



The Best Place on Earth

File: 230-20/ALIC 2010

January 20, 2010

All Licensees within the
Campbell River Forest District

Dear Licensee:

Subject: Cutting Permit Application Requirements

This letter will outline the standard for Cutting Permit (CP) applications in the Campbell River Forest District.

Issuance of a CP will normally occur within 15 calendar-days (10 business days) of application where the information submitted meets the standards outlined in this letter and in the attached sample CP application letter.

The preferred format for CP applications is described in the attached sample application letter.

The 15-calendar day issuance timeframe is dependant upon the licensee ensuring that the required information is complete and accurate. Any special issues with respect to your submission must be addressed.

A CP will be issued once district staff have confirmed the following:

- The content of the application is complete, accurate and all issues have been addressed.
- First Nation information sharing has occurred. There are no unresolved issues.
- Electronic submission framework spatial data is accepted and adjudication completed; all conflicts resolved.
- The appraisal data submission has been received and the cruise and highest stumpage components of your submission have been reviewed and deemed to meet current standards.



Page 1 of 2

All Licensees

Should delays occur associated with the quality and integrity of your appraisal data submission such that a rate cannot be determined which results in unbilled scale, then the district will review this process and extend issuance times as required to prevent another occurrence.

For your information I have attached 3 documents to assist you with Information Sharing with First Nations. Attached are:

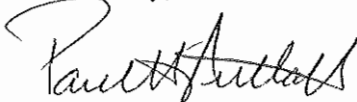
- the District Managers advice to Campbell River Forest District Staff on information sharing with First Nations (dated September 26, 2007);
- FRPA Bulletin #1 on Information Sharing; and
- Post FSP Questions and Answers.

Another item which you may find helpful is the Coast Region CP Application Checklist. This document is used by district staff when reviewing the content of your submission.

In order to assist in reducing the time spent on moving documents back and forth, further correspondence, including the CP document, may be transmitted electronically upon request.

I wish you success in your current venture and will endeavour to provide the service you need for the successful completion of your project.

Yours truly,



Paul Nuttall, RPF
Acting District Manager

Attachments: Sample cutting permit application letter
Coast Region CP Application Checklist
District Manager advice to Campbell River Forest District Staff on information sharing with First Nations (dated September 26, 2007)
FRPA Bulletin #1 on Information Sharing
Post FST Questions and Answers

pc: Regional Executive Director, Coast Forest Region

Rainey Inlet Logging Inc

Greengold Division

File: A12345 CP 62

(Date)

_____, District Manager
Ministry of Forests
_____ Forest District
_____ Street
_____, British Columbia, V0X 0X0

Reference: Tenure and Cutting Permit

Rainey Inlet Logging Inc. makes application for standard sawlog Cutting Permit Number 62 in the vicinity of Greengold Creek, located in Forest Licence A12345. (If required - We require an S-Link for this Cutting Permit and it is: _____.)

A _____ (max. 4 year) term is requested.

The blocks contained in this application are included in (insert appropriate Forest Stewardship Plan). The cutblocks are entirely contained within approved FDU _____. In addition, cutblocks _____ are identified as FRPA 196(1) cutblocks.

This cutting permit application is comprised of (Number) cutblock(s).

The retention areas included in this cutting permit application are detailed in the appraisal submission.

Included in this cutting application are the following attachments:

- 1:20000 Scale Cutting Permit Locations Maps (optional)
- Reserved timber strategy (if retention strategy required)
- Request for Mark Site Designation Form for each Timber Mark (if required)
- First Nation Information (Summary)

The electronic submissions associated with this application are:

- ECAS id/submission # _____
- ESF id/submission # _____

Please send the document attention _____. Please contact the undersigned at _____ if you require any clarification.

Regards,

_____ RPF,
Woodlands Manager
Rainey Inlet Logging Inc.

Coast Region CP Application Checklist:

(this checklist is intended for MFR Tenures staff as a CP application review prior to forwarding to DM for determination on issuance)

Licence(s) # _____ Licensee _____
 Cutting Permit # _____ Timbermark(s) _____
 Location _____ Cutblocks _____
 S-Link _____

Either 1, 2 or 3 must be yes

		Yes	N/A
1)	The total area covered under this Cutting Permit (CP) application is located within a Forest Development Unit of an approved Forest Stewardship Plan, or		
2)	The total area covered under this CP application is consistent with an approved Woodlot Licence Plan, or is consistent with a Forest Development Plan for a Woodlot, or		
3)	The Licensee is exempted under the <i>Forest and Range Practices Act</i> from the requirement for a Forest Stewardship Plan or Woodlot Licence Plan		
4)	Cutblocks identified as FRPA 196 (1) _____ _____		
5)	Requested Cutting Permit Term _____ (Max. 4 years). (The requested CP term must be consistent with the licence document)		
6)	The CP application is consistent with any notice(s) given under the Licence		
7)	Information Sharing with First Nations has occurred and there are no unresolved issues. (Information sharing process consistent with DM instruction letters and FRPA Bulletin#1)		

Either 8, 9 or 10 must be yes

8)	Appraisal data is submitted in accordance with the current Coast Appraisal Manual (CAM) ECAS submission ID# _____ and the cruise and highest stumpage component have been reviewed and deemed to meet current standards or		
9)	The timber volume is less than 2,500 m3 and the appraisal officer (Coast Region) has waived the requirement for a full appraisal. A volume estimate by species is included or		
10)	Tabular stumpage rates are requested (Woodlots & Community Forest Agreements only) and a completed Miscellaneous Timber Pricing Appraisal Data Submission (excel file) is attached		

