieved if harvesting is allowed to continue pursuant to approval of the current 5 year plans..."

"The current 5 year development plans constitute a continuation of the old style piecemeal planning by individual cutblocks without any coordinated reference to, or relationship with, the higher level planning now mandated by the Forest Practices Code through the CCLUP."

"To continue with the approval and implementation of development plans which are in direct contravention of the Forest Practices Code and its regulations is just not acceptable."

The complainants' letter states that the complaint is about non-compliance with Section 10(d) of Part 3 of the Act and also makes reference to Section 20 (2) of the Operational Planning Regulation.

The jurisdiction of the Forest Practices Board includes forest development plans described in Part 3 of the Act. Thus, the Board decided that it must investigate the complaint. Details about the Board's decision to investigate the complaint are provided in the Board's letter of January 29, 1996. (Appendix 2)

Although the complaint is stated to be about forest development plans in the Quesnel River watershed, the Board is of the opinion that the issues addressed in the investigation apply to the larger land area of the CCLUP.

2. Complaint investigation process

In the investigation, the Board had to consider whether the 1995-2000 forest development plans, approved in December, 1995 for the period from January 1, 1996 until December 31, 1996, complied with Part 3 of the Act and the Operational Planning Regulations which required that forest development plans must be consistent with a higher level plan, such as the CCLUP. The investigation focused solely on forest development plans and addressed the question of whether plans complied with Code requirements.

In undertaking this complaint investigation, the Board did not assume any fault or wrongdoing on the part of any of the 18 organizations, agreement holders and government offices who are identified as participants and who contributed to the complaint investigation. The Board, upon receiving the complaint, was required to notify each of the participants of the substance of the complaint. The Board provided all of them the opportunity to comment on a draft report and to provide information to the Board.

Clarification of the Code requirements that forest development plans be consistent with higher level plans included reviewing the Act, the Regulations and documents related

to the CCLUP. Board staff also examined forest development plans in the Quesnel River watershed and the December, 1995 letters of approval signed by the district managers. From this initial work, it became apparent that the CCLUP was not formally declared at the time of the approval of plans in December, 1995.

Important dates relating to the declaration of the CCLUP as a higher level plan and this complaint investigation

October, 1994	Government announces the Cariboo-Chilcotin Land-Use Plan. This "made in Cariboo solution" built on work done by the Commission on Resources and Environment between January, 1992 and July, 1995.
June 15, 1995	Forest Practices Code takes effect. The Code requires that forest development plans be consistent with declared higher level plans.
September 21, 1995	A letter from Premier Mike Harcourt to the Chair of the Cariboo-Chilcotin Regional Resource Board states the government intention that the CCLUP should be implemented by all government staff as a higher level plan.
December 12, 1995	This complaint is submitted by fax to the Forest Practices Board on behalf of five organizations.
December 12-14, 1995	Fifteen forest development plans for 1995-2000 submitted by five agreement holders and the Small Business Forest Enterprise Program are approved in four forest districts. Approvals take effect on January 1, 1996 for a one year period until December 31, 1996.
December 15, 1995	Period of "substantial compliance" with the Forest Practices Code begins.
January 29, 1996	The Forest Practices Board announces its decision to investigate the complaint to all the participants.
January 31, 1996	CCLUP declared as a higher level plan by order of three ministers and takes effect as a higher level plan under the Forest Practices Code. Notice of this effective date was given on January 23, 1996.
February 8, 1996	Notice appears in the BC Gazette of the declaration of the CCLUP as a higher level plan.

The Board also determined that the approved forest development plans were in effect for a one year period and could not be rescinded by district managers. New plans would have to be prepared and approved in December, 1996 no matter what the Board's investigation found. Because of these circumstances, the Board decided to explore options for the participants to focus on the development of new plans, since that would be required in any event.

The Board retained Dr. Bruce Fraser, of Salasan Associates Ltd., to assess opportunities for the participants to settle the complaint. This approach was undertaken in accordance with the Board's powers, under Section 9(3) of the Forest Practices Board Regulation, to "consult with a party to attempt to settle a complaint." Dr. Fraser's report² was released in October, 1996. His conclusions end with a paragraph containing the following statement:

"At the current pace of development, the lead times for incorporation of all the provisions of the CCLUP are sufficiently great that the conservation interests of the complainants are, in my opinion, at risk. By the 1998 operating year, approved roads and cutting permits will have moved extensively into the SRDZ's³ in the Quesnel River watershed." (page 19)

The organizations who submitted this complaint have expressed a similar opinion. In response to the draft report on this complaint, the Board received submissions from the Major Licensee Steering Committee and the Cariboo Lumber Manufacturers' Association challenging this conclusion. The Board did not comprehensively analyse the details of forest development plans and is unable to draw its own conclusion on this point.

Dr. Fraser's concluding paragraph continues:

"If the spirit of the CCLUP is to be realized, that is a fair and durable balance among the varied values and interests, then efforts will have to be made which are more sensitive and rapid than the current stately march of the FDP system."
(page 19)

The Board agrees with this conclusion.

Dr. Fraser provides the following recommendations paraphrased from his April 16, 1996 report:

1. The Forest Practices Board, in collaboration with LUCO (Land Use Coordination Office), approach the parties to determine their willingness to meet to review the current CCLUP implementation process.

2. Cooperative review of the 1996-2001 forest development plans in joint working sessions may give an opportunity to make these plans more responsive to the CCLUP, even if the implementation documents are still lacking.
3. The Ministry of Forests could be encouraged to estimate the cumulative implications of the 1996-2001 plans.
4. With LUCO, the Forest Practices Board could explore the introduction of a rapid dispute resolution process in particular cases.

On October 4, 1996 the Board provided a draft of this final report to the participants listed in Appendix 1 and to the three ministers to whom the Board makes reports. The draft was released publicly in the Cariboo and comments were invited from the participants and the public on the content of the draft report and the nature of the recommendations. The Board received comments from 11 organizations and individuals including the organizations that originally filed the complaint, agreement holders, government and a private citizen. The Board prepared this final report after considering those comments.

The Board regrets the long time taken to reach a decision and prepare a report, and regrets any contribution this may have made to the delay in the implementation of the CCLUP. We regret any inconvenience to the complainants, agreement holders and the government.

3. Decision

The Forest Practices Board has considered its own investigation findings, Dr. Fraser's conclusions and recommendations, and the state of preparation of 1996-2001 forest development plans.

The Board is of the opinion that it can best assist all the participants in the Cariboo, including the five complainants, to find a cooperative, constructive solution to the matters raised in the complaint by stopping the investigation and making recommendations.

