



BC Forestry Revitalization Trust

Report of the Trustee as of December 31, 2007

General

In March 2003 the province of British Columbia established the BC Forestry Revitalization Trust (BCFRT) and funded it with \$75,000,000. The mandate of the BCFRT is to provide mitigation to forest workers and replaceable contractors that are negatively impacted by timber reallocations resulting from the Forestry Revitalization Act (FRA).

In April 2004 the province appointed Eric van Soeren as Trustee. Shortly after that he appointed a seven member Advisory Board, as required by the Trust Deed. That Board developed draft Forest Worker Mitigation Guidelines and Contractor Mitigation Guidelines. In order to develop an estimate of the cost of those guidelines, the Trustee polled all the major licensees that were to lose some of their allowable annual cut. They were asked to provide their best estimate of the effect of the timber reallocation on their workers, their contractors, and their contractors' workers. The Trustee received a 100% response rate from Coastal licensees, and a 90% response rate from the Interior licensees. The main reason for the lower response in the Interior was the lack of a response from New Skeena, which was involved in bankruptcy proceedings.

Utilizing the best estimates of industry, seniority estimates obtained from the IWA pension plan, seniority estimates obtained from contractor industry associations, and the proposed guidelines, the Trustee arrived at an estimated cost of delivering the proposed guidelines. Based on that estimate, the Trustee determined that the BCFRT likely required approximately \$50,000,000 more than what was available in the BCFRT accounts, plus what the BCFRT was likely to earn in interest while holding mitigation funds in trust.

The Trustee and the Advisory Board approached the province to attempt to obtain sufficient extra funds to allow the draft mitigation guidelines to be finalized. As of March 31, 2005, the province had agreed to the request for additional funds, and had received approval from the legislature to provide those funds to the BCFRT.

Based on the commitment from the province for the additional funds, the Contractor Mitigation Guidelines and the Forest Worker Mitigation Guidelines were finalized by the BCFRT Advisory Board. The Guidelines, as well as extensive supporting documentation, are posted on the BCFRT website.

In early April 2005 the BCFRT received a \$40,000,000 cash injection. The outstanding \$10,000,000 in committed funds has not yet been advanced, and will be held by the province until the need for the additional funds is confirmed.

Account Balances

As of December 31, 2007, the market value of the BCFRT accounts and distribution to beneficiaries was as follows:

Account Balances

Administration Account	\$4,605,826
Contractor Mitigation Account	\$10,839,163
Forest Worker Mitigation Account	\$6,814,987
Funds held in reserve by Ministry of Forests and Range	<u>\$10,000,000</u>
Total market value of BCFRT accounts	\$32,259,976

Distributions to Beneficiaries to date

Contractor Mitigation	\$60,879,740
Forest Worker Mitigation	<u>\$40,470,586</u>
Total Distributions to Beneficiaries	\$101,350,326

Total available funds plus distributions **\$133,610,302**

Administration Account

When the BCFRT was created, \$5,000,000 was allocated to administration. To date, most of the administration expenses of the BCFRT have been covered by the interest earned on the Administration Account balance, so the initial principal has been reduced by approximately \$400,000. It is likely a significant portion of the Administration Account will be able to be transferred to one of the Mitigation Accounts at a later date, and on an as needed basis.

Contractor Mitigation Account

The principle being used for contractor mitigation is that contractors who lose their replaceable contracts as a result of Forestry Revitalization Act (FRA) restructuring will receive mitigation that approximates what the contract might reasonably have been worth at the time it was reduced or eliminated. Generally, this will be based on a per cubic metre value, but contracts that were calculated based on some other measure will be treated accordingly. A detailed description of the calculation to be used is contained in the Contractor Mitigation Guidelines. These Guidelines are posted on the BCFRT website.

As of December 31, 2007, Forestry Revitalization Proposals (FRPs) have been presented for 99.9% of the reallocated volume in the Province. The last date for submitting a FRP was July 31, 2006, so the replaceable contracts of the licensee that did not submit a FRP are subject to proportionate reduction. The Coastal FRP submitted by Teal Jones was rejected by its contractors, as was a revised FRP. The court decision is being appealed, and council for Teal Jones suggests it may be a year or more before the issue is resolved. This will

necessitate an extension of the mandate of the BCFRT, so that the workers and contractors that are ultimately negatively impacted by the Teal Jones AAC reduction can receive appropriate mitigation.

