

**IS IT TIME TO CHANGE THE TENURE SYSTEM OF BC TO MORE
ACCURATELY ADDRESS THE NEEDS OF COMMUNITIES?**

by

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ABSTACT

In this essay we will examine the current tenure system of BC and if it is serving the objectives it was created to uphold for the people of BC. There have been new needs arising out of the landscape of BC since the 1980's in which timber extraction may not take precedence. Does the current tenure system of BC adequately meet these needs, or must the system change once again to accommodate these objectives? We will answer this question by looking at why the tenure system needs reforming, and then at a few alternatives with emphasis on smaller more community based management which can be brought about by decentralizing control of our forested land base.

KEY WORDS: British Columbia, tenure, sustainability, community forestry, decentralization

INTRODUCTION

The timber industry of BC has a long-standing tradition as the backbone of the economy. With 60 million hectares of forest covering BC, there should be enough timber to support the numerous timber dependent communities scattered throughout BC. Out of these 60 million hectares, 95% of this is owned by the people of BC (MOF 2011). The government allows private companies to harvest timber on our public lands in order to meet our social and economic objectives, with the tenure system providing guidelines to ensure that these companies manage our forests to meet these objectives (Haley & Nelson 2007). This tenure system is a collection of legislation, regulations, contractual

agreements, permits and government policies that define the relationship between these companies and the way they manage our forests on Crown land (MOF 2006).

There is growing unrest from both within the forest sector and from external sources, or stakeholders, such as environmental groups, First Nations, and individual communities that these guidelines are failing to meet the objectives they were intended to serve. There is evidence that the way we manage our natural resources, not just timber, are failing us. The old growth forests have been depleted along with fish stocks, there is conflict between resource sectors, and the economic opportunity for resource based towns is steadily shrinking or lost altogether (M'Gonigle, et al 2001).

The guidelines have served us in the past with large, fully integrated resource extraction companies but in today's world there is pressure to move away from this type of management of our forests. To achieve this a major shift in forest policy is needed, one that puts sustainability, both ecological and economic, first. Where conflicts between all stakeholders can be resolved. A fresh approach to resource management is needed and in this paper I will look at four options for tenure reform that may help us achieve these goals.

BACKGROUND OF FOREST TENURE IN BC

Pre-1912

In the pioneer years of BC, land, including all the resources, was sold for the primary reason of settlement with the value of timber being overlooked (Sloan 1945). This changed in 1865 with the passage of the No. 27 land ordinance after which the

government could lease Crown lands for timber cutting rights, subject to terms and conditions. This allowed the government to hold on to control of the land while still allowing the development of timber resources by private industry, which is still the basis of our tenure system to this day (Plant 2009).

This system worked until the early 1900's, but after 3 years of unprecedented "timber staking" which saw three quarters of the province's merchantable timber supplies being alienated, the government wanted to reserve the rest of the timber lands (Fulton 1910). To reassess the situation, the first Royal Commission of Inquiry into the forest resources was commissioned by the government.

The report endorsed the decision by the government of reserving the remaining timber for the future and established areas officially designated for timber harvesting. A new form of tenure was also introduced, the Timber Sale License, which granted a one-time right to harvest a specified area (Sloan 1945).

Sustained Yield

Up until WWII, the forest tenure system remained virtually unchanged. Change was needed though as there was a growing need for long-term planning which the short-term timber allocations under previous licensing policies could not supply. Also, with the expansion of the forest industry, a significant portion of the original short-term timber sales had been used up (Schwindt 1979). The government was also increasingly recognizing these valuable timber resources as a source of revenue (Plant 2009).

Due to these factors a second royal commission was headed by BC Chief Justice Gordon McG Sloan (1945) that addressed the need for the sustainable yield of timber. Sloan believed that this could be achieved through two types of management units, the Private Working Circle and the Public Working Circle. Through the Private Circle, long-term harvesting rights were granted over specified forest areas in lieu of a promise to practice sustained yield management. The Public Working Circle was for smaller operators unable to assume management responsibilities, which in turn were handled by public agencies (Schwindt 1979).

