

Forestry Audit: BC Timber Sales Program Rocky Mountain Forest District



FPB/ARC/80

April 2006

Board Commentary

In summer 2005, the Forest Practices Board conducted a compliance audit of forest planning and practices of the British Columbia Timber Sales (BCTS) program, and timber sale licence holders, in the Rocky Mountain Forest District. BCTS's operating areas are located in the Invermere and Cranbrook Timber Supply Areas (see map on page 2).

The Board notes that, with one exception, planning and practices undertaken by BCTS and its timber sale licence holders complied with legislative requirements in all significant respects.

The significant non-compliance noted in the audit relates to sediment from road building and upgrading by the holder of timber sale licence (TSL) A69888—that has, or has the potential to, adversely affect fish streams. Of particular concern is that the TSL holder, independently from BCTS, sought and got approval from the Ministry of Forests and Range for a road use permit to upgrade a long section of forest service road (FSR), adjacent to a fish stream to access a timber sale, but did not follow the permit conditions designed to minimize the amount of sediment entering the stream.

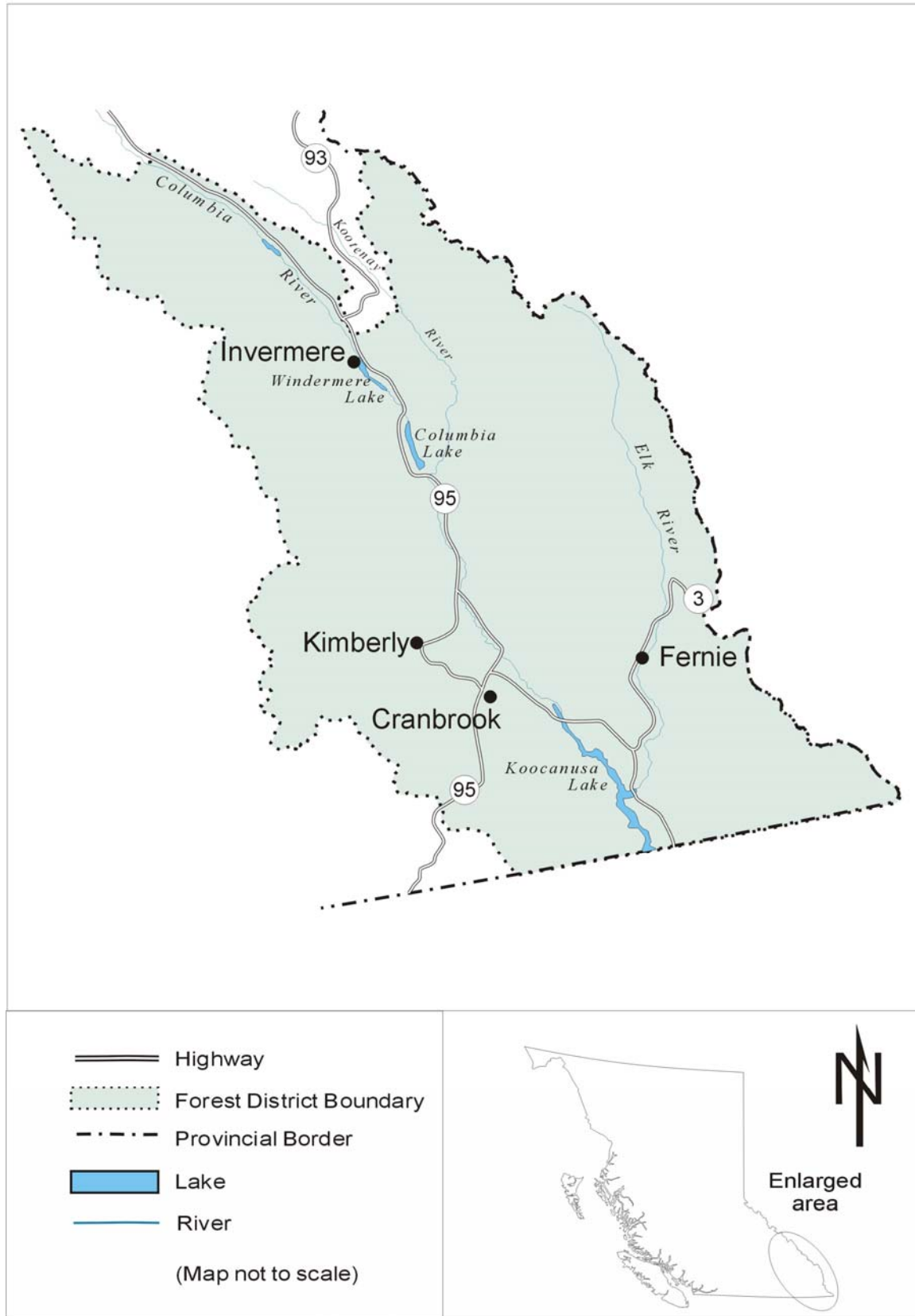
When doing roadwork near fish streams on Crown forest land, a higher standard of practice is both required by legislation and expected by the public. The Board encourages the TSL holder to ensure it operates to a higher standard of practice, when doing road work near fish streams in the future. As well, the Board suggests that it ensure appropriate water control measures are used on all newly constructed roads.

