



SUMMARY REPORT

Block T141 Managed Forest #7

Beaufort Range Port Alberni

1.0 INTRODUCTION

In January 2006 and again in November 2006, there was flooding and debris deposited onto private property owned by Mr. Wayne Crowley of Port Alberni. In each case, Mr. Crowley complained to the Private Managed Forest Land Council (the Council), that the flooding and debris was a direct result of the upslope timber harvesting activities of TimberWest in Block T141. The Council responded to Mr. Crowley's complaints and investigated whether or not TimberWest's timber harvesting activities within T141 contravened the Private Managed Forest Land Council Regulation or contributed to the flooding and debris on Mr. Crowley's property. This report provides a brief summary of the actions taken by the Council in respect of Block T141.

2.0 JURISDICTION

The Council was established in 2004 under the *Private Managed Forest Land Act* (the Act) to administer that Act and its regulations in respect of private managed forest land. Under the Act the government established specific forest management objectives respecting soil conservation, water quality, fish habitat, reforestation and critical wildlife habitat. In the Private Managed Forest Land Council Regulation (the Council regulation), the Council established specific regulations that relate to soil conservation, water quality, fish habitat and reforestation. The legal authority of the Council in respect of forest practices is limited to assessing compliance by owners of private managed forest land with the requirements of the Act, the Council Regulation and any critical wildlife habitat established by the Ministry of Environment under the Private Managed Forest Land Regulation. The Council does not have any jurisdiction for land that is not private managed forest land. In addition, on private managed forest land, the Council does not have any jurisdiction regarding compliance with such statutes as the *Water Act* and the *Drinking Water Protection Act* (Ministry of Environment) and the *Fisheries Act* (Department of Fisheries and Oceans).

The Council's responses to each of Mr. Crowley's complaints respecting TimberWest's activities in Block T141 were necessarily confined to areas within the Council's jurisdiction.

Specifically, the Council evaluated whether or not TimberWest had contravened a requirement of the Act or the Council regulation. The Ministry of Environment and the Department of Fisheries and Oceans are aware of each of Mr. Crowley's complaints.

The Council's response to the January 2006 and November 2006 events are set out in the following sections.

3.0 THE EVENTS OF JANUARY 2006

In January 2006, after a prolonged period of rain, Mr. Crowley experienced flooding and sedimentation on his property. In response to Mr. Crowley's complaint that the flooding and debris was a result of the timber harvesting activities of TimberWest, Stuart Macpherson, *RPF*, Executive Director of the Council retained the services of Shawn Hamilton, *RP Bio* of Shawn Hamilton and Associates to comprehensively assess the various aspects of Mr. Crowley's complaint as they related to Block T141. Mr. Macpherson also contacted the Ministry of Environment and the Department of Fisheries and Oceans with respect to matter.

Mr. Hamilton's concluded, amongst other things, that there may have been some deficiencies in respect of 4 stream crossings along roads within Block T141.¹ Mr. Macpherson investigated these matters and formally alleged that TimberWest was not in compliance with the Council regulation in respect of each of the 4 stream culverts.²

After providing TimberWest with an opportunity to be heard, the Council determined that TimberWest had contravened the Council regulation, levied an administrative penalty of \$30 000, and imposed a remediation order.³ The Council did not find that the contraventions had in any way increased the flow of water within the various streams in Block T141 or significantly increased the amount of material transported out of Block T141 by the streams.

TimberWest promptly paid the fine and carried out the remedial measures specified in the remediation order. The adequacy of the road deactivation measures were confirmed on site by Mr. Macpherson and by Terry Rollerson, *P. Geo* of Golder and Associates Ltd.⁴ The Council was satisfied that the matters respecting the January 2006 event were concluded.

A full chronology of Council's response to the January 2006 events in and around Block T141 is set out in Appendix A.

¹ Shawn Hamilton and Associates assessment report available on PMFLC website

² Investigation Report available on PMFLC website.

³ Council Determination available on PMFLC website.