Section 177 (2)(e) of the *Forest Practices Code of British Columbia Act* provides this basis for closing the investigation. It is the opinion of the Chair that further investigation will not benefit the complainants. The Board agrees and has decided to stop the investigation.

In making this decision, the Board has not reached any conclusions about whether the complaint pertaining to the preparation of the 1995-2000 forest development plans, and their approval, is substantiated or not. There are several reasons for this.

Some of the issues of interpretation of the Code were difficult to resolve. Section 10(d) of the Act states that a forest development plan must be "consistent with" any higher level plan "in effect when the forest development plan is approved..." Taken at face value, this does not require consistency with higher level plans which are not yet in effect when a forest development plan is approved by a district manager. On the surface, that appeared to be the situation in December, 1995 when the 1995-2000 forest development plans that were the subject of this complaint were approved. However, further investigation determined that the situation was more complex.

Before a plan may be approved, it must be prepared. The Code provides for a period of preparation of a forest development plan, followed by a minimum 60 day review and comment period, before a plan may be approved by a district manager (with exceptions for emergencies and minor amendments). In this case, acceptance of the CCLUP was announced by government in October, 1994, more than a year before the 1995-2000 plans were approved.

The 90-Day Implementation Process Final Report, released in February 1995, announced the government's intention to designate the CCLUP as a higher level plan. This intention was also clearly stated in a letter from Premier Mike Harcourt in September, 1995 (see Section 4.5 of this report). Members of the public might reasonably expect, therefore, that those preparing forest development plans after February 1995, for approval in December, 1995, would begin to address the planning objectives and targets established by the CCLUP.

Section 41 of the Act states that a district manager may only approve a forest development plan if the district manager is satisfied that the plan will "adequately manage and conserve the forest resources" of the area. "Forest resources" is defined in the Act as "resources and values associated with forests and range including, without limitation, timber, water, wildlife, fisheries, recreation, botanical forest products, forage and biological diversity".

Where a land use plan adopted by the government addresses these resources and values, a reasonable member of the public might expect district managers to consider the land use plan when deciding whether a forest development plan will adequately manage and conserve forest resources, even though the plan has not been declared as a higher level plan. This is particularly the case where the government prepares the forest

development plan, as in the Small Business Forest Enterprise Program (SBFEP) in each district.

In addition, Section 20(2) of the Operational Planning Regulation, states that a person must not propose harvesting in an area if there is a "reasonable likelihood that any harvesting operations would prevent the management objectives for the area contained in any higher level plan from being achieved." Section 20(2) refers to harvesting proposed in a forest development plan over a five year period. In circumstances, such as with the CCLUP, where it was known that declaration as a higher level plan was likely to occur, it could be expected that Section 20 should apply.

For these reasons, the Board is of the opinion that the issues of Code interpretation relating to the 1995-2000 plans were not straightforward.

Shortly after those plans were approved, and before the Board began to investigate the complaint, the CCLUP was declared as a higher level plan. This occurred on January 31, 1996. The interpretation issues, therefore, are much clearer with regard to the 1996-2001 forest development plans being prepared in 1996.

During the investigation the Board recognized that the same issues raised in the complaint about consistency with the higher level plan would have to be dealt with in the 1996-2001 plans. The Board has, therefore, decided that it is not productive to try to resolve the difficult interpretation issues in the approved 1995-2000 plans which are soon to be replaced.

The Board is of the opinion that continued investigation of this complaint, and attempts to resolve the interpretation issues surrounding the declaration of the higher level plan, would focus discussion on the forest development plans approved in 1995, at a time when attention needs to be focused on the speedy implementation of the CCLUP and achievement of the timber and non-timber targets in the CCLUP in current plans. The Board has, therefore, chosen to address those issues in the context of the 1996-2001 plans instead. The Board believes this approach is consistent with its role of finding and recommending solutions to problems—not finding fault.

In concluding the complaint, the Board has not found fault with any of the 18 organizations and has not assigned blame to any organization for the circumstances that are described. On the contrary, the Board believes that all parties in the Cariboo are working hard to meet the onerous tasks required to implement the CCLUP and the Forest Practices Code.

In making this decision and providing the following recommendations, the Board considered the need to provide opportunities for representation as required by Section 182 of the Act. The Board concluded that there were no parties or persons "adversely affected" by this report and recommendations, and that an opportunity for representation was not required before concluding the investigation.

4. Issues and recommendations arising from the investigation

All the participants involved in this complaint have been through a very difficult, sometimes exhausting, series of deliberations to resolve regional land use disputes that have consumed much of their time and efforts for several years. At critical junctures they have involved new processes and agencies, such as the Commission on Resources and Environment, and more recently the Forest Practices Board and this investigation.

The Board believes that, in general, these efforts have served to narrow the very considerable differences between the participants, but a cost has been associated with each step. Participants feel that their legitimate interests have repeatedly been compromised. The resulting frustration, and in some cases, resentment, has been aggravated by delays in crucial government decision-making and in the implementation of the CCLUP.

In these circumstances, the Board is cautious about providing recommendations to address current forest development planning issues in the Cariboo. However, during the course of this investigation, the Board identified a number of issues of concern regarding the 1996-2001 forest development plans. The Board has chosen to describe those issues and to provide 10 recommendations, as provided under Section 185 of the Act.

4.1 Expectations, definitions and timetable for implementing the CCLUP

The B.C. provincial government announced the Cariboo-Chilcotin Land-Use Plan in 1994 and declared it as a higher level plan on January 31, 1996. Documents signed by the Minister of Forests, as well as the Gazette Notice announcing the declaration and press releases issued by the Minister at the time, clearly state that operational plans, including forest development plans, prepared after January 31, 1996, must be consistent with the CCLUP.

This formal declaration of the CCLUP as a higher level plan has led to a variety of expectations among the participants to this complaint. These appear to the Board to be based on different interpretations of what it means to be consistent with the higher level

plan, and of what is required in forest development plans in order for them to be consistent during the current period of substantial compliance with the Code.

Further analysis of issues pertaining to the declaration of the CCLUP as a higher level plan, the requirements for "substantial compliance" and consistency with a higher level plan, is provided in Appendix 3.

The Board is of the opinion that the organizations who filed this complaint and other members of the public reasonably expected that the declaration of the CCLUP as a higher level plan meant that the targets, particularly the non-timber targets, of the CCLUP would be implemented in the 1996-2001 forest development plans. This appears to them to be the meaning of the statements by government that the declaration of the CCLUP as a higher level plan meant that the next forest development plans had to be consistent with the CCLUP.

