Community forests in British Columbia: The past is prologue

by

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New opportunities for forest communities

In July 1998, the Government of British Columbia (BC) launched a new type of forest tenure – the *Community Forest Agreement.* While I admit a bias, I believe that this initiative represents the most positive change in BC's public forest policy in many decades.

By creating a form of public forest licensing arrangement that departs from the traditional 'industrial model', this initiative ushered in a new direction in public forest management in the province. While other Canadian provinces are experimenting with various kinds of local involvement in forest management, BC's commitment to a comprehensive network of community-managed forests on public land is unique in Canada.

In this paper I will briefly describe public forest policy in BC; review events that led to the creation of community forests; discuss the features of the new *Community Forest Agreements*; and conclude with a review of the programme's progress to date and outlook for the future.

Public forest policy in British Columbia

In order to comprehend the significance of recent community forestry initiatives in BC, one must appreciate the role of forests in the economy and the lives of the province's people, and understand the public policy environment within which the province's forests are managed

Forests are a dominant feature of the BC landscape covering approximately two thirds of the province's land area. Of the province's 60 million ha. of forestland, 51 million ha. are classified as timber-productive and approximately 24 million ha. are managed commercially for the production of timber crops on a sustained basis. BC's forests are not only of immense economic importance, accounting for close to 50% of provincial manufacturing outputs and exports, but are vital to the lives of the people in many ways. They provide for soil conservation, flood and avalanche control, the maintenance of water quality, habitat for a major proportion of the province's diverse fauna and flora, and are the source of rich and varied recreational opportunities. Furthermore, forests are the traditional home for a majority of BC's aboriginal people and continue to play a vital role in their spiritual, cultural and economic well being.

The Canadian Constitution grants ownership and legislative authority over most forestland to the provinces. In common with other provinces,

Box One

The Aboriginal Land Question in British Columbia

Canada's *Constitution Act* (1982*)* recognizes and affirms "existing Aboriginal and treaty rights". To be "existing" an Aboriginal right must not have been extinguished prior to the date the *Constitution Act* came into force.

Historically in BC few treaties were signed with First Nations. In 1990, in the wake of a number of court decisions, it was acknowledged by the BC government that, at the time of colonization, Aboriginal title to the land was not extinguished and that, with the exception of some small areas of the province where treaties had been concluded, the question of land title still had to be settled.

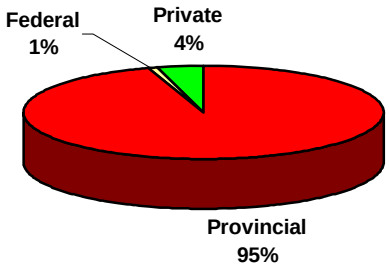
In 1992 the BC government entered into the *Tripartite Treaty Commission Agreement* with the Federal Government of Canada and First Nations that resulted in the creation of the *British Columbia Treaty Commission* (BCTC) in 1993. Currently, there are 49 First Nations participating in the treaty process at 40 sets of negotiations. To date, no negotiations have been concluded and treaties implemented. The slow pace at which treaty negotiations have proceeded and the failure of the BCTC to implement a single treaty has created increasing uncertainty over the division of land title in BC. This has discouraged investment in resource based industries and given rise to increasing anger and frustration within many First Nation's communities.

In December 1997, the Supreme Court of Canada brought down a landmark-decision in *Delgamuukw v. British Colombia* in which they confirmed that Aboriginal title does exist in BC and that it is a constitutionally protected right in the land itself – not just the right to pursue traditional uses on the land. However, Aboriginal title to a particular area of land, if not settled through negotiation, must be established before the courts. In the meantime, both Federal and Provincial governments have the right to infringe on disputed lands but only in pursuance of compelling and substantial purposes including economic development and environmental protection. The province must consult with First Nations before granting any interest in aboriginal lands to others but what form such consultation should take and whether First Nations' consent is required before proceeding is unclear. However, a government's action must be consistent with the special fiduciary* relationship that exists between the Crown and Aboriginal peoples.

* Definition: In law, a person who occupies a position of such power and confidence with regard to the property of another that the law requires him to act solely in the interest of the person whom he represents.

the government of BC, at an early stage in the province's history, passed legislation prohibiting the alienation of forests to the private sector. Today, while ownership of most of the forestland in BC is being challenged by the province's Aboriginal people (see Box 1), the province claims title to approximately 95% of the area. Of the remainder, less than 1 per cent is held federally and about 4 per cent privately (see Figure 1.).