After Sloan's reports two forms of “small” tenure, Farm Woodlot Licenses and Tree Farm Licenses were introduced (Ambus et al 2006). These licenses enabled government to, “bring under management private lands, old temporary tenures, and other Crown land, while assuring industrialists of the long-term timber supplies they required for investment in utilization facilities (Plant 2009).”

The 4th Royal Commission, by Peter Pearse in 1976, was essentially a forest policy review. Among his recommendations was to diversify tenure due to the highly concentrated industry and to streamline forest policy and administration (Gray 1977). He also gave support to the concept of community forests saying, “local governments that are prepared to integrate their lands with surrounding Crown forest land is one attractive possibility. The sensitive balance between timber production, recreation, and other non-commercial forest uses that are particularly valuable close to centres of population can in

these cases be struck locally, making resource management highly responsive to local demands (Pearse 1976).”

Sustainable Development and Into the Modern Era

With sustained yield being the goal of forest management in BC for decades to stimulate economic growth and bring prosperity to our province, by the 1970’s global interest about the limits of the planet’s resources brought its attention to the forests of BC. The international media was condemning the traditional method of timber harvesting by clear-cutting and slash-burning and tree planting was no longer sufficient to allay concerns about sustainability (Mitchell 2006).

At the start of the 80's the forest industry was leaving the 'golden age' with high employment and numerous markets. Moving into the 90's, public protest began in earnest (Dumont 2011). This was also the time when environmentalists and others started lobbying the government for tenure reform. At the forefront of this action was the increasing concentration of corporate licenses and environmental degradation (Ambus et al. 2007). In response to the criticisms from around the world, and with the concept of sustainable development at the forefront of people's minds, BC was busy developing its Forest Practices Code. The Code, as it was known, was to be one part of a provincial commitment to protect and sustain the environment while ensuring a sustainable economy. It was to be based on integrated resource management principles using the best of existing policies while leaving room for revisions as newer practices or standards

evolved. It was to be the framework of the forest industry for the world (Osberg and Murphy 1994).

In response to the call for greater participation from First Nations and communities, the government launched the Community Forest Pilot Project in 1998. It was to test the viability of community-based Crown tenures (BCCFA).

Although there are 11 types of tenure in BC today, two main types account for over 80% of the volume of timber harvested from Crown land. Area-based Tree Farm Licenses and Woodlot Licenses are replaceable and account for approximately one quarter of Crown forest land. Volume-based replaceable and non-replaceable Forest Licenses and Timber Sale Licenses take up most of the remainder of Crown forest land which have 10 to 15 year agreements (MOF 1998). These tenures are renewable based on acceptable practice by the company and if the tenure is still viable to produce the needed volume of timber for the associated processing facility. However, ownership of the land and the right to renew or revoke a license remains with the Crown.

WHY IS TENURE REFORM NEEDED?

“Operating in a continual state of crisis and conflict, renewable resource management in British Columbia is in need of innovative and comprehensive, rethinking (M'Gonigle et al. 2001).” In today's world the main goal of industry is profit and growth at any cost. It is no different in the world of industrial forestry. Not enough thought has been given to sustainability and the interconnectedness of ecosystems. This industrial model of forest

management can have devastating impacts on the environment, from increased siltation in fish bearing streams and community watersheds, to habitat destruction of numerous species of animals (M’Gonigle et al. 2001).

There is also a disconnect between the decision making processes that cause these effects and the communities. With broad decisions being made outside of the communities by large companies who are less concerned about sustainability than the people that actually live and work there, the people often feel at the whim of these companies. When markets are good, there are lots of jobs but if market conditions change or the timber supply runs out, all the people are left with are empty forests and empty hopes.

The most overlooked symptom of industrial forestry today is over-cutting. In 1994 the Ministry of Forests saw that the rate of logging of the province’s forests could not remain at the existing levels. If current management practices persisted, there would be a real risk of a collapse in the mid-term timber supply (MOF 1994). Despite this warning there has been no reduction in the AAC for the province, even calls for increasing it.

