

Wilderness Tourism Association



BRITISH COLUMBIA | CANADA

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Recommendations for enhancing communications and positive working relationships between Forest Agreement Holders and Tourism (Commercial Recreation) Tenure Holders

Purpose

The purpose of this paper is threefold: (1) To clarify, for both forest agreement holders and tenured tourism (commercial recreational) operators, what the current forestry operating procedures are and their impacts on other (non-timber) tenure holders like tourism operators; (2) to clarify the current requirements and obligations are with respect to tenured commercial recreational operations rights; and (3) to propose recommendations for improving the current forestry policy and procedures around communication and notification, and operating practices.

Introduction/ Background

The Wilderness Tourism Association (WTA) exists to ensure a sustainable future for BC's wilderness tourism industry or nature based tourism. We represent the hundreds of small businesses that offer nature based tourism activities throughout British Columbia and contribute significantly to BC's \$13 plus billion dollar tourism industry. These businesses are small and localized, and provide stability, diversification and job creation in their communities. While the WTA puts a tourism business face on issue of forest management, the current practices also raise significant environmental and culture issues, which not only impact tourism operators, but other Crown land tenure holders such as ranchers. Of course, these affect the ability of resource-based communities to benefit from diverse economic opportunities.

While forestry has been the traditional backbone of the rural economy in BC, tourism is more and more becoming a promising new opportunity for growth. Both sectors use trees: the forest industry for processing into wood and paper products; tourism for viewsapes, the harbouring of wildlife, and as a setting for recreational experiences. Increasingly, the rapid growth of nature-based tourism combined with forestry's expansion, mostly due to Mountain Pine Beetle (MPB) salvage, has brought these two sectors into challenging land-use situations. However, if collaborative and equitable planning between the two sectors could be achieved there is great potential for both industries to co-exist and thrive. This would be good news for rural communities across BC intent on economic health and diversification.

The impact or the threat of impact of timber harvesting on wilderness characteristics on which tourism depends has been severe in some locations around the province. There are numerous provincial examples that highlight tourism businesses being significantly impacted in particular by MPB salvage logging operations. Several recent examples are located in the 100 Mile House Timber Supply Area (TSA) of the Cariboo. Timber harvesting has always occurred in the Cariboo, but the rate of harvest has increased dramatically over the past few years as a result of the uplift in the province's Annual Allowable Cut (AAC), the provincial government's response to the MPB infestation.

Many of our members and other tourism operators have found that intense logging on their tenured Crown land has, or threatens to, destroy their trails and other features and values, and the associated viewsapes. In the case of trails, for example, some of the impact to is so bad that entire trail networks

“Ensuring a sustainable future for BC's wilderness tourism industry through leadership, advocacy, and stewardship.”

have been rendered unusable, unsafe and unsightly, and the only option left to the tourism businesses is to rebuild the trails at a significant cost in both money and time.

All nature-based tourism businesses rely on delivering to their guests the *Super, Natural* wilderness experience they come to British Columbia for. However, this is impossible if trails rendered un-useable and viewscapes surrounding their operations are deemed unsightly by heavy forestry development activities. In some cases, the damage is so great that operators are unsure whether their businesses will be able to continue to operate. Having said this, we realize that nature-based operators are just one sector of users of Crown land and that we have to share the landbase and accommodate the needs and interests of other industries. Indeed, we want to ensure that all businesses operating on Crown land work together for a sustainable and profitable future.

There are several issues and concerns raised by the tourism industry regarding the impact of forestry development on their operations including (but not limited to):

- Quality of viewscapes;
- Environmental practices;
- Fisheries values;
- Recreation features and trails;
- Seasonal operations;
- Changes in access;
- Safety hazards; and,
- The rate of planned development, harvest and reforestation.

