

AREA-BASED TENURE CONSULTATION

SUBMISSION TO JIM SNETSINGER

Submitted By:



Date: May 29, 2014

1 INTRODUCTION

The Southern Interior Beetle Action Coalition (SIBAC) welcomes the opportunity to make a submission to the Area Based Forest Tenure Consultation currently being conducted by the Ministry of Forests, Lands and Natural Resource Operations.

The SIBAC is a non-profit society formed with a purpose to:

- Be effective with all levels of government regarding the mountain pine beetle epidemic and the future of communities throughout the Southern Interior of British Columbia as it relates to a sustainable forest industry;
- Manage, invest and expend monies allocated to it by the Government of Canada, the Government of British Columbia, any level of local government or aboriginal government and any private donor for the ongoing economic, environmental and social benefit of sustainable forestry in the Southern Interior region of British Columbia.

The SIBAC is comprised of representatives from nine Regional Districts, six First Nations' Tribal Councils and a representative of the Community Futures Development Corporation of Central Interior First Nations (CFDC CIFN). The geographic area of representation and interest of SIBAC includes the southern interior region of basically everything east and south of Highway 1 and the North Thompson and Lillooet valley areas. The SIBAC region includes 11 timber supply areas.

The SIBAC has keen interest in, and a number of concerns about, the policy concerning possible conversion of forest licences to tree farm licenses. These interests and concerns were first noted in its July 2012 submission to MLA Special Committee on Timber Supply, a committee whose report recommended the public consultation process currently being undertaken. In its report, the MLA committee also recommended to the Legislative Assembly *“that the Ministry respect the important work that has been undertaken by the beetle action coalitions and continue to support their goals and objectives by reviewing policies and programs as appropriate.”* SIBAC appreciated the recommendation of the MLA committee, and offers this submission to the provincial government in the spirit of the respectful relationship between the provincial government and the SIBAC encouraged by the MLA committee, the current public consultation process underway, and the SIBAC itself.

2 SIBAC INTERESTS AND CONCERNS

2.1 The Policy Consultation Process

Tenure policy in BC creates large and long-term impacts for society, particularly for rural British Columbians that live surrounded by the forest resource and rely disproportionately on the forest resource as a source of income and the rural amenities that support the forest-based lifestyle so valued by many. Forest tenure policies, once adopted, have consequences for communities and citizens that are complex, challenging to analyze and predict, and which are difficult or impossible to mitigate after the fact. Consider, for example, the impact of the 2003 policy decision to make forest licenses freely transferable which, some 11 years later, resulted in the province and the communities of Houston and Quesnel becoming powerless observers as Canadian Forest Products and West

Fraser Timber exchange large timber tenure rights without consideration of the impact of that exchange on communities, timber markets or foreknowledge of the exchange by the actual owners of the timber resource in question.

The SIBAC has grave concerns that the extremely brief time period open for consultation, the absence of 2-way dialogue between policy makers and stakeholders with an interest in the issues, and the severely limited time window for policy analysis before a consultation report will be finalized do not combine to form an adequately robust decision making process appropriate for a policy that has such large and long-term consequences for British Columbians.

SIBAC notes that the CEO of Canfor has also gone on record as being concerned above the brevity of the consultation process¹.

With regard to forest resources including timber, the *Ministry of Forests Act* sets out the fundamental functions and purposes for the Ministry of Forests, Lands and Natural Resource Operations. Included among these purposes is a function and purpose “to manage, protect and conserve the forest and range resources of the government having regard to the immediate and long term economic and social benefits timber may confer on British Columbia” (slightly paraphrased). Tenure policy fundamentally affects the ability of the province to manage the timber resource for these benefits. The SIBAC is concerned that the decision making process pertaining to the conversion of forest licenses to tree farm licenses jeopardizes the province’s ability to make a policy choice certain to be consistent with the economic and social interests of British Columbians.