The Board, however, has been advised that the 1996-2001 forest development plans, expected to be approved in December 1996, are not likely to address all CCLUP non-timber targets. This information was provided by representatives of the Regional Resource Board (RRB), the Interagency Management Committee (IAMC), the provincial Land Use Coordination Office (LUCO) and some district managers. It is confirmed in correspondence from agreement holders that the Board has received.

All these groups state that the 1996-2001 plans are likely to include their current understanding about the CCLUP, but because full integration of the targets at an operational scale has not yet been achieved, these 1996 plans can not reflect a full implementation of the CCLUP. They view the requirement to be consistent with the higher level plan as a more relative term related to current understanding of the plan and subject to change over time. They expect that full integration of the timber and non-timber targets will be addressed in the 1997-2002 forest development plans, expected to be approved in December, 1997 for logging and road construction operations beginning in 1998.

Recommendation 1

The Board recommends that the government publicly clarify the apparent discrepancy between the requirements of the Forest Practices Code, the timetable for implementation of the CCLUP and the various expectations regarding consistency of the 1996-2001 forest development plans with the higher level plan.

4.2 Implementation at the sub-unit level

The CCLUP is a land use plan that sets regional priorities for land use within a framework of three types of land use zones. These are described as the Enhanced Resource Development Zone, Integrated Resource Management Zone and Special Resource Development Zone (SRDZ). The CCLUP defines the zonal goals, strategies and targets which are to be implemented in detail on a sub-regional basis in 37 sub-units, each of which is mapped and named. Each of these sub-units is assigned to one of three types of resource development zone. These sub-units provide the operational scale for field forestry operations to achieve the timber and non-timber targets of the CCLUP⁴.

In the Board's view, two critical pieces required to implement the CCLUP in forest development plans are still missing:

- completion and acceptance by the RRB and the IAMC of the report which integrates the timber and non-timber targets of the CCLUP at a sub-unit level (also referred to as the sub-regional level in the CCLUP); and,
- precise identification of the areas within which specific targets will be achieved in each sub-unit and appropriate practices to achieve those targets.

The Interim Interpretative Guide⁵, dated April 3, 1996, jointly prepared by the Cariboo-Chilcotin Regional Resource Board (RRB) and the Cariboo Mid-Coast Interagency Management Committee (IAMC), states the need for these two critical pieces:

"For each sub-unit, the targets should be applied as an overall comprehensive package. It is not sufficient just to meet one target statement without attempting to integrate all of the resource targets." (page 4)

The Guide also states:

"The following principles should apply to all Forest Practices Code operational plans:

- All of the relevant targets (not just the timber targets) specified for each sub-unit (pages 60 to 133) of the CCLUP Implementation Report must be addressed in operational plans." (page 10)

Several initiatives have been undertaken by the RRB and the IAMC to provide guidance on the integration of the timber and non-timber targets in each sub-unit area. The *Final CCLUP Integration Report*⁶ is a key document for implementation of the CCLUP. This report was presented to the RRB and IAMC for their review and possible revision. Although it is titled "final", it has not yet been adopted by those groups, and is likely

not the final document. It is designed to provide specific direction for operational level resource management decisions, particularly the integration of timber and non-timber targets in forest development plans. It is a critical requirement before the CCLUP can become an operational reality.

Recommendation 2

The Board recommends that the IAMC and the RRB complete the review, revision, adoption and distribution of the *Final CCLUP Integration Report* as quickly as possible.

Before individual forest development plans can be consistent with the CCLUP, it is necessary that the sub-unit planning process described in the CCLUP and the Interim Interpretative Guide be completed. Sub-unit plans are necessary to provide a geographical context for the achievement of the timber and non-timber targets that are described in the CCLUP. They provide the specific operational level guidance necessary to implement the CCLUP in forest development plans.

Recommendation 3

The Board recommends that the sub-unit planning processes be initiated by the RRB and the IAMC as quickly as possible, beginning with the Special Resource Development Zone sub-units.

In the meantime, the Board believes that an innovative, cooperative approach is needed to assist in achieving the integration of timber and non-timber targets in the 1996-2001 forest development plans. This approach would involve a simultaneous review of all the forest development plans in a sub-unit by all the participants with plans and interests in the sub-unit.

The standard approach for reviewing forest development plans in BC has the following steps:

- agreement holders prepare draft forest development plans and initiate a public review and comment process;
- the public and government agencies review the plans and send comments to the agreement holders;
- the agreement holders revise and submit the final plans to a district manager of the Ministry of Forests and, where required by the Code, the designated official in the Ministry of Environment, Lands and Parks; and,
- finally, the district manager and, if required, the Ministry of Environment, Lands and Parks official approve the plans.

Dr. Fraser's second recommendation states:

"Cooperative review of these documents [the 1996-2001 forest development plans] may give an opportunity to influence the 1997 operational year to make it more responsive to the CCLUP, even if the implementation documents are still lacking. The FPB [Forest Practices Board] could assist the parties to conduct this review in joint working sessions, rather than relying on each sector within the complaint group to attempt to address company plans separately." (page 21)

The Board agrees with Dr. Fraser that providing opportunities for agreement holders, government and interested parties to meet and work together to address forest development plan issues more directly within a sub-unit, would improve the process for all participants. It would assist implementation of the CCLUP in the 1996-2001 plans more quickly and efficiently.

The objective should be, as Dr. Fraser states:

"...to ensure that the implementation process is fully understood, supported by agencies, companies and complainants and moved along at the fastest pace that is technically feasible. This would not involve re-opening of multi-party sectoral negotiations on the substance of the plan (CCLUP)." (page 20)

This approach would not affect the responsibilities of agreement holders, the Ministry of Forests or the Ministry of Environment, Lands and Parks, to make decisions, and would not lead to instant agreement or consensus. The Board believes, however, that this approach would allow all parties to work together to more quickly incorporate the sub-unit targets of the CCLUP into operational plans on an integrated basis. The Board has heard from several of the participants that opportunities to work together would be welcomed.

Recommendation 4

The Board recommends that those with plans or interests in each sub-unit undertake cooperative sessions beginning with the 1996-2001 plans, to coordinate review of all the 1996-2001 plans in a sub-unit and, where practical, combine the review of forest development plans with initiation of the sub-unit planning process.

The Board recommends that cooperative sessions to review forest development plans in each sub-unit be considered as an alternative to the current step-by-step approach to review of forest development plans.

The Board recommends that the district managers initiate these cooperative sessions.

4.3 Delays in the implementation process

Prompt implementation of the CCLUP in forest development plans can only be achieved through speedy interpretation and integration of the targets in the CCLUP. The slowness of the integration process is one of the reasons for the current situation. Several possible reasons for the delays in the integration process have been provided to the Board.

