The mountain pine beetle epidemic is an unprecedented occurrence in relation to Forestry in BC and has cause a foreseeable decline in future timber supply. To cope with this challenge, the Minister of Forests, Land and Natural Resource Operations proposed a solution of converting volume-based tenure to area-based tenure, and a multistakeholder consultation has been established by Minister. As the only environmental law organization in BC, West Coast Environmental Law has been invited to the multistakeholder consultation to identify environment related problems. Several policy alternatives and criteria of assessing the alternative have been outlined.
On Conversion of Volume Based Tenures to Area Based Tenures as a Solution to the Midterm Timber Supply Crisis

BACKGROUND

West Coast Environmental Law is the only non-profit environmental law organization in BC. Since 1974, the organization has played essential role in protecting environment and establishing sustainability through law. By collaborating with communities, First Nations and different level of governments, West Coast Environment Law successfully represented the public interests, achieved numerous accomplishments in forming regulations and developed provincial and national environmental law, such as Canadian Environmental Assessment Act, pulp mill effluent regulation, and contaminated sites regulations and so on (WCEL, 2013).

Setting up the goal of environment protection with legal tools, West Coast Environmental Law also concentrates on emphasizing public interests and encouraging public participation in decision making. There are three main ways that our organization used to achieve these goals. Environmental Dispute Resolution Fund is one way that our organization used to provide financial assistance to those who need help with the environmental issues. Both individual and group can get the grants and legal advice (WCEL, 2013). Moreover, coalitions, communities and policy papers are effective in engaging provincial and national environmental law and regulation establishment (WCEL, 2013). Ensuring citizens to be able to receive updates and increasing the public exposure of current environmental issues, we spread the information through several channels including Environmental Law Alert Blog, monthly Legal e-Brief electronic newsletter, Facebook and Twitter (WCEL, 2013).

The issue

Under current situation of midterm timber supply shortage, tenure reform from volume-based to area-based is proposed by the Minister of Forests, Land and Natural Resource Operations as one feasible solution. However, inadequate protection of environment and First Nations’ rights associated with the tenure conversion proposal are the major concerns of our organization. In our opinion, both environment and First Nations impact must be assessed during this stage.

DISADVANTAGES OF MOVING TO AREA BASED TENURES

Public perception:

As expressed by the public during the last attempt by the government of BC to investigate a transition to area based tenures, there is opposition to giving more control of public lands to private companies (Mid-Term Timber Supply, 2012). In 2011 the BC Government and Service Employees Union held meetings and conducted surveys of residents in several communities impacted by the recent decline of the forest sector. Some key findings of these dialogues where that residents wanted more public oversight of forest operations and increased community involvement (BCGEU, 2011). Broad invitations
to large corporations to transition their volume based tenures to area based will likely be received by the public with skepticism, and could derail any positive area based systems such as First Nations and community management licensees.

First nations:

In 1982, the Constitution recognized the existence of aboriginal treaty rights and in subsequent years the rights of First Nations peoples have been further defined in the courts. In 1997, the Delgamuukw judgment concluded that aboriginal title gives the right to use the land for a variety of activities, not necessarily those purposes traditionally referred to as “development” (House 2008)

In a written submission to the 2012 Special Committee on Timber Supply, The Williams Lake First Nation declared its opposition to the conversion of any Volume Based Tenures to Area Based Tenures for major licensees, citing a potential conflict with ongoing treaty negotiations and disputed territories as their major concern. (Special Committee on Timber supply, 2012)

Allowing large corporate forest companies to transfer their tenure from volume based to more secure area based tenure would undoubtedly be received with opposition from First Nations communities. By providing corporations with greater administrative control over lands and resources that are currently part of ongoing treaty negotiations, will be seen by First Nations Peoples as a step back from the reconciliation process (Clogg, 2007)

Implementation/Management:

