

Effectiveness of Investigations: Water-Related Complaints Case Study

This case study reviews participant satisfaction with the Forest Practices Board's investigation function for water-related complaints, and considers how to improve the effectiveness of future investigations.

Background

The Board has completed numerous complaint investigation reports on forestry impacts on quality, quantity and timing of water flow. Twenty-nine of 126 complaints investigated from 1996 to 2005 concerned such issues. However, the Board has never gone back to evaluate whether complaint participants were satisfied with the outcome of those investigations.

To judge satisfaction, 32 telephone interviews were conducted in 2006 with participants from 20 water-related Board investigations. Seventeen interviews were with complainants, eight were with the government agencies and seven with licensees. Interview results provided a scorecard of the Board's performance.

The Board investigated all these complaints under the planning-based *Forest Practices Code of British Columbia Act* (the Code). The Code has now been replaced by the results-based *Forest and Range Practices Act* (FRPA).

The Code required the Board to deal with complaints about forest practices and government enforcement. It was, however, restricted to investigating complaints about compliance with the Code and the appropriateness of government enforcement. The Board's authority under the Code was to investigate complaints, report and make recommendations if appropriate. Although the Board was empowered to try to resolve complaint issues, it had no power to stop work, change decisions or order a company, individual or government to alter its business.

The Board's authority under FRPA is the same as its authority under the Code. The Board continues to investigate complaints, attempt to resolve issues, report to the public and make recommendations. However, the Board has decided to focus its reports more on results, as that is a focus of FRPA. Nevertheless, the Board's objectives remain unchanged: to hold government and forestry companies publicly accountable for their forestry practices and, in the public interest, to seek continuous improvement of forest practices.

During 2006, in addition to this work on water-related complaints, the Board did a comprehensive review of three of its major programs to identify ways to improve efficiency and better meet the needs of its clients. To improve its future effectiveness, the Board has

implemented measures to enhance its complaint investigation process and to more actively seek resolution of complaint issues.

Discussion

The study examined participant satisfaction with the process and result of the Forest Practices Board 's investigations under the Code. Specifically, the study reports on:

1. Whether the Board's involvement helped resolve water issues; and
2. Whether the Board's involvement improved communication among participants?

1. Did the Board help to resolve water issues?

Among those surveyed for this report, 82 percent of the complainants interviewed believed that the Board did *not* help to remedy the water-related complaint issue. Complainants felt the Board supported current forestry practices, lacked any real enforcement power and did not change forestry behaviours. Comments included a lack of follow-up, no intervention and that the Board represented only forest industry and government interests. In contrast, 75 percent of the subject agencies and 86 percent of the subject licensees said the Board's involvement did help. Subjects felt that Board reports largely showed their forest management decisions were correct.

The overwhelming dissatisfaction among the complainants is an obvious concern. Presumably, the level of participant satisfaction would reflect whether the Board validated or dismissed the complaint issues. Participant satisfaction was strongly correlated with the outcome of the complaint, with over 80 percent of the water-related complaints unsubstantiated or only partly substantiated by the Board. That meant, to most complainants, that the Board was simply a bearer of bad news.

There is no indication of bias in these results—the complaints were investigated by several different analysts over a long period of time spanning four Board chairs and many different Board members. A more plausible explanation is that for most of the complaints the Board did not address the key issues underlying the complaint. At the time, a primary concern of the Board was applying its mandate to assess compliance with the law. With a compliance focus, the Board used the Code and its regulations as the standard to assess whether a forest practice was or was not acceptable. In essence, if there was Code compliance, the Board generally considered that practices were appropriate.

It seems clear that assessing compliance with the law was often not enough to resolve the complainants' concerns. Complainants are the people most likely to be negatively affected by forest practices, and their complaints often arise over disagreement about what level of risk to water is acceptable. A complainant facing road-building and logging in its watershed might be concerned that water will be disrupted or contaminated. A forestry company might analyze the risk, propose logging practices to reduce risk and log carefully enough to avoid damage. However, the

complainant has to live with the result if something goes wrong and has no incentive to accept any increase in risk to the water—even if that risk has been minimized.

Complainants with water-related issues appear to be much less tolerant of risks to water from forest practices than the law and current forest policy allow. This is not an easy issue for the Board to resolve, because the risk to water does appear to have been well managed and quite low. No one in our survey reported an example where actual damage to water occurred following a complaint investigation. In fact, 24 percent of complainants replied that the Board helped to modify forest practices to better protect water. Still, 65 percent of complainants believed that water is less protected now, or that their water-related issue is now worse.