The Board also notes that BCTS's attempt at remediation, although well-intentioned, involved practices that were contrary to the objective of reducing sediment delivery to the fish stream. BCTS's initial remediation attempt is an area where the Board would like to see improvement.

Subsequent to the audit, BCTS completed a formal remediation plan that will see this segment of road permanently deactivated. BCTS had to postpone implementing the deactivation plan when another licensee expressed interest in using the FSR, but remains committed to deactivating the road in 2006. The Board acknowledges BCTS's commitment, noting that it does not have responsibility for the FSR, which is administered by the district manager, who granted a road use permit to the holder of the timber sale licence.

Currently, Ministry of Forests and Range compliance and enforcement officials are investigating this road segment and the corresponding sediment issues. Pending the outcome of the investigation, the Board may undertake further investigation of the circumstances surrounding the Little Lamb Creek FSR, if the Board determines such action is warranted.

Audit of Rocky Mountain Forest District BCTS



Audit Results

Background

As part of the Forest Practices Board's 2005 compliance audit program, the British Columbia Timber Sales (BCTS)¹ program and timber sale licence holders in the Rocky Mountain Forest District were selected for audit from the population of 12 BCTS business areas in the province. The Rocky Mountain portion of the Kootenay business area was selected randomly and not on the basis of location or past performance. Information on the Board's compliance audit process is provided in Appendix 1 (see page 9).



Harvest of trees damaged by the Lamb Creek fire southwest of Cranbrook.

The audit examined planning, activities and obligations undertaken or administered by BCTS from June 1, 2004, to June 17, 2005. The audit examined work done by both BCTS and its timber sale licence holders.² BCTS issues timber sale licenses and permits; develops operational plans; and conducts forest practices that are not subject to licences and permits. Timber sale licence holders fulfill licence, permit and operational plan obligations, including timber harvesting and road work within cutblocks.

BCTS operates in distinct areas throughout the Invermere and Cranbrook Timber Supply Areas within the Rocky Mountain Forest District. The main communities are Cranbrook, Kimberley, and Fernie in the southern part of the district, with Invermere in the north (see map on page 2).

The district is divided north-south by the Rocky Mountain Trench, with the Continental and Border ranges of the Rocky Mountains to the east and the Purcell Mountains to the west. The trench is characterized by low-lying valleys consisting of Douglas-fir and, in the southern part of the district, ponderosa pine. Lodgepole pine and spruce stands dominate mid-elevation plateaus, with some cedar and hemlock in wetter areas in the southern part of the district. Spruce and sub-alpine fir are found at the higher elevations. Harvesting and road-building activities subject to audit were mostly in mid-elevation lodgepole pine stands. Limited road building in the Mark Creek community watershed near Kimberley was also subject to audit.

During the audit period, BCTS harvested approximately 270,000 cubic metres using mostly ground-based systems.³ Most harvesting was in stands damaged by mountain pine beetle or the Lamb Creek fire, southwest of Cranbrook.

About 40 percent of harvesting and 20 percent of road building activities occurred in areas with moderate- to high-risk features, such as fish streams, community watersheds, unstable terrain and mountain caribou habitat. The audit focused on activities with moderate- to high-risk features.

Higher Level Plans

The *Kootenay-Boundary Land-Use Plan* (KBLUP) is a higher level plan⁴ under the Forest Practices Code and is applicable to BCTS's operations subject to audit. The KBLUP establishes management zones and requirements for "old" and "mature+old" forests, caribou habitat areas, grizzly bear habitat and connectivity corridors, streams licensed for human consumption, fire-maintained ecosystems and scenic areas.

Audit Approach and Scope

The audit examined BCTS's and timber sale licence holders' obligations and activities in the areas of:

- operational planning (including forest development plans⁵, silviculture prescriptions⁶ and site plans⁷);
- timber harvesting;
- road construction, maintenance and deactivation;
- silviculture; and
- fire protection.

