

## Thomas, Vivian P GCPE:EX

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**From:** Thomas, Vivian P GCPE:EX  
**Sent:** December-04-13 2:52 PM  
**To:** Hunter, Justine  
**Cc:** Clarke, Brennan GCPE:EX  
**Subject:** Globe & Mail - Khaira - part 1

Hi Justine! Brennan said you were asking about Khaira.

On July 21, 2010, ministry compliance and enforcement staff discovered sub-standard camp conditions at the Khaira camp outside of Golden. RCMP, provincial government staff and local first responders worked to immediately address the workers' health and safety concerns and find accommodation and transportation for workers. The camp was shut down; and BC Timber Sales cancelled the contract with Khaira (\$28,059.23), kept the company's security deposit, and disqualified the company from bidding on any ministry silviculture contractors for a period of two years.

Roger Harris issued his report in July 2011. Pasted below, I've listed the recommendations that pertain to Forests, Lands and Natural Resource Operations and the actions that had been taken at that time in response to them. I've asked staff for any updates/additional actions, and will let you know. However, the ministry, along with other provincial government agencies acted fairly quickly in response to the Khaira/Golden situation, so by the time Mr. Harris had issued his report, a lot of his recommendations were already acted on.

Cheers,

**Vivian Thomas**

Communications Director

Ministry of Forests, Lands and Natural Resource Operations

Tel: 250 356-2475 cell: 250 213-2972

[Vivian.Thomas@gov.bc.ca](mailto:Vivian.Thomas@gov.bc.ca)

### Notification Recommendations

- MFLNRO review its current notification requirements for camp operators – specifically camp geographic coordinates and calendar dates for setup and operation.
- **Action already taken:** Notification requirements for silviculture contracts have been upgraded.
- MFLNRO develop a system for making camp operator information available and accessible to others.
- **Action already taken:** Relevant information is now being made available and accessible to other agencies and organizations.
- MFLNRO require operators (at least 48 hours prior to set-up) to report exact camp location and operating timelines before commencing any operations.
- **Action already taken:** Silviculture contractors are now required to provide 72 hours notice prior to any camp being established.

### Enforcement Recommendations

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate a potential model for in-field inspections.
- **Action already taken:** MFLNRO has established a collaborative inspection process under which the ministry, when conducting in-field inspections, acts as the eyes and ears for other affected agencies and

organizations. Inspection results are reported to provide them with information they need to determine if and when to follow up with their own in-field inspections.

- MFLNRO also conducts joint in-field inspections with other agencies and organizations where necessary.
- MFLNRO will participate in any effort to explore a shared-delegation model with other affected agencies.

#### **Contract Qualification Process**

- MFLNRO establish a contract qualification process for silviculture contractors that bid on government contracts.
- **Action already taken:** A system of eligibility requirements is already in place that needs to be met by prospective contractors.
- To be eligible to bid on BCTS silviculture contracts, the company must meet BC Forest Safety Council requirements respecting safety certification or endorsement.
- Contracts are awarded to the lowest qualified and compliant bidder – not just the bidder with the lowest price.
- It is also standard practice for BCTS to review the past performance of contractor bidders.

#### **Training Recommendations**

- Visual inspection of camp facilities to include checking that all pertinent employee information is posted in a manner and location accessible by all workers.
- **Action already taken:** It is now a requirement that employment standards be posted for the benefit of all workers.

#### **Tender versus Proposal Driven Models**

- MFLNRO explore the option of expanding use of proposal-driven contracts, especially where working conditions present a high degree of difficulty or hazard.
- **Action already taken:** The ministry will continue to explore opportunities for more efficient and effective tendering contracts, including the use of Requests For Proposals.
- The ministry is always looking for additional ways to improve contracting and works with the contracting community to do so.
- During the BCTS tendering process, it is also standard practice for bidders to provide evidence that they have successfully completed similar work.

## Thomas, Vivian P GCPE:EX

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**From:** Thomas, Vivian P GCPE:EX  
**Sent:** December-06-13 3:00 PM  
**To:** Hunter, Justine  
**Subject:** Request for Expressions of Interests - tree planting  
**Attachments:** REI\_\_2015-02\_Tree\_Planting[1].pdf

Justine, here's a request for expressions of interest to pre-qualify who might be eligible to bid on a planting contract when it comes up in the Peace-Liard business area. If you flip to page 11 (of the pdf, or page 8 of 9 of Attachment C), you'll see the breakdown of evaluation criteria.

I'm also looking for a contract, but came across this right away, so thought I would forward.

Cheers,

Vivian  
250 356-2475



Ministry of  
Forests, Lands and  
Natural Resource Operations

**Request for Expressions of  
Interest  
REI # 2015-02**

**Contractor Pre-qualification Information Package**

For

**Tree Planting Contractors, Peace-Liard Business Area**

**PACKAGE CONTENTS**

- ☒ REI Notice
- ☒ Table of Contents
- ☒ Part A: Administration
- ☒ Part B: Requirements
- ☒ Part C: Attachments
  - ☒ Contractor Pre-Qualification Evaluation Form
  - ☒ Attachment No.1, List of Projects Completed

Date: November 18<sup>th</sup>, 2013

BC Timber Sales, Peace-Liard Business Area

File: 10005-03/REI # 2015-02

9000 17<sup>th</sup> Street, Dawson Creek BC, V1G 4A4

*Please ensure your package is complete.*



Ministry of  
Forests, Lands and  
Natural Resource Operations

## Request for Expressions of Interest REI # 2015-02

### Notice to Tree Planting Contractors Request for Expressions of Interest - REI # 2015-02

The Ministry of Forests, Lands and Natural Resource Operations, BC Timber Sales, Peace-Liard Business Area (9000 17<sup>th</sup> Street, Dawson Creek, British Columbia V1G 4A4) is establishing a Select List of pre-qualified contractors who may be invited to participate in subsequent Invitation to Tender for tree planting contracts to be completed by the Dawson Creek, Fort Nelson and Fort St John field teams during the term from April 1<sup>st</sup>, 2014 to September 30<sup>th</sup>, 2014. All contractors pre-qualified for the scope of projects offered will be invited to submit offers by select invitation. Contractor names will not be rotated from the Select List.

The resulting established Select List shall remain valid for one year from the date of evaluation.

**Contractors currently on the BCTS Peace-Liard Business Area Planting Eligibility list from the 2012 - 2013 fiscal year do not need to reapply. You will be contacted separately and asked to complete a short information disclosure statement to update your information and confirm your continued eligibility.**

BCTS will not accept any further submissions after the closing date of this Request for Expressions of Interest.

Contractors interested in being evaluated for inclusion on the Select List are invited to obtain a pre-qualification information package containing complete details of the proposed project, the pre-qualification mandatory requirements, and complete instructions for submission of an Expression of Interest. Information packages may be obtained from this location:

BC Bid [www.bcbid.gov.bc.ca](http://www.bcbid.gov.bc.ca)

Ministry Contacts:	Jason Smith R.P.F. Woodlands Supervisor, Fort Nelson	or	Rod Drew, R.F.T. Forest Technologist, Dawson Creek
Telephone:	(250) 774-5527		(250) 784-1289
Fax:	(250) 774-3704		(250) 784-1259
e-mail:	<a href="mailto:Jason.V.Smith@gov.bc.ca">Jason.V.Smith@gov.bc.ca</a>		<a href="mailto:rod.drew@gov.bc.ca">rod.drew@gov.bc.ca</a>

Expressions of Interest will be received not later than 2:00 p.m. (*local time*) on December 9<sup>th</sup>, 2013 at the ministry address shown above. Submissions must be in accordance with the terms and conditions specified in the information package. No further advertising will take place.

**Submission of a pre-qualification application does not guarantee inclusion on a resulting short-list of pre-qualified contractors. The ministry reserves the right to limit the number of pre-qualified contractors invited to compete on a subsequent contract.**

**The ministry will reject late submissions.**

***This solicitation is subject to the New West Partnership Trade Agreement and Chapter 5 of the Agreement on Internal Trade.***

Shawn Sullivan  
Timber Sales Manager  
BC Timber Sales  
Peace-Liard Business Area

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1. Contractor Pre-Qualification  
Evaluation Form
2. Attachment No. 1,  
List of Projects Completed

# **PART A: ADMINISTRATION**

## **1. GENERAL INFORMATION**

### **1.1 Purpose of Pre-qualification**

The purpose of this pre-qualification is to establish a Select List of eligible contractors who are most suitable and available to compete, at a later date, on the described project or activities.

Using a Select List of contractors for a subsequent contract procurement solicitation either avoids the need to evaluate an excessive number of proposals or reduces the time required for the tendering period. Pre-qualification spares those contractors not short-listed the expense of preparing a proposal or tender and, by limiting the number of contractors invited to compete, increases a contractor's possibility of subsequently obtaining a contract.

If the Select List is being established for use on more than one contract competition, the Ministry reserves the right to select contractors to compete on a rotational basis.

Contractors submitting Expressions of Interest will receive fair and uniform treatment and submissions will be given due consideration.

### **1.2 Identification**

This Request for Expressions of Interest (REI) includes:

- The REI notice (the "Notice");
- Part A: Administration ("Part A");
- Part B: Requirements ("Part B");
- Part C: Attachments ("Part C").

A list of any attachments is provided in the REI Package Cover Sheet. Contractors are responsible for ensuring they have all the components of the REI package, including all attachments and subsequent addenda.

Proponents are advised to read this package thoroughly and respond appropriately. An incomplete submission will be rejected.

### **1.3 Changes to the REI**

Ministry changes to the REI will be made in the form of written addenda or of re-issued documents that will be available at least four working days prior to the closing date. All addenda shall be considered to be integral to the REI.

The Ministry will make every effort to distribute addenda to all registered or known contractors. However, it is solely the contractor's responsibility to be aware of and familiarized with any addenda or supplementary information issued.

Where the REI has been made available electronically on BC Bid®, the Ministry may post an addendum to the REI on the BC Bid® website at <http://www.bcbid.ca>. Contractors are strongly encouraged to select "Send Me Amendments" that is included as an option on the Opportunity Notice published on BC Bid®. By selecting this option a registered Contractor will be automatically notified of any addendum that may be issued. Contractors that are not registered with BC Bid® may register by selecting *Start your e-Service, Supplier Registration* on the BC Bid® home page, [www.bcbid.ca](http://www.bcbid.ca). Contractors who do not register with BC Bid® are solely responsible to continually monitor the BC Bid® website on an ongoing basis to keep themselves informed of any addenda.

### **1.4 Ownership Of Contractors' Submissions**

Expressions of Interest become the property of the Ministry and will not be returned.

### **1.5 Freedom of Information**

Expressions of Interest are subject to the disclosure provisions of the *Freedom of Information and Protection of Privacy Act*.

### **1.6 Acceptance of Terms**

Expressions of Interest shall be made on the basis that contractors have read and agree to all the terms and conditions of this REI. Expressions of Interest that include any condition or modification to the terms and conditions of this REI will be rejected.

### **1.7 Funding Limitation**

Notwithstanding any other provision of this REI, any contract contemplated by this REI and the financial obligations of the Ministry pursuant thereto are subject to the availability of funds in accordance with the *Financial Administration Act*.



### 1.8 Closing Date and Location

The closing date and location are shown in the REI Notice included with this package; that notice was used as the advertisement for this Request for Expressions of Interest.

## 2. PREPARATION AND SUBMISSION

### 2.1 Format and Content

Expressions of Interest shall be typed (preferably on letterhead) and **include a letter of introduction signed by an authorized signatory of the firm**. The letter of introduction shall identify the firm, its address, telephone/fax numbers and provide a brief **history of the firm, areas of expertise, principal fields of activity, and a description of services offered**. The remainder of the submission shall respond to the needs of the evaluation criteria in the order listed on the attached Contractor Pre-qualification Evaluation Form and demonstrate that contractors have a clear understanding of the Ministry's requirements.

Failure to submit an Expression of Interest as described will be cause for rejection.

### 2.2 Inquiries

Inquiries must be directed to the Ministry Contact specified in the Notice. The Ministry Contact may require that an inquiry be submitted in writing.

