

September 15, 2005

Our File: 33

Public Lands and Forests Division
Forest Management Branch
Forest Planning Section
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Via Fax: 427-0084

To whom it may concern,

RE: Comment on the *Alberta Forest Management Planning Standard*, Version 3, June 2005.

The Environmental Law Centre (ELC) is a charitable organization incorporated in 1982 to provide an objective source of information on environmental law and policy in Alberta and Canada. The ELC's mission is to ensure that laws, policies and legal processes protect the environment.

The ELC is pleased to provide its comments regarding the draft of the *Alberta Forest Management Planning Standard*¹ (the FMPS).

Introduction

Alberta is to be commended for undertaking a review of forestry management planning in an effort to incorporate principles of sustainable forestry management. The draft FMPS and the Canadian Standards Association – Sustainable Forestry Management (CSA-SFM) standard on which it is based contain laudable principles that should be adopted in the province's forestry planning policy. Sustainable forest management will generally recognize the multiple benefits derived from a healthy forest and will foster the conservation of biodiversity, the protection of watershed values, and the responsible and ecologically sustainable harvest of timber.

However, the efficacy of the FMPS is jeopardized through the absence of specific operational standards and a proper legal framework to support sustainable forestry management. In relation to these omissions, the ELC recommends the FMPS and its implementation be accompanied by the following:

¹ Alberta Sustainable Resource Development, Public Lands and Forests Division, Forest Management Branch, Version 3, June 2005.
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1. Incorporation of sustainable forest management principles (as reflected in the FMPS and the CSA-SFM) into Alberta's forestry legislative framework;
2. Baseline standards for conservation of old growth, biodiversity, and the protection of watershed values; and
3. Guidelines and policies that facilitate operational flexibility to accommodate ecological needs.

The ELC thinks that these further steps are required if the planning principles of the FMPS are to be effectively applied. The justification and need for these guidelines and legislative changes are provided below.

Incorporation of sustainable forest management principles (as reflected in the FMPS and the CSA-SFM) into Alberta's forestry legislative framework

The planning principles reflected in the FMPS are not adequately supported by the Alberta *Forests Act*² and related regulations. The current legislative framework for forest management plans is highly discretionary. While this discretion allows sustainable forest management principles to be incorporated into planning, regulatory support for these principles is required.

This potential "legislative disconnect" with planning policy may effectively undermine the sustainable forestry management principles applied in the FMPS. By way of illustration, the FMPS considers biodiversity and watershed protection as factors relevant to sustainable timber harvest. It is conceivable that once these factors are considered there may need to be a reduction in the amount of forest "contributing" to the timber supply. This arguably undermines (and some might say directly contradicts) section 16 of the *Forests Act* that states the purpose of entering into a Forest Management Agreement (FMA) as "establishing, growing and harvesting timber in a manner designed to provide a perpetual sustained yield". This legislative purpose fails to recognize the necessary ecological constraints and the principles espoused in the CSA-SFM and the planning process as proposed by the FMPS.

By way of further illustration, section 16(2) of the *Forests Act* vests the ownership of the timber resource in the FMA holder. This vests legal rights in provincial timber free of restraints; restraints that are inherent when one considers sustainable forest management, biodiversity and watershed protection. This notion of vested timber rights is also reflected in disposition holder's rights to compensation (both legislated and within the FMAs) where deletions (over set amounts) are made from their original dispositions. Without principles of sustainable forestry management being placed in the legislation it appears that the Albertans may end up paying compensation through the Crown for unsustainable, albeit, yield sustainable, forestry practices.

While the legislative amendments required are beyond the scope of the FMPS itself, the issue of legislative reform is central to sustainable forestry practice. In certain regards, the FMPS is an example of the cart preceding the horse.

² R.S.A. 2000, c. F-22.

Baseline standards for the conservation of old growth, biodiversity, and the protection of watershed values

The FMPS needs further details regarding the interplay of principles (such as those outlined in Annex 4) and how these principles will be reflected in altered planning and operations. Further information is required if the public and the government are to adequately address issues of biodiversity conservation and watershed protection. Examples where further information would be necessary include how biodiversity issues will be addressed in light of current green-up periods. While the FMPS acknowledges the potential impact of the green-up period on biodiversity, the planning mechanism of providing “biodiversity analysis acceptable to Alberta”³ is minimalist and lacks transparency.

Similarly, baseline standards for old growth retention and habitat retention are lacking. The FMPS states that retention of stand characteristics for the conservation of biodiversity should be planned for with a “minimum impact on timber supplies”⁴. This provides inadequate guidance and favours a lowest common denominator approach to planning, particularly when one considers the uncertainty underlying the ecological and stand characteristic requirements for maintaining biodiversity.

Guidelines and policies for operational flexibility to accommodate ecological needs

Additional guidelines are needed to facilitate greater flexibility in planning and operations to accommodate ecological needs. Currently, the FMPS recognizes the importance of continuous improvement, however, implementing continuous improvement may be hindered where the planning and management of operations lacks sufficient flexibility.

For instance, the FMPS provides a mandatory assumption of “even-flow harvest levels”⁵. Alternatives to the “even-flow” scenario (i.e. non-even flow) include accelerated harvest where future supplies are at risk (due to disease or insects) or deceleration of harvest in the short term for immature stands.⁶ The mandatory assumption and the alternatives fail to provide the flexibility to recognize species needs, both in the short and long term, watershed protection issues and other issues relevant to sustaining the ecological integrity of the forest. While mandatory assumptions may be appropriate for long-term forecasts and harvest sequencing, they must not be relied upon to the detriment of sustaining the forest ecosystem.

While amendments to plans and operations are possible later in the process, the FMPS should recognize ecological function and species protection as areas where significant derogation from business as usual (and as planned) may be required.

³ *Supra* note 1 at page 52.

⁴ *Supra* note 1 at page 53.

⁵ *Supra* note 1 at page 51.

⁶ *Ibid.*

Conclusion

The FMPS represents a significant recognition of the importance of sustainable forest management principles in the planning process. The FMPS reflects laudable change to the past planning processes and should be applied to other timber disposition holders.

However, concerns over further details and standards remain, as actual quantitative targets and baselines standards are deferred to later planning processes.⁷ Attempts should be made to incorporate standards at the earliest stage possible, minimizing reliance on general statements of principle that may be inadequately implemented. Furthermore, legislative and regulatory changes are required if sustainable forest management is to be a possibility; the FMPS on its own is insufficient.

Thank you for the opportunity to provide comments regarding the FMPS and please do not hesitate to contact the writer if you have any questions.

Yours truly,

Jason Unger
Staff Counsel

⁷ *Ibid.* at page 89.