The audit assessed these activities for compliance with the requirements of the *Forest Practices Code of British Columbia Act* (the Code), the *Forest and Range Practices Act* (FRPA)⁸ and the *Wildfire Act* (WA), and related regulations. All planning, activities, and obligations for the period June 1, 2004, to June 17, 2005, were included in the scope of the audit.

The Board's audit reference manual, *Compliance Audit Reference Manual, Version 6.0, May 2003*, and the addendum to the manual for the 2005 audit season, set out the standards and procedures that were used to carry out the audit.

Planning and Practices Examined

Activities during the audit period were approved under three forest development plans (FDPs) and subsequent amendments:

- the 2001-2005 FDP for the Invermere Timber Supply Area;
- the 2002-2006 FDP for the Cranbrook Timber Supply Area; and
- the 2001-2005 FDP for the Mark Creek community watershed.

Selected roads and cutblocks were audited from the ground, and from the air using a helicopter.

During the audit period, the following activities and obligations were audited:

- 21 of 50 cutblocks harvested
- 22 of 124 kilometres of new road constructed
- 84 of 1,118 kilometres of existing road maintained
- 6 of 47 kilometres of road deactivated
- 11 of 45 bridges maintained
- free-growing obligation on 10 of 25 openings where due
- regeneration obligations on 7 of 54 openings where due
- 2 of 5 cutblocks with mechanical site preparation
- fire preparedness on 3 of 7 active operations encountered

The audit also assessed plans for consistency with KBLUP objectives.

Findings

The audit found that, with one exception, planning and field activities undertaken or administered by BCTS and timber sale licence holders complied in all significant respects with the requirements of the Code, FRPA, WA, and related regulations. The exception was a finding of significant non-compliance relating to road work in the Lamb Creek fire area, done by the holder of TSL A69888.

Road Building Practices in the Area of the Lamb Creek Fire

TSL A69888

The audit found a significant non-compliance related to three sections of road work done by the holder of TSL A69888—construction of a 1.8 kilometre-long road; construction of a 0.5 kilometre-long section of road; and upgrade of a 1.8 kilometre-long section of a FSR.

The 1.8 kilometre-long, newly-constructed road had no cross drains or waterbars, and the ditch dissipated water in only two locations. Sections of the road surface and ditch had eroded, particularly the last 400 metres. The TSL holder did not ensure that the road drainage system controlled ditch erosion (section 9(1)(c)(ii) of the *Forest Road Regulation*).

The 0.5 kilometre section of new road lacked functioning ditches. Cross ditches, where present, drained onto erodable, fine-textured fill slopes. Fine-textured waste material from road construction had been stacked in oversteepened piles along the roadway. The TSL holder did not take steps to ensure that waste areas were left in a stable condition, or to locate waste areas where eroded soil materials would be prevented from entering streams (sections 8(1)(d) and 8(1)(k) of the *Forest Road Regulation*).

The Little Lamb Creek FSR was originally an old mining road and runs parallel to a fish-bearing stream. The FSR is within the creek's riparian reserve zone and, in some short sections, encroaches on the creek itself. While BCTS's operational plan recommended constructing the cutblock access road in an alternative location, the TSL holder sought and received approval from the district manager to access the cutblock by upgrading the FSR under a road use permit. The audit found portions of the upgraded section had unstable cutslopes and plugged ditchlines. The road surface, cutslopes and fill slopes had eroded.

The TSL holder did not use the FSR in accordance with the conditions of the road use permit (section 54(6)(c) of the Code) intended to reduce sediment delivery to the stream. Specifically, the TSL holder did not:

- place cross ditches in locations where significant vegetation occurs between the existing road and the stream;
- remove all culverts put in place during hauling operations;
- upgrade the road in a manner that ensures that water quality in the stream will not be negatively affected;
- place log cribbing to ensure that material does not enter the watercourse; or
- put erosion control socks in place.

Eroded materials from all three sections of road have entered fish streams. The TSL holder did not ensure that the road drainage systems minimized the amount of sediment entering streams (section 9(1)(c)(v) of the *Forest Road Regulation*). The resulting sedimentation has, or has the potential to, adversely affect fish streams. Continued sedimentation of the fish streams is likely, given the exposed fine-textured soils and inadequate/non-functioning drainage systems.

BC Timber Sales (BCTS)

In May 2005, BCTS noted the fine materials eroding from the upgraded section of the Little Lamb Creek FSR. Although BCTS is not responsible for the FSR, which is administered by the district manager, it undertook remediation work to stop sediment from entering the fish stream, as it had machinery in the area. Remediation included digging crossdrains, cleaning ditchlines, and stabilizing fill slopes. However, the crossdrains may have had the unintended effect of accelerating the delivery of sediment to the stream. Also, BCTS had pushed out, or placed, excavated materials on the creek side of the road, which subsequently were eroding into the stream. Consequently, while BCTS's remediation works were well intended, it used practices inconsistent with the objective of reducing sediment delivery. Accordingly, this is an area requiring improvement.