In strategic land use planning, the task of integrating resource management strategies is often completed within the development of the strategic land use plan itself, rather than in the implementation phase. This was not the case with the CCLUP where the integration task was assigned to the IAMC and the RRB in the implementation phase.

To achieve prompt implementation of the CCLUP by these groups, it is necessary to ensure that the supporting resources normally provided to the *development* of a strategic land use plan are available to those involved in the *implementation* of the CCLUP. These resources, as outlined in the *Strategic Land Use Planning Source Book*⁷, include but are not limited to: skilled process advisors, technical support, and, an adequate budget.

The RRB is a volunteer group, with a part-time coordinator to organize meetings and correspondence, and a part-time facilitator funded by the Fraser Basin Management Board who assists the Chair. The RRB does not have funding for independent technical research. In the Board's view, the lack of funding for the volunteer board members and the absence of an independent researcher may be resulting in delays.

Recommendation 5

The Board recommends that government review the CCLUP implementation process to ensure there is adequate financial support for RRB members and independent technical researchers available to the RRB to speedily develop the necessary guidance to operational plans under the Forest Practices Code.

Implementation of a strategic land use plan, such as the CCLUP, also requires interpretation of the plan, which can be expected to result in disputes. The *Strategic Land Use Planning Source Book* anticipates this and recommends the establishment of dispute resolution measures in the Plan itself.

Dispute resolution measures could not be found in the Land-Use Plan itself. However, under the heading of Setting Zonal Targets (Section 2), the *90-Day Implementation Process Final Report*⁸ states:

"Disagreements on the interpretation or conflicts between these targets will be addressed by the IAMC and the RRB."

This direction appears to have been included in the terms of reference for the RRB, which outlines a procedure to resolve disputes regarding whether RRB decisions are consistent with government policy and/or the CCLUP. The procedure requires that the dispute be submitted to LUCO and that LUCO name an independent chair who will resolve the dispute through majority vote of the RRB chair, the IAMC chair and the independent chair. This procedure appears to be designed to resolve disputes between the RRB and the IAMC and not among members of the RRB or the IAMC.

In his report, Dr. Fraser's final recommendation states that the Board could explore:

"...the introduction of a rapid dispute resolution process that could look at operational activities in the SRMZ land areas⁹ where the complainants believe that the non-timber values to be conserved under the CCLUP are most under threat." (page 22)

The Board agrees that a process to quickly resolve disputes among various interests, about interpretation of the CCLUP to provide direction to operational plans, may be needed. This is clearly different from the statutory responsibility of the district manager and the designated Ministry of Environment, Lands and Parks official to approve forest development plans and ensure consistency of plans with the CCLUP at the operational level.

In the Board's opinion, an arbitration process to resolve interpretation disputes could be used when the existing dispute resolution processes of the RRB and the IAMC had been concluded or were agreed not to apply. An arbitrator would have to be acceptable to all parties and would be able to decide in favour of one position or find a compromise solution. The arbitrator's decision could be interim, providing time for the dispute to be resolved by the IAMC and the RRB within the CCLUP implementation process.

Recommendation 6

When agreement cannot be reached regarding issues involving integration of timber and non-timber targets and the interpretation of the CCLUP, and the dispute resolution process already in place does not provide for prompt resolution, the Board recommends the RRB and the IAMC retain an independent arbitrator to make interim decisions.

4.4 Approval of the 1996-2001 forest development plans

Although the process of integrating the non-timber and timber targets in the *Final CCLUP Integration Report* is still underway, and there are not yet sub-unit plans, Section

10 of the Act requires agreement holders to prepare forest development plans that are consistent with the Cariboo-Chilcotin Land-Use Plan. Until the critical, specific guidance from the sub-unit planning process is provided, it will be impossible for those individuals preparing and approving plans to address all the sub-unit targets in the forest development plans.

In these circumstances, there is a risk that options to achieve the timber and non-timber targets of the CCLUP are being foreclosed and that the requirements of the Code are not being met. The Board is of the opinion that a more rapid approach is required and has made the above recommendations to accelerate the implementation process. In the words of Dr. Fraser, "If the spirit of the CCLUP is to be realized, that is a fair and durable balance among varied interests and values, then efforts will have to be made which are more sensitive and rapid than the current stately march of the FDP system."

The 1996-2001 forest development plans have been prepared by agreement holders and the Small Business Forest Enterprise Program. The public review and comment period is completed and final plans were submitted to district managers in September, 1996. Action by the district managers, and the designated Ministry of Environment, Lands and Parks official, is required before December 31, 1996, when the 1995 plans expire.

However, as concluded by Dr. Fraser and the Board as noted earlier, these plans are not likely to address all CCLUP non-timber targets. Full integration of all targets cannot be achieved until the *Final CCLUP Integration Report* is reviewed, revised and adopted, and plans coordinate the integration of the targets at the sub-unit level. This is not expected until the 1997-2002 forest development plans for logging and road construction operations beginning in 1998.

The Board has recommended that there is a need to speed up the integration of timber and non-timber targets and initiate participation in the cooperative planning sessions for review of the 1996 plans. The Board also believes there are risks associated with waiting until the 1997-2002 plans.

There is an opportunity to make further progress in integrating targets in the 1996-2001 plans by providing more time to do so. The Order, declaring the higher level plan, refers to the "next set of forest development plans" not specifically the 1996-2001 plans expected to be approved in December 1996. That suggests to the Board that if the currently approved forest development plans were extended, rather than the 1996 ones approved, more time would be available to reach agreement about the incorporation of the targets of the CCLUP into the next set of forest development plans.

Recommendation 7

The Board recommends that the option to extend the approval of the 1995-2000 plans, for six months to June 15, 1997, be explored. This would allow more time for integration of the timber and non-timber targets in the CCLUP to be incorporated into the forest development plans currently being reviewed.

If not practical, the Board recommends the district managers and the designated Ministry of Environment, Lands and Parks official clarify for the public how the 1996-2001 forest development plans will be reviewed to ensure they address all the timber and non-timber targets in order to comply with the requirement of the Act and the Regulations regarding consistency with the CCLUP, before the forest development plans are approved.

The recommended extension to June 15, 1997, is consistent with the implementation dates for full compliance set out in the Forest Practices Code and the phase-in period for timber targets set out in the Order declaring the CCLUP. It would allow more time to build on the extensive work already done this year and would avoid a situation where, in the Board's opinion, the approval of plans creates the risk that options to achieve targets are being foreclosed and that the requirements of the Forest Practices Code are not being met.

