



Board Bulletin, Volume 16 Balancing Risk Across Resource Values in Forest Operations

March 2014

This bulletin explores risk management in BC forest operations, and suggests that it needs to be transparent and fair, while reflecting the public's interest in the resources. It is the fifth in a series of new Forest Practices Board bulletins describing important issues for forest management identified in recent Board work.

The other bulletins in the series deal with the benefits to the BC public of having the Forest Practices Board provide independent oversight of forest and range practices, the need to manage cumulative effects, the need for better public involvement in resource management decisions, how professional reliance is working for forest management, and the need for resource managers with responsibility for an appropriately-sized landbase. These bulletins are intended to foster discussion and encourage progress toward improved stewardship of public forest and range resources.

Introduction

BC's provincial forests contain a rich diversity of resource values from which people gain a host of benefits.

Government issues of variety of licenses and tenures for different resources, often overlapping on the same land base. There are also other people who use these resources for water, recreation and other benefits. A reliable flow of some benefits, such as timber harvesting, may at times pose risks to other values. For example, roads that facilitate harvesting in steep terrain can in some areas introduce a risk to water quality from erosion and landslides. Government expects that forest licensees will effectively deal with the risks to the other resource users. Conflicts can arise when decisions about risk are made by those who benefit most, while others must live with the risk. With increasing competition for use of our forest resources, the Board is concerned that mechanisms available to resolve the resulting conflicts between resource users are limited.

A rancher in a central-BC watershed already highly affected by mountain pine beetle and past harvesting - was

concerned that additional salvage harvesting by two forest licensees would further impact the water supply to his home and private hay fields. Despite indicators that flooding and stream channel change was probable, one forest licensee did not perceive any potential risk to the rancher. The other informally considered the possibility and took some protective steps before logging.

The rancher had no power to negotiate and no opportunity to appeal either licensee's decision to proceed. The Board found that, in the circumstances, the salvage harvesting added to stream flow issues already apparent in the watershed.ⁱ

A Conflicting Role

Over the last decade the approach to regulating forest planning and practices in BC changed substantially. The *Forest and Range Practices Act* (FRPA), introduced in 2004, was intended to streamline administration, reduce costs, and encourage innovative practices, in part by giving forest licensees much of the discretion previously held by government officials. Licensees in turn rely on forest professionals to assist them in this role. FRPA provides no mechanism to help resolve disagreements between forest licensees who are expected to use their discretion to make responsible decisions, and others whose interests are potentially affected by those decisions.

In complaints to the Board, non-timber forest resource users often question how a forest licensee can be impartial when making decisions that affect the interests of other people. In their view, it is the forest licensee that stands to benefit the most from forest harvesting, while others must live with the risk of suffering an impact or loss in the future.

In north-central BC, a group of wilderness tourism operators - complained to the Board that a forest licensee had harvested timber near a lake that had been designated for protection in a government-approved, but not legally-binding, land use plan. The tourism operators used the lake for guided-wilderness moose hunts and hike-in fishing. The forest licensee decided that its harvesting plan would be adequate to manage for forest recreation.

The tourism operators disagreed but had no place to appeal the forest licensee's decision. To them, the proximity of the harvesting would result in them having to abandon the lake as part of their business operations, devaluing the businesses and the area's tourism appeal. They were left angry and frustrated that a forest licensee could decide how tourism-industry values might best be managed.ⁱⁱ

Current legislation enables, but does not require, forest licensees to conduct risk assessments related to discretionary decisions. Consequently, it is left to forest licensees to identify, assess and manage the risks that their forest activities may present to values such as public safety, water, wildlife, fish, biodiversity, soils, recreation, and visual quality—among others. It is generally expected that these assessments will help licensees to act in a manner that, as much as possible, reduces the risk and mitigates the conflict with other resource users. Yet, with no guarantee of involvement in the decision-making process, and no recourse for appeal if disagreement persists, others potentially affected by these risks see the system as biased and unfair. At the least, it is easy to perceive a conflict of interest in a system where the forest licensee that benefits from timber harvesting is also empowered to balance those benefits against the risks posed to others.