		Yes	N/A
11)	Reserved timber (not managed under FRPA or under an FSP) has been identified in a tabular format and a 1:5000 scale Schedule B Map is attached		
12)	An electronic application consisting of the attributes and spatial data (XML/GML) meeting the standards established in the Electronic Submission Framework (ESF) has been submitted and adjudication completed; all conflicts resolved ESF submission ID# _____ Other occupiers of the land to be noted in CP document: _____		
13)	A Rationale for harvesting adjacent to private land is included (if planned harvesting is within 150 metres of a park, Indian reserve or private land)		

14)	All Licensee Key Value Indicator Forms for C&E Risk Rating are included		
15)	Mark Site Designation Form (if required) attached		

Notes:

Review of application completed by _____ (initial) date: _____



The Best Place on Earth

Ministry of Forests
and Range

Campbell River Forest District

MEMORANDUM

Distribution: Tenures Stewardship DMT Engineering C&E BCTS CCornfield
Document name: G:\Workgrp\AFA\DOCUMENT\FN consultation\district consultation info\Info share Post-FSP
Memo 2007.doc AMS
Contact: Aaron Smeeth
Date typed: 2007/09/17 Date last saved: 2007-09-26 3:36 pm

File: 10350-00
10410-01

September 26, 2007

To: Campbell River Forest District Staff Involved in First Nations Consultation and Archaeological Reviews

From: Aaron Smeeth

Re: Campbell River Forest District (the District) Information Sharing, Consultation and Archaeological Resources Management Guidelines: Post FSP approval.

First Nations must be provided with detailed information regarding what is being proposed on the ground. Within their Forest Stewardship Plans, licensees have made various commitments to conduct information sharing with First Nations (FN), post FSP approval. Ultimately, cutting permit or road permit (CP/RP) submissions should reflect the information supplied to the FN during these periodic referrals. At the time of CP/RP submission, the District will have to make an assessment of: the adequacy of licensee information sharing, whether there are any outstanding issues, and if consultation is warranted by the District. If an information sharing protocol exists between the licensee (or the District) and FN, the licensee should provide documentation with the CP/RP submission, demonstrating adherence to the protocol.

Licensees should also be reminded that District staff are willing and available to attend meetings with FNs, given adequate notice.

Response from First Nation:

Regardless of whether a protocol exists or not, if a First Nation has provided a response, at any time, with regard to the subject area, the licensee should provide complete documentation at the time of CP/RP submission, of that communication and how the issue was addressed. The First Nations Liaison Officer should be kept apprised of communications between the licensee and the First Nation.

If the licensee and FN have not been able to resolve their differences on a given forest development proposal, the licensee should be advised to contact the District First Nations Liaison Officer at their earliest convenience, prior to CP/RP submission. At this time, the FN Liaison Officer, in conjunction with Tenures Staff, will determine how to proceed with formal consultation.

If a CP/RP application is submitted and there are unresolved issues, Tenures staff, with the assistance of the FN Liaison Officer if necessary, will assess whether further consultation will be required. The FN Liaison Officer and Tenures Officer will develop a strategy for and coordinate any subsequent consultation.

No Response from First Nation:

Licensees provide specific information regarding their development proposals to First Nations, as alluded to above, in accordance with commitments made within their FSP, often on an annual basis. Regardless of what the licensee has undertaken, the District is responsible for assessing the adequacy of that information exchange or the opportunity provided to First Nations. After repeated contact attempts, if the licensee has not received any response from a given First Nation, licensees are encouraged to gain District involvement in the process. Regardless, the District must ensure FNs have been afforded a reasonable amount of time and had sufficient opportunities to respond to licensee invitations to share information.

Guidelines to evaluate sufficiency of information sharing in the event of non responding FN:

Consider **all** of the following points in any given evaluation.

- Two (2) (ideally three (3)) hardcopy letters from the licensee posted to the FN, adequately spaced over a reasonable time period. Email correspondence only will suffice, if there is active dialogue between the **appropriate FN representative(s)** and the licensee; however, hard copy letters addressed to Chief and Council are strongly recommended.
- Two (2) attempts (at least) to contact the FN by telephone where messages are left for the appropriate FN representative(s) or the FN Chief and Council;
- Reasonable attempts to accommodate the FN representative's schedule, should meetings be attempted yet not happen;
- A reasonable response period has been offered to the FN for reply to the referrals. *A 60 day response period is considered reasonable for all parties concerned however there may be exceptions. In extraordinary or emergency situations, there may be grounds to shorten this period.*
- Consideration by the licensee of any reasonable requests made by the FN concerning process or information sharing protocol development.
- Did the District formally consult with FNs? Did District staff attend any previous meetings pertinent to the development areas?

The preceding has been summarized in a process diagram on the attached Figure 1.

Archaeology

The Ministry of Tourism, Sport and the Arts, Archaeology Branch, by way of the Heritage Conservation Act (HCA), governs the protection of archaeological resources in BC. The Branch has produced the "British Columbia Archaeological Resource Management Handbook for Foresters" which provides some useful guidelines and is available on the internet at http://www.tsa.gov.bc.ca/archaeology/forest_licensees_and_natural_resource_stakeholders/general_guidelines_for_forestry_licences.htm.