However, this recommended extension of the 1995-2000 forest development plans also creates a potential problem. There is a possibility that silviculture prescriptions, logging plans and road permits could be approved that are consistent with the approved 1995 forest development plans, but inconsistent with current interpretations of the requirements of the higher level plan as developed by the RRB and the IAMC and as set out in the latest version of the *Final CCLUP Integration Report*.

This is a problem that is common when new legislation or new policy and procedures are implemented. It was anticipated by the district managers when they approved the 1995-2000 forest development plans in mid-December, 1995. The approval letters state:

"If necessitated by the CCLUP or any other declared higher level plan, the district manager may require amendments to this forest development plan."

It was also anticipated, and addressed, in the implementation phase of the Forest Practices Code. During the first six month implementation period of the Code, the Cutblock and Road Review Regulation required the assessment of blocks and roads that were approved in plans prior to the implementation of the Forest Practices Code, but scheduled to be logged or built after the implementation of the Code. In this process all

approved blocks and roads were assessed to determine consistency with five key standards.

The Board proposes a similar process to ensure that cut blocks and road permits approved in the 1995-2000 forest development plans, and submitted during an extension period of those plans, are consistent with the latest standards and interpretations of the CCLUP. The district managers' approval letters appear to provide for amendments where they are not.

Recommendation 8

The Board recommends that, if the 1995-2000 forest development plans are extended, any silviculture prescriptions, logging plans and road permits approved after December 15, 1996 for roads and blocks approved in the 1995-2000 forest development plans should be assessed and amended to ensure consistency with the requirements in the *Final CCLUP Integration Report*, or, revisions to that report endorsed by the RRB and the IAMC.

If not practical, the Board recommends the district managers and the designated Ministry of Environment, Lands and Parks official clarify for the public how these plans and permits will be assessed to ensure the most current requirements of the higher level plan are met during an extension period.

4.5 Declaration and implementation of other higher level plans

The 1995-2000 forest development plans that were the subject of this investigation were approved in mid-December, 1995. The CCLUP was announced by government in October, 1994, but was not declared as a higher level plan for the purposes of the Forest Practices Code until January 31, 1996, after the 1995-2000 forest development plans were prepared and approved.

Before the plans were approved, however, Premier Mike Harcourt sent a letter¹⁰ to the Chair of the Cariboo-Chilcotin Regional Resource Board on September 21, 1995. This widely circulated letter states:

"I appreciate your concern that my government has not yet finalized the administrative detail required to formally declare the CCLUP as a higher level plan. I assure you, we are moving as quickly as possible in this regard. The administrative detail is necessary from a legal standpoint but in the interim, I want to confirm that it is the stated intention of my government that the CCLUP should be considered and implemented by all ministries and staff as a higher level plan."

This statement was interpreted by the complainants to mean that the CCLUP was intended to be implemented in the approvals of the 1995-2000 plan as if the CCLUP was

a legally declared higher level plan. However, formal declaration of the CCLUP as a higher level plan did not occur until January 23, 1996 and took effect January 31, 1996.

Recommendation 9

The Board recommends that, in order to avoid misunderstandings and false expectations about other land use plans in future, the government clearly state whether higher level plans are to be implemented in advance of formal declaration or whether they do not take effect until declared. The authority for implementation in advance of formal declaration must be clear.

As the CCLUP is one of the first land use plans implemented within the context of the Forest Practices Code, a great deal of learning should have been expected, and can be accepted. For plans that are implemented in the future, the Forest Practices Code Higher Level Plan Guidebook: Policy and Procedures¹¹ stresses the importance of careful consideration of the impact on operational plans:

"An operational plan in effect at the time that a higher level plan is established is not affected by the declaration of the higher level plan; the operational plan continues to guide operations on the ground and does not have to be amended because the higher level plan is declared. However, after the higher level plan is declared, the next operational plan or amendment prepared must be consistent with the higher level plan before the new operational plan can be approved.

The importance of considering the impact of the timing of higher level plan approvals on operational plans is emphasized throughout this document. In particular, it is necessary to ensure that adequate notice that a higher level plan is to be declared or established, is provided well in advance of the regular due date for operational plan submissions and approvals. This gives the agreement holder time to ensure consistency between the operational plan and the higher level plan. Additionally, agreement holders can be given advance notice before the formal notice of impending order is published. Usually, agreement holders are involved substantially during the development of the higher level plan and are well aware of its implications." (page 14)

Further information on achieving this direction is provided on pages 20 and 21 of the Guidebook.

The Board supports this direction.

Recommendation 10

The Board recommends that clear implementation guidelines and a feasible timetable for incorporating the objectives and targets into operational plans be developed before a higher level plan is legally declared. These are necessary to guide those who prepare forest development plans and the district managers and Ministry of Environment, Lands and Parks officials who must approve them.

The Board wishes to be clear that it strongly supports higher level planning and the prompt declaration and implementation of higher level plans. They ensure that operational planning at the field level is sensitive to both regional and local land use priorities. However, in declaring land use plans for Code purposes, the government must ensure that implementation processes are in place that provide clear guidance for all operational plans with an implementation timetable that is reasonable.

5. Request to be notified of response to recommendations

The Act provides that the Board may request to be advised of the response to any recommendations it makes upon completion of a complaint investigation. Section 186 states:

- "(1) If the board makes a recommendation under Section 185, the board may
- (a) request that the party notify it within a specified period of time of the steps that have been taken or are proposed to be taken to give effect to its recommendations; or
 - (b) if no steps have been or are proposed to be taken, the reasons for not following the recommendation."

In accordance with Section 186, the Board requests that the government and the five agreement holders notify the Board by January 31, 1997 of the steps taken, or proposed to be taken, to give effect to the 10 recommendations that are provided in this report. The Board requests that the response to these recommendations be made available to all the participants to the complaint and the public.

6. Summary

The Board is of the opinion that it can best assist all the participants in the Cariboo, including the five complainants, to find a cooperative, constructive solution to the matters raised in the complaint by stopping the investigation and making recommendations.

The Board has decided that further investigation into the matters raised in the complaint will not benefit the complainants. In making this decision, the Board has not reached any conclusions about whether the complaint pertaining to the preparation of the 1995-2000 forest development plans, and their approval, is substantiated or not. In concluding the investigation, the Board has not found fault with any of the 18 organizations and has not assigned blame to any organization for the circumstances that are described. The Board has identified and chosen to address a number of issues of concern that arose during the investigation. These involve the 1996-2001 forest development plans currently in the final stage of consideration for approval.