A Difficult Situation

When it established the FRPA, government assumed that good forest stewardship would result, partly because forest licensees are expected to rely on the advice of resource professionals acting in accordance with the rules of their professional associations.ⁱⁱⁱ Forest licensees depend on these professionals to identify environmental, economic, and social values potentially at risk from forest development, and to assess those risks, or bring in other specialists as needed. Such diligence helps the licensee to avoid compliance infractions and maintain public¹ trust. Professionals advising licensees are obligated by their professional associations to balance and appropriately mitigate these risks in the

¹ The public is meant to include British Columbia residents, businesses, organizations, local governments and First Nations (as per May 26, 2011, MFLNRO strategic policy – Crown allocation principles).

licensee's and the public's best interests.^{iv} Even so, the approach to risk management in licensee decision-making can be highly variable and is often unclear to those who are potentially affected.

In some situations, professionals working for a forest licensee may be challenged to balance their employer's interests with the greater public interest—potentially placing them in a difficult situation—particularly where both the risk to non-timber values and the potential benefit to the forest licensee are substantial. In such circumstances, even if the forest licensee attempts with diligence to balance resource values and manage risk in the public's best interests, neither it nor its professionals are likely to be seen by the public as being impartial.^v At best, this situation creates a perception of bias and, at worst, an unfair imbalance in the decision-making process.

The central issue is that FRPA effectively allows a forest licensee with a vested interest to introduce a risk to non-timber forest resource users on Crown land. The Board is noticing instances where this arrangement is making it challenging to maintain public trust, industry credibility or both.^{vii}

In an audit of forest planning and practices on the coast - the Board found several instances where professionally prepared plans based on earlier risk assessments were changed by forest licensees without further professional involvement, resulting in potential environmental and public safety hazards. In another complaint in the interior, the forest licensee did not implement recommendations provided in professional reports, creating unacceptable environmental and management risks.^{vi}

The Importance of Public Trust

The forest industry earns its right to access and manage public lands and resources by following rules and acting responsibly to generate more public benefit than harm (sometimes called "social license"). Indeed, all British Columbians have an interest or stake in our provincial forests. Therefore, the credibility enjoyed by BC's forest industry depends on maintaining the confidence of the public, not just its customers and shareholders. The history of forestry in BC has shown that when it comes to balancing forest resource values, how those values might be managed and by whom, contributes dramatically to public confidence and reaction.

In the Board's experience, the licensees and professionals that manage BC's forests mostly comply with the law and generally conduct acceptable practices. But all it takes is one poor decision that doesn't properly balance risks or interests, and the public trust can be broken. Once lost, it may be very difficult to regain.

One of the key challenges with managing risk is that practices today don't necessarily result in consequences until years later and, in spite of the best planning efforts, things can go wrong. Once the public's trust is lost, it may not matter whether a forest licensee assesses risk well and diligently plans to manage risks in the future. In the Board's experience, the public will not support further logging. Thus, future forest planning and developments can be negatively affected by today's riskier practices, whether or not they were diligently executed.

Some watersheds in BC - contain potentially unstable terrain and also provide drinking water. In some cases downstream residents may also be concerned about public safety should a landslide occur. At the same time, forest licensees have rights, obligations and an economic need to harvest timber from Crown lands within these watersheds.

Some years ago, the Board investigated a complaint that involved salvage harvesting in a landslide-prone area within an interior watershed. The stream below provided domestic water to over 100 homes. The residents were concerned about slope stability and risk to their water supply. The licensee was diligent; it conducted appropriate professional assessments and took adequate steps to minimize (but could not eliminate) the risk of a landslide from its activities. The harvesting proceeded and years passed. Then, despite the low risk, a harvesting-related landslide occurred, damaging intakes and making water temporarily undrinkable. The licensee again acted responsibly by providing drinking water, applying remedial measures, and helping to fix the residents' water systems. However, the residents considered the interruption of their water supply a significant and undesirable consequence from, at least in part, activities that they were critical of in the first place.

Although professional assessments were completed and sound practices followed, a damaging landslide happened and, as a consequence, public trust was compromised. It will now be challenging to garner public support for future logging in this watershed.^{viii}

The current legal framework puts the forest licensee and its professionals in the challenging, possibly no-win, situation of being the final decision maker. When conflicts arise between forest licensees and other resource users, it often involves a difference in the tolerance of the risks associated with the forest activities. In Board investigations non-timber resource users prefer risk avoidance for proposed timber harvesting, since they are focused on the consequences, no matter how uncertain or unlikely the risk. This is understandable, when the proposed harvesting provides few direct benefits to these resource users. On the other hand, the Board finds that forest licensees are more willing to accept some risk from harvesting and associated activities, since most of the direct benefits and few consequences accrue to them.

