

# BC

MAY – JUNE 2015

# Forest

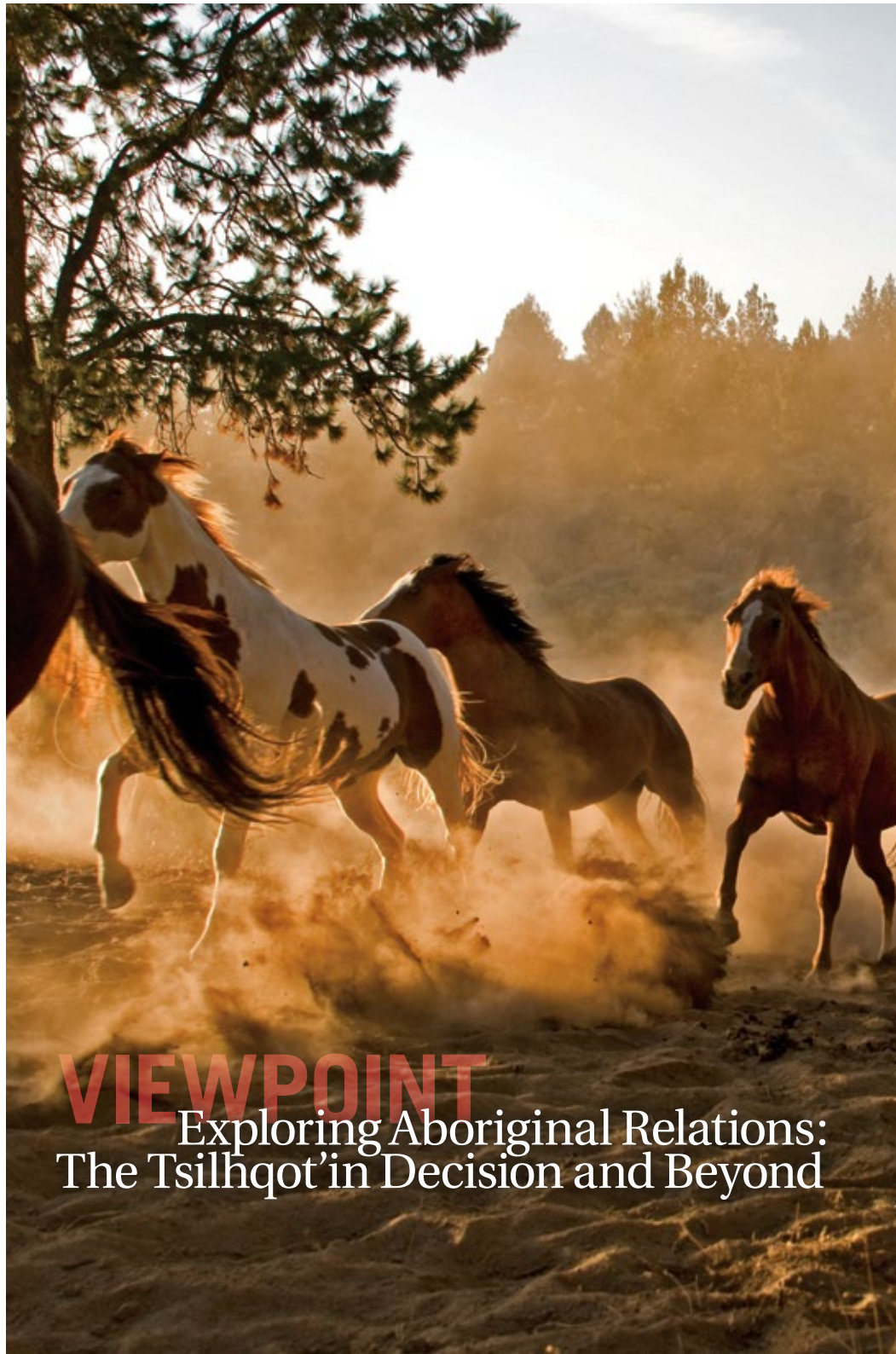
## PROFESSIONAL

### Multiple Perspectives on the Tsilhqot'in Decision

Aboriginal Consultation vs.  
Aboriginal Engagement:  
**How to Collaborate  
Effectively**

An Inside look at  
UBC Forestry's  
Engagement Efforts

**ABCFP's 67th  
Conference and  
AGM: All the Details!**



## VIEWPOINT

Exploring Aboriginal Relations:  
The Tsilhqot'in Decision and Beyond

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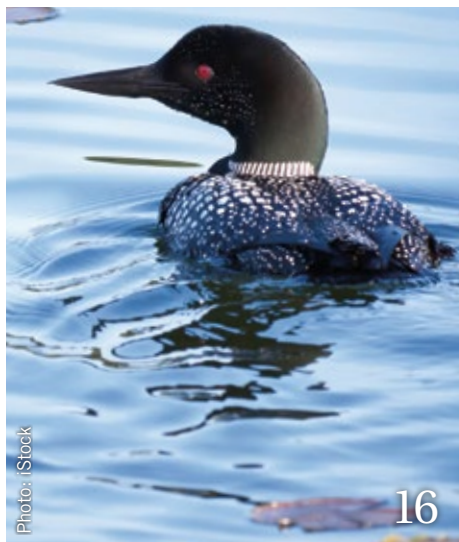


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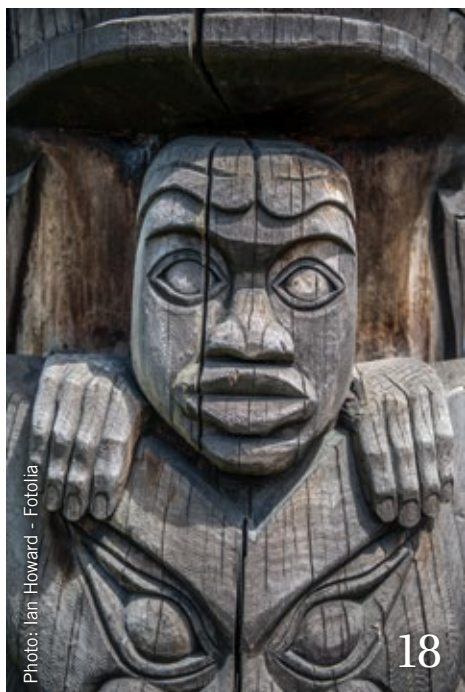


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*"In the field it has saved us time and simplified field surveys. In the office it has saved us a significant amount of staff time" ...*

Ricardo Velasquez,  
District Silvicultural Forester  
Ontario Ministry of  
Natural Resources



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BC Forest Professional is published six times a year by the Association of BC Forest Professionals

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**DESIGN:** Massyn Design

**PRINTING:** Rhino Print Solutions

**DISTRIBUTION:** Rhino Print Solutions

**ADVERTISING SALES MANAGER:** Doris Sun, MJ  
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Tel: 604.639.8103 • Fax: 604.687.3264  
E-mail: forest-ads@abcfp.ca

**ISSN: 1715-9164**

Annual subscriptions: Canada; \$44.80 incl GST  
U.S. and international; \$80 Canadian funds  
Publications mail agreement no: 40020895  
Return undeliverable Canadian addresses to:  
ABCFP Circulation Department  
602-1281 W. Georgia St, Vancouver, BC V6E 3J7

## Tackling Issues of Relevance From the Classroom to the Field

I just want to write this letter to the ABCFP to let you all know how amazing it is to be reading the articles in your magazine that talk of issues that I'm currently learning about in the Forest Resource Management (FRM) program at UBC Vancouver!

Part of my program includes developing a toolkit for regular citizens who wish to contribute to the urban forest canopy in Vancouver — a well-known goal of the Vancouver Greenest City 2020 mandate. This toolkit takes into account predicted future climate conditions to inform citizens of tree suitability. If there is a lack of practical know-how among forest professionals to deal with climate change, as Doris Sun explains in the March/April issue, how much more so are regular citizens lacking?

At the same time, we're also learning about adapting silviculture techniques to manage for climate change as Guy Burdikin speaks about in his article in the same issue. It's reassuring to know that what we're learning in school is what the professionals are actually talking about on the ground!

These articles in your magazine are extremely relevant and keep the new generation of forest professionals in BC up-to-date about what's going on. For example, the management approach used by Merv Wilkinson and the promotion of wood product substitution, both of which are mentioned in Guy Dauncey's article, are topics that all future forest professionals should be familiar with if we are to be effective forest stewards in the coming age.

I'm truly thankful for these publications and I agree with Ben Filewod when he says that "BC has the knowledge, ability, and passion to lead the charge in forest sector adaptation."

I'm really looking forward to being a part of that charge and I'm confident that the ABCFP and UBC will equip me with what I need to do so.

Thank you ABCFP. I dream of the day I'll become an RPF and a full-fledged member.

JASON EARLE

## No Room on These Pages for Discredited Science

BC Forest Professional comes into our home regularly and is occasionally of interest to me, a non-forest professional. The March-April issue however gave me pause, and made me wonder about the ideological bias presented by the journal.

This issue's first letter by Rodger Hamilton is refuting an article you published in January-February challenging the well-established link between weather extremes and global warming. It is headed by the curious title 'Thinking Twice about the Climate Change Debate.' I would agree with Mr. Hamilton, troubling indeed to read such unscientific and unsupportable opinion in a journal for scientific professionals.

But what seriously concerns me is your publication of the book review by Jack Carradice of 'About Face! Why the World Needs More Carbon Dioxide.' Certainly there are a few scientists and plenty of crackpots who are writing about climate change denial these days. Indeed it is a massive PR industry in both Canada and the US, led primarily by the oil industry and the ideological right, in particular the well-funded Heartland Institute in the US. I wouldn't deny their right to speak or publish their opinions, nor would I object to Mr. Carradice promoting his. He has every right to proselytize his beliefs about climate change, the flat Earth, creationism, or the flying spaghetti monster, whatever he chooses to believe. But this kind of discredited opinion has no place in the journal of an organization of scientifically educated professionals.

I realize that this is not a peer reviewed scientific publication, and articles do not have to stand up to the level of scrutiny that my professional journal, that of the Canadian Medical Association, does. Nevertheless, you have a duty to present honest, verifiable opinion, do you not? I would be interested to know how members of your profession hold your editorial content to account, and whether they have any quibble with you promoting nonsense.

DR. ELIZABETH FENDLEY, VANCOUVER, BC



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## Climate Change Articles Spreading Misinformation?

Regarding Rodger Hamilton's concerns over my letter in the January/February 2015 issue of **BC Forest Professional** magazine ("Tempered View of Climate Change is Necessary"), I agree that the lengthy 2014 Intergovernmental Panel on Climate Change (IPCC) report makes it difficult to find certain material, but this difficulty in no way invalidates the conclusions of the report. All the quotes can be found using this link: [http://www.ipcc.ch/pdf/assessment-report/ar5/wg1/WG1AR5\\_Chapter02\\_FINAL.pdf](http://www.ipcc.ch/pdf/assessment-report/ar5/wg1/WG1AR5_Chapter02_FINAL.pdf).