One of the most damaging events to the public ownership of our land base was, a “..... controversial decision by then Forests Minister Rich Coleman to allow Western Forest Products to pull its private forest lands out of its Tree Farm Licenses,” that has proved to be, “disastrous for Island residents,” says Ben Parfitt, (2008) a resource policy analyst with the CCPA’s BC office, and author of the study. There was opposition to this decision from both loggers and environmentalists alike, both knowing what was at stake,

and they were proved right. Once the decision was made, “ WFP has accelerated its logging of fir forests and placed thousands of hectares of forestland on the auction block for sale to real estate developers (Parfitt 2008).” This was done under the BC Liberals who have effectively destroyed the “social contract” for BC’s forests, removing the long - standing provisions to ensure locals benefit from public forests (Youbou Timber Society 2009).

According to the provincial auditor general John Doyle (2010), the decision was made “.....without sufficient regard for the public interest.” These lands were supposed to be managed by the company for the local communities and the effects that the selling off of these lands was not considered. Also not considered was the damage to the tourism industry or the impact on local water supplies. Doyle also deemed there was no analysis done to determine whether helping out a forest corporation with international shareholders benefited communities or the industry. In this example there is without a doubt no benefit to the community or the region faced with the loss of waterfront used by surfers, campers and tourists as well as land beside the popular Juan de Fuca trail. And perhaps more importantly the forests that could have provided gainful employment for many generations if managed properly.

TENURE REFORM OPTIONS

The tenure system in place has served BC in the past but now we must look at the industry today and ahead to the future. With big corporations lobbying politicians, operating with little regard for the environment or the economic and social objectives they are supposed to uphold, new forms of managing our forests must be examined if they are to remain a viable resource in perpetuity (Marshall 2003). In order to do this, something must be changed and tenure reform is the place to make this happen. David Haley (2006) has identified four possible tenure reform ideas for our province:

1. Placing a portion of public forested land under rule of an autonomous, profit maximizing Crown corporation.
2. Privatize a portion of public forested land along with its timber assets.
3. Decentralization, or relinquishing control over a portion of public land, including some non-timber products to semi-autonomous regional provincial forests
4. Leave the tenure system as is and make a few adjustments to try and make it work.

We will now take a look at these tenure reform options and how they may benefit the people of BC.

Corporatization

This has been implemented in a few countries around the world to mixed reviews, including New Zealand and Canada. In New Zealand this option seemed to work as profitability increased because it was no longer constrained by social and environmental

objectives. These became the responsibility of other government agencies. Although profitability increased it was still state owned and some thought that politics might interfere in the commercial objectives. It was also speculated that the state owned corporation did not provide sufficient resource security to enable processors to expand their operations or invest in new ones. Raising capital was also a concern and in the end New Zealand had to privatize thousands of hectares of forests to sell to foreign interests to make up the shortfall in capital (Clarke 1999).

In Canada, BC Timbers Sales was formed in 2003 to replace the Small Business Forest Enterprise Program. The main goal of this reform was to generate the maximum amount of wealth from our forests for the least amount of expenditure. With this model contracts are tendered out with the lowest bidder that meets the contract requirements awarded the contract. According to the BCTS financial summary for 2011, their goals are being, or close to being, achieved. For the last quarter ending December 31st, 2011, the net revenue was better than target although the program finished with a (small) \$3.1 million loss (BCTS 2011). I have worked for this program and can attest to some money squandering. I have timber cruised the same blocks three times over a twelve year period due to the timber sales not selling. This problem is associated in part to having no mill attached to the timber supply. Timber is developed in hopes and anticipation of the species and quantity desired by processing facilities. If there is a fall-off in market conditions, money is still spent developing roads and timber which may never be recouped by the taxpayers.

Although timber production remains a priority with British Columbia's Crown corporation, other values such as the environment and aesthetics may take precedent in some situations due to the fact that the land is managed by a public agency. So in this sense it may serve us more fortuitously than management by major licensees.

Privatization

If we look around the world today with large corporations owning or controlling the majority of natural resources, the disparity between the rich who control these resources, and the poor who have these resources in their backyard, is growing. The financial rewards of harvesting these resources largely remains with the owners and/or shareholders with the trickle down effect supposedly looking after the workers and others in the communities affected by these actions. Also, these resources may be liquidated with the money being transferred away from the local community (M'Gonigle, et al 2001). An example of this from the CEO of the late MacMillan Bloedel, who admitted publicly to their cut and run policy with the following statement, "There isn't any possibility of (MB) expansion in B.C..... When we make any large investments, we'll put them where they can get the best return. That's not in B.C., and it's probably not in Canada (Findlay 1991).”