Inquiries and responses may be distributed to all proponents at the Ministry's option.

### 2.3 Submissions

Expressions of Interest must be received at the location and no later than the time specified in the REI Notice.

One complete hard copy and one copy on CD or DVD of the Expression of Interest should be submitted in a sealed envelope identifying the name and address of the contractor and showing the words, "**Expression of Interest for REI # 2015-02**" on the outside of the envelope.

Alternatively, Expressions of Interest may be submitted by facsimile or electronic transmission to the fax number or email address shown in the REI Notice; only one submission is required and should identify the facsimile or email contents as noted above.

### 2.4 Revisions

Contractors may submit revisions to their Expressions of Interest prior to the closing date and time. Revisions:

- must be submitted in writing, and identify the firm and the proposal being revised; and
- must be in accordance with all REI requirements; and
- should be submitted in a sealed envelope to the Ministry address shown in the REI Notice ; or
- if not in a sealed envelope, may be submitted by facsimile transmission to the fax number shown in the REI Notice; or
- may be submitted electronically to the email address shown in the REI Notice; and
- should be signed or sent electronically by an authorized official of the firm, preferably by the same person signing the original submission.

Contractors are solely responsible for timely delivery of revisions. The Ministry will not accept responsibility for the lack of availability of a facsimile machine at the closing location.

### 2.5 Withdrawal

Expressions of Interest may be withdrawn for purposes of evaluation by submitting a written request, signed by an authorized signatory of the firm, to the Ministry Contact identified in the REI Notice. Facsimile or electronic transmission of a request to withdraw is acceptable.

## 3. EVALUATION AND AWARD

### 3.1 Ministry Privilege

Submission of an Expression of Interest does not guarantee inclusion on a resulting short list of pre-qualified contractors. The Ministry reserves the right in the case of insufficient response, in the sole opinion of the ministry, to cancel the REI, return contractors' Expressions of Interest, and re-solicit for better response, with or without any change being made to the REI package.

### 3.2 Opening and Evaluation

Expressions of Interest are normally opened and evaluated shortly after the closing time and date. Due to the nature of the REI evaluation process and the confidentiality to be afforded to submissions, opening and evaluation are not open to the public.



### **3.3 Mandatory Requirements**

Contractors are cautioned to carefully read the mandatory requirements specified in Part B of this REI package and respond appropriately. **Expressions of Interest not meeting all mandatory requirements of this REI package will be rejected without further consideration.**

### **3.4 Evaluation Criteria**

Expressions of Interest will be scored according to, and must achieve the minimum evaluation points specified in the Contractor Pre-qualification Evaluation Form in order to be placed on the Select List of pre-qualified contractors. The Ministry may conduct such independent reference checks or verifications as are deemed necessary by it, to clarify, test, or verify the information contained in the Expression of Interest including reference checks from any Natural Resource Sector ministry or other Provincial government office.

For the purposes of contractor suitability, a contractor who is a 'related persons' or 'affiliated persons' or 'associated persons' (an 'Associated Person'), as those terms are defined or referenced in the federal Income Tax Act or related Canada Revenue Agency's interpretation bulletins, to an individual or corporation who has been disqualified from bidding by the Province for a stated period of time will not be accepted. Upon request, the contractor must provide to the Province the: (i) the ownership of voting shares of the incorporated contractor, (ii) a list of individuals who exercise legal and/or operational control over the contractor; and (iii) a notarized declaration that the contractor is not an Associated Person in respect of a disqualified bidder nor is it in legal or operational control of, nor is it acting in concert with or at non-arms length with a disqualified bidder.

By submission of a response to this REI, the contractor affirms it is not an Associated Person to, nor acting in concert with, a disqualified bidder and undertakes to not knowingly do so during the term of any subsequent contract.

### **3.5 Clarification**

The Ministry reserves the right to request contractor clarification of vague or ambiguous items contained in Expressions of Interest. Requests for clarification will be provided in writing and will not be used if a submission has clearly failed to respond to a specified requirement.

### **3.6 Notification of Select List Status**

The Ministry will notify contractors in writing of their scoring results and status on the Select List. Where possible, verbal notification will also be given.

## **4. PERIOD SELECT LIST WILL REMAIN VALID**

The resulting established Select List of eligible contractors shall remain valid from December 16<sup>th</sup>, 2013 to December 15<sup>th</sup>, 2014.

## **5. SUMMARY OF CAUSES FOR REJECTION**

An Expression of Interest **will** be rejected for the following reasons:

- a) failure to include a specified "mandatory";
- b) failure to achieve the required minimum scores in the evaluation;
- c) it contains errors, omissions or misrepresentations which, in the sole opinion of the Ministry, are of a serious nature;
- d) in the sole opinion of the Ministry, a conflict of interest exists.
- e) failure to follow the required format/content outline;
- f) it is incomplete;
- g) it contains a condition contrary to the terms and conditions of the REI;
- h) it is submitted after the closing date and time.

## **6. SELECTION METHODS**

The Ministry may select a pre-qualified contractor from the Select List using one or more of the following methods:

- a) Invitation to Tender
- b) Select Invitation
- c) Invitation to quote for contracts under \$25,000 in value

## **PART B: REQUIREMENTS**

### **1. INTRODUCTION/BACKGROUND**

- BC Timber Sales, Peace-Liard Business Area is establishing a select list of pre-qualified planting contractors eligible to bid on up-coming BC Timber Sales tree planting contracts. Only pre-qualified firms will be invited to submit tenders for planting contracts when solicited by select invitation.

Pre-qualified contractors will be eligible to bid on contracts equivalent to the largest annual program (based on the number of trees planted) completed within at least one of the previous two calendar years 2012 or 2013.

An Expression of Interest must achieve a score of at least 11, in accordance with the Mandatory Evaluation Criteria (detailed on pages 7 and 8), with no more than one high risk assessment, to be further evaluated on the Performance Criteria.

An Expression of Interest must also achieve a minimum average score of 60, in accordance with the Performance Evaluation Criteria (detailed on pages 9 and 10), for inclusion on the Select List of pre-qualified contractors who may be invited to participate on subsequent planting tenders. Performance Evaluation Criteria will be scored in accordance with the responses provided by the selected references provided on the Attachment No. 1.

References will be contacted to corroborate information provided by the contractor.

### **2. DESCRIPTION**

- The contractor will provide all necessary equipment and personnel to complete planting, and associated reports.
- The contractor will be required to complete all planting units as described in the Invitation to Tender

### **3. TIMING**

- Evaluations will be completed by December 13<sup>th</sup>, 2013. Upon completion of evaluations contractors will be notified by letter, of their status and size of contract that they will be eligible to bid on. The select list will be used to solicit tenders for planting in the Peace-Liard Business Area.

### **4. MANDATORIES**

In order to be eligible for evaluation the following information **must** be provided:

- Documented proof that contractor is Certified with the BC Forest Safety Council (BCFSC) SAFE Companies Program;
- Expression of Interest must include a record of all planting contracts completed within the previous two calendar years 2012 and 2013. The information must be provided on the attached spreadsheet (Attachment No. 1) in a typed format. Failure to provide the requested information will result in the rejection of the Expression of Interest.

# PART C: ATTACHMENTS



Ministry of  
Forests, Lands and  
Natural Resource Operations

# Contractor Pre-Qualification Evaluation Form

PROJECT		CONTRACTOR IDENTIFICATION				
NAME: Tree Planting REI		A				
PROJECT NUMBER: REI # 2015-02		B				
FILE NUMBER: 10005-03/REI # 2015-02		C				
NATURE OF WORK: Tree Planting		D				
LOCATED AT: Peace-Liard Business Area		E				
OPENING AND COMPLIANCE		A	B	C	D	E
• Late or Withdrawn						
• All Mandatories Submitted						
ACCEPTED FOR REFERENCE EVALUATION (Yes/No)						
Submissions opened at ____ a.m / p.m. on the ____ day of _____ 20__.				Attach details regarding reasons for rejecting a submission where necessary.		
WITNESSES: _____				PRESIDING OFFICIAL: _____		
EVALUATION		ONLY ACCEPTED SUBMISSIONS CONSIDERED				
		<b>Score:</b> Out of 21, must achieve 11 or better, with no more than 1 High Risk <b>Risk:</b> No Risk 3.0 pt, Low 2.0 pt, Medium 1.0 pt, High 0 pt				
		Score	Score	Score	Score	Score
<b>MANDATORY EVALUATION CRITERIA</b>	<b>Max Points</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
• Performance Based Stop Work Order Issued	3.0					
• Performance Based Contract Cancellation	3.0					
• Planting Quality	3.0					
• Reduction of Payment	3.0					
• EMS Non-conformance	3.0					
• Legislative Non-compliance	3.0					
• Contract Commencement & Completion	3.0					
<b>TOTAL POINTS:</b>	<b>21</b>	---	---	---	---	---

Mandatory Evaluation Criteria and Description			
Criterion	Award evaluation points based upon the degree to which the submission:	Criterion	Award evaluation points based upon the degree to which the submission:
<b>Performance Based Stop Work Order</b>	Stop Work Order issued, Yes, or No	<b>Reduction to Payment</b>	Excluding planting quality, but to include excess trees, untreated areas, improper storage and handling, stashed trees, wasted and/or unaccounted for trees, low density, and any other assessments against payment.
<b>Performance Based Contract Cancellation</b>	Any cancellation of contract based on performance or failure to enter into a contract, Yes or No	<b>EMS Non-conformance</b>	# of major and # of minor non-conformances
<b>Planting Quality</b>	Indicate planting quality percentage for each contract	<b>Legislative Non-compliance</b>	To include # of tickets, determinations, or charges laid and detail of offense(s)
<b>Contract Commencement and Completion</b>	Planting commencement and completion in accordance with date specified in the contract Notice to Commence letter and/or Work Plan.		

Evaluation Criteria and Description			
Criterion	Award evaluation points based upon the degree to which the submission:	Criterion	Award evaluation points based upon the degree to which the submission:
<b>Planning/ Work Completion</b>	<ol style="list-style-type: none"> <li>1. Preparatory works (crew training/certification WDTA, thaw requests, lift requests etc.) are completed thoroughly and by the dates specified in the contract.</li> <li>2. Planting commencement and completion are in accordance with dates specified in the contract or notice to commence letter.</li> <li>3. Planting productivity conforms to requirements of contract or work plan.</li> <li>4. Supervision is effective and responsive and conforms to requirements of contract.</li> </ol>	<b>Safety/EMS/ Camps</b>	<ol style="list-style-type: none"> <li>1. Compliance with Safe Company Certification, EMS, and WorkSafe Camp Standards.</li> <li>2. Safety (ETV's, vehicles, first aid, field communication, equipment operation, radio controlled road use), EMS (knowledge and application of system, spill kits documentation) and camps (approved locations, accommodations, food safety, sanitation, clean-up).</li> </ol>
<b>Tree Handling/ Storage</b>	<ol style="list-style-type: none"> <li>1. Equipment used to transport stock (reefers, fists, trucks, quads, trailers) is adequate to meet contract requirements regarding maintenance of tree seedlings in optimal condition.</li> <li>2. Storage of stock (reefers, caches) is in accordance with contract requirements to minimize stress to tree seedlings.</li> <li>3. Planter handling of stock, including fields caches planting bags and bagging up procedures is in accordance with contract requirements.</li> </ol>	<b>Client Relations</b>	<ol style="list-style-type: none"> <li>1. Communications are in accordance with contract requirements with respect to accessibility, communication devices, legibility, intelligibility and timeliness.</li> <li>2. Professional conduct is demonstrated in all communications.</li> <li>3. Contractor is responsive to client needs and willing and able to accommodate changes.</li> </ol>
<b>Planting Quality</b>	<ol style="list-style-type: none"> <li>1. Considers compliance with contract requirements with respect to planting equipment, planting technique, microsite selection and planting quality.</li> <li>2. Reductions to payment due to poor planting quality, excess trees, wasted trees, stashed trees, unaccounted for trees, unplanted areas and low density.</li> <li>3. Planting density is in accordance with prescription requirements.</li> </ol>	<b>Reports</b>	<ol style="list-style-type: none"> <li>1. Report content and format are as requested and clearly presented.</li> <li>2. Reports are submitted by the dates specified in the contract.</li> </ol>