Readers may also be interested in some of the following conclusions of a special IPCC report on climate and disasters released in 2012 entitled "Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation" (SREX) (link available here: <http://ipcc-wg2.gov/SREX/>)

Some of the conclusions (my bold):

- "Most studies of long-term disaster loss records attribute these increases in losses to increasing exposure of people and assets in at-risk areas (Miller et al., 2008; Bouwer, 2011), and to underlying societal trends — demographic, economic, political and social — that shape vulnerability to impacts (Pielke Jr. et al., 2005; Bouwer et al., 2007). **Some authors suggest that a (natural or anthropogenic) climate change signal can be found in the records of disaster losses (e.g. Mills, 2005; Höppe and Grimm, 2009), but their work is in the nature of reviews and commentary rather than empirical research.**" (SREX 4.5.3.3)
- "There is medium evidence and high agreement that long-term trends in normalized losses have **not** been attributed to natural or anthropogenic climate change (Choi and Fisher, 2003; Crompton and McAneney, 2008; Miller et al., 2008; Neumayer and Barthel, 2011)." (SREX 4.5.3.3)
- "**The absence of trends in impacts attributable to natural or anthropogenic climate change holds for tropical and extratropical storms and tornados** (Boruff et al., 2003; Pielke Jr. et al., 2003, 2008; Raghavan and Rajesh, 2003; Miller et al 2008; Schmidt et al., 2009; Zhang et al., 2009; see also Box 4-2). (SREX 4.5.3.3)
- "Most studies related increases found in normalized hurricane losses in the United States since the 1970s (Miller et al., 2008; Schmidt et al., 2009; Nordhaus, 2010) to the **natural variability** observed since that time (Miller et al., 2008; Pielke Jr. et al., 2008). Bouwer and Botzen (2011) demonstrated that other normalized records of total economic and insured losses for the same series of hurricanes exhibit no significant trends in losses since 1900." (SREX 4.5.3.3)
- "The major factor increasing the vulnerability and exposure of North America to hurricanes is **the growth in population (see, e.g., Pielke Jr. et al., 2008) and increase in property values**, particularly along the Gulf and Atlantic coasts of the United States." (SREX 4.4.6.5)
- "There is **low** confidence in any observed long-term (e.g. 40 years or more) increases in tropical cyclone activity (i.e., intensity, frequency, duration) after accounting for past changes in observing capabilities. (SREX 3.3.2, 3.3.3, 3.4.4, 3.4.5)
- "It is likely that there has been a poleward shift in the main

Northern and Southern Hemisphere extratropical storm tracks. There is **low** confidence in observed trends in small spatial-scale phenomena such as tornadoes and hail because of data inhomogeneities and inadequacies in monitoring systems." (SREX 3.3.2, 3.3.3, 3.4.4, 3.4.5)

A more recent paper published in 2014 in the journal *Climatic Change* (link here: <http://link.springer.com/article/10.1007/s10584-014-1179-z>) found similar results concluding (my bold):

- **The absence of trends in normalized disaster burden indicators appears to be largely consistent with the absence of trends in extreme weather events.** This conclusion is more qualitative for the number of people killed. As a consequence, vulnerability is also largely stable over the period of analysis.

Despite the predictions of computer models, the IPCC's own technical summary of the most recent research indicates that there is little to no evidence of increasing trends in extreme weather events. This of course, differs from the message delivered by the media and environmental activists, but as forest professionals we must use science and critical thinking skills to evaluate new ideas and theories rather than hype.

My point is that a publication such as **BC Forest Professional** should be using science-based information instead of contributing to an available cascade of misinformation generated by environmental activists and the media. We must first have the facts before deciding whether there is a need for mitigation and adaptation measures, and if there is a need, factual information will guide us as to what the measures may be.

Jumping to conclusions based on unscientific information is not how a professional approaches an issue and will lead us down the wrong path. In short, there is currently no need to adapt or to mitigate for more extreme weather events, since there is little to no scientific evidence that this phenomenon exists. Continual repetition that it is so, is simply wrong and spreads misinformation.

ROBERT MOHR, RPF

## Have a Compliment or Concern? Write us!

The **BC Forest Professional** letters section is intended primarily for feedback on recent articles and for brief statements about current association, professional or forestry issues. The editor reserves the right to edit and condense letters and encourages readers to keep letters to 300 words. Anonymous letters are not accepted. Please refer to our website for guidelines to help make sure

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Association of BC Forest Professionals  
602-1281 W. Georgia St,  
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# It's Time for Us to Show Up

A lot has changed since I was last president in 2010. Not only are we all a little older — and I'd like to think a little wiser — but the economic outlook for forestry is much more positive. We've moved from survival mode to a thrive mindset.

As I mentioned during my incoming address in Nanaimo, there are four key areas that I am excited to lead over the next year within the context of our business plan.

- Strategic thinking and planning;
- Growing our leadership in the broader resource sector;
- Enhancing our professional independence; and
- Recruiting and developing new members.

Resource development in general, and forestry in particular, is a way of life in BC. It's part of our identity, our culture and is a key economic driver. To keep it this way, we need to continually assess and improve the way we do things — we can't get stuck in the past or continue to do things because that's the way we've always done it.

We need to know where we are and what's happening in the world around us — and we need to know where we are going. We need to think and act strategically about how we're going to get there. This is a key role for council.

One of our strategic goals is to be recognized as a leader in the stewardship of BC forest lands and ecosystems. The public is demanding increased accountability in stewardship and I believe that sustained and vigorous leadership will ensure that we are front and centre in this critical role.

Forests, water, wildlife, minerals, energy in various forms — all of the broader values and sectors that exist on the forested land base — these resources are the lifeblood of our communities. Planning and managing through the complexities of multiple resource values, varying perspectives and changes over time — that's what we do — and we're world leaders at it!

If we don't stand and lead now, in our critical moment, then we fail to uphold our responsibilities to the people of BC and our profession. We need to lead. We need to ensure that we are participating in the right conversations, with the right people at the right time — be it government, industry, communities, First Nations, or other professions.

As recognized leaders in professional reliance, we must continuously and consistently demonstrate that our commitment to the pillars of professional practice (integrity, competency, accountability and independence) is always at the forefront.

Our *Code of Ethics* binds us to “upholding professional principles above the demands of employment.” We are being asked to stand up and make decisions that affect the health of our communities and ecosystems — and then being held to account for these decisions. Professional independence helps us make the right decisions and then explain them to the public.

I believe that we, as a membership, can do a better job in supporting each other in demonstrating our professional independence. We need to truly understand and appreciate that there is a difference between being neutral and being independent.

We can advocate and take positions while being independent. But we need to be diligent in assuring the public, and each other, that our rationales are objective, intellectually honest, and that the various aspects of any issue being advocated for are explicitly recognized and considered.

Thoughtful deliberation, consensus building and ultimately good professional decision making, occur when we spend a bit more time more time focusing on the big picture, the WHY, rather than just jumping into the WHAT and HOW.

Speaking of HOW... How are we going to get all this work done? We are only just starting to see the effects of retirement from our ranks. Ensuring we have qualified people managing BC's forests isn't just important — it's the ABCFP's mission statement. Attracting, developing and retaining new forest professionals are critically important parts of this situation.

You may have heard that we are considering some changes to the registration process. We're still in the very early stages but we've spoken with recently registered members, sponsors and employers to find out what works well and what needs improvement.

As supervisors, managers and business owners, many of us appreciate the need to develop staff who not only understand technical forestry, but who also understand the business and economics of forestry, how to talk to community members, how to practise professionally and how to build relationships. The new process will help develop members with these skills.

I will be championing this initiative in my capacity as president. I am excited to see how this change will translate into significant benefits for enrolled members, sponsors, employers, and — most importantly — for the people and forests of BC.

I know that more will be asked of us as we move forward. BC's future is dependent on the management of its forest lands; whether its issues around the mountain pine beetle, the Great Bear Rainforest, electrical generation and transmission, oil and gas exploration, biomass development, or water management. Our unique skills are required more and more to help sustainably balance the needs of people and the environment.

But it's up to us. The world is run by those who show up. The time is now. 🐾



# Holding Members to Account

Forestry, like other professions in BC, is self-regulated. This means the public recognizes that it takes special skills and knowledge to be able to efficiently and effectively regulate the profession of forestry. The public trusts us to ensure only competent members practise forestry and to investigate issues as they occur.

Our complaints and discipline system is set up to allow anyone — including members and concerned citizens — to file a complaint about incompetent practice. That being said, often members are in a better position than a concerned citizen to file a complaint. Members work with other members and are more likely to see poor practice than someone from the public. Members are also more knowledgeable about ABCFP bylaws and guidance so when you come across something in the bush, you may be more able than a member of the public to identify a potential issue.

Because of our expert knowledge, the public counts on us to follow up on their concerns — it is part of self-regulation. In our role as a regulator, the association hears a lot of anecdotal evidence of wrongdoing in the forest; however, we rarely get any complaints as a result.

Below are some questions about our complaints system and some answers that may help clarify the system and how it works:

**1. Question:** The Forest Practices Report did a report last year that identified a number of unsafe bridges in the Interior. Why didn't the ABCFP discipline the members involved?

**Answer:** The ABCFP works closely with the Forest Practices Board when it looks like issues that they raise involve members. The concern with the bridges report was that many of the unsafe bridges were built without the involvement of either forest professionals or professional engineers. Of the bridges that were unsafe and members were involved, we're looking into what role our members might have played and are considering the most appropriate measures, including the need to investigate breaches of the *Foresters Act* or bylaws.

**2. Question:** Why doesn't the ABCFP be more transparent and let us know who has a complaint lodged against a member?

**Answer:** Like any fair process, we don't announce names of members unless they have been found to have contravened our bylaws. Other regulatory bodies operate the same way — we don't want to have our members' names publicly associated with discipline unless they are found to have done something wrong.

**3. Question:** How does a member of the public launch a complaint?

**Answer:** We have a video on our website that shows people how to launch a complaint. They are also encouraged to call our registrar, Casey Macaulay, RPF, to get help if it's too confusing.

**4. Question:** How does the ABCFP stack up against other dirt professions when it comes to the number of complaints it handles?

**Answer:** While we posed the question to other professions, as of press time we only had a comparison to the Association of Professional Engineers and Geoscientists of BC (APEGBC). It turns out for 2014 we both had around 2.4 complaints per 1,000 members. So in terms of numbers, we are on par with APEGBC.

**5. Question:** Who lodges most of the complaints that the ABCFP review?

**Answer:** For 2014 it was the president of the Association; however this was in response to activities that our members may not have had direct knowledge about. The *Foresters Act* gives the right to lodge complaints on behalf of the association to either the president or the vice-president. Members have told us in the past that some of them are concerned about complaining about someone in such a small sector. Others believe that the association won't do anything with their complaint. While we can't do anything about the small sector, we can assure you that we look at each and every complaint we receive very seriously.

**6. Question:** How else are members held accountable?

**Answer:** The first step to take if you see another member doing something you think violates the *Code of Ethics* or other bylaws, is to talk to them. Many issues get sorted out this way. If you can't get the issue sorted out member-to-member, then a complaint can be lodged. Another way practice issues are dealt with is through our Professional Accountability Process. This process is not linked to discipline, and it often pairs the member with a practice problem with another member who is an 'expert' in the area. The member is mentored, and hopefully their practice improves. If we don't see any improvement in the member's practice, then discipline is always an option. Brian Robinson, RPF, our director of professional development and member relations, runs this program if you want more information.

Another way members are held accountable is through our peer review and practice review program. Each year almost 100 members go through a peer review process. They talk about their practice areas and what could be improved.