Subsequent to the field audit, BCTS contracted a full deactivation plan for the upgraded section of the FSR, as well as the 0.5 kilometre section of new road. BCTS postponed implementing the deactivation plan after another licensee expressed interest in using the FSR, but remains committed to deactivating the FSR in 2006.

Audit Opinion

In my opinion, except for the road work described below, the operational planning; timber harvesting; silviculture; road construction, maintenance and deactivation; and fire protection activities carried out by BCTS and its timber sale licence holders for the period June 1, 2004, to June 17, 2005, complied in all significant respects with the requirements of the *Forest Practices Code of British Columbia Act*, the *Forest and Range Practices Act*, the *Wildfire Act* and related regulations as of June 2005.

As described in the *Road Building Practices in the Area of the Lamb Creek Fire* section of this report, the audit identified a situation of significant non-compliance related to road work by the holder of TSL A69888. Sediment from road building and upgrading has, or has the potential to, adversely affect fish streams.

Without further qualifying my opinion, I draw attention to the part of the same section that describes an area of BCTS's operations requiring improvement: the attempted remediation of some of the roadwork undertaken by the TSL holder.

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

The *Audit Approach and Scope* and the *Planning and Practices Examined* sections of this report describe the basis of the audit work performed in reaching the above conclusion. The audit was conducted in accordance with the auditing standards of the Forest Practices Board. Such an audit includes examining sufficient forest planning and practices to support an overall evaluation of compliance with the Code, FRPA and WA.



Christopher R. Mosher CA, CEA(SFM)
Director, Audits
Victoria, British Columbia

March 6, 2006

¹ BCTS issues timber sale licences and permits; develops operational plans; and conducts forest practices that are not subject to licences and permits, such as silviculture activities and some road work. Timber sale licence holders fulfill licence, permit and operational plan obligations, including timber harvesting and road work.

² BCTS replaced the Ministry of Forest's Small Business Forest Enterprise Program (SBFEP) as of April 1, 2003. Some operational plans and work towards fulfilling silviculture obligations were completed by the SBFEP. However, for ease of reading this report, activities, obligations and findings are referenced to BCTS or its licence holders.

³ Excluding some non-replaceable forest licences that were not part of the audit.

⁴ A higher level plan is a forest resource management objective that is established as legally binding by a written order. The objective applies to a resource management zone, landscape unit, sensitive area, recreation site, recreation trail, or interpretive forest site. Higher level plans are a provision of the *Forest Practices Code of British Columbia Act* that give direction to operational plans.

⁵ A forest development plan is an operational plan that provides the public and government agencies with information about the location of proposed roads and cutblocks for harvesting timber over a period of at least five years. The plan must specify measures that will be carried out to protect certain forest resources prescribed by regulation. It must also be consistent with any higher level plans. Site-specific plans are required to be consistent with the forest development plan.

⁶ A silviculture prescription is a site-specific operational plan that describes the forest management objectives for an area to be harvested (a cutblock). The silviculture prescriptions examined in the audit are required to describe the management activities proposed to maintain the inherent productivity of the site, accommodate all resource values including biological diversity, and produce a free-growing stand capable of meeting stated management objectives. Silviculture prescriptions must be consistent with forest development plans that encompass the area to which the prescription applies.

⁷ A site plan is a site-specific plan that is required in place of a silviculture prescription as of December 17, 2002, except where there is already an existing silviculture prescription. The site plan contains many of the same elements as a silviculture prescription and is designed to identify resource values and define what a free-growing stand will be on that site. However, it is not an operational plan under the Code and does not require review or approval by government to be implemented.

⁸ Most of the *Forest Practices Code of British Columbia Act* (the Code) was repealed on January 31, 2004, and replaced with the *Forest and Range Practices Act* (FRPA). The transitional provisions of FRPA say that the Code continues to apply to forest practices carried out under a forest development plan. This continues until there is an approved forest stewardship plan, at which point, the requirements of FRPA apply. Therefore, although FRPA came into effect during the audit period, the legislated forest practices requirements were the requirements of the Code.

Appendix 1:

Forest Practices Board Compliance Audit Process

Background

The Forest Practices Board conducts audits of government and agreement-holders for compliance with the *Forest Practices and Range Practices Act* (FRPA). The Board has the authority to conduct these periodic independent audits under section 122(1) of FRPA. Compliance audits examine forest planning and practices to determine whether or not they meet FRPA requirements.