Figure 1. Ownership of Forestland in British Columbia



Source: Canadian Forest Service, http//nrcan.gc.ca/

Governments in Canada, while enthusiastic about public ownership, have been reluctant to become directly involved in forestland management. Instead, they have developed licensing arrangements, generally referred to as Crown forest tenures, that provide private individuals and corporations exclusive access to public timber over varying time periods, in return for assuming a variety of forest management responsibilities.

In BC, the provincial allowable annual timber harvest, or allowable annual cut (AAC), is allocated among 5 main types of Crown forest tenure – tree farm licenses (TFLs), forest licenses (FLs), timber sale licenses (TSLs), woodlot licenses (WLs) and community forest agreements (CFAs). (Table 1.)

TFLs and FLs, that together account for over 80% of BC's AAC, are mainly held by a relatively small number of larger corporations that own and operate wood processing facilities. There are a total of 34 TFLs and 231 FLs. TFLs provide licensees with exclusive rights to harvest timber within designated geographical boundaries and have an average allowable harvest of 460,000m^3 per annum. FLs are not area-based but simply provide licensees the right to harvest a certain volume of timber within a broadly defined region. These have an average allowable annual harvest of 173,000m^3. TSLs, that numbered 3229 in 2000-2001, are mainly small, short term (3-5 years), area-based licenses that are sold competitively by the province to small logging and forest products manufacturing businesses. They have an average allowable harvest of 3300m3 per annum. Woodlot licenses are small area-based tenures mainly held by individuals, but also by a small number of First Nation's bands, communities and corporations that own no timber processing facilities. About 600 woodlot licenses currently exist with an average allowable harvest of 1400 m^3 per annum. Finally, there are currently 10 community forest agreements of which three are fully operational. In 2000-2001, community forests accounted for less than one percent of the provincial AAC.

Table 1. Allocation of the allowable annual cut in British Columbia: 2000-2001

Type of Tenure	Percent of provincial AAC* (%)	Average size ('000 m^3 of AAC)
Tree Farm Licenses	22.8	459.7
Forest Licenses	58.4	172.8
Timber Sale Licenses	15.4	3.3
Woodlot Licenses	1.7	1.4
Community Forest Agreements	< 0.08	13.0
Other	1.7	

* Total Allowable Annual Cut (2000-2001) = 68,639,000m^3

Concern about the concentrated control over Crown forests has dominated the forest policy debate in B.C. since the inception of the current system in 1947. What is needed, many analysts agree, is a more diverse forest tenure system. This should provide rights, not only to logging and timber manufacturing companies, but also to groups and individuals who are in the business of managing forests sustainably to produce a broad range of forest products while respecting intrinsic ecological values. An important initiative in pursuit of this goal is the creation of community forest agreements.

The genesis of community forests in British Columbia

In the 1940s, apprehensions arose in BC over the "cut and run" development of the forest industry that had resulted in an unbalanced pattern of timber harvesting, inadequate provisions for future forest crops and the creation of "ghost towns" in the wake of an advancing forest industry. A 1944 study by Mercer identified 13 small towns in the East Kootenay District alone that had become ghost towns, or entered into periods of serious economic decline, as a result of reduced forest sector activity. These and other concerns led to the appointment of a Royal Commission of Inquiry relating to forest resources in BC. The Commissioner, Chief Justice Gordon Sloan, in his 1945 report, recommended a series of changes in Crown forest tenure policies designed to ensure "the perpetuation of the forest resource for the support of industry with consequent development and stability of regional communities". Sloan envisaged a system in which forest companies would manage their private lands in combination with Crown lands on a sustained basis in a series of "private working circles" - a concept which evolved into today's tree farm license

system. In addition " public working circles" would ensure timber sales for independent loggers and a supply of logs to small mills "whose manufacturing plants are of economic benefit to the inhabitants of local communities". Specifically, Sloan recommended that one form of public working circle should be:

> "land situated near settled communities ---- managed by municipal authorities, subject to regulations designed to prevent improvident future management -----. These ***community forests,*** apart from the timber production therefrom, ----- are a means of acquainting the public with the benefits to be secured from the practice of sustained yield forestry ---" (my emphasis).