2.2 Declining Social and Economic Benefits from the Timber Resource

As we discuss the concept of converting forest licenses to tree farm licenses, it is important to put the concept in a historical context. The dominant theme in the history of BC forest tenure policy is one of providing increasingly secure tenure to forest companies in the belief that the holders of these tenures would make incremental investments in the industry and in higher levels of stewardship. The history of such policy in BC is long, spanning some 140 years. Over that history, we have invested an astonishing amount of public policy effort searching for the right policy conditions to grow, encourage and continue a vigorous, world-competitive timber processing industry. We did this in the belief that our effort would be sustainably rewarded with the ‘social and economic benefits’ for which the *Ministry of Forests Act* states the ministry must manage the timber resource. Consider the following major milestones in forest policy and see Appendix 1 for slightly more detail:

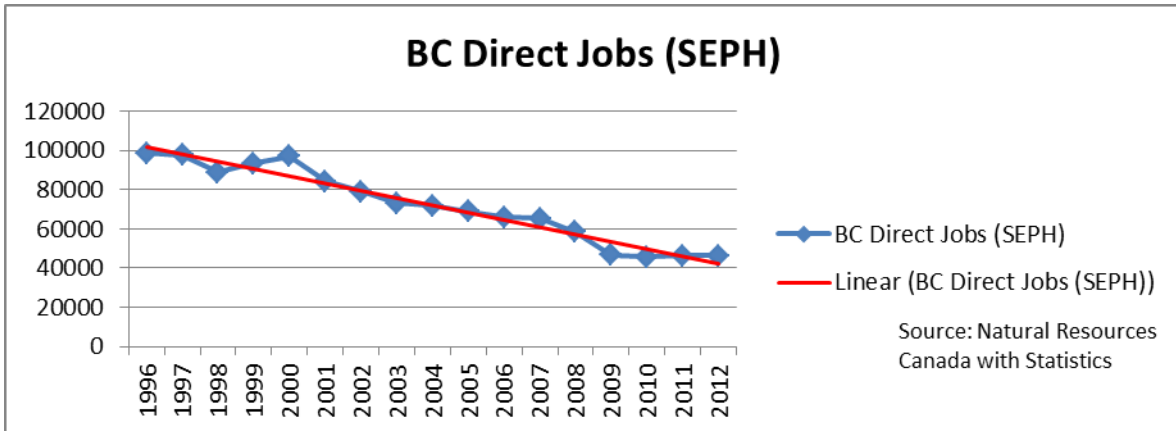
- In the last decades of the 19th century, we granted on a large scale private forest land, timber leases, timber licenses, timber berths and pulp leases, primarily on coastal BC, to supply raw material to lumber and pulp manufacturers;
- In 1901, we instituted legal requirements to process in BC timber harvested in BC;

¹ www.canfor.com/media-center/world-of-wood-blog/world-of-wood-blog/2014/04/12/canfor-has-concerns-with-area-based-tenure-process

- In 1910, a Royal Commission led in 1912 to a *Forest Act* for BC, laying out a new regulatory system applicable to lumber and pulp producers, created a new form of tenure, the timber sale license, and establishing a Forest Service to administer the system;
- In the middle of the 20th century, new policies resulted in Tree Farm Licenses, primarily on the coast;
- Concurrent with the above and primarily in the interior, informal ‘timber quotas’ were assigned to a number of the larger timber harvesting companies that were historical holders of timber sale licences, which government came to regard as ‘established operators’, to determine how the annual allowable cut would be allocated;
- Over time, the ‘timber quota’ assigned to the larger companies evolved into a continuing ‘licensee priority’ in the eyes of government, leading to the issuance of a new license for the same timber volume when an existing one expired, even though the *Forest Act* called for the competitive award of timber sale licenses. This concept became regarded as giving the licensee an ongoing ‘quota position’ in a timber management area for administrative purposes;
- To protect company quota positions, the Minister of Forests came to regard a quota holder as a ‘recognised applicant’ for the purposes of applying for new timber sales, and he had authority to reject any other application for the timber sale advertised. Further, the ‘recognised applicant’ was granted the right to match the highest bid for the timber sale advertised. As a result there was no functional competition for timber sales aimed at holders of a ‘quota position’;
- Commencing in 1967, ‘established licensees’ were offered the opportunity to convert the sometimes numerous timber sale licenses that made up their ‘quota position’ into a single Timber Sale Harvesting License. These licenses were volume-based, granting a right to harvest a specified annual timber volume;
- In 1975, another Royal Commission led to a new *Forest Act* in 1978. The new act enabled the formalisation of the quota system described above by replacing quotas with new Forest Licenses as we know them today, which are longer-term (15 years) and are fully replaceable if their terms are complied with;
- In 2003 the province’s *Forestry Revitalisation Plan* brought the largest changes to the forest policy regime since the 1978 *Forest Act*. Requirements to keep mills appurtenant to large licenses were repealed. Policy pertaining to maintaining minimum annual harvest levels was liberalised. The holders of timber tenures became free to transfer, consolidate or subdivide their licenses without government approval.

