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**BCTS Comes to Bowen Island:  
No Confidence in Forest Stewardship Plans**

**Introduction:** The purpose of this paper is to describe some of the features of the regulatory regime of the *Forest and Range Practices Act*, its *Forest Stewardship Plans* and some of the environmental “*objectives set by government*” (including Ministerial Orders under *FRPA*, *FPPR Section 7*).

**If a Forest Stewardship Plan is ever brought into effect on Bowen Island**, the problems of the FRP/FSP regime, which are described in detail by the BC Forest Practices Board, will become the community of Bowen Island's problems. It is not my purpose, in this paper, to criticize any individual person, in government or in private employ or any particular private logging company.

**About BCTS:** Beginning in 2002, the Small Business Program of the BC Ministry of Forests was reorganized into the BC Timber Sales program. Their mandate is to develop Crown land logging opportunities through an open and transparent bidding process. They are the provincial government’s own logging company. Data from BCTS operations is used to establish stumpage rates for private logging companies (major licensees) that operate on Crown (public) land. The structure of BCTS is related to the history of softwood lumber disputes between BC and the United States.

**Experiences with BCTS:** My experience with BCTS is entirely concerned with conservation issues; drinking water, species-at-risk, old growth retention, Mountain Goat Winter Range, Wildlife Habitat Areas, etc. My opinion is that BCTS is the most flexible and reasonable of the major licensees. At times they’ve helped with conservation issues even though their views and mine are often wildly conflicting. BCTS is very strategic in how they deal with public objections to resource management. When disputes arise, they almost always back away, but they always come back. BCTS will not give up their right to manage any part of their operational chart area unless directed to do so by the Minister or Deputy Minister of Forests Lands and Natural Resource Operations (FLNRO).

**Forest and Range Practices Act 2002 (FRPA):** This is the current *Act* that governs forestry and the relationship between license-holders (logging companies) and government on Crown Land in BC. It applies to Tree Farm licenses (TFL), Forest Licences (FL), Timber licences (TL), Wood Lot licences (WL) and **Community Forest** licenses (CF). FRPA requires that a licensee must produce a *Forest Stewardship Plan (FSP)*. The FSP must show how the licensee intends to achieve the environmental “goals and objectives” of government. These objectives are set out in FRPA under several sections, for the most part, in Section 149 and also in the Forest Planning and Practices Regulations (FPPR) Section 8.2. An FSP is submitted to a statutory decision maker who is usually a FLNRO District Manager of a Natural Resource District. This decision maker “must approve” an FSP if it meets the “minimum requirements” of FRPA. Once the FSP is approved, the licensee is free to operate within its chart area without any oversight

from public officials in FLNRO and without any further obligations to consult with the public (or local government) on operations or operational planning.

***BC Forest Practices Board (FPB) and FSPs:*** The FPB is an independent agency of the legislature. They are the public's forest industry watchdog. They respond to public complaints, conduct compliance audits and advise the public on the effectiveness of forestry legislation. In my view, the opinions of the FPB are consistently reasonable, even-handed and well-articulated (albeit a bit on the dry side). The FPB has thoroughly critiqued the effectiveness of FRPA and the environmental objectives in the Act. The FPB has also critiqued the public consultation obligations under the Act and usefulness of Forest Stewardship Plans. In this paper I rely heavily on the FPB's analyses, audits, special reports and investigations.

***FPB on FSPs and Public Consultation:*** The FPB first advised the public on the consultations required in the FSP approval process in their publication *Board Info Bulletin Volume 7*. This is worth a careful read. An FSP must be made available to the public, the licensee must accept public comments and provide these comments to government with their application and describe how they have changed the plan in response to public comments (if such has happened). However, licensees are not required to make any changes in response to public comment and no further explanations from the licensee are required. Furthermore, government does not require licensees to disclose, in an FSP, where logging will actually occur. FSPs refer to "management areas" which vary in size from 10,000 hectares or so to 300,000 hectares. The result is that, if a licensee meets only the minimum legal requirements for consultation about an FSP (or any subsequent operations), the public will have an extremely difficult time finding out what forestry activities are taking place and how these activities may impact environmental values. The FPB reviews public consultation issues in three other publications. Board Info Bulletin Volume 15 is also worthy of careful review.

***Consultation Summary:*** Licensees may exceed the minimum requirements of an FSP for public consultation, *if they wish*. However, the minor consultation requirements that are mandated in law are entirely inadequate to allow the owners of the resource, the public, to participate in forest development planning or have confidence that forest resources are being adequately managed and conserved.