The Board believes that, because critical implementation steps are not yet completed, it is impossible for those preparing and approving plans to address and integrate all the timber and non-timber targets of the CCLUP in the 1996-2001 forest development plans. In these circumstances there is a risk that options to achieve the timber and non-timber targets of the CCLUP are being foreclosed and that the requirements of the Forest Practices Code may not be met. The Board believes that if a fair and durable balance among the values and interests reflected in the CCLUP is to be realized, a more sensitive and rapid process is required to implement the CCLUP in forest development plans.

The Board believes that this decision to close the investigation and make recommendations pertaining to the 1996-2001 forest development plans will best address the matters raised in the complaint and will put the achievement of the objectives of the CCLUP in the hands of those in the Cariboo. The Board wishes to encourage constructive and cooperative approaches to achieving the objectives of the CCLUP and believes that this decision will help to achieve the integration of timber and non-timber targets of the CCLUP in the 1996-2001 forest development plans as rapidly and completely as possible.

Appendix 1

List of the participants

Organizations that filed the complaint:

The Cariboo-Chilcotin Conservation Council

The Sustainable Communities Sector, Cariboo-Chilcotin Regional CORE Process

The Quesnel River Watershed Alliance

The Horsefly District Tourism and Ratepayers Association

The Quesnel Environmental Society

Subjects of the complaint:

Ainsworth Lumber Company

Lignum

Riverside Forest Products

Weldwood of Canada

West Fraser Mills

District Manager, Williams Lake Forest District

District Manager, Quesnel Forest District

District Manager, Horsefly Forest District

District Manager, 100 Mile House Forest District

Other participants to the complaint:

Cariboo-Chilcotin Regional Resource Board

Cariboo Mid-Coast Interagency Management Committee

Land Use Coordination Office

Ministry of Environment, Lands and Parks, Cariboo Regional Office.

Appendix 2

Letter announcing the Board's decision to investigate the complaint

January 29, 1996

Dear:

The Board has recently completed its assessment of a complaint filed with the Board on December 12, 1995. We have decided to investigate this matter for the reasons set out below.

The Complaint

The complaint concerns the preparation and approval of the 1995-2000 Forest Development plans (FDP's) prepared by four (4) Ministry of Forests District Offices (including the Small Business Forest Enterprise Programs) in the Cariboo Forest Region and those prepared and submitted by five Licencees to the four Forest District offices.

The Board had previously considered a similar complaint filed by the same complainants (excluding the Quesnel Environmental Society, which joined the current complaint) and refused to investigate because, in the opinion of the Chair, administrative procedures were available to the complainants in order to address their concerns. These administrative procedures included further consultation between the complainant parties, the Licencees, Ministry of Forests officials who prepared plans and those designated officials who were empowered to make a determination regarding development plan approvals. The complainants assert they availed themselves of the suggested procedures without finding a resolution and filed a new complaint.

The new complaint is summarized as follows:

"The current 5 Year Development Plans constitute a continuation of the old style of piecemeal planning by individual cutblocks without the coordinated reference to, or relationship with, the higher level planning now mandated by the Forest Practices Code through the Cariboo-Chilcotin Land-Use Plan."

and,

"To continue with the approval and implementation of Development Plans which are in direct contravention of the Forest Practices Code and its Regulations is just not acceptable. We therefore file herewith a formal complaint under the sections of the Act and its Regulations noted

above [note: the only section of the Act or Regulations referred to in the complaint was s.20(2) of the Operational Planning Regs.] and such others that may apply."

The complainant parties are:

- The Sustainable Communities Sector;
- The Horsefly District Tourism and Ratepayers Association;
- The Quesnel River Watershed Alliance;
- The Cariboo-Chilcotin Conservation Council; and,
- The Quesnel Environmental Society

The parties which are the subject of the complaint are:

- Lignum Limited - Williams Lake, and any other Divisions of this licencee;
- Riverside Forest Products - Williams Lake, and any other Divisions of this licencee;
- Ainsworth Lumber Co. - 100 Mile House, and any other Divisions of this licencee;
- Weldwood of Canada - Williams Lake Operations, and any other Divisions of this licencee;
- West Fraser Mills Ltd. - Williams Lake Division, and any other Divisions of this licencee;
- Ministry of Forests - Quesnel Forest District;
- Ministry of Forests - Williams Lake Forest District;
- Ministry of Forests - Horsefly Forest District;
- Ministry of Forests - 100 Mile House Forest District; and,
- The Cariboo Mountains Inter-Agency Management Committee (CMIAMC).

The Board has determined, in consultation with the complainants, that the complaint relates to forest development plans or portions of plans within the Quesnel river watershed.

Relief Requested

The relief requested included:

1. *"investigate the amount, type and quality of the planning being done to assure the achievement of the non-timber objectives set forth in the FPC and the CCLUP by the Regional and District Offices of the B.C. Forest Service, by the IAMC, and by the Licencees in this region. Can we reasonably expect the achievement of the CCLUP's non-timber objectives?;*
2. *investigate the validity of the decisions being made by the CMIAMC regarding the maintenance of the non-timber options, and the achievement of the CCLUP's non-timber objectives and recommend corrective action required;*

3. *investigate the approvals of the 1995-2000 Five Year Development Plans made, or pending decision, by the Forest Service and evaluate their effect, or likely effect, on the entire spectrum of objectives set forth in the CCLUP;*
4. *investigate the ability of the Regional Resource Board to provide timely decisions to facilitate securing the non-timber objectives of the CCLUP;*
5. *conduct an administrative review if the investigation confirms our contentions;*
6. *attempt to mediate a negotiated settlement between the parties and subjects of the complaint if same appears possible;*
7. *prepare a report on the Board's findings for Cabinet, the civil service, the Licencees and the public; and,*
8. *make recommendations and do everything possible to secure their adoption so as to ensure complete compliance with the higher level plan, all as set forth in the applicable Acts and their Regulations."*

Assessment of Jurisdiction

It is the Board's opinion that the complaint is within its jurisdiction to investigate, as it relates to a prescribed matter, operational planning.

The complainants name the Cariboo Mountains Inter-Agency Management Committee as a subject of the complaint. By inference, in the relief requested, the complainants also suggest that the Regional Resource Board (RRB) should be a subject. The Board has decided that the CMIAMC and the RRB are not government within the meaning of section 175 of the *FPCBC Act* and therefore cannot be construed to be a subject of the complaint. However, because the CMIAMC and the RRB are parties that may be affected by an investigation of this complaint, they, together with the Ministry and the Licencees, will receive notice of the Board's decision in this matter and may be contacted during the investigation.