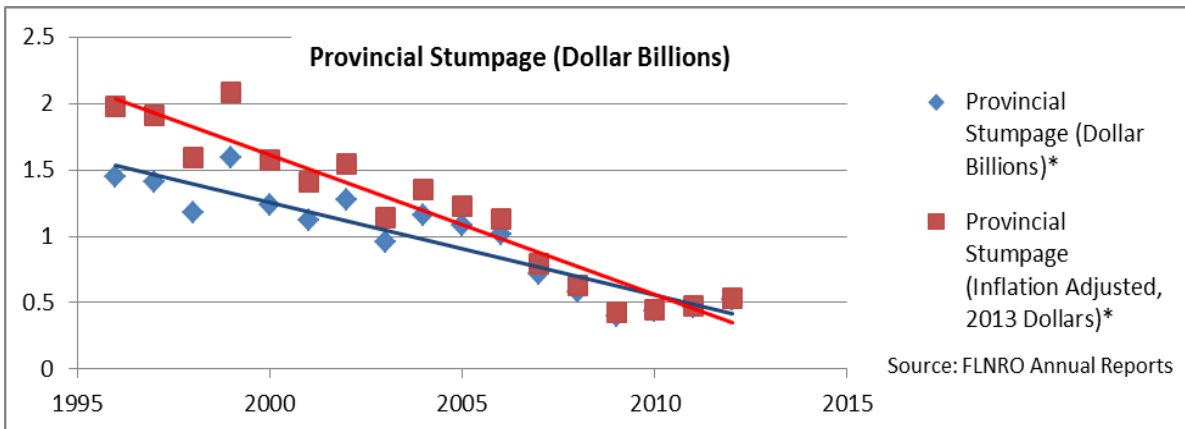
Given that the legislature has directed that the purpose for which we manage, protect and conserve the timber resource is for the immediate and long term economic and social benefits timber may confer on British Columbia, how effective has our 140-year strategy of providing increasingly greater tenure rights to the largest forest companies been in creating these benefits? Sadly, the potential to increase social and economic benefits through a public policy of awarding increasing tenure rights to the largest forest companies in BC was exhausted nearly 20 years ago. Consider the social and economic benefit trends shown below:

