



File: 19400-01/2014

July 31, 2015

**BY EMAIL**

To Coast Area Licensees

Dear Sir or Madam:

At a recent Operational Issues Forum (OIF) meeting, there was a request from the forest industry representatives to clarify the current Coast Area cutting permit (CP) application process, in the post-Tsilhqot'in Decision operating environment.

The Coast Area remains committed to ensuring that the Crown fulfils its obligations to adequately consult with First Nations prior to making a decision on the issuance of a CP. The Coast Area also remains committed to managing unintended consequences that result from unbilled scale.

This memorandum will provide further clarification as to what is within scope for an expedited issuance of a CP, and what is not, as well as clarify the current process for First Nations consultation across the Coast Area.

**In scope for expedited CP issuance – a typical CP application**

**CP issuance may proceed in advance of full appraisal data review and prior to stumpage rate determination.**

- The content of the CP application is complete and accurate in accordance with the supporting information and guidance, and all issues (including stewardship, cruising, and appraisals aspects) have been addressed to the district manager's satisfaction.
- Up to date First Nations information sharing and consultation has occurred and there are no unresolved matters related to impacts upon Aboriginal interests and a summary of which is included with the CP application.
- Electronic Submission Framework (ESF) spatial data is accepted and adjudication completed, all conflicts are resolved.
- Any changes to the cruise plan are rare and minor in nature and supported with a professional rationale.
- The appraisal data submission has been received, is complete and consistent with existing policy and the quality and integrity of the appraisal data is such that a rate can be promptly determined.

To Coast Area Licensees

### **Out of scope for expedited CP issuance – an atypical CP application**

**CP issuance will be held until appraisal data has been fully reviewed and is deemed capable of being used for rate determination.**

- The content of the CP application is not complete, not accurate or not in accordance with the supporting information and guidance, and all issues have not been addressed; and /or
- First Nations information sharing is stale, or there have been significant changes made to the information, or information sharing has not yet happened, or consultation has not yet happened, or there are unresolved matters related to impacts upon Aboriginal interests; and/or
- There are conflicts in the ESF data that are unresolved; and/or
- Required professional rationales to support practices and prescriptions (including stewardship, cruising and appraisals aspects) are missing or deficient; and/or
- The appraisal data submission has been received, however, data submitted requires multiple clarification requests, and the quality and integrity of the appraisal data is such that a rate cannot be quickly determined; and/or
- The appraisal data submission includes elements which are not systematically addressed in the Coast Appraisal Manual. This includes the submission of Regional Manager's Projects and proposals that require engagement of other ministry officials and/or provincial committees; and/or
- The application is related to the pilot project for Problem Forest Stands.

The Provincial Government has an obligation to ensure First Nations have been adequately consulted regarding proposed resource management activities that may impact their rights. In many districts within the Coast Area, licensees have accepted the delegation of the procedural engagement aspects of First Nations consultation. In these cases, licensee information sharing becomes an integral component of the consultation process. Documentation of First Nations information sharing, including any accommodations provided and copies of letters or emails of response, must be included with your CP applications.

In many areas of the Coast Area, the requirements for First Nation consultation and its associated timelines have been determined by government to government agreements outlined in treaties, strategic engagement agreements, or reconciliation protocols, and may have impact upon the timeliness of the approval process

Otherwise, where there is no engagement or consultation agreement in place, the Crown must first determine the depth of consultation required with the applicable First Nations and information share or consult accordingly.

Then based on the level of support the First Nations have provided for the proposed activity, an analysis of strength of claim for title and rights, and the potential impacts to First Nations rights may be required. Depending on these factors, the district office may have to engage in a deeper level of consultation or assessment of strength of claim and an assessment of adequate accommodation prior to being able to make a determination related to CP issuance.

To Coast Area Licensees

The Coast Area has been developing strength of claim expertise since the Tsilhqot'in Decision, and our staff work in partnership with First Nations, regional office resources and other Ministries to develop and provide this information for statutory decision makers. While we are striving to meet the expectations of licensees for timely CP turnaround times, there needs to be recognition that strength of claim assessment is an emerging skillset, and the process has been iteratively clarified since the Tsilhqot'in Decision.

Licensees that have a strong business need for approval timeline certainty may wish to focus their proposed developments to areas where their business relationship with potentially affected First Nations is comprehensive and stable, and where they can demonstrate First Nations support for their applications or allow for adequate lead time from application to authorization issuance

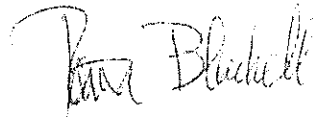
While the focus of this letter is on the CP approval process and timelines, please note that the First Nations consultation process described above also relates to each of the authorizations that the Ministry administers, including those under the *Forest Act*, *Forest and Range Practices Act*, *Land Act*, and *Water Act*.

We remain committed to working to meet or exceed the provincial performance measure of 40 calendar days for the issuance of a Cutting Permit.

Yours truly,




Dave Southam, RPF  
District Manager



Romona Blackwell  
District Manager



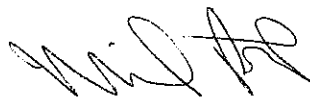
Mary Bauto  
Acting District Manager



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