Also as of December 31, 2007, \$60,879,740 had been paid in contractor mitigation related to 262 affected contracts. Discussions are underway with other replaceable contractors whose contracts have been or may be reduced or eliminated. Therefore, many more contractor mitigation payments will be made during 2008. It appears approximately 323 contracts will be reduced or eliminated as a result of the Forestry Revitalization Act timber reallocation.

Several coastal contractors and a group of interior contractors felt that the Contractor Mitigation Guidelines do not fairly compensate them for the value of their lost contracts. The Advisory Board has reviewed all but one of the claims that had been made. The view of the Advisory Board to date is that only one contractor has been able to substantiate its claim that the formula or the cap used in the Contractor Mitigation Guidelines is not appropriate. The only exception was a heli-logging contract that had a per cubic metre rate substantially higher than the rate paid for conventional logging. That contractor was mitigated using a rate above the cap. The BC Ombudsman's office has also reviewed the claim of the interior contractors and found it to be without merit. All of those contractors have now accepted mitigation as determined by the Contractor Mitigation Guidelines.

There were two cases where replaceable hauling contractors were able to demonstrate that in their area, recent arms length purchases and sales of hauling contracts had been at a rate slightly higher than what the mitigation formula generated. In those two cases, slightly higher compensation payments were made than would have been made based strictly on the formula. However, this increased payment was contemplated in the Contractor Mitigation Guidelines. One remaining Coastal Contractor believes it should receive larger mitigation payments than the formula and cap will allow. A business valuer has been retained to review its claim. The report and claim will be considered at a future Advisory Board meeting.

As of December 31, 2007, contractor compensation payments, plus revised estimates based on applications to that date, appear to be approximately 11.9%, or \$7.6 million, above the originally projected amounts. This is partially because a higher than projected proportion of replaceable contractors appear to be leaving the industry, partially because there will be some cost to the BCFRT related to stranded assets, and partially because redundant equipment payments are turning out to be higher than projected. Also, two licensees were able to get Ministerial Exemptions to allow them to eliminate more replaceable contractors than the original cap on replaceable contract eliminations would have allowed. These extra contractor costs will be balanced because it is now clear that employee severances will be lower than originally projected. In order to cover the higher than expected contractor mitigation cost, \$20,000,000 was moved from the Forest Worker Mitigation Account to the Contractor Mitigation Account.

Forest Worker Mitigation Account

The principle being used for forest worker mitigation is that workers who are severed by a Licensee or Replaceable Contractor because of FRA restructuring will receive severance from their ex-employer, and that severance will be funded by the BCFRT. The Advisory Board felt it was fair that all workers who lose their jobs as a result of FRA restructuring be treated the same. Because the Steelworkers' (previously IWA) contract mandates that employees affected by a permanent logging camp closure receive severance of 10 regular day's pay per year of service, plus 10/12^{ths} of a regular day's pay per completed month of service, that standard was used. The detailed calculation and discussion appears in the Forest Worker Mitigation Guidelines, and can be found on the BCFRT website.

As of December 31, 2007, the BCFRT had provided funding for the severance of 802 workers, for a total cost to the BCFRT of \$40,470,806. The average severance per employee to date is significantly higher than originally projected (\$50,565) as opposed to an estimate of \$39,828). The average is high because a disproportionate amount of the severed workers worked for licensees on the coast, and they tended to be crews with above average seniority. Also, it is now clear that the total number of employees to be severed, especially in the interior, will be lower than projected. A surplus of at least \$20,000,000 was expected in the Employee Mitigation Account to deal with employee severance according to the Guidelines. This was moved to the Contractor Mitigation Account to cover the shortfall in that Account.

Looking Ahead

The first quarter of 2008 will likely include the following activity:

1. Contractor Mitigation payments will continue to be made to replaceable contractors who lost some or all of their contracts as a result of those FRPs.
2. Severance payments will continue to be made to forest workers for some of the above licensees, and some of their replaceable contractors.
3. The BCFRT Trustee will continue to meet with licensee and contractor industry associations and organized labour, as well as with individual licensees, contractors, worker groups and their advisors on an as needed basis, to ensure that the mitigation process progresses as smoothly, quickly and efficiently as possible.
4. The Trustee will arrange to have the mandate of the BCFRT extended so that as yet unresolved mitigation payments can be settled.

Eric van Soeren
Trustee