

## **Chapter 18: Dealing with Timber Sale Licences and Timber Sale Licence Holders**

### **Introduction**

The purpose of this chapter is to provide clarity and guidance to BCTS staff relative to their responsibilities for safety during the planning, advertising, awarding, monitoring and reporting of work completed by BCTS staff on timber sale licences. This will also include road permits issued by the timber sales manager to support harvesting of timber sale licences.

In order to deliver on the objectives for the BC Timber Sales Program, BCTS employees prepare and gain approval of forest stewardship plans (FSPs) which describe in broad terms where BCTS will plan specific timber sales and roads. The FSP provides specific results and strategies BCTS will achieve in order to provide a high level of forest management on the land base in its areas of operation. MFR designated decision maker approval of the forest stewardship plan is required before any specific timber sale licences can be sold. BCTS managers retain responsibility to deliver on the results and strategies approved in approved forest stewardship plans.

Following approval of the forest stewardship plan by the Ministry of Forests and Range decision maker, BCTS employees complete specific field assessments, engineering and road designs, and timber cruising to obtain enough detail to advertise a specific stand of timber for sale to private sector companies registered in the BCTS program. In some cases BCTS will build actual forest access roads to access the timber sale licence areas. Timber sale licences must be consistent with the forest stewardship plan and must contain enough information on volume, area to be logged, site conditions, harvesting constraints and post harvesting conditions for the prospective timber sale licence holder to submit a reasoned tender and bonus bid for evaluation by the BCTS manager who will award and enter into the timber sale licence with the successful bidder.

BC Timber Sales is projected to offer for sale approximately 20 per cent of the annual timber harvested from Crown lands in the Province of British Columbia each year. This volume will be sold in over 500 timber sales of various sizes each year. Private sector companies and their workers who purchase, harvest and process timber from these timber sale licences make up a significant portion of the forest industry in British Columbia.

As part of its commitment to the Forestry Industry Health and safety Accord and improving forest sector safety for all workers, BC Timber Sales, wishes to do its part to allow all operations completed under the BCTS program to be healthy and accident free environments.

### **Timber Sale Holder's Role with Safety**

BCTS timber sale licence holders are defined as an owner under the Workers Compensation Act (WCA) and assume the responsibilities of an owner set out in that legislation. The timber sale licence holder enters into a licence and acquires rights to harvest timber, construct and use roads or infrastructure, in return for payment of stumpage on timber removed, and thereby takes ownership of the timber and conducts business. (See also Chapter 23, roads). The timber sale licence holder is not a contractor paid by BCTS.

The timber sale licence holder is also the owner of the work being done at the workplace and in many cases will also be an employer and carry out duties defined in Section 115 of the WCA.

Timber sale licence holders must plan for and deliver on all of the responsibilities for safety laid out in legislation including maintaining an appropriate safety program and ensuring that any contractors or sub contractors at the worksite have and maintain adequate safety programs. They must also designate a prime contractor in multiple employer workplaces.

Holders of timber sale licences advertised on or after January 1, 2009 will also be required to ensure all companies employing workers on the timber sale licence area or directing contractors on the workplace be fully certified in the SAFE companies program of the BC Forest Safety Council. Holders of TSLs issued prior to that date may be required to ensure all companies working on the TSL area be registered in the SAFE companies program.

### **BCTS Safety Responsibilities When Dealing With Timber Sale Licence Preparation or Timber Sale Licence Holders**

Under WCA, BCTS is an agent of the Crown and may retain some broad responsibilities of an owner of the Crown land covered by the timber sale licence. BCTS wishes to do its part to improve overall forest sector safety. BCTS willingly takes on the responsibilities laid out in this manual.

It must be clearly understood, however, that BCTS is not the owner of the work carried out by the timber sale licence holder.

Because BCTS does much of the pre planning of the timber sale licence, provides important information applicable to the TSL area, and may at times provide road access to the harvest area, BCTS retains obligations under safety legislation that might not occur with the issuance of other licences issued by the Ministry of Forests and Range.

