

Board Bulletin, Volume 3 – Opportunity for Public Consultation under the Forest and Range Practices Act

This bulletin is the third in a series of Forest Practices Board bulletins describing new aspects of forest legislation, practices and trends, and their implications for forest stewardship. These bulletins are intended to foster discussion and to improve understanding of forest practices. This bulletin addresses the public's opportunity to review and comment on proposed forestry developments under the Forest and Range Practices Act.

Introduction

The people of British Columbia own 95 percent of the province's land base. The province grants harvesting rights and management obligations to forest companies through tenure and licensing agreements. British Columbians expect management of their forest resource to be open and accountable.

Openness and accountability in forest practices is achieved in part through effective public consultation. Effective consultation allows British Columbians to find out what is happening in their forests, express their views and have them seriously considered by decision-makers.

Public consultation benefits the forest industry by identifying important resources and community values so that forest companies can address them during the planning and conduct of forestry operations. An effective public consultation process helps individual firms demonstrate to the marketplace that they have considered the diversity of ecological, economic and social factors related to forests.

About one-quarter of the public complaints to the Board have to do with the opportunity for public review and comment on proposed forestry development. The Board's experience is that inadequate opportunity for effective review and comment leads to dissatisfaction, distrust and increased conflict on the ground. Providing for meaningful public involvement is essential for maintaining and building local and international confidence in the management of BC's forest resource.

Some forest companies participate in independent certification programs that include a public involvement component (e.g. Canadian Standards Association, Sustainable Forestry Initiative, Forest Stewardship Council). For example, some certification models require a public participation program that shows how comments were considered in developing forestry plans.

The public also has a legislated opportunity for public involvement in operational planning under the *Forest and Range Practices Act* (FRPA). FRPA is replacing the *Forest Practices Code of British Columbia Act* (the Code). FRPA generally emphasizes results over process, providing forest companies and forestry professionals with flexibility in deciding on the best approach for achieving the results required by law. However, effective public consultation is not a specific outcome that licensees are required to achieve under FRPA. Instead, FRPA retains minimum process requirements for public consultation, similar to some of the requirements that existed under the Code. The achievement of effective public consultation beyond the minimum legal requirements will be at the discretion of forest companies and BC timber sales managers with the responsibility for forest planning

This bulletin outlines the principles of effective public consultation with respect to forest planning on BC's public lands. It evaluates how FRPA measures up to the principles, and discusses what legislation can and cannot do to satisfy public expectations around the consultation process. Finally, the bulletin concludes that the approach and attitude of licensees, government agencies and individual British Columbians is the key factor in making consultation effective.

When to Consult – and About What

The Board believes that effective public consultation requires providing an opportunity for public input at the appropriate planning level. Concerns about land use, such as permitting logging rather than creating a protected area, need to be addressed in strategic land and resource management plans. Concerns about landscape-level issues, such as protecting habitat for species like caribou or grizzly bears, need to be addressed in landscape-level plans. Finally, concerns about proposed roads and cutblock locations need to be addressed in operational or site plans. If concerns are directed to the wrong planning level, they cannot be properly addressed and the result will be dissatisfaction for all parties.

The Board's view is that the public must have an opportunity to access and provide input at all planning levels, from strategic through to operational, depending on their specific interests and how they are affected by forest operations. This bulletin considers only the one aspect of public consultation that falls under the Board's mandate – the opportunity for public review and comment on operational or site plans under FRPA.

Principles of Effective Public Consultation

The Board has found in its previous work and in the literature that public involvement is most effective when it incorporates the following principles:

EARLY AND MEANINGFUL

The opportunity for involvement occurs while plans are in formation and can still be changed, rather than after a forest company has already made significant investment and committed to a plan.

SUFFICIENT TIME

Sufficient time is allocated for public involvement, proportional to the complexity and scope of the planned forest activities.

ADEQUATELY RESOURCED

Adequate resources are made available so that members of the public can participate effectively alongside the professionals representing forest companies and government agencies.

INCLUSIVE

All interested parties are provided opportunity to comment, particularly those whose interests are directly affected by planned forest activities.

INFORMATIVE AND ACCESSIBLE

Sufficient and understandable information is provided to enable the public to make informed comment.

RESPONSIVE AND GENUINE

The forest company documents its response to public input, demonstrating that it understands the issues raised and has taken those issues seriously.

VERIFIABLE

The forest company is able to demonstrate that the commitments made have been delivered on the ground.

CONTINUOUS

Trust established is maintained by communicating and engaging with the public throughout the lifetime of the forest activities in question.

While the preceding points describe the role of the company or organization proposing the forest activities, the public shares responsibility for ensuring effective public consultation. Consultation works best when members of the public make efforts to stay informed, and focus comments on substantive matters that can have material influence on the planned forest activities.

How do FRPA's Requirements Measure up to these Principles of Effective Public Consultation?

Under FRPA and its regulations, the public has a legal right to comment on proposed results and strategies in a forest stewardship plan. In most situations, FRPA requires that forest stewardship plans be made publicly available for 60 days prior to approval. Exceptions include plans for cutting beetle-infested wood which needs to be harvested as quickly as possible. The 60-day period can also be varied if the Minister of Forests, or the Minister's delegate, determines that that a longer period is necessary or that a shorter period will provide for an adequate

opportunity for review and comment. In the Board's view, assuming the discretionary authority to shorten review periods is applied appropriately, FRPA provides **sufficient time** for public involvement.