Additionally, periodically updated information Bulletins are available on the website to provide guidance regarding archaeological site management. Although the DISTRICT depends on professional reliance for much of our business, it is also important that we do not knowingly facilitate a contravention of the Archaeology Branch's regulations and policies by approving any given cutting permit or road permit. With that goal in mind it is helpful to provide some clarification on how the Campbell River Forest District will interpret the specific regulations, policies and procedures. (e.g. Archaeology Branch Bulletins).

Overview Assessments

Where an Archaeological Overview Assessment or Archaeological Review (AOA or AR) exists, work must be undertaken according to the recommendations described in the specific report. Typically, if an overview indicates there is moderate or high potential for archaeological resources (including CMTs), an archaeological field review (PFR, AIA, or CMT survey, if appropriate) must be undertaken. In some instances, an archaeologist may be able to determine that the archaeological potential is actually "low" by doing an in depth office review. The licensee should provide the District with the results and

Campbell River Forest District Staff

recommendations of any applicable studies prior to CP/RP approval. We recognize three applicable AOA's in the Campbell River Forest District:

- 2005 Arcas Consulting Archaeologists Ltd. TFL 47 only.
- 2007 Millennia Research Limited. Campbell River Forest District East (except TFL 47): Release date pending, following ongoing discussions with FNs. Note: the Golder Mainland Coast AOA may be of use until the Millennia AOA is released.
- 2007 Baseline Archaeology Limited. West half of Campbell River Forest District.

Working within a Protected Site

Archaeological site polygons may only contain a small number of actual protected archaeological features such as CMTs. In some cases it may be feasible to extract timber, without an alteration permit, from such an archaeological site polygon if, for example, full suspension helicopter yarding is employed and no impacts to the site or archaeological feature (e.g. CMT) will occur. However, no equipment is permitted to actually set foot within the site boundaries without an approved alteration permit.

Protection Strategies

Strategies to preserve and protect culturally modified trees (pre-1846) protected under the Heritage Conservation Act should be employed as per the archaeological and forest professional's advice. The licensee's Forest Stewardship Plan describes results and strategies for cultural heritage resources (CHR), specifically, those not protected under the HCA. Post-1846 CMTs are an example of such CHRs.

No AOA or AR will predict where 100% of archaeological features are. Where suspected archaeological features or CMTs are discovered in the field during the planning or engineering stage, it is recommended that an archaeological field review be performed to determine their status and the appropriate protection strategy, if applicable.

New Information:

Should an archaeological field review (PFR or AIA) or another review reveal archaeological or Cultural Heritage Resource features within or immediately adjacent to the proposed development area, and the licensee is not operating in accordance with an existing protocol agreement with the FN, this new information should be shared with the FN. Such communication need only be in the form of a written notification seeking comment from the FN.

