

## Timber Sales Advisory Council (TSAC) Meeting

# Minutes

Thursday, December 10, 2009

9:00AM-3:00PM

Executive Airport Plaza Hotel

7311 Westminster Highway, Richmond.

Skyview Pavilion



**Participants:** Mike Falkiner (Chair), Jim Sutherland, Graham Archdekin, Peter Jacobsen, Dave Peterson, Brian Brown, Russ Cameron, Warren Carter, Duncan Chisholm, Keith Eslinger, Dave Lewis, Shane Garner, Les Kiss, Dave Clarke, Ken Houlden, Jim Hackett

**Secretariat:** Dannielle Kitt

**Regrets:** Brian Frenkel, Dennis Cook, John Hatalcik, Greg Saugstad, Mike Kemp

**Guests:** Murray Stech, Dan Graham, Peter Fuglem

### Adoption of Agenda and Safety Briefing

- Introductions of members were made. Jim Hackett (ILMA) was welcomed as a new member. Dannielle Kitt identified the emergency exit and assembly point.

### Action Items Review

- Mike asked TSAC members if they had any information or feedback to offer regarding FPInnovations. He reminded members that they can access the FPInnovations website to view/use information available.
- Q – As a BCTS Registrant, can I use this without becoming a member and paying for access the information?
  - A – Yes - BCTS pays for the membership, although there is a need for Registrants to register in order to access information.
- **New Action (B13): BCTS will distribute information on how to access the FPInnovations web access.**

Information is described in the following October 24, 2007 BCTS Advisory Bulletin:  
<http://www.for.gov.bc.ca/BCTS/bulletins/ab20071024.pdf>.
- BCTS will consider a recommendation to add information to the TSL Package advising of FPInnovations membership and website.

- **New Action (B14): BCTS will add a link for FPInnovations to the TSAC Website. (Dannielle)**
- ✓ Action (B1): Murray Stech will take cruising issues identified by TSAC members to a technical cruising group to address. Completed.
  - Revenue Branch reviewed the discrepancy between cut to cruise and identified a number of issues including the accuracy of the cruise itself, boundary accuracy, typing, and loss factors that can contribute to a discrepancy. Questions also arose related to waste, including waste assessment accuracy, scale volume, mismarking issues, etc. It is in everyone's best interest to have an accurate cruise as it impacts the MPS equation and bidding. The extreme sales should be reviewed and any identified issues taken into consideration. Cut to cruise is reported on a monthly basis.
  - Revenue Branch is looking at the overall system to determine how we can improve our cruising system.
  - Cruise accuracy was discussed at length, followed by discussion about what kind of information would be beneficial for TSAC members to review. Requested information included cruise, volume, scale, species, grade, and who did the cruise by TSL.
- **New Action (B15): BCTS will provide available Coastal cruise data by January 15, 2010. (Peter Jacobsen)**
- **New Action (B16): Add cruise accuracy and data analysis discussion to the March 2010 agenda. (Dannielle)**
- ✓ Action (B2): Murray Stech will take the TSAC recommendations on ocular waste surveys back to Revenue Branch to revisit and will report back to TSAC on December 10, 2009. Completed.
  - Revenue Branch has proposed an amendment to the Waste Assessment Manual. A new initiative that allows a qualified person from BCTS, if available, to jointly sign off on ocular waste assessments with the licensee is proposed to be implemented for approximately one year. At the end of that year, an assessment of this initiative would be made. This amendment has been circulated to the Regions.
- ✓ Action (B3): Jim Sutherland will relay the concerns identified with Forest Stewardship Council (FSC) certification to the Coast Forest Conservation Initiative (CFCI) steering committee. Completed.
  - The CFCI steering committee will be closely monitoring costs and benefits of FSC certification in the mid coast Timber Supply Area (TSA).
- Action (B4): BCTS and Revenue Branch will identify impediments to the recommendations regarding the road maintenance proposal and bring back to the December 10, 2009 TSAC meeting for review.
  - Legislation covers this issue and prevents BCTS from follow through on these recommendations. Further exploration needs to take place through the Provincial Forest and Range Practices Act (FRPA) Implementation Team.
- **New Action (B17): BCTS will provide a document that identifies the impediments to the road maintenance recommendations. (Graham Archdekin).**

