

COMPLAINT INVESTIGATION

Turtle Valley Woodlot Logging

MARCH 2023
FPB/IRC/248



**Forest
Practices
Board**

BC'S INDEPENDENT
WATCHDOG FOR
SOUND FOREST &
RANGE PRACTICES

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Introduction

The Complaint

On August 3, 2022, the Forest Practices Board received a complaint from a Chase resident about forest planning and practices within woodlot W0337 (the woodlot). The complainant was concerned about notification of local residents, mapping water licences, fire hazard abatement, water management, the achievement of a visual quality objective, and government enforcement.

Background

A woodlot licence grants the licence holder exclusive rights to manage and harvest Crown timber within the woodlot licence area. The woodlot licence system allows individuals or organizations to manage up to 1200 hectares of Crown land in each woodlot, sometimes in combination with their own private land.

Woodlot W0337 is held by Balcaen Consolidated Contracting Limited (the licensee). The 1199.4-hectare woodlot lies within the Turtle Valley, south of the Trans-Canada Highway between Chase and Salmon Arm (see Figure 1). The Turtle Valley is a rural community of small farms and acreage homes.

The Forest Practices Board acknowledges that the Turtle Valley is located on Secwepemc territory, and recognizes the importance of the Secwepemc people's historical relationship with the land that continues to this day.

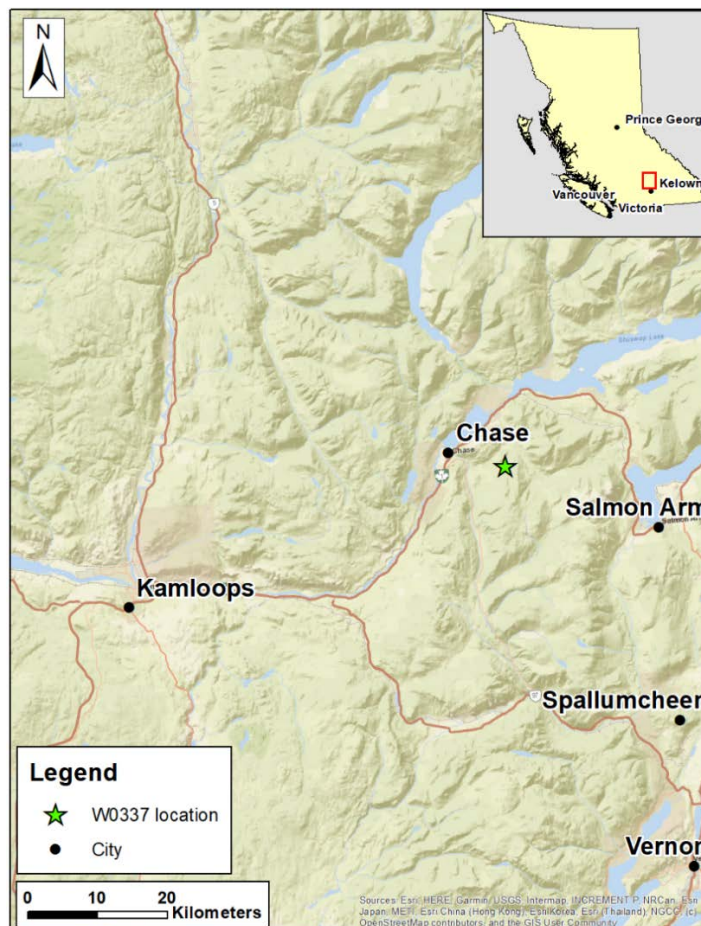


Figure 1. The Turtle Valley, location of Woodlot W0337, near the Village of Chase

The licensee harvested cutting permit NN, Block 2, in December 2020 and January 2021 (see Figure 2). The complainant contacted the Board in February 2021, with concerns about forest practices and disturbance to local residents from logging and hauling during the night. The Board suggested that the complainant contact the Compliance and Enforcement Branch (CEB) of the Ministry of Forests (MOF), and they did. A natural resource officer (NRO) followed up and found that the licensee was in compliance.

The complainant was not satisfied that government had adequately assessed all practice requirements and returned to the Board to file this complaint.