The Decision

Though the Board has authority both to request administrative reviews and to investigate complaints related to the approval of FDPs, it is not our intention to pursue both courses of action concurrently or consecutively on the same matter. Before the Board may request a review of an approval of an FDP, it must believe that there has been a contravention of the Code in relation to the preparation of the plan. The Board has decided not to request administrative review in this matter because:

- a complaint investigation has the potential to achieve the complainants' requested outcome of resolution through mediation between the parties; and,
- the information currently on our files is not sufficient to enable the Board to form the opinion that there has been a contravention of the Code in relation to the preparation of the plans.

For the complaint, it is the Board's decision that this matter **must be investigated**. The reasons for this decision are:

- the matter is within the Board's jurisdiction for complaint investigations since it concerns conduct occurring after June 15, 1995 (approval of forest development plans);
- the complaint relates to prescribed matters (operational planning) as defined in Part 3, section 6 the Forest Practices Board Regulation (B.C. Reg. 170/95);
- it is the opinion of the Chair that **none** of the criteria outlined in Section 177(2) of the *Forest Practices Code of British Columbia Act* (enclosed) apply. Section 177(2) provides the circumstances under which the Chair may decline to investigate.

As in all investigations, a primary focus will be to consult with the parties to attempt to settle the complaint. Our staff will contact you to acquire any additional information necessary and will begin the investigation promptly. Attached to this letter is an outline of the Board's authority during an investigation, and a brief summary of the process we will follow.

A letter similar to this, in which the only changes reflect the change in addressee, will be sent to the Ministry of Forests District offices, the Licencees, the CMIAMC and the Regional Resource Board.

Yours sincerely,

Keith Moore
Chair

Enclosure (2)

Attachment

The Jurisdiction of the Board in Complaint Investigation

Persons may complain to the Board about a "party" (defined as "the government or the holders of agreements under the *Forest Act* or *Range Act*")'s compliance with the requirements of parts 3-5 of the *Forest Practices Code of British Columbia (FPCBC) Act*, and the regulations made in relation to these parts. (*FPCBC Act*, sec. 175 and 176). The Board "must deal with complaints" unless the Chair is of the opinion that there are grounds to refuse to investigate, or to stop investigating a complaint. (*FPCBC Act*, sec. 177). The decision to investigate cannot be construed as comment on the merits or substance of a complaint.

For the purposes of an investigation the Board has the abilities to require a party to provide information or records (*FPCBC Act*, sec. 179), and to consult with a party for any purpose related to an investigation including to attempt to settle the complaint (B.C. Reg, 170/95, sec. 9(3)). At any time where it appears there may be grounds for making a report or recommendation which could adversely affect a party or a person, the Board must consult with that party or person before deciding the matter. (*FPCBC Act*, sec. 182). On completion of an investigation the Board must report its conclusions with reasons, and may make recommendations for action. (*FPCBC Act*, sec. 185).

Investigative Process

Conduct of the investigation rests with the Board's A/Director of Investigations, Dorothy Hayward. Independent consultants may be retained to assist with technical matters.

We have obtained information during the assessment period from both parties. The Board will request access to any additional information, whether written, electronic, cartographic, verbal or physical, seen as necessary to the investigation. The Board's staff will ensure that we consider all information seen as relevant by the parties. We anticipate that this process will include telephone conversations with individuals, and may include meetings with individuals, review of correspondence, maps and plans, and field inspections.

At all times during the investigation the Board will reserve comment and judgment on the merits of the complaint, until all necessary investigation is complete. It may be, however, that there are 'facts' in which the parties are in agreement, or are resolutions which do not require such agreement. Since the Board has a duty to attempt to settle matters, the investigative process will include discussion of the apparent facts to the extent necessary to facilitate opportunities for resolution.

Appendix 3

The effect of the declaration of the CCLUP as a higher level plan

Declaration of the higher level plan

Part 3 of the Act and Part 3 of the Operational Planning Regulation outline requirements for operational plans, such as forest development plans, to be consistent with higher level plans such as the CCLUP.

Section 10 (d) of the Act, (in Part 3, Operational Planning), states:

"10. A forest development plan must...

(d) be consistent with any higher level plan in effect when the forest development plan is approved or given effect under Division 5 of this Part,..."

Subsection (2) of Section 20 of the Operational Planning Regulation states:

"(2) ..., a person must not propose harvesting in an area if there is a reasonable likelihood that any harvesting operations would prevent the management objectives for the area contained in any higher level plan from being achieved."

Relative to this complaint, a higher level plan is defined in section 1(1) the Act as:

"(f) a plan or agreement declared to be a higher level plan by

(i) the ministers, or

(ii) the Lieutenant Governor in council under this or any other Act"

The CCLUP was announced by government in October, 1994. The portions of the Plan that are relevant to forest and range management were declared as a higher level plan by Order of three ministers on January 23, 1996¹².

The declaration of the CCLUP as a higher level plan took effect on January 31, 1996. The February 8, 1996 Gazette notice announcing the declaration of the CCLUP states:

"The establishment of these higher level plans¹³ under the Code came into effect on January 31, 1996. This means that from this date on, operational plans prepared under the Forest Practices Code must be consistent with these higher-level plans."

In announcing the establishment of the CCLUP as the basis for forest and range resource planning, the government issued a press release on January 29, 1996.¹⁴ This release stated:

"Establishment of the higher level plan under the Code takes effect Jan 31. After that date, operational plans prepared under the Forest Practices Code must be consistent with the higher level plan."

These documents all clearly state that operational plans, including forest development plans, prepared after January 31, 1996 must be consistent with the CCLUP.

However, an argument was presented to the Board that a document attached to the Ministers declaration of the CCLUP on January 23, 1996¹⁵ extended the phase-in provisions of the CCLUP until June, 1997. This document states, under the heading "Maintaining short-term timber supply":

"Attention should be placed on ensuring that there will be a continuity of wood supply for forest licensees during the phase in period for this land use plan. To facilitate orderly implementation, this phase-in period is extended to June, 1997." (page 3)

Some participants appear to have interpreted this to mean that operational plans do not have to be consistent with the higher level plan until after June, 1997. However, the Board has been advised that the phase-in period in this context refers to a period of ensuring the continuity of wood supply for forest licensees. It is a phase-in period for maintaining short term timber supply, not for the requirement to be consistent with the higher level plan. The Board is of the opinion that the date by which forest development plans must be consistent with the higher level plan is the date of the next set of plans. This is expected to be the 1996-2001 plans expected to be approved in December, 1996.

Substantial compliance

Although the declaration of the CCLUP requires that forest development plans approved after January 31, 1996 be consistent with the higher level plan, the Forest Practices Code contains provisions that provide for a period of "substantial compliance" with Code requirements. Until June 15, 1997, forest development plans which "substantially meet" the content requirements of the Act and regulations are acceptable, according to section 229(3) of the *Forest Practices Code of British Columbia Act*.