- Action (B5): Murray Stech will clarify the current take or pay policy/process including thoughts on the date of market impact, including whether it was the same across the province.
  - This is a complex issue and exact dates are extremely difficult to identify.
  - BCTS looked at sales that might be significantly impacted by this situation and identified approximately six that were or likely to be. That may be changing.
- **New Action (B18): Murray Stech will provide an update of the take or pay policy/process at the March 2010 meeting.**
  - Current legislation does not contain a postponement option for TSLs. However, TSLs are subject to fixed rates, whereas Cutting Permits (CP) have variable rates. If a CP is postponed and is harvested four years from now – they will pay the stumpage of the day. With a TSL the holder will pay the stumpage based on the rate established at the time of bidding.
  - There was discussion about the possibility of finding a middle ground where TSL holders have the take or pay principle applied but at something less than full stumpage.
  - It was pointed out that this is not driven by a BCTS budget issue. This is driven by how we address and balance off the pricing and bidding system against the reality of a large market shock that hit the industry.
- ✓ Action (B6): Graham Archdekin to clarify take or pay as it applies to roads and distribute to TSAC members prior to December 10, 2009. Completed.
- ✓ Action (B7): The Truck Loggers Association (TLA) will send their proposal to address bidders with overdue accounts to BCTS for distribution. Completed.
- Action (B8): BCTS will identify issues and options to address bidders with overdue accounts and circulate a document for review and discussion at the December 10, 2009 TSAC meeting. On today's agenda.
- Action (B9): Harry De Vries (Forest Revenue Branch) will develop a document outlining liability on lump sum sales.
  - The Ministry of Finance is undergoing some restructuring, and BCTS is attempting to firmly identify who will move this issue forward.
- **New Action (B19): Add Section 130/131 update to the March 2010 agenda. (Dannielle)**
  - Action (B10): Harry De Vries will meet with BCTS to discuss and develop a response to industry recommendations regarding Section 130/131. Removed.
- ✓ Action (B11): Shane Garner will submit the document Central Interior Logging Association (CILA) and Council of Forest Industries (COFI) have developed with additional recommendations related to Sections 130/131. Completed.

- **New Action (B20):** Dannielle will resend CILA and COFI documents regarding Sections 130/131 to TSAC members.
- ✓ Action (B12): BCTS will distribute information defining who the Interior Lumber Manufacturing Association (ILMA) represents. Completed.

### **Standing Items**

#### **Waste Billing Exemptions/Extension Fee Waiver and Deposit Forfeiture Relief Requests – Graham Archdekin**

- Graham provided a summary. It was last updated approximately two weeks ago on the public website.

#### **Wood First Initiative – Peter Fuglem**

- Peter Fuglem provided the background of the Wood First Initiative (WFI), and advised that the *Wood First Act* (WFA) received Royal Assent on October 26, 2009. The WFA is intended to foster the culture of using wood by requiring provincially-funded building projects to use it as the primary building material. The WFA has regulation making powers that will be used as required. Even if all buildings funded by the province were to use wood according to the WFA, that would only support one or two major sawmills in the province, the real success will be in getting other North American jurisdictions to implement wood first policies. The WFI concept is being promoted across Canada and into the US. Initial discussions have occurred with Alberta, Saskatchewan and with the Federal Government.
- Best practices using wood are being explored around the world, and WF provides the mechanism to develop best practices for implementation in British Columbia and report on the use of wood in provincially funded buildings. WFI has engaged Partnership BC to help develop the best practices framework. Amendments to the B.C. Building Code allow for six-storey, wood-frame construction. At one time it was common to build up to 10 story buildings from wood, so we know this can be done. The first building permit for a six story construction under the new Building Code was issued this Fall.
- The Wood Innovation and Design Centre has been proposed at the University of Northern British Columbia (UNBC) in Prince George to provide continuing education to engineers, architects, designers, and other trades to increase the use of wood in construction. Discussions have taken place about training engineers from other countries.
- The Wood Enterprise Centre is being developed to advance wood technology and on working together to help define educational training needs to implement new technologies.
- MFR has been asked by VANOC to produce the Olympic Podiums for the Olympic Games. They intend to use a broad spectrum of wood to build 23 podiums, and are hoping to build each one from a different type of wood.
- Rick Sommer, Timber Sales Manager, Stuart-Nechako, is a member of Wood First Team and leading development of the Value for Wood Secretariat, which is in the formation phase but expects to be functional by March 2010. Questionnaires have been sent to