When asked what future direction the Board should take, complainants suggested more power for the Board with enforcement capability, making water a top management priority, and exacting accountability for harmful forestry actions. The complainants want more protection for water and greater assurance that forest licensees and agencies will be penalized should their activities harm water. This desire for additional oversight and greater penalties does not coincide with the lack of apparent damage to water, but it does indicate that complainant confidence in forest management is low.

In summary, the Board has helped to resolve some on-the-ground water issues and will continue to seek improvement of forest practices where such a need is indicated. However, the Board has not been particularly effective at resolving complainant’s concerns about increased risk to water from forest practices. Even where damage to water from proposed practices is unlikely, complainants seem unwilling to accept a low risk of damage; they want no added risk of damage. That risk adversity is very difficult to reconcile with risk management by government agencies and licensees, and may be beyond the Board’s capacity to resolve. In such cases, the Board’s role may be limited to encouraging better communication between participants about their concerns, interests and abilities.

2. Did Board involvement improve communication?

Sixty-five percent of the complainants and 63 percent of the agency respondents indicated that Board investigations did *not* improve communication between the complaint participants. In some cases, communication was good before the investigation. In other cases, communication was non-existent to begin with or worsened with investigation. The licensees, however, had a different perspective. Seventy-one percent of the licensees surveyed thought that communication had improved as a result of the Board’s involvement.

When asked a related question about whether trust had increased, the complainants were overwhelmingly negative—88 percent said trust had not increased. Only two of the 17 complainants thought trust had increased. Licensees, on the other hand, were again much more positive; 57 percent reported that trust had increased. Only one agency respondent thought that trust had increased: 50 percent said “not at all”.

According to the subjects of investigations, the Board's involvement added dialogue, brought out different viewpoints and heightened awareness about water management. Complainants commented that, although there were additional discussions, they did not feel there was necessarily a better understanding of water management concerns. That indicates a communication gap between the forest managers and the water-related complainants. Sometimes, the Board can help in these situations.

Recently, the Board facilitated a workshop on erosion and sediment control procedures for the participants of a water-related complaint in the Lower Mainland.¹ Both the complainant and the subject said they benefited from constructively learning and sharing knowledge about each others interests. Both now have an improved understanding of accepted forest practices and what is possible on-the-ground. As important, both participants said their relationship and, by inference, trust had improved.

Despite that success, almost 30 percent of all interview respondents did not know whether the Board's recommendations arising from its investigations were adopted following the investigation. They could not recall, cited confusion because of recent government re-organization, or claimed a lack of Board follow-up. The Board follows-up on all its recommendations, but does not always notify the participants of the outcome. The Board chair is obligated by law to notify government and the complainant only when the chair is dissatisfied with a participant's response to a Board recommendation. In most cases, the response is satisfactory, so the file is closed and Board communication with the participants ends. There were few instances where Board staff followed-up with complaint participants after the Board made its findings.

Therefore, another means of the Board improving communications and, potentially, participant satisfaction, is to implement a post-complaint follow up with participants. This can be an informal communication. The trigger for follow-up will be tied to the Board's existing internet-based questionnaire. When a participant responds to the survey a question could be: "Would you like to be contacted in future for follow-up?" In addition, where recommendations are made and it is appropriate to do so, Board staff will advise all participants of the chair's opinion about the received response.

Recently, the Board instructed its staff to continue to find ways to promote solution-seeking. Often, that will entail promotion of understanding and awareness between all participants to a complaint. However, while better relationships and improved communication are important goals, it is doubtful that, even if achieved, they would resolve the clear differences of opinion over risk tolerance, the potential for harm to water resources and the appropriateness of government policy that are central to many of the complaints reviewed for this report.

¹ Complaint Investigation 060699, *Streamside Protection, Sediment Control and the Pacific Water Shrew*, FPB IRC 199, August, 2006. See: <http://www.fpb.gov.bc.ca/complaints/IRC119/IRC119.pdf>

Conclusion: Implications for the Future

The Board was concerned with the number of complaints it received regarding water issues resulting from forest practices. The dissatisfaction of participants in those investigations led the Board to solicit feedback from the participants. As a result, the Board has considered that feedback and the implications for the future.

The implications include:

- Evaluating effectiveness of forest practices under the *Forest and Range Practices Act*;
- Limitations to the Board's investigation procedures; and
- Improving the investigation process and influencing forest practices.