For our practice review program, each year we pick an area that we believe needs further review. Because of the Forest Practices Board report, we chose bridges this year. We have selected members who work in operations and hired consultants with experience in the area to do practice reviews. Our goal is to do 20 this year. Peer and practice reviews are run by Jim Crover, RPF, and he's always happy to answer questions about what he does.

**7. Question:** What can I do to improve the credibility of the profession?

**Answer:** The first step is to hold each other more accountable, way ahead of any ABCFP-driven process. This means having workplace and peer conversations about ethics, then reminding one another about the public interest when we get caught up in our business interests. Members can do so much more in a proactive manner, which will eventually result in fewer complaints — but for all the right reasons. It's a way of maintaining public trust and ensuring our members are as competent as possible. 🍷

## Reflections on Ethical Requirements

### On Strengthening Aboriginal Relations

The practice of professional forestry includes many elements of knowledge and skill wrapped together with technical expertise and delivered through the ethics and values assigned by the profession. In order to meet the conditions of professional service, members are expected to keep their knowledge and skills up to date (Bylaw 11.4.6. "To keep informed in the member's field of practice and to be aware of current issues and developments in forestry"). Among those competencies that are important is a professional level of knowledge of First Nations history, legislation, their values and interests. Our responsibility as forest professionals is to acquire that knowledge in developing a fulsome understanding of the objectives on the land in order to practise good forest stewardship (Bylaw 11.3.3. "...to seek to balance the health and sustainability of forests, forest lands, forest resources, and forest ecosystems with the needs of those who derive benefits from, rely on, have ownership of, have rights to, and interact with them").

Fostering relationships with First Nations in your area, introducing Aboriginal youth to the profession of forestry and seeking to understand and apply First Nations values in your area are some of the ways forest professionals can meet their ethical commitments.

### Interested in Mentoring the Next Generation of Forest Professionals?

The ABCFP continuing competency committee is considering the feasibility of developing a member mentorship program. If you have any ideas about how this program should be developed or if you are interested in volunteering to be a mentor, contact Brian Robinson, RPF, director of professional development and member relations, at [brobinson@abcfp.ca](mailto:brobinson@abcfp.ca).

### Sponsors Needed

We are looking for RFT and RPF members who are interested in becoming sponsors for enrolled members. These enrolled members may be having difficulty finding a sponsor on their own or are looking to change their sponsor. Sponsors can be located in any area of the province and can work in any practice area. If you're interested in helping an enrolled member through the registration process, please contact the registration department at [admissions@abcfp.ca](mailto:admissions@abcfp.ca).

### Do You Speak Multiple Languages?

We are looking for registered members who speak languages other than English (especially French, Spanish, German, Mandarin and Cantonese) who are willing to speak with enrolled members with foreign credentials about what it is like to move through the registration process. If you are interested, please contact the registration department at [admissions@abcfp.ca](mailto:admissions@abcfp.ca).

### Registration Now Open for Policy Review Seminar

If you are planning to write one of the sit-down registration exams this year or want to take in some forest policy and legislation professional development, the Policy Review Seminar will be held at Thompson Rivers University in Kamloops on June 11 and 12 in the Open Learning building, room 127. This is an excellent opportunity to receive a summary of forest policy and legislation related to various professional issues and is an effective way to prepare for the registration exams or engage in professional development.

If you are not able to attend this seminar in-person there will be an opportunity for you to attend via webinar where you will be able to see and listen to the presenter and presentations and ask questions through chat. This seminar will also be recorded for your future reference.

To register for the policy review seminar, visit the continuing education page of the website. If you have any questions about this seminar or webinar, please contact Brian Robinson, RPF, director of professional development and member relations.



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## Understanding the Post-Tsilhqot'in Forestry Landscape

IT'S DIFFICULT TO RECALL THE LAST TIME A SESSION AT THE ABCFP CONFERENCE generated as much hype and curiosity as our keynote panel on the Tsilhqot'in Decision. For weeks leading up to the conference, we fielded inquiries from members who recognized the relevance of the discussion and expressed a specific interest in participating.

The implications that decision will have on economic and resource development on First Nations lands are yet to be known. What we do know is that the Supreme Court of Canada decision granted declaration of Aboriginal title to more than 1,700 square kilometres of land in BC to the Tsilhqot'in First Nation, and that will undoubtedly cause a shift in the way First Nations, governments and businesses — including the forestry sector — engage with each other in the future. It is from this starting point that we address this current issue on forestry and Aboriginal relations.

Our opening article directly benefits members who were unable to attend the conference keynote. We invited one of the panelists, Jeff Waatainen, to adapt the pertinent points that were discussed into an extended Legal Perspective feature. We also hear from BC's former attorney general and minister responsible for treaty negotiations, who offers his views on how the province can move forward in the post-Tsilhqot'in landscape. And while the Tsilhqot'in Decision features prominently in this issue, we also tackle other significant subject areas including meaningful consultation and educational outreach to Aboriginal youth.

This issue sees the return of our Science in Action column, which features a look into a multi-year, multi-agency fish passage remediation project. It is the magazine's goal to actively feature more practical science stories and this one will be educational to many forest professionals.

And, as alluded to throughout this introduction, we recently wrapped up the 2015 conference and AGM and will offer a full re-cap of the festivities, as well as an event photo gallery, in these pages. Conference attendees were treated to wonderfully mild weather in Nanaimo, as well as a solid lineup of workshops and networking opportunities. We thank all of our sponsors, speakers, host committee members, silent auction donors and attendees for making the event so worthwhile and valuable. 🍷

### The Principles of Stewardship<sup>1</sup> and the Tsilhqot'in Decision

In June 2014, the Supreme Court of Canada (SCC) set a precedence by granting declaration of Aboriginal title to the Tsilhqot'in First Nation (>1,700 km<sup>2</sup> of land in British Columbia). The SCC determined that the area in dispute was Tsilhqot'in land and that, "governments and others seeking to use the land must obtain the consent of the Aboriginal title holders."

For forest professionals, this court decision dictates the need to further focus on principles of forest stewardship and highlights the importance of thorough planning, due diligence and communications during forestry operations (especially where there are outstanding land claims, which is a large majority of BC).

As outlined in our Principles of Forest Stewardship<sup>1</sup>, stewardship requires knowledge of the values present in the forest. This may require more continuous consultation and/or information sharing driven by forest professionals. Many Forest Stewardship Plans (FSPs) require annual consultation with First Nations on the land base and this frequency may now be required to increase, ensuring that adequate information is being shared and consent is given, especially in areas where outstanding land claims exist and strength of claim to Aboriginal title are high. In BC, forest professionals are entrusted with the management of BC's forests for public interest; this can best be achieved through implementation of best practices and being flexible in the dynamic landscape of emerging court decisions, improved business tools and updated sound science.

<sup>1</sup> The main document can be seen at [http://abcfp.ca/publications\\_forms/publications/committee\\_reports.asp](http://abcfp.ca/publications_forms/publications/committee_reports.asp)

## The Tsilhqot'in Decision: Live at the Conference!

At this year's ABCFP conference Garry Mancell, RPF and partner with DLA Piper (Canada) LLP, moderated a panel that included regular columnist Jeff Waatainen and Jason Fisher, RPF, both associates at DLA Piper. The panel spoke with the membership about the Supreme Court of Canada's landmark decision in *Tsilhqot'in Nation v. British Columbia* and have adapted some key highlights from the discussion in this issue.

**GM** I'm going to be asking Jeff and Jason some of the kinds of questions that people ask us, things like "What does this mean to a First Nation?" "What is Aboriginal title?" It is a different beast, Jeff, so what can First Nations do with it?

**JW** Aboriginal title is something the courts refer to as *sui generis* - that is, it's unique. It has similarities with fee simple in the sense that it gives the holder of Aboriginal title rights to exclusive use and occupation. But it's significantly different in that it is a communally held right, and this puts some limitations on it. One of the limitations is that the uses that can be made of Aboriginal title cannot substantially deprive future generations of the benefits of the land. Another limit not clearly spelled out in *Tsilhqot'in*, but in a previous ruling of the Supreme Court of Canada called *Delgamuukw*, is that the Aboriginal title lands cannot be used for purposes that are irreconcilable with the historical relationship of the First Nation to the land that gave rise to the Aboriginal title in the first place. This is not to say that holders of Aboriginal title can only use Aboriginal title land for traditional purposes, but they can't use it for purposes that are irreconcilable with this historical relationship with the land.

**GM** Jason, what does it actually take for a First Nation to establish Aboriginal title?

**JF** There are traditionally three elements to the test that's been set out by the Supreme Court of Canada that culminated in *Delgamuukw* and then in the *Tsilhqot'in* decision. And those three aspects are occupation at the time of sovereignty and, if you are going to use current occupation of the land as

evidence of occupation at the time of sovereignty, then you have to show some continuity. And the final thing is exclusivity. So those are the three elements of the test and occupation was really the most important part when you look at the transition of the case from the BC Supreme Court all the way up to the Supreme Court of Canada. Justice Vickers in the BC Supreme Court was looking at occupation as being consistent use. It wasn't everyday use, but the paths that the *Tsilhqot'in* were following as they migrated through their territory were consistent. The Court of Appeal took a more narrow view of occupation and said there's got to be something more continuous than that. So they were looking at actual village sites or camp sites within the territory and saying that we think we can see occupation within these small areas, but you can't show occupation within that wider territory just because they travelled over it, or just because they hunted on it. And then at the Supreme Court of Canada looked at it again and said it's a territorial approach and it's elements like hunting, like preparing land for berries and roots and other things -- those are indices of occupation.

The Supreme Court of Canada doesn't spend much time on the continuity element. But exclusivity is very important. It doesn't mean that they were the only people using the land and the *Tsilhqot'in* weren't. But if other First Nations were using the land under terms of a treaty, or if the other First Nations were trespassing on the land and faced retaliation as a result, all this is evidence of exclusive use by that First Nation.

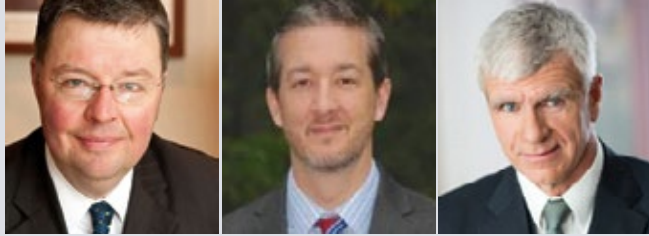
**GM** One of the things that we encounter in

BC all the time are competing claims from different First Nations in respect of the same territory. Presumably this will be problematic if they are trying to advance a case for Aboriginal title.

**JF** Absolutely, and that's what we have seen. The government in response to the *Tsilhqot'in* case did a bunch of strength of claim analyses and many First Nations have gone back and done strength of claim analyses as well. And really I think you're going to be looking at areas where there is a strong claim, and where exclusivity and occupation are going to be easier to prove. Then there's going to be fringe areas where there might be overlapping claims, or where those boundaries shifted over time and those are going to be much more difficult for any First Nation to prove title to.

**GM** Well, let's go back to the uses the land can be put to again in a general sense. Jeff, the court did find that the government could infringe on Aboriginal title without consent where there is a certain test that was met. Can you give us some insight on that?