In addition, the Cariboo-Chilcotin Land-Use Plan Interim Interpretive Guide¹⁶ dated April 3, 1996 states:

"All operational plans approved after January 31, 1996 must be in 'substantial compliance' with the FPC and hence must be consistent with the direction of the Higher Level Plan." (page 9)

Various definitions of "substantial compliance" in the context of the Code have been proposed. These include:

"substantial compliance means 'in compliance with the requirements of the *Forest Practices Code of British Columbia Act* and regulations except for minor omissions or defects that will not affect the intent of the legislation'. Unimportant omissions or defects in FDP submissions may be tolerated if the essential elements of the Code are met. The expectation is that variation from the requirements of the Code will be minimal..."¹⁷

The Forest Practices Code Training Program Operational Planning Module¹⁸ uses three definitions of "substantial" to explain "substantial compliance":

"...being largely but not wholly that which is specified

...having the essentials to all intents and purposes

...unimportant omissions and defects may exist"

Given these definitions, the Board is of the opinion that a forest development plan which is not consistent with the objectives of a higher level plan does not substantially meet the requirements of the Act and Regulations. An inconsistency with a minor aspect of a higher level plan could be overlooked. However, the objectives of the higher level plan are "essentials" which, in the Board's view, must be met in future forest development plans.

Consistent with the higher level plan

The Board is of the opinion that the Act, the Regulations, the Gazette notice announcing the declaration of the CCLUP, and the Interim Interpretive Guide all require that the next forest development plans (the 1996-2001 plans) be consistent with the objectives of the CCLUP. The Board believes this to be the case even during the period of substantial compliance. These documents all appear to express the governments commitment to implement the CCLUP in the 1996 operational planning cycle.

However, different participants in the complaint appear to have different interpretations of the words "must be consistent with". The organizations filing the complaint and other members of the public reasonably expected that this meant that the

targets, particularly the non-timber targets, of the CCLUP would be implemented in the 1996-2001 plans.

Government, agreement holders and other members of the public had different expectations. The government has provided a document entitled "Government Clarification of Key Components of the Cariboo-Chilcotin Land-Use Plan".¹⁹ Under the heading "Review consistent with the CCLUP", this document states:

"In this regard "review consistent with the CCLUP" means that an activity must reflect all of the objectives, strategies and targets of the land use plan to the extent possible (or unless the CCLUP directs otherwise). Where this does not seem possible, eg. as indicated in the Integration Report, government expects that the RRB and the IAMC will identify an acceptable solution which is based on the fundamental interpretation that the CCLUP represents a balance of interests" (page 4)

This suggests that government's interpretation is that any forest development plan which is consistent with the current understanding of the CCLUP is consistent with the ministers declaration and is therefore consistent with the requirements of the Code. This is a more flexible interpretation than might reasonably have been expected at the time of the declaration.

Endnotes

¹ Letter filing a complaint with the Forest Practices Board, December 12, 1995. The six page letter was from the Sustainable Communities Sector, Cariboo-Chilcotin Regional CORE Process on behalf of the five organizations named in the complaint.

² Dr. Bruce Fraser's report is titled "Cariboo-Chilcotin Land-Use Plan Implementation: Interests of the Parties and Avenues for Resolution of a Complaint Under Investigation by the Forest Practices Board. Final Report, April 16, 1996."

³ This refers to the Special Resource Development Zone sub-units described in 90 Day Implementation Process Final Report. See endnote 4.

⁴ Each of the sub-units, and their timber and non-timber targets, are located and described in the Cariboo-Chilcotin Land-Use Plan, 90 Day Implementation Process Final Report, February, 1995. This report also describes each of the three resource development zones within which the sub-units are located.

⁵ The full title of this report is Cariboo-Chilcotin Land-Use Plan Interim Interpretive Guide Prepared by: Cariboo-Chilcotin Regional Resource Board and the Cariboo Mid-Coast Interagency Management Committee, April 3, 1996.

⁶ The full title of this report is Sept. 11, 1996 Final Report Cariboo-Chilcotin Land-Use Plan Integration process prepared by CCLUP Implementation Committee for the Cariboo Chilcotin Regional Resource Board and Cariboo Mid-Coast Interagency Management Committee.

⁷ The full title of this report is Strategic Land Use Planning Source Book, March 1996 by Daryl Brown.

⁸ See endnote 4

⁹ See endnote 3

¹⁰ A one page letter from Premier Mike Harcourt to Muriel Dodge, Chair of the Cariboo-Chilcotin Regional Resource Board dated September 21, 1995.

¹¹ The full title of this report is Forest Practices Code of British Columbia Higher Level Plans: Policy and Procedures June 1996.

¹² The full title of the Order is Order Declaring the Cariboo-Chilcotin Land-Use Plan to be a Higher Level Plan Pursuant to Section 1(1) of the Forest Practices Code Act of

British Columbia. It was signed by Minister of Forests, Hon. Andrew Petter; Minister of Environment, Lands and Parks, Hon. Moe Sihota; and Minister of Energy, Mines and Petroleum Resources, Hon. Anne Edwards.

¹³ In addition to the Cariboo-Chilcotin Land-Use Plan, the Gazette notice of February 8, 1996 also declared the Kamloops Land and Resource Management Plan (LRMP) as a higher level plan.

¹⁴ The press release was issued by the Ministry of Forests and the Land Use Coordination Office on January 29, 1996 for immediate release. The press release was titled "Cariboo-Chilcotin Land-Use Plan Basis for Forest Practices Code Application".

¹⁵ The document attached to the Order Declaring the Cariboo-Chilcotin Land-Use Plan to be a Higher Level Plan is titled Re: Government's Intent Regarding the Implementation of the Cariboo-Chilcotin Land-Use Plan. Like the Order, it is signed by the three ministers.

¹⁶ See endnote 5.

¹⁷ This definition of "substantial compliance" is provided in a letter dated February 1, 1996 from Bob Brash, District Manager, Queen Charlotte Islands Forest District to all major licencees, Queen Charlotte Islands Forest District.

¹⁸ Substantial compliance is discussed on page 36 in Chapter 6, Operational Planning, of the Strategic and Operational planning Module in the Forest Practices Code Training Program, Participants Resource Kit.

¹⁹ A document submitted to the Cariboo-Chilcotin Regional Resource Board on September 27, 1996. It is titled Government Clarification of Key Components of the Cariboo-Chilcotin Land-Use Plan.