Most of the *Forest Practices Code of British Columbia Act* (the Code) was repealed on January 31, 2004, and replaced with FRPA. The transitional provisions of FRPA state that the Code continues to apply to forest practices carried out under a forest development plan, until there is an approved forest stewardship plan, at which point the requirements of FRPA apply.

The Board audits agreement holders who have forest licences or other tenures under the *Forest Act* or the *Range Act*. The Board also audits government's British Columbia Timber Sales (BCTS) program. Selection for audit, of both areas and licensees or agreement-holders to be audited, is made randomly to ensure a fair, unbiased selection.

Audit Standards

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

The audits determine compliance with the Code and FRPA, based on criteria derived from those Acts and related regulations. The criteria reflect judgments about the level of performance that constitutes compliance with each requirement

The standards and procedures for compliance audits are described in the Board's *Compliance Audit Reference Manual*.

Audit Process

Conducting the Audit

Once the Board randomly selects an audit licensee and area, all activities carried out during the period subject to audit are identified (such as harvesting or replanting, and road construction or deactivation activities). Items that make up each forest activity are referred to as a population. For example, all sites harvested form the timber harvesting population and all road sections constructed form the road construction population.

A separate sample is then selected for each population (e.g., the cutblocks selected for auditing timber harvesting). Within each population, more audit effort (i.e., more audit sampling) is allocated to areas where the risk of non-compliance is greater.

Audit field work includes assessments of features using helicopters and ground procedures, such as measuring specific features like riparian reserve zone width. The audit teams generally spend one to two weeks in the field.

Evaluating the Results

The Board recognizes that compliance with the many requirements of the Code and FRPA is more a matter of degree than absolute adherence. Determining compliance, and assessing the significance of non-compliance, requires the exercise of professional judgment within the direction provided by the Board.

The audit team, composed of professionals and technical experts, first determines whether forest practices comply with legislated requirements. For those practices considered to not be in compliance, the audit team then evaluates the significance of the non-compliance, based on a number of criteria, including the magnitude of the event, the frequency of its occurrence and the severity of the consequences.

Auditors categorize their findings into the following levels of compliance:

Compliance – where the auditor finds that practices meet Code and FRPA requirements.

Not significant non-compliance – where the auditor, upon reaching a non-compliance conclusion, determines that one or more non-compliance event(s) is not significant and not worthy of reporting. Therefore, this category of events will not be included in audit reports.

Significant non-compliance – where the auditor determines a non-compliance event(s) or condition(s) is or has the potential to be significant, and is considered worthy of reporting.

Significant breach – where the auditor finds that significant harm has occurred, or is beginning to occur, to persons or the environment as a result of one or many non-compliance events.

If it is determined that a significant breach has occurred, the auditor is required by the *Forest Practices Board Regulation* to immediately advise the Board, the party being audited, and the Minister of Forests and Range.

Reporting

Based on the above evaluation, the auditor then prepares a draft audit report. The party being audited is given a copy of the draft report for review and comment before it is submitted to the Board.

Once the auditor submits the draft report, the Board reviews it and determines if the audit findings may adversely affect any party or person. If so, the party or person must be given an opportunity to make representations before the Board decides the matter and issues a final report. The representations allow parties that may potentially be adversely affected to present their views to the Board.

The Board then reviews the draft report from the auditor and the representations from parties that may potentially be adversely affected before preparing its final report. Once the representations have been completed, the report is finalized and released: first to the auditee and then to the public and government.



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NEWS RELEASE

For Immediate Release
April 12, 2006

Small Forest Operator Faulted in Board Audit

VICTORIA – The Forest Practices Board has found a timber sale licence holder in the Rocky Mountain Forest District did not comply with the Forest Practices Code.

The finding was reported in a board compliance audit of the BC Timber Sales Program (BCTS) and timber sale licence holders in the district, which includes the Invermere and Cranbrook Timber Supply Areas. BC Timber Sales is an independent organization within the Ministry of Forests and Range, created to develop Crown timber for auction, establish market price and capture the value of the asset for the public.

With one exception, the audit found full compliance by BCTS and its timber sale licence holders with all requirements of forest practices legislation. The significant non-compliance concerned the road construction and upgrading activities of a timber sale licence holder which could potentially impact nearby fish streams. The ministry is now conducting its own investigation into the board's finding.

"This non-compliance finding is serious and represents an ongoing threat to a fish-bearing stream," said board chair Bruce Fraser. "This licence holder did not follow the conditions of the road permit, which were designed to prevent damage to the adjacent stream. Sediment is likely continuing to enter the stream from this road, because of the poor drainage systems."

