

Discipline Case: 2010-05

Subject Member: Registered Professional Foresters (names withheld)

Referred to: Complaints Resolution Committee

Date of Decision: July 2010

Allegations

This case resulted from a complaint from a member of the public about the conduct of two ABCFP members. The complaint alleges that:

1. In two separate letters an ABCFP member stated that areas >0.25 hectares of spruce would be removed from a cutting permit and this did not happen on the ground.
2. An ABCFP member stated in a letter to the complainant that there was no chance of fire starting in a cutblock.
3. An ABCFP subject member did not wait for the Forest Practices Board report to be completed before logging commenced.
4. An ABCFP member failed to properly recognize and assess the hydrological risk of further logging in a drainage area. The Equivalent Clearcut Area (ECA) calculations were not done properly because: they did not properly account for: regeneration killed by mountain pine beetle (MPB); 9 m for 90-100% hydrologic recovery was used; and the impacts of downstream stream channel erosion was not properly accounted for in the risk assessment.

The complainant felt that the subject member engaged in conduct unbecoming a member and may have contravened the following bylaws:

- 11.3.1. To advocate and practise good stewardship of forest land based on sound ecological principles to sustain its ability to provide those values that have been assigned by society.
- 11.3.2. To uphold professional principles above the demands of employment.
- 11.4.4. Not to misrepresent facts.

Decision

Upon reviewing the evidence and the recommendations of the Complaints Resolution Committee (CRC) the registrar declined to issue a citation.

Reasons for Decision

This complaint addresses very serious matters regarding professional obligations when professionals are assessing hydrological impacts of timber harvesting in watersheds that have been impacted by mountain pine beetle.

1. The complaint made allegations that areas >0.25 hectares of spruce were not removed from the cutting permit as promised. The response from the subject member provided evidence that areas of mature spruce were removed from the permit and smaller areas of understorey regeneration were also protected. Without further evidence in relation to this allegation we were unable to ascertain whether it was legitimate. As a result we sent a letter to the complainant asking for further evidence to support the claim that the areas were not protected as promised. This information was not forthcoming. The evidence presented does not support the allegations that the subject member has failed to meet the required professional obligations.
2. The following statement was made in a letter from the subject member to the complainant "As well, it should be noted that there is no risk of a wildfire starting within a harvested area as a wildfire will generally start within timbered areas (i.e., lightning strikes)." The complainant points out that there were three fires started from lightning strikes in cutblocks in the area and therefore the statement made by the subject member is incorrect. The subject member indicated that he meant to address the fact that the risk of fire starting from lightning is generally lower in harvested areas when he expressed his opinion about the fire hazard. We agree that the subject member expressed an opinion that is not supported by fact. While we expect our members to provide factual information, this one particular instance is not judged as serious enough to warrant further disciplinary action at this time. We note that the subject member has no history of failure to provide factual information. However, should this type of behaviour continue we will take the necessary disciplinary action.
3. We contacted the Forest Practices Board regarding the need for operators to stop activities while a board investigation is ongoing. The board informed us that there is no legal requirement for operators to cease activity due to a board investigation. However, the operator who continues while the investigation is taking place does so at their own peril. In this case the conclusions from the board report did not find professional misconduct or misconduct by the licensee. The evidence presented does not support the allegations that the subject members failed to meet his/her professional obligations.

4. In order to assess the hydrological impacts of the timber harvesting the subject member employed a reputable environmental consultant to do the ECA calculations for the watershed. The consultant employed trained qualified professionals to complete this work. In order to aid in determining the risk of harvesting in the watershed an assessment was also done of the peak flow hazard index. Greenup surveys were done on the watershed to assess the regeneration. The impacts of MPB on the regeneration were factored into the ECA calculations. These calculations were reviewed by an accredited hydrologist. The use of the 9 metre height for hydrologic recovery was reviewed by the regional hydrologist. The results of the watershed calculations were sent to a third-party hydrologist for due diligence review. The results from the ECA calculations and the peak flow hazard index were used by the subject member to calculate the hydrological risk of harvesting within the watershed and to develop harvesting plans. The evidence indicates that the area proposed for harvest is within the working forest as identified in the Land Use Plan and that the harvesting conformed with the Forest Stewardship Plan and requirements of the *Forest and Range Practices Act*. The evidence presented does not support the allegations that the subject member failed to meet the required professional obligations.

Insufficient evidence was found to support any of the allegations other than the statement regarding the chance of wildfire starting in a cutblock.