**JW** The Crown continues to hold what is called underlying or radical title and that gives rise to two things. First of all the government has to exercise their underlying title for the benefit of the holder of the Aboriginal title rights. The other thing is it gives the government the right to infringe upon the Aboriginal title if the infringement is justified. So the courts have developed a justification test and there are three steps to it. First there has to have been previous consultation and accommodation with the First Nation who holds the Aboriginal title. Then the project has



# Legal Perspective Feature

Featuring (from L-R) Jeff Waatainen, LLB, MA, BA (Hons); Jason Fisher RPF, LLB; and Garry Mancell RPF, LLB

to have a compelling public policy objective. Finally, the infringement also has to accord with the Crown's fiduciary duties to the First Nation. One of the things that they look at here is whether the infringement is proportional with the overall benefit of the project. The other thing they look at is what we were talking about earlier: whether the project is something permitted by the Aboriginal title.

**GM** So what does this mean now to the holder of, say, a forest licence in a timber supply area where a significant part of the area is now subject to Aboriginal title? And we'll go one step further, let's say it's significant enough that it's going to impact upon the chief forester to determination of the annual allowable cut (AAC) for that TSA?

**JF** Well, I think that's exactly what's going to happen. Title Land is not part of, of Crown land so it's not part of that area that can be managed for timber by the province and as a result I think the chief forester would have to do a timber supply analysis for any region where Aboriginal title was found. I think that that title land, barring any agreement with the First Nation, would come out of the inventory of land used to determine the AAC.

**GM** The court did find that the province could make laws in respect of Aboriginal title land but there was a test. Jeff, do you want to give us some insight on what that test is?

**JW** First of all there is a test to see if there is an infringement. You have to establish whether the limits on Aboriginal title imposed by the law are reasonable and proportional and whether the law prevents the First Nation from exercising their rights in their preferred way. If the court does find that there is an infringement, then the law has to pass the justification test we discussed earlier: adequate consultation and accommodation, a substantial and compelling public policy objective, and otherwise in accordance with the fiduciary duties of the Crown to First Nations. The easy cases will be where there is a hugely important public policy objective and barely any infringement on the Aboriginal title right. The fights will be where there is a hugely important public policy objective on the one hand and a massive

infringement of Aboriginal title on the other.

**GM** So what's the story with the *Forest Act* then? The one thing that all three courts were consistent on is that the *Forest Act* would not apply to Aboriginal title lands.

**JW** That's more a matter of statutory interpretation. Once the court found that this particular piece of land was Aboriginal title land, timber on that land no longer fit the definition of Crown timber under the *Forest Act*. So the provisions of the *Forest Act* that allowed the

government to dispose of Crown timber did not apply because this wasn't Crown timber, it was Aboriginal title timber. Now theoretically the government could go back and amend the *Forest Act* to define Crown timber as timber vested in the province and timber on Aboriginal title land. Of course that legislation would then have to satisfy the justification test.

**GM** Jason, what's going to be the status of development activities that are approved and

PLEASE SEE **TSILHQOT'IN DECISION** on Page 28



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Effective April 17, 2015, Davis LLP, a firm with more than 260 lawyers and deep roots in the Canadian and international business communities, combined with DLA Piper LLP (US), a global law firm with over 4,200 lawyers located in more than 30 countries and has adopted the name DLA Piper (Canada) LLP.

## Tsilhqot'in and the Way Forward

**WHAT IS THE SIGNIFICANCE OF LAST SUMMER'S SUPREME COURT DECISION** in the Tsilhqot'in case and how should government, industry and First Nations respond to it?

For a complete picture, we need to first understand some history. Thirty years ago, MacMillan Bloedel's plans to log Meares Island on the west coast of Vancouver Island were thwarted by protest. Logging the island's majestic cedars was opposed by many and not just environmentalists. The island's two First Nations — the Clayoquot and the Ahousaht — wanted logging stopped to prevent harm to their rights. They relied on a line of cases in which Canadian courts had, at least in theory, recognized the idea of Aboriginal title, founded in the fact that, "when the settlers came, the Indians were there, organized in societies and occupying the land as their forefathers had done for centuries." They also relied on the newly-enacted section 35(1) of the 1982 *Constitution Act*, which says, "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed." They argued that constitutional recognition and affirmation must mean something. In March 1985, BC's Court of Appeal granted an injunction to the First Nations by a majority of three to two.

It was a near thing, and rightly seen as a remarkable victory for First Nations. The Court of Appeal said that the claim of Aboriginal

title could not be decided without a full trial. And so the question was: how best to balance the rights of the parties until that trial could take place? What bothered the court was expressed most directly by Justice Peter Seaton when he said, "I cannot think of any native right that could be exercised on lands that have recently been logged."

The injunction was intended to remain in place for a short time, to allow for an early trial of the Aboriginal title claim. Thirty years later, the logging has never occurred. The trial did eventually begin, but it ended with a settlement agreement.

Why does all this history matter?

At about the same time that opposition was growing to logging on Meares Island, the Xeni Gwet'in First Nation of the Tsilhqot'in were also objecting to the prospect of commercial logging on their traditional territory. That objection eventually led to litigation. This case, unlike Meares Island, was not settled.

Three decades later, the case was finally decided by the Supreme Court of Canada, and for the first time in our history, the highest court in Canada made an order declaring the existence of Aboriginal title on Crown lands. The implications of the decision reach beyond Tsilhqot'in territory. For one thing, the Court's test for the proof of Aboriginal title makes it likely that significant portions of the



# Viewpoints

By Geoff Plant, LLB

‘traditional territories’ of First Nations throughout BC are subject to Aboriginal title.

Aboriginal title is not just the right to be consulted about government’s land and resource decisions, it’s the right of the Aboriginal owners to decide for themselves how the land will be used, and to occupy, enjoy, possess and manage it.

There are important limits. Aboriginal title land is held communally, not individually. It cannot be sold, except by way of surrender to the Crown. And it cannot be used in a way that would prevent future generations from using and enjoying it. But Aboriginal owners are entitled to the economic benefits of their land and they can use it, as the court said, “in modern ways, if that is their choice.” Equally important, the court made it clear that Aboriginal title lands are not enclaves, immune from provincial legislative authority. Provincial laws can apply and governments also have the power to infringe Aboriginal title; however, such infringements must satisfy rigorous tests of justification.

Specifically, justification requires “a compelling and substantial objective” and should include consultation with the Aboriginal titleholder. Governments must act honourably and infringements must be minimal. Thus the court has established a framework for interaction between the First Nations who own the land and the public interest.

Where does that leave us? Last summer, in the wake of the decision, there were voices in the business community saying that the decision would paralyse the province. We’ve heard that before, as the same argument was made at the time of the Meares island injunction.

The sky did not fall on BC’s resource economy in the spring of 1985 and it didn’t fall in the summer of 2014. To be clear, the landscape in which one operates has definitely changed and new challenges exist but resource development has always been hard work.

There are still today, as there were in 1985, opportunities aplenty for nimble, creative, forward-looking resource businesses to thrive and prosper. But we need some creative thinking, risk taking and leadership — all of which we have seen the seeds of in recent years, but now need to really blossom.

This brings us to the principle that the courts have invoked to guide action: reconciliation. As the Supreme Court has said, “the fundamental objective of the modern law of Aboriginal and treaty rights is the reconciliation of Aboriginal peoples and non-Aboriginal peoples and their respective claims, interests and ambitions.” This is the law’s objective and should also be the objective of our public policy.

What does reconciliation mean and how can we move it forward to create a stronger economic foundation and a better, fairer province? Dictionaries define the word as the “restoration of friendly relations” or the “action of making one view or belief compatible with another.” Inherent in these ideas is the acknowledgement of the mutual legitimacy of distinct persons and perspectives. Reconciliation thus implies both mutual recognition and mutual respect. Real reconciliation requires something more than saying — it requires doing. This is much more than just being nice to each other. It’s a way of relating that acknowledges and legitimizes the possibility of different perspectives.

It’s about listening and learning, and then acting on what you’ve learned. It requires discussion, consensus-building and negotiation. The pathway to reconciliation requires that we sit down and talk

with each other and take ownership over the process and control over outcomes. Of course, doing nothing is also an option but doing nothing here would guarantee more litigation and more conflict.

Our province has the real potential to be a leader in business-Aboriginal and government agreements that promote economic reconciliation. We’ve seen enough of these agreements to be able to glean lessons learned from experience. First, those who think that consent is just about paying for the right to infringe Aboriginal title are bound to find that they have missed the point. Consent is actually a way of describing a process of reconciliation and is more about relationships and respect than commercial bargaining.

Secondly, there is a need for principles and frameworks, the development and adoption of best practices and transparency to guide consultation and negotiation. Otherwise, all we are left with is ad hocery and no real way of establishing consistency or predictability.

Third, there has to be room for nuance and flexibility. BC’s Aboriginal reality — with over 200 *Indian Act* bands, most of whom see themselves as freestanding First Nations — is too complex for a one-size-fits-all framework.

Lastly, as we imagine the way forward, I offer a few suggestions: Government must take the lead because fundamentally, the constitutional imperatives of recognition and affirmation are the responsibility of governments, but the business community needs to be included in the discussion. Business knows best how to unlock the value of our resources and that expertise is necessary at any table where land and resource planning is being discussed. There are too many bilateral conversations happening now between government and First Nations. There needs to be more multilateral conversations and processes.

The road ahead also requires that governments bring more to the table. It’s time for offers and options that embrace the reality of Aboriginal title.

Success is not unaffordable. Some First Nations may seek to assert their rights as landlord and charge rent for the use of their lands. What is more likely to create real, lasting prosperity is not so much a transfer of wealth in monetary terms, but the creation of opportunity. Opportunities for First Nations can be defined as the ability to become real partners in the resource economy, with revenues coming from business opportunities, employment and ownership, as well as revenue/royalty sharing.

This won’t happen quickly. It’s the project of a generation. In some places it’s already underway, thanks to creative and clever protocols and agreements entered into around the province. So we don’t have to invent it from scratch. But what we have to do is commit ourselves collectively to this work and create competitive advantages, not just add cost.

I strongly believe this is possible. It’s what can happen when we reject denial and embrace reconciliation; when we truly recognize and affirm that we see Aboriginal people and their unique rights not as the ‘other,’ but as part of the larger ‘us’. That justice and opportunity for First Nations is justice and opportunity for all of us.

Of course it won’t be easy. But it’s our leadership opportunity as British Columbians. 🍷

*Geoff Plant, a partner in the Vancouver law firm Gall Legge Grant & Munroe LLP, has practised in the area of Aboriginal law and policy for over 30 years. He was BC’s Attorney General and Treaty Negotiations Minister from 2001-2005.*



# Forestry After

**DID ANYONE NOTICE THAT THE PROVINCE DIDN'T OFFICIALLY RESPOND** to the Tsilhqot'in Decision until September 11, 2014? Why? Things have changed in a way that is hard for people to comprehend let alone respond to. As a result, for those in forestry, now more than ever we need to get our work with First Nations right. We have to be clear in our focus and in our consultation. Our engagement has to be meaningful, without mistakes. Being clear means understanding the difference between affairs vs. relationships, consultation vs. engagement and stakeholders vs. Aboriginal Peoples.