Evaluating effectiveness of forest practices under the *Forest and Range Practices Act*

Following the government's move to the more results-based FRPA, the Board is increasingly expanding its focus to assessing the effectiveness of forest practices rather than narrowly concentrating on strict compliance with the law. The Board is therefore shifting toward reporting on the issues of importance to complaint participants. Inevitably, that means evaluating whether forest practices meet the criteria for sound stewardship of forest resources, including water.

One limitation is that government has not developed criteria for "sound stewardship". There is no standardized method for many forest practices under FRPA, and the guidance of "best management practices" are typically optional and can be highly subjective. In some cases, evaluating effectiveness may be a simple exercise of assessing sediment delivery from roads or landslides to streams. It would be much more difficult, however, for the Board to evaluate whether sediment was actually detrimental to the water resource, or if forest activities were contributing to a negative and cumulative impact on water. To form opinions, the Board will have to rely more frequently on the stewardship guidance available to forest managers, and evaluate how they used the guidance in their forest planning and activities.

Limitations to the Board's investigation procedures

The Board has generally found that water management practices under the Code were good overall. Nevertheless, the Board's investigations have been unsatisfactory to many water-related complainants. Complaints mostly arise from the introduction of, or increasing the amount of, logging and road building into watersheds. Despite the fact that watersheds are included in the working forest and regulated through the *Forest and Range Practices Act*, logging operations in watersheds are opposed by many complainants. Complainant frustration can be linked to the Board's limited mandate, i.e. the Board does not have jurisdiction to investigate land use issues, only forest practices. Predictably, land use conflicts and risk-based forest management will continue and will result in future investigations.

Many of the complainants in our survey wanted the Board's mandate expanded to include enforcement powers, broader authority and greater capacity to deal out accountability and consequence to those who may harm water. These concerns are about liability and punishment, and will continue (unless government changes the Board's mandate) regardless of any changes the Board may make to improve its investigation procedures. However, the Board acknowledges that it needs to communicate more fully in future with all complaint participants about the limits to its mandate and the scope of its complaint processes.

Improving the investigation process and influencing forest practices.

For the future, success indicators from the interviewed participants were: improved water quality, fewer complaints and improved public satisfaction. Complainants wanted an increased accountability of the Board, more follow-up evaluations, modified forestry practices and less clearcut logging and cattle grazing. Subjects hoped for shorter resolution timelines, increased communication and public education.

The Board recognizes the need to increase participant understanding and awareness of water-related issues and risks and accepted forest practices. As well, there is a need to improve communications between participants as an aid to seeking solutions.

Through its continuous improvement initiative, the Board has implemented measures to enhance its complaint investigation process and to more actively seek resolution of complaint issues. Greater focus on effectiveness of forest practices and the results of forest activities, encouraging communication between participants and improved Board follow-up with participants after a complaint may help to increase participant confidence.

Finally, there were some positive interview responses to the Board's involvement in water-related complaints. These included the Board's role of increasing awareness of water management, in providing a voice for the public, and resolution of some complaint issues. The Board recognizes that the general public and stakeholders continue to think the Board's complaint investigation function is important. The Board will continue to refine that function in future.

Appendix: Summary of Questionnaire Responses

What was your role in the Board's investigation?

- 17 were complainants
- 8 were regulatory agencies
- 7 were licensees representatives

How involved were you in the investigation?

	Highly involved	Moderately involved	Peripherally involved
Complainants	15	1	1
Regulatory agencies	3	2	3
Licensees	3	3	1
<i>Total</i>	21 (66%)	6 (19%)	5 (15%)

Did the Board's investigation help to remedy the water issue?

	A great deal	Somewhat	Not at all	Do not know
Complainants	0	2	14	1
Regulatory agencies	2	4	2	0
Licensees	2	4	1	0
<i>Total</i>	4 (13%)	10 (31%)	17 (53%)	1 (3%)

To what extent did the Board help to modify forest practices to protect water?

	A great deal	Somewhat	Not at all	Do not know
Complainants	0	4	12	1
Regulatory agencies	0	6	2	0
Licensees	0	1	4	2
<i>Total</i>	0 (0%)	11 (34%)	18 (56%)	3 (9%)

Did communication between the participants improve as result of the Board's involvement?

	A great deal	Somewhat	Not at all	Do not know
Complainants	1	5	11	0
Regulatory agencies	1	1	5	1
Licensees	1	4	2	0
<i>Total</i>	3 (9%)	10 (31%)	18 (56%)	1 (3%)

Did local water resource management change as a result of the investigation?