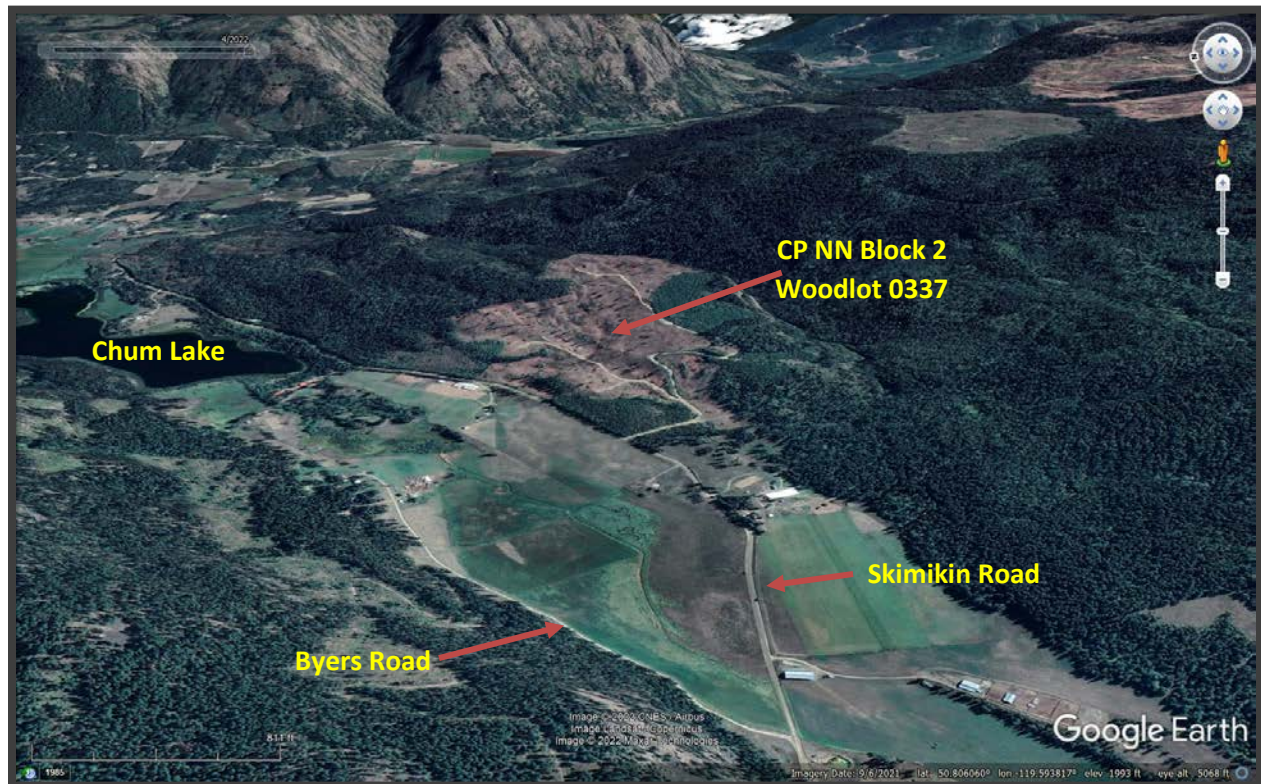


Figure 2. Aerial image of the Turtle Valley showing cutting permit NN Block 2 in relation to Skimikin Road and Chum Lake

Relevant Legislation

The legal requirements relevant to the issues raised in the complaint are set out in *Appendix 1*, and summarized below.

Section 7(2) of the *Wildfire Act* requires a person carrying out an industrial activity such as timber harvesting to abate a fire hazard.

Section 28(1) of the *Woodlot Licence Planning and Practices Regulation* (WLPPR) requires a woodlot licence holder who builds a road in a cutblock to maintain natural surface drainage patterns during and after construction.

Section 59 of the WLPPR requires a woodlot licence holder to carry out activities consistent with a visual quality objective. Section 1.1 of the *Forest Planning and Practices Regulation* (FPPR) defines each visual quality class.

The complainant was also concerned that the licensee did not notify local residents before activities began, and that the location of water licences were not shown on the cutblock map. The woodlot does not lie within a community watershed and there is no requirement to notify residents or water licensees before beginning operations. Further, there are no water licences within the cutblock, therefore none would be shown on the map. These two issues will not be discussed further in this report.