If privatization of BC's forests happened this scenario may worsen. With large companies owning their tenure areas instead of leasing them, the public potentially loses all this area that was once theirs to explore and recreate in. This is a worst case scenario, however, and we have seen in other countries this is not necessarily the outcome. For

example, in New Zealand the owners of the land must allow access for recreation and in Nordic countries public access to private forest land is protected by common law (Haley and Nelson 2007). But would the BC government protect our rights this way?

In the province of BC the public ownership of our land is a symbol of pride for us. Politically it may be impossible to sell off a part of our heritage as there would be a large outcry of public protest. According to Grand Chief Stewart Phillip (2008), President of the Union of BC Indian Chiefs, “rather than creating any certainty, privatization would clearly increase uncertainty and add to the legal issues that now exist. It would leave both the taxpayer and industry on the hook for unrealized investment and future compensation costs.”

But others argue that privatization is the only way to save the forest industry in BC, saying that public ownership kills silviculture and manufacturing investments. They also argue the fact that public forests are actually starting to cost our society more money to maintain while producing far less net revenue than expected given their world value (McCarthy and Chittick 2003). These advocates maintain that private ownership promotes management through the security of ownership which in turn supports capital investment (Haley and Luckert 1992). Even if investments were made into these sectors they are not supporting a different model of forest management. They are investments made to maintain the timber production that is depended on for their financial interest.

Decentralization

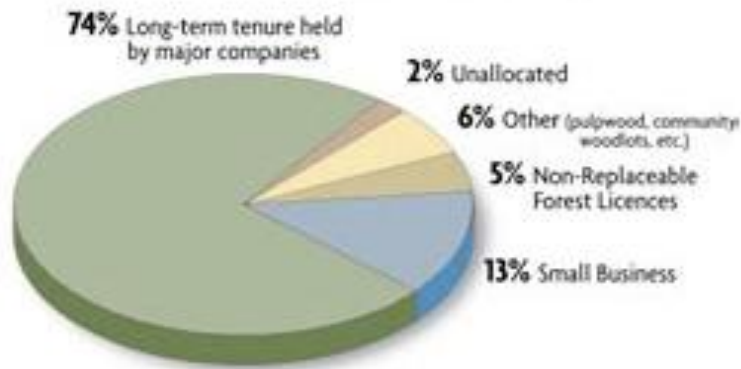
The decentralization of power of the forests in BC is the furthest step away from the tenure system we see today but with the forested land base seeing increasing pressures to produce other resources besides timber it may be the most viable in the long term. Under this tenure system regional forests would be created through the dismantling of provincial control of some forested land to be placed under regional control to maximize the benefits from the total land base. These benefits may vary widely community to community or even within one community, ranging from timber production, gathering of mushrooms and other botanicals to recreation facilities, guiding and eco-tourism. These regional forests would be headed by a board of directors or another similar governing body that would try to maximize the benefits to the region and the province, providing revenues and employment to both (Haley and Nelson 2007).

With this option we have to move away from the mindset that the only valuable resource available in our forests is the trees themselves. We have to look no further than Oregon for an example of this with large areas of old growth being set aside for the protection of endangered species, most notably the spotted owl. Numerous jobs were at stake but none were lost as new industries came into existence and the forest industry itself changed to accommodate the loss of operable area (Greenpeace 1997). "Our natural landscapes no longer generate new jobs and incomes primarily by being warehouses from which loggers ...extract commercial products. In today's world, these landscapes often may generate more new jobs and income by providing the natural-resource amenities -- water and air

quality, recreational opportunities, scenic beauty and the fish and wildlife -- that make the Pacific Northwest an attractive place to live, work, and do business (Powers 1995).”