Sloan's vision for the future did not materialize. Diversity of forest tenure arrangements and management did not follow. Instead, a system developed which favoured the expansion of large integrated forest products' manufacturers. Competition for timber became a thing of the past, concentrated corporate control over much of the public forest resource ensued and small independent loggers and mills found it increasingly difficult to survive.

In 1956, Chief Justice Sloan released the report of his second Royal Commission. In reviewing the progress of his earlier recommendations he noted that only one community managed forest had been established – a tree farm license issued to the Municipality of Mission. While other communities could have availed themselves of this opportunity, none chose to do so. Perhaps the time was not ripe for such initiatives or perhaps the tree farm license - essentially an industrial forest tenure - was not considered to be a suitable vehicle for community forest management. In any event, Sloan again concluded that community forest management was desirable but made no further proposals to achieve this objective.

Continuing anxiety over the province's methods of allocating rights to public timber, together with increasing concerns for the provision of non-timber forest values, resulted, in the mid-1970s, in the establishment of the Pearse Royal Commission. Pearse's recommendations centered on the need to reintroduce competition for public timber, manage public forests for a more diverse mix of forest products and create a more diverse Crown forest tenure system that would accommodate small, non-integrated forest licensees. To these ends, his recommendations included the expansion of small-scale forestry in the form of a woodlot license system. Pearse suggested that these arrangements could provide a basis for community involvement in forest management. However, since these licenses were restricted to an area of 400 ha. of public land on the BC Coast and 600 ha in the Interior, they provided no practical basis for the establishment of community forests.

While a new *Forest Act*, proclaimed in 1979, introduced some innovative changes in policy, it did little to address many of the major concerns raised by Pearse. A small business programme provided some opportunities for independent loggers, but the introduction of volume based forest licenses allowed a highly concentrated, integrated forest products industry to consolidate its grip on Crown timber resources. In 1989, a broadly representative Forest Resources Commission was established under the chairmanship of Mr. Sandy Peel. In their first, and as it turned out their last, report the Commissioners reiterated Pearse's 1976 concerns in respect of the concentrated structure of the industry, the lack of competition for Crown timber and the lack of commitment to resource stewardship at either public or private levels. Part of the solution they maintained lay in "decoupling" timber production from manufacturing and creating tenures designed to provide strong incentives for enhanced stewardship of the timber resource within a sustainable, multiple use management framework. To achieve this, they suggested that a substantial part of the

Province's allowable cut, as much as one third, should be produced from smaller, area based tenures managed by communities, First Nations, and individuals.

During the 1990's, a groundswell of public opinion in support of community forests emerged in rural communities throughout BC. This interest was stimulated by a growing realization that local people had virtually no control over the very resources that played such major roles in their lives providing their livelihoods, their living space, their water, a portion of their food supplies and sources of recreation and inspiration. These anxieties were reinforced by the erosion of forest industry jobs and growing concerns about the environmental impact and sustainability of industrial forest practices. Furthermore, a financially-strapped provincial government cut grants to local authorities while raising forest resource rents that flowed out of rural regions to swell provincial government revenues and finance centrally controlled, economic assistance programmes, such as those initiated by Forest Renewal BC[1], that promised so much but seemed, in reality, to deliver so little.

In response to these concerns, several communities prepared community forest feasibility studies (for example Malcolm Island (Clarke, 1996), Prince George (Cortex, 1996). Reports on community forestry were written by academics and NGOs (see, for example, Burda *et al.* 1997). A number of well attended, community sponsored conferences were held (Mitchell-Banks, 1994; City of Rossland, 1997) and in 1996 and 1997 the influential Union of BC Municipalities included community forests as an item on the agendas of their annual general meetings.

The government got the message and in December 1997 announced the appointment of a multi-stakeholder Community Forest Advisory Committee (CFAC) with a mandate to advise the minister on the form and contents of a community forest tenure. At this time BC was not entirely without experience in community forestry as Allan and Frank documented in their 1994 article. For several decades North Cowichan had successfully managed a 5000 ha. forest owned by the municipality[2]. The City of Mission's municipal tree farm dated back to 1958[3] and the Revelstoke Community Forest Corporation managed a tree farm license purchased by the city in 1993[4]. Furthermore, during the 1990s several communities – for example Creston and Kaslo - had been awarded non-renewable 15-year forest licenses. However, apart from the North Cowichan Community Forest, all the community-managed forests in BC were required, under the terms of their contracts, to follow an industrial forest management model.