The Investigation

The investigation considered whether the licensee met legal requirements for hazard abatement, water management, visual quality objectives (VQO), and whether government enforcement was appropriate.

A Board investigator and a visual quality management expert interviewed the complainant, government staff and licensee staff, and visited the woodlot on August 25, 2022.

Did the woodlot licensee meet legal requirements?

Did the licensee comply with section 7(2) of the *Wildfire Act* regarding fire hazard abatement?

The complainant was concerned that fire hazard abatement was inadequate. The woodlot is not located within two kilometres of a local government or a fire protection district, which means that the licensee must abate a fire hazard within 30 months of the start of operations. In general, a fire hazard is abated if it does not increase the risk of a fire starting on the site and if a fire were to start, would not increase the fire behaviour or fire suppression associated with the fire. The field investigation found that the licensee piled woody debris accumulations (slash) and burned the piles. The piles burned thoroughly, and the fire hazard was effectively abated within the required timeframe.

Finding

The licensee complied with section 7(2) of the *Wildfire Act* regarding fire hazard abatement.

Did the licensee comply with section 28(1) of the *Woodlot Licence Planning and Practices Regulation* regarding the maintenance of natural surface drainage patterns?

The complainant was concerned about water management, specifically mentioning riparian seepage and aquifer management.

There are no riparian or other wetland features within the cutblock. The site is very dry, dominated by Douglas-fir with a heavy cover of pine grass throughout the block. The lack of riparian features means that there was no requirement for riparian reserves, nor is there a requirement to manage sub-surface water. The only applicable water-related requirement was to maintain natural surface drainage patterns during and after road construction (section 28(1) of the WLPPR).

There was no evidence that the licensee did not maintain natural surface drainage patterns during road construction. When harvesting was completed, the licensee deactivated the roads within the cutblock by removing culverts and cross-ditching. There was very little surface erosion, despite unusually high rainfall during July 2022. The licensee maintained natural surface drainage patterns during and after road construction.

Finding

The licensee complied with section 28(1) of the WLPPR.

Did the licensee comply with Section 59 of the *Woodlot Licence Planning and Practices Regulation* regarding visual quality objectives?

The woodlot is located within a scenic area and a large portion of the cutblock has a VQO of 'retention,' as shown in Figure 3.