stakeholders to get a sense of expectations and identify a tool box that may be useful in linking users with suppliers. Suppliers are being asked how to develop markets for them in terms of facilitation.

- The Institution of Structural Engineers awarded The Olympic Oval its top award for Sports or Leisure Structures.
- For every ton of wood put into a building, five tons of carbon is NOT being put into the atmosphere.

[http://www.for.gov.bc.ca/pab/media/bell/2009/09/22/FAQ\\_WoodFirstAct\\_20090922\\_FINAL.pdf](http://www.for.gov.bc.ca/pab/media/bell/2009/09/22/FAQ_WoodFirstAct_20090922_FINAL.pdf)

### **BCTS Certification Update – Jim Sutherland**

- Jim provided a summary of the certification activity since the last meeting.
  - The Mid Coast TSA Forest Stewardship Council (FSC) Certification is expected to be announced soon.
  - The Seaward-Tlasta Business Area (TST) Sustainable Forestry Initiative (SFI) certification is expected early in the New Year.
  - Both Canadian Standards Association (CSA) and SFI sourced fibre can be included in Chain of Custody (CoC) certification. SFI has its own CoC label and CSA is covered under Programme For Endorsement of Certification Schemes (PEFC) CoC.
- **New Action (B21): Jim Sutherland will contact SFI regarding whether there was a change in SFI acceptance of CSA fibre for CoC purposes.**
- Response from Karen Brandt, VP Market Affairs, SFI: *SFI continues to recognize CSA certified fibre for its CoC label. Basically 82 percent of all certified fibre in North America can carry the SFI label because we recognize both CSA and American Tree Farm System (ATFS) certified fibre (Programme for the Endorsement of Forest Certification (PEFC) endorsed standards). SFI recognizes SFI, CSA, and ATFS certified sources for its CoC label.*

### **Revenue Branch Waste Bill Waiver Ledger – Murray Stech**

- Murray distributed a Waste Bill Waiver Ledger.

### **BCTS Quarterly Update – Peter Jacobsen**

- Peter provided an overview of the second quarter budget.
- Discussion was varied, and included the following topics:
  - BCTS Goals: The first operational goal is capturing data for the Market Pricing System (MPS). The second operational goal is moving wood into the market place. This is a hard path to walk as we try to achieve both goals.
  - BCTS SAFE Companies Maintenance Audit. BCTS believes SAFE certification is important, but there are clearly some issues around the audit process. BCFSC has committed to making some improvements during the upcoming year.

- **New Action (B22): BCTS to invite a speaker to address SAFE Companies to a future meeting. (Dannielle)**
  - Ecosystem Based Management (EBM) – It is not possible at this time for BCTS to identify specific costs associated with EBM. Some members believe the costs associated with EBM make business prohibitive. Peter clarified that we will continue EBM based on our requirement to reflect the market.
  - Gross revenues are below forecasts, but sales are above projections. Is this giving a signal that the market might be turning around?
  - We are the best source of ‘just in time’. BCTS is selling what the market is interested in, and we appear to be the source of choice, particularly in the Interior.
  - BCTS is taking steps to make reductions in the amount of money expended on road costs – e.g. Doing a ‘mix’ of sales, some with roads developed and some where Licensees will be required to develop the roads.