⁴ Golder Associates Report available on PMFLC website.

4.0 THE EVENTS OF NOVEMBER 2006

The Alberni area experienced a series of storms in November 2006, with a particularly severe storm occurring on November 14th. This storm resulted in Mr. Crowley again experiencing flooding and sedimentation on his property. Mr. Crowley in turn filed a complaint with the Council.

Mr. Macpherson attended Mr. Crowley's property and Block T141 to evaluate the situation. He retained the services of Gordon Butt, *M.Sc, P.Geo, P.Ag* of Madrone Environmental Services Ltd to undertake an independent assessment of the storm event on Block 141 and Mr. Crowley's property. Mr. Macpherson also contacted the Ministry of Environment and the Department of Fisheries and Oceans with respect to potential impacts of the sediment as it related the jurisdiction of each of those agencies.

Mr. Butt's assessment was that the severe weather had triggered a slope failure above Block T141 and that the timber harvesting and road construction within Block T141 had not significantly contributed to either the flooding on Mr. Crowley's property or the sediment being deposited on Mr. Crowley's property.⁵

Mr. Macpherson carried out an investigation of the matters related to Block T141 to assess TimberWest's compliance with the Act and Council regulation during which he considered input from Mr. Butt as well as from others including Mr. Crowley. Mr. Macpherson concluded in his investigation⁶ that there were not any grounds to allege that TimberWest had contravened any provisions of the Council regulation. On March 1, 2007 the Council concluded that TimberWest had not contravened any provisions of the Council regulation. The Council is satisfied that the matters respecting the November 2006 event are concluded.

A full chronology of Council's response to the November 2006 events in and around Block T141 is set out in Appendix B.

5.0 CONCLUSION

In the days leading up to both the January and November 2006 events that resulted in Mr. Crowley experiencing flooding and sedimentation on his property, there was extreme weather which saturated the soils on the hills above Mr. Crowley's property, including the areas in and above Block T141.

In respect of the January 2006 event, the Council determined that four of TimberWest's drainage structures in Block T141 had not been in compliance with the requirements of the Council regulation. TimberWest paid the fine that was levied by Council and adequately implemented the measures specified in the remediation order. There does not appear to be any evidence that the non-compliance with the Council regulation caused increased amounts of water flow or in any significant increase in sedimentation being transported down stream from T141.


⁵ Madrone Environmental Services Ltd. Report available on PMFLC website.

⁶ Investigation Report available on PMFLC website.

In respect of the November 2006 event, the Council determined that the timber harvesting activities of TimberWest within Block T141, including the drainage structures, were in compliance with the requirements of the Council regulation. There does not appear to be any evidence that TimberWest's timber harvesting activities in Block T141 caused increased amounts of water flow or any significant increase in sedimentation being transported down stream from T141.

The Council has closed its file in respect of the January and November 2006 events in Block T141 and Mr. Crowley's related complaints. The Council will respond to any new event, which may occur in Block T141 that is within its jurisdiction.

Questions or comments in respect of matters raised in this report may be submitted to Stuart Macpherson at the Council office. He may be reached at 250-386-5737 or at execdirec@pmflc.ca.