Figure 1: BC Forest Sector Direct Employment



SEPH - Survey of Employment Payroll & Hours

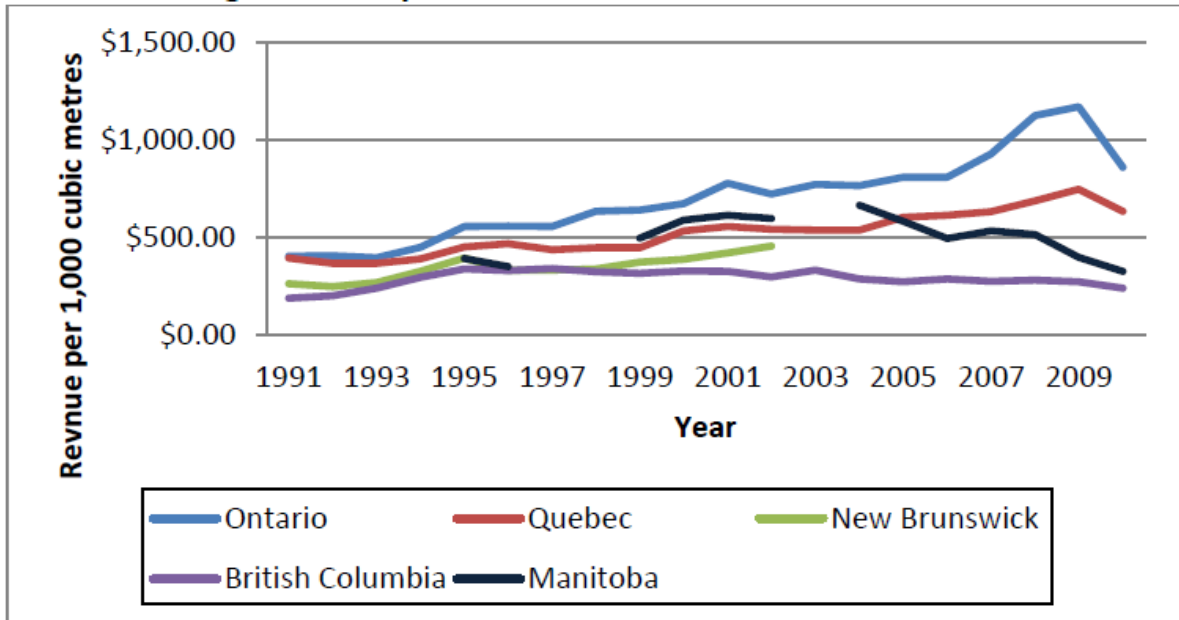
Figure 2: Provincial Stumpage Revenue



*Revenue data for 2009-2012 is gross forest revenue, including rents, waste billings, range use fees etc., and therefore somewhat overstates actual stumpage. Note that data does not include SLA border tax, which is analogous to stumpage. The border tax varies with the level of the lumber market and volume of lumber exports to the U.S.. For example, the tax was \$328 million in 2007, \$155 million in 2006 and may be as little as zero in 2014.

Another key indicator of the economic value to the economy is the revenue from forest goods manufacturing per 1,000 cubic metres of timber harvested. Other provincial forest jurisdictions observed have higher per cubic metre values than observed in British Columbia.

Figure 3: Manufacturing Revenue per 1,000 Cubic Metres Harvested, 1991 to 2010



Source: Canadian Forest Service 2013

The Discussion Paper for the Area Based Tenure initiative states that *“The major benefit of such a change is the increased certainty of timber supply that an area-based tenure would provide to the licence holder. This certainty would enable the licence holder to make long-term investment decisions for the benefit of the company, its workers and the community to which it pays local taxes.”* Seen in a historical context, the conversion of forest licenses to tree farm licenses would simply be a continuation of our 140 year-old strategy of providing increasing timber rights to forest companies. As is obvious from the data above this strategy has, since the 1990’s, resulted in dramatically decreasing social and economic benefits for the owners of the timber resource – the government of BC on behalf of British Columbians.

The SIBAC understands that the government proposal outlined in the Discussion Paper for the initiative is that a forest licensee would propose a series of social, economic and environmental benefits that it would create if granted a tree farm license. There is a reference that the minister may *“set certain conditions for the final licence agreement.”* History has shown that such arrangements are not necessarily enduring. For example, in the last decade we have seen tree farm licensees released from license obligations to keep their private land within some licenses. We have seen companies relieved of the obligation to maintain in operation mills associated with some licenses. We have seen companies freed from any obligation to work with government on issues of the public interest associated with license transfers. The SIBAC is concerned that the kinds of social and economic commitments that industry may make to secure a tree farm licence will not be adequately enforceable and/or may be relaxed at some future time in the face of unforeseen circumstances.

SIBAC understands that there may be isolated opportunities where a tree farm license may assist, as one part of a comprehensive local strategy, to partially mitigate local timber supply.

However, as a broad policy for BC the SIBAC is concerned that the policy will not increase the benefits to British Columbians from the forest resource and, as discussed below, may actually harm their social and economic interests.

2.3 Deriving More Value from the Timber Resource

The issues and concerns expressed above are the outcome of British Columbia's public policy and forest industrial strategy to create a forest sector with a nearly singular focus on commodity lumber and pulp wood products. In the face of this strategy, the value added wood sector, and the independent lumber producing sector that used to be an important part of the supply chain for value added wood manufacturers, has withered along with their potential to create social and economic benefits for BC.

The SIBAC is concerned that the conversion of forest licenses to tree farm licenses, which would mostly be taken up by the large companies with the above mentioned singular focus on commodity lumber and pulp production, would worsen the current adversities facing the value added wood sector. Among a number of challenges, access to raw material is the most acute challenge facing the value added wood sector. Tree farm licenses, granting an exclusive right to harvest timber, effectively transfer from the Crown to private companies control over any future possibility of deriving from the subject land base a raw material supply for value added wood enterprises. As we know from long experience, the current industry structure, with its singular focus on commodity lumber and pulp production, provides little interest, motivation or incentive to collaborate with value added wood entrepreneurs on that most critical value chain/supply chain component – raw material supply.

