

Tenure reform in British Columbia: Developing tenure that benefits communities

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A Brief History of Tenure Reform in British Columbia

Tenure reform in British Columbia has been ongoing since the first Timber Licences were granted by the provincial government in 1888. During the last century, four Royal Commissions of Inquiry sought to redefine the ways in which timber resources were distributed. The primary objective of each Commission was to recommend how to make forest legislation reflect the needs of the day. The first of these, the 1909 Fulton Commission, was struck explicitly to examine the recent "timber staking" rush (over 13 500 Timber Licences were granted during a few months), and the subsequent decision to suspend further licensing (Pearse 1976). Fulton's recommendations lead to the creation of the province's first *Forest Act*. Two Royal Commissions headed by Gordon Sloan in 1945 and 1956 resulted in the introduction of new forms of forest tenure to encourage investment, and the adoption of "sustained yield forestry" (Sloan 1945). The fourth Royal Commission in 1976, headed by Dr. Peter Pearse, made recommendations that lead to further changes in the *Forest Act* in 1978. These changes included increased opportunities for small operators to access the timber supply.

There is growing evidence that it is time for BC's forest policies, and particularly the tenure system, to be updated again. Last April, the Association of BC Professional Foresters (ABC PF) stated that "a major review of British Columbia's forest policy framework is desperately needed to address the many challenges currently plaguing the forest sector" (ABC PF 1999a). Last fall, the BC Government launched its Forest Policy Review in an effort to gather public input on several forest resource management issues, including tenure. Consultation was done with invited representatives from communities, the forest industry, First Nations and environmental groups throughout the province at several workshops. Additional input was gathered at public forums, and written submissions were invited. The ABC PF has stated that this process is inadequate, and has called for a Royal Commission to examine forest policy, including forest tenure (ABC PF 1999b). The creation of another commission will likely depend on public and industry demand in response to the policy recommendations contained in the Forest Policy Review report.

Concurrent with the Forest Policy Review public consultation process last fall, the Kootenay Conference on Forest Alternatives (KCFA) held a forest tenure workshop in Nelson, BC. The purpose of the workshop was to refocus the debate away from the traditional concern with timber allocation and ask: *What changes to the existing tenure system are needed to promote healthy sustainable communities?* Dr. Pearse set the stage



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by stating unequivocally, "The forest tenure system is outdated, having been overtaken by new economic and social conditions" (Pearse 1999). Over the following two days, the process and substance of tenure reform was debated by more than 100 people from across the province and across the forest interest spectrum – First Nations, community leaders, forest professionals and environmentalists. The outcomes of that workshop form the basis of many of the ideas presented here.

The Current Tenure System

In order to understand why most British Columbians agree that the forest tenure system must change, it is helpful to review the current tenure system. In BC, almost 96% of the province is Crown Land, the highest level of Crown ownership in Canada, and 83% of Crown land is in the "working forest" (MELP 1996). Access to Crown timber is granted by government through different forms of tenure.

While the range of existing tenure options is wide, application on the ground is limited. Approximately one-quarter of Crown forest land is held in 20- to 25-year replaceable area-based Tree Farm Licences and Woodlot Licences. The remainder is held primarily in replaceable and non-replaceable volume-based 10- to 15-year Forest Licences and shorter term Timber Sale Licences. Tree Farm Licences and Forest Licences account for over 80% of the volume of timber cut on Crown lands (MOF 1998).

In all tenure arrangements, ownership of the land and the right to revoke a licence remains with the Crown. In addition, the responsibility for areas under licence reverts to the Crown once basic silviculture obligations have been met. Most licensees, therefore, are reluctant to make long-term investments with only short-term landbase security. Moreover, the volume-based licences are not connected to a specific landbase; consequently, they do not adequately promote long-term stewardship of specific forests. As management obligations are fulfilled, and as new operating areas are required, additional areas are allocated to licensees. However, few new operating areas exist, and increasingly, the remaining unlogged areas have greater constraints to timber management, reducing the poten-

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tial operable area and greatly increasing planning and operating costs.