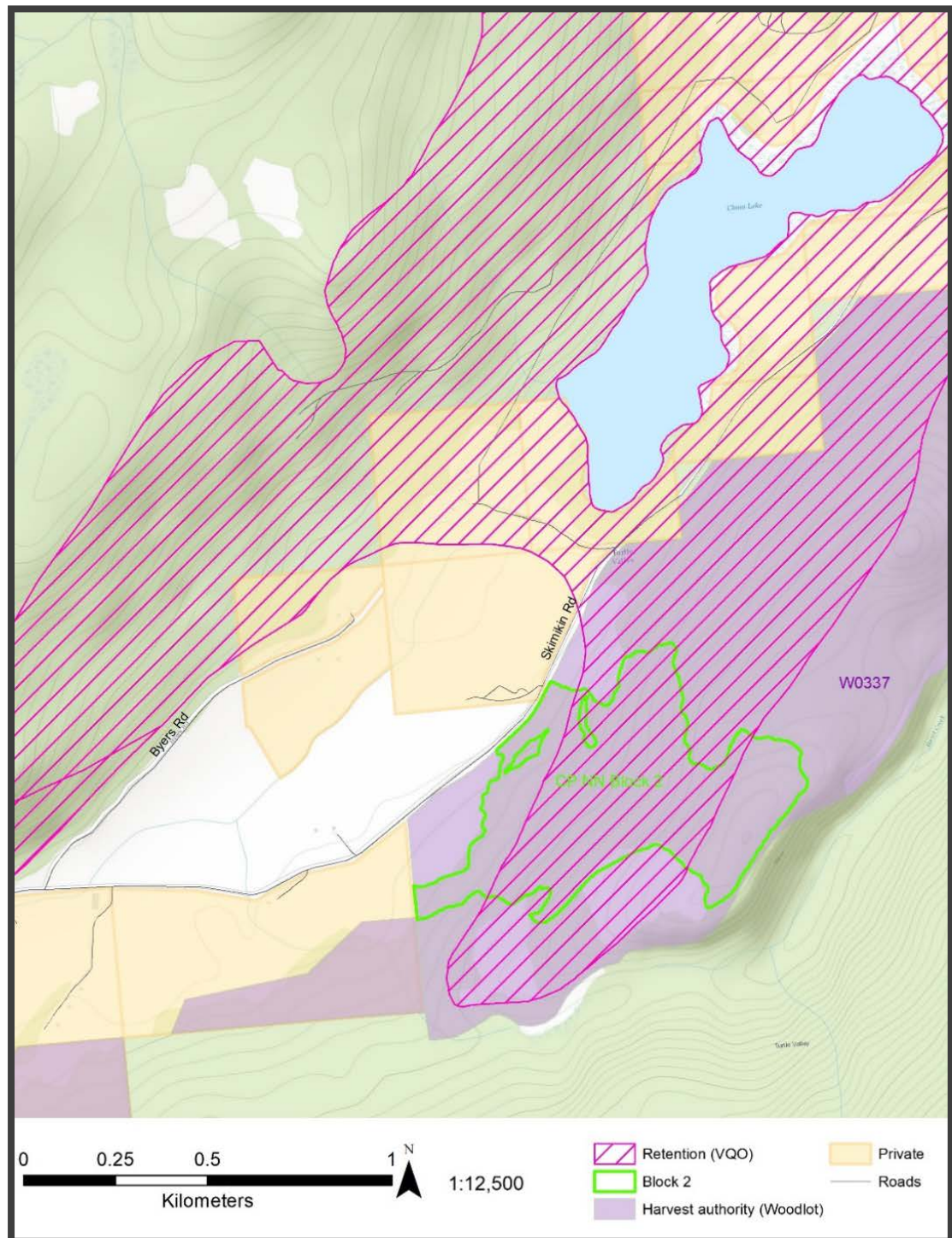


Figure 3. Retention visual quality objective polygon and Block NN in Woodlot 0337

Section 1.1 of the FPPR defines retention. Retention means that a cutblock should be difficult to see, small in scale, and natural in appearance when viewed from a significant public viewpoint.

The licensee considered that Chum Lake was a significant public viewpoint, as people fish and boat there. The licensee used Google Earth to assess the visual impact of planned timber harvesting from Chum Lake and nearby areas where people recreate. Chum Lake is shown in Figures 2 and 3.

The complainant was concerned about the appearance of the cutblock from Skimikin Road, which provides the main public access to Turtle Valley. The cutblock is directly visible for approximately two kilometres when travelling eastbound on Skimikin Road, but is not visible when traveling westbound (see Figure 4).

The licensee did not consider that Skimikin Road was a significant public viewpoint and did not assess visual impact from that location.

Government's *Visual Assessment Handbook*¹ provides best practices for visual impact assessment. The guidebook states, "A VIA [Visual Impact Assessment] is best conducted from viewpoints that represent a full range of public viewing opportunities." It also defines *significant public viewpoint* as "a place or location on the land or water that is accessible to the public and provides a direct viewing opportunity to the alteration and landform being assessed, including but not limited to travel routes, settlements, public use areas, tourism facilities, and parks." The Board considers Skimikin Road to be a significant public viewpoint.



Figure 4. View of CP NN block 2 from the intersection of Skimikin and Byers Roads. This photo was taken at a 50mm focal length, which is close to what the human eye would perceive.

Board investigators assessed the cutblock for compliance with visual quality requirements by assessing the view against the legal definitions of the categories of visually altered landscapes. Visual inspections were made from around Chum Lake and along Skimikin Road.

¹ Available at: https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/visual-resource-mgmt/visual_impact_assessment_handbook.pdf

The cutblock was largely obscured by terrain features when viewed from the northeast side of Chum Lake, looking south. At the Skimikin Road viewpoint, the cutblock was clearly visible, so investigators considered the view against the legal definition for a VQO of retention. Retention means that a cutblock is difficult to see, small in scale, and natural in appearance. Investigators determined that the harvesting in the block was very easy to see, large in scale, and natural in appearance. It is *very easy to see* because a passerby would not miss seeing the harvesting, even with a quick glance. (*Difficult to see* would require effort and might be missed in a quick glance.) It is *large in scale* because it takes up a large portion of the landform or the field of view. It is *natural in appearance* because it has irregular boundaries and a scattering of reserved trees and tree patches within the harvest area. The definition for the *modification* VQO includes the criteria *very easy to see* and *large in scale and natural in its appearance* thus the cutblock falls into the VQO of *modification* when viewed from Skimikin Road.

