



BC Forestry Revitalization Trust

Report of the Trustee as of September 30, 2010

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 was 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.

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 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 and received a commitment for the additional funds, so the BCFRT Advisory Board finalized the Contractor Mitigation Guidelines and the Forest Worker Mitigation Guidelines. The Guidelines, as well as extensive supporting documentation, are posted on the BCFRT website at www.bcfrt.com.

Roll over of the BCFRT

The original BCFRT was slated to terminate effective March 31, 2008. However, for a variety of reasons it was not possible to mitigate all the eligible beneficiaries of the BCFRT by that time. Further, estimates at that time suggested that even once all the existing beneficiaries receive mitigation, there would still be funds left in the BCFRT. Therefore, it was agreed by the Trustee, the Province and the Advisory Board members that the BCFRT should be extended, the group of potential beneficiaries be expanded, and the Trustee be given limited discretion to deem that individuals who would not otherwise be eligible beneficiaries of the BCFRT be included. The Minister of Forests and Range and the Trustee signed a new Declaration of Trust, and all assets and obligations of the BCFRT were assumed by the new BCFRT II. A copy of the Declaration of Trust that created the BCFRT II is posted on the BCFRT website. The new trust is essentially a rollover of the original BCFRT, but with slightly expanded beneficiaries and no fixed termination date. It also allows for mitigation to be made available to workers and replaceable contractors that might be negatively affected by other Provincial Government land use decisions that limit logging.

Account Balances as at September 30, 2010

Account Balances

Administration Account	\$4,490,320
Contractor Mitigation Account	\$1,495,051
Forest Worker Mitigation Account	<u>\$4,548,480</u>
Total market value of BCFRT accounts	\$10,533,851

Distributions to Beneficiaries to date

Contractor Mitigation	\$70,638,918
Forest Worker Mitigation	<u>\$43,079,279</u>
Total Distributions to Beneficiaries	\$113,718,197

Total available funds plus distributions **\$124,252,048**

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 \$510,000. 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 used for contractor mitigation is that contractors who lost their replaceable contracts as a result of Forestry Revitalization Act (FRA) restructuring received mitigation that approximates what the contract might reasonably have been worth at the time it was reduced or eliminated. This was usually based on a per cubic metre value, but contracts that were based on some other measure were treated accordingly. A detailed description of the calculation that was used is contained in the Contractor Mitigation Guidelines.

As of September 30, 2010, Forestry Revitalization Proposals (FRPs) have been presented and accepted by the affected contractors, or the default condition of proportionate reduction has been imposed, for all the reallocated volume in the Province. Also as of September 30, 2010, \$70,638,918 had been paid in contractor mitigation related to 316 affected contracts. Discussions are underway with other replaceable contractors whose contracts have been reduced or eliminated. Approximately 6 more contractor mitigation payments should be made later in 2010.

Contractor compensation payments to September 30, 2010, plus revised estimates based on pending applications, are approximately 12.2%, or \$7.80 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 has been some cost to the BCFRT related to stranded assets, and partially because redundant

equipment payments were 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 were balanced because employee severances were lower than originally projected. In order to cover the higher than expected contractor mitigation costs, \$20,000,000 was moved from the Forest Worker Mitigation Account to the Contractor Mitigation Account. Based on current estimates, there are sufficient funds in the Contractor Mitigation Account to cover all outstanding expected contractor mitigation costs.

Forest Worker Mitigation Account

The principle used for forest worker mitigation was that workers who were severed by a Licensee or Replaceable Contractor because of FRA restructuring received severance from their ex-employer, and that severance was be funded by the BCFRT. The Advisory Board felt it was fair that all employees who lost 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 days 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.

The BCFRT has provided funding for the severance of 848 workers, for a total cost to the BCFRT of \$43,079,279. The average severance per employee was significantly higher than originally projected. It is \$50,801 as opposed to an estimate of \$39,828 because a disproportionate amount of the severed workers worked for licensees on the coast, and they tended to be crews with above average seniority. However, the number of severed employees, especially in the interior, was lower than projected. A surplus of at least \$20,000,000 was previously 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. All workers known to have been affected by the Forestry Revitalization Act have now received their BCFRT supported severance, and there is still approximately \$4.5 million remaining in the Forest Worker Mitigation account. Utilization of these funds will be decided by the Advisory Board.

Surplus Funds

It is now clear that between the surplus in the Administration and Forest Worker Mitigation accounts there will be approximately \$9,000,000 left in the BCFRT that will not be required for administration or to mitigate the negative impacts of the BC Forestry Revitalization Act.

The Deed of Trust does not allow a return of those funds to the Province, but two possible alternate uses of the funds have been suggested. An unknown but likely significant number of contractors and workers are likely to be affected by the implementation of Eco-system Based Management on the Central Coast, North Coast and Haida Gwaii. Mitigation of those workers and contractors could be a permitted use of the BCFRT funds, subject to BCFRT

Advisory Board approval. Another possible use, again subject to BCFRT Advisory Board approval, would be to change the existing contractor mitigation guidelines to allow the BCFRT to compensate the contractors for taxes the Canada Revenue Agency (CRA) believes they are required to pay on mitigation payments made. That CRA opinion is being contested, and it may be revised by the CRA or be tested in court.

The BCFRT Advisory Board met on May 18, 2010 to discuss the disposition of the extra \$9,000,000. It was decided to invite the three major licensees on Haida Gwaii to submit proposals as to how mitigation could be provided to their employees, their contractors, and their contractors' employees that were impacted by the implementation of EBM. A letter has been sent to the licensees. One has responded to say there has been no impact to date, and discussions are underway with the other two about their proposals for employee and contractor mitigation.

Looking Ahead

The fourth quarter of 2010 will likely include the following activity:

1. The BCFRT Trustee will continue to work with the Loggers for Fair Tax Treatment (LFFTT) to try to resolve the dispute between the LFFTT and the Canada Revenue Agency on the taxability of disbursements made by the BCFRT to replaceable contractors.
2. Contractor Mitigation payments will be made to the few remaining replaceable contractors who lost some or all of their contracts as a result of the FRA.
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, and to discuss possible uses of the roughly \$9,000,000 in surplus funds.
4. The Trustee will meet with the Advisory Board to discuss proposals received from the Haida Gwaii licensees.

Eric van Soeren
Trustee