

STILLWATER PILOT PROJECT

WEYERHAEUSER'S RESPONSE TO REVIEW BY BCEN

Date: November 14, 2000

INTRODUCTION

This document is provided to the Joint Steering Committee, by Weyerhaeuser, in response to comments on the Stillwater Pilot Project received from representatives of the B.C. Environment Network Forest Caucus ("BCEN").

On November 2, 2000, representatives of Weyerhaeuser, together with Guenther Stahl, met for approximately 2 ½ hours with Laurel Brewster and Jessica Clogg, on behalf of BCEN, to review BCEN's comments on the Pilot Project. Follow-up written comments by BCEN were provided to Weyerhaeuser on November 6, 2000.

In addition, Jessica Clogg (on behalf of BCEN) came to Powell River on November 7 at the request of the Community Advisory Group ("CAG") to present BCEN's issues and concerns regarding the Pilot Project. This invitation, extended by the CAG, demonstrates the level of diligence the CAG brings to its role in the process.

Weyerhaeuser found that interactions at both the November 2 and November 7 meetings were informative and constructive¹. Weyerhaeuser has reviewed the BCEN comments and considered all the issues, concerns, and solutions presented. Accordingly, we have made adjustments to the Pilot Project in response to some of BCEN's concerns.

By way of introductory comment, it seems to us that BCEN's general test for the Pilot Project is whether it "meets or beats" the *Code* around both process and environmental protections. With all due respect to this view, Weyerhaeuser does not agree that the test in Part 10.1 should be framed exactly this way. In our view, the essence of Part 10.1 is to allow for **something different** than the *Code* that seeks to improve the regulatory framework while ensuring that process and environmental protections are addressed. How are process and environmental protections addressed?

First, on process, Cabinet must be satisfied that:

1. the Pilot Project itself has been subject to public review and comment, with a follow up summary to the Ministers (s. 221.1(3)(a));

¹ A digital PDF file including Draft 6 of the Detailed Proposal, Draft 7 of the Pilot Project Regulation ("PPR"), and related charts setting out the anticipated disapplications of the Code and its regulations was provided to BCEN via email on October 6, 2000. The Forest Stewardship Zone map was included and available for discussion during the visual presentation at the November 2 meeting. A hard copy of the stewardship zone map was also on display at the CAG meeting attended by a BCEN staff on November 7 in Powell River.

2. the PPR adequately provides for public review and comment respecting the forest practices to be carried out (s.221.1(3)(c)).

This is not a “meet or beat” the *Code* test; it is an adequacy test. As set out in the discussion below, Weyerhaeuser believes that the Pilot Project’s up-front opportunity for public participation in the landscape-level planning process meets this part of the test in Part 10.1. In other words, it doesn’t have to “meet or beat” the Code’s process to provide an adequate means for public review and comment respecting the carrying out of forest practices.

Secondly, with respect to the level of protection around resources, Cabinet must be satisfied that the Project will:

1. Provide at least equivalent protection for forest resources and resource features as that provided in the Code;
2. Be consistent with the preamble to the Code; and
3. Provide for adequate management and conservation of forest resources (see s.221.1(b)).

In our view, this language directs Cabinet to turn its mind to the level of protection afforded to forest resources and resource features in the Pilot Project to ascertain whether the results of forest management “meet or beat” the *Code*. For Weyerhaeuser, this is an important difference to keep in mind when responding to the BCEN’s comments, given that the essence of the Pilot Project is about creating a different process for granting harvesting approval while ensuring that the Code’s requirements for environmental protection are maintained. As discussed further below, in Weyerhaeuser’s view, the Pilot Project’s zoning and related objectives, tied to measurable targets in an approved planning document, in substance provide the same level of protections for the results of forest management as the Code. These protections are simply set out in one document rather than five, as is presently the case.

The following document is formatted to provide BCEN’s comments first in bold text, with Weyerhaeuser’s reply then following in regular text. Copies of this response will also be provided to BCEN and the CAG prior to the sixty days public review period. Weyerhaeuser invites further input regarding the Detailed Proposal and the PPR, from the CAG and BCEN, during the formal public review and comment period.

COMMENTS FROM BCEN

ISSUES RELATED TO PUBLIC OVERSIGHT

In our opinion, as it is currently drafted, the Pilot Project Regulation (PPR) does not meet or exceed the Forest Practices Code opportunities for public review and comment.