The province currently has formal policy goals to diversify the timber tenure portfolio, focusing on smaller area-based tenures including First Nation Woodland Licenses, Community Forest Agreements and, to a lesser degree, Woodlot Licenses. The SIBAC notes that the proposal of government outlined in the Discussion Paper is that an application for a tree farm license would be required to show how 'some or all' objectives of the Crown would be advanced through the issuance of a tree farm license. Several of the objectives proposed are:

- Development of partnerships, including those that further First Nations' involvement in forestry;
- Community stability through the creation of new jobs or a reduction in job losses (compared to a base case);
- Support of existing industries or new industries (e.g. bioenergy);
- Return of allowable annual cut to government, to support other forest tenure opportunities.

The SIBAC believes that forest license to tree farm license conversion, without adequate mitigating actions, is antithetical to the tenure diversification goals of the province, would further constrain future wood product diversification and would present new obstacles to future growth of the value added wood segment of the industry.

For these reasons, in the event that the province proceeds with forest license to tree farm license conversions, the SIBAC urges that a number of actions be taken to mitigate the adverse consequences of such conversions, such as:

- 1. Applicants for tree farm licenses should not be given the option to address ‘some’ of the province’s objectives as the Discussion Paper currently suggests would be the case. Instead, the province should settle on which of its objectives must be mandatory to address for an application to proceed. Without limitation, the objectives mentioned above should be among those mandatory objectives;***
- 2. The SIBAC strongly supports government’s objectives to diversify the timber tenure system. With regard to the proposed objective that tree farm license applicants return allowable annual cut to government to support other forest tenure opportunities, the SIBAC feels strongly that the volume of annual allowable cut returned for these purposes must be large. The 2003 Forestry Revitalization Plan, through the Bill 28 ‘take back’ of 20% of some forest license allowable annual cut, intended that a robust timber/log market would result, that the value added wood sector would have access to sufficient raw material and that opportunity for new entrants to the sector would be enabled. Now 11 years later, we know that these desirable outcomes have not resulted. To continue to pursue these outcomes, which is clearly in the public interest, the province should insist that any forest license to tree farm license conversion include a large quid pro quo return of allowable annual cut to the province;***
- 3. In all regions of the globe where a strong value added wood sector has emerged, one defining attribute is collaboration in the wood value chain between primary wood manufacturers and value added wood manufacturers. The provincial objective mentioned above to require tree farm license applicants to commit to ways and means to support existing industries or new industries is fully consistent with this best industrial practice. The SIBAC would urge the province not to underestimate the positive social and economic benefit that would result if this objective is pursued aggressively in the event that forest license to tree farm license conversions proceed.***

In 2013, the SIBAC prepared and offered to the province a strategy to grow the value added wood sector in BC. The strategy addresses in depth the actions that would improve our ability to further develop the wood value chain for the social and economic benefit of BC. The strategy has been presented in meetings with a variety of government ministers including Minister Thomson, Minister Bond, Minister Bennett; Parliamentary Secretaries Barnett and Kylo; and the Forests, Lands and Natural Resource Operations deputy minister, and some other executive and senior staff. In all briefings interest and support was expressed to advance aspects of the strategy. The SIBAC urges Mr. Snetsinger to review the strategy as he forms his report to government and to consider the strategy in his recommendations to government. The SIBAC strategy can be found here: <http://www.sibacs.com/wp-content/uploads/2013/08/SIBAC-Value-Added-Report-Summary-Report-Final-June-27-2013.pdf>

2.4 Consequences to the Rural Economy

In 2006 (prior to the recession) in the southern interior region, forestry was the source of \$1.28 billion of income. That same year, tourism and agriculture was the source of \$1.09 billion of income. With the permanent mill closures that have occurred in the region since 2006, and growth in the tourism sector in particular, it is possible that income from tourism and agriculture combined may now exceed that from forestry. The social and economic contribution from the forest sector will continue to decline in the future as the industry closes mills due to timber supply reductions, due to the 'normal' multi-decade trend of mill rationalization, and as the industry aggressively replaces jobs with technology.

Forestry is obviously the most extensive industrial sector with the largest 'footprint' on the land from year to year. A significant part of the tourism industry is based on mid-country and back-country recreation that relies on appropriate access to the forest. There are undeveloped or under-developed tourism assets in many parts of the forested landscape that will be future sources of wealth when developed.

SIBAC is concerned that large scale conversion of forest licenses to tree farm licenses could increase the difficulty of growing and diversifying the economy of parts of the southern interior region due to the higher degree of land use control that will be exerted by the tree farm license holder. This difficulty, combined with the sad trend toward fewer forest jobs and fewer tax-paying mills, could in fact result in a net detriment to the economy and communities in the region. SIBAC is concerned that the policy discussion about area based tenures does not appear to adequately recognize the alarming social and economic impact trajectory of forestry as compared to other economic sector's potential for growth.