In situations where a licensee chooses not to harvest to avoid the risk, the public may not be aware of the decision. Thus, only in rare circumstances will the public ever see a licensee acting beyond their own interest. In similar situations, where a licensee chooses to proceed and conflict over acceptable risk persists, public awareness is generally high. In such circumstances, regardless of how well the risk is ultimately managed, the licensee will always be seen as acting in its interest first and, should things go wrong, to the detriment of the others. If public distrust builds, at some point the fallout may go beyond the scope of one resource management decision.

What Has The Board Suggested?

In 2010, the Board reported that FRPA provides a considerable advantage to forest licensees, which could lead to decisions unfavourable to the interests of other forest-related businesses and people.^{ix} The Board suggested that an impartial decision-maker be involved where risks are significant. Government did not agree, stating that it would be inconsistent with FRPA's increased reliance on forest licensees and professionals and that the current process of developing and approving forest stewardship plans is designed to minimize these conflicts.^x

The Board has since dealt with over a dozen additional complaints and audits that continue to reflect this dilemma. Most of these tend to involve either negative impacts to other Crown-tenured forest-related businesses or risks to important public values such as drinking water. However, the Board has also recently encountered examples that involve substantive risks to public safety and the environment, situations of particular concern with respect to maintaining the public's confidence in the stewardship of its forests.^{xi}

In the course of its work, the Board has previously suggested that, as the potential for conflict between resource users increases, so too does the importance of forest licensees and their professionals conducting systematic, transparent, and well documented risk-management and decision-making at both the site and landscape-level scales.^{xii} Open and frequent communication with the people and businesses involved at these scales is essential to success. As well, the Board has proposed that professional associations could further support public confidence by more fully standardizing responsibilities for risk management.^{xiii} Some guidance exists but more is needed.²

Lastly, in the Board's opinion, where licensee practices are responsible, in part, for undesirable outcomes, the licensee should take responsibility to mitigate impacts on other resource users and to reduce remaining environmental risks.^{xiv} While such actions may not be legally required, they support the principles of social license.

Conclusion

The goal should be that our forest management framework provides sufficient checks and balances so that the risks to important resource values are always appropriately addressed and, as much as possible, to avoid perceptions of bias and unfair process. The Board believes that beyond meeting legal requirements, the resulting decisions to balance practices on Crown land must be transparent, fair, and reflect the public's risk-benefit preferences. Further, there is a role for an impartial decision-maker, when risks are significant and potential losses or impacts are unacceptable for some resource users. The Board urges government, forest licensees, individual resource professionals, and professional organizations to explore options that will improve our risk management framework, ultimately ensuring that public trust in the stewardship and use of our vast provincial forest is not lost.

We welcome your thoughts on this bulletin. You can send comments to fpboard@gov.bc.ca, or join the discussion on [Facebook](#) or [Twitter](#).



² Examples include joint practice documents that deal with standards of care for engineering and forestry professionals dealing with such activities as stream crossings and terrain stability assessments: www.degifs.com. Another example is the Association of BC Forest Professionals' practice guidelines: http://www.abcfp.ca/regulating_the_profession/guidelines.asp.

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- ⁱ [http://www.fpb.gov.bc.ca/Pine Beetle Salvage Logging and Water Flows near Williams Lake.htm?terms=pine+water+Williams+Lake;](http://www.fpb.gov.bc.ca/Pine%20Beetle%20Salvage%20Logging%20and%20Water%20Flows%20near%20Williams%20Lake.htm?terms=pine+water+Williams+Lake;)
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- ⁱⁱ [http://www.fpb.gov.bc.ca/IRC163 Logging and Lakeshore Management Near Vanderhoof.pdf](http://www.fpb.gov.bc.ca/IRC163%20Logging%20and%20Lakeshore%20Management%20Near%20Vanderhoof.pdf)
- ⁱⁱⁱ <http://www.for.gov.bc.ca/code/>; Reader, R. 2006. *The Expectations That Affect The Management Of Public Forest and Range Lands In British Columbia* - <http://www.for.gov.bc.ca/hfp/legislation/Looking%20Outside%20the%20Legislation%20FINAL%20External.pdf>
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