In March 2003 the BC government introduced the Forestry Revitalization Plan to help restore vitality into the forest industry. A 20% clawback of replaceable tenure from licensees was legislated to return to the Crown. Half of this cut was opened up in opportunities for woodlots, community forests and First Nations (MOF 2003). This was an important step to diversifying the tenure arrangements of BC's forests. As we can see from the graph below, the amount of tenure allocated to smaller operators is miniscule in comparison to the amount for major companies. In order to further expand these regional forests further, more AAC would have to be taken back from the major licensees and distributed in long term agreements to communities, First Nations, woodlot owners, and other small forest companies. This seems to go against the status quo, but there has been increasing devolution in the forests of BC since the Plan's inception with an increasing number of woodlots and Community forests being allocated.

Current Allocation of AAC



Source: MOF 2003

Status Quo

With small tweaks to the tenure system the basic arrangement remains the same. It is still large-scale industrial forest practices with fully integrated corporations controlling what happens in the woods and in communities. There may be one alternative though: employee owned and operated licenses. This would enable the communities and individuals impacted by harvesting activities to be involved in the decision making processes. This alternative seems more sustainable because it is based on positive values that address employee, environmental and business concerns which provides a sustainable model for growth and profit (Henderson 2009). Where large foreign corporations may have little or no regard for the social fabric or environment when you place workers in a position of responsibility for the success or failure of a company, a huge cultural shift takes place (Mason 2009).

As an example of this alternative, we will take a look at one of the few significant employee-owned corporations in Canada- the Harmac Pacific pulp mill (Henderson 2009). Pope & Talbot Ltd, a large multinational corporation based in Oregon, formerly owned the pulp mill. The mill was in operation for 60 years until the summer of 2008, when ownership was shifted to the employee shareholders. When the shift in ownership took place, the plant was considered under-capitalized and too ancient to be competitive (Hamilton 2009). The employee owned pulp mill has not only survived but plans on increasing the number of employees even in these uncertain times for the forest industry. And they are not doing this by cutting corners with shoddy forest practices but through a major change in attitude. Samson (2009) says, “it is a different feeling when you own a piece of the company, as opposed to when you’re just coming in and punching the clock.....They’re part owners, and want to see (Harmac Pacific) be successful.....” Then Forest Minister Pat Bell (2009) agrees, saying, “The employee shareholders at Harmac Pacific may have established the new model for the BC coastal pulp + paper industry.”

CONCLUSION

Some people have termed the debate of industrial forest practices versus smaller scale forestry as “good” forestry versus “bad” forestry. While we may not all agree with this broad-based judgement, we have seen evidence in this paper that the forests of BC have been managed unsustainably. Where once the forests of BC seemed endless, the demise of the original forests are within sight. This is consistent with “bad” forestry, which

“consists of large-scale, volume driven, industrial forestry managed by corporate monopolies using capital-intensive technologies and clear-cutting to create even-aged, species-poor, forest monocultures (M'Gonigle et al 1995).”

When the current tenure system originated it served the needs at that time, with the BC government acting as a trustee and delineating rights for timber harvesting to support strong communities with stable economies. But in today's world many timber dependant communities are experiencing mill shutdowns accompanied by layoffs with an emigration of citizens out of these communities. There are also many more stakeholders in the forests of BC now including First Nations, woodlot owners, Community Forests, small scale forestry operations, and the public who may or may not make their living from the forest (Luckert et al. 2011). With an increasing number of interests there comes an increasing number of objectives to manage for, including economics, social and environmental (Haley and Nelson 2007). These objectives may be diverse but must be balanced somehow.

I have looked at four options for tenure reform in this paper but believe the only way forward is through the continued devolution of BC's forests. The people of BC want more power with decisions of what happens in their backyards. The transfer of power from licensees to regional control over resources is possible as we have seen through the Forestry Revitalization Plan. This changing of hands of power will not happen overnight and will see opposition from the heavily entrenched large corporations, but these corporations must not take precedent over the needs of the citizens of BC.

I believe this quote from Ralph Moore (1993) sums it up quite well.

“All over BC citizens from many walks of life and diverse philosophies are sitting at tables such as this with the objective of arriving at land use designations. It’s not an easy exercise because we are not sure of the way, and because of our diversity. There is one thing though that I’m sure of: there should not be representatives of transnational corporations at this table with Canadians. Can anyone conceive of anything more ridiculous than having foreign exploiters sitting in on our decisions on how our land is to be used? We must first invite all foreign interests to leave. Then we must cast aside all issues and plunge into tenure.”

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