#### Aboriginal Affairs vs. Aboriginal Relations

The big challenge with Aboriginal affairs is that it is reactive, when something goes wrong we need to go deal with it. This is definitely the federal approach. Consider the federal department, Aboriginal Affairs and Northern Development Canada. It has well over 100 years of experience working with Aboriginal communities. The department's recent challenges include moldy houses, clean drinking water and a plethora of other health and community issues. Do you really want to be lumped in with that perspective? In light of Tsilhqot'in I would suggest no.

Forestry operations must start building around the idea that in less than 20 years it is possible that First Nations will be the new landlords, especially if other First Nations decide to initiate court cases or new treaties start to emerge. In a recent article published by the Williams Lake Tribune on February 24, 2015 titled, "Uncertainty surrounds rights and title decision," the Minister of Aboriginal Relations and Reconciliation, John Rustad stated: "Instead of paying the province an annual fee for permits or licenses for example, those fees will probably be paid to the Tsilhqot'in."

Tsilhqot'in is just one case, but if the province can't make the expected adjustments it could be one of many more. Remember Tsilhqot'in was triggered by forestry activity consultation. In this light, Aboriginal

relations, meaning proactive and ongoing engagement with the goal of making relationships and outcomes better, gives us the perspective required to move forward in a positive light without the baggage of the past. It means shared decision making, jobs, business development, equity positions and revenue sharing on a government-to-government basis and sends a message that we have changed and are committed to working together continuously on the future.

#### Aboriginal Consultation vs. Aboriginal Engagement

Why do some organizations refer to their work as Aboriginal engagement and others as Aboriginal consultation? To find the answer, look to the evolving area of the law termed Aboriginal consultation and accommodation; specifically, look at the duty to consult and who owes the duty to consult — the project proponent or government.

The duty to consult first emerged in the Supreme Court of Canada's Delgamuukw and Gis'DaWay decision of December 1997. This duty obliged the government to consult with Aboriginal Peoples when projects infringed on the rights and title of the Aboriginal Peoples. Following this decision, questions were raised about whether the duty to consult could be delegated by government to the corporations whose business was engaging in the infringement, ie. forestry or power developments. *Haida Nation v. B.C. and Weyerhaeuser* confirmed that only administrative portions of the duty to consult may be delegated to corporations and that governments clearly maintain the obligation to fulfill the legal duty to consult:

"A declaration is made that the Crown provincial had in 2000, and the Crown and Weyerhaeuser have now, legally enforceable duties to the Haida people to consult with them in good faith and to endeavour to seek workable accommodations between the Aboriginal interests of the Haida people, on the one hand, and the short-term and the long-term objectives of the Crown and Weyerhaeuser to manage TFL 39 and Block 6 in accor-



# Tsilhqot'in

Photo: Bill Perry - Fotolia

dance with the public interest, both Aboriginal and non-Aboriginal, on the other hand.” *Haida Nation v. BC and Weyerhaeuser*, 2002 BCCA 462.

So there you have it — government more so and corporations less so — have the duty to consult and if need be, seek workable accommodations. Some corporations initially took the Haida decision as the affirmation that government has the duty to consult and should be doing this work. Sounds good in principle, but what happens if the government gets it wrong? Answer: legal challenges. From a corporate perspective, timelines get pushed back, costs increase and some projects are stalled for years.

What happens if corporations get out there early and start building lasting relationships with Aboriginal communities who are involved in the decision-making process as if they are the landlords? In other words, encouraging Aboriginal communities to participate across the whole business in employment, business development, revenue sharing and equity partnerships. These should not be employment or business development contracts with “best efforts” clauses either, as those come back to haunt you. These should be contracts with key performance indicators and penalties for failing to meeting the indicators — think equity positions for communities.

## They are Not Stakeholders!

The term stakeholder is a commonly used business and government term that should be avoided at all costs when working with Aboriginal peoples. While the intention in using the word — to develop meaningful relationships that encourage communication — is a good one, use of the term ‘stakeholder’ when meeting with Aboriginal leaders and community members will likely derail your best intentions and efforts.

To illustrate, if the Rod and Gun Club, a stakeholder, doesn’t like your proposal they can lobby their government representative to try to make changes. They can also engage in negative media campaigns and in rare

cases resort to civil disobedience.

If an Aboriginal community doesn’t like your proposal they can also lobby their government representative, engage in negative media campaigns and in rare cases resort to civil disobedience, but they can also launch legal action to protect their constitutionally protected rights thus, putting projects in immediate jeopardy and forcing proponents and governments to conduct additional engagement. Can you say show stopper? Do everything possible to avoid the use of the term ‘stakeholder’ in your conversations and on your company stationery.

In summary, what will give you the best chance of success is conducting Aboriginal relations with communities, not stakeholders; building a relationship on a future where participants are fully involved in the decision making process and benefiting with employment and business development opportunities; equity positions; as well as government revenue sharing on a nation-to-nation basis. Easy!

You don’t have to do what I’m suggesting. In fact, you may have lawyers and executives saying everything is good. We are following the law of today. Equity position, employment and business development items are just extra costs the organization can’t afford. For the record, each side’s lawyers are saying they are right. Whose lawyers are right? Who correctly guessed the outcome of the decision in Tsilhqot’in before money was being spent on a legal challenge? No matter your decision — jobs, business development, equity positions, revenue sharing or pricey legal battles and project delay costs — one thing is certain, you will spend money. In my opinion, Aboriginal relations will be less expensive and create better opportunities for long-term economic certainty in post-Tsilhqot’in times. For forest professionals the choice is yours. Good luck working with the communities. 🍀

*Bob Joseph provides onsite training to clients across BC and Canada. Contact him at [www.ictinc.ca](http://www.ictinc.ca)*



# Loon Song or Lunacy: The Tsilhqot'in

ON AN EARLY MISTY LAKESIDE MORNING, ONE OF THE LOVELIEST AND loneliest calls in nature can often be heard. Out of the stillness of the emerging dawn a loon begins its tune, almost in a tone of despair but ending in a transitional note of hope. When the Supreme Court of Canada (SCC) delivered its Tsilhqot'in Decision on the 26<sup>th</sup> day of June in 2014, it was heralded as a gateway to a new way of doing business in the forests of British Columbia. The court's declaration seemed like a positive trumpeting of a shift in the precarious nature of Aboriginal relations. After 12 years of despair and legal battle by the Tsilhqot'in, the court's proclamation must have offered substantial optimism to eventual solution of the Aboriginal land question in BC.

Aboriginal coastal forestry is also struggling to ascend to its promise and cannot help but be brought into the muddle caused by the SCC decision. Hopefully, the three governments (Aboriginal, federal and provincial) will listen to the messages in and adhere to the principles of the SCC — then it may be possible for new actors and ideas to enter a coastal forestry economy in desperate need of both.

Historically, if there is another certainty besides 'death and taxes,' it has been that governments break treaties as fast as they are printed. In the majority of areas in Canada, the Aboriginal land question has been wrapped up in neat European legal packages called treaties. Aboriginal land policy in BC avoided this pitfall by never negotiating treaties at all! BC Aboriginal land policy only recently involved treaties and was quite simple<sup>1</sup>:

*The title of the Indians in the fee of the public land, or of any portion thereof, has never been acknowledged by Government, but, on the contrary, is distinctly denied. In no case has special agreement been made with any of the Tribes of the Mainland for the extinction of their claims of possession; but these claims have been held to have been fully satisfied by securing to each tribe, as the progress of the settlement of the country seemed to require, the use of sufficient tracts of land for their wants for agricultural and pastoral purposes.*

The land and its resources were theirs to use until we wanted them!

<sup>1</sup> Trutch, J.W. 1870. "Report on Indian Reserves" In: Robert E. Cail, 1974. Land, Man and the Law UBC Press Vancouver, Page 184

BC Aboriginal lands policy at Confederation was contrary to the then current Dominion Indian policy but the framers of the Terms of Union were not to discover that fact until almost three years after BC joined the Dominion (Cail, 1974). In reality the province's views and actions left BC not only with growing Aboriginal discontent but a legacy of litigation that in the long run was to cost the province far more than extinguishing Aboriginal title and laying out reasonable reserves would have done at the turn of the last century.

The SCC decision has the potential to catalyze much needed change in the affairs of economic relationships in BC's coastal forestry community. Basically the SCC rejected a lower court's decision but much will depend on the provincial government's response to the principles developed in the case. Traditionally, government's response has been denial, then that denial is layered copiously with analyses. If the analyses take long enough, the actors die or run out of funds. Law, on the other hand, is not about analysis, it is about reconciliation. The provincial government has a real opportunity to bring Aboriginal land policy reality to a legal truth established by Tsilhqot'in.

Rosenberg (2014) lists a number of legal reasons that aided the Court in the determination of why a declaration of Aboriginal title was suitable in the Tsilhqot'in case. When the SCC overturned an earlier BC Court of Appeals decision that had found that Aboriginal title could only exist for intensively used specific sites and could not be territorial in nature, it reconstructed the boundaries for settling issues brought about by past Aboriginal land policy. These reasons could be bound together to make provincial policy legal reality. In no particular order, a few of Rosenberg's observations are:

1. Area exclusively controlled by an Aboriginal Nation.
2. No overlapping claims with other Aboriginal Nations.
3. Private lands are not an issue.
4. Majority of the population are members of the Aboriginal Nation in question.
5. Area is remote and relatively undeveloped.
6. Aboriginal title is necessary in the process of reconciliation.





Photo: iStock

## Decision and Coastal Forestry

There are those arguing to reduce the implications of the SCC decision. Their major position is that the facts of this case should be restricted and not have application in future cases brought forward by other First Nations. This is not a diligent approach to the issue and is akin to locking the jail cell after the prisoner has escaped. If this view is adopted it would almost require First Nations take an adversarial approach in resolving to their land title issues, making many lawyers richer.

The SCC decision establishes some legal theory and has some interesting principles with respect to Aboriginal title. Title is territorial and not restricted to specific sites; it permits the owner to actively manage the land, while provincial laws that have general application infringement on title must pass a threshold and to get the consent, remedies imposed by the court could be significant. Yet for First Nations who have not proved title, governments owe a procedural duty to consult and accommodate unproven Aboriginal interests. In paragraph 97 of the Tsilhqot'in Decision, the chief justice offered this advice:

*Add this. Governments and individuals proposing to use or exploit land, whether before of or after a declaration of Aboriginal title, can avoid a charge of infringement or failure to adequately consult by obtaining the consent of the interested Aboriginal group.*

The key word is **consent** and that has a different meaning than 'consult and accommodate.' Other words that are also important are 'interested Aboriginal group.' If representing either federal or provincial government or a company and contemplating doing work in the North or Central Coast Timber Supply areas known as the Great Bear Rainforest, one should ensure he/she had the consent of all the 'interested Aboriginal groups' including those that are not being represented by either the Coastal First Nations or the Nanwakolas Councils<sup>2</sup>.

<sup>2</sup> The Central and North Coast LMRP reached consensus agreements that were recommended to the BC government. Subsequently, the Province and Coastal First Nations consisting of the Nawakolas Council and Coastal First Nations Great Bear Initiative entered into a government-to-government process that reviewed the LRMP agreements before final decision-making by the provincial government. At least ten First Nations in the Great Bear Rainforest are not represented by these two groups.