***FSPs and the Environmental Objectives Set by Government:*** Just as an illustration of how this regulatory regime is structured, consider the "objectives set by government" for water in Community Watersheds on Crown Land (FPPR Section 8.2). These are watersheds that have public infrastructure used for potable water supply. The objective under subsection (2) is to prevent logging activity from having

- (a) *a material adverse impact on the quantity of water or the timing of the flow of the water from the water works, or*
- (b) *the water from the waterworks having a material adverse impact on human health that cannot be addressed by water treatment...*

These objectives are qualified by this statement;

(subsection 3) ***The objective set by government under subsection (2) applies only to the extent that it does not unduly reduce the supply of timber from British Columbia's forests.*** [Emphasis mine]

In summary, these objectives only apply to water coming *from* a water treatment plant, not water going *to* a treatment plant. Raw water quality, quantity, and timing of flows is not protected under this objective. As well, the objectives apply only to the extent that timber supply is not “unduly” affected. Note that the term “unduly” is not defined or related to any specific quantity of impact in the *Act* or its regulations. Realistically, under the vague language of the FRPA/FSP regime it would be impossible to actually hold accountable any logging company, including BCTS, or any individual employee of government or of a logging company, for damages to the function of a watershed or damages to public infrastructure in community watersheds. I don't believe that this circumstance is an accident or an unintended outcome, but in any case, this objective set by government will apply to crown land drinking watersheds if Bowen Island becomes subject to a Forest Stewardship Plan.

***Other Objectives of Government:*** The FPPR Section 149 also has objectives set by government for soils, wildlife, water, fish, riparian areas and biodiversity. In each case the objective of government is compromised by use of the “...***to the extent that it does not unduly reduce the supply of timber*** ...” phrase and/or vague unenforceable language.

***A specific example:*** *Management of at-risk species under the FRPA/FSP regime.* The Marbled Murrelet is a small sea bird that nests only in coastal old growth forest. This species was once very common in the waters around Bowen Island and throughout the Georgia Strait. The federal government's *Committee on the Status of Endangered Wildlife in Canada* (COSIWIC) has determined that this species is Threatened primarily due to loss of nesting habitat (logging). The Marbled Murrelet also has international status under the *Migratory Birds Convention Act*. A federal statute, the *Species-At-Risk Act* (SARA), applies to this species and so, as required by Act, a recovery plan has been completed.

***How BC Complies with SARA:*** BC has signed two agreements with the federal government that BC will comply with SARA and its recovery plans. BC has also initiated the *Marbled Murrelet Implementation Plan* process which is now in the process of selecting lands for protection as murrelet nesting habitat. BC also issued a *Section 7 Order* which states that all Marbled Murrelet nesting habitat in the Non-Timber Harvesting Land Base (N-THLB) will be protected. The N-THLB is forested Crown land that does not contribute to the Allowable Annual Cut (AAC) calculation. In an FSP, the logging company must commit to obeying Section 7 Orders. This appears at first glance to be good for the bird because most of its remaining nesting habitat is in the N-THLB!

There are several problems with the Section 7 Orders typical of how the FRPA/FSP regime actually works. The first is that *Section 7 Orders* are not enforced. There are no public officials in FLNRO tasked with monitoring or enforcing these orders. Secondly,

the forest companies control the definition of the N-THLB. The timber supply data that they supply to the Chief Forester, for the purpose of AAC determination, is considered proprietary and not necessarily available to the public. The major licensees basically take the view that anything they want to log is automatically THLB by definition, to which the Section 7 Order does not apply. And significantly, in the course of the Marbled Murrelet Implementation Plan process, BC signed a Memorandum of Agreement with coastal logging companies (including BCTS) to protect only “mutually agreeable” areas for the Marbled Murrelet. In effect, this gives veto power over habitat protection, to logging companies thus circumventing the *Species-At-Risk Act*, the *Migratory Birds Convention Act* and the provincial *FRPA, Section 7 Orders*.

***Forest Practices Board Reviews of FSPs:*** The following is a very partial list of FPB publications that address problems with the FRP Act and its Forest Stewardship Plans. It is not comprehensive and doesn’t begin to summarize the enormous contribution of the FPB to a sustainable future for our forest industry

*1. FPB/Special Report/28 A Review of Early Forest Stewardship Plans Under FRPA May 2006*

[In this 2006 review the FPB outlines a number of major concerns with the first batch of approved FSPs. These concerns generally involve the FSP’s lack clarity and measurable results. The FPB questions the enforceability of the plans; all of these issues are problematic for non-timber values such as at-risk species and community watershed management. Below are some select quotes from the FPB’s first look at FSPs. -DB]

“...the plans do not describe for the public an understandable vision of how the forest will be managed or what it will look like in the future. “

“...FSPs tend not to make commitments to measurable results or outcomes...”

“...District level [government] decision makers appear to have little influence or authority to direct how forest management should take place...”

“The commitments in FSPs tend to be somewhat vague and non-measurable.”