2.5 Investment in Tree Farm License Forest Practices

Although the Area Based Tenure Discussion Paper makes several references to tree farm licences having the effect of inducing forest companies to invest, the SIBAC is not aware of any objective analysis of the impact of tree farm licenses on company return on capital employed, relative willingness of investors to provide capital to companies holding tree farm licenses vs. others, and the effect of those 2 factors on senior company management's willingness to seek more value and produce more wealth from the subject land, as opposed to simply producing more timber volume for current product markets.

The SIBAC notes with interest the proposal of government outlined in the Discussion Paper that applications for new tree farm licenses must outline the company's commitments for investment in forest management, information gathering or silviculture, over and above minimum legal requirements. Practices of these types are the potential source of timber production increases. Historically, however, the vast majority of such incremental investment on tree farm licenses has been funded from the public purse through budgets such as the Forest Investment Account or the Land Based Investment Strategy account. This fact leads the SIBAC to be concerned that it is the provision of public funding that determined the past willingness of a licensee to undertake the kinds of forestry practices needed, not the presence of the tree farm license. SIBAC believes that the provision of public funding to tree farm license holders to increase timber supply is at odds with the premise behind the idea of converting forest licenses to tree farm licenses – that the tree farm

license tenure itself is the reason and inducement for private investment in forestry works that increase timber supply.

With the above in mind, if forest license to tree farm license conversions proceed, SIBAC would urge that:

- ***The investment of public funding for ‘incremental forestry’ practices on all tree farm licenses be explicitly ended;***
- ***Current public funding provided to tree farm license holders be re-programmed to be made available to small scale replaceable tenure holders who lack the economies of scale to generate the internal financial margins to fund such treatments on their own, and for investment in timber supply areas;***
- ***That land selections for tree farm licenses be made in consideration of other economic sectors with the goal of optimizing wealth creation from the sub-regional economy in question. Applicants for tree farm licenses will be most interested in the highest productivity lands for timber production, which will not necessarily be in the larger economic interest of the province.***

2.6 Conclusion

The SIBAC appreciates the opportunity to provide this submission to the province. We have grave concerns that a policy to convert forest licenses to tree farm licenses could create a net detriment to the social and economic interests of British Columbians, including First Nations, as described in this submission. Should the province proceed to implement such a policy it will be important to also implement a number of policies or actions to mitigate the risks and impacts to the public interest posed by the area based tenure policy. Throughout this submission we have outlined what the nature of those mitigating actions or policies could be, and we sincerely hope the province will pursue these mitigations if the decision is made to enable forest license to tree farm license conversions.

Appendix 1: Milestones in Forest Tenure Policy

- 1871-1896: The Crown grants forest land to private interests including more than 6 million hectares of forest land to support the development of railways on Vancouver Island and the mainland. Grants provided after 1888 required the payment of stumpage fees to the Crown;
- 1865-1906: At different times during this period the Crown awarded Timber Leases, Timber Licenses and Pulp Leases which granted the right to cut timber but retained ownership of the land with the Crown. These licenses were issued to supply independent loggers and to attract investment in pulp mills. In 1901, legislation was enacted requiring all timber cut from these lands to be manufactured in the province. In 1906, the *Timber Manufacture Act* extended this requirement to private land granted after that time;
- 1894-1907: After 1894, the licensing program mentioned above, which unfolded almost entirely on coastal BC, enabled speculators to stake a claim to tracts of timber, causing a 'gold rush' on the timber supply. In 1907, government suspended all such licensing and initiated the Fulton Royal Commission on forestry;
- 1910: The Fulton commission found that enough timber had been alienated to sustain the scale of industry at the time for the foreseeable future, and the new issuance of new licenses was restricted. The commission recommendations led to the new *Forest Act* of 1912 (and the formation of the BC Forest Service);
- 1912-1947: Under the new Act, the only major way to tenure Crown timber was under a new form of license, the Timber Sale License. These licences were issued virtually without restriction until 1947, mostly heavily in the interior, as the industry expanded there. By the 1940's, the manner in which timber sale licences were being administered caused concern over lack of access to timber for new entrants to the industry and that the timber supply was being over-harvested. The Sloan Royal Commission was established in 1943 to assess the situation;
- 1945: The Sloan Commission recommended that forest sustainability (and consequential community sustainability) be achieved through new 'private working circles' formed of land granted and/or licensed and other Crown forest (mainly on the coast due to the preceding history of tenure issuance there, described above), and 'public working circles' formed of almost exclusively Crown land, mainly in the interior. The public working circles subsequently evolved into today's timber supply areas;
- 1947-1967: In 1947, the *Forest Act* was amended to give effect to Sloan's recommendations. A new area-based tenure type, the Forest Management License, later re-named the Tree Farm License, would be the policy instrument to manage the private working circles, and was aggressively adopted by industry, bringing considerable private land, and land in the formerly mentioned timber leases and licenses, under sustained management for timber. The minister had sole discretion to issue these licenses to whomever he chose making their award highly controversial with independent loggers, and 43 were issued in the 20 years after 1947.
- 1947 -1967: In the 'public working circles' (mainly in the interior) the tenure system based on timber sale licenses adapted to accommodate the emergence of larger timber harvesting companies. Informal 'timber quotas' were assigned to some historical holders of timber sale licences, which government came to regard as 'established operators', to determine how the allowable cut of the public working circle would be allocated. The timber quota assigned evolved into a continuing 'licensee priority' in the eyes of government, leading to the issuance of a new license for the same timber volume when an existing one expired, even though the *Forest Act* called for the competitive award of