The board notes that BCTS is not legally responsible for either the road itself or the permit to use the road, which was approved by the Ministry of Forests and Range. However, BCTS voluntarily attempted to repair the damage in order to stop sediment from entering the stream. These efforts, while well-intentioned, were not entirely effective and the board believes BCTS could improve its performance in this area.

"Once the ministry has completed its investigation, the board may undertake a special investigation into the approval and enforcement of this road permit, if we determine this additional review would be in the public interest," said Fraser.

The Forest Practices Board is an independent public watchdog that reports to the public about compliance with the Forest and Range Practices Act (FRPA) and the achievement of its intent. The board's main roles under FRPA are:

- Auditing forest practices of government and licence holders on public lands.
- Auditing government enforcement of FRPA .
- Investigating public complaints.
- Undertaking special investigations of forestry issues.
- Participating in administrative appeals.
- Providing reports on board activities, findings and recommendations.

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BCTS - Rocky Mountain Forest District

BC Timber Sales Program
Rocky Mountain Forest
District BCTS and timber sale
licence holders in the
Invermere and Cranbrook
TSAs complied with forest
practices legislation with the
exception of the road
construction and upgrading
activities of one timber sale
licence holder.

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[Response from TSL Holders](#)



[Board's Response to TSL Holders's Letter](#)

K. Oler

RR # 1, Site 18, Box19, Sundre, Alberta TOM 1 XO ph. (403)638-7642

May 3, 2006

Forest Practices Board
Third Floor 1675 Douglas Street
P.O. Box 9905, Stn. Pro. Govt.
Victoria B.C.
V8W 9R1

Attn: Bruce Fraser

Re: Audit Report B.C.T.S. Rocky Mountain Forest District

Please consider this letter as the TSL holders's formal response to the final Audit Report. To date we have not received the bound copies requested so we are assuming the report last faxed to us is the final formal report. This letter once again details concerns with the accuracy of the report which has been prepared. We have brought these concerns forward on three previous occasions and have effectively been ignored by the Forest Practices Board. As you will see we have very significant concerns regarding the accuracy of many of the statements.

The following outlines our concerns:

Statement on page 5 referring to "1.8 km long newly constructed road that had no cross drains or waterbars and the ditch dissipated water in only two locations. Sections of the road surface and ditch had eroded, particularly the last 400 metres. The TSL holder did not ensure that the road drainage system controls ditch erosion (section 9(1) (ii) of the Forest Road Regulation)"

Cross drains and water bars were put in place on the stated piece of road by the TSL holder. However drainage control structures put in place by the TSL holder were taken out by other parties operating in the area. This access by the other parties was done with out any notification to the TSL holder or with out any road use agreement. FPB must also take into consideration that the TSL holder did not propose the road in it's present location. The road was reconstructed from a road built by the M.O.F. in a questionable location.

Also you must consider that shortly before your Audit, record rainfalls were received in the area. It is also very unlikely that the stream you make reference to is fish bearing. This statement is based on accepted professional standards to determine if a stream is fish bearing. The road segment in question has since been cross ditched by the TSL holder.

Statement on Page 6 referring to *"The one –half kilometre section of a new road lacked functioning ditches. Cross drains where present, drained onto erodable, fine textured fill slopes. Fine textured waste material from road construction had been stacked in oversteepened piles along the roadway. The TSL holder did not take steps to ensure that waste areas were left in a stable condition, or to locate waste areas where eroded soil materials would be prevented from entering streams (sections 8(1)(d) and 8(1) 9k) Of the Forest Road Regulation.)"*

The road you are referring to was proposed in a very questionable location. If sediment entered stream from the road or waste pile is very questionable. To the best of our knowledge no geotechnical assessment were carried out by B.C.T.S. No adequate stream assessment was carried out by B.C.T.S. The manner in which the TSL holder built the road as opposed to the original B.C.T.S. plan, has resulted in significantly less disturbance then would have resulted from the original proposal. A much more serious situation would have resulted if the B.C.T.S. plan was followed. The TSL holder did propose to recontour the portion of road in question. Once again the report does not take into account the record rainfall just previous to your audit. Also the area recently being burned and associated soil disturbance is not taken into account