- *The public has only one legally required opportunity to raise concerns and this is at the very broad landscape level. This is extremely problematic.*
- *It appears that if concerns are not raised during the public review of the Forest Stewardship Plan (FSP) and are not marked as “areas of concern” there is no legal requirement to record them or to forward them to the District Manager (DM) at the cutting permit stage (refer to sections 20 and 40 of the PPR draft 7).*
- *Comments at the FSP stage would have to cover a very large area, making it almost impossible for the public to identify all stand level concerns. There is no cutblock and road location information to allow people to provide targeted and specific comments. This format puts the onus on the public to anticipate any possible areas of harvesting within the plan area. It also reduces the ability for members of the public to focus their comments on specific areas of concern and could result in time spent on comments being wasted if the licensee never proposes logging there.*
- *Although the idea of the operational information map is an excellent one, without timely provision of the information, and a legal requirement to address input received through this mechanism, it does not provide an equivalent opportunity to the present review of FDPs which give information about proposed cutblocks and roads.*

All of the foregoing four bullet points and potential solutions suggested below by BCEN, highlight a concern that the public is not given an opportunity to comment on a site specific or stand level basis.

To address the BCEN’s concerns, Weyerhaeuser has amended the PPR so that the licensee must make its operational information map available to the public. This will ensure that the public has full access to information about the licensee’s harvesting intentions. However, for the reasons discussed below, this will not trigger a process for formal public review and comment. Weyerhaeuser believes that the process is otherwise adequate to protect the public’s interest in the carrying out of the forest practices. In addition, Weyerhaeuser has amended the requirements related to amendments to the FSP, to provide for a sixty-day public review and comment period.

The PPR has also been amended to require the licensee to keep a record of written comments received from the public regarding the operational information map. These comments and Stillwater Timberlands' response will be available to the public and the government. Operational information map comments will be reviewed by the licensee against the objectives in the PPR and the strategies and targets in the FSP. Sections 13 of the PPR requires the licensee to amend the FSP where forest practices will not meet the targets or strategies in the FSP, or where new information which may necessitate changes to the FSP is made available.

Under the current process, a licensee independently prepares a forest development plan (“FDP”) and then solicits review and comment for two months prior to approval. Once the block is approved, the public has no further opportunity to comment on stand level concerns or details. Weyerhaeuser currently has an FDP that was approved in July of 2000, which can be legally extended for one more year, until July of 2003. Thus, over a period of 3 years, the public has one opportunity to comment on proposed areas of harvest.

The Pilot Project proposes to enhance public participation through early and ongoing involvement throughout the planning process. This will be achieved through the following:

- The development of the management objectives in the PPR through the work of a Community Advisory Group (“CAG”).
- The PPR requirement that the FSP go through a review and comment period on the same time line as the *Code* requires for an FDP.
- The requirement that, during the comment and review period, the public has an opportunity to review the FSP, and to identify any areas of public concern that will require cutblock level comments to be reviewed by the district manager prior to approval of a cutting permit.
- Specific areas of public concern identified through the 60 days public review and comment period for the FSP will be addressed in the final FSP submission to the DM and DEO. Section 36 of the PPR has been amended to capture this.
- The requirement that once approved, the FSP and its related planning documents (now including the operational information map) will be available to the public.
- The requirement that comments from First Nations and from the public with respect to specific areas of concern, be provided to the district manager with applications for a cutting permit, and the concurrent requirement that the approval of the cutting permit is contingent on the district manager being satisfied that those comments have been adequately addressed by the licensee
- The requirement for public comment and review of proposed amendments to an approved FSP (this has been added – see discussion under the BCEN bullet which begins “public review of FSP amendments...”, below) .
- Early resubmission of the FSP if requested by either the district manager or the designated environmental official.
- Inclusion of the public in the joint auditing process. The detailed proposal will be revised to include 4 participants in the joint auditing process, the licensee, the MOF, the MOELP and a public oversight representative. We will solicit input from the public during the review period as to who might best represent the public oversight component of the joint audit team.

Finally, the full spectrum of government inspection and enforcement powers remains available for addressing how forest practices are carried out.

- *We suggest the following as potential solutions:*
- *All information discussed in the Detailed Proposal text relating to the “Operational Information Map” should be included in section 37 of the PPR, which lists all documents that the licensee will make available for public viewing*

As noted above, the PPR has been revised to include provisions that require the preparation of an Operational Information Map. This map will show active cutblocks and road construction activities; cutblocks approved under cutting permits; proposed roads and cutblocks (including current engineering activities); current and planned road deactivation and stand tending activities (including herbicide treatments). The PPR will require the map to be updated at least monthly to show current activities and will be included in the list of information required to be made available to the public under section 37 of the PPR. Although the requirement in the PPR is for monthly updates, Weyerhaeuser intends to maintain the operational information map as a "live" document, updated constantly. It is also Weyerhaeuser's intention to achieve the requirements of s. 37 through continuous display of a 1:60,000 version of the map at the Stillwater divisional office, and on the Internet, as well as the local public library and an annual public display. The map will also be displayed at the monthly meetings of the CAG, along with public comments and licensee responses.² The licensee will also be available to conduct monthly reviews of the operational information map with local MOF and MOELP staff and with each of the First Nations affected by operations within Block 1 of TFL 39.