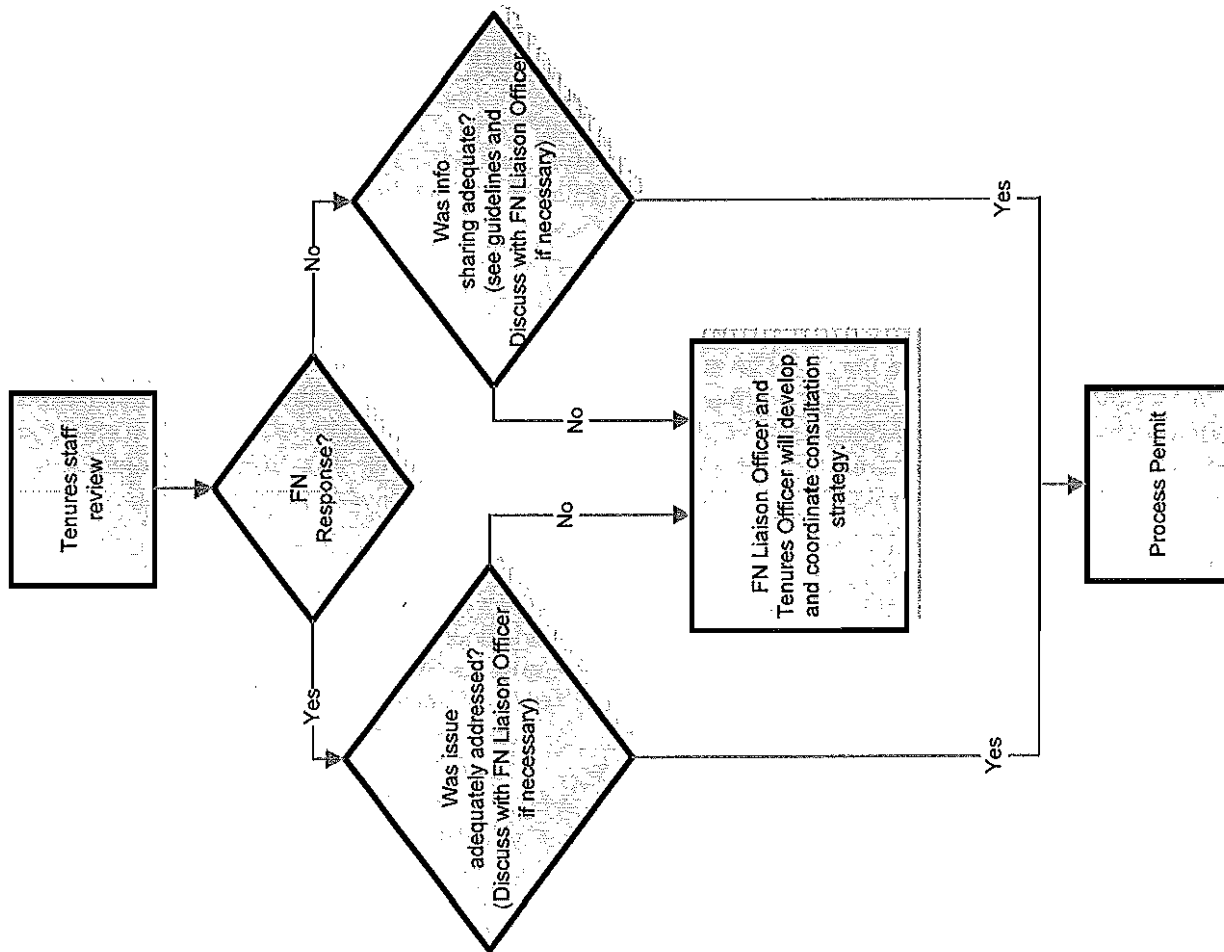
Original signed by

Aaron Smeeth, RFT
First Nations Liaison Officer

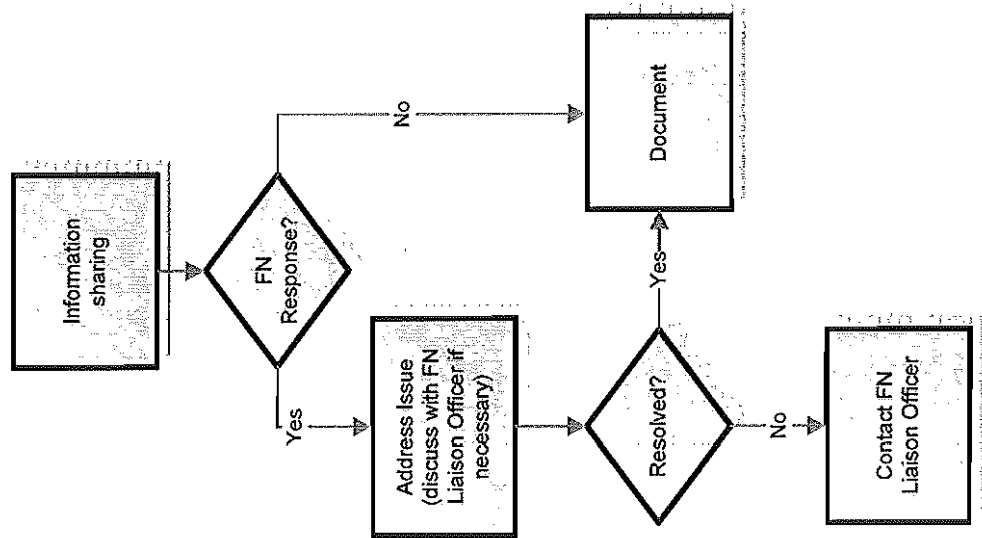
pc: Forest Licensees operating within the Campbell River Forest District.

Figure 1: Attachment to September 26, 2007 CRFD Memo.
 Post-FSP Information Sharing and Consultation

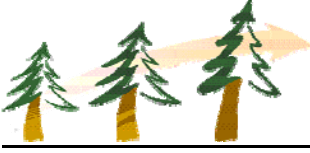
Post-Submission



Pre-Submission (Licensee)



Please refer to Memo text for more detail



FRPA ADMINISTRATION BULLETIN

Number 1

June 9, 2005

Forest Stewardship Planning: First Nations Information Sharing Bulletin

Introduction

This document is a First Nations Information-Sharing Bulletin prepared by the Ministry of Forests and representatives of forest tenure holders. The purpose is to create consistency by providing an overview and a complete set of tasks associated with statutory review and comment requirements and common law consultation processes with First Nations related to Forest Stewardship Plans (FSPs) under the *Forest and Range Practices Act* (FRPA).

The “Bulletin” is based on the premise that the legal obligations associated with consultation in respect of aboriginal interests rest with the Crown. However, in fulfilling its consultation obligations, the Crown may choose to delegate the procedural aspects of consultation to licensees seeking a particular approval: this has been done in FRPA by the Crown requiring licensees to undertake review and comment with First Nations in relation to the licensee’s FSP. (For the purposes of this bulletin, ‘licensee’ and ‘proponent’ includes BC Timber Sales (BCTS), unless otherwise noted.) This Bulletin is consistent with government’s legal obligations and with licensee’s statutory obligations under FRPA. It also offers a number of relatively simple procedural suggestions that are voluntary on the part of licensees that, if adopted, are designed to make the review and approval of FSP’s more timely and efficient for both parties. The Crown may rely upon “third party” information-sharing *activities* of which it has knowledge in fulfilling its consultation obligations. Procedural aspects of consultation completed by licensees may preclude the need for government having to independently undertake these activities. Information received from First Nations through the review and comment process will be considered by the delegated decision-maker when making a decision regarding the FSP and the adequacy of the First Nations consultation process prior to making the statutory decision with respect to the FSP.

