



200 – 2006 West 10<sup>th</sup> Avenue  
Vancouver, BC V6J 2B3  
[www.wcel.org](http://www.wcel.org)

tel: 604.684.7378  
fax: 604.684.1312  
toll free: 1.800.330.WCEL (in BC)  
email: [admin@wcel.org](mailto:admin@wcel.org)

## **West Coast Environmental Law Submissions to Jim Snetsinger, RPF Area Based Forest Tenure Consultation**

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West Coast Environmental Law Association has long been on record supporting tenure reform that prioritizes increased First Nations and community control, and opposing efforts to give major timber companies more secure management control in provincial forests. We do **not**, therefore, support the provincial government's proposal to convert some volume-based forest licences held by existing corporate tenure holders to new or expanded area-based tree farm licences in beetle-impacted areas or elsewhere in the province.

I must also express my concern about the framing of the discussion paper released in conjunction with this consultation. The provincial proposal is not really about "area-based tenure" per se but about how much control large-scale logging interests should have over our forests. This is apparent when one considers that the tenure conversion process is apparently only open to existing tenure holders (which by volume are disproportionately large integrated forest products companies) and that the only new or expanded area-based tenures on the table are tree farm licences. This is worrisome because unlike newer forms of area-based tenure like community forest agreements or First Nations woodland licences, tree farm licences are exclusively timber focused and designed for corporate rather than local control of forest lands. By not including community forest agreements or First Nations woodland licences in the provincial tenure conversion proposal, the clear implication is that they are not the intended beneficiaries of this tenure windfall (except perhaps around the margins through some form of tenure take-back).

### **The provincial government proposal is based on outdated forest policy assumptions**

At its core, the provincial discussion paper echoes the policy arguments of the 1940s and 1950s that gave rise to the key elements of today's timber tenure system. Based on the Sloan Royal Commission reports from the time these might be characterized as: "bigger is better (i.e., preference in tenure allocation should be to large integrated forest products companies)", "secure timber supply equals community stability", and "big companies will do the best job of forest management". Take this quote from a 1957 Royal Commission Report, in which Commissioner Gordon Sloan opined that:

An assured continuity of supply of raw material results in the construction, maintenance, and uninterrupted operation of costly integrated conversion plants, ensuring the highest utilization return for the logs cut with attendant competitive advantages in world markets. This in turn should result in a maximum continuity of employment in all phases of the industry—logging, transportation, and conversion into the end product.

Continuity of employment has, as its sequel stable, settled, and prosperous communities . . . .The forest management licence [later, tree farm licence]

system was devised as a vehicle of policy to effectuate this concept of sustained yield with all these and other consequential benefits. (at p. 43)

Yet there is an extensive literature, now going back decades, debunking these now out-dated assumptions based on BC's actual experience and making the case that concentrated control over timber rights by a small group of large companies has undermined environmental sustainability, economic diversity and self-determination (a summary of some of these papers can be found in this West Coast paper on tenure reform or this one).

One doesn't need to be a forester or a lawyer though to see the issues with the status quo. Indeed, if these assumptions were true – why are we cutting more today than ever before, yet employing fewer people? Why do we have a crisis of biodiversity in our forests and elsewhere in BC? It now seems naïve to think that simply providing a supply of raw material to big companies would buffer BC from boom and bust cycles in the industry, or that companies would do the right thing by the environment or communities if it wasn't in their economic interests to do so. In our view corporate control of our forests and the tenure system that enables it, are a root cause of the problem, not the solution.

In fact, concern that large corporate tenure holders were placing the interests of local employees, communities and sustainability, “a distant second to the extraction of short term profits from the early liquidation of old growth forests” was a strong theme from the public hearings that scuttled an earlier (unsuccessful) provincial effort in the late 1980's to roll-over volume-based forest licences to area-based tree farm licences. I would recommend to you Bruce Fraser's *Summary of Public Input at Public Information Sessions on the proposed policy and procedures for the replacement of major volume-based tenures with tree farm licences* (Victoria: Ministry of Forests, 1989) which remains on point.

The conversation that BC needs to have is why public and Indigenous lands are still predominantly managed by large corporate interests in BC – not by First Nations, communities, etc. And yet this consultation is not about creating new area-based tenures for First Nations or communities – it is focused principally on creating new tree farm licences – typically the largest of the area-based tenure operations, and one that is designed for large forest companies.

The government suggests that it is responding to the recommendations of the Special Committee on Timber Supply, which specifically recommended looking at options to shift control of BC's forests away from corporate control:

If conversion to more area-based tenures is desirable, give consideration to incorporating a take back-volume provision, or some equivalent public benefit, on conversion to area-based rights and reallocating that volume to First Nation and/or community area-based tenures.

However, even this approach risks continuing to leave First Nations and communities on the margins of the tenure system.

The reality is that the pressure for new corporate tree farm licences is being driven by overcutting of forests in the interior of BC – in areas that were impacted by the Mountain Pine Beetle. Granting new tree farm licences is an over-simplistic proposal that does nothing to address the history of unsustainable logging, the lack of community control and the many other complicated problems that have resulted in mismanagement and environmental degradation. The tree farm licence was a tenure designed many decades ago for a very different era in the BC forest industry and it is difficult if not impossible to believe that simply granting more of this anachronistic type of licence will solve today's complex problems.

That's why we joined many other environmental organizations in calling for a broader process:

The environmental organizations are calling on the government to develop a comprehensive plan addressing the declining state of B.C.'s forests and forest management carried by a broad vision for a more diverse and resilient future for provincial forest lands.

A coherent action plan should address a lack of government oversight and enforcement, continuing mill closures and job losses, unsustainable rates of logging, native and non-native community control over forests, insufficient protection for critical species habitat, raw log exports, regional monopolies, shortfalls in reforestation, lack of inventory and research as a result of cutbacks, massive forest carbon emissions and climate impacts like the Mountain Pine Beetle and fire threats.

In the short term, we stress the following:

- Inclusive, science-based landscape level planning jointly overseen by the Crown and First Nations needs to occur in mountain pine-beetle impacted areas and should take into account the cumulative effects of other forms of development and climate change. Good planning and strong regulation are essential to guide forest management in the province regardless of the form of tenure involved.
- If any tenure conversion is to occur it should prioritize access of First Nations to area-based tenures that are co-extensive with (or at least within) their traditional territories, and potentially community forest licences with the consent and involvement of local First Nations.

Consideration of new tenure forms to meet the needs of the 21<sup>st</sup> century should be considered as part of a broader action plan, for example in some areas of the province a new First Nations "climate conservation tenure" might be more focused on improved forest management to avoid greenhouse gas emissions or enhance carbon sequestration.

It is time to ask the bigger question: Who should be managing our forests and for what purpose?

Giving a small group of hand-picked companies virtually exclusive harvesting rights over vast areas of the interior is not the solution to the challenges facing our forests and communities today. It will not address the legacy of decades of unsustainable overcutting, the realities of climate change, or the long-term economic well-being of forest communities.

We urge you to carry this message forward to the provincial government, and sincerely hope that this ill-thought through tenure conversion proposal will once again be abandoned.

Jessica Clogg, Executive Director & Senior Counsel,  
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