- *Section 38, which requires the licensee to notify the public when these documents are available for viewing, should be amended so that this information is available to the public at least 60 days before a cutting permit is applied for. Cutblock level comments received during this period should be forwarded to the District Manager for consideration prior to his or her approval of a cutting permit.*

One of the goals of the Stillwater Pilot Project is to shift the planning process from the stand level to the landscape level to improve the current process which, because of the time delays involved with various approvals required prior to harvesting, results in inflexibility in Weyerhaeuser's ability to respond to market fluctuations, and high administrative costs for the regulators. Weyerhaeuser, with input from the Ministry of Forests, has pruned the current approvals system to the approval of the FSP, and a cutting permit process, designed specifically to ensure that First Nations concerns and the concerns of the public with respect to areas of the land base which have been identified in the FSP as of specific concern, are brought to the attention of the District Manager prior to the commencement of harvesting. Weyerhaeuser believes this is the linchpin of the Pilot Project, and the addition of a 60 day notice period for cutting permits, and a requirement that all comments for that cutblock be submitted to the District Manager would effectively *defeat the purpose* of the Pilot Project and push the process back to its current status. Therefore, Weyerhaeuser respectfully disagrees that this suggestion should be implemented.

- *Section 20(a)(iii) of the draft PPR currently requires that when applying for a cutting permit, the licensee include all comments received during the FSP review period that*

² We note that this latter process is integral to Weyerhaeuser's CSA commitment but is not required by the PPR.

are relevant to the area to be harvested; this section should be modified to include all comments received at any point during the term of the FSP.

This statement is incorrect. Section 20(1)(a)(iii) of the draft PPR requires the licensee to include all comments received under Part 5 Division 4, which are comments received from First Nations or from the public with respect to areas which have been identified on an approved FSP as areas of public concern. However, Weyerhaeuser has made revisions to the language in the PPR to better clarify this.

- ***Public review of FSP amendments clearly does not meet or beat the Forest Practices Code. Sections 13, 33 and 42 regarding public review of amendments reduce the Forest Practices Code norm of a mandatory 60 day review and comment on operational plan amendments to a discretionary requirement (section 42 requires that amendments be made available for public review only if the DM or DEO require). In cases where amendments are made available for public review it is only for a thirty day period (refer to section 33 of draft 7).***

BCEN has raised a good point regarding public review of amendments to the FSP. Recognising that the FSP is a landscape level document that is strategic in nature rather than operational, and contains the strategies and standards for performance, Weyerhaeuser has revised the PPR to require that all proposed amendments to the FSP be subject to public review and comment for a period of sixty days. We note that, from a practical standpoint, Section 25 of the PPR has provisions that allow for the approval of field variances at the stand level.

- ***The FSP is approved for a five-year term with no subsequent annual review. Approval may be extended for up to 30 months, in contrast with the current provisions of the Forest Practices Code Act (section 19) which limit the extension of FDP approvals to 12 months. There is currently no legal requirement to amend the FSP to take into account new information or comments subsequently received.***

The purpose of an extension is primarily to allow for any delays in the preparation, public review and approval of a new FSP. The 30 months was selected using the formula from the *Code* for extensions of FDPs (which is half the life of the FDP). However, Weyerhaeuser believes that 12 months will be more than sufficient to cover any unanticipated delays in bringing in a new FSP and thus has made the suggested amendment to the PPR.

Section 13(3) of the PPR was included to ensure that amendments would be made to the FSP in the event that it was determined that performing forest practices set out in the FSP would not achieve the approved strategies and targets. This incorporates the language of s. 35 of the *Code*. It is noted that the *Code* does not contain any other requirements for amendment of an operational plan when new information becomes available. In addition, the PPR requires that the FSP be consistent with a number of documents, including higher level plans, the Haslam/Lang Integrated Watershed Management Plan and any Landscape Unit Plans (this has been added, see comments below under “Issues Related to Landscape Unit Planning”). Weyerhaeuser believes that there is implicit in this, a requirement to amend the FSP if any of these documents are changed. However, recognising that there could be other scenarios in which new information may necessitate changes to the FSP, an additional provision has been added requiring the

licensee to submit proposed amendments to the FSP in the event that new information comes to light which require them.