Statement on page 6 referring to *" The Little Lamb FSR was originally an old mining road and parallels a fish bearing stream. The FSR is within the creek's riparian reserve zone and, in some short sections, encroaches on the creek itself. While BCTS operational plan recommended constructing the cutblock access road in an alternative location, the TSL holder sought and received approval from the district manager to access the cutblock by upgrading the FSR under a road use permit. The audit found that portions of the upgraded section had unstable cutslopes and plugged ditchlines. The road surface cutslopes and fill had eroded. The TSL holder did not use the FSR in accordance with the conditions of the road use permit(section 54(6) (c) of the Forest Practices Code of British Columbia Act), intended to reduce sediment delivery to the stream. Specifically, the TSL holder did not ; place cross ditches in the locations where significant vegetation occurs between the existing road and the stream; remove all culverts put in place during hauling operations; upgrade the road in a manner that ensures that quality in the stream will not be negatively affected; place log cribbing to ensure that material does not enter the watercourse; and put erosion control socks in place. "*

The portion of the road with the unstable cutslopes, did not result from any activities of the TSL holder. The TSL holder simply repaired the significant damage which had resulted from the MOF protection branch attempt at reclamation after the fire. The manner in which the TSL holder used the existing road was very much in keeping with minimizing the sediment delivery to the stream adjacent to the road. After we finished using the road we backed up the existing culverts, did some water barring and cleaned out some short sections of ditch. This did not result in any significant increase in sediment delivery to the stream. Our less is more approach was definitely the correct approach

based on our experience, and has also been backed up by the reclamation plan prepared by the B.C.T.S. after the fact.

All of this work had been reviewed and approved by B.C.T.S.

The road location originally proposed by B.C.T.S. was very questionable from a terrain stability stand point. Numerous drainages and slope instability indicators were present on this proposed location. The proposed route was directly above the section of bank which had slumped onto the Little Lamb FSR. All indicators showed that building a road in this location would have been a serious mistake. It is also my understanding that the proposed route was laid out by B.C.T.S. with significant snow cover, making terrain and drainage assessment impossible. It is also my understanding that no terrain stability assessments were completed by B.C.T.S.

Statement on Page 6 referring to “ *Eroded materials from all three sections of road have entered fish streams. The TSL holder did not ensure the road drainage systems minimized the amount of sediment entering streams (section 9(1) (c) (v) of the Forest Road Regulation)*

The resulting sedimentation has , or has the potential to, adversely affect fish streams. Continued sedimentation of the fish streams is likely, given the exposed fine textured soils and inadequate/non –functioning drainage systems.

Again it is questionable if sediment from all three road sections entered fish streams. The question should not be if sediment entered the streams, but did the TSL holder make reasonable efforts to minimize sediment delivery. Using all accepted professional standards the TSL holder did make every reasonable effort to minimize sediment delivery to all watercourses. Again using accepted professional standards it is very questionable if any of these streams in question are fish bearing.

Seven factors contributed to sediment deliver to the streams:

- 1.) Soil disturbance as a result of the fire.
- 2.) Record rainfalls
- 3.) BCTS activities
- 4.) Activities of other operators in the area.
- 5.) Poor planning and assessments by B.C.T.S.
- 6.) M.O.F. Protection Branch activities.
- 7.) TSL Holder activities

Of these seven factors the TSL Holder only had control over one. Compared to the other six factors the TSL holder's activities caused minimal sediment delivery.

It had been stated on several occasions by FPB that it was impossible to determine what work had been done on the FSR in question by the TSL holder and what work had been done by B.C.T.S. However it seems that the FPB has accepted the statements by

B.C.T.S. as fact and have disregarded the statements by the TSL holder and his representatives.

I would like to again ask on what basis that the Forest Practices Board has developed the belief that the TSL holder's statements are false and that B.C.T.S statements are true.

I would also question the investigative techniques that have been used by the Forest Practices Board in this case. To arrive at the conclusions, stated in your report clearly demonstrates that you have not adequately investigated any of the statements or positions brought forward by the TSL holder or his representatives.

Much of the work done by B.C.T.S. from the initial planning stages to attempts at reclamation, were done in a very questionable manner.

As a general statement I find it quite disturbing that considering the many questionable practices that were carried out during salvage operations associated with the Lamb creek fire, that this is the only area requiring improvement by B.C.T.S. which was discovered during your audit.

I would once again like to ask the Forest Practices Board if they have investigated the methodology used for riparian assessment, terrain stability assessment, block layout, road location, wildlife tree patch assessment and for determining stumpage values. I am sure that even cursory investigation of any of these points and how they relate to the operations in the Lamb Ck. Fire area will be very enlightening.

The concept that the TSL holder is unable to appeal the Forest Practices Board Report based on the current legislative structure is also very interesting. This effectively makes it possible for the Forest Practices Board to state anything in a report true or untrue without having to back it up or face the accused. Based on the this situation it is very disturbing that the board has seemly accepted your investigators report as fact with no further questioning of the TSL holder.