Agreement on the Need for Change

While there is general agreement in BC on the need for tenure reform, the specifics of how to proceed pose difficulties for reaching agreement. Issues to be resolved include land ownership, First Nations' treaty settlements, tenure length and security, the amount of protected area in the province, volume-based versus area-based agreements, new licensee selection criteria, inclusion of additional social and environmental requirements in tenure agreements, the size and distribution of the Allowable Annual Cut (AAC), compensation for changes to existing tenures and processing facility appurtenance requirements.

Recently, several organizations have outlined different ideas for tenure reform. The Council of Forest Industries prepared a "Blueprint for Competitiveness" which promotes increased land security for existing licensees and an increase in the AAC from 70 million to 100 million cubic meters (COFI 1999). On the other hand, the University of Victoria Eco-Research Chair of Environmental Law and Policy published "Forests in Trust" (Burda *et al.* 1997), which proposed a dramatic increase in community forest tenure at the expense of existing industrial licensees, and a decrease in the AAC. Meanwhile, the provincial government introduced a new form of community-based tenure. They established a Community Forest Pilot Project and selected seven pilot locations to test a variety of administrative and management models.

Discussion of these and other approaches to tenure reform, and the potential effect of their implementation on community prosperity, was the primary focus of the forest tenure workshop in Nelson.

Tenure that Promotes Community Prosperity

Tenure reform discussions have historically focused on increasing access to timber and increasing investment in the province by large, integrated companies. This focus is now shifting to explicitly address the needs of forest-based communities, and the Nelson workshop was a significant step forward in defining those needs and developing strategies to meet them.

Surrounded by four of the province's community forest tenures – in Revelstoke, Kaslo, Creston and Harrop-Procter – Nelson is an excellent location to host a workshop on forest tenure reform and community prosperity. The nearby community forest tenure agreements vary in several important respects, and each community has a unique approach to managing its operations. Thus, these tenure agreements provided valuable background for the workshop discussions.

Workshop participants repeatedly confirmed that four key issues must be addressed when reforming the provincial forest tenure system. From a community perspective, these conditions are vital to ensure economic, social and environmental stability:

- There must be a guarantee of long-term environmental sustainability in all tenures;
- All tenures must respect and adequately accommodate First Nations' rights and title;
- Communities must have a greater say in the management of their local forest tenures; and,
- All tenures must lead to more diversity in both forest products and economic conditions.

Although community forest tenure was seen by many as a means to solve many of the problems faced by forest-dependent communities, there was recognition that this is only a partial solution. For example, many participants suggested a continuing role for existing industrial tenure holders, but with the introduction of co-management agreements that guarantee more public accountability for all Crown land tenures. Most participants promoted increasing the proportion of smaller tenures such as woodlots and community forests as well as developing special tenures for First Nations and tenures for non-timber resources.

It was also recognized that a proliferation of small tenure units offers its own problems, including the fragmentation of land management. Tenure fragmentation could make it much more difficult to plan land use at landscape and regional levels, to determine provincial cut levels and to forecast government stumpage revenues. In addition, almost any change to the existing tenure system to empower communities will necessitate a partial redistribution of tenure rights from existing licensees, with concomitant compensation issues. Despite these difficulties, participants at the KCFA workshop agreed that increased community control of forest resources holds great promise for allowing better expression of community values, and for ensuring that more of the benefits of resource development stay in the local community.

Nevertheless, workshop participants realized that not all communities want or are capable of managing forest tenure. Four major challenges to successful community forest tenure were identified:

- Raising the capital necessary for planning and commencing forest management operations;
- Providing education and training of citizens to ensure informed and active participation in licence operations;
- Resolving value and stakeholder conflicts over operations in highly constrained and contentious areas such as community watersheds; and
- Making available the land and timber volume to supply these licences.

The first three of these are up to the communities themselves to resolve. The fourth – access to land and timber – is about reforming the entire tenure system.