	For the better	No change	For the worse	Do not know
Complainants	1	8	4	4
Regulatory agencies	2	4	0	2
Licensees	2	4	0	1
<i>Total</i>	5 (16%)	16 (50%)	4 (13%)	7 (22%)

Is there less concern about water issues as a result of the Board's involvement?

	A great deal	Somewhat	Not at all	Do not know
Complainants	0	0	15	2
Regulatory agencies	0	2	3	3
Licensees	0	2	4	1
<i>Total</i>	0 (0%)	4 (13%)	22 (69%)	6 (19%)

Has your confidence in forest management changed and, if so, in what direction?

	Positive change	Stayed the same	Negative change	Do not know
Complainants	2	3	11	1
Regulatory agencies	1	7	0	0
Licensees	5	2	0	0
<i>Total</i>	8 (32%)	12 (38%)	11 (34%)	1 (3%)

Has trust increased among the participants since the complaint was investigated?

	A great deal	Somewhat	Not at all	Do not know
Complainants	1	1	15	0
Regulatory agencies	0	1	4	3
Licensees	0	4	2	1
<i>Total</i>	1 (3%)	6 (19%)	21 (67%)	4 (13%)

To the best of your knowledge, were Board recommendations adopted?

	Yes	Somewhat	No	Do not know	Not applicable
Complainants	1	0	4	7	5
Regulatory agencies	1	1	0	1	5
Licensees	2	0	0	1	4
<i>Total</i>	4 (13%)	1 (3%)	4 (13%)	9 (28%)	14 (44%)

Is there a better understanding of water management concerns among the participants?

	Positive change	Stayed the same	Negative change	Do not know
Complainants	3	7	3	4
Regulatory agencies	5	2	0	1
Licensees	5	1	0	1
<i>Total</i>	13 (41%)	10 (31%)	3 (9%)	6 (19%)

Do you think the water resource is better protected because of the Board's involvement?

	Yes	Somewhat	No	Do not know
Complainants	1	1	11	4
Regulatory agencies	2	2	4	0
Licensees	3	2	1	1
<i>Total</i>	6 (19%)	5 (16%)	16 (50%)	5 (16%)

Do you feel the intervention of the Board has achieved the results you desired?

	Yes	Somewhat	No	Do not know
Complainants	2	0	15	0
Regulatory agencies	5	0	2	1
Licensees	7	0	0	0
<i>Total</i>	14 (43%)	0 (0%)	17 (53%)	1 (3%)

Were you affected personally or was your business affected by the Board's investigation?

	Positively affected	No affect	Negatively affected
Complainants	3	7	7
Regulatory agencies	3	3	2
Licensees	5	2	0
<i>Total</i>	11 (34%)	12 (38%)	9 (28%)

What did the Board's investigation do that helped?

Responses included:

- Brought out facts in an objective manner.
- Increased awareness and dialogue among parties.
- Identified gaps in planning and process.
- Resolved some issues.
- Verified forest-management decision making.

What did not work?

Responses included:

- The process took too long.
- The Board had no power to make changes.
- Key issues were not addressed.
- Issues remain unresolved.
- There were high costs without benefit.
- Investigators used inappropriate techniques.
- The process was biased.

What do you see as major challenges for the Board in resolving water-related complaints?

Responses included:

- Lack of authority and power.
- Lack of water resource data and management targets.
- Lack of technical understanding by investigators.
- Increasing public confidence in forestry.
- Public education on water issues and quality.

What should be the future direction of the Board in handling water-related complaints?

Responses included:

- More power for the Board including enforcement.
- Water should be a top management priority.
- Exact accountability to forestry for their actions.
- Prevent water problems.
- Utilize a science-based approach to investigations.
- Work with other water-related agencies.
- Increase public education about the Board and water issues.

What would be the most important indicators to you of the Board's success in future?

Responses included:

- Fewer complaints and non-compliance reports.
- Strict enforcement including larger fines and accountability.
- Ensure water resources are protected or improved.
- Reduced clearcutting and cattle in community watersheds.
- Improved public satisfaction including follow-up surveys.
- Timely resolution of issues.

How should the Board's investigation process be modified to better meet your needs?

Responses included:

- The investigative process should be fair and open.
- Increase contact between investigator and complainant.
- Shorten timeframes; better define the issues and validity of complaints.
- Broaden mandate and add power to the Board.
- Be more mindful of participant costs and effort during investigations.