The “Bulletin” recognizes the importance of the participation of Aboriginal groups in the consultation process to provide information about aboriginal interests, treaty rights and proven aboriginal rights and how government decisions may affect them.

It is important to note that consultation on the Forest Stewardship Plan is part of a continuum of First Nations consultation regarding decisions made by the Ministry of Forests. The Ministry of Forests (MOF) consults with First Nations on a range of decisions from strategic decisions, such as the Timber Supply Review, to decisions regarding particular areas of land.

Background

Consultation with First Nations is intended to appropriately reflect provisions in the *Constitution Act 1982* that state in Section 35:

- (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
- (2) In this Act “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.

Case law on the proper interpretation and application of these provisions is evolving. At this time, the following principles and definitions have been affirmed:

- a) **Aboriginal Rights:** Aboriginal rights are “cultural” activities that have been described by court decisions to involve the following:
 - A right which may be a non-exclusive right to carry out a practice, tradition or custom that was integral to the distinctive culture of an aboriginal society prior to European contact and continues to be integral to the aboriginal society in the present.
 - Aboriginal rights may be exercised in a modern form.
 - The existence of an aboriginal right is fact and site specific based on the culture, customs and traditions of each aboriginal society.
 - Aboriginal rights are held communally but may be exercised individually.
- b) **Aboriginal Title:** Aboriginal title is a form of aboriginal right that has been defined and described through court decisions to involve the following:
 - The exclusive use and occupation of the land, which use existed at the time of sovereignty (1846) and continues to current times.
 - The right to choose to what uses the land will be put, so long as the uses are not inconsistent with the activities that gave rise to the title in the first place, where such choice does not bind Crown decisions about use of that land.
 - Title has an inescapable economic component, is held communally and can only be alienated to the Crown.
- c) **Aboriginal Interests:** A term used by the Ministry of Forests in its Aboriginal Rights and Title Policy “to refer to potentially existing but unproven aboriginal rights and/or title.” This term is used in the same manner for the purposes of this Bulletin.
- d) **Infringement:** Court rulings have confirmed that rights protected under Section 35 of the *Constitution Act, 1982*, including title, are not absolute. They may be infringed by the federal or provincial Crown if the infringement is justified.
- e) **Justification:** The test for justifying an infringement of an aboriginal right has been established by the courts and includes the following considerations:
 - Has the First Nation been consulted; has the honour of the Crown been maintained?

- Is the activity that causes the infringement further to a valid legislated objective? (The Supreme Court of Canada has said that in the case of aboriginal title, forestry, mining, agriculture, etc., are valid legislative objectives.)
- Has the infringement been limited as much as possible to what is necessary for the activity to proceed?
- Have reasonable steps been taken to seek to address the First Nation's aboriginal rights through some form of accommodation, including efforts to mitigate the impact on the First Nation's interests and, additionally, in the case of aboriginal title, efforts to provide economic benefits to the First Nation?

f) Purpose of Consultation: The purpose of Consultation is to determine:

1. Whether there are aboriginal or treaty rights protected under Section 35 of the *Constitution Act, 1982* in the geographic area that is the subject of the decision. If such rights are asserted but not proved, they may be referred to by the province as "aboriginal interests."
2. (If the answer to 1. is "yes") Whether the contemplated decision or activity would potentially infringe the aboriginal or treaty rights, or aboriginal interests?
3. (If the answer to 2 is "yes") Whether the infringement can be avoided through plan adjustments or through accommodation of the aboriginal or treaty right, or aboriginal interest?
4. (if the answer to 3 is "no") Whether the infringement can be justified.

Administrative and Operational Decisions

The consultation process may vary depending upon whether the forest or range decision being consulted on with a First Nation is considered an administrative or operational decision.

An administrative decision is one made by a statutory decision-maker related to forest or range resources under the *Forest Act* or the *Range Act*. In general, administrative decisions do not result in immediate on-the-ground activities: rather they relate to the administrative regime supporting the forest and range tenure system in British Columbia. Such decisions would include, but not be limited to, decisions by the Chief Forester that set or vary Allowable Annual Cut, the issuance of a new forest or range tenure (including a Timber Sale License issued by a Timber Sales Manager), or the replacement of a forest or range tenure.

An operational decision is considered to be a decision made by a statutory decision-maker with respect to the statutory approval of a Forest Development Plan, Forest Stewardship Plan (FSP), Range Use Plan, or Range Stewardship Plan, including forest and range activities that are carried out pursuant to the plan. The decision-maker under FRPA is the Minister or his/her Delegated Decision-Maker (DDM).

Post FSP Approval

An FSP approval signifies that the tests of FRPA have been met. Where specific concerns or issues regarding aboriginal interests become known after the approval is granted, more consultation may be required prior to the Cutting Permit and/or Road Permit issuance. Examples include:

- Where the First Nation provides additional information about aboriginal interests after the FSP approval that needs to be considered before CP/RP issuance.
- Where there is a commitment in the FSP for further information-sharing regarding relevant operational information with First Nations prior to a CP/RP issuance.
- Where the First Nation has asked for more site-specific information relevant to the activities under the FSP.

In addition, a Timber Sales Manager must consider and ensure that First Nations have been adequately consulted prior to issuing a Timber Sales License.