CATEGORIES OF VISUALLY ALTERED FOREST LANDSCAPE

There are five categories of visually altered landscapes, known as visual quality objectives (VQOs):

1. Preservation
2. Retention
3. Partial Retention
4. Modification
5. Maximum Modification

The categories are prescribed, each according to the extent of alteration resulting from the size, shape and location of cutblocks and roads. Descriptions and photographic examples of the VQO categories are available on a poster at:

https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/visual-resource-mgmt/vrm_a_guide_to_visual_quality_objectives.pdf

The Ministry of Forests' Forest and Range Evaluation Program (FREP) has developed a *Protocol for Visual Quality Effectiveness Evaluation*.² This protocol does not replace the legal definitions of visually altered forest landscape found in section 1.1 of the FPPR, but it aids in predicting whether a VQO will be met. Investigators completed the protocol from the Skimikin Road viewpoint and the results confirmed that the VQO achieved was modification.

Finding

The licensee did not comply with section 59 of the WLPPR. When viewed from a significant public viewpoint on Skimikin Road, the cutblock does not meet the VQO of retention.

Was government enforcement appropriate?

The complainant was concerned about government oversight and how government handled their concerns. The Board's jurisdiction includes examining the appropriateness of government enforcement. Appropriate enforcement encourages compliance with legislation and contributes to public confidence that forest practices are sound. The Board expects that a government investigation would be carried out in a fair, objective and consistent way, and that the results would be reported to the complainant.

The complainant first contacted Compliance and Enforcement Branch (CEB) in February 2021 with concerns about disturbance to neighbours and lack of notification to residents and water licensees about logging activities. A natural resource officer (NRO) investigated the complaint and found there were no legal requirements for the woodlot licensee to minimize noise disturbance or to notify people about planned logging. He reported these results to the complainant in April 2021.

The complainant was not satisfied with CEB's investigation finding that there were no requirements for licensees regarding any of the matters they had raised. The complainant then raised concerns that there was a lot of water in places within the block and alleged that the licensee had not properly managed wetland and riparian areas. The complainant also alleged that the licensee had created a fire hazard with the amount of logging debris left on site. The NRO resumed the investigation and visited the block with a planning forester from the Ministry of Forests to assess the complainant's new concerns.

² Available at: <https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/frep/frep-docs/visual-quality-protocol.pdf>

The NRO concluded that the licensee met the legal requirements relevant to the complainant's concerns. The NRO also noticed that a retention VQO polygon overlapped a portion of the cutblock. The NRO reported their findings to the complainant, and let the complainant know about the 'retention' VQO polygon.

The NRO explained to the complainant that they did not have the specialized knowledge to assess VQO requirements but would refer the issue to the ministry's district office where the NRO believed there were people with the necessary expertise. The NRO promised to re-open the investigation if anything was forthcoming from the ministry. The NRO followed up with the ministry several times over the following months but did not receive a response from the district.

Ministry staff explained to investigators that the person in the district with visual quality training had retired and was not replaced. This person apparently began, but did not complete, an assessment of visual quality impacts to determine if requirements had been met. The ministry explained that there was no one else on staff who could competently complete the assessment.

In summary, government enforcement efforts were initially proactive and promising. The NRO objectively investigated the complainants' concerns and reported the results. The NRO also identified that there could be an issue with achieving the VQO. However, the VQO issue was passed on to Ministry of Forests' district staff, and the investigation was never completed. An incomplete investigation means that enforcement was not consistent, and therefore not appropriate.

Finding

Government enforcement was not appropriate.

Conclusions

The Board found that the licensee complied with planning and practice requirements related to fire hazard abatement and maintenance of natural surface drainage patterns. However, the licensee did not meet the legal requirement to achieve a VQO of retention from the significant public viewpoint of Skimikin Road. The licensee limited its consideration of visual impact to Chum Lake, which is used for recreation.