A key issue focuses around visual quality. The protection of key viewscapes is equally important for the base of operations (i.e. the lodge), at key features, and along travel corridors (i.e. trails and water bodies). Protecting visual quality can be achieved in several ways, for example by using adequate buffering on all trails in and around cut blocks, and using screening and topographic modeling to reduce the amount of forest alteration seen from key viewing areas. Visual quality impacts can also be reduced by maintaining as many non-target species (e.g. aspen and spruce) and understory as is physically possible in cut blocks. Ribbon, flagging tape and chain line can also be quite unsightly and impact a wilderness experience.

Trails, access roads and fences are often damaged or blocked during harvesting, and more often than not proper clean-up, repair and restoration doesn't happen. Damaged trails and roads need to be cleaned up and restored after logging is completed, and before Equipment is moved out. If trails can't be restored to their previous condition then mechanisms for alternate trails need to be worked out. Landing areas should be suitably cleaned up and reseeded so that the visual disturbance along access roads is kept to an absolute minimum.

Another key issue is seasonality of logging practices. Peak tourism season coincides with the summer months - generally June-September. During this time, tourists are paying significantly for a wilderness experience whether at the base operation or 'out on the trail'. Peace and tranquility are key elements of a wilderness experience, and industrial noise and sightings from logging activity occurring during the same time greatly disrupts these elements. Ideally, the tourism operating season and forestry operating season should be separated and logging should occur outside of the peak tourist season.

In addition to the direct impacts to tourism operations from timber harvesting, tenure holders are also concerned about plans for direct and aerial application of herbicides on areas under overlapping tenures. They are concerned about the impact to non-targeted plant species and to animal and human health from this herbicide, particularly as the Forest Licensees have not been forthcoming with information on the herbicide's chemical composition. Herbicide spraying will delay "green-

up” (rejuvenation of trees, shrubs and grasses) along trails and other visual areas, there again, impacting tourism operations. This planned activity has obviously created much anxiety and stress among tourism operators, ranchers, and neighbouring communities.

Perhaps the biggest concern for tenured tourism operators is the lack of communication and notification regarding harvesting plans, and consideration of tourism’s interests and concerns. The key problem that our operators have found is that there is no direction in the current FRPA legislation, requiring clear and effective consultation between Forest Agreement holders (forest licencees and/or BC Timber Sales) and tourism tenure holders. Communication from forest agreement holders is not often forthcoming. When information is provided, e.g. through the Forest Stewardship Plan (FSP) process, the areas covered in ‘volume-based FSPs’ are so vast and there are so many ways to manage resources and meet the minimal objectives, that the information is either too broad or too high level to be meaningful to a tourism tenure holder. There is no requirement that FSPs include information about proposed development activities. This information is generally confined to site plans, which are a key stage in the planning process and where forest agreement holders should be required to consult with Tenure holders. The tourism industry requires prior notification during the initial planning process. They also need respectful communication regarding the details of proposed development before site plans developed cutting permits are applied for.

Current Legislation and Policy Framework

Currently tenured commercial recreational (tourism) operators in British Columbia have specific rights granted to them under their tenure agreement. Forest agreement holders must be aware of these rights and provide an opportunity to review their Forest Stewardship Plan (FSP) in a manner that is commensurate with the nature and extent to which the person's rights may be affected as per Section 21 (1)(c) of the Forest Planning and Practices Regulation (FPPR). In order for this to occur, there needs to be some assurance that adequate and appropriate dialogue occurs between the holder of the FSPs and the tenured commercial recreational operators. However, as it is rightly identified in 4.1.9 of the Administrative guide to FSPs; Vol 1 (ver 2.1), *“There is no clear direction in legislation to measure what constitutes adequate consultation “commensurate with rights”. The plan preparer needs to turn their mind to who has legal rights granted by the Crown in the area covered by the plan and how to consult with them to meet the FPPR requirements.”* The guide notes that the term consultation in this regard is separate and should not be confused with the requirement to consult with First Nations.