## **New Business**

### **Bonus Offer Update – Graham Archdekin**

- The proposed amendment to the *Forest Act* is that the bonus offer is not payable if the TSL is surrendered or expires in an unharvested state. This will not be retroactive, but would take effect from the date it’s brought into force. It is expected to take effect in May or June 2010 and would apply to new TSLs and any TSLs in existence on or after it takes effect.

### **Compliance & Enforcement (C & E) – Process and Bidding Practices - Dan Graham**

- Responsibility for fraud investigations is shared by Check Scalers, C & E, and the Revenue Program. The Revenue Program has several checks and balances built into the process, while C & E utilizes inspectors.
- C & E has stepped up inspections. One hurdle is the criminal justice system. In one case, the investigation took 18 months. It took two years to track down people and do interviews and to conduct data analysis. When the package was delivered to Crown Counsel, it took time to review and an additional six months to decide whether to lay charges. After that, it can take months or years to go to court. Sometimes it looks like nothing is happening, but things are occurring behind the scenes. It’s a challenge not to be able to keep people advised about progress.
- If anyone has any evidence they should bring it to the C&E unit at the District or Regional level and let them know what your concerns are. Even suspicions are helpful as it may contribute to information being received from other sources.
- C & E reviews Revenue Branch’s cut to cruise reports quarterly. There is considerable natural variability there, so it’s only one of the tools that can be used.
- There are 70 Check Scalers and between 110 and 120 C & E Inspectors.

- Scaling exams are administered on occasion, and sometimes Check Scalers go to other Districts to gain additional experience.
- One member stated that some operators bring their own Scalers and replace the resident Scalers, and that should be a red flag to C & E. Dan responded that he had heard of that but it would be helpful to have some specific information so they can look at it more closely because it does raise a flag.

### **Bidding Practices**

- British Columbia has a robust legislative and enforcement regime to support our competitive timber auctions, including the following *Forest Act* references:
- *Section 164 (Part 3 offence):*
  - (1) *A person must not*
    - (a) *By intimidation or threat hinder or prevent a person from making an application for an agreement, or from submitting a tender or bid, under Part 3,*
    - (b) *For an improper purpose threaten to make an application for an agreement, or to submit a tender or bid, under Part 3, or*
    - (c) *Participate in or be a party to an agreement or arrangement among 2 or more persons, under which*
      - (i) *One or more of the persons agrees or undertakes not to make an application for an agreement, or to submit a tender or bid, under Part 3, or*
      - (ii) *Particulars in an application made for an agreement, or the amount of a tender or bid submitted, under Part 3, by one or more of the persons are decided.*
- *Section 165.1: Prohibition against restricting competition in sale or purchase of logs*
  - 1) *In this section, “timber” means timber harvested under an agreement referred to in section 12 and offered by or on behalf of the holder for sale as logs.*
  - 2) *A person must not conspire, combine, agree or arrange with another person to prevent, limit or lessen competition in the purchase or sale of timber*
    - a) *by arriving at a maximum amount to be paid by the person or persons for the timber,*
    - b) *by implementing a strategy in relation to the purchase or sale of the timber, or*
    - c) *by another method*

- These sections are not often used, partly because it is difficult to prove unless there is a witness or documentary evidence is discovered while doing other investigations. There are some analytical tools that identify bidding patterns, but they only point to where a problem may be.
- While there are many anecdotal examples “exercise of market power”, or more, without evidence it cannot be addressed legally. There is reluctance of BCTS registrants to come forward and make formal complaints for fear of being ostracized. C & E is very interested in receiving input on how to improve this challenging issue.

