



BC Forestry Revitalization Trust

Report of the Trustee as of September 30, 2011

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 received 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. Beneficiaries are still limited to Forest workers and replaceable contractors, but 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, 2011

Account Balances

Administration Account	\$4,483,371
Contractor Mitigation Account	\$741,413
Forest Worker Mitigation Account	<u>\$2,516,918</u>
Total market value of BCFRT accounts	\$7,741,702

Distributions to Beneficiaries to date

Contractor Mitigation	\$70,748,591
Forest Worker Mitigation	\$43,079,279
Transferred to the Coast Sustainability Trust	<u>\$2,767,714</u>
Total Distributions to Beneficiaries	\$116,595,584

Total available funds plus distributions **\$124,336,286**

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 \$520,000. A significant portion of the Administration Account will be able to be transferred to a new Contractor Income Tax Relief Account that is in the process of being established.

Contractor Mitigation Account

As of September 30, 2011, \$70,748,591 had been paid in contractor mitigation related to 317 affected contracts. All replaceable contractors that were affected by the implementation of the FRA have now received the full mitigation for which they were eligible under the Contractor Mitigation Guidelines.

Forest Worker Mitigation Account

The BCFRT has provided funding for the severance of 848 workers negatively affected by the FRA, for a total cost to the BCFRT of \$43,079,279. All employees known to have been affected by the FRA have now received their BCFRT supported severance.

Mitigation of the Negative Impacts of Ecosystem Based Management on Haida Gwaii.

During a February 2011 BCFRT Advisory Board meeting it was agreed that the BCFRT would cost share with the Coast Sustainability Trust (CST) to provide mitigation to workers

and replaceable contractors that are negatively impacted by the implementation of Ecosystem Based Management (EBM) on Haida Gwaii. The formulas used to determine the amount of mitigation would be the same as were used in the earlier BCFRT mitigation payments. The estimated cost of mitigation is \$5,535,428 million, of which the BCFRT will pay half. Payments will be made through the CST, with the BCFRT providing half the required funds.

As of September 30, 2011, \$2,767,714 has been transferred to the CST to provide matching funds for worker and contractor mitigation. Also as of September 30, 2011, all 35 affected workers and all but 2 of the 11 affected contractors have received their mitigation amounts.

Contractor Income Tax Liability

There has been uncertainty about the liability for income taxes payable on mitigation amounts received by replaceable contractors from the BCFRT. The position of the four logging contractor associations in BC is that the amounts should be received tax free, either because they were a windfall payment, or because they were amounts received from a personal trust. Others took the position that the amounts received as a result of the loss of some or all of a replaceable contract should be treated as a capital gain. The Canada Revenue Agency (CRA) took the position that all such amounts were to be taxed as income.

The BCFRT, the Loggers for Fair Taxation, the Minister of Forests, Lands and Natural Resource Operations, and the Premier of BC, have been working on this problem for approximately four years. As a result, the Province of BC and the Advisory Board of the BCFRT have agreed to increase the contractor mitigation payments received by replaceable contractors by an amount equal to the income taxes paid or payable on the amounts previously disbursed.

Adequacy of Funds

The cost of making contractors whole for income taxes assessed on the contractor mitigation amounts they received is not known. The best estimate at this time is approximately \$15 to \$18 million. The agreement with the province is that all existing funds in the BCFRT accounts will be first applied to compensate the contractors for taxes paid or payable. Once the BCFRT funds are depleted, the province will replenish the BCFRT as required to meet the additional obligations to the contractors and the administration costs of the Trust.

Looking Ahead

The fourth quarter of 2011 will likely include the following activity:

1. As part of the agreement with the provincial government, all funds in the three currently existing accounts will be swept into a contractor income tax relief account.
2. The trustee will continue to work with the federal and provincial governments on the details of the repayment of taxes paid, and the mechanism for the extinguishments of penalties and interest on unpaid amounts.

3. The Trustee will contact all the contractors that received contractor mitigation amounts from the BCFRT to request the information required to determine whether or not they have taxes paid or payable related to the contractor mitigation amounts.
4. The Trustee will work with the CRA to determine whether or not the contractors have income taxes paid or payable related to the contractor mitigation amounts, and if so, how much.
5. Where agreement is achieved on the income taxes to be reimbursed, the trustee will enter into funding agreements with the relevant contractors and either pay them directly or, at their direction, pay the amount owing directly to the CRA.
6. The Trustee will work with the remaining contractors on Haida Gwaii to finalize mitigation payments related to the loss of contracts because of the implementation of EBM.

Eric van Soeren
Trustee