ISSUES RELATED TO GOVERNMENT APPROVAL

- ***It is difficult, if not impossible, for the public or Cabinet to assess if the requirement in section 221.1 of the Code (that the pilot will adequately manage and conserve forest resources) without knowing the specific measurables related to the Forest Stewardship Zone objectives. The current format relegates this decision down to the District Manager and Designated Environment Official (who are responsible for approval of the FSP). This is not the intent of section 221.1 of the Code. It allows the licensee to be exempt from specific provisions of the Code without requiring them to specify any measurable indicators of performance until later in the planning process.***

As pointed out in the Introduction, section 221.1 of the *Code* requires Cabinet to turn its mind to whether the level of protection, from a forest management results perspective, afforded to forest resources and resources features in the Pilot Project, is equivalent to the *Code* and adequately manages and conserves the forest resources. The fact that specific measurables on objectives for zones are not set out in the PPR, but will be set out in the FSP, does not mean that Cabinet cannot assess the Pilot Project under s. 221.1. The PPR establishes a framework for directing the regulators to determine if adequate management and conservation of forest resources will occur through the implementation of the FSP. Through the PPR, qualified government officials from both the MOF and MOELP are required to judge whether the targets and strategies in the FSP meet the requirements in the PPR to provide equivalent protection of the forest resource and resource features currently provided in the *Code* and regulations, and also to judge whether the FSP will adequately manage and conserve the forest resource. This hierarchy of planning, combined with the current regulatory litmus test of adequately managing and conserving the resource (as found in s. 41 of the *Code*), is very consistent with the *Code's* structure and intent. Weyerhaeuser believes that Cabinet can assess whether this framework established by the PPR meets the test set out in 221.1 of the *Code*.

Further, it is incorrect to say that the licensee is exempt from provisions of the *Code* before they specify any measurable indicators of performance. The “disapplications” contained in ss. 85-87 and Schedule I of the PPR occur once there is an approved FSP. Thus all of the measurable targets and strategies proposed by the licensee will be reviewed and approved by both the MOF and MOELP before the licensee is exempt from the prescribed provisions of the *Code*, regulations and *Forest Act*.

- ***The PPR must be reviewed and clarified to ensure that exemptions from specific provisions of the Forest Practices Code are not overly broad. For example, Schedule 1 of the PPR currently exempts the licensee from section 41 of the Forest Practices Code Act (this section outlines, among other things, the criteria for District Manager approval of an operational plan) and replaces it with section 47 of the PPR. While section 47 contains the same approval criteria as section 41(1) of the Code, it does not contain equivalent language to several other provisions of section 41.***

For example, section 41(2) of the Code allows the DM to request additional information

prior to approval of a plan; the PPR does not contain an equivalent provision. Sections 41(8), 41(9) and 41(10) of the Code also authorize the DM to designate a community watershed, while section 47 of the PPR does not provide equivalent authority. It is our understanding that this is not the intent of the PPR and that it will be modified for clarification.

With respect to the comments around s. 41 of the *Code*, this was an oversight which occurred when the review of the *Code* was done. It was the intention of the licensee to disapply only ss. 41(1)-(3) of the *Code*. Section 41(4) relates to logging plans and does not apply to the Pilot Project. Sections 41(5) - (7) fall away because they refer to FDP's and ss. 41(8)-(13) still apply. Weyerhaeuser will ensure that the PPR includes provisions to replace 41 (1), (2) and (5). Replacing 41(6)-(7) is not needed as the PPR provides that the entire plan, not just those areas related to community watersheds, be subject to joint approval. The chart which explains the review of the *Code*, provided with the draft of the PPR, will also be adjusted to reflect this change.

- ***Section 21 of the PPR contains a list of criteria for approval of a cutting permit. This section should incorporate an “adequately manage and conserve” requirement equivalent to section 41 of the Code, which currently requires such an assessment at the cutblock level. Although Weyerhaeuser’s intent is that monitoring and auditing will replace government approval at the stand level, both of these assessments are “after the fact” and , in our opinion, do not provide equivalent protection for forest values.***

Under the Pilot Project, the "adequately manage and conserve" test is met at both the landscape level and the stand level through approval of the FSP. The FSP specifies stand level targets and strategies that will guide operational planning and measure performance. Commitments to stand level standards such as those contained in the "Free Growing Guidebook" which were previously made through the Silviculture Prescription are now found in the FSP. Implementation of the strategies and achievement of the standards becomes the responsibility of the professional forester, and the legal obligations become the responsibility of the Licensee. Thus, it would be redundant at the cutting permit stage to insert this test. In short, the integrity of the approved commitments in the FSP do not break down just because the regulator is not re-verifying at the stand level what the licensee said it would do.

ISSUES RELATED TO ASSESSMENTS AT THE FSP STAGE

- ***Weyerhaeuser is commended for making assessments available for review under section 32(1) of the PPR .***
- ***Section 15 of the Operational Planning Regulation currently requires that prior to public review and DM approval of an FDP, a riparian assessment be completed to identify the riparian class of streams, wetlands and lakes located in areas of joint approval. As the FSP applies to an area of joint approval, this assessment must be completed at the FSP stage, not at the cutting permit stage as is currently proposed in the PPR. At a minimum, this assessment must be completed in all community watersheds within the plan area prior to public review and DM approval.***

Section 15 of the Operational Planning Regulation sets out the requirements for riparian assessments to be completed prior to submission of the FDP. However, under s. 15, riparian assessments are specific to cutblocks and road construction activities proposed on the FDP. These assessments are a stand level requirement. As cutblocks are not shown on the FSP, the requirement for riparian assessments will be addressed prior to the approval of the cutting permit, which is the trigger for stand level operations to commence. Thus, the requirement of s. 15 to complete a stand level riparian assessment prior to approval of operations, is maintained.