[Presumably, the FSPs reviewed by the FPB were approved by Government because the applications met the “minimum requirements of the Act” which makes approval by the Statutory Decision Maker mandatory. -DB]

*2. FPB/Special Investigation Report /44 FSPs: Are They Meeting Expectations? August 2015*

[This SIR revisits the issue of FSPs and finds that the quality of FSPs is worse than in the 2006 review. Below are several quotes that are relevant to the management of non-timber values. -DB]

“A high proportion of the results, strategies and measures in FSPs are not measurable or verifiable and therefore not enforceable.”

“In the Board’s opinion, many results or strategies in FSPs do not demonstrate consistency with government’s objectives.

“All sampled FSPs include a professional forester’s signature and seal, yet all of these FSPs contained results, strategies or measures that were not measurable or verifiable”.

[The Association of BC Forest Professionals (ABCFP) professional practice guidelines state, “*competent members provide professional work that is measurable or verifiable...*”. The ABCFP has yet to hold its members accountable for FSPs that lack results, strategies or measures that are verifiable. -DB]

### *3. FPB/Special Report/52 District Managers’ Authority Over Forest Operations December 2015*

[Before FRPA was introduced, Natural Resource District Managers were “on the ground” government approving officials who authorized logging plans under the *Forest Practices Code Act of BC*. They used an “adequate management and conservation” test before approving or rejecting logging plans. However, under FRPA, public officials do not approve logging plans or any level of logging development. There are no independent government officials providing oversight and representation of the public interest. Here are two quotes from the above report. –DB]

“In recent years, the Forest Practices Board has seen situations arise where forestry development was putting local environmental and community values at risk, yet [government] district managers could do little to affect the development and protect the public interest.”

“These situations have led the Board to conclude that there is a need for district managers to have authority over operational decision-making by giving them conditional discretion over the issuance of cutting permits and road permits.”

## **DISCUSSION**

In 1994, the BC NDP brought in the *Forest Practices Code Act of British Columbia (FPC)*. This was the first comprehensive environmental code ever to be imposed on the BC forest industry. The preamble of the Act stated that its purpose was to “adequately manage and conserve all forest values...” It came with guidebooks establishing due process for consideration of an extensive range of environmental values. The FPC also introduced large programs for specific problems. These programs include the Watershed Restoration Program which dealt with damages to public drinking watersheds, Forest Renewal BC addressed the large inventory of logged and abandoned sites and the Forest Worker Transition Program to help people 'transition out' of the forest industry, etc., etc.

Prior to the FPC Act, environmental regulation of logging was largely voluntary. A good example of voluntary regulation was the *Coast Fish and Forestry Guidelines*; all but entirely ignored. There is a tragic environmental legacy remaining from the un-regulated massive clear-cut logging that began in the late 1960s until the *FPC Act* was established in 1994. How many people remember the abundance of salmon, cutthroat and steelhead in Howe Sound and along the Sunshine Coast prior to 1970?

According to the Minister of Forests, speaking in the legislature in 2002, the purpose of the new *Forest and Range Practices Act* was to "...maintain BC's world class environmental standards while streamlining the regulatory regime ...". However, in practice the new *Act* destroyed public oversight, accountability and transparency of the forest industry. Part of how this was accomplished relates to the practice of "professional reliance" in which the authority of public officials was delegated to credentialed professionals in the employ of logging companies. Government also simultaneously introduced major staffing reductions in virtually all areas of environmental compliance and enforcement.

FRPA is *perverse* legislation; where its stated purpose is to do one thing but it effectively does exactly the opposite. Another phrase that describes the current forestry regime very well is *regulatory capture*, meaning that the regulatory system puts the interests of the regulated (logging companies) above the interests of the public, the owner of the resource. For this reason I am of the opinion that the FRPA and its Forest Stewardship Plans are incapable of providing the sustainable environmental management that the public rightfully expects. It is time for communities to communicate:

***No Confidence in Forest Stewardship Plans.***

Thank you for your attention to these issues.

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*Terms and Abbreviations*

BC Timber Sales (BCTS)  
Forests and Range Practices Act (FRPA)  
Forest Planning and Practices Regulations (FPPR)  
Ministry of Forests Lands and Natural Resource Operations (FLNRO)  
Goals and Objectives of Government (i.e., the objectives)  
Forest Stewardship Plan (FSP)

BC Forest Practices Board (FPB)  
Association of BC Forest Professionals (ABCFP)  
Community Watershed  
Annual Allowable Cut (AAC)  
Timber Harvesting Land Base (THLB)  
Non-Timber Harvesting Land Base (N-THLB)  
Forest Practices Code Act of British Columbia (FPC Act)  
Species-At-Risk Act (SARA)  
Migratory Birds Convention Act