### Moving Forward

As BC moves forward in its second century as a province, it looks back at mass appropriation of the lands, territories and resources of its indigenous people and of virtually unlimited resource extraction from their traditional territories. This has resulted in their dispossession and impoverishment along with many other associated problems that occur on a daily basis. Their issues go well beyond the matters that were before the SCC in reaching the Tsilhqot'in Decision. Yet, the provincial government cannot go back in time and rectify the circumstances that created the situation but it can move forward with the federal government and the Aboriginal governments to build a different way of 'business as usual.' It cannot be a unilateral journey in which government decides and enforces the rules, the kind of activity that has caused many Aboriginal Nations to lose interest in the treaty process and caused the treaty process to waver on the brink of failure in BC. When it comes to coastal forests, a forestry regime that reflects the interests of governments and industry rather than those of First Nations is no longer acceptable.

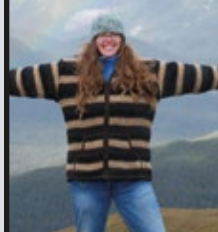
### Final Notes on the Loon's Cry of Hope

For coastal forestry, is hope based in reality or extreme foolishness — lunacy? The SCC ruling could eventually mean that First Nations are to be equal partners in natural resource development in their traditional territories and proprietors on lands where they have established Aboriginal title. For the new coastal forest economy to be a reality, Aboriginal people must become significant shareholders in sustainable provincial forest management. It is imperative that BC forest professionals assume a leadership role in making this ownership a reality. 🐾

*Will Wagner, RPF, resides in Campbell River where he is continuing research initiated while with the Canadian Forest Service. He studied forestry at UC Berkeley, forest engineering at Oregon State and the economics of forest resources at University of Victoria. He has practised forestry in three regions of the US and also in the Interior and on coast of BC.*

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## Conserving Ecosystem and Human Health Amongst Cumulative Effects in a Changing Climate

**THE ECOLOGICAL LANDSCAPE SURROUNDING ?ESDILAGH OF THE TSIHQOT'IN** Nation in central British Columbia has changed significantly over the past 100 years. A checkerboard of logging blocks, mining and agricultural development, combined with societal demands, accumulate alongside land traditionally occupied by the Tsilhqot'in. The management and legal landscape of the Tsilhqot'in has also significantly changed within the past year. While ?Esdilagh has maintained a longstanding respect for upholding stewardship and responsible practices related to land, water and resources throughout their homelands and traditional territory, there is significant concern about ecosystem and human health impacts from cumulative effects in the region.

Forestry activity has a broad spatiotemporal footprint throughout ?Esdilagh's traditionally-used lands. Transitional Old Growth Management Areas (OGMAs) have been established, however, there is concern from the community about the rotational manner of distribution across the landscape. It would appear that the OGMAs shift as development occurs for the Gibraltar Mine, a next door neighbour for ?Esdilagh, which has never had an environmental assessment even though it has been in operation since 1972. Taseko Gibraltar Mine is a copper-molybdenum mine which currently occupies an area of 113 km<sup>2</sup> and consists of six separate ore bodies which interact with ?Esdilagh Indian Reserve lands immediately adjacent to the mine site. The transitional OGMAs move around as the mine expands, however, as harvesting around the mine continues there are fewer quality areas to draw from.

Given the large industrial footprint in its traditional territory, ?Esdilagh is keen to understand how natural resource extraction has influenced the current structure and health of the ecosystems within the Tsilhqot'in and as it relates to their Reserve Lands and adjacent areas. For the past eight years, Nits'il'in ?Esdilagh/Chief Bernie Elkins Mack, Tsilhqot'in Nation, has been promoting discussion and thought towards the development of an in-depth ecological and human health review of ?Esdilagh homelands because his community is concerned about "the health of the ecosystem around the Gibraltar Mine. Invasive plants occupy significant areas while other cumulative effects are noted across the landscape including power lines, transportation corridors and industrial development such as the Mount Polley mine. The primary power line feeding into the Gibraltar Mine has a strong linear footprint on the land and has resulted in the introduction of agronomic species and potentially invasive grasses. This has major impacts to our berry picking and foods for wildlife we depend on. Many of our members do not have jobs and they rely on local foods for sustenance. While there is a focus on mechanical vegetation clearing, there is no consideration to using genetically native plants and seeds in restoration activities, resulting in a loss of native plant communities and decreased biological diversity."

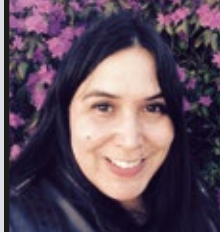
Nits'il'in ?Esdilagh/Chief Bernie Elkins Mack have brought together a team of resource professionals to provide technical and scientific support in order to better understand and gather data which will address the ecological concerns expressed. In partnership with international health-impact assessment and mining engineering experts, ?Esdilagh is conducting its own investigations. In the Fall of 2014, ?Esdilagh began a three-year-long series of studies on soil, water, plants and berries, wildlife and human health to find out what the impacts are. Thanks to the Vancouver Foundation, Dr. Janis Shandro's lab at the University of Victoria and University of British Columbia, Monkey Forest Consulting, Shifting Mosaics Consulting and a recently awarded Aboriginal Fund for Species at Risk Grant from Environment Canada, ?Esdilagh is able to start investigating these concerns from a socio-ecological lens.

Over the next three years, ?Esdilagh and its team of scientists will explore human health impacts from natural resource development and extraction, ecological health impacts including inventorying invasive species and monitoring critical habitat for species of cultural significance. Through the support from the Aboriginal Fund for Species at Risk for our project, "Preserving Tsilhqot'in Culture Through the Conservation of Native Species," we will conduct sampling on reserve lands and associated lands which will provide scientific and cultural data to be interpreted and utilized for implementation in best management practices, natural resource development in ?Esdilagh traditional territory and to empower and engage community members in appropriate ecological management. This will be accomplished through a phased approach supported by our team of scientists and resource professionals and empowering community members to be involved in land management from fieldwork and invasive plant identification to the propagation of native plants and higher level land management planning and habitat restoration.

Our research is structured through the scientific method, blended with cultural and traditional knowledge and held to international standards as guidelines. "Over the course of the next three years, we will be modifying and refining monitoring and mitigation programs for our traditional territory founded on ecosystem-based management and adaptive management principles. Our results will provide foundational data and information which will structure how we engage and what thresholds we will accept when making determinations about projects across our land," states Chief Elkins Mack, suggesting that "since the annual allowable cut (AAC) has recently been reduced by half, reducing timber harvesting in the area, there will more demand on area-based tenure, agroforestry and non-timber forest products. Our research will be key in providing critical knowledge to move forward in forest stewardship, land management and cumulative effects mitigation."



Photo: Ian Howard - Fotolia



## Keeping Up to Date with Aboriginal Initiatives

AS A RESULT OF DIRECT ACTION, INCLUDING SUPREME COURT OF Canada rulings that has bolstered the definition of Aboriginal rights and title, the province has responded proactively by working with Aboriginal communities to establish new forest tenures and other policy developments that benefit Aboriginal communities. Now, Aboriginal peoples in BC hold 8.8 million cubic metres of the allowable annual cut (about 11%) and non-replaceable licences are being replaced by renewable tenures. Clearly, a move towards increased participation by Aboriginals in forest management is occurring.

While much progress has been made, many Aboriginals envision further developing business partnerships and capacity building opportunities with government and industry to move towards equitable economic development for their communities. Therefore, there is a need to build governance models that support Aboriginal-vested interests in a way that minimizes disruption of the forest sector. Ideally, creating sustainable resource management models that include Aboriginal communities will create win-win situations, since resource management is not necessarily a zero-sum affair.

For instance, it is well recognized that forestry has a human resources issue, since over the next decade it is expected that over 60% of the workforce will be replaced. We will need to develop strategies to train youth to fill the workforce needs in the near future. Since Aboriginals are the fastest growing population in BC, and Aboriginals comprise 11% of the population of schools from K-12, it is important to consider the future of recruiting Aboriginal youth to forestry.

Most forest professionals work for the government, industry or as consultants, so it is inevitable that most will interact with Aboriginal communities in their careers. This is an obvious reason to stress the importance for forest professionals to maintain up-to-date knowledge on Aboriginal topics in this changing field. With this in mind, it has never been more important for UBC Forestry to stay current on this evolving role of Aboriginal forestry. To facilitate this, the faculty renewed its commitment to Aboriginal Engagement in the 2012 strategic plan with four points: students, communities, research and curriculum.

### Students

With increased donor support in 2013, the faculty was able to expand the Aboriginal student program that focuses not just on recruiting Aboriginal students but also developing a framework to support Aboriginal students, including increased awards, tutoring, hiring students, and mentoring and networking activities. The awards have been especially helpful since a large barrier to Aboriginal students attending UBC is the cost of living in Vancouver.

UBC Forestry defines Aboriginal peoples to include not just First Nations, Métis and Inuit in Canada, but Indigenous peoples from around the world. About 21% of our undergraduates and 59% of graduate students in the faculty are international students; and there are an increasing number of Aboriginal students in the program. The international and Aboriginal student bodies creates an environ-

ment with a diverse worldview and an environment for innovation and solution building. In class, my students ask me, "What are the global implications of this topic?" It is exciting to be part of a faculty that embraces the global and local implications of forestry.

### Communities

UBC Forestry recognizes the importance of developing good relationships with Aboriginal communities with a quality over quantity approach. Last year marked the 20<sup>th</sup> anniversary of the community-based advisory committee, the First Nations Council of Advisors, who provides input on Aboriginal initiatives within the faculty and to evaluate work as it progresses. Members are comprised of Aboriginal alumni, community leaders and industry and association groups including forest industry, government and the ABCFP.

### Research

Appropriate methods of undertaking research for or with Aboriginal peoples requires developing respectful relationships. Increasingly, research topics are being led by Aboriginal communities, meaning that the research questions that are asked are ones that Aboriginal communities want to have answered. At least 10 faculty members are currently involved in research with Aboriginal communities in BC and beyond. Research topics undertaken include sustainable business development, tenure and land rights, food sovereignty, forest governance, traditional use mapping, monitoring industrial activities on fish habitat and mapping large western red-cedar.

### Curriculum

The faculty has received advice from our advisory committees that the forest sector needs to be substantially better versed in working with Aboriginal peoples, including keeping up to date on case law, traditional ecological knowledge and conflict resolution. We are being advised that keeping current includes continually re-evaluating the amount and type of Aboriginal curricula within our programs. In the strategic plan, UBC Forestry has committed to ensuring that our curricula include Aboriginal cultures, histories, Aboriginal case law, and knowledge systems that are relevant to Aboriginal communities. All students studying at the faculty, Aboriginal or not, will benefit from a balanced education that includes an understanding and awareness of Aboriginal content.

The relationship with Aboriginals in BC is constantly evolving; it is my hope that we are moving from mitigating issues to developing meaningful working relationships with Aboriginal communities. 🍁

*Andrea Lyall, RPF, works with the UBC Faculty of Forestry as Aboriginal initiatives coordinator and instructs a third-year university course, Aboriginal Forestry. Andrea has over 16 years of experience and has worked with over 30 indigenous communities from British Columbia, Washington, Alaska and Ontario. Andrea is also working on her graduate studies within the forestry program. Andrea is a member of the Kwakwaka'wakw Nation. She can be reached at 604.822.5294.*



# Fact Sheet

## First Nations, Forest Lands and Aboriginal Forestry in BC



**First Nations:** Aboriginal peoples of Canada who are neither Inuit nor Métis. The term ‘First Nations’ (often used in the plural) has recently come into general use, replacing the word ‘Indians’ and removing some of the negative connotations that are embodied in that term.