### **Planning Timber Sale licences**

Section 26.2 of the Workers Compensation Act Occupational Health and Safety Regulation requires that the owner of forestry operations must plan and conduct

such operations in a manner consistent with the Regulation and with recognized safe work practices.

Clearly timber sale licence holders have the responsibility for planning and conducting the work on the licence once they have entered into the licence. Prior to the licence being issued, BCTS, as the owner of the site at that time, is the site planner for purposes of preparing the timber for auction and must be cognizant of and make record of safety concerns on proposed timber sale licence areas.

There are many considerations that must take place and these vary considerably by local area, however, the following list (which is not meant to be complete) is provided to highlight some key planning considerations for safety:

- The term of the licence should be planned to provide adequate time for project completion and provide flexibility for appropriate work periods to avoid adverse weather conditions.
- Access to the timber sale licence needs to be assessed whether or not BCTS constructs the access or the timber sale licence holder is responsible for providing access. Access roads must meet steep grade guidelines and must be able to be built and used safely.
- BCTS must look at other operations adjacent to or in the proximity of the TSL area in question which could impact operations on the timber sale licence. This might involve other industrial licence holders or operations. The auctioning of timber sale licences should be scheduled so that the TSL holder can carry out operations without being in conflict with operations on other workplaces adjacent to their operation.
- BCTS must ensure that it has an experienced harvesting specialist (staff or consultant with good background and experience in the safe capabilities of harvesting systems) assess any unusual harvesting or silvicultural systems to ensure they can be completed consistent with recognized safe work practices. (See also, identifying hazards below). Practices which should be carefully reviewed are high levels of stand retention, tree topping and limbing for wind throw, working on extreme slopes or bluffs; difficult wind thrown areas; areas with difficult or extensive snags or damaged standing trees. If it is suspected the area cannot be harvested safely, the first decision needed of the BCTS manager is whether or not that area of timber should be included in a timber sale licence.
- BCTS staff must also carefully evaluate terrain assessments, gully reports, and avalanche dangers again to ensure the area can be harvested safely.

In summary, BCTS must give adequate weight to safety of their workers and of the workers of the next owner (the timber sale licence holder) when planning and selling timber sale licences.

A BCTS safety planning checklist (18-1) has been developed and is attached to this chapter.

### **Transferred Administration of Foreshore and Foreshore use authorized in a Timber Sale Licence**

In those cases where, through an order of the Minister of Agriculture and Lands, the administration of foreshore lands has been transferred to the Ministry of Forests and Range, BCTS may convey authority to utilize those foreshore areas for the purpose of log handling via the timber sale licence (TSL). In these instances the safety management principles that apply to TSL's and Road Permits also apply to these areas, however additional consideration in planning especially as it relates to creation of potential multi-employer worksites needs to be reflected upon and addressed.

In general it is preferable to plan the sale of TSL's in a manner that would not result in more than one licensee using a given foreshore at any one time. This is, however, not always practical and should it be necessary for more than one operator to use the log dump and foreshore area at the same time, and provided the foreshore area and configuration can accommodate additional users, BCTS must ensure prospective bidders are made aware of this likelihood. During TSL pre-work sessions hazard identification and any mitigation strategies germane to the foreshore area must be included in considerations relative to the authorized foreshore area.

If it is necessary to authorize more than one licensee to use a foreshore at the same time the engagement principals highlighted in Chapter 23 under the section- *Safety Planning and Use Management* would be appropriate guidance to the extent applicable for BCTS engagement. Effectively BCTS could engage the various authorized owners of the foreshore area to ascertain how they intend to coordinate their activities and to ensure the owners have considered their obligation to coordinate their activities and ensure a system of compliance with the WCA. The owners in turn may develop prime contractor agreements between themselves or address these matters in other ways that they believe most suitable. The role of BCTS is to advise the authorized parties of their need to address this and to ascertain what expectations they may have for our staff when entering the foreshore work area and to ensure that the relevant owners authorized have a means to address their responsibilities. If this is not evident it could be addressed as pre regulation 3.10 as an apparent hazard that BCTS is aware of but not necessarily authorized to address directly.