ISSUES RELATED TO EQUIVALENT PROTECTION FOR FOREST VALUES AND FSP “MEASURABLE STRATEGIES AND TARGETS”

- ***The PPR should clarify that the forest stewardship zones and associated map will be attached as part of the regulation. It is our understanding that the zones will be established and mapped under Part 2 of the PPR.***

The forest stewardship zones will be established and mapped under Part 2 of the PPR, however, the map will not be attached to the PPR, given concerns raised during drafting around future changes. The initial drafts of the PPR included a provision attaching the forest stewardship zones map, however it was determined that by making the map an attachment to the PPR, it could only be amended by an Order in Council. The licensee and the Regional Working Group discussed this issue at some length and decided that it would be desirable to have a mechanism through which the map could be revised, without having to go through Cabinet. It is Weyerhaeuser’s understanding that a regulation cannot delegate the amendment of an attachment to a regulation. Recognising that it was desirable to maintain the approval of the map at the Ministerial level, it was decided that the map would be prepared by the licensee and approved by the Minister of Environment Lands and Parks and the Minister of Forests. These Ministers then have the power to delegate the approval of revisions to the map to the regional level. Weyerhaeuser recognises that the PPR needs revision to clarify that the map will be prepared and approved by the Ministers. This has been done.

It is Weyerhaeuser’s intention to provide the forest stewardship zone map with the submissions during the public comment and review period, and to the Cabinet in order that they may assess its sufficiency before approving the PPR.

- ***To make a results-based approach work, it is critical that the licensee complete appropriate inventories and collect sufficient baseline data against which to measure whether values are maintained and the objectives of forest stewardship zones are met. The PPR should contain a provision requiring this.***

The pilot project in its current form is an incremental approach to results based management, it uses a monitoring and evaluation framework that seeks to build a results based process in the future. The strategies and targets contained in the FSP are designed around current Code requirements and practices that will generate the baseline information as we move towards a true results based process.

All current inventory commitments under Management Plan #7 and those proposed under Management Plan #8 for TFL 39 will apply to the Pilot Project area. We will use these

inventories and other data we currently have available as a starting point, developing additional baseline data and inventories where gaps are identified.

- ***We strongly encourage Weyerhaeuser to provide a written rationale to demonstrate clearly how selected strategies and targets will achieve the broad objectives set out for each Forest Stewardship Zone. It is our understanding that Weyerhaeuser supports this suggestion.***

At the November 2, 2000 meeting, Weyerhaeuser did not support the concept of providing a rationale for selected strategies and targets. Rather, what was discussed in response to this concern, was that the CAG is following the CSA process to establish values, goals, indicators and objectives, most of which will be incorporated into the FSP. This process will follow the six criteria and 21 critical elements established by the Canadian Council of Forest Ministers ("CCFM") to achieve Sustainable Forest Management ("SFM") Certification. Other standards will come from current regulations and guidebooks such as the "Establishment to Free Growing" Guidebook for the Vancouver Forest Region. As stated, the CAG will play an important role in establishing the measurable targets and objectives. Weyerhaeuser does not support the suggestion that written rationale be provided in the PPR. Cabinet will decide whether or not the criteria in the PPR meet the tests in Part 10.1 of the Code, the detailed proposal provides the rationale for the criteria. The regulatory decision makers (ie. MOF and MOELP), in approving the FSP, will assess whether or not the strategies and targets are consistent with the objectives in the PPR.

- ***Modify the PPR to clarify that environmental standards, including specific prohibitions and constraints in the Forest Practices Code, remain in effect and that the provisions in sections 53 and 54 of the PPR complement, rather than replace outright, current Forest Practices Code standards. For example, clarify that riparian standards in the Forest Practices Code will continue to apply to the pilot area.***

It is the intention of the Pilot Project to remove process from the regulatory framework. It is not the intent to diminish the environmental protections provided by the *Code*. The FSP is deemed to be an operational plan and all provisions of the *Code*, regulations and *Forest Act* which apply to the licensee continue to apply, unless they are specifically disappplied under Part 11.