Converting volume based tenures, currently held by licensees, to area based tenures posses a problem in light a potential 20% decrease in future timber supply. Operating areas will need to be reassigned within Timber Supply Areas to ensure each company receives an equivalency to its previous AAC. Particularly in TSA’s effected by Mountain Pine Beetle, the area may not exist in the current rotation to adequately distribute. In order to provide each licensee with an equitable amount of area that represents a volume close to, or equal to their current AAC will likely require opening up areas to harvesting that are currently environmental sensitive or restricted (BC Ministry of Forests, 2002)

Environmental Protection

Forest companies are out to make money, they are not necessarily committed to stewardship of the land just because they are given greater control (Clogg, 2007). Forest companies can be expected to do what is necessary to maintain their profitability, and sustainability, which may be reflected in increased emphasis on silviculture and forest growth, however, there is little incentives to protect resource values related to the environment that do are not directly related to the company’s bottom line (MFLNRO, 2002).

Area-based tenure may open the possibility and increase the flexibility of harvesting in riparian and reserved zones, so it will bring substantial negative impacts on many aspects, such as water, watershed, and fish. Logging in sensitive areas increases the risk of damaging the local hydrology. Sediments may enter into the streams and build up when roads are built for logging. As plants are removed, water flow will increase and cause increasing erosion in the stream. Therefore, water quality will reduce significantly, and fish habitat can be affected as the consequence of decreasing water quality (MFLNRO, 2012).
DEFINING THE SOLUTION

Tenure reform must promote long-term environmental sustainability of timber and non-timber resources. Admittedly, economies are part of human cultures, and human cultures are part of the ecosystems (Clogg, 2007). That is, healthy human societies and economies depend on the ecosystems that provide ecological services and resources. Therefore, ecological limits of our environment should not be ignored at our peril. As a result, initially, it is suggested that because of the significance of the environment that a criterion of protection of environmental values be used to assessed alternative policies. Second, as the priority of West Coast Environmental Law is to empower citizens to participate in all aspect of environmental decision making (WCEL: West Coast Fact Sheet) and the undeniable fact that First Nations constitutionally protected title and rights must be dealt with honorably, a criterion of respecting and recognizing aboriginal title should also be used in the assessment of alternative policies. Finally, communities must have a greater say in the management of their local forest tenures (Burda et al, 1997) and also the tenure reforms must lead more diversity in both forest products and economic conditions, which proposing a criterion of diversification of local economies should be applied to evaluate alternative policies.

Evaluative Alternatives

ALTERNATIVE 1

Community based decision making

The first alternative we have recommended is that the provincial government should reallocate some decision-making authority over forest management, away from corporate tenure holders and the Ministry of Forests, and place it in the hands of accountable, community-based decision-makers (Burda et al, 1997). Several outcomes can be seen when applying criteria to projected alternatives.

The focus of tenure reform should be on the creation of Area Based tenures for First Nations and Community groups. A shift is recommended, away from large corporate entities exporting resources out of communities, towards a culture of local self-determination and community benefit. The high level of corporate control over our forests and the influencing business has had on forest policy decisions historically has been one of the root causes of the current dilemmas now faced by the sector. (SPECIAL COMMITTEE ON TIMBER SUPPLY Minutes, 2012)

COMMUNITY FORESTRY . . .

- Decisions made by those who must live with the outcome
- Community driven effort to resolve land use conflicts.
- Strengthens community involvement in forest land use decisions
- Finds local solutions to contentious issues
- Keeps benefits in the community
- Local level employment in Rural Economies
  (Gunter, 2004)
First Nations Forestry

First, priority for new tenures should be given to those communities and First Nations that have developed innovative, ecosystem-based plans for management of local natural resources. Ecosystem-based management requires forest planning that prioritizes maintaining forest ecosystem composition, structure, function, integrity and resilience, as well as maintaining options for future generations, which overall, focusing on what to leave in the forest, rather than on what to take (Silva Forest Foundation, 2001). As a result, community-based decision making is more likely to achieve the protection of our environmental values. Second, in advocating an increase in the number of community forests, we see the community forest tenure as one tool to achieve greater community self-determination in regards to local economies, or community control over important diverse decisions that affect its members’ lives. Likewise, diversifying the number and type of tenure holders can be regarded as an instrument to achieve the positive outcome of resilient and stable communities, thereby creating new opportunities for communities, First Nations and local, small tenure holders while simultaneously achieving respecting and recognizing aboriginal title (John Cathro and Sheri Walsh).