### **Advertising Timber Sale Licences**

BCTS staff must ensure the following is clearly made known in timber sale licence tenders when advertising timber sale licences:

- **Prospective TSL holders must be made aware** of any unusual observed or known hazards on the timber sale licence area identified during the planning and preparation of the TSL, as well as unusual known hazards along roads or access corridors to be used by the prospective TSL holders or their workers.
- **Pre- work sessions should clearly communicate** and make known the legislated requirements and responsibilities of owners (Section 119 of the Workers Compensation Board Act) and employers (Section 115 of the Workers Compensation Board Act) for safety and safety programs and awareness that if timber sale holders create a multiple employer situation, they have responsibilities for being or designating appointing a prime contractor as required in Section 118 of the Workers Compensation Board Act.
- **TSL tenders must clearly communicate** S.A.F.E. Company expectations. If required by BCTS, to be registered (employers) with the SAFE Companies program of the BCFSC or to be fully certified as a SAFE company by the BC Forest Safety Council.
- **Pre-work sessions should communicate** the general requirement for forest industry owners and employers to file a notice of project with Worksafe BC prior to starting work and if so requested, provide a copy of the notice to BCTS.
- **Pre-work sessions should communicate** that timber sale licence holders are independent of BCTS and are able to plan and conduct their operations as they choose without direction or supervision from BCTS. Clearly timber sale holders must meet legislated forest practice requirements and timber sale licence conditions which may include some on the ground results need to meet forest stewardship plan or site plan requirements; however timber sale holders must be free to plan how to meet these conditions.
- **Prospective timber sale licence holders must also be informed** during pre-work sessions that if there is a conflict between the requirements in the licence and the WCA or OHS Regulations, the WCA prevails. In this event consideration should be given to have an independent specialist and possibly WorksafeBC assess the situation if this problem occurs. All complaints, assessments and corrective action need to be documented.
- **Tenders must communicate** a requirement for timber sale licence holders to attend a pre work meeting before starting work to review hazards and other the requirements of the tender.

## **Evaluation and Award of Timber Sale Licences**

All Timber Sale Licences advertised after Dec 31 2008 will have requirements that parties directing contractors or workers on the timber sale licence area (including the foreshore area, where applicable) or associated road permits be SAFE Certified. Timber sale licences will need to clearly identify this requirement.

## **Monitoring of Timber Sale Licence Operations**

### Pre Work Meetings

BCTS timber sale licence administrators will conduct a pre work meeting with all timber sale holders to go over the planned operations and the conditions of tender on the timber sale licence. A discussion of safety and the timber sale licence holder's responsibilities for safety is required at this pre work meeting and needs to be recorded as part of the due diligence and record keeping on the project.

A key component of this pre work meeting is a check to determine that everyone working on the site, including log haulers, meets the specific licence requirements with respect to certification in the SAFE companies program. Service providers including log haulers which are not an integral part of the onsite operation and not on site for extended duration (i.e. >48hrs consecutively) need not be certified as SAFE companies (i.e. fuel delivery and short term mechanical/welding services). BCTS will require that the timber sale licence holder provide a list of company names, number of employees and proof of certification under the SAFE Companies program.

Key points to be discussed during the pre-work meeting are laid out in the checklist referenced at the end of this chapter.

### Timber Sale Licence Monitoring.

BCTS staff will not monitor the compliance of the timber sale licence holder or their workers with safety legislation.

During the course of routine timber sale licence monitoring, BCTS staff will ask the timber sale licence holder to confirm and provide verification that all workers on the workplace work for persons or companies who are either registered in the SAFE Companies program or are fully certified in the program depending on what is specified in the TSL.

Legacy timber sales sold before BCTS instituted mandatory requirements to be registered as or certified as a SAFE company will not be governed by this requirement. Instead, BCTS will provide holders of these licences with the SAFE Companies standard and recommend they move to SAFE Companies certification or at minimum fully meet WorksafeBC requirements.