Criteria for Community Forest Tenures

The CFAC set out to design a community forest license that would be a departure from the traditional industrial model that dominates the public forest tenure system in BC. The committee proposed that such a license should, first, extend rights to its holders beyond mere access to Crown timber; of particular interest were non-timber botanical products and recreation in its various forms. Second, the tenure should be long term – the committee favored in perpetuity.

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[1] Forest Renewal BC (FRBC) was established under the 1994 *Forest Renewal Act* ([RSBC 1996] Chapter 160) Its activities, that included environmental restoration, silviculture and strengthening local economies through job creation and retraining forest industry workers, were financed by substantially increasing stumpage rates. Between 1994 and 1998, FRBC's revenue averaged about $400 million /annum and from 1990 to 2001about $240 million/annum. However, the agency was plagued with charges of inefficiency and lack of accountability and in 2001 was dissolved by BC's right-of-centre Liberal government that was elected to office in May, 2001.

[2] See: http://www.northcowichan.bc.ca/forestry.htm

[3] See: http://www.city.mission.bc.ca/welcome.htm

[4] See: http://www.rcfc.bc.ca/

Third, regulations should allow holders' maximum flexibility in management planning to provide for a broad range of community objectives while meeting province-wide forest practices standards. Fourth, while a sustainable harvest of timber should not be exceeded, maximum sustained yield should not be required and minimum-harvesting levels should not be imposed. Finally, revenue sharing arrangements between the province and license holders should encourage innovative, ecosensitive forest management practices and recognize the small-scale nature of community forest management and the role of community forests in providing economic and social benefits that improve the welfare of BC's rural citizens. The CFAC presented its recommendations to the minister in March 1998 and by July of that year legislation was passed authorizing community forest agreements.

Community forest agreements

Community forest agreements are not held in common by community members. Rather, they are granted only to legal entities representing community interests. These may be a local government, an Indian Band (as defined under the Canada In*dian Act*), or a society, cooperative, or corporation that is community controlled and representative of community interests. They give the holder exclusive rights to harvest Crown timber and may grant the right to manage and charge fees for non-timber botanical products and any other prescribed forest products. Following a probationary period of 5 or 10 years, agreements may be granted for a period of 25 to 99 years replaceable every 10 years. Planning requirements are flexible enough to accommodate broadly based community objectives and allow for innovative and unconventional forest management practices. No special provisions are made for revenue sharing, provincial stumpage charges being calculated in a manner similar to that used for Crown timber held under other forms of tenure arrangement[5].

A call for proposals went out in September 1998. Over 60 letters expressing interest were received and 27 proposals were delivered by the January 15, 1999 deadline. The proposals were evaluated by the CFAC on the basis of several criteria including:

- an appropriate land base;
- evidence of broadly representative community support;
- commitment of stakeholders affected by the creation of a community forest;
- a sound business plan;
- practical administrative structures for governance, conflict resolution, public involvement, auditing and reporting; and

[5] Under the *Comparative Value Timber Pricing System* used in BC, base stumpage rates for the Coast and Interior are calculated by dividing a "target revenue", established by the government as a matter of policy, by the volume of timber expected to be harvested during the year. A stumpage rate is then appraised for each separate cutting authority (cutting permit or timber sale) by calculating the value of each stand relative to the base rate. For each stand a "value index" is determined by appraising the total value of the products that could be generated from the stand and subtracting from this the appraised cost of producing them. The "value index" for each stand is then compared to the "mean value index" for all stands and the "base", or average, rate adjusted accordingly. Thus, if a stand is less valuable than the mean, a stumpage rate less than the "base rate" is paid. Conversely, for a stand more valuable than the mean a stumpage rate above the "base rate" is assured. In this way the target revenue is distributed among individual stands according to their relative quality. Stumpage rates are not allowed to fall below a minimum rate of $\$0.25/m^3$. Appraised stumpages are adjusted quarterly. To accomplish this the target rate is adjusted according to movements in product price indices published by *Statistics Canada*. Also, for each cutting authority the "value index" is adjusted and the "mean value index" is recalculated. Finally, stumpage rates are revised annually. This reappraisal involves any changes such as site conditions and incorporates relevant changes in public policy. Credits against stumpage may be granted for costs relating certain operations including seed orchards, the construction of logging access roads, reforestation and other silvicultural treatments if the operations are not a part of the licensee's contractual or statutory obligations.