If you have any questions or require any further information or documentation please feel free to contact me or my representative at ph.(250) 425-9980 cell (250) 425-3711 or fax (250) 425-9981.

Sincerely



Ken Oler

cc. Shane Bowden B.C.T.S.
Steve Byford B.C.T.S.
All Public Enquires



File: 97150-20/2005-02

May 24, 2006

Ken Oler
RR#1, Site 18, Box 19
Sundre, Alberta T0M 1X0

Dear Ken Oler:

Re: Forestry Audit: BC Timber Sales, Rocky Mountain Forest District

Thank you for your letter dated May 3, 2006. I appreciate you taking the time to write to me to express your concerns with respect to the recent audit report. I trust that you have since received the bound copies of the report you have requested.

Your letter documents several points of concern that you have brought forward previously to the audit team but feel have been ignored. I assure you that the concerns that you had brought forward were thoughtfully considered prior to finalizing the audit report. Your representation letter was assessed point by point by not only the audit team, but also the two member Board panel. Although the audit documented several non-compliances with the legislation, the key issue relates to Section 54(6)(c) of the *Forest Practices Code Act* which states:

54. Use of roads on Crown land for timber harvesting or other industrial activity

(6)A person who uses a road in accordance with this section must do so in accordance with all of the following:

- (a) this act, the regulations and the standards;
- (c) any cutting permit, road permit, road use permit, special use permit or timber sale licence that does not provide for cutting permits.

Based on the evidence gathered during the audit, it was found by the auditors and supported by the Board panel and myself that you failed to operate in accordance with the conditions of a road use permit for the Little Lamb Creek FSR. Although you agreed to several conditions to minimize sediment delivery to Little Lamb Creek, outlined in your representative's August 6, 2004, letter to the district manager, those conditions were not met.

A specialist hired by the Board to assess this road segment estimated that over 300 cubic metres of fine sediment eroded into Little Lamb Creek from the area hydrologically

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connected to the creek. The audit team's opinion, supported by the Board, is that Oler's road construction practices resulted in considerable sedimentation. The road drainage systems did not minimize sediment delivery to a stream, contrary to section 9(1)(c)(v) of the *Forest Road Regulation*.

This failure to follow the conditions of the road use permit and the sedimentation resulting from road construction practices were the primary reasons for the significant non-compliance finding in the audit report. The points raised in your letter, previously considered by the Board, did not lessen Oler's obligations to follow the conditions of the road use permit and minimize sediment delivery to the fish stream.

The Forest Practices Board was created under the Forest Practices Code of British Columbia Act (the Code) as an independent watchdog for sound forest practices in BC's public forests. The mandate of the Forest Practices Board is to provide independent assurance, to both the British Columbia public and the international marketplace, that forest and range licensees are carrying out sound practices and complying with legal requirements. Therefore, it is also the duty of the Board to report publicly when we find that a licensee has failed to comply with legal requirements and has adversely affected a public resource.

I am disappointed that you feel the Board process was not fair and that "it is possible for the Forest Practices Board to state anything in a report true or untrue without having to back it up or face the accused." I must challenge your statement as it is a requirement of our audits to base our opinion on sufficient appropriate audit evidence, and to provide potentially adversely affected parties an opportunity to be heard by the Board. In this case, auditors spent four days examining the road construction in the Little Lamb Creek area. Observations and finding were discussed with your representative in the field and later at an exit meeting in Cranbrook. Your written representation was considered in detail by the audit team, a panel of Board members as well as myself prior to this report being released publicly.

Consequently, I believe that our normal audit standards were met with this audit, as with all of our audits, and I would hope you would take the Board's advice and attempt to operate to a higher standard of practice when doing road work near fish streams in the future.

Although this audit file is closed, I will remind you that the Board is interested in the outcome of the Ministry of Forest and Range ongoing compliance and enforcement investigation with respect to this road segment and the corresponding sediment issues, and may undertake further investigation if the Board determines such action is warranted.

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I thank you for raising your concerns, however I can assure you that your points had previously been assessed fully, but did not mitigate the issue of the non-compliance noted.

As the Board is a public agency, we have a responsibility to act in a transparent manner, therefore when an auditee raises a concern with our process; we post those concerns, as well as our response, on our public website. Therefore your letter and my response will be posted on our website.

Once again, on behalf of the Board I would like to thank you and your staff for the cooperation shown throughout the audit.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Bruce Fraser". The signature is fluid and cursive, with the first name "Bruce" being more prominent than the last name "Fraser".

Bruce Fraser, PhD
Chair

cc: Shane Bowden, BCTS
Steve Byford, BCTS