Table 1. Matrix assessing first alternative in relation to proposed criteria

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Criteria and consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of environmental values</td>
<td>Respecting and recognizing aboriginal title</td>
</tr>
<tr>
<td>Diversification of Local Economies</td>
<td></td>
</tr>
<tr>
<td>Community based decision making over forest management</td>
<td>Beneficial,</td>
</tr>
<tr>
<td></td>
<td>Diversify the number and type of tenure holders, creating new opportunities for First Nations</td>
</tr>
<tr>
<td>Eco-system based management</td>
<td>Beneficial,</td>
</tr>
<tr>
<td></td>
<td>Increase in the number of community forest. Achieve community self-determination in regards to local economies</td>
</tr>
</tbody>
</table>

ALTERNATIVE 2

Increased access and/or allocations to Value added manufacturers

Notably, the vast majority of wood processed in BC is allocated non-competitively to integrated forest products companies through long-term “evergreen” timber tenures. The tight control over tenure rights by a small group of companies is thus largely replicated by the lack of diversity in the wood processing sector (Corky Evans, 1993). The nature of our forest industry limits opportunities for small untenured companies to obtain wood. In particular, access to wood is a problem for the value-added sector. As a result, we add less value to our wood per cubic meter.

The second preferred alternative we have recommended is to increase opportunities to diversify local economies and value added manufacturing. Moreover, an essential step for allocations of value added manufacturers is to introduce mechanisms that make wood available to value-added industries.
We recommend creating regional log markets through which value-added procedures can purchase wood on the market. This alternative will benefit the diversification of local economy, in regards to local employment. However, we must notice that developing log markets is to meet the objective of supporting viable, local value added business. Thus, log markets should only operate in conjunction with continued raw log export controls and incentives to manufacture wood locally. Local markets must not become a mechanism for wood harvested locally to flow out of communities to benefit only a few centers of the province (WCEL: Tenure background paper, 1999).

### Table 2. Matrix assessing Second alternative in relation to proposed criteria

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Criteria and consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Allocations to Value added manufacturers</strong></td>
<td>Protection of environmental values</td>
</tr>
<tr>
<td>Neutral</td>
<td>Beneficial, Create regional log markets boosting local or community employment.</td>
</tr>
<tr>
<td></td>
<td>Most beneficial, some negative. Local markets must not become a mechanism for wood harvested locally</td>
</tr>
</tbody>
</table>

### KEY RECOMMENDATIONS

- Quotas of timber should be made available through British Columbia Timber Sales to establish and support value-added facilities
- Engage in co-management based on equal partnership and mutual respect as a means of including aboriginal peoples

### CONCLUSION

West Coast Environment Law is not in opposition to area based tenures. It is, however, in support of area based tenures so long as they are in pursuit of community based forestry and/or Aboriginal Title. We firmly believe that Environmental protection and First Nations rights are of paramount importance if and/or when the Province of British Columbia decides investigate forest tenure reform. Improving access of the forest resources to the public and First Nations peoples through community and aboriginal forestry and providing incentives for value added manufacturers are key to the success of the forest sector in British Columbia in that they support local development, provide greater public oversight to the forest industry and provide the government with a valuable tool in its process reconciliation with First Nations peoples.
On Conversion of Volume Based Tenures to Area Based Tenures as a Solution to the Midterm Timber Supply Crisis

REFERENCES


Gunter, J. 2004. The Community Forestry Guidebook: Tools and Techniques for Communities in British Columbia. FORREX, Kamloops, Canada


