

Discipline Case Digest

Case: 2007-04

Subject Member: Three Registered Professional Foresters (names withheld)

Referred to: Complaints Resolution Committee

Date of Decision: May 2008

Allegations:

In a letter to the Association of BC Forest Professionals (ABC FP) dated January 9, 2007, the complainant, a member of the public representing an organization, requested an investigation into the practice of three ABC FP members. The complainant alleged that the three members were incompetent with regards to practices which took place on a cutblock in that they failed:

- To advocate and practice good stewardship of forest land based on sound ecological principles to sustain its ability to provide those values that have been assigned by society (Bylaw 11.3.1);
- To inform the client or employer of any action planned or undertaken by the client or employer that a member believes is detrimental to good stewardship of forest land (Bylaw 11.5.5); and
- Violated the standards of professional practice – competence (Bylaw 12.2), due diligence (Bylaw 12.5) and stewardship (Bylaw 12.6).

Specifically, the complainant alleged that the members continued to incompetently engage in the practice of forestry in spite of concerns expressed by the complainant. The complainant alleged the members were warned with ample time to review their prescriptions but failed to practice due diligence and failed to recognize public values related to forest ecosystems. The three members are alleged to have approved the following practices contrary to the principles of stewardship:

- Road construction using sedimentary soils with no gravel hauled in,
- Steep cut slopes from fractured porous sedimentary silt rock,
- An overly steep road gradient with too few drainage structures,
- Incorrect culvert installation without proper armouring,
- No or inadequate ditching,
- Clearcutting on 40-45% slopes,
- Clearcutting a water course,
- Large clearcut openings,
- Improper cable yarding design, and
- Inadequate consideration of the watershed's hydrological green-up.

The complainant alleged that these practices resulted in:

- Siltation of water and debris deposits,
- Siltation of a water supply, and
- Washout of a recreational trail.

The registrar accepted the complaint under section 22(6) of the Foresters Act on the basis that the allegations, if proven, involve a potential breach of the Foresters Act and Bylaws. The compliant was referred to the Standing Investigations Committee (SIC) for investigation. The complaint named three members and the Investigation Committee reported on each member separately.

Decision:

On review of the investigation report and the recommendations of the Complaints Resolution Committee (CRC), the registrar declined to issue a citation against any of the three subject members.

Reasons for Decision:

Following the initial and subsequent storm events, several professional and technical experts reviewed the design of the block. They concluded unanimously that the water and debris flows were natural processes. Further, they did not identify any road construction or timber harvesting practices that were sub-standard or inappropriate for the local conditions. The following information conveys this consensus:

- Experts examined the channel in detail, from the deposition zone to the initiation zone and the evidence indicates that the debris flow was not a result of logging. The debris flow initiated in forested terrain considerably above the recently logged blocks, primarily as a result of unusually high water volumes.
- It is unlikely that the development of the block had any significant effect on the volume of water or sediment - nor of the pattern of deposition – in the affected streams.
- Based on the extreme rain event, terrain conditions and the results of the independent geological studies, there is insufficient evidence to satisfy the burden of proof linking the land owner and the impacts to fish and fish habitat that resulted from the debris slides.
- A significant volume of material was transported by streams as a result of the high levels of flow experienced. The source of the material was mostly from channel scour within and above the cutblock. The evidence suggests that the amount and the extent of the channel scour was not significantly influenced by timber harvesting within the cutblock.
- The sediment that entered the streams was from natural scouring as a result of the severe storm rather than from road excavation. The extreme flooding and the scouring of the stream channels and banks have caused them to become unstable. In any case the scouring is a natural process and the land owner could not have reasonably prevented the amount of sediment that resulted.

With regards to the first two members there is no evidence to support the allegation that they prepared and prescribed the plan for the block in question and/or directed the operations. Having found no evidence to support the allegation that they were responsible for the planning or operations for the cutblock, the allegation that their practice was incompetent is unrelated and immaterial.

With regards to the third member the investigation report was unable to confirm that the planners who did the work on the development of block were reporting to the subject member when they did the planning for road construction and timber harvesting for the block in question. The investigation report was unable to confirm that the subject member was in charge of the planning for the block.

Even though citations were not issued the investigation report identified some very serious concerns about the planning process for the block. The operational planning process for the block clearly involved the practice of professional forestry. The investigation was unable to find any ABCFP member who was responsible for the planning. It appears that the planning process was undertaken by a number of non-ABCFP members who were thus practising forestry without appropriate supervision. The Foresters Act requires that the practice of forestry be done by or under the supervision of ABCFP members.

A number of professional forestry documents prepared for the block, which should have been signed and sealed by an ABCFP member, were not signed or sealed. The ABCFP bylaws require members to sign and seal professional documents prepared by them or under their supervision.

The ABCFP must ensure that forestry in BC is carried out by ABCFP members or under the direct supervision of a member. This applies equally to Crown and private forest land in British Columbia. The ABCFP must also ensure that our members are following the ABCFP bylaws. The ABCFP is following up with the land owner involved in conducting the operations on the block in question to ensure that they are compliant with the Foresters Act in the future and to ensure that those of their employees who are members of the ABCFP are meeting the terms and conditions of the bylaws.