timber sale licenses. This concept became regarded as giving the licensee an ongoing 'quota position' in respective public working circles for administrative purposes. To protect company quota positions, the minister came to regard a quota holder as a 'recognised applicant' for the purposes of applying for new timber sales, and he had authority to reject any other application for the timber sale advertised. Further, the 'recognised applicant' was granted the right to match the highest bid for the timber sale advertised. As a result there was no functional competition for timber sales aimed at holders of a 'quota position'.

- 1967-1978: Commencing in 1967, 'established licensees' were offered the opportunity to convert the sometimes numerous timber sale licenses that made up their 'quota position' into a single Timber Sale Harvesting License. These licenses were volume-based, granting a right to harvest a specified annual timber volume within the public working circle. As part of this conversion, the license holder accepted certain additional management obligations not previously part of the timber sale license scheme. Established licensees were eager to convert to timber sale harvesting licenses, which typically had a term of 10 years. Also importantly, holders of these licenses were required to have a mill appurtenant to the license and to employ log de-barkers and wood chippers, intended to stimulate the pulp sector.
- 1975-1978: In 1975, the province initiated the Pearce Royal Commission on forestry. The commission was critical of the 'quota system' described above for the uncertainty which its informality created for the industry, but also for the extent to which it favoured larger forest company's access to timber. As a result of the commission recommendations, the 1912 *Forest Act* was replaced with a new *Forest Act* in 1978. The new act enabled the formalisation of the quota system by replacing quotas with new Forest Licenses, which were longer-term (15 years) and were fully replaceable if their terms were complied with. In addition, the province formed the Small Business Forest Enterprise Program which sold standing timber to smaller loggers under Timber Sale Licences. Importantly, the new Act enabled the issuance of Pulpwood Agreements to provide a guarantee of access to wood fibre for pulp mills in the event such a supply could not be secured from other sources.
- 1987: 1988-2003: In 1988, the province was concerned that there was not adequate access to Crown wood fibre for new businesses wishing to manufacture wood products of greater value than lumber. The province reduced the volume of timber rights in larger, long-term licences by 5% and amended the *Forest Act* to allow some timber sales to be awarded to companies based on proposals for new investment, facilities and jobs in the manufacture of value-added wood products. The policy for these 'bid proposal sales' remained in place until 2003.
- 2003-Now: In 2003 the province's *Forestry Revitalisation Plan* brought the largest changes to the forest policy regime since the 1978 *Forest Act*. Requirements to keep mills appurtenant to large licenses were repealed. The market-based timber pricing system was introduced, and the Small Business Forest Enterprise program was transformed into BC Timber Sales to support the market-based timber pricing policy. Twenty percent of the timber held in certain long-term licenses was returned to the Crown with compensation to the industry to increase the proportion of the timber harvest that would be sold on the standing timber market. Policy pertaining to maintaining minimum annual harvest levels was liberalised. The requirement for the minister to approve license sales/transfers/subdivision was eliminated.