#### **TLA/ITMA/BCTS – Auction (Billing/Payment) Rules Discussion – All – 1:45**

- There was lengthy discussion about:
  - Various billing/payment options, including the current practice of requiring licensee who are not paying stumpage as billed, paying prime plus three percent; or having TSL holders pay ten percent down and equal monthly or quarterly instalments (established up front) unless the harvesting is completed earlier. (Once harvesting is complete, the full balance would be due.)
  - Paying when felled – there is an incentive to move the wood, but sometimes there are timing issues.
- Buyers, sellers, bidders, and Revenue Branch needs should all be taken into consideration.
- Billing is currently conducted using the Harvest Billing System (HBS), but significant change would require using a manual billing system. At the moment billing is based on an estimate of how much has been felled. It was suggested that billing should be payable on delivered volume.
- BCTS asked if ‘wood to roadside’ would be helpful. Some members stated yes, as it would be similar to wood in the water.
- Revenue Branch stated there is a need for a definitive basis to determine when billing takes place. The challenge for decked to roadside is - how do we do that?
- There is also a checking component that is important. If this is self-regulating, loggers might indicate they will log over 12 months, but complete in two and not report that.
- **New Action (B23): Add Auction (Billing/Payment) Rules to the March 2010 agenda. (Dannielle)**

#### **Deposits and Outstanding Accounts**

- A number of suggestions were previously put forward, and some of these were reviewed. Comments from members included:
  - Every BCTS Registrant enters with an unlimited cheque, but once someone has proven they are not deserving of that by going into stumpage arrears, limits need to be implemented.

- The government needs to act like a responsible business and beginning evaluating credit risk.
- On the coast – risks are not taken. Logs are held in a boom until money is paid, and then they are released to the buyer.
- There is an option to use a 30/60/90 day billing system. It was noted that other government agencies – i.e. ICBC have mechanisms for collection activities. E.g. if you don't pay your bill, you don't get your driver license or vehicle insurance.
- This issue is not going away. However, the ministry is going through an exercise to establish business priorities, and we need to firmly establish the higher level plan before working on the fine details of this or any other policy development.
- **New Action (B24): TLA is requesting a response on the October 2009 position paper they submitted. (Peter Jacobsen).**
- **New Action (B25): Add 'Deposits and Outstanding Accounts' to the March 2010 agenda. (Dannielle)**

### **ADM Update – Dave Peterson**

- Dave invited questions from the TSAC members.
- Q – I understand the Ministry is in the process of 'reinventing' itself. Please describe what that means.
  - A – We need to simplify the way we do business, and collaboration across government is increasing to achieve that. For example – the government Natural Resource Sector is responsible for determining how they will conduct business together. The Oil and Gas Industry is currently the largest revenue generator, although historically Forests was the leader. The industry and economics are being redefined, so we need to redefine our business as well. The First Nations consultation piece is an example of how we need to make things more practical. Wood First is an example of how we're attempting to create new opportunities and continue to deliver on existing industries. The Forest Service Executive is taking a lead. In the past we've asked for input from staff, and at this point it's time to take that information and do something. Demographics and workforce issues are another challenge.
- Q – Regarding bio-energy: Pulp mills and saw mills are linked. We need to be really careful with the pulp industry as they are in a delicate situation.
  - A – Government has clearly heard the message that there's an overlap between bio-energy and pulp mills, and we are not going to create that conflict by moving forward.
- Q – Have you considered turning BCTS into a Crown Corporation to deliver all tenures?
  - A – The reality is that we work within government. Due to an increased need for collaboration, any push on BCTS will be for *less* independence rather than *more* independence. TSAC members should ask themselves '*What are the key deliverables we get from BCTS? What does BCTS contribute to industry as a whole? How does BCTS contribute to the market place? When there's a push*

*for less independence, how do we ensure we still get what we need from BCTS?* It's important that government knows the answer to those questions and that they hear those answers from TSAC members.

- Q – Do I hear you saying that ministries will be condensed?
  - A – One of the challenges is that everyone interprets the description differently. Does that mean that we will become ONE ministry? Our DM said this morning that it does NOT mean that. But what it does mean is that we need to know how to work together better as separate ministries. Again – this is why I'm asking you to think about the deliverables that you need BCTS to continue to provide you.
- **New Action (B26): Add BCTS Structure to the March 2010 agenda.**

**Next Meeting:**

**Date: March 4, 2010**

**Location: Richmond, BC**