- a preliminary working plan describing the forest, setting out objectives of management and strategies designed to meet these objectives within a proscribed time frame.

The applications were transmitted to the minister in three categories – highly recommended; recommended and not recommended – and in July 1999 seven pilot agreements were announced.

In October 2000, BC's premier announced an expansion of the community forest programme. Three new pilot agreements, drawn from the list of original applicants, were granted – bringing the total to 10. In addition, plans were revealed to put up to 18 new agreements in place, some to be awarded competitively and others by invitation. The latter category will include offers made as "interim measures"[6] to First Nations in treaty negotiations.

The 10 existing agreements are geographically dispersed and vary in size from less than 500 ha. to 23,000 ha. They are held by two municipalities, 3 societies, two of which are joint ventures with First Nations, one cooperative, two corporations and two First Nations[7]. Their objectives of management are diverse. In some cases timber production figures prominently. In others, non-timber values including watershed protection, botanical products, education and recreation predominate. All support innovative, small scale harvesting and several holders plan to become eco-certified.

The Future

It is too early to say whether BC's community forest programme will be a success. A number of problems have emerged to date including sources of funding to finance start-up costs, conflicts with First Nations over traditional territories that are the subject of land claims, and a bureaucracy which, in some cases, is unwilling to accept and accommodate the distinctive nature of community forests. Apart from overcoming these difficulties, success of the programme requires commitments by the provincial government. It needs to make timber available for community forestry and replace the current stumpage system with revenue sharing arrangements between the Crown and agreement holders that recognize the unique characteristics of, and social benefits provided by, community managed forests.

To what extent BC's year-old, right-of centre Liberal government will support and facilitate the success and further expansion of the province's community forest programme remains to be seen. Forest policy reform is a government priority. However, as proposed forest policy changes emerge it becomes increasingly apparent that they are directed towards two main objectives: the relaxation of regulatory constraints that prevent forest companies from maximizing the economic value of timber resources; and the restoration of competitive markets for public timber, the absence of which is a major underlying cause of the long-standing softwood lumber trade dispute between Canada and the United States. Reform of the most important component of provincial forest policy – the Crown tenure system – is being largely ignored. Specifically, no recognition is being given to the fact that a key element of a healthy, resilient forest industry and, indeed, an essential requirement for the creation of truly competitive timber markets, is diversity of forest ownership and tenure arrangements.

[6] Interim measures are any activity undertaken by the provincial government to meet its legal obligations to First Nations prior to the conclusion of treaties.

[7] More detailed descriptions of existing community forest agreements can be found at: http://www.for.gov.bc.ca/pab/jobs/community/

Whether the government is opposed to community forests or exhibits indifference stemming from a misunderstanding of their potential significance is impossible to say. It is my opinion that community forests provide an opportunity to generate very significant social and economic benefits with little downside risk for either the government or people of the province.

Community forests provide a vehicle for economic development based upon local initiatives, innovation and entrepreneurship. They can help provide employment in B.C.'s embattled rural communities, increase public awareness and support for forest management activities, and help resolve politically charged conflicts over timber harvesting in community watersheds and other sensitive areas. Management practices within community forests are generally more innovative, diverse and labour intensive than on other forms of tenure and provisions are made for a broader spectrum of forest values. Furthermore, community forests could augment the volume of standing timber and logs available in competitive local markets and thus support an important government policy imperative.

Currently, operational community forest pilot agreements have an average allowable annual cut of 13,000 m^3. Fifty forests of twice this average size would have a total allowable annual cut of only 1.3 million m3 – less than 2 per cent of the provincial allowable harvest from Crown lands – yet the social and economic benefits of such an extensive network of community managed forests would be enormous.

Over the next five years, CFAC and the BC Ministry of Forests will carefully monitor the community forest agreements that have been awarded on a pilot basis. It is inevitable that economic realities, unforeseen managerial problems and internal tensions within communities will lead to the failure and relinquishment of some agreements. However, I am optimistic that the programme as a whole will be successful, that many of the communities holding probationary agreements will convert them to long-term tenures and that, eventually, an expanded system of community forests will become a permanent and important feature of BC's landscape.

For more information about community forestry initiatives in BC:

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