EVALUATION		ONLY ACCEPTED SUBMISSIONS CONSIDERED									
		<b>Rating = Evaluation "Decimal" Scale</b> <b>Score = Rating x Maximum Points</b>									
		Rating	Score	Rating	Score	Rating	Score	Rating	Score	Rating	Score
<b>PERFORMANCE EVALUATION CRITERIA</b>											
• Planning/Work Completion	20										
• Stock Handling/Storage	20										
• Planting Quality	20										
• Safety/EMS/Camps	20										
• Client Relations	10										
• Reports	10										
<b>TOTAL POINTS:</b> <b>Min Average = 60%</b>	<b>100</b>	---		---		---		---		---	
<b>PRE-QUALIFIED (Min. Total Points Achieved)</b> (Enter 'Yes' or 'No')											
<b>COMMENTS</b>							SIGNATURES: _____ _____ _____ EVALUATION TEAM CHAIRPERSON				

Performance Evaluation "Decimal" Scale	
Rating	Description
1.0	Excellent Substantially exceeds contract requirements
0.9	Good - Excellent
0.8	Good Generally exceeds contract requirements
0.7	Satisfactory - Good
0.6	Satisfactory Acceptably meets contract requirements
0.5	Fair - Satisfactory
0.4	Fair Substantially meets contract requirements with some minor deficiencies
0.3	Poor - Fair
0.2	Poor Substantial deficiencies in meeting contract requirements
0.1	Abysmal - Poor
0.0	Abysmal Contract terminated due to failure to meet contractual requirements

**ATTACHMENT NO. 1 LIST OF PROJECTS COMPLETED**

Please list Option-To-Renew or Multi Year Contracts as separate projects for each year ie PL12TDE001 YR 1 then PL12TDE001 YR 2 etc.

[illegible]



## Thomas, Vivian P GCPE:EX

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**From:** GCPE FLNR Media Requests GCPE:EX  
**Subject:** FW: Globe & Mail - Khaira - part 1  
**Attachments:** Cot-Services.pdf; Camp Standards Schedule.pdf; Camp Standards Inspection List.pdf; Notice to commence work letter.pdf; NRS1280.pdf

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**From:** Thomas, Vivian P GCPE:EX  
**Sent:** December-06-13 4:27 PM  
**To:** 'Hunter, Justine'  
**Subject:** RE: Globe & Mail - Khaira - part 1

Hi! I've attached a bunch of documents:

"Cot-services" is the conditions of tender document. Clauses 4.04 to 4.09 speak to the concerns John Betts has raised about past performance, etc.

And here's some of the sample contract documents:

"Camp Standards Schedule" – part of every contract agreement when a camp may potentially be involved.

"Camp Standards Inspection List" – self-explanatory

"NRS1280" – is a sample contract award letter – all requirements must be agreed to before any work can commence, including contractor must wait to receive "Notice to Commence Work"

"Notice to Commence Work" – improvement in that WorkSafeBC is now cc'd (before contractors were supposed to contact WorkSafe)

Cheers,

Viv

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**From:** Thomas, Vivian P GCPE:EX [Vivian.Thomas@gov.bc.ca]  
**Sent:** December 6, 2013 4:06 PM  
**To:** Hunter, Justine  
**Subject:** RE: Globe & Mail - Khaira - part 1

In terms of \$\$, I have incomplete information; but I do have this summary below. I also found some more contract stuff, which I'll forward under separate cover.

BC Timber Sales has 12 business areas, and each business area is responsible for its own contracting. Prior to July 2010, BCTS had the following contracts with Khaira:

Skeena – summers 2007 & 2008, work completed to standard, no issues with camp standards, and contract evaluation form noted "crew morale" was high.

Kamloops – summer 2008 – no issues with camp standards

Strait of Georgia – In December 2009, Khaira was awarded a planting contract to plant seedlings in areas on the Sunshine Coast. Work started March 15, 2010 and was completed April 12, 2010. There were some issues with camp standards that were rectified during the course of the contract.

Okanagan-Columbia Business Area – In Aug 2008, Khaira had a planting contract terminated due to deficiencies in performance. There were no issues with camp standards, since workers stayed in motels. Because of the deficiencies in the planting contract, Khaira lost their security deposit and holdback and were banned from bidding on planting contracts for 2 years. The ban was specific to planting contracts and did not preclude Khaira from bidding on other types of silviculture contracts.

Khaira was awarded a brushing contract in January 2009 for the 2009 calendar year with an option to extend for 2010, pending satisfactory performance. The contract was extended on November 9, 2009. It was while Khaira was doing work on that contract that the incident at the Golden camp were uncovered.

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**From:** Thomas, Vivian P GCPE:EX [Vivian.Thomas@gov.bc.ca]  
**Sent:** December 4, 2013 2:51 PM  
**To:** Hunter, Justine  
**Cc:** Clarke, Brennan GCPE:EX  
**Subject:** Globe & Mail - Khaira - part 1

Hi Justine! Brennan said you were asking about Khaira.

On July 21, 2010, ministry compliance and enforcement staff discovered sub-standard camp conditions at the Khaira camp outside of Golden. RCMP, provincial government staff and local first responders worked to immediately address the workers' health and safety concerns and find accommodation and transportation for workers. The camp was shut down; and BC Timber Sales cancelled the contract with Khaira (\$28,059.23), kept the company's security deposit, and disqualified the company from bidding on any ministry silviculture contractors for a period of two years.

Roger Harris issued his report in July 2011. Pasted below, I've listed the recommendations that pertain to Forests, Lands and Natural Resource Operations and the actions that had been taken at that time in response to them. I've asked staff for any updates/additional actions, and will let you know. However, the ministry, along with other provincial government agencies acted fairly quickly in response to the Khaira/Golden situation, so by the time Mr. Harris had issued his report, a lot of his recommendations were already acted on.

Cheers,

**Vivian Thomas**  
Communications Director  
Ministry of Forests, Lands and Natural Resource Operations  
Tel: 250 356-2475 cell: 250 213-2972  
[Vivian.Thomas@gov.bc.ca](mailto:Vivian.Thomas@gov.bc.ca)

#### **Notification Recommendations**

- MFLNRO review its current notification requirements for camp operators – specifically camp geographic coordinates and calendar dates for setup and operation.
- **Action already taken:** Notification requirements for silviculture contracts have been upgraded.
- MFLNRO develop a system for making camp operator information available and accessible to others.
- **Action already taken:** Relevant information is now being made available and accessible to other agencies and organizations.

- MFLNRO require operators (at least 48 hours prior to set-up) to report exact camp location and operating timelines before commencing any operations.
- **Action already taken:** Silviculture contractors are now required to provide 72 hours notice prior to any camp being established.

#### **Enforcement Recommendations**

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate a potential model for in-field inspections.
- **Action already taken:** MFLNRO has established a collaborative inspection process under which the ministry, when conducting in-field inspections, acts as the eyes and ears for other affected agencies and organizations. Inspection results are reported to provide them with information they need to determine if and when to follow up with their own in-field inspections.
- MFLNRO also conducts joint in-field inspections with other agencies and organizations where necessary.
- MFLNRO will participate in any effort to explore a shared-delegation model with other affected agencies.

#### **Contract Qualification Process**

- MFLNRO establish a contract qualification process for silviculture contractors that bid on government contracts.
- **Action already taken:** A system of eligibility requirements is already in place that needs to be met by prospective contractors.
- To be eligible to bid on BCTS silviculture contracts, the company must meet BC Forest Safety Council requirements respecting safety certification or endorsement.
- Contracts are awarded to the lowest qualified and compliant bidder – not just the bidder with the lowest price.
- It is also standard practice for BCTS to review the past performance of contractor bidders.

#### **Training Recommendations**

- Visual inspection of camp facilities to include checking that all pertinent employee information is posted in a manner and location accessible by all workers.
- **Action already taken:** It is now a requirement that employment standards be posted for the benefit of all workers.

#### **Tender versus Proposal Driven Models**

- MFLNRO explore the option of expanding use of proposal-driven contracts, especially where working conditions present a high degree of difficulty or hazard.
- **Action already taken:** The ministry will continue to explore opportunities for more efficient and effective tendering contracts, including the use of Requests For Proposals.
- The ministry is always looking for additional ways to improve contracting and works with the contracting community to do so.
- During the BCTS tendering process, it is also standard practice for bidders to provide evidence that they have successfully completed similar work.

# Inspection Form - Compliance with Camp Standards

**CAMP STANDARDS DO NOT APPLY IF A CAMP IS OCCUPIED BY LESS THAN 5 PERSONS**

Contract No.: \_\_\_\_\_ Contractor Name: \_\_\_\_\_  
 Camp Location: \_\_\_\_\_ Contract Rep/Foreman: \_\_\_\_\_  
 Ministry Rep: \_\_\_\_\_ Date of Inspection: \_\_\_\_\_  
 Inspected by: \_\_\_\_\_ Number of Persons in Camp: \_\_\_\_\_  
 Date Camp Established: \_\_\_\_\_ Number of Cook(s) in Camp: \_\_\_\_\_

Section	Compliance with Camp Standards Schedule	Comply? Yes   No		Remarks
<b>FS1000 Clause 15.20</b>	Prior written approval from ministry given for use of recreation sites or Crown land?			
4.01	<b>Accommodation Requirements</b>			
	Exemptions? Which clauses?			
	offsite accommodation suitable w/safe and effective transportation?			
6.01	<b>Standards</b>			
	locations & contact info. provided to Health Authority?			
	locations & contact info. provided to WorkSafe BC?			
	locations provided to Ministry Representative?			
	72 Hours notice prior to setting up camp?			
6.02	<b>Supervision</b>			
	(b) copy of camp standards posted			
	(c) Silviculture Workers Fact Sheet posted & easily visible?			
	(d) camp clean and sanitary			
	(f) domestic animals controlled			
6.03	<b>Water Supply</b>			
	approved by Health Authority, operating permit issued?			
6.04	Approval from Ministry of Environment for short term water use from stream or other water body?			
6.05	with exception of purchased bottled water, water samples provided to Health Authority?			
6.08	containers for water not used for other purposes			
	containers securely closed and tapped			
6.09	containers clean			
6.10	unfit water - no connections, warning signs			
6.11	<b>Campsite</b>			
	good drainage			
	drainage not contaminating water			
6.13	approved location			

6.14	<b>Sleeping Accommodations Provided by Contractor</b>			
	(a)	>18 m <sup>2</sup> has been inspected by fire official		
	(b)	>6 m from building, vehicles, engines, other structures		
	(c)	adequate bracing		
	(d)	are flame resistant		
	(e)	flammable materials not used in structures		
	(f)	flammable material stored >15 m from structures		
	(g)	well ventilated		
	(h)	weather proof with adequate lighting		
	(i)	floors smooth and easily cleanable and clean		
	(j)	not overcrowded		
	(k)	dry storage for clothing / possessions		
	(l)	not used for drying clothes		
	(m)	ground sheet for bed <30 cm above ground		
	(n)	waterproof barrier for mattresses and pillows		
	(o)	clean and sanitary condition		
	<b>Kitchen and Meals</b>			
6.17		operating permit issued?		
6.18	(a)	kitchen separate and cleanable		
	(c)	hand basins, soap, disposable towels		
	(d)	utensils cleaned, sanitized, & personal water bottles cleaned daily		
	(e)	non-absorbent surfaces clean/sanitized		
	(f)	3 sink method / air dry		
	<b>Dining Room</b>			
6.19		dining room size, separate from kitchen, clean		
6.20		dining room dry, heated, insect/ vermin controlled		
	<b>Food Handlers</b>			
6.21	(c)	valid FOODSAFE certificate(s) (names & numbers)		
	<b>Food</b>			
6.22	(a)	food from commercial source & protected from contamination		
	(b)	ice of drinking water quality		
	(c)	hazardous food < 4.0 C or > 60c /, logged daily		
	(d)	adequate space, thermometer in refrigeration units		
	(e)	supplies off floor, protected from contaminants		
	<b>Food Equipment</b>			
6.23		container clean, washable, tight closed		
6.24		food equipment: good condition, no cracks, corrosion		
6.25		kitchenware, utensils in cupboards or off floor		
	<b>Food Safety Management Plan</b>			
6.26		Reviewed food safety plan in place		
		Reviewed sanitation plan in place		