Weyerhaeuser believes that the PPR as currently drafted, achieves the requirement in Part 10.1 to maintain equivalent protection of the forest resources. The measurable targets and strategies established under s. 53 and 54 must provide the equivalent protection which is currently contained in the *Code* and regulation. In the development of these provisions, the team gave close consideration to the level of detail with respect to activities which should be prescribed to achieve equivalent protection. The PPR is designed to strike a balance between prescribing how forest practices are to be carried out, and providing flexibility to allow for newer and better methods of achieving the desired results.

- ***The PPR should be reviewed to ensure that the licensee is not exempt from specific environmental standards in the Forest Practices Code. For example, the Timber Harvesting Practices Regulation currently prohibits cross-stream yarding (section***

11(1)(b)), whereas the PPR currently requires only that “strategies for yarding, according to stream class” be established (section 53(2)(b)(ii) of PPR draft 7)

The intent of s. 53(2)(b)(ii) of the PPR was to provide for strategies for yarding in the FSP. It was not the intent to disapply the prohibition in Section 11(1)(b) of the Timber Harvesting Practices Regulation ("THPR"), thus this requirement has now been reproduced into the PPR, which will prohibit cross-stream yarding unless authorised through the FSP or, by the district manager and/or designated environmental official, in writing, with or without conditions.

ISSUES RELATED TO STAND MANAGEMENT IN FREE GROWING AREAS

- ***Section 23 of the PPR should be modified to clarify that although they are exempt from a requirement to submit stand management prescriptions, the licensee will still be required to comply with the Vancouver Forest Region stocking standards. This section should also clarify that a cutting permit will be required for stand management activities such as commercial thinning.***

The requirement to follow the Vancouver Forest Region Free Growing Stocking Standards (“Vancouver Stocking Standards”) already exists in the PPR. Section 23 of the PPR requires that all stand management activities be carried out in accordance with the strategies and measurable targets in an approved FSP. Section 53(h) of the PPR also requires that the FSP adopt the Vancouver Stocking Standards (except the early free growing standard). Therefore all stand management activities must be carried in accordance with these standards.

Commercial thinning is a harvesting activity, not a stand management activity, thus, as is the case today under the *Code*, under s. 18 of the PPR, the licensee will need to obtain a cutting permit prior to carrying it out.

ISSUES RELATED TO AUDITING AND THE ROLE OF THE FOREST PRACTICES BOARD

- ***As currently drafted, sections 75 and 77 of the PPR appear to limit the scope of Forest Practices Board audits and investigations to a) determining compliance with the pilot regulation and b) reviewing the appropriateness of government enforcement. It is our understanding, based on conversations with Weyerhaeuser staff, that the intent of the PPR is not to limit the powers of the Board, and that this section will be re-worded to clarify this.***

We disagree that these provisions are in any way limiting. As required by s. 221.1(3)(e) of the *Code*, the role of the Forest Practices Board as set out in s. 128 and Part 8 of the *Code* is maintained. Section 75 of the PPR was written to replace s. 176 of the *Code*, which falls away because the licensee is no longer required to prepare an FDP, silviculture prescription or logging plan. The scope of s. 75 is the same as the scope of section 176. Similarly, s. 77 of the PPR was written to replace s. 6 of the *Forest Practices Board Regulations* which prescribes the scope of complaints to provisions in the *Code* for FDPs, silviculture prescriptions and logging plans. Section 77 of the PPR also uses the same language as the provision it is designed to replace. Therefore no rewording is required to maintain equivalency.

Thus, the remaining powers of the Forest Practices Board contained in the *Code* are fully maintained.

Weyerhaeuser made a presentation and discussed the Pilot Project with the executive director and legal counsel for the Forest Practices Board on Oct. 31, 2000. Weyerhaeuser has been advised that board staff are still reviewing ss. 73 and 74 of the PPR, and may have some input during the final drafting stage.

- *Similarly, the current wording of section 82 purports to limit government's ability to levy administrative penalties or prosecute by inserting an additional layer of analysis related to the remediation or mitigation plan. Again, it is our understanding that this is not the intent of the PPR and that it will be re-worded for clarification.*

Section 82 was intended to enhance the criteria through which the district manager can exercise his discretion in determining whether it or not it is appropriate to levy administrative penalties or prosecute. However, as pointed out by the BCEN s. 82 of the PPR may not achieve this, as it appears to suggest that if remediation or mitigation will achieve adequate protection of the forest resource, the district management may be precluded from taking enforcement measures. This was not the intention and the PPR has been revised to ensure that, even if the district manager is satisfied that proposed remediation or mitigation strategies will achieve adequate protection of the forest resource, he/she may nonetheless elect to pursue other enforcement actions.