Forest and Range Agreements (FRA)

The Ministry of Forests has implemented an initiative that may determine a specific First Nation's consultation process. As part of the Forestry Revitalization Plan and in consideration of the provincial objective to create stability on Crown lands and promote economic development by addressing asserted aboriginal interests, the ministry is providing access to timber and revenue sharing through negotiated agreements. The agreements are known as "Forest and Range Agreements" (FRAs) and are a component of the ministry's First Nations Forest Strategy.

The agreements provide opportunities for First Nations to share in the economic benefits from the forest and range sector as well as provide stability for operations on the land base. As part of the FRA, the signatory First Nation is required to participate in a consultation process and to recognize the government's efforts to accommodate the First Nation's aboriginal interests. In addition, FRAs provide for a consultation process to address operational plans as well as administrative decisions. This consultation process is consistent with court decisions, provincial policy and legislation.

Consultation Related to Treaty Rights

The existence of a treaty does not eliminate the need for consultation with First Nations, but it will likely affect the consultation process in the following ways:

- If a treaty (i.e. Nisga'a) includes provisions for a consultation process, then that process will take precedence over any general consultation policies or processes, except in circumstances where an infringement of the treaty rights is likely;
- If a treaty is in place, the focus of consultation will be the rights that are set out in the treaty and how those rights may be affected by the forestry decision being addressed. In most cases, the treaty rights will be clearly described in the treaty agreement and therefore identification of those rights will not depend on the criteria used for identification of interests.
- The legal analysis for "infringement" and "justification" applies to treaty rights in the same manner as aboriginal rights.
- Where a treaty is in place, aboriginal title will not be a consideration for the consultation process.

Forest Stewardship Plan Task List

The following is a list of tasks associated with the Forest Stewardship Plan (FSP) preparation and approval process. The list contains a mix of steps that are driven either by policy or statutory requirement. The list also includes some voluntary steps and suggestions compiled from experiences in similar situations that proponents and ministry staff may find useful and are likely to contribute to an effective and timely consultation and approval process.

In 2004, government brought FRPA into force, with major changes to forest practices legislation. It is recommended that the Ministry of Forests district and/or regional staff provide a letter to First Nations regarding these legislated changes. This letter should also state how these changes may influence the review and comment and consultation processes for the First Nation with respect to Forest Stewardship Plans.

Plan Preparation and Submission:

Task	Source of Direction	Responsible
<p>1. Information Maintenance and Storage</p> <p>Maintain available and relevant information for use by ministry staff and FSP proponents:</p> <ul style="list-style-type: none"> • a map & list of First Nations with aboriginal interests in the management unit including the appropriate contact people, and agreements signed with government (eg. Forest and Range Agreements, Protocol Agreements, Interim Measures Agreements, etc.), • information on cultural heritage resources that have been identified by the Minister as “resource features” • known information on traditional use and archaeology. (This information may be available through Traditional Use Studies and Archaeological Assessments. In some cases First Nations consent may be required in order to access this information.) • In most instances other agencies are custodians/collectors of this information. 	<p>Policy requirement</p> <p>In (Government Actions Regulation section 5 (1)(e)) Policy requirement</p>	<p>MoF</p> <p>MoF</p> <p>MoF</p>
<p>2. Development of Results or Strategies</p> <p>Develop results or strategies consistent with applicable objectives set by government (FRPA & FPPR), especially the objective set by government for cultural heritage resources.</p> <p>Suggestions:</p> <ul style="list-style-type: none"> • The FSP proponent may consider acquiring information relevant to the FSP preparation from the Ministry of Forests and other agencies regarding First Nations with interests in the FSP area, the contact people, and agreements signed with government. District staff have constant interaction with local First Nations and also have access to information regarding broader government initiatives including those of other provincial agencies and the federal government. The proponent may find this information useful and that it contributes to the development of specific results and strategies. The FSP proponent may consider involving the First Nations in the FSP area in planning process as early as possible. This practice builds relationships and enables early planning considerations that may avoid costly delays later in the process. To this end, consider asking First Nations in the FSP area for information on cultural heritage resources prior to writing results or strategies for these resources. • Consider any guidelines for cultural resource management such as the <i>Guidelines for Managing Cedar for Cultural Purposes</i>. 	<p>FRPA section 5 and Forest Planning and Practices Regulation (FPPR) section 10</p> <p>Voluntary</p> <p>Voluntary</p>	<p>FSP Proponent</p> <p>FSP proponent</p> <p>FSP Proponent</p>
<p>3. Providing Notice</p> <p>Publish a notice in a newspaper as required</p>	<p>FPPR section 20</p>	<p>FSP</p>