	<b>Sanitary Facilities</b>		
6.27	hot water showers and dressing areas, floors and walls		
6.28	no flush toilets		
6.29	privies		
(a)	pests deterred		
(b)	no surface/ground water in pit		
(c)	no waste to water supply		
(d)	vented		
(e)	30 m from water & 10m from food service areas		
(f)	private		
6.30	water adequate to wash basin		
6.31	privies / showers / wash basins (see table below)		
6.32	privy pits filled and covered, marked		
6.33	facilities clean and sanitary		
	<b>Garbage and Sewage</b>		
6.34	approved by Health Authority		
6.35	infiltration pits, 30m from water, covered, no overflow		
(a)	kitchen sewage/waste disposed in infiltration pit, closed system		
(b)	bathing sewage/waste disposed in infiltration pit, closed system		
6.36	garbage stored in wildlife / insect proof containers		
6.37	disposal every 3 days (daily if bear problems)		
	<b>Dryroom</b>		
6.38	Separate, heated dry room		
<b>General – Contractor’s Employee Comments:</b>			
<b>Discussion / Actions:</b>			

SANITARY FACILITIES TABLE – Requirements			
No. of Persons in Camp	No. Privy Seats	No. Showers	No. Wash Basins
5-7	1	1	1
8-15	2	1	3
16-30	3	2	6
31-45	4	3	9
46-60	5	4	12
61-75	6	5	15
76-100	7	6	20
For each additional group of 6 persons in addition to 100, add 1 wash basin			
For each additional group of 20 persons in addition to 100, add 1 privy and shower			

**DISTRIBUTION:**      **Original** to Contract File      **Yellow** Copy to Contractor



## SCHEDULE - Camp Standards

Contract/File No.:

Attachment to the Agreement with            for            .

### ARTICLE 1 DEFINITIONS

1.01 In this document, the following words have the following meanings:

- (a) **“Approved”** means approved in writing by a medical health officer or environmental health inspector.
- (b) **“Camp”** means land or premises on which there are cabins, tents, dwellings, bunkhouses, or other structures owned, established, operated, or maintained by the Contractor as living quarters for its agents, employees, subcontractors, or others, with or without charge in connection with the Agreement.
- (c) **“Contract Representative”** means the person who is assigned by the contracting agency (Ministry of Forests, Lands and Natural Resource Operations; forest company – licensee; or Recipient) to administer the contract on that agency's behalf.
- (d) **“Food Premises”** means food premises in which food is processed, served, stored, or dispensed.
- (e) **“Potentially Hazardous Food”** any food or ingredient capable of supporting the growth of pathogenic organisms or the production of toxins.
- (f) **“Sanitize”** means to treat by a process that effectively destroys micro-organisms including pathogens. If any of the words in the Agreement are used in this Schedule, they have the same meaning in this document unless the context dictates otherwise.

### ARTICLE 2 COMPLIANCE WITH THE LAW

2.01 Notwithstanding the terms and conditions of the Agreement, the Contractor shall comply with all laws affecting the Work, including the *Public Health Act* and its *Food Premises Regulation*, *Health Act Communicable Disease Regulation*, *Sewerage System Regulation*, *Industrial Camps Health Regulation*; the *Water Act*, the *Drinking Water Protection Act* and its Regulations; and the *Tobacco Control Act* and its Regulations.

### ARTICLE 3 APPLICATION

3.01 This Schedule does not apply to camps occupied by less than 5 persons.

### ARTICLE 4 ACCOMMODATION REQUIREMENTS

4.01 The Contractor shall ensure that accommodation, which meets the minimum standards stated herein, is provided for their crew. If the Contractor's workers are to be housed in suitable off-site accommodation with safe, effective transportation to and from the worksite provided, an exception from providing a field camp as described may be obtained from the Contract Representative prior to the commencement of the Work.

### ARTICLE 5 INSPECTION

#### Right to Inspect

5.01 The Tobacco Enforcement Officer, Health Officer, WorkSafe BC Inspector, or Contract Representative may inspect a camp at any time or in the event of non-compliance with the Contract Documents, action may be taken against the Contractor either under this Agreement, under the *Public Health Act* or under WorkSafe BC Regulations. Action may include financial penalties, camp closure, or contract termination as described below.



## **Assessments**

- 5.02 As per the Agreement and the actions provided by the regulations listed in Article 2 of this Schedule, if, in the opinion of the Ministry Representative, an inspection indicates the Contractor has failed to comply with any standards specified in this Schedule, the Ministry Representative may, in its sole discretion, immediately impose upon the Contractor an assessment for re-inspection of two hundred and fifty dollars (\$250) each time the Ministry Representative is required to re-inspect for compliance. The Ministry Representative may repeat the assessment each time that a subsequent inspection indicates that the Contractor remains in non-compliance with the standards.

Tobacco Enforcement Officer and WorkSafe BC Inspectors may impose any assessments provided in their respective legislation.

## **Termination**

- 5.03 Notwithstanding any other rights or remedies available to it, the Province may terminate this Agreement and claim the Performance Security if:
- (a) the Contractor does not provide a camp or obtain an exemption as stated in 4.01 above;
  - (b) the Contractor does not comply with a Notice to Comply;
  - (c) the camp is ordered "closed" by an official of the Ministry of Health or the Workers' Compensation Board or the Ministry of Forests, Lands and Natural Resource Operations, Compliance Branch or any other agency with statutory authority.

## **ARTICLE 6 STANDARDS**

- 6.01 To facilitate routine inspection by a Health Officer, WorkSafe BC, and the Ministry Representative, the Contractor must provide the location of all camps and contact information to the local Health Authority, WorkSafe BC, and the Ministry Representative 72 hours prior to establishment of each and every camp site. The appropriate Health Authority is to be contacted as indicated at <http://www.health.gov.bc.ca/protect/industrial-camps.html> and WorkSafe BC contacted at [http://www.worksafebc.com/contact\\_us/default.asp](http://www.worksafebc.com/contact_us/default.asp).

### **Supervision**

- 6.02 The Contractor shall
- (a) be responsible for supervision of the camp.
  - (b) cause a legible copy of these standards to be kept permanently posted in a prominent place in the camp.
  - (c) ensure that a "Silviculture Workers Fact Sheet" is posted in a visible location at each and every camp and that a copy is provided to each and every member of its workforce. The fact sheet is available from the Ministry of Labour, Citizens' Services and Open Government, Employment Standards Branch and from the website location: [http://www.labour.gov.bc.ca/esb/facshts/silviculture\\_workers.htm](http://www.labour.gov.bc.ca/esb/facshts/silviculture_workers.htm).
  - (d) maintain the camp, its sanitary facilities, appliances and equipment in good repair and in clean, sanitary condition at all times.
  - (e) accurately inform all employees of camp conditions and personal equipment requirements and ensure that, prior to hiring, employees are adequately equipped, including sleeping gear, where required.
  - (f) ensure that any domestic animals permitted in camp are properly controlled and not permitted access to food storage, preparation, or serving areas or waste disposal facilities.

### **Water Supply**

- 6.03 As per the *Drinking Water Protection Act*, the Contractor must obtain the approval of the Health Authority and, where provided, a Water System Operating Permit for all camp drinking water systems and the Contractor must comply with the conditions of the Water System Operating Permit.
- 6.04 As per the *Water Act* and its Regulations, the Contractor must obtain approval of the Ministry of Environment - Water Stewardship Division if it will be using or diverting water from stream beds including a lake, river, creek, spring, ravine, swamp or gulch.

- 6.05 In order to verify the safety of the drinking water system, the Contractor must provide bacteriological water samples at regular intervals and in a timely fashion from each camp location to the Health Authority as required by the Water System Operating Permit. Camps supplied with drinking water from sealed bottles purchased from a reputable grocery chain outlet or other suitable retail establishment will not be subject to water sampling.
- 6.06 An adequate supply of potable water shall be provided for drinking and food preparation purposes both at the camp and at the daily worksite.
- 6.07 Where the Health Region determines a permit is not required, the following minimum standard is to be followed in order to ensure that drinking water will be free of pathogenic (disease causing) organisms. Drinking water must be either:
- (a) obtained from a water supply system in accordance with the *Drinking Water Protection Act*, or
  - (b) in exceptional circumstances, otherwise treated by a method which has been authorized in writing by the Health Officer. Any conditions of such an authorization will form an integral part of this contract; or
  - (c) boiled.
- 6.08 All containers used for transporting or storing drinking water shall be used for no other purpose and shall be securely closed, arranged so that water can only be drawn from a tap (no dipping).
- 6.09 All potable water containers including those for personal use shall be maintained clean and free from contamination.
- 6.10 Where a water supply unfit for drinking is used for other purposes there shall be:
- (a) no physical connection with the drinking water supply; and
  - (b) warning signs placed on all outlets of the non-drinkable supply.

#### **Campsite**

- 6.11 The general campsite area and specific locations of all camp facilities shall be located so that good natural drainage is provided.
- 6.12 Drainage from the camp shall not contaminate any water supply.
- 6.13 The camp location and boundaries shall be approved by the Contract Representative in charge and be confined to the agreed-to area.

#### **Sleeping Accommodations Supplied by the Contractor**

- 6.14 Where the Contractor provides tents or other temporary membrane structures (the "Structures") for sleeping accommodations for the short-term camp, it must ensure the Structures:
- (a) having an area in excess of 18 square meters are inspected by a fire official for approval;
  - (b) are not located within 6 meters of buildings, parked vehicles, internal combustion engines, or other tents or temporary membrane structures. For the purpose of determining required distances, support ropes and guy wires shall be considered as part of the Structures;
  - (c) are adequately braced and anchored to prevent weather-related collapse, including their appurtenances;
  - (d) are, including canopies, composed of flame-resistant material or shall be treated with a flame retardant in an approved manner;
  - (e) flammable-liquid-fuel equipment shall not be used in the Structures or canopies;
  - (f) flammable and combustible liquids shall be stored outside in an approved manner not less than 15 meters from the Structures or canopies;
  - (g) there is sufficient ventilation to prevent the accumulation of disagreeable odours and condensation;
  - (h) are enclosed and weatherproof and provide adequate artificial or natural lighting;

- (i) floors are of a smooth, easily cleanable finish and kept clean;
  - (j) there is adequate floor space to prevent overcrowding
    - (i) any two persons of opposite sex and not being persons living together as common-law or married are not required to sleep in the same room;
    - (ii) an unobstructed clearance of at least 0.6 m between beds, and 1.0 m between each bed and the ceiling;
  - (k) individual dry storage space for personal possessions and clothing for each employee;
  - (l) no room used for sleeping accommodation is used for drying clothes;
  - (m) a moisture barrier (ground sheet) must be used where the bedding is not elevated 30 cm or more above the ground;
  - (n) mattresses and pillows that are supplied at a camp must be encapsulated by a water proof barrier to ensure they remain in a sanitary condition.
  - (o) all mattresses, sheets, pillows, pillow cases, blankets and bed covers are kept in a clean and sanitary condition and laundered to keep them sanitary and before each new user.
- 6.15 Bunkhouses or dwelling houses used for sleeping accommodations must also comply with the Industrial Camps Health Regulation.

#### **Communicable Diseases**

- 6.16 As provided by B.C. Reg. 4/83 of Schedule 'A' of the *Public Health Act*, Communicable Disease Regulation, where a person knows or suspects that an animal or another person is suffering from or has died from a communicable disease, he/she shall, without delay, make a report to the Medical Health Officer. A copy of the report shall be forwarded to the Director, Occupational Health Department, and Workers' Compensation Board.