FRPA is **inclusive** in providing an opportunity for all interested parties to review forest stewardship plans, especially those parties that are directly affected by planned forestry activities. It also requires licensees and timber sales managers to make reasonable efforts to meet with First Nations affected by the plan to discuss the plan, and to describe those efforts in the plan. FRPA ensures that forest planning is **responsive** to public comments, requiring that written comments from the public be included in the forest stewardship plan, and that any changes made as a result of those comments be described in the plan.

FRPA does not ensure **continuous** consultation, since it requires a forest stewardship plan to be submitted only once every five years. Another provision of FRPA allows the Minister of Forests, or the Minister's designate, to extend the term of a forest stewardship plan for an additional five years. If a member of the public misses the opportunity to comment on a forest stewardship plan, he or she will need to wait five to ten years for the next opportunity.

FRPA does not ensure that consultation is **informative and accessible**, since it does not provide a meaningful way for the public to comment on detailed, site-level information. A forest stewardship plan need not show cutblocks, roads or other site-specific information. While FRPA requires road and cutblock information in site plans, it only requires plans to be publicly available upon request, at the licensee's office. Licensees and timber sales managers are not required to consider public comments on site plans, or to notify the public when site plans are available. Concerns might not be identified until flagging tape is placed on the ground or after logging has occurred. At that point, the public does not have an avenue to address concerns. Potential impacts on forest features and non-timber resources may not be identified in advance of operations and public confidence in forest planning may decline as a result.

A forest stewardship plan might be informative at a strategic level, providing information on how a forest company or timber sales manager will achieve consistency with government's objectives for managing key forest resources. This may address broad public concerns, such as addressing habitat needs for wildlife such as caribou or grizzly bears, or protecting water quality. However, there is no requirement to describe objectives and strategies where the plan defaults to practice requirements specified in the *Forest and Range Practices Act*. In such cases, the public might not be provided with information on broad objectives or how the forest company intends to achieve them.

FRPA does not explicitly address the other principles of effective public consultation. **Overall, FRPA's requirements for public involvement in operational planning are minimal and do not or cannot meet or address many of the principles of effective public consultation. Following the minimum requirements of FRPA will not achieve effective consultation in most cases.**

Would a more comprehensive and demanding legislative framework ensure that the range of public consultation principles is addressed? In some regards, FRPA's public consultation requirements are even less demanding than the previous requirements under the Code, which required submitting a forest development plan that included information on roads and cutblocks every one to two years. However, in a special report several years ago, the Board found that the more stringent requirements of the Code did not necessarily result in effective public consultation (A Review of the Forest Development Planning Process in British Columbia, December 2000). And some principles, such as ensuring that consultation is **meaningful** and **genuine**, simply cannot, in the Board's view, be achieved through legislation.

In the Board's view, legislating consultation requirements does not necessarily achieve public satisfaction. Effective public consultation involves using techniques that are tailored to the needs of the specific circumstances – as determined by the level of public/stakeholder interest, the nature of the concerns, etc. Since no single approach best suits all situations, any legislation used to set standards would have limited effectiveness. Rather, effective public consultation is largely dependent upon the approach and attitude taken by forest companies and timber sales managers both inside and outside of the legislative framework.

Public Consultation Efforts under Certification

Some private certifiers require public involvement in identifying forest management objectives. For example Canadian Standards Association (CSA) requires the establishment of public advisory groups to provide advice and recommendations to forest managers regarding local values and objectives that address sustainable forest management criteria. The Forest Stewardship Council (FSC) (British Columbia Standard) requires maintaining consultations with people and groups directly affected by management operations, and that management planning and operations incorporate the results of social impact evaluations. Sustainable Forestry Initiative (SFI) requires opportunities for the public and forest community to participate in the forest company's commitment to sustainable forestry. Involving the public in identifying forest management objectives from the beginning of the process might help ensure that the goals of effective public consultation are met.

Some certification programs require public reporting of audit results. CSA requires annual reporting to the public on activities and audit results, and public disclosure of the certification audit report. SFI requires public reporting on the forest company's progress in fulfilling its commitment to sustainable forestry, and public disclosure of a summary of the certification audit report. FSC requires public disclosure of the certification audit report. Public reporting can help a forest company to demonstrate that its public involvement processes are responsive and sincere, verifiable and continuous.

Beyond Legislation and Certification

The Board's 2000 special report on the forest development planning process found some good examples of relationship-building with the local community, including an open dialogue to determine how the public wished to be consulted. In a number of the locations examined, licensees and residents developed their own approaches to consultation, which exceeded the minimum requirements specified in legislation or independent certification, resulting in much higher satisfaction with the process. People's satisfaction with the public consultation process seemed to depend primarily on their relationship with the forest company or timber sales manager and the responsiveness to public input shown by those officials.

Experience has shown that the success of public consultation processes largely depends on the efforts of individuals, made outside of the regulatory framework and beyond specific certification requirements.

Achieving Effective Public Consultation in Forest Management

Effective public consultation is a result that all forest managers should strive to achieve, be it through FRPA, certification or their own initiatives. The Board encourages all parties involved in forest planning to strive to meet the principles of effective public consultation by developing proactive and innovative approaches that bridge the gap between legislated requirements and local needs.

The Board urges the forest industry, government agencies and the interested public to recognize that the single most important factor in making a public review process work is people. The success of the public review process under the *Forest and Range Practices Act* will depend on the commitment and attitude of the people involved. The approach taken by all parties involved in forest management planning will ultimately determine whether public consultation maintains and builds public confidence in management of BC's forest resources.

The Board, in its future investigations and audits, will continue to report on progress towards effective and meaningful public involvement in forestry planning under FRPA.