Task	Source of Direction	proponent Responsible
<p>4. Review and Comment</p> <p>Make “reasonable efforts” to meet with affected First Nations to review the plan and solicit FN comments prior to plan finalization. Document efforts made to meet. There is no formula (i.e. how many letters or phone calls) to determine what constitutes a reasonable effort. Reasonable is generally considered to be fair, proper, just and suitable under the circumstances.</p> <p>Note: Be aware that formal agreements, such as Forest and Range Agreements (FRAs), have consultation standards that stipulate plan provision and time frame requirements.</p> <p>Suggestions:</p> <ol style="list-style-type: none"> 1. the FSP proponent may want to consider: <ol style="list-style-type: none"> a. Sending a letter to the affected First Nation explaining the FSP review and comment process. Items worth communicating to the FN in the letter include: <ol style="list-style-type: none"> i. The time frame for the review & comment period ii. Suggested times and locations to meet and to discuss the Plan iii. Offering to provide advance copies of the Plan or specified parts based on requests from the First Nation. iv. Recommending to the FN that they submit their comments on the FSP in writing, as the FSP proponent must consider all written comments. b. Focus efforts proportional to the nature and scope of the First Nation interests being affected by the plan and the degree to which these interests may be impacted by the FSP. c. Allowing an appropriate time for response from the First Nations d. Having a system to confirm that communication was received by the First Nations e. Maintaining communication with the Ministry regarding the results of communication efforts with First Nations 2. If a meeting is arranged with First Nations affected by the plan, consider the following: <ol style="list-style-type: none"> a. Inviting MoF District staff to the meeting to promote continuity. b. Explaining the content of the FSP, particularly aspects of the FSP that may be important to the First Nations such as results or strategies for cultural heritage resources (ideally developed with the First Nation’s input, as per the previous section). 	<p>FPPR section 21(1) (d)</p> <p>FRA agreements</p> <p>Voluntary</p>	<p>FSP proponent</p> <p>MoF (proponent needs to consider)</p>

<p>c. Collecting and recording specific information from the First Nation on their aboriginal interests relevant to the plan and how these interests may be impacted. Ask for specific information on how the FSP results or strategies & Forest Development Units may impact their specific aboriginal interests, including the nature & scope of aboriginal interests.</p> <p>d. Identifying action items to address concerns raised.</p> <p>e. Reiterate the timelines for providing comments and importance of providing these comments in writing.</p> <p>f. Outline the decision making process</p> <p>g. Providing the First Nation with a written summary of comments received from the First Nation, with a request for comment on any errors or omissions.</p> <p>h. Contacting the district to inform them of the information-sharing process to date and concerns or issues raised by the FN that cannot be addressed by the licensee</p> <p>3. Consider developing an internal process to describe how to:</p> <ul style="list-style-type: none"> • Consider comments received, • Determine what changes to the FSP are appropriate, • Include a description of the changes made in the FSP submission for approval • Inform the affected parties of how the comments were considered. 		
<p>5. Responding to Review and Comment</p> <p>1. Consider any written comments received in respect of the FSP during the advertisement period.</p> <p>2. Include a description of the changes made to the FSP as a result of the comments received in step 1, above.</p> <p>3. Describe efforts made to meet with First Nations.</p> <p>Submit the FSP to the DDM for approval</p> <p>Suggestions:</p> <ul style="list-style-type: none"> • If the FN has not already been provided a copy of the plan submitted to the DDM, provide copies for any affected First Nation who requests a copy of the plan or part of the plan. • Respond to the First Nation regarding their concerns and copy the MOF district office. • Consider providing a written response to any written comments received from the First Nation 	<p>FPPR section 22 (1)</p> <p>FPPR section 22 (2)</p> <p>FPPR section 22 (2)</p> <p>FRPA sections 3, 16</p> <p>FPPR section 2 (2)</p> <p>Voluntary</p>	<p>FSP Proponent</p> <p>“</p> <p>“</p> <p>“</p> <p>FSP Proponent</p>

Plan Consideration and Approval:

Task	Source of Direction	Responsible
<p>Plan Received and First Nations Informed</p> <p>Write a letter to all affected First Nations indicating the review and comment period has ended and the FSP has been received. The letter should also:</p> <ul style="list-style-type: none"> • Outline the post-submission process and advise that a determination is pending • Note the date by which the DDM expects to make a decision • Include a summary of the information sharing to date and the changes/plan alterations made to address/accommodate First Nation’s aboriginal interests • Include a summary of any research information that will be used (e.g. traditional use studies, cultural heritage overviews, strength of claim assessments) • Request immediate feedback if the First Nation believes cultural heritage or other aboriginal interest information is incomplete or inaccurate, if new information is available, or if results or strategies, or commitments made in the FSP will not address concerns • Advise that the DDM will notify the First Nation of the final determination by copying the determination letter to them 	<p>Policy requirement</p>	<p>MoF</p>
<p>Considerations in the determination process</p> <p>The DDM must consider</p> <ol style="list-style-type: none"> 1. whether the FSP meets FRPA section 16, and 2. if the consultation process regarding the FSP has been adequate; <p>as detailed below.</p> <ol style="list-style-type: none"> 1. FRPA in relation to Forest Stewardship Plans The legislation states: <ul style="list-style-type: none"> • Consider the content of the FSP, particularly the results or strategies for the Cultural Heritage Resources Objective (Must consider whether the results or strategies are consistent with the objective and whether the legislative content requirements have been met, particularly around the Cultural Heritage Resources Objective.) • Consider whether the review and comment process meets legislated requirements. 2. Consultation considerations <ol style="list-style-type: none"> a. Consider the degree to which aboriginal interests have been addressed through the FSP: <ul style="list-style-type: none"> • Degree to which First Nations have been provided with all relevant and reasonably available information regarding the FSP. • Specificity of information requested from and 	<p>FRPA sections 5, 16; FPPR sections 10, 21, 22,; GAR section 5</p> <p>Policy requirement</p>	<p>MoF</p> <p>MoF</p>

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Post FSP Questions and Answers

May 15, 2008

Top Answers to 4 post-FSP consultation questions.