#### **Kitchen and Meals**

- 6.17 As per the Food Premises Regulation, the Contractor must obtain the approval of the Health Authority and an operating permit for all Food Premises and the Contractor must comply with all conditions of the operating permit.
- 6.18 The Contractor shall ensure:
- (a) A kitchen or food preparation area shall be provided for that exclusive use and shall be separate from any other room. This room must be constructed so as to deter the entry of insects and vermin. Walls shall be smooth, durable, non-absorbent and maintained in a clean condition. Kitchens shall be supplied with smooth durable, non-absorbent, easily cleanable floors.
  - (b) A balanced diet of sufficient quantity shall be provided for the workers by the Contractor.
  - (c) Hand basins with hot and cold water, soap and disposable towels shall be provided in a location convenient to the kitchen area for the use of food handlers.
  - (d) Eating or drinking utensils shall be thoroughly cleaned and sanitized after each consecutive use. Personal water bottles, supplied by the Contractor, shall be cleaned daily.
  - (e) Food preparation and dining surfaces shall be finished with a smooth, durable, non-absorbent surface and shall be kept clean and sanitized.
  - (f) Utensils shall be scraped, washed clean and sanitized after each usage as follows:
    - i) first sink - wash in warm water (43°C/110°F) with detergent;
    - ii) second sink - rinse in clear warm water (43°C/110°F);
    - iii) third sink - sanitize by immersion in warm clean water containing 100-ppm chlorine (1 tablespoon of unscented bleach per gallon of water);
    - iv) air dry on clean non-absorbent surface.

#### **Dining Room**

- 6.19 A dining room of sufficient size to effectively accommodate the serving and eating of meals shall be provided. This room shall be separated from the kitchen and kept in a clean and sanitary condition.
- 6.20 The dining area shall be dry, heated, and constructed so as to deter the entry of insects and vermin. If connected to the kitchen area, dining rooms shall be supplied with smooth, durable, non-absorbent, easily cleanable floors.

### **Food Handlers**

- 6.21 The Contractor shall ensure:
- (a) No person who is a carrier of, or suffering from, a communicable disease shall perform food handling duties.
  - (b) Food handlers shall wash their hands thoroughly, frequently, and always after using the toilet. They shall wear clean clothes, keep hair in place and keep fingernails short and clean.
  - (c) All food handlers shall have a valid FOODSAFE certificate indicating their completion of a basic food handler's course recognized by the Ministry of Health.

### **Food**

- 6.22 The Contractor shall ensure:
- (a) All food supplies shall be from a commercial source and protected from contamination at all times. Special care shall be taken to ensure that hazardous foods, which will not be cooked before eating, are not exposed to contamination from unwashed hands or dirty equipment.
  - (b) Ice shall be of drinking water quality.
  - (c) Hazardous foods shall be maintained at a temperature below 4.0°C/40°F or above 60°C/140°F at all times. Refrigeration and hot holding temperatures must be monitored and logged at least daily while the camp is operating.
  - (d) Refrigeration equipment with sufficient space to store all hazardous foods kept at the camp, shall be provided. Each unit shall contain a thermometer to monitor its operability.
  - (e) All food supplies shall be stored off the floor and protected from dirt and contaminants.

### **Food Equipment**

- 6.23 Containers for food storage shall be easily cleaned, durable, non-absorbent, non-toxic, non-corrosive and designed to be tightly closed. Such containers shall be used whenever stored food is at risk from water, insects, vermin, or other sources of contamination.
- 6.24 All food service equipment and utensils shall be of food service quality and free from breaks, corrosion, cracks, open seams and chips and shall be kept clean and sanitized.
- 6.25 When not in use utensils, dishes and kitchenware shall be stored in a cupboard to protect from insects, dirt and contamination. Other items shall be stored off the floor and protected from dirt and contaminants. All kitchen or dining room structures must be constructed so as to be easily cleaned and sanitized.

### **Food Safety Management**

- 6.26 The Contractor must establish a written Food Safety Management Plan and a Sanitation Plan that ensures a health hazard does not occur in the handling of food and the sanitization of the Food Premises. The Plans must be submitted by the Contractor to the Health Authority for its review.

### **Sanitary Facilities**

- 6.27 The Contractor shall provide enclosed, hot water showers, which are screened from view to ensure that employees can conveniently maintain personal hygiene. Each shower shall have an adjacent dressing area. Construction shall include smooth, easily cleanable floors and walls.
- 6.28 Flush toilets shall not be installed unless connected to a public sewage system or an onsite sewage disposal system that has been constructed in compliance with the *Public Health Act Sewerage System Regulation*.
- 6.29 Toilets (privy's) shall be conveniently located and constructed and maintained so that:
- (a) flies, insects, rodents or other animals are deterred from gaining access to the waste materials in the pit;

- (b) surface or ground water cannot enter the pit;
  - (c) waste material does not contaminate a water supply;
  - (d) the enclosure is vented;
  - (e) they are located a minimum of 30 metres from any lake or stream and 10 metres from food service areas of the camp;
  - (f) they are enclosed and provide privacy.
- 6.30 Wash basins with an adequate supply of clean water shall be provided for hand washing purposes in the numbers specified in the table below.
- 6.31 The facilities described in 6.27, 6.29 and 6.30 above must not be less than the number as per the following table.

<b>Summary Table For Camp Standards</b>			
No. of Persons in Camp for Whom Accommodations is Available at Camp (from/up to and including)	Minimum No. of Privies	Minimum No. of Showers	Minimum No of Wash Basins
1 - 7	1	1	1
8 - 15	2	1	3
16 - 30	3	2	6
31 - 45	4	3	9
46 - 60	5	4	12
61 - 75	6	5	15
76 - 100	7	6	20

for each group of 6 persons in addition to 100, add 1 wash basin

for each group of 20 persons in addition to 100 add 1 privy and shower

- 6.32 Privy pits no longer in use shall be filled with soil and marked with a durable sign to warn future visitors to the site of the contaminated area.
- 6.33 Sanitary facilities must be maintained in a clean and sanitary condition.

#### **Garbage and Sewage**

- 6.34 All sewage generated including but not limited to privy, shower, and kitchen facilities must be disposed of in a manner approved by the Health Authority. Permits may be required depending on the camp's facilities and location and the Contractor must comply with any permits issued.
- 6.35 Any approved infiltration pits shall not be less than 30 metres from any lake or stream and shall not be permitted to overflow or accumulate onto the soil surface:
- (a) sewage and waste water from kitchen or food service areas shall be disposed of in a closed infiltration pit with a closed delivery system that is sealed to the access of flies and vermin (i.e. open ditches are not permissible).
  - (b) waste water from bathing or washing shall also be disposed of in a covered infiltration pit.
- 6.36 Garbage shall be stored in wildlife and insect proof containers conveniently located and in sufficient numbers.
- 6.37 Garbage shall be hauled to a waste management site every day where there is a bear problem; under all circumstances, no longer than 3 days.

#### **Dry Room**

- 6.38 A heated dry room for the exclusive purpose of drying clothes shall be provided separate from the food preparation and serving areas.



# Conditions of Tender

for  
Operational and  
General Services Contracts

The bidder (**the 'Bidder'**) must observe the following Conditions of Tender (**the 'Conditions'**) and these Conditions form part of every Irrevocable Tender Offer (**the 'Tender'**) made by the Bidder. Failure to comply with these Conditions and those contained in the Tender may result in the disqualification of the Bidder. The defined terms in these Conditions have the same meaning as the same terms in the Tender.

## 1. Tender

- 1.01 The Tender is in response to an Invitation to Tender (**the 'Invitation to Tender'**) for **Project/Contract Name** issued by the Ministry of Forests, Lands and Natural Resource Operations (**the 'Ministry'**) and must be received by the Ministry **Office Name and Address** (**the 'Closing Location'**) on the form provided not later than **time am/pm and date** (local time).
- 1.02 All Tenders submitted in accordance with these Conditions are irrevocable for a period of 30 days following the tender opening (**the 'Tender Opening'**).

## 2. Site Viewing

- 2.01 Viewing of the Work Site by the Bidder prior to bidding is **Mandatory**. A hosted tour of the work site departs on **Departure Date And Time** from **Departure Address**. The Bidder (or Bidder's representative with a letter of authorization from the Bidder) must attend for the duration of the tour of the Work Site and must identify himself or herself to the ministry representative. Transportation to the Work Site is the responsibility of the Bidder.
- Optional.** Although viewing is optional, the Bidder is recommended to view the Work Site prior to submitting the Tender.

## 3. Information Meeting

- 3.01 Attendance by the Bidder at the Information Meeting is **Mandatory**. An information meeting for bidders will be held on **Date and Time**, located at **Meeting Address**. The Bidder (or the Bidder's representative with a letter of authorization from the Bidder) must attend for the duration of the Information Meeting and must identify himself or herself to the Ministry representative.

## 4. Bidder Eligibility or Disqualification

- 4.01 In addition to the other eligibility requirements in these Conditions and the Tender Documents, the Bidder must meet the following requirement(s) in order to be eligible to bid:
- (a) Additional Eligibility Requirements
- (iii)
- 4.02 The Bidder must meet the Ministry's requirements for experience set out in the Tender Documents. Upon request, or if specifically required to be submitted with this Tender, the Bidder must provide, to the satisfaction of the Ministry, proof:
- (a) that the Bidder has previously and satisfactorily completed a project of the same type and size as the one described in the Tender Documents; or

- (b) of the Bidder's prior employment in the same type of service as the one described in the Tender Documents.
  - (c)
- 4.03 If the Tender Documents indicate that a contractor performance rating system is in place within the Ministry, the Bidder must, prior to submitting its Tender, determine and disclose in its Tender, the Bidder's status within the applicable contractor rating system.
- 4.04 Upon request of the Ministry, the Bidder must provide a written statement of business organization, qualifications, experience, workforce availability and citizenship status of the Bidder's company and each member of the workforce who will perform the Work under the Contract, satisfactory to the Ministry. The Ministry may conduct such independent reference checks or verifications as are deemed necessary by it, to clarify, test, or verify the information and to confirm the suitability of the Bidder, including reference checks from any Natural Resource Sector ministry or other Provincial government office in which the Bidder has been under contract. If, in the opinion of the Ministry, the statement fails to demonstrate that the Bidder is able to successfully complete the Contract, the Ministry has the right to disqualify the Bidder and award the Contract to another bidder.
- 4.05 The Bidder and all individuals who perform the Services under the Contract must be eligible to work lawfully in Canada and upon request of the Ministry any individual who performs Services under the Contract must provide a valid Social Insurance Number or Work Permit as proof of his or her eligibility.
- 4.06 The Ministry reserves the right to disqualify the Bidder and to award the Contract to another bidder if the Bidder or an Associated Person to the Bidder has, in respect of a contract or contracts with the Ministry;
- (a) withdrawn an irrevocable tender;
  - (b) failed to enter into a contract within the time limits specified in a contract award letter;
  - (c) had a contract cancelled by the Ministry;
  - (d) forfeited all or part of a bid security;
  - (e) breached a contract;
  - (f) had all or part of a contract performance security retained;
  - (g) had a charge assessed for failing to comply with the requirements of a previous contract;
  - or
  - (h) been charged or convicted of any offense in respect of a contract or relating to a forest practice in British Columbia.
- 4.07 For the purposes of Paragraph 4.06, a person is associated to the Bidder (an 'Associated Person') if the Bidder and that other person are 'related persons' or 'affiliated persons' or 'associated persons' as those terms are defined or referenced in the federal *Income Tax Act* or related Canada Revenue Agency's interpretation bulletins. Upon request, the Bidder will provide the Ministry with: (i) the ownership of voting shares of the incorporated Bidder, (ii) a list of individuals who exercise legal and/or operational control over the Bidder; and (iii) a notarized declaration that the Bidder is not an Associated Person in respect of a Disqualified Bidder nor is it in legal or operational control of, nor is it acting in concert with or at non-arms length with a Disqualified Bidder.
- 4.08 The Bidder is disqualified from bidding on Ministry contracts for a period of up to 2 years from the date of any of the events in Paragraph 4.06, unless the Bidder demonstrates to the satisfaction of the Ministry that the Bidder is able to successfully complete the Contract and the deficiencies which led to any of the events in Paragraph 4.06 have been corrected.
- 4.09 For the purposes of this Invitation to Tender, "Disqualified Bidder" means a person (individual or corporate) who has been disqualified from bidding by the Ministry for a stated period of time.