Initial government enforcement efforts were proactive and promising—it was a NRO who identified that there could be an issue with achieving the VQO. However, an investigation of whether or not the VQO was achieved was never completed. Government enforcement was not appropriate because it was incomplete.

Subsequent to this investigation, the licensee told the Board that it has learned from the investigation process and it is keen to continue to improve its practices to meet legal obligations and to meet the stewardship standards it has set for itself. The Ministry of Forests told the Board that it acknowledges the need to manage enforcement cases more effectively and that it will improve internal communications and consider alternative sources of expertise when it is unavailable within the ministry.

Appendix 1: Relevant Legislation

Wildfire Act

7(2) A person, other than a person who is in a prescribed class of persons referred to in subsection (2.1), carrying out an industrial activity or a prescribed activity, must, within a prescribed time period and to the prescribed extent, abate a fire hazard of which the person is aware or ought reasonably to be aware.

Woodlot Licence Planning and Practices Regulation

28(1) If a woodlot licence holder constructs a temporary access structure or a permanent access structure on an area, the holder must maintain natural surface drainage patterns on the area both during and after construction.

59 Unless exempted under section 78 (1) [minister may grant exemptions], if a visual quality objective applies to a woodlot licence area, a woodlot licence holder must carry out primary forest activities in the area only in a manner that is consistent with the visual quality objective.

Forest Planning and Practices Regulation

Categories of visually altered forest landscape (section 1.1)

1.1 For the purposes of paragraph (c) of the definition of "altered forest landscape" in section 1, the following categories are prescribed, each according to the extent of alteration resulting from the size, shape and location of cutblocks and roads:

(a) *preservation*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is

- (i) very small in scale, and
- (ii) not easily distinguishable from the pre-harvest landscape;

(b) *retention*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is

- (i) difficult to see,
- (ii) small in scale, and
- (iii) natural in appearance;

(c) *partial retention*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is

- (i) easy to see,
- (ii) small to medium in scale, and
- (iii) natural and not rectilinear or geometric in shape;

(d) *modification*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint,

- (i) is very easy to see, and
- (ii) is
 - (A) large in scale and natural in its appearance, or
 - (B) small to medium in scale but with some angular characteristics;

(e) *maximum modification*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint,

(i) is very easy to see, and

(ii) is

(A) very large in scale,

(B) rectilinear and geometric in shape, or

(C) both.

Appendix 2: Visual Quality Resources

There are comprehensive training and information resources about visual resource management in BC available for forest practitioners. The BC government provides a series of documents, training courses, and websites to aid in visual resource management. There are also government staff and many forest consultants with expertise. The following is a list of some key resources.

Websites and Documents

- The BC Government's visual resource management website is here: <https://www2.gov.bc.ca/gov/content/industry/forestry/managing-our-forest-resources/visual-resource-management>.
- A poster entitled "A Guide to Visual Quality Objectives" illustrates the spectrum of visual quality objectives: https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/visual-resource-mgmt/vrm_a_guide_to_visual_quality_objectives.pdf.
- The *Visual Impact Assessment Handbook* (2022), which replaces the *Visual Impact Assessment Guidebook*, originally released in 2001: https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/visual-resource-mgmt/visual_impact_assessment_handbook.pdf. The purpose of this handbook is to describe best practices for completing visual impact assessments (VIAs) in a consistent and defensible manner.
- The *Protocol for Visual Quality Effectiveness Evaluation Procedures and Standards* explains procedures and standards for evaluating whether forest operations are meeting visual quality objectives: https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/visual-resource-mgmt/training-vrm/vrm_protocol_for_visual_quality_effectiveness_evaluation_procedures_standards.pdf

Training

The BC Government offers various training courses:

<https://www2.gov.bc.ca/gov/content/industry/forestry/managing-our-forest-resources/visual-resource-management/visual-resource-training-opportunities>. Training manuals include:

- [VLI Course Manual](#) (PDF, 18.3MB)
- [Visual Landscape Design Training Manual](#) (PDF, 35MB)

Forest Consultants

Many forest consulting companies have visual quality assessment and timber harvest planning expertise for compliance with visual quality objectives.

BC Government Personnel

Visual resource management staff can be found searching B.C. Government Directory (<https://dir.gov.bc.ca/>) or email VisualResourceManagement@gov.bc.ca.



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