Question 1: Challenges to Post-FSP.

1. How to keep MFR involved in the process.
2. Request of Fee for Service by First Nations.
Who should pay? Inconsistent approach.
Licensees do
Government generally does not pay.
3. Lack of Capacity.
4. Licensees not fulfilling commitments made in FSP.
5. Lack of SDM confidence that info sharing by licensees has been adequate or complete.
6. MFR may not have ready access to site specific info.
7. Lack of Understanding of the process by First Nations.
8. Differences in process due to differences in First Nations/SDMs/licensees.

Question 2. What are the 3 Best Practices with our post-FSP Consultation?

1. DM Comment – It is actually happening!
2. Defining roles and responsibilities of licensee and MFR.
3. Referring back to the CHR and determining whether there is an impact.
4. Follow-up on agreements and commitments.
5. Making good records of what happened.
6. Follow-up with First Nation after info sharing.
New Ideas
 - A. Not besieging First Nations with a letter campaign but build a relationship instead.
 - B. Make agreements with First Nations on how post-FSP consultation occurs.
 - C. Maintaining and building relationship – not stop and start, always being available.

Question 3. What are 2 or 3 areas of Improvement for our Post-FSP Consultation?

1. Efficiencies for licensees.
2. Better understanding of information sharing and consultation of licensees and First Nations.
3. Developing consultation protocols.
4. Inventory of historical information readily available.
5. Relationship building.
6. Need to coordinated between districts.
Need consistency on the basics of consultation and for overlap First Nations/Licensees with multiple districts.
7. We do a pretty good job!

Question 4, Preface:

- **This exercise wasn't meant to evolve into a template which would standardize information sharing on the Coast. It was rather a brainstorming and summarizing of key elements the group thought were important for assessing whether information sharing provided adequate consultation.**
- **The following format was used. Each BA6 participant was asked in an interview to answer Question #4. The interviewers then collected all of the responses and summarized them in to a top 10 list.**

Question 4. What are 2 or 3 guidances we can give licensees on post-FSP consultation?

1. Keep MFR informed and involved throughout process and early.
 - If licensees advise the forest service of when they are initiating information sharing this will help if questions arise from the First Nation to the forest service. Also, if licensees let the forest service know if issues arise during the information sharing the forest service can also help in many ways, such as setting up meetings, providing guidance, etc.
2. Do it early, do it thoroughly, and make good on your promises then document. Close any loops.
 - It's always a good idea to provide yourself with enough time to respond to issues that may arise during information sharing. This will help to avoid 11th hour delays/changes for instance if an issue arises which would require additional consultation.

- The District tries to keep up with First Nations changes and can provide Licensees with the appropriate communities and their contacts if they're not sure.
 - It very important for licensees if making commitments in their information sharing process to share this with the forest service. This hopefully would include how they plan to implement and follow through. This also applies to any commitments previously made in for instance the FSP.
 - Licensees should know that when assessing information sharing forest service staff will be looking to see how they have closed the loop on any information sharing items brought forward by the FN, or issues which may not have been brought forward but are generally known.
3. Stick to on the ground issues.
- If issues are brought up by First Nations which are not relative to the information sharing at hand, for example disputes between bands relating to overlapping territories, matters relating to other non-forest development, etc; licensees should document them but do not need to address them.
 - Its always best if the information sharing focus stays to the permit/proposal at hand and how it might impact the given bands aboriginal interests.
4. Don't take legal advise from the consultatee (i.e. First Nations).
- It's advisable to avoid addressing legal advice from the band. While they may have a strong grasp of legal matters their interpretation may be different than governments.
5. Not all Districts, First Nations are the same so don't expect the same approach.
- There is no one size fits all approach across the Region for information sharing. Each case is different. Licensees know this when they share information with a number of bands where often one or two bands will always raise concerns and others will never respond.
 - Also, consultation principles consider the bands strength of claim which will vary by community and by proposal
 - As well there are varying situations across the Coast depending on the number of bands, number of licensees, whether the bands are in treaty or not, whether they have an urban or rural focus, etc
6. Provide understandable information and be clear on what is being consulted on and was it understood?
- The forest service staff involved in consultation some times hear from FN that the information packages are lacking in detail, are unclear in what is being referred to them, or have poor maps, i.e. block map with no small scale reference to known geographical features

- It is advisable to follow up and ensure the information was received and that it was understood, especially where licensees know there have been past concerns
7. Site visits advisable.
- Face to face meetings are always preferable, they help foster a relationship and improve the communication
 - There is also much less likelihood of misunderstandings around the proposal and any follow up actions
8. Recognize when the need for consultation arises.
- If during information sharing, or based on previous information sharing results, a licensee is aware of a contentious matter it is appropriate to advise MFR and full government consultation on the permit may be required
9. Support letters. RE: Proposed developments beneficial to process.
- A letter of support or a letter stating no concerns will certainly help ensure no additional consultation is required.
10. Track and report accommodations and how interests addressed.
- Tracking and reporting any accommodation the licensee undertakes in response to a bands comments/concerns is helpful for assessing the adequacy of the consultation process
 - This can be the licensee providing access to cedar, moving a boundary, committing to harvest at a certain time, etc.