## 5. Bid Security Requirement



- 5.01 A bid security (**the 'Bid Security'**) is **Mandatory**. A bid security in an amount of not less than **enter numerical figure (typically 10)** percent of the total bid price is required. The Bid Security must accompany the Tender and be in the form of cash, personal money order issued by a financial institution or postal money order issued by Canada Post Corporation, certified cheque or bank/credit union draft, made payable to 'the Minister of Finance'. Personal or company cheques, or Canada Savings Bonds are not acceptable.
- 5.02 Where, due to a revision of the total bid price (**the 'Total Bid Price'**) or the total estimated bid price (**the 'Total Estimated Bid Price'**), an insufficient Bid Security is contained in the Tender envelope, the Tender will not be disqualified if the Bidder submits the outstanding Bid Security amount within two business days following the Tender Opening.
- 5.03 Bid securities will be returned to unsuccessful bidders upon signing of the Contract by the successful bidder (**the 'Successful Bidder'**).

## 6. Contract Performance Security Requirement

- 6.01 A contract performance security (**'the 'Contract Performance Security'**) is **Mandatory**. A Contract Performance Security in the amount of **enter numerical figure (typically 10)** percent of the total contract price is required. The Successful Bidder must authorize the Bid Security to be cashed by the Ministry and held as a Contract Performance Security or provide an alternate financial security instrument in place of the Bid Security in accordance with Paragraph 17.05 below.

## 7. Option to Renew

- 7.01 The Contract contains an *'option to renew'* clause whereby the Ministry reserves the right to renew but is under no obligation to renew the Contract for a further Term of up to one year, to a maximum of three terms, subject to funding and satisfactory performance of the Contractor. As renewal is not assured, Bidders are cautioned to prepare their tender price on the basis of a single term contract only. Should the option-to-renew be exercised, the bid rate or bid price is expected to remain unchanged in the subsequent term unless, in the ministry's sole opinion, a negotiated rate change is warranted.

## 8. Bidder's Representations

- 8.01 It is the Bidder's sole responsibility to ensure that the Bidder has received all Tender Documents. Submission of the Tender by the Bidder is a representation by the Bidder that the Bidder has verified receipt of a complete set of Tender Documents including any and all addenda to the Tender Documents.
- 8.02 Submission of the Tender by the Bidder is a representation by the Bidder that the Bidder has investigated and satisfied itself of every condition affecting delivery of the Work, including every condition affecting the Work Site, and including every factor that may affect the Bidder's ability to perform the Contract in accordance with the Tender and the Tender Documents.
- 8.03 The Bidder further represents by submission of the Tender that the Bidder has made its own investigation and has relied solely upon its own knowledge, information, and judgment, and not upon any statement, representation or information made or given by the Ministry or any of its employees, other than the information contained in the Tender Documents.
- 8.04 Submission of the Tender is deemed by the parties to be conclusive evidence that the Bidder has made such investigations and inquiries as the Bidder determines necessary and that the Bidder assumes all risk regarding any conditions affecting the Work.
- 8.05 The Bidder affirms it is not an Associated Person to, nor acting in concert with, a Disqualified Bidder and undertakes to not knowingly do so during the term of the Contract.

## 9. Tender Submission

- 9.01 The Tender must be on a completed original or unaltered copy of the Tender Offer Form. The Tender is to be submitted in the envelope provided or in an envelope clearly marked with the name and address of the Bidder and the words, "**Tender for insert project name**" on the envelope.
- 9.02 The Tender must be received at the Closing Location of the Ministry not later than the date and time (**the 'Closing Date' and the 'Closing Time'**) specified in the Invitation to Tender. The Ministry may, by giving notice, amend the Invitation to Tender and extend the Closing Date and Closing Time for receiving tenders.
- 9.03 Tenders submitted by facsimile, telegram or electronic submission WILL NOT BE ACCEPTED. Tenders received after the Closing Time will be returned to the Bidder unopened.
- 9.04 The Ministry, its employees and agents assume no responsibility for the timely receipt of any tenders.
- 9.05 The Tender must be signed by the Bidder or the Bidder's authorized representatives, and should bear the date of signing. Witnessing of signatures is not required. If the Bidder is:
- (a) a company, the full company name and the name(s), signature(s) and status of the authorized signing officer(s) must appear on the Tender but affixing the corporate seal is optional;
  - (b) a partnership, all the partners must sign and print their names on the Tender;
  - (c) a limited partnership, one or more of the general partners must sign and print their name(s) on the Tender and include the business name of the partnership (e.g., 'doing business as \_\_\_\_\_ Limited Partnership');
  - (d) an individual or sole proprietorship, the individual or sole proprietor must sign and print his or her name and include the name of the sole proprietorship, if appropriate (e.g., 'doing business as \_\_\_\_\_').

## 10. Tenders Complete and All Inclusive

- 10.01 The Bidder's Tender must be complete and must cover all of the Work specified in the Invitation to Tender and the Tender Documents. All blank spaces on the Tender Offer Form must be legibly filled in, where applicable.
- 10.02 The Ministry may reject any tenders which contain any qualifying words, clauses, alterations, or omissions. Corrections to numbers in the Tender must be initialed by the authorized signatory of the Bidder.
- 10.03 The Tender must be inclusive of all of the Bidder's fees, overhead, profit, expenses of any kind, cash allowances, contingencies and any taxes (including taxes paid or payable by the Bidder to a supplier) that are in force on the Closing Date, but shall exclude the Goods and Services Tax (GST) and any applicable Provincial Sales Tax (PST) that the Bidder is required to charge the Province as a taxable transaction.

## 11. Addenda and Clarification of Tender Documents

- 11.01 If a Bidder finds any discrepancies, omissions, ambiguities or conflicts among the Tender Documents, or as a result of the Work Site visit or the Information Meeting, the Bidder must bring them to the attention of the Ministry Representative identified in Paragraph 14.01 not less than 3 business days prior to the Closing Date.

- 11.02 The Ministry will review the Bidder's question and where the Ministry determines that the information was not clearly specified in the Tender Documents, the Ministry will issue a clarifying addendum to all registered holders of Tender Documents, and the addendum will thereafter form part of the Tender Documents.
- 11.03 The Ministry may, in its discretion, at any time, amend the Tender Documents by issuing to all registered holders of the Tender Documents, in hard copy or electronically, a written addendum to the Tender Documents which addendum then forms part of the Tender Documents.
- 11.04 Where Tender Documents are available electronically on BC Bid<sup>®</sup>, the Ministry may post any addendum to the Tender Documents on the BC Bid<sup>®</sup> website at <http://www.bcbid.ca>. Bidders are strongly encouraged to select "Send Me Amendments" that is included as an option on the Opportunity Notice published on BC Bid<sup>®</sup>. By selecting this option a registered Bidder will be automatically notified of any amendment that may be issued. Bidders that are not registered with BC Bid<sup>®</sup> may register by selecting *Start your e-Service, Supplier Registration* on the BC Bid<sup>®</sup> home page, [www.bcbid.ca](http://www.bcbid.ca). Bidders who do not register with BC Bid<sup>®</sup> are solely responsible to continually monitor the BC Bid<sup>®</sup> website on an ongoing basis to keep themselves informed of any addendum.

## 12. Equivalents

- 12.01 The Tender is based on the materials and products specified in the Tender Documents.
- 12.02 The Ministry will allow equivalents to the materials and products specified in the Tender Documents only if:
- (a) the Bidder submits full descriptive data in writing of any suggested equivalent NOT LESS THAN 3 WORKING DAYS PRIOR to the Closing Date; and
  - (b) the Ministry approves the suggested equivalent in writing prior to the Closing Time.

## 13. Revisions to Tenders

- 13.01 Prior to the Closing Time, revisions to a Tender that has already been submitted may be made by facsimile, telegram or electronic transmission.
- 13.02 Revisions should only state the dollar amount by which a numeric figure/unit rate is to be increased or decreased, or indicate specific directions as to the exclusion or inclusion of particular words.
- 13.03 If a revision does not state the dollar amount by which a unit rate is to be increased or decreased, the Ministry will consider the Tender to be incomplete and the Ministry will disqualify the Tender, except in situations where there is only one Tender in which case the Ministry may disqualify the Tender.
- 13.04 Where a Bidder submits multiple revisions to the Tender, each successive revision will nullify and replace any previous revisions unless the Bidder numbers each revision sequentially and states on each new revision, that the new revision does not nullify previous revisions.
- 13.05 The Ministry facsimile transmission number is: **FAX number**. The Bidder is solely responsible for the effective delivery of any facsimile transmission prior to the Closing Time.
- 13.06 Electronic transmission of a Tender revision may be made to: **Email address**. The Bidder is solely responsible for the effective delivery of any electronic transmission prior to the Closing Time.

## 14. Verification of Tender Receipt

- 14.01 Any bidder who wishes to verify that their tender has been received may do so by telephoning the Ministry representative: **Ministry Rep AND Phone Number** (the 'Ministry Representative').

- 14.02 Bidders must state their company name before the information in Paragraph 14.01 can be released. The Ministry may require the Bidder to FAX the request in writing on letterhead before releasing such information.
- 14.03 No other information concerning the receipt of tenders will be released under any circumstances prior to the Tender Opening.

## 15. Withdrawal of Tender

- 15.01 Any bidder wishing to withdraw their tender prior to the tender Closing Time may do so by submitting a withdrawal request letter to the same address to which the Tender was submitted. Upon receipt of the request, the tender will be returned to the Bidder unopened.

## 16. Opening and Evaluation of Tenders

- 16.01 Tenders will be opened ***in public***, at the Closing Location, immediately after the Closing Date and Closing Time, and the tenders will be opened and read.  
***in private***, and total prices will not be made public until after the Contract is signed with the Successful Bidder.
- 16.02 All tenders will be evaluated in private, including tenders that were opened and read in public.
- 16.03 The Contract will not be awarded at the Tender Opening.
- 16.04 If only one tender is received, the Ministry reserves the right to open the tender in private and if the Total Bid Price or Total Estimated Bid Price exceeds the estimated budget for the Contract, the Ministry may re-tender the Work seeking a better response, with or without any changes being made to the Tender Documents.
- 16.05 If more than one tender is received from the same bidder, the last tender received, as determined by the Ministry, will be the only tender considered.
- 16.06 The lowest or any other tender will not necessarily be accepted. The Ministry reserves the right to:
- (a) reject all tenders;
  - (b) reject a tender which in the sole opinion of the Ministry is too low to provide the Bidder with adequate resources to perform the Work; and,
  - (c) refuse award of the contract to a bidder the Ministry judges to be fully or over committed on other projects; and,
  - (d) accept bids for the whole of the Work or may delete any part at its discretion;
  - (e) limit the number of Ministry contracts held at one time by any bidder.
- 16.07 If a bid price is incomplete, contains an omission, does not fairly represent proper compensation for an item of work to be done, or fails to provide an accurate total price, the Ministry may disqualify the Tender.
- 16.08 If the Tender indicates the requirement for a Total Bid Price or a Total Estimated Bid Price on a unit-priced based tender, this is for evaluation purposes only and the unit rates shall take precedence for the Contract. The Ministry will rank submitted tenders from lowest priced to highest priced based on the Total Bid Price or the Total Estimated Bid Price stated on each tender. The Ministry will:
- (a) check each extended amount (**the 'Extended Amount'**) on the lowest priced Tender to ensure it is the correct product of the quantity and the price per unit (**the 'Price Per Unit'**); and,

- (b) check the Total Bid Price or the Total Estimated Bid Price to ensure it is the correct sum of the Extended Amount.

Where the Extended Amount or the Total Bid Price or the Total Estimated Bid Price of the lowest priced Tender is incorrect, the Ministry will:

- (c) for each and every incorrect Extended Amount, recalculate the incorrect Extended Amount by using the Bidder's Price Per Unit entered on the Tender; and,
- (d) will correctly recalculate the Total Bid Price or the Total Estimated Bid Price on the Tender using the corrected Extended Amounts; and,
- (e) where the Total Bid Price or the Total Estimated Bid Price is no longer the lowest ranked Tender the Ministry will put the Tender to one side as a remaining tender; and,
- (f) The Ministry will then apply these conditions to the next lowest ranked Tender to the extent necessary until a Tender with the lowest price is finally determined.

