



Report on BCTS/C&E Roles & Responsibilities

Final Report

Roles & Responsibilities Working Group

January 27, 2004

INTRODUCTION	1
TERMS OF REFERENCE.....	1
OBJECTIVES	1
PRINCIPLES	1
WORKING GROUP COMPOSITION	2
PROCESS	2
DISCUSSION.....	2
COMMUNICATIONS PLAN	5
APPENDIX.....	6
ROLES & RESPONSIBILITY MATRIX	6

Introduction

The purpose of this paper is to clarify the functional relationship between BC Timber Sales (BCTS) and Compliance and Enforcement (C&E) staff with respect to administration and tenure monitoring of *BCTS Agreements*.

Terms of Reference

Objectives

The key objectives of the *Roles & Responsibilities Working Group* (RRWG) are to:

1. Identify, consolidate and review existing policies and resource material respecting roles, responsibilities and conformance monitoring activities associated with BC Timber Sales (BCTS) Agreements.
2. Undertake a gap analysis of existing policies and resource material with the objective of identifying and resolving outstanding elements of concern.
3. Prepare a report and accompanying communications package for the Operations Division Management Team (ODMT) recommending a set of policies, procedures and strategies clarifying the roles and responsibilities of BCTS and C&E staff with respect to program delivery.

Principles

The following principles will be used to guide the RRWG:

1. With respect to BCTS Agreements, the Ministry of Forests adopts the general principle that C&E will be responsible for the enforcement of statutory obligations, whereas BCTS will be responsible for the enforcement of contractual obligations.
2. There is a history of co-operation and integration between BCTS and C&E that both programs wish to continue.
3. C&E and BCTS recognise the inherent benefits of a clear, concise and harmonised policy framework.
4. C&E and BCTS are independent programs with their own unique mandates.
5. C&E and BCTS must remain cognisant of their respective and sometimes conflicting mandates and responsibilities.
6. C&E and BCTS must remain cognisant of the legal framework each program operates within.

7. The relationship, mandate and policy framework of the respective programs must be effectively communicated to staff and client groups to minimise confusion and uncertainty.

Working Group Composition

Participants	Participants
Chair: Serg Pereverzoff, BCTS Timber Sales Manager, Okanagan-Columbia Business Area	Co-Chair: Dan Graham, Director, C&E Branch
Rick Siempelkamp, C&E Forester, Coast Region	Norm Bilodeau, BCTS Operations Manager, Prince George Business Area
Shawn Hedges, BCTS Headquarters, Policy Forester	Steve DeMelt, BCTS Operations Manager, Chinook Business Area
Bill Myers, C&E Field Operations Supervisor, Skeena Stikine Forest District	Ken Shaw, C&E Supervisor, Okanagan Shuswap Forest District

Process

Task	Deadline
• Review draft material, ToR, confirm WG roster	Oct. 1
• Distribute revised ToR & rough report outline to WG	Oct. 3
• Gap analysis (consult operations staff)	Oct. 9
• WG conference call/Net Meeting #1 to undertake detailed review of draft RR matrix	Oct. 14
• WG conference call/Net Meeting #2 to continue review of draft RR matrix	Oct. 20
• WG conference call/Net Meeting #3 to continue review of draft RR matrix	Oct. 28
• Interim report to ODMT for review/guidance on unresolved elements	Nov. 17
• Final report to ODMT/TSLT	Jan. 22

Discussion

BCTS has a duty to provide TSL holders with a clear opportunity to exercise their harvesting rights. BCTS is also accountable to the government and the public to fulfil its legal obligations under the FPC, the FRPA, and the BCTS FDP/FSP. In selling harvesting rights, BCTS is conferring on TSL holders the responsibility to meet legislative requirements. As such, TSL holders exercise harvesting rights and

have statutory obligations, much as major licensees. Therefore, responsibility for legislative enforcement lies with Field Services C&E staff.

As stated in the paper “BCTS – Clarifying Relationships and Responsibilities”:

*TSL holders, like major licensees, are the purchasers of harvesting rights. When exercising these rights, TSL holders are **not** carrying out work for BCTS. They are **not** an extension of BCTS. They are acting on their own behalf.*

The evolution of the FPC and the FRPA to a results-based regime requires that accountability for achieving results shifts to the licensee/permittee by maintaining licensee independence and enforcing the results through risk-based inspection protocols.

In order for BCTS to reasonably meet any agreements and legal requirements as part of its forest management and development activities, it must ensure sufficient oversight of these activities. However, BCTS must do so in a manner that is not overly prescriptive or directive to the extent that BCTS impacts the harvesting rights of the TSL holder. Any attempt to exert excessive control (direction) over a TSL holder’s activity may be considered officious interference and/or may result in officially induced error.