One way of increasing the amount of community forest tenure would be to utilize the existing provision within the *Forest Act* for 5% "take back" of the licence volume when tenure is transferred, such as following corporate takeovers and mergers. Once the transfer is approved, the AAC of the tenure being transferred is reduced by 5%. This AAC may be returned to the tenure holder upon approval by the Minister of Forests if the applicant fulfils a number of conditions pertaining to the social and economic objectives of the Crown, or it may be retained by the Ministry of Forests. Although retention and reallocation of this volume is a potential means of obtaining unallocated timber and facilitate tenure redistribution, it is a very slow process. Despite the recent consolidation in the forest industry, tenure transfers occur infrequently and the decision regarding disposition of each take back can require 15 months. Of the last five applications for return of the take back, two have been returned to the applicant and three have been denied, and the volume retained by the Ministry of Forests. Decisions regarding disposition of the take back from the two most recent takeovers, by Weyerhaeuser and Canfor, have yet to be made.

In the case of Weyerhaeuser's purchase of MacMillan Bloedel last year, in excess of 5.5 million cubic meters changed hands. Five percent of this is roughly ten times the volume of the Kaslo, Creston and Harrop-Procter Community Forests combined – in other words sufficient volume for up to 30 more community forests.

Conclusion

There is no agreement on **how** to reform tenure, but almost complete consensus on the need to do so. Participants at the KCFA forest tenure workshop agreed that:

- Tenure must promote long-term environmental sustainability of timber and non-timber resources;
 - Tenure reform discussions must include the unresolved land question of constitutionally protected aboriginal rights and title;
 - There is a need for more community control over decisions that affect local forests, especially in community watersheds; and,
 - New tenures must promote a diversity of economic options.
- Mechanisms already exist, such as the 5% take back provision, to redistribute volume when tenure changes hands. Is there political will to meet these commonly held objectives? The final report of the BC Forest Policy Review will likely be released by the time this article is published, but certainly its release will not end the debate. KCFA's workshop, "Forest Tenure Reform: A Path to Community Prosperity?" demonstrated clearly that the public and communities are ready to take a strong role in the decisions that need to be made.

Full conference proceedings and additional information about tenure reform in BC can be found on the KCFA website at: www.kcfa.bc.ca.

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directed at creating and maintaining forests that best meet the objectives of the landowner. Such objectives may include the production of harvest, regeneration and stand-leading activities, which may result in a particular forest stand structure and composition (Coates and Burton 1997). In natural ecosystems, forest structure and composition are determined by a variety of factors, including site conditions, disturbance regimes, and species interactions. Therefore, the application of a silvicultural system that is primarily the manipulation of stand structure and composition, such as the thinning of a stand, is a management strategy that is primarily aimed at manipulating the structure and composition of the stand level.

The traditional view of partial stand forest succession begins with a wide-scale disturbance, such as a fire or a large-scale insect outbreak, which is followed by colonization by pioneer species. Pioneer species are typically fast-growing and shade-intolerant, and they dominate the early stages of succession. Over time, the stand structure and composition change as shade-tolerant species gradually replace the pioneer species. This process is known as succession, and it is a natural process that occurs in all forest ecosystems. However, human activities, such as logging and land use change, can disrupt the natural succession process and lead to changes in stand structure and composition. Therefore, understanding the natural succession process is important for developing silvicultural systems that are designed to mimic natural processes and maintain forest health and productivity.

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It is well known that large-scale disturbances, such as fires and insect outbreaks, can significantly alter forest structure and composition. However, there is an emerging body of evidence that smaller-scale disturbances, such as windthrow and localized insect outbreaks, are also important drivers of forest dynamics. These smaller-scale disturbances can create gaps in the canopy that allow light to reach the forest floor, which can promote the growth of shade-intolerant species. Additionally, these disturbances can create a mosaic of different forest types and structures, which can increase biodiversity and resilience. Therefore, understanding the role of smaller-scale disturbances in forest dynamics is crucial for developing silvicultural systems that are designed to maintain forest health and productivity in the face of a changing climate.