## **17. Obligations of Successful Bidder**

17.01 Upon receiving a Contract award letter from the Ministry, the Successful Bidder must take the following steps before starting Work:

- (a) sign the Contract covering the Work and return the Contract to the Ministry;
- (b) provide its assigned Personal Optional Protection registration number or its WorkSafe BC registration number, which must cover all workers, shareholders, directors, partners, and other individuals employed or engaged in the performance of the Work, if it has not already done so in the Tender;
- (c) provide proof of insurance coverage, if required under the Contract, by delivering a completed Province of British Columbia 'Certificate of Insurance' in the form supplied by the Ministry; and
- (d) provide a Contract Performance Security, if required under the Contract; and
- (e) provide proof of registration as an extra-provincial company with the BC Registrar of companies, if required.

17.02 If the Successful Bidder does not complete the steps, as required in Paragraph 17.01, within the time specified in the Contract award letter, the Ministry may, by written notice cancel the Contract award letter and award the Contract to another bidder, and:

- (a) if there is a Bid Security, make a demand on the Bid Security, which will be either,
  - (i) the difference between the Successful Bidder's Total Bid Price or Total Estimated Bid Price and the total bid price or total estimated bid price of the next lowest qualified bidder, or
  - (ii) the amount of the Bid Security,whichever is less; or
- (b) if no Bid Security was required, the Ministry may pursue any remedy available to it at law or in equity, including the payment of liquidated damages by the Bidder calculated as the difference between the Bidder's Total Bid Price and the total bid price of the next lowest qualified bidder; and
- (c) the Ministry may give written notice to the Successful Bidder that its eligibility to bid Ministry contracts is pending suspension. If the Successful Bidder fails to satisfactorily execute two additional Ministry contracts within the same calendar year, the Ministry reserves the right to disqualify the Successful Bidder from bidding on future contracts for a period of two years from the date of the last contract award letter.

- 17.03 In the event that the Successful Bidder has already started the Work, and is in default under Paragraph 17.01, and the default continues for seven days after written notice to correct the default is given to the Successful Bidder, the Ministry may terminate the Contract or cancel the Contract award letter, and the Successful Bidder must reimburse the Ministry for all costs, expenses, damages and losses arising out of the Successful Bidder's default.
- 17.04 The Successful Bidder must authorize the Ministry to cash the Bid Security and hold it as a Contract Performance Security until satisfactory completion of the Contract. Where no Bid Security was required, yet a Contract Performance Security is, the Bidder shall submit one of the financial performance security instruments specified in Paragraph 17.05.
- 17.05 As an alternative to Paragraph 17.04, the Successful Bidder may request the return of the Bid Security after submitting one of the following financial performance security instruments in the amount specified in Paragraph 6.01:
- (a) an irrevocable letter of credit issued by a financial institution, payable to the 'Minister of Finance', having a termination date at least 90 days after the Contract completion date. If a Letter of Credit is required for a contract with a term greater than one year, it must contain the verbatim 'Evergreen Clause', as provided by the Ministry, allowing for the automatic extension or renewal on an annual basis until the Contract is complete;
  - (b) a treasury bill note issued by the Government of Canada or the government of any Province of Canada and covered by a duly executed 'Safekeeping Agreement', in the form set out in the Tender Documents;
  - (c) a marketable bond in fully registered form issued and guaranteed by the Government of Canada or the government of any Province of Canada with a maturity date of not longer than 3 years, together with a duly executed Safekeeping Agreement;
  - (d) a short-term deposit registered in the name of the 'Minister of Finance' issued by a financial institution and covered by a duly executed Safekeeping Agreement;
  - (e) cash or a money order, certified cheque, or bank/credit union draft, made payable to the 'Minister of Finance'.
- 17.06 Personal cheques, company cheques and Canada Savings bonds are not acceptable Contract Performance Securities.

## **18. Independent Bidding**

- 18.01 Bidrigging is a criminal offense under the federal *Competition Act*. The Ministry will report any suspicion of bidrigging immediately to the Director of Investigation and Research appointed under the *Competition Act*.
- 18.02 By submission of the Tender, the Bidder certifies that the unit prices and/or the Total Bid Price in the Tender were independently developed without consultation with any other bidder or potential bidder.
- 18.03 Bidrigging between bidders, if proven, will be sufficient cause for rejection of the tenders of all bidders involved in that bidrigging and may result in disqualification from bidding on all future Ministry contracts for up to two years.

## **19. Successful Bidder's Representative**

- 19.01 The Contractor shall appoint a Contractor Representative fluent in English, who shall:
- (a) have full authority to act on behalf of the Contractor in connection with the Work and the Contract; and;
  - (b) be available to the Ministry Representative, when requested, and be present at all times at any site where the Work is carried out.

## **20. Ownership**

- 20.01 The Tender, and all documents submitted as part of the Tender, become the property of the Ministry, and are subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.
- 20.02 The Ministry will be the exclusive owner of all rights to any materials or property produced under the Contract and the Bidder and its agents must not patent, copyright or otherwise claim any rights of ownership to any materials or property produced under the Contract.

## **21. Limitation of Damages**

- 21.01 The Bidder, by submitting a Tender, agrees that it will not claim damages in excess of the reasonable costs incurred by the Bidder in preparing its Tender for matters relating to the Contract award or in respect of the tendering process, and the Bidder, by submitting a Tender, waives any claim for loss of profits if no Contract award is made to the Bidder.



File:

Date:

*Contractor's name and address*

Dear :

**Re: NOTICE TO COMMENCE WORK – CONTRACT *insert contract number***

Further to conditions contained in the above-noted contract, notice is hereby given to commence work on *insert date*. Work must be commenced within *insert number of days* days following this date, unless a change in the commencement date is given in writing by the Ministry Representative for this contract. Failure to commence work on time may result in cancellation of the contract.

A pre-work conference to discuss the terms of the contract and to develop a work progress plan as specified in the contract is tentatively scheduled for *enter time (am/pm)*, *insert date* at *insert location*. Please contact the Ministry Representative to confirm your attendance or to make other arrangements. You may have someone represent you at the conference, provided he/she bears a letter from you to this effect.

When an industrial camp will be established, you must provide contact information and the location of all camps to the parties identified in Clause 6.01 of the Camps Standards Schedule 72 hours prior to establishment of each and every camp.

**This letter is an integral part of the contract and should be attached to it.**

Yours truly,

*enter name and title*

cc: *[delete if WSBC notification has recently (w/i past 45 days) been made in an award letter]*

WorkSafe BC, Assessment Services

Via Email: [ASSMTMOF@worksafebc.com](mailto:ASSMTMOF@worksafebc.com)

Ministry of Labour, Citizens' Services and Open Government, Employment Standards Branch,  
Karin Doucette, Employment Standards Officer

Email: [Karin.Doucette@gov.bc.ca](mailto:Karin.Doucette@gov.bc.ca)

BC Health Authority

Via Email: <http://www.health.gov.bc.ca/protect/industrial-camps.html>

Project is located at: *enter geographical location of the contracted work*

*enter other cc's as local procedures dictate*

## SAMPLE INVITATION TO TENDER CONTRACT AWARD LETTER

File:

Date:

*Contractor's name and address*

Dear \_\_\_\_\_ :

We are pleased to advise that your tender for **enter project description and/or project number** dated \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ for the above-noted contract is hereby accepted by the ministry.

As required by the Invitation to Tender, please complete the following within the next **enter time limit (usually 5 calendar days)** calendar days:

1. Sign, or seal if required by company articles, and return the executed contract, including where applicable the Prime Contractor Agreement, to this office. Do not alter the contract(s) in any way. The ministry will accept contract documents executed and then scanned and returned electronically to the Ministry Representative; however, this is not acceptable where a corporate seal is used. A copy of the contract(s) will be returned to you following countersigning by the ministry.
2. Our records indicate your WorkSafeBC account number or Personal Optional Protection number is \_\_\_\_\_. If this is incorrect or if the space provided is blank or if your registration has lapsed or been cancelled, please advise the ministry immediately. If you do not have a valid registration number, you must submit to the ministry proof of an application for registration. You must have a valid WorkSafeBC account number or, if applicable, Personal Optional Protection account number before work may commence.
3. Submit the performance security in the amount of \$ \_\_\_\_\_ and in the form required by the tender documents. Performance securities in the form of bonds, letters of credit, or safekeeping agreements must be original and not a facsimile, photocopy or electronically submitted.
4. Submit an original Labour and Material Payment Bond in the amount required by the tender documents.
5. Submit an original Maintenance Bond in the amount and for the period required by the tender documents.
6. Submit a Certificate of Insurance (copy attached) as proof of insurance coverage of the type and amount required by the contract. (It is the contractor's responsibility to provide their insurance agent/broker with a copy of the insurance schedule.)

7. Submit ICBC's Confirmation of Automobile Insurance form (APV47) as proof of automobile insurance coverage in the amount required by the contract.
8. Submit a Statement of Work Schedule.
9. Submit a List of Construction Machinery and Equipment to be used in the work.
10. Submit a copy of your security business licence issued under the *Security Services Act*.
11. Submit a completed and signed Assignment of Copyright (enclosed). The assignment must be executed upon final completion of the services as indicated in the Agreement. Final payment will be withheld until receipt of the assignment.
12. A Waiver of Moral Rights form is enclosed. The Waiver of Moral Rights form must be completed and executed by each and every person who will have creative input into the product (photocopy as many copies as needed). The waiver(s) must be executed by the individual(s) and submitted to this office upon completion of each milestone/phase or, where milestone/phases are not identified, upon final completion of the services as indicated in the Agreement. Final payment will be withheld until receipt of all waivers.

Failure to undertake all of the preceding requirements to the satisfaction of the ministry within the time allowed may result in one or more of the following:

1. Cancellation of the contract award;
2. Forfeiture of your bid deposit;
3. If the contract is awarded to another bidder, you may be held liable for any increased cost to the ministry;
4. Your eligibility to bid on future ministry contracts may be suspended for a period of six months up to two years.

It is your responsibility to ensure compliance with the WorkSafe BC regulation requiring you to submit a Notice of Project for certain forestry operations or construction projects to the nearest WorkSafe BC office prior to starting the work.

This will also serve to bring to your attention that if you fall within the parameters of the *Lobbyists Registration Act*, then it is your responsibility to make this determination and register as necessary.

Do not commence work until you are in receipt of your copy of the countersigned contract and a written Notice to Commence Work, where this is a requirement of the contract.

The ministry representative for this contract is **enter name of ministry representative**, telephone number: **insert phone number**. Please direct any inquiries and all the above-required documents to this person.

Yours truly,

enter name and title

Enclosures: Contract documents  
Certificate of Insurance  
Assignment of Copyright  
Waiver of Moral Rights  
List additional enclosures

cc: WorkSafe BC, Assessment Services  
Via Email: [ASSMTMOF@worksafebc.com](mailto:ASSMTMOF@worksafebc.com)  
enter name, Contract Manager/Program Manager  
enter other cc's as local procedures dictate

## ADVICE TO MINISTER

### CONFIDENTIAL ISSUES NOTE

Ministry of Forests, Lands and Natural  
Resource Operations

Date: July 26, 2011

Minister Responsible: Hon. Steve Thomson

## Khaira Situation – Review by Forest Safety Ombudsman

### ADVICE AND RECOMMENDED RESPONSE:

- We welcome this report and the recommendations provided by the Forest Safety Ombudsman to prevent situations like Khaira from happening again.
- In fact, we have already taken a number of actions that address some of these recommendations brought forward by the Forest Safety Ombudsman. For example:
  - BC Timber Sales silviculture contractors are now required to provide 72 hours notice prior to any camp being established.
- Safety is a shared responsibility. A number of ministries and safety agencies all have important roles to play in ensuring that silviculture contractors and operators act in the best interests of their workers.
- We will continue to work closely with the other groups directly involved in developing practical solutions to the coordination gaps that were brought to light by the Khaira case.