**Doctrine of Discovery and *terra nullius*:** The idea behind the doctrine was that once a territory was ‘discovered’ by a European power, the European power acquired the exclusive right to deal with the indigenous populations of that territory in order to secure lands and resources, establish trade or any number of other activities. While the doctrine had little legal effect on Aboriginal peoples, its practical effect was to make indigenous nations subject to domestic law and deny them equivalent standing to nation-states, which in many cases prevented indigenous nations from securing redress under international law.



## Some Key Aboriginal Forestry Programs

**Forest Consultation and Revenue Sharing Agreement (FCRSA)** is a type of revenue sharing agreement negotiated with the First Nation. It provides First Nations communities with economic benefits returns directly to their community based on harvest activities in their traditional territory.

<http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

### Types of Tenures

**First Nations Woodland License:** Area-based, long term tenure that allows a First Nations group to manage for an array of values.

<https://www.for.gov.bc.ca/hth/timber-tenures/agreements/fnwl/fnwl-index.htm>

### Non-Renewable Forest License:

Mostly awarded as part of a FRCSA for allowing harvest (mostly MBP salvage) on First Nations traditional territory.

**Community Forest Agreement:** First Nations are eligible to apply as a Nation.

### At the Site and Block Level

**Strength of Claim:** Almost all of BC forest land has overlapping claims by various First Nations. A strength of claim assessment has become necessary since the Tsilhqot’in decision and consists of right and title assessment for every application and block on Crown land. Because the strength of claim is highly subjective it not yet used in FCRSA agreements.



Under the Forest and Range Practices Act, forest professionals are also responsible for the management of cultural heritage features at the site level, during planning (identification of features), layout (field identification of features) and harvest (no-harvest or site alteration permits in areas with identified features).

### Some Key Aboriginal Forestry Programs:

**Aboriginal youth internship program:**

<http://www2.gov.bc.ca/myhr/article.page?ContentID=da597988-e529-b2e7-7289-498126786486>

**BC First Nation Forestry training program:**

<http://www.fnforestrycouncil.ca/programs/training-youth/forestry-training-program>



## Remediation of Fish Passage at Stream Crossings on BC's Forest Roads

**R**OAD CULVERTS INSTALLED AT STREAM CROSSINGS ARE KNOWN TO NEGATIVELY impact freshwater habitat for fish. In 2009, the BC Forest Practices Board (FPB) confirmed the scope of the problem with a report concluding that these closed-bottom structures pose a province-wide risk to connectivity of fish habitat. While culverts are necessary to manage water flow near resource roads, they often constrict the natural stream channel, increasing stream velocity and causing a range of channel changes that are detrimental to fish. Most importantly, fish attempting to migrate or reach their food supply are unable to access upstream habitat due to these constricted stream crossings. The impacts are also economic: though BC's fisheries sector generated \$2.2 billion in revenues and supported 13,900 jobs in 2011, revenues from salmon-related fisheries have declined since 2000, with loss of connected freshwater habitat considered a key contributing factor.

In 2007 the BC Government formed the Fish Passage Technical Working Group<sup>1</sup> (TWG) to address fish passage issues on forestry roads. An inter-agency group, the TWG includes members from the BC Ministries of Environment (MoE); Forests, Lands and Natural Resource Operations (FLNRO); and Transportation and Infrastructure (MoTI), BC Timber Sales (BCTS), and Fisheries and Oceans Canada (DFO). The TWG is funded mainly by the Land Based Investment Strategy (LBIS), as one of its key priorities is remediation of fish passage crossings with the goal of achieving maximum return on investment.

As of 2009, the TWG had identified an estimated 435,000 stream crossings province-wide, with 313,000 of those classified as potentially detrimental to fish habitat. A strategic approach was thus required to focus remediation on those crossings that would result in the greatest improvement to fish habitat.

First, large-scale mapping and modelling is applied to identify provincial watersheds that have high-value fish habitat. A four phase field approach to remediation is then applied within these high-value watersheds:

1. Fish passage assessment: Field assessments are conducted at all stream crossings in the watershed to determine which are barriers to fish passage.
2. Habitat confirmation: For those crossings identified in Phase 1, field assessments are used to determine the quantity and quality of fish habitat to be gained by remediation.
3. Design: The crossings identified in Phase 2 are ranked based on which would have the greatest benefit to fish habitat if remediated. Remediation site plans and designs are then developed in consultation with stakeholders.
4. Remediation: The design from Phase 3 is implemented.

Data from the large-scale analyses and all four remediation phases are available in the Provincial Stream Crossing Inventory System (PSCIS), including maps, photos, field notes, design drawings,

and costs. The current governance model funds remediation of fish passage problems only at crossings constructed prior to 1995. For roads constructed after 1995, only Phase 1 and 2 field assessments are covered, as forest practices legislation since then has assigned the obligation to maintain fish passage to forest and range tenure holders.

To date (2008-2015), the fish passage program has received \$17.8 million in funding. Although this funding varies considerably between years, on an annual basis approximately 5-10% is allocated to modelling and program support, 20-30% to performing site assessments (Phase 1), 5-10% to habitat confirmations (Phase 2), and 60-70% to site remediations (Phases 3 and 4). To date, >26,000 site assessments, >150 habitat confirmations, and 135 remediations have been completed, re-connecting approximately 750 km of fish habitat. While remediation costs can vary greatly - for example, when the cost of culvert removal alone is compared with culvert removal plus bridge installation - our average cost per km of reconnected habitat is approximately \$15,000. This compares favourably with similar projects completed in Washington State, where 60 projects reconnected 351 kilometers of fish habitat at an average of \$54,000 per kilometre<sup>2</sup>.

The inter-agency approach taken by TWG has been highly effective. MoE, FLNRO, and DFO members developed the strategic approach in tandem with forest industry input, and review the background information on fish habitat to assess high priority watersheds. BCTS and district engineering staff serve as the delivery agent for field assessments and remediation, while MoTI provides technical support and funding, and resolves issues related to non-functional structures on public roads. Cost-sharing arrangements and cooperation on fish habitat improvements have been developed by working with the Society for Ecosystem Restoration in Northern BC, the Pacific Salmon Foundation, DFO's Recreational Fisheries Conservation Partnerships Program, and BC Hydro's Fish and Wildlife Compensation Program.

The TWG has also been active on the engineering and practice side, developing an online training program<sup>3</sup> for conducting fish passage assessments, and updating the engineering standards<sup>4</sup> for restoration of fish passage. They have also assisted FLNRO's Compliance and Enforcement branch in developing a guidance document to define what is meant by 'material adverse effect' when protecting fish at stream crossings<sup>5</sup>, and have updated a 2002 Stream Crossing Guidebook to a 2012 edition<sup>6</sup>. For more information on the program, see the 2011 issue of Streamline Watershed Management Bulletin<sup>7</sup>.

Given the scope of the issue, it's imperative that fish passage be addressed across resource industries, to avoid creating new problems and to continue to remediate existing problems; thus the PSCIS database and online training tools are available for broad use. The TWG is keen to develop new partnerships and find additional resources to apply this strategic approach to fish passage remediation in all regions of the province. 🐟



## Do you have a Science In Action story you want to share?

E-mail your story idea to Doris Sun,  
editor, at [dsun@abcfp.ca](mailto:dsun@abcfp.ca)

Olga Vasik - Fotolia

*Sarah Boon, PhD, has 15 years experience as a hydrologist, and as a freelance science writer and editor.*

*Ian Miller, RPF, has been a manager with Resource Practices Branch of FLNRO in Victoria since 2006. He is the past chair of the Fish Passage TWG, and works with many diverse teams on forest hydrology, visual resource management, effectiveness monitoring, and forest practices policy and legislation.*

*The TWG also includes: Brian Chow (FLNRO), Dave Hamilton (BCTS), Dave Maloney (FLNRO), Craig Mount (MoE), Holly Pulvermacher (DFO), Richard Thompson (MoE), Peter Tschaplinski (MoE), Sean Wong (MoTI), and Terje Vold (Contractor).*

### References

- <sup>1</sup> <http://www.for.gov.bc.ca/hfp/fish/FishPassage.html>
- <sup>2</sup> [http://www.nfwf.org/results/evaluationreports/Documents/Fisheries\\_Benefits\\_Eval.pdf](http://www.nfwf.org/results/evaluationreports/Documents/Fisheries_Benefits_Eval.pdf)
- <sup>3</sup> [http://www.for.gov.bc.ca/hfp/fish/Fish\\_Passage\\_Training/player.html](http://www.for.gov.bc.ca/hfp/fish/Fish_Passage_Training/player.html)
- <sup>4</sup> <http://www.for.gov.bc.ca/ftp/hcp/external/!publish/web/fia/FishPassageActivityEngStdsFinalApril2-2013.pdf>
- <sup>5</sup> <http://www.for.gov.bc.ca/ftp/HTH/external/!publish/web/frpa-admin/frpa-implementation/bulletins/CE-40-Material-Impact.pdf>
- <sup>6</sup> <http://www.for.gov.bc.ca/hfp/fish/Fish-Stream%20Crossing%20Web.pdf>
- <sup>7</sup> <http://www.for.gov.bc.ca/hfp/fish/Habitat%20Modelling.pdf>



## The 67<sup>th</sup> ABCFP Forestry Conference and AGM

**THERE WAS AN EXTRA BUZZ IN THE AIR AT THE ABCFP'S 2015 CONFERENCE** and AGM in Nanaimo this past February. Our kickoff event, the Ice Breaker, drew a noticeably larger crowd, perhaps due to the fact attendees wanted to catch a glimpse of our first ever live auction conducted by Olympic gold medalist and fan favourite, Jon Montgomery. Those who attended were not disappointed, as Jon impressed the crowd with his auctioneering talents, all the while securing \$1,800 on three bids with proceeds benefiting ForesTrust. The mood of the evening was kept upbeat and lively by another multi-talented individual — our member Mike Nelson, RFT, who put on his DJ hat and provided a mix of great old and new tunes to keep the energy high.

The spirited evening provided a wonderful entrée into the event, as a number of important sessions made up *Today's Choices, Tomorrow's Forests*. From sessions that centred on coastal forestry, to others that were Interior-focused, the lineup sought to appeal to forest professionals practising across a wide spectrum of geographies and specialties. Other topics like reforestation, professional reliance and the Tsilhqot'in Decision provided valuable insights to those practising across the sector.

Professional development, while important, was just one component

of the conference. Our President's Awards Banquet honoured this year's awards recipients — honorary member Dr. Kenneth Lertzman and Distinguished Forest Professional Dr. Steve Mitchell, RPF. Our Inductees' Recognition Luncheon celebrated our newest members, as well as RFT valedictorian, Tasha Brekkas, RFT, and RPF valedictorian, Andrew Flegel, RPF. We were also pleased to have Minister Steve Thomson attend our luncheon again and provide his thoughts on our future forests.