HIGHER LEVEL PLANS AND THE REGULATION FOR BALANCING COMPETING INTERESTS

ISSUES RELATED TO LANDSCAPE UNIT PLANNING

- *In order to be consistent with section 221.1(5) of the Forest Practices Code, the PPR must include one of the following provisions related to landscape unit objectives (note that our preference is for option 1 or 2):*
 1. *A requirement that landscape unit objectives will be legally established prior to implementation of the pilot or, at a minimum, prior to approval of the FSP;*
 2. *A requirement to complete draft landscape unit objectives prior to approval of the FSP and a commitment to comply with or exceed these draft objectives; or,*
 3. *A requirement that Weyerhaeuser will amend the FSP to reflect draft landscape unit objectives where the objectives ecologically exceed existing strategies and targets.*

There are six proposed landscape units within the area covered by the Stillwater Pilot Project. Three are designated as low biodiversity emphasis option ("BEO") and three are designated as intermediate BEO. The Bunster Landscape Unit is largely complete, having finished its public review process, however, it is not yet legally established. The remaining five landscape units are low on the government's priority list. The licensee is urging completion of the portions of the landscape units within the Pilot Project area, carrying the workload and the cost for the government in order to facilitate the Pilot Project. Unfortunately, these five landscape units are

shared with other licencees who do not share Weyerhaeuser's timetable to complete the process. Weyerhaeuser cannot alter the government's priority list, nor is it authorised to complete the landscape unit planning process for areas outside Block 1 of TFL 39.

Accordingly, Weyerhaeuser has made the commitment to complete "draft" landscape unit plans for all six landscape units, including OGMA's, to the satisfaction of the MOELP and the MOF prior to full implementation of the FSP. Section 85(2) of the PPR provides this requirement by providing that s. 19 (requirement to have an approved FDP prior to submission of a cutting permit) cannot be dissatisfied until draft landscape unit plans are completed to the satisfaction of the licensee, the district manager and the designated environmental official. This allows the licensee to get an FSP approved which disables the requirements for silviculture prescriptions and road permits, at the same time ensuring that the licensee is restricted to operating within FDP approved cutblocks and roads until draft landscape unit plans are completed.

The amending section of the PPR has been revised to clarify the intention, that in the event the FSP is approved prior to completion of "draft" landscape unit plans, and if, upon the approval of draft landscape unit plans, it is discovered that the FSP is not consistent with the landscape unit objectives, the FSP will be amended. Although s. 14(1)(b) of the PPR already requires that the FSP be consistent with higher level plans, for clarity, this section will be amended to prescribe landscape unit plans as one of the documents the FSP must be consistent with.

- ***Section 3 of the PPR should be modified to include a provision that when Old Growth Management Areas (OGMAs) are legally established (under Landscape Unit Planning) the FSP will be amended to incorporate them.***

As stated above, s. 14(1)(b) of the PPR requires that the FSP be consistent with higher level plans. Since landscape unit objectives are recognised as a higher level plan, amendment of the FSP would be required once the landscape unit objectives are legally established. For clarity, landscape unit plans (both draft and approved) have been added to the list of prescribed documents in s. 14.

- ***Section 51 of the PPR should be re-worded to clarify that the FSP must comply with, or exceed, Landscape Unit objectives, not just incorporate them.***

It was the licensee's intention that the FSP be consistent with Landscape Unit Objectives. Instead of adjusting s. 51 however, we believe greater clarity would be achieved by adding both draft and approved Landscape Unit Plans to the list of items that the FSP must be consistent with under s. 14. This has been done. As stated earlier, because the FSP must be consistent with those items in s. 14, we believe there is an implicit requirement for amendments to the FSP to be made when LUPs are either drafted, or approved, if required to maintain consistency.

- ***The PPR needs to make it explicit that Weyerhaeuser's zone specific objectives may impact timber supply. The PPR should also specify that these impacts will be considered by both the licensee and the Chief Forester in AAC determinations. It is our understanding that approval of the PPR will be treated in the same fashion as a Higher Level Plan in terms of timber supply impacts; i.e. the PPR will permit the licensee to exceed the six percent cap on timber supply impacts.***

The PPR does not need to speak to the impact that zone specific objectives will have on timber supply. Although potential impacts to timber supply have been considered in the balancing process it was not a limiting factor, the focus was on identifying the competing resource values and interests and accomplishing the balancing objective contemplated in section 221.1(5). Weyerhaeuser acknowledges that there will be an impact to timber supply as a result of the zone specific objectives built into the PPR. The final impact will not be known until after the landscape unit planning process is complete. Some of the zoning impact will overlap with wildlife habitat areas and OGMAs established through the landscape unit planning process, some will not. The AAC determination will remain separate from the Pilot Project. The Chief Forester's powers under the *Forest Act* are in no way altered and the PPR creates a linkage to the AAC determination by requiring that the licensee provide the Chief Forester with a copy of the FSP for consideration in his determination.

We strongly encourage Weyerhaeuser to reflect the pilot project in their current Management Plan and AAC determination in order to avoid a situation where a legally established AAC conflicts with other legally established strategies and targets.