The MFLNRO attempted to clarify this interpretation problem and/or ambiguity in the legislation with its FRPA Administration Bulletin Number #14, *FSP Review and Comment Requirements Relative to Tenured Commercial Recreational Operations on Crown Land* (dated March 4, 2010). Although not legally binding, the “interpretation bulletin” helped identify the statutory interpretation principles in respect of FRPA/FPPR and demonstrated how these principles were to be applied to the problem. The bulletin identified that for most types of Commercial Recreation Rights on Crown land (tourism tenures) forest agreement holders were required to consult, provide feed-back, and provide mechanisms to verify effectiveness of engagement after-the-fact of FSP planning.

The issue of communications with tenured tourism operators is also addressed in 1.4.6 of the Administrative guide to FSPs; Vol 2, ver 1.1a, (March 2010): Licensee/BCTS communicating with other (non-timber) tenure holders, which states that licensees/BCTS must communicate their plans and activities with other tenure holders to identify and resolve issues before they impact operations.

Unfortunately, these requirements are rarely adhered to, and if forest agreement holders (licensees and/or BCTS) do consult with tourism tenure holders, they seem to be under no obligation to take their considerations and concerns into account in harvesting plans and activities. Often tourism operators are

not finding out about proposed harvesting until flagging tape is put up, or more disturbingly, until the harvesting activities are underway and the damage to their features is in progress.

An associated problem is that when communication around FSPs does occur, the information provided is often meaningless to a tourism operator. Although FSPs are required to include certain types of information about the public lands that are included within forest development units¹, FSPs are not required to include information about a tenure holder's proposed development activities. Information respecting the latter is generally confined to site plans, which do not create statutory constraints or obligations and are not submitted for approval by a government official.

Section 10 of the FRPA sets out the following content requirements for site plans: 10 (1) Except in prescribed circumstances, the holder of a forest stewardship plan must prepare a site plan in accordance with prescribed requirements for any (a) cutblock before the start of timber harvesting on the cutblock, and (b) road before the start of timber harvesting related to the road's construction. (2) A site plan must (a) identify the approximate locations of cutblocks and roads, (b) be consistent with the forest stewardship plan, this Act and the regulations, and (c) identify how the intended results or strategies described in the forest stewardship plan apply to the site. (3) A site plan may apply to one or more cutblocks and roads whether within the area of one or more forest stewardship plans.

By virtue of section 10, a site plan must be prepared before a tenure holder can begin to harvest timber on a cutblock or road right-of-way. Among other things, the site plan must identify the proposed locations of cutblocks and roads.² To that end, the person preparing the site plan can include, within a single site plan, cutblocks and roads proposed for one forest development unit or a number of forest development units, and these forest development units can be from one FSP or a number of FSPs. From the government's perspective, information respecting the proposed location of cutblocks and roads may not be all that important at the site plan stage, since government officials still have the final say (through their decisions to issue or not issue cutting permits and road permits) as to whether or not a particular cutblock or road can proceed.³ However, for the tourism tenure holders, this information will be vital.

Section 11 of the FRPA, states: 11 A holder of a site plan must make it publicly available on request at any reasonable time at the holder's place of business nearest to the area under the site plan. It is the WTA's opinion that the site plan is a key stage in the planning process where forest licensees should also be required to consult with tourism tenure holders. Indeed, from the tourism tenure holders perspective, site plans may be more important than FSPs, since it is the former that carry forward an important function previously associated with Forest Development Plans (FDPs). Under the Forest practices Code (FPC), and during the period pre-dating the FPC, one of the most important functions of the FDP was to identify proposed cutblocks and roads. In approving the FDP, a government official was providing a kind of "pre-approval" of these cutblocks and roads. Although final approval was still dependent on the issuance of a cutting permit or road permit, pre-approval at the FDP stage allowed government officials to act as intermediaries between forest tenure holders, and the public and other stakeholders with respect to questions or concerns that the latter might have about a tenure holder's development activities. This function was not carried forward to FRPA.

¹ See section 14 (3) (a) through (k) of the Forest Planning and Practices Regulation. These provisions require an FSP to include information about scenic areas, wildlife habitat areas, fisheries sensitive watersheds, lakeshore management zones, old growth management areas, etc.