We owe a great deal of gratitude to this year's host committee, which was helmed by our wonderful chair and MC, Steve Lorimer, RPF. The group's vision and countless hours of planning produced a thoughtful lineup of sessions, as well as improved networking opportunities. Our Silent Auction subcommittee really put the pedal to the metal with its fundraising efforts, as it solicited an impressive array of donations and helped generate \$7,885 — our largest contribution to ForesTrust to date! We will ensure the funds support forestry students.

Thank you to all who attended and contributed to the event's success. We look forward to an even greater turnout in 2016, when we will hold our 68<sup>th</sup> conference in Vancouver from February 24-26. Stay tuned for more details! 🍷

*Exhibitors ready and excited to meet new contacts; members mingling with the ABCFP's director of professional development and member relations, Brian Robinson, RPF.*



*All conference photos by Sean Fenzi*





*Clockwise from top: Inductees waiting for their official welcome into the ABCFP; piper Gordon Webb leading the procession of inductees; the 68<sup>th</sup> council is introduced at the President's Awards Banquet; keynote speaker Jon Montgomery wowing the crowd with his inspirational stories.*



# Special Feature



**Top row L to R:** Tasha Brekkas, RFT, delivering her valedictorian speech; a drone on full display at the conference trade show; Sharon Glover, CEO, welcomes attendees to the AGM.

**2nd row L to R:** Proud loved ones capturing inductees' big moments as they are officially welcomed as members of the ABCFP; outgoing president Dan Graham, RPF, LLB, congratulating one of our newest members; Andrew Flegel, RPF, giving his valedictorian speech.

**3rd row L to R:** Delegates admiring the great items at our silent auction; MC Steve Lorimer, RPF, doing a stellar job as host; Dr. Kenneth Lertzman being awarded as an Honourary Member.

**4th row L to R:** Dr. Steve Mitchell, RPF, delivering his speech after being awarded the ABCFP's Distinguished Forest Professional; members catching up at one of the conference's many social events.



All conference photos by Sean Fenzi

## Thank you to our Sponsors, Exhibitors and Silent Auction Donors

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TSILHQOT'IN DECISION from Page 11

commenced on title lands prior to an actual declaration of title?

**JF** Basically title changes everything. This is where the requirement goes from being reasonable consultation and accommodation

up to a requirement of consent or a justification of infringement. So there is that switch that takes place once title is actually found. The consultation and accommodation you've done, unless it actually included a consent, wouldn't be sufficient to enable you to go

ahead with a project on land over which title has been found.

**GM** Any more comments?

**JF** I think that you can't just look at this case. The recommendation for reconciliation and negotiation has been going on since 1990 and the Supreme Court of Canada has been very consistent that the overarching goal and the ethos is one of reconciliation. That is what they are trying to achieve. These cases are so factually specific and the fact that the Supreme Court of Canada wants us to weigh our common law tradition and Aboriginal law, something that's going to vary nation to nation, and give them equal weight in trying come up with these decisions, suggests that there isn't a magic formula. I think it is going in with that ethos of reconciliation as opposed to negotiation or an adversarial process.

**JW** I think the clear objective is negotiated treaties. At first when this decision came down it was, for the provincial government, the sound of pine on skull - it was a wake-up call that this law that's been out there is actually real. But at the same time there are limitations to the uses that can be made to Aboriginal title lands that might interfere with the objectives of First Nations. So there are incentives on both sides to get to negotiated settlements and that is what I think the Supreme Court is all about. 🍷



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## In Memorium

It is very important to many members to receive word of the passing of a colleague. Members have the opportunity to publish their memories by sending photos and obituaries to [editor@abcfp.ca](mailto:editor@abcfp.ca). The association sends condolences to the family and friends of the following member:

### Hughes, Walter (Wally) George

RPF #28

December 24, 1913 – February 19, 2015

Born December 24, 1913. Passed away peacefully on February 19, 2015 in Victoria. Walter was born in Victoria, the oldest of three sons born to George and Marion Hughes. He graduated from Victoria High where a plaque has been placed to mark his 100 years. At 19, Walter served briefly in the police force where it was discovered that he did not have a driver's license. He worked a series of odd jobs during the Depression, and then in 1936, began working for the BC Forest Service. That led to a lifelong career. He started in the Surveys Division at the Cowichan Lake Experiment Station. He ferried supplies and passengers across the lake and worked on the roads. He cruised timber in 1938 in the wilds of Seymour Inlet. In 1939 he worked on a special 30-mile trail building project in the newly established Lord Tweedsmuir Park. In 1940 Walter enrolled at the University of Washington in Seattle. There he met his wife, Peggy who was studying journalism. He completed his Bachelor of Forestry degree; they married and returned to Powell River, where



Wally worked in the pulp mill laboratory and where they started a family. In 1943 he joined the RCAF as a navigator and completed active service overseas flying with Squadron 437, The Huskies. They flew transport: men, supplies and equipment. He returned to Victoria in 1946, completed his Master of Forestry degree in Seattle and rejoined the BC Forest Service to work in many capacities: as forest service party chief on the north coast, forester in charge of working plans division and district forester in

Prince Rupert, where Peggy enjoyed a career in journalism with the newspaper. They finally returned to Victoria when Wally became assistant chief forester in charge of operations. Wally was a founding member of the Association of BC Forest Professionals. He was the first president of the Forest History Association of BC. Walter recalled great stories from his career in the Forest Service: visits to logging camps and sawmills in remote areas, trips on the *BC Forester* — the 68 foot launch that was also used as field party headquarters, construction of the Lord Tweedsmuir trail through a massive rock slide. For Wally it all started in 1936 in the YMFTP, The Young Men's Forest Training Program.

*Submitted by Grant and Vi Hughes*

## Membership Statistics

### ABCFP — March 2014

#### NEW REGISTERED MEMBERS

Rayanne Alm, RFT

#### NEW ENROLLED MEMBERS

Wesley Brian Bowes, FIT  
Amanda Louise Brown, TFT  
Cody Joseph Campbell, TFT  
Leeanne Wing Gee Chow, FIT  
Patrick Graham Parmelee Ferguson, FIT  
Matthew L. Garmon, FIT  
Liam Julius Grant, FIT  
Milosh Ivkovich, PhD, FIT  
Andrew Willson Lilly, FIT  
Alli Reet Meere, TFT  
Amanda Mjolsness, FIT  
Kevin Lonie Ryan, TFT  
Allina Tran, FIT

#### NEW ASSOCIATE MEMBERS

Steven R. Anley, TFT, ATC

#### NEW LIFE MEMBERS

Peter W. Ackhurst, RPF(Ret)

#### REINSTATEMENTS (REGISTERED MEMBERS)

Trenton John Gainer, RFT  
Patrick D. Hughes, RPF  
Warren D.M. Nimchuk, RPF  
Kerry Lee Phillips, RFT  
Christopher Douglas Shallow, RFT

#### REINSTATEMENTS FROM LEAVE OF ABSENCE (ENROLLED MEMBERS)

Daniel John Scholey, TFT

The ABCFP recognizes the concerns that our members have about the number of members who are taking a leave of absence (LOA). Leaves of absence are granted to those who are temporarily not planning to practice professional forestry, based on the criteria in the *Members Change of Status Policy*. The circumstances for taking a leave vary and include maternity leave, temporary assignments, working out of province or employer reorganization. In cases where job duties are being critically examined for the requirement to practice professional forestry, the ABCFP uses criteria and precedents established by the Professional Practice Committee (PPC) prior to approving a leave of absence request from a member. The PPC may also insert non-practice caveats into the LOA approval, to ensure that the member is aware of what must be excluded from their work.

Currently, the ABCFP is working with employers to understand which roles in their organization require a forest professional, but this does not preclude enforcement action at a later date, should an employer or individual not comply with the requirements of the *Foresters Act*. Membership in a professional association is a privilege which also carries responsibilities and a requirement to self-regulate. This means that ABCFP members have a responsibility to hold one another accountable for their work and the need to maintain their membership status if they are practising professional forestry.

#### DECEASED

Walter G. Hughes, RPF(Ret)

#### THE FOLLOWING PEOPLE ARE NOT ENTITLED TO PRACTICE PROFESSIONAL FORESTRY IN BC:

##### NEW HONORARY MEMBERS

Kenneth Lertzman, PhD, Honorary Member

##### NEW RETIRED MEMBERS

Lise Annette Levesque, RFT(Ret)

##### REINSTATEMENTS (RETIRED MEMBERS)

Christoph Hans Schmid

##### LEAVE OF ABSENCE (REGISTERED MEMBERS)

Colin Raymond Mahony, RPF #4369 (on LOA)

##### LEAVE OF ABSENCE (ENROLLED MEMBERS)

Stephane Andre Louis Leger, TFT # 301 (on LOA)

##### RESIGNATIONS (RETIRED MEMBERS)

Christoph Hans Schmid

##### REMOVALS NON PAYMENT (ENROLLED MEMBERS)

Scott Wilson

### ECOSYSTEM AND HUMAN HEALTH from Page 18

“It is in the public interest to know what the impacts are from resource development, particularly where there is a lack in government regulated environmental assessments. We take our rights very seriously. We want depth in terms of answers to our questions. We have capacity now through our team of experts, supported by traditional knowledge from our community to research what, how and when the cumulative impacts will be realized further, as in some cases, we are already seeing impacts to our land, water and wildlife,” states Chief Elkins Mack. “What can be done now to make things better? Tsilhqot’in authority applies to Section 35 Aboriginal right lands — including pre-title proof — wildlife and fisheries in spite of BC Ministry of Forests, Lands and Natural Resource Operations or Ministry of Energy, Mines and Petroleum Resources development approvals. Long-term planning of cumulative effects thresholds including an understanding of where thresholds may have already been surpassed is urgently required in order to conserve the integrity of the biological diversity and functionality of the ecosystems in the area. ?Esdilagh desires a landscape-level management plan that accounts for varying disturbance regimes (industrial development, fire, mountain pine beetle) in order to conserve cultural

and ecological integrity.” Collaboration on the development of a broad plan accounting for disturbances and priorities across the region through space and time, founded on a blend of scientific knowledge gathered through our research team and combined with traditional knowledge from our community, is the first step.

Perhaps certain watershed timber harvesting and mine expansion thresholds have already been surpassed. ?Esdilagh knows certain wildlife and fish are no longer present where grandparents camped and provided for their families. The concern for the conservation and protection of lands and waters within the Tsilhqot’in Nation is real. In order for adaptive management to work monitoring must occur and paradigms need to shift. “We were assured that our lands were appropriately managed before the Mount Polley breach,” says Chief Elkins. “Building consent with Aboriginal leadership and their citizens is the paradigm shift that industry will need to take moving into the future.” 🍷

*Sonja Leverkus is a forester, owner of Shifting Mosaics Consulting and can be reached at [ShiftingMosaicsConsulting@gmail.com](mailto:ShiftingMosaicsConsulting@gmail.com). For more information on ?Esdilagh First Nation please view: <https://www.youtube.com/watch?v=ZDq9xWzkohU>.*

## A Moment in Forestry

Submit your Moment in Forestry photo or artwork to Doris Sun at: [editor@abcfp.ca](mailto:editor@abcfp.ca)



### When the Time is Right Jillian Schochter, TFT

After a rain-soaked day in the bush, a rainbow (and its perfect reflection) is captured at Fourth Lake in Nanaimo — a reminder that there is sometimes ample light at the end of a challenging work ‘tunnel.’

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