Management Plan #8 for TFL 39 recognises that the Pilot Project is under development within Block 1. If the area impacted through implementation of the Pilot Project exceeds 10% variance from the base option in MP#8, additional analysis will be forwarded to the Chief Forester with recommendations regarding the AAC contribution of Block 1 and hence the AAC for TFL 39.

ISSUES RELATED TO RESOURCE MANAGEMENT ZONE OBJECTIVES

- ***The initial intent of Part 10.1 of the Code was to establish pilot projects in areas where strategic level planning through LRMPs or CORE had occurred and the resource management zones and objectives contained in them had been designated as higher level plans.***

Section 221.1(5) of the *Code* allows for Pilot Projects to be implemented in areas where strategic levels plans do not yet exist, by creating a regulation that balances competing values and resources. Part 2 of the PPR, combined with the commitment to complete draft landscape unit plans prior to full implementation of the FSP, will accomplish the balance of competing values and interests contemplated in section 221.1(5) of the *Code*.

- ***The development of the regulation for balancing competing values and interests falls short of the opportunity that would have been provided to participants in a strategic level planning process in the following ways:***
 1. ***There was no opportunity to negotiate resource management zone objectives to address landscape level requirements of “higher level plan” species such as grizzly bear which could impact on timber supply beyond the 1% cap placed on implementation of the Identified Wildlife Management Strategy.***
 2. ***There was no opportunity to negotiate resource management zone objectives that dealt with values associated with full biodiversity planning (e.g. forest ecosystem networks, landscape connectivity, seral stage distribution etc.), as opposed to landscape unit planning constrained by present MOF policy (e.g. limited to partial***

biodiversity planning, which requires only wildlife tree retention and establishment of old growth management areas.)

- 3. *There was no opportunity to negotiate resource management zone objectives which result in greater impacts to timber supply than the caps established through Chief Forester direction regarding the implementation of landscape unit planning.***
- 4. *There was no opportunity to negotiate fully protected areas, usually approximately 12% of a planning area.***

It is a fundamental requirement of implementing the Pilot Project that it be premised on a sound strategic or “higher level” direction that accounts for a balancing of competing values and interests. We refer to our detailed proposal for a full discussion of the Pilot Project’s process for balancing competing values and interest. The result is the PPR.

Landscape Unit planning is also a key process to the Pilot Project. Prior to full implementation of the Pilot Project, "draft" Landscape Unit Plans, including OGMA's and habitat polygons for mountain goat, grizzly bear, deer and Marbled Murrelets, will be agreed to by the licensee, MOF and MOELP.

Landscape unit planning will take strategic direction for resource management from the objectives defined in Part 2 of the PPR, following the process and meeting at minimum, the targets identified in the “Landscape Unit Planning Guide.” Resource management objectives and strategies established through landscape unit planning will be carried forward into the FSP. Once OGMA's and recruitment areas are spatially defined on the map base and landscape biodiversity targets are met, future stand level biodiversity retention targets will follow the Landscape Unit Planning Guide standards. Where forest stewardship zone stand level retention targets exceed the Landscape Unit Planning Guide standards, the forest stewardship zone targets will apply. Mountain goat, grizzly bear, deer and marbled murrelet habitat polygons will be incorporated into the OGMA strategy to minimise the effect on AAC where possible. It should be pointed out that none of the landscape units in the Pilot Project area have a high BEO, and that of the three intermediate BEO landscape units, the Bunster unit which was the government’s highest priority due to marbled murrelets, has finished its public advertising period.

Neither the government nor the licensee has placed any cap on the impact resulting from the balancing process. Resource management objectives for "higher level plan species" such as grizzly bear and marbled murrelets have not been limited by the 1% cap. Although a full analysis will not be known until zoning and landscape unit planning are complete, it is known that zoning, OGMA's, old growth recruitment areas and wildlife habitat areas will all contribute seral stage distribution and biodiversity planning. All discussions with the CAG and MOELP have been around doing what is necessary to manage for the resource values identified, we are not managing to meet or beat a specific impact target.

Protected areas have been fully negotiated in the Sunshine Coast area, the 12% cap has been completely used up. A substantial piece of Block 1 was included in this process as part of the Confederation/Inland Lakes protected area. This area has been formally declared as a park within the last two months.

It is Weyerhaeuser's view that Part 10.1, under section 221.1(5) contemplates an alternative approach to higher level planning, it does not require the same process. This project covers a land base of approximately 180,000 hectares, about 90,000 of which are productive. Ministry policy dictates that an LRMP generally covers an area of 4,000,000 hectares or more. The balancing process we have carried out for the Pilot Project is not intended to replace the LRMP process nor was this the purpose of section 221.1(5) of the Code. The government will conduct some form of LRMP process covering the south coast area in the future. At that time the forest stewardship zones can be revisited in light of the higher level planning process.