Currently, there is a range of approaches taken by BCTS and C&E to achieve their price/cost benchmarking and monitoring and compliance and enforcement objectives. It will be necessary to standardise these approaches to ensure consistency among BCTS and district offices.

To ensure the Ministry of Forests functions efficiently and cost-effectively, duplication of effort between BCTS and C&E should be avoided. Both programs perform monitoring functions, however with different objectives and possibly at differing frequencies. The objective of BCTS monitoring is to ensure contractual obligations are fulfilled, while the objective of C&E inspections is to ensure legislative obligations are fulfilled. The two programs will need to act co-operatively but independently to deliver their respective mandates.

To facilitate a clear understanding of the respective roles and responsibilities of the BCTS and C&E programs, the RRWG has developed a matrix clarifying:

- key BCTS and C&E responsibilities with respect to timber sale administration, client services, environmental management system (EMS) conformance monitoring, and compliance inspections; and,
- the respective roles of BCTS and C&E in fulfilling those responsibilities.

This understanding will facilitate efficient, cost-effective, coordinated, and provincially consistent delivery of the BCTS and C&E mandates, and will avoid duplication of effort, confusion and uncertainty among staff and licensees, and legal problems such

as officially induced error. Please refer to the Appendix for a copy of the roles and responsibilities matrix.

This matrix is a dynamic document and is subject to periodic reviews and adjustments to reflect evolving changes to our business practices. Foremost in this is BCTS's current initiative to implement an Environmental Management System (EMS) in all of the Business Areas.

It is imperative for BCTS to adopt practices that will consistently enhance timber marketability while maintaining standards and costs that are reflective of major licensees. To this end, BCTS will corporately pursue the EMS under the ISO 14001 program with future consideration for other Certification initiatives.

An integral part of any EMS is the requirement to conduct inspections, document observations and findings, report results and take corrective action where necessary. One of the significant EMS standards for BCTS to address is to inspect operations for conformance with relevant legislation, independent of those inspections conducted by C & E staff. This practice extends beyond the roles and responsibilities defined in the attached matrix. These additional responsibilities, once implemented, must be defined and incorporated into the matrix.

Recommendations

In addition to producing a roles and responsibilities matrix for BCTS and C&E staff, the RRWG made seven recommendations to assist BCTS in fulfilling its roles and responsibilities.

1. BCTS Headquarters (HQ), in conjunction with C&E Branch, will develop and make available regular legislative and regulatory updates respecting the evolving relationship of both programs.
2. BCTS Business Area staff should vet all new TSL clauses through BCTS HQ and the Ministry of Attorney General to ensure consistency with the BCTS tenure model and the roles and responsibilities of BCTS and C&E staff.
3. C&E Branch should investigate the potential for establishing read-only access to selected CIMS/ERA reports for BCTS staff.
4. BCTS HQ and C&E Branch should review the potential for further amendments to ss. 76, 77 and 78 of the Forest Act and relevant regulations to clarify the split in statutory responsibilities between regional managers, timber sales managers, and district managers.
5. BCTS Headquarters should draft a TSL package insert/advisory bulletin to licensees clarifying C&E/BCTS roles and responsibilities.
6. BCTS HQ and C&E Branch should develop a protocol agreement regarding EMS reporting obligations.
7. BCTS HQ and C&E Branch should review the potential for amending s. 164.1 of the Forest Act to allow different officials make the contravention determination and the subsequent disqualification determination, if any.

8. The matrix be revisited and modified to reflect the new responsibilities that BCTS must address to meet the standards of an Environmental Management System.

Communications Plan

One of the key guiding principles of the RRWG is to effectively communicate the relationship, mandates and policy framework of the BCTS and C&E programs to staff and clients. This is essential to facilitate efficient, cost-effective, coordinated, and provincially consistent delivery of the BCTS and C&E mandates, and to avoid duplication of effort, confusion, uncertainty, and legal problems.

Accordingly, our suggested communications plan includes:

- Circulate, via the ADM, Operations, a cover letter, the roles and responsibilities matrix, and the RRWG report, to all regional managers, timber sale managers and district managers.
- As indicated in the ADM's letter, require that all BCTS and C&E staff review and adopt the matrix.
- As indicated in the ADM's letter, give district managers, timber sales managers, and their staff, the opportunity to request a conference call or a meeting with RRWG representative(s) to seek clarification on any aspects of the roles and responsibilities matrix not completely understood.
- Post copies of the RRWG report and matrix on internal BCTS and C&E web sites.
- Draft and circulate a TSL package insert/advisory bulletin to licensees clarifying BCTS and C&E roles and responsibilities.

APPENDIX

Roles & Responsibility Matrix