² Section 10 actually refers to the "approximate" location of cutblocks and roads. Until a cutting permit or road permit is issued, a tenure holder has no way of identifying the "exact" location of either.

³ The circumstances in which a cutting permit may be refused will depend on what is provided for in the applicable tenure agreement. The circumstances in which a road permit may be refused are governed by section 115 of the *Forest Act*.

Under the FRPA, there is no government official charged with approving (or not approving) site plans, and government officials no longer play the role of intermediary in the way that they did under the FPC, or during the period pre-dating the FPC. Instead, forest tenure holders, rather than government officials, will have most, if not all, of the answers to the questions and concerns that the tourism tenure holders are likely to have about cutblocks and roads, since forest tenure holders alone will be making most of the decisions that affect where their development activities are carried out.⁴ Henceforth, if the location of a cutblock or road proposed in a site plan, will have an impact on or is likely to raise a concern with a tourism tenure holder, the most prudent course of action open to that forest tenure holder will be to interact directly with the tenure holder at the site plan stage. This is arguably in keeping with the forest tenure holder's role as steward.

As noted above, the proposed locations of cutblocks and roads may likely to be of greater interest to the tourism tenure holders than to government officials. On the other hand, there is other information in site plans that is likely to be of equal, if not greater, interest to government officials. In particular, for officials charged with enforcing the commitments in an FSP, understanding how a tenure holder intends to fulfill these commitments could be invaluable. Accordingly, since site plans are required to identify how the results and strategies in an FSP will apply to a particular site, these plans are likely to be an important source of information for government officials, as well as the tourism tenure holders.

Recommendations

One of the key success factors sighted in achieving the vision and intent of *FRPA* was in fostering communication and positive working relationships between the various stakeholders involved in the use of Crown land and resources. Communication and positive working relationships were regarded as fundamental to the shared model – including relationships between the forest industry and other (tourism) stakeholders – and necessary in decision-making and the resolution of issues that may arise.

Unfortunately, our experience in the tourism industry is far removed from this vision and intent. Communication and positive working relationships with the forest industry have been lacking at best. Although we are now working with some Forest Agreement Holders to change this. We desperately need to get to a place where all forest licensees/BCTS are in fact communicating their plans and activities with other (non-timber) tenure holders, to identify and resolve issues before they impact operations. In order for this to occur, there needs to be some assurance that adequate and appropriate dialogue occurs between forest licensees/BCTS and the tenured tourism operators - the tourism tenure holder. The WTA believes that it is incumbent on both groups to engage in meaningful conversation and one group should not expect the other to carry the entire responsibility alone.

Further to the requirements and recommendations set out in *FRPA*, *FPPR* and the Administrative Guides to Forest Stewardship Plans, Volume I & II, the WTA recommends the following procedures and requirements with respect to Forest Licensees/BCTS and Tourism (Commercial Recreation) Tenure Holders. These recommendations will help identify and resolve issues before they impact tourism operations.

Notification and Communication

- In addition to requirements under *FRPA* regarding notification, review and comment with respect to Forest Stewardship Plans, forest licensees/BCTS should also be obliged to contact any tourism tenure holders during the development of subsequent Plans (i.e. operational plans, site plans and

⁴ The fact that forest tenure holders will be making so many important forest management decisions without direct government involvement arguably increases, rather than decreases, the importance of those decisions that do still fall to government officials to make, including in particular the decision to approve or not approve an FSP.

declared areas) and permit applications (i.e. Cutting Permits, Road Permits and Timber Sale Licenses) to determine if the tourism tenure holders will be affected by the harvesting and development activities that are being considered (e.g. impacts to trails and other features).