BCTS staff will report to the TSL operator any observed real, potential or what are believed to be real or potential unsafe conditions or practices on the timber sale licence as laid out in WorksafeBC, Workers Compensation Board Act, and OHS Regulation Section 3.10. If BCTS staff feel the matter has not been adequately addressed they may report the matter to WSBC.

### Enforcement of Timber Sale Licence and Legislated Safety Standards

Maintaining SAFE companies registration or certification will be a condition of the timber sale licence. That being the case, BCTS timber sale licence administrators is compelled to enforce licence provisions, and must take the following action in the cases where deficiencies or changes are found in the operations compared with what was described in the tender.

Enforcement of licence conditions follows the very same process as enforcement of any other licence condition such as mandatory compliance with EMS, or not paying stumpage.

### Timber Sale Licence holder Safety Concerns

From time to time licensees or their contractors and representatives may raise concerns about safety that are related to BCTS planning or forest management expectations. This is expected and encouraged and should be documented via the 15-1 hazard report and tracked via inspections process and database. BCTS will give these concerns full and appropriate consideration and may look to other parties such as WSBC for collaborating opinions to determine validity and appropriate mitigation in conjunction with the firms exposed. This avenue of mitigation must be clearly understood by all licensees and other parties working on TSLs and will be communicated at pre works and during routine inspections for TSLs. Mitigation strategies will need to consider many factors with clear emphasis on worker safety.

### **BCTS Staff Entering another Employer's Workplace**

BCTS staff members entering another employer's work place are directed by the BCTS safety program but also should be guided by the workplace owner or employer's safety program. Such workplaces can be those of timber sale licence holders, BCTS contractors or other industrial operations.

BCTS staff members, doing BCTS business, are deemed short term visitors. They have statutory rights to be at the workplace and cannot be refused entry.

Limited entries to such workplaces (visits) by BCTS do not cause the workplace to become a multiple employer workplace, however, BCTS staff must do the following:

- Plan your trips to these worksites; know who to call and who is operating.
- Identify yourself to the site supervisor, employer, or prime contractor.
- Get briefed on site safety rules, specialized PPE required for your visit, or other procedures.
- Be informed of the hazards.
- Be informed of First Aid availability and access provision on site.
- Conduct work and advise same person when leaving the workplace.
- Be professional and respectful.
- Have available and wear as appropriate at minimum: safety headgear, protective eye wear if necessary, hi-visibility apparel, whistle, and hearing

protection, safety footwear as specified in BCTS Safety Program, gloves, long sleeve shirts and pants, weather related gear.

### Considerations

- You do not have to pre-advise the contractor or TSL holder, but need to check in. It may be beneficial to phone a few hours ahead.
- Approaches by helicopter or boat require same diligence. Get permission to fly low over the area or land before doing so. (Consider active falling and blasting).
- If the person in charge of the workplace places undue restrictions on entry, you may need to discuss with your supervisor and the workplace owner to come to an understanding.

Do not put yourself in a position where you feel it is unsafe or you are in a conflict with the workplace owner, prime contractor or person in charge. For example, should the person in charge expect PPE be worn in a situation where it is not normally required by BCTS, be prepared to abide by the person's expectation initially until further resolution and consideration can be given. Reflection of the risk intended to be managed by the use of said PPE and whether avoidance measures will mitigate the risk are appropriate to allow BCTS works to be undertaken.

### **BCTS Contract Closing and Reporting**

On a similar schedule and sample as required in the EMS road and cutblock reviews, BCTS staff should review all safety aspects of notable timber sale licences including;

- BCTS planning and preparation
- Advertising
- Monitoring and administration
- Timber sale licence holder records/concerns

BCTS staff and safety program contacts will prepare a summary of safety issues and corrective action resulting from this analysis of timber sale licence information. The analysis will be reviewed by local management and summarized in the overall management review as part of the continuous improvement cycle. The focus of this review is to reflect on our role in planning, selling and administering the licence as it relates to safety with an eye to improving the overall safety circumstance for forest workers.

### **Local Procedures**

None

### **Checklists**

Appendix 18-1 Timber Sale Planning Safety Checklist 18-1