Trevor Swan, Chair
Private Managed Forest Land Council

March 2, 2007

APPENDIX A CHRONOLOGY OF RESPONSE TO JANUARY 2006 EVENT

- On January 5, 2006 Mr. Crowley filed a complaint with Stuart Macpherson *RPF*, Executive Director of the Council, in respect of the flooding and debris that had been deposited on his property
- On January 5, 2006 Mr. Macpherson retained Shawn Hamilton *RP Bio* of Shawn Hamilton and Associates to do a preliminary assessment of the site.
- Following the preliminary assessment, Mr. Macpherson
 - determined that Block T141 was on private managed forest land and was within the jurisdiction of the Council,
 - retained the services of Mr. Hamilton to comprehensively assess the various aspects of Mr. Crowley's complaint as they related to Block T141, and
 - contacted the Ministry of Environment and the Department of Fisheries and Oceans with respect to potential impacts of the sediment as it related the jurisdiction of each of those agencies.
- Mr. Hamilton submitted his final report to Mr. Macpherson in early March 2006
- Mr. Hamilton's report concluded, amongst other things, that there may have been some deficiencies in respect of 4 stream crossings along roads within Block T141.
- Mr. Macpherson carried out an investigation into the matter to assess compliance with the Act and Council regulation and, on February 28, 2006, submitted an investigation report that alleged that each of the 4 stream culverts constituted a contravention of provisions of the Council regulation.
- On April 26, 2006 the Council provided TimberWest with an opportunity to be heard in respect of the alleged contraventions.
- On May 10, 2006 the Council
 - determined that TimberWest had, in fact, contravened the Council regulation,
 - levied an administrative penalty of \$30 000, and
 - imposed a remediation order which included the requirement that, at the conclusion of timber harvesting within Block T141, TimberWest have an independent assessment done of the road deactivation operations carried out in Block T141.
- TimberWest promptly paid the fine.
- On July 26, 2006 Stuart Macpherson inspected Block T141 and determined that the remedial measures being carried out by Timber West were consistent with the remediation order
- TimberWest retained Terry Rollerson *P. Geo* of Golder and Associates Ltd. to provide an assessment of the road deactivation measures that had been completed within Block T141.
- On November 7, 2006 Mr. Macpherson received a copy of the Golder and Associates report entitled *Road Deactivation Review Beaufort Range Block T141 Port Alberni BC* (dated November 3, 2006).
- The Golder and Associates report concluded that the road deactivation measures carried out in Block T141 were properly carried out and the roads were properly deactivated.

APPENDIX B CHRONOLOGY OF RESPONSE TO NOVEMBER 2006 EVENT

- On November 14, 2006, a severe storm hit the Alberni area, including Block T141 and the hillside above it.
- On November 15, 2006, Mr. Crowley filed a complaint with the Council that his property had again flooded and had been subjected to debris deposits.
- On November 16, 2006 Mr. Macpherson retained Gordon Butt *M.Sc, P.Geo, P.Ag* of Madrone Environmental Services Ltd to undertake an independent objective assessment of the storm event on Block 141 and Mr. Crowley's property.
- On November 17, 2006 Mr. Macpherson attended at Mr. Crowley's property and at Block T141 to evaluate the situation.
- Mr. Macpherson contacted the Ministry of Environment and the Department of Fisheries and Oceans with respect to potential impacts of the sediment as it related the jurisdiction of each of those agencies.
- Mr. Butt submitted his assessment report to Council on February 6, 2007.
- Mr. Butt's assessment was that the severe weather had triggered a slope failure above Block T141 and that the timber harvesting and road construction within Block T141 had not significantly contributed to either the flooding on Mr. Crowley's property or the sediment being deposited on Mr. Crowley's property.
- Mr. Macpherson carried out an investigation of the matters related to Block T141 to assess compliance with the Act and Council regulation and considered input from each of the following during the investigation:

Gordon Butt	Consulting geoscientist	Madrone Environmental Services
Drew Hadfield	Manager, Engineering Services	Alberni-Clayoquot Regional District
Dave Clough	Consulting fisheries biologist	Alberni Enhancement Society
Domenico Iannidinardo	Resource specialist	TimberWest Forest Corporation
Mike Miles	Consulting geomorphologist	M.Miles and Associates
Wayne Crowley	Complainant and property owner	
Brian Epps	Source Water Protection Specialist	Ministry of Environment
Brad Rushton	Habitat Manager	Department of Fisheries and Oceans

- On February 28, 2007 Mr. Macpherson submitted his investigation report to Council in which he
 - did not find that there were grounds to allege that TimberWest had contravened any provisions of the Council regulation, and
 - recommended that the investigation into the matter be closed.
- On March 1, 2007 the Council concluded that there was not a prima facie case that TimberWest had contravened any provisions of the Council regulation.