The site plan is an excellent tool to assist licensees/BCTS staff to communicate and share information with tourism tenure holders. This information sharing includes presentation of detailed plans to indicate harvest and road building activities as well as areas that won't be harvested—this approach makes clear both the short term and longer term harvesting proposals. It is at the site planning stage where most tourism issues and concerns can be identified and strategies can be implemented to address these issues and concerns. It is also the opportunity for tourism tenure holders to learn about planned forest development activities and plan their own activities and features accordingly. The forest licensee/BCTS can also provide the site level information to tourism tenure holders as part of the process for declaring areas to the MFLNRO;

- Tourism tenure holders should send all forest licensees/BCTS details of their tenure areas including management plans and activities, and request to be included/considered in the forest licensees'/ BCTS's detailed planning and permit applications, and to have their interests accommodated. Government (i.e. FrontCounter BC) should advise tourism tenure holders to establish this communication;
- Forest licensees/BCTS should acknowledge receipt of the tourism tenure holders' tenure information and agree to ongoing dialogue with Tourism Tenure Holders when developing plans and permits;
- Forest licensees/BCTS should maintain a database of tourism tenure holders using the ILRR, direct referral and communication, and other tools. The ILRR can be used to identify the presence and extent of tenured operators and other *Land Act* tenures with specific rights. Some training on the use and utility of the ILRR may be required as well as looking at ways the ILRR can be enhanced; and,
- Once effective communication, information sharing and positive working relationships are established, forest licensees/BCTS and tourism tenure holders should continue providing new information and updates regarding planning and development activities on an ongoing basis.

Operational Practices and Procedures

- Before submitting an application for a cutting permit, road permit or timber sales license, the forest licensee/BCTS should provide the detailed operational information (e.g. block and road layouts and cutting plans) to tourism tenure holders, and discuss concerns and issues raised by the planned development activities.
- All agreements made between tourism tenure holders and forest licensees/BCTS to accommodate the tourism tenure holders interests, issues and concerns are to be in writing and appended to all applications for cutting permits, road permits or timber sales licences;
- Tourism tenure holders are provided a copy of the cutting permit, road permit or timber sales licence, as well as a planned timetable or schedule of harvest and road building activities and any changes or updates to these schedules;
- Any tourism or recreational areas and features (i.e. tenured trails) that are to be removed, damaged or otherwise deemed un-useable by the tourism tenure holders, to accommodate harvesting activity must be replaced by new and acceptable areas and features, and approved by both parties before harvesting takes place;
- Appropriate inspections of cut block harvesting is conducted at previously agreed intervals and locations with the presence/attendance of tourism tenure holders;

- If at any time the logging contractor deviates from the cutting permits, road permits or timber sales licences, or the tourism tenure holder agreement appended to same, the logging contractor will be ordered to stop work and pay a fine or compensation commensurate with the damage that has been done to any tourism values and features (amounts to be determined);
- The time of year that harvest and road building activities take place is when it causes the least impact to the tourism tenure holder's business in terms of visual impact, noise and safety (i.e. outside of the main tourism season - mid May -mid october); and
- All cut blocks in tourism tenure holders areas are to be 'cleaned-up' upon completion of harvesting, and replanted as soon as possible.

Summary

Tourism operators' value Crown land resources quite differently than other land tenure holders. For example, Forest Licensees' business success lies primarily in their ability to harvest wood fibre. This is in contrast to tourism operators', whose business success lies in delivering high quality guest experiences in the 'spaces between the trees'. The accelerated rate of forest development is placing increasing pressure on the tourism industries ability to deliver quality tourism experiences. If the timber harvesting continues without tourism operator's interests in mind, the ongoing success of these businesses is threatened.

Without the ability to repeatedly sell 'wilderness' experiences, these businesses will lose their ability to generate operating revenues and subsequently their business value. It will also discourage investment and entry by new tourism operators. If tourism is to expand in rural British Columbia, resource security needs to increase in key areas of operation. A higher level of certainty (over resource availability) would provide most tourism operators with the ability to continue normal business practices of marketing and expansion. This is a fundamental business issue for the tourism industry.

The viability and growth of BC's wilderness tourism industry is dependent on the consideration and cooperation of governments and the forest industry. With their support, tourism sector has the potential to provide great economic opportunities for BC. For our operators we need a much higher level of consultation and consideration of their Crown land needs to ensure a quality visitor experience.

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