

## **REPORT HIGHLIGHTS**

**July 16, 2008**

### **A REVIEW OF THE REMOVAL OF PRIVATE LAND FROM TREE FARM LICENCES 6, 19 & 25: PROTECTING THE PUBLIC INTEREST?**

#### **Introduction**

British Columbia's tenure system for allocating timber to users has been developed over many years. Tree Farm Licences (TFLs), the subject of this review, originated in the 1940s as a means of granting forest companies long-term, exclusive rights to harvest Crown timber in exchange for committing to sustained yield forestry and investing in processing facilities. The terms of each TFL agreement differed, but in many instances the licensee was required by government to include private land.

On January 31, 2007 the Minister of Forests and Range approved the removal of approximately 28,000 hectares of private land from three coastal TFLs held by the licensee, Western Forest Products Inc. At the time, the ministry estimated the value of the land at \$150 million if removed from the TFLs.

Recent legislative changes allow licensees to more easily remove their private land from a TFL, and from forest use altogether. At the same time, British Columbians put high importance on land use. They expect government's land use decisions to be thoroughly informed, and they expect they will have the opportunity to participate in these decisions. British Columbians also expect government to communicate transparently the reasons for its decisions. All of these expectations are consistent with decision-making that gives due regard to the public interest; a priority for the Ministry of Forests and Range as described in its Service Plan.

#### **Purpose of the review**

The decision to remove private land from TFLs 6, 19 and 25 has drawn criticism from many members of the public and First Nations. The Auditor General of British Columbia received many requests from individuals and organizations to review the land removal decision. After considering the issues, the Auditor General decided to review the processes supporting the Minister's decision and assess whether due regard for the public interest was exercised in allowing the removal of private land.

#### **Overall conclusion and key findings**

The Auditor General's overall conclusion is that the removal of private land from TFLs 6, 19 and 25 was approved without sufficient regard for the public interest.

Key findings are as follows:

- the decision was not adequately informed – it was based upon incomplete information that focused primarily on forest and range matters and the interests of the licensee, with too little consideration given to the potential impacts on other key stakeholders;
- consultation was not effective and communication with key stakeholders and the public about the decision was not transparent; and
- the impacts of previous land removal decisions were not monitored to help inform future decisions.

There were a number of predictable negative outcomes from the decision, including:

- individuals and organizations have expressed dissatisfaction with the process and the lack of opportunity for input;
- the Capital Regional District reacted to the decision with new bylaws in an attempt to prevent uses of the land that it deemed incompatible with its community plans for the area;
- important and longstanding forestry research sites, some of which may not be replaceable, may be lost;
- populations of deer and other ungulates in the removed areas will likely decline;
- tourism and recreational opportunities may be lost;
- local residents are concerned by the potential for negative visual impacts and degraded water quality;
- First Nations are concerned because their asserted territories include some of the land involved in the decision and because the decision places more pressure on the crown land remaining in the TFLs. At least one First Nation group is taking legal action as a result of the decision; and
- other stakeholders see the decision as breaking a long-standing arrangement between the licensee and the province.

The decision is expected to help the licensee financially, and this may ultimately lead to benefits for coastal forest workers and the provincial economy. Unfortunately, the decision-making process did not analyze, and the communication process did not explain, these potential benefits so that British Columbians might better understand the ministry's decision.

Information was obtained during the course of the review which raised concerns regarding possible contraventions of the Members' Conflict of Interest Act in relation to two decisions made by the former Minister of Forests and Range, the Honourable Rich Coleman. Because he has no statutory authority to refer a matter directly to the Conflict of Interest Commissioner, the Auditor General notes in his opening comments his intention to release a separate report requesting the Commissioner's opinion. However, after our report went to print, Minister Coleman advised the Auditor General that he himself had asked the Commissioner to render an opinion on these matters. Because the Auditor General's findings have been provided to the Commissioner, and Minister

Coleman has committed to making the Commissioner's full written opinion public, the Auditor General will not be making a separate report.

### **Looking forward**

There is little private land remaining in TFLs so the Auditor General has made no recommendations. He does, however, believe that other government ministries and agencies can learn from the report's findings and conclusions. In particular, the linkages among government programs need to be acknowledged and accommodated to produce decisions that consider all interests.

For our office, the review highlighted the need to better understand government's approach to public consultation. As a result, we are currently reviewing the direction and guidance provided to ministries and agencies on the consultation process. The results of this work will be reported later in the year.

For more information, please contact:

Office of the Auditor General, 8 Bastion Square, Victoria, BC V8V 1X4

Tel: 250 387-6803 or Toll free *Enquiry BC* at 1 800 663-7867 (in Vancouver 604 660-2421)

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