### *(if asked about Khaira situation in general)*

- The living conditions discovered last July at the silviculture camp operated by Khaira Enterprises were unacceptable and the camp was shut down. Immediate steps were taken by authorities to address the health and safety of the workers living in the camp.
- Khaira has been barred from bidding on any new contracts with the Ministry of Forests, Lands and Natural Resource Operations until September 2012.
- All BCTS contractors must be SAFE Company certified and contracts clearly state that contractors must comply with all laws, including those regarding camp standards.

### KEY FACTS REGARDING THE ISSUE:

BC Forest Safety Ombudsman Roger Harris will release a "Review of Failures Leading to Khaira Situation" on Wednesday, July 27. The report contains 13 detailed recommendations to a variety of ministries, agencies and organizations. Government has already responded to a number of the recommendations:

#### Notification Recommendations

1. MFLNRO review its current notification requirements for camp operators – specifically camp geographic coordinates and calendar dates for setup and operation.
- **Action already taken:** Notification requirements for silviculture contracts have been upgraded.



2. MFLNRO develop a system for making camp operator information available and accessible to others.
  - **Action already taken:** Relevant information is now being made available and accessible to other agencies and organizations.
3. MFLNRO require operators (at least 48 hours prior to set-up) to report exact camp location and operating timelines before commencing any operations.
  - **Action already taken:** Silviculture contractors are now required to provide 72 hours notice prior to any camp being established.

#### **Enforcement Recommendations**

4. The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate a potential model for in-field inspections.
  - **Action already taken:** MFLNRO has established a collaborative inspection process under which the ministry, when conducting in-field inspections, acts as the eyes and ears for other affected agencies and organizations. Inspection results are reported to provide them with information they need to determine if and when to follow up with their own in-field inspections.
  - MFLNRO also conducts joint in-field inspections with other agencies and organizations where necessary.
  - MFLNRO will participate in any effort to explore a shared-delegation model with other affected agencies.
5. BC Forest Safety Council enhances its monitoring, auditing and in-field inspecting processes.
  - **Response:** This recommendation is to be addressed by the BC Forest Safety Council to ensure the integrity of SAFE Companies certification.
6. The Province establish and identify a lead ministry to coordinate information sharing.
  - **Response:** MFLNRO is supportive and will participate in any effort to improve the flow of information among affected agencies and organizations.
7. The provincial government considers establishing an advisory committee to review progress to date on the 2008 Auditor General's report and make recommendations for improving safety outcomes.
  - **Action already taken:** One of the recommendations from the Auditor General's report was more coordinated sharing of information. This has been accomplished with additional eyes and ears on the ground, and more in-field inspections.

#### **Contract Qualification Process**

8. MFLNRO establish a contract qualification process for silviculture contractors that bid on government contracts.
  - **Action already taken:** A system of eligibility requirements is already in place that needs to be met by prospective contractors.
  - To be eligible to bid on BCTS silviculture contracts, the company must meet BC Forest Safety Council requirements respecting safety certification or endorsement.
  - Contracts are awarded to the lowest qualified and compliant bidder – not just the bidder with the lowest price.
  - It is also standard practice for BCTS to review the past performance of contractor bidders.
9. Western Silviculture Contractors Association investigate the establishment of professional standards code for its membership.
  - **Response:** This recommendation is to be addressed by the Western Silviculture Contractors Association.
10. BCFSC continue to expand the monitoring and auditing of SAFE Companies.



## ADVICE TO MINISTER

- **Response:** This recommendation is to be addressed by the BC Forest Safety Council to ensure SAFE Companies are operating within the terms of their certification.

### Training Recommendations

11. Develop a "Silviculture Workers Training Program" for new employee working in the silviculture sector.
  - **Response:** This recommendation is to be addressed by the BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC.
12. Visual inspection of camp facilities to include checking that all pertinent employee information is posted in a manner and location accessible by all workers.
  - **Action already taken:** It is now a requirement that employment standards be posted for the benefit of all workers.

### Tender versus Proposal Driven Models

13. MFLNRO explore the option of expanding use of proposal-driven contracts, especially where working conditions present a high degree of difficulty or hazard.
  - **Action already taken:** The ministry will continue to explore opportunities for more efficient and effective tendering contracts, including the use of Requests For Proposals.
  - The ministry is always looking for additional ways to improve contracting and works with the contracting community to do so.
  - During the BCTS tendering process, it is also standard practice for bidders to provide evidence that they have successfully completed similar work.

### Background:

On Feb. 11 Forest Safety Ombudsman Roger Harris announced that he would be undertaking a four-month review around health and safety conditions found at silviculture camps. The review is triggered by the Khaira incident and calls that the Ombudsman has received in the past.

The Forest Safety Ombudsman is appointed by the BC Forest Safety Council, a not-for-profit organization that advocates for safety across the forest sector. The BC Forest Safety Council board of directors is made up of representatives from all aspects of the forest sector and from the provincial government. The Forest Safety Ombudsman follows the standards and code of ethics set out by the International Association of Ombudsman.

In July, then Ministry of Forests and Range staff discovered people working for Khaira Enterprises Ltd. in unsafe conditions north of Golden. Khaira was under contract to BC Timber Sales on a silviculture contract.

Khaira forfeited its security deposit and in September 2010 was banned from bidding on ministry silviculture contracts for two years. BC Timber Sales requires all its contractors to be SAFE Company certified and requires contractors to be in compliance with all laws. As a result of the Khaira situation, BC Timber Sales has strengthened language in its bulletins related to camp standards and employment standards.

The Ministry of Health, Ministry of Labour, WorkSafe BC, Western Silviculture Contractors Association and the Consulting Foresters of BC have all been informed of the changes. BC Timber Sales staff who deal with contracts will also receive training on the changes.

Communications Contact:	Cory Shirshac	250-953-4200
Program Area Contact:	Graham Archdekin	250-387-8302

File Location: J:\Workgrp\Issues\2011 - Issues\Khaira

Program Area	PAB	ADM	Minister's Office
GRAHAM ARCHDEKIN	CORY SHIRSHAC	TOM JENSEN	



## Thomas, Vivian P GCPE:EX

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**From:** Barrett, Lisa GCPE:EX  
**Sent:** July-22-11 3:50 PM  
**To:** 'Bethany Lindsay'  
**Subject:** media request re: silviculture contracts

Hi Bethany! Trust this answers your questions. Again, please attribute to the Ministry of Forests, Lands and Natural Resource Operations.

1. Government only accepts "lowest bid".
  - Whether it is a silviculture contract or other type, contracts are awarded to the lowest *qualified and compliant* bidder, not just the bidder with the lowest price.
  - To be eligible to bid on BC Timber Sales contracts, including silviculture contracts, the company must meet BC Forest Safety Council requirements respecting safety certification or endorsement.
  - During the BC Timber Sales tendering process, it is standard practice for bidders to provide evidence of successful completion of similar work.
  - Government coordinated an inter-agency group that has come up with solutions to improve information sharing and ensure a similar incident does not happen again. Specifically:
    - Government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations, to the local Employment Standards Branch of the Ministry of Labour and to WorkSafeBC ;
    - Inspections of silviculture camps are required in the first 48 hours of a camp being established;
    - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
    - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
2. Government does not do enough enforcement after contracts are awarded.
  - The increased sharing of information among ministries and other key agencies provide a clearer picture of a contract's progress and when to inspect contract operations, as well as allowing the necessary ministries and agencies to work together to address any problem contracts.
  - Also, staff with the Ministry of Forests, Lands and Natural Resource Operations can now review ministry contract evaluations for a particular contractor (for any location in the province) to assist them with setting the appropriate inspection frequency for a new contract issued to the same contractor.
3. Is there any intention to continue the ban on Khaira doing government work after this month?
  - Khaira Enterprises Ltd. is actually disqualified from bidding on any Ministry of Forests, Lands and Natural Resource Operations silviculture contracts until September 2, 2012.

Lisa Barrett | Government Communications and Public Engagement  
Ministry of Forests, Lands and Natural Resource Operations | P: 250 953-3675

## Thomas, Vivian P GCPE:EX

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**From:** McLarty, Jennifer GCPE:EX  
**Sent:** July-27-11 12:29 PM  
**To:** GCPE FLNR Media Requests GCPE:EX  
**Subject:** FW: Your Enquiry: Forest Safety Ombudsman Report

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**From:** McLarty, Jennifer GCPE:EX  
**Sent:** Wednesday, July 27, 2011 12:29 PM  
**To:** 'tamsyn.burgmann@thecanadianpress.com'  
**Cc:** Barrett, Lisa GCPE:EX  
**Subject:** Your Enquiry: Forest Safety Ombudsman Report

Hi Tamsyn. As requested, below is the Ministry's response to the Forest Safety Ombudsman Report released today.

- We welcome this report and the recommendations provided by the Forest Safety Ombudsman to prevent situations like Khaira from happening again.
- In fact, we have already taken a number of actions that address some of these recommendations brought forward by the Forest Safety Ombudsman. For example, BC Timber Sales silviculture contractors are now required to provide 72 hours notice prior to any camp being established.
- Safety is a shared responsibility. A number of ministries and safety agencies all have important roles to play in ensuring that silviculture contractors and operators act in the best interests of their workers.
- We will continue to work closely with the other groups directly involved in developing practical solutions to the coordination gaps that were brought to light by the Khaira case.

Regards,

**Jennifer McLarty | Government Communications and Public Engagement**  
Ministry of Forests, Lands and Natural Resource Operations | P: 250 953-3675

## Thomas, Vivian P GCPE:EX

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**From:** Barrett, Lisa GCPE:EX  
**Sent:** July-28-11 1:50 PM  
**To:** 'jperkins@ckpg.com'  
**Subject:** response: Forest Safety Ombudsman report re: Khaira Enterprises Ltd.

Hi Joe. Thanks for your call. Trust the information below will answer your questions.

- We welcome this report and the recommendations provided by the Forest Safety Ombudsman to prevent situations like Khaira from happening again.
- In fact, we have already taken a number of actions that address some of these recommendations brought forward by the Forest Safety Ombudsman. For example, BC Timber Sales silviculture contractors are now required to provide 72 hours notice prior to any camp being established.
- Safety is a shared responsibility. A number of ministries and safety agencies all have important roles to play in ensuring that silviculture contractors and operators act in the best interests of their workers.
- We will continue to work closely with the other groups directly involved in developing practical solutions to the coordination gaps that were brought to light by the Khaira case.

Regards,  
Lisa

Lisa Barrett | Government Communications and Public Engagement  
Ministry of Forests, Lands and Natural Resource Operations | P: 250 953-3675

## Thomas, Vivian P GCPE:EX

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**From:** Barrett, Lisa GCPE:EX  
**Sent:** July-20-11 5:53 PM  
**To:** 'lkane@vancouver.sun.com'  
**Subject:** FLNRO response - Khaira Enterprises Ltd.

Hi Laura. Apologies for the delay. If you run with this, please attribute it to the Ministry of Forests, Lands and Natural Resource Operations.

- **Once discovered, immediate steps were taken by authorities to address the health and safety of the workers living in the camp.**
- **Several ministries and agencies were involved in investigations and reviews of camp conditions.**
- **No additional contracts were issued to Khaira Enterprises Ltd. by the Ministry of Forests in 2010. During 2010, Khaira held two silviculture contracts, both of which were issued earlier:**
  - **Nov. 18, 2008 – Okanagan-Columbia Business Area**
  - **Dec. 2, 2009 – Georgia Strait Business Area**

Lisa Barrett | Government Communications and Public Engagement  
Ministry of Forests, Lands and Natural Resource Operations | P: 250 953-3675

**MINISTRY OF LABOUR, CITIZENS' SERVICES AND OPEN GOVERNMENT  
BRIEFING NOTE**

Ref: 93798

Date: May 27, 2011

I      **PREPARED FOR:**                      Honourable Stephanie Cadieux, Minister  
**FOR INFORMATION**

II      **TOPIC:**                                      Inter-agency response to the Khaira Enterprises Ltd incidents

III      **ISSUE:**  
  
Up-date on the status of initiatives developed and implemented through inter-ministry discussions that address prevention of future incidents in the silviculture sector.

IV      **BACKGROUND:**

In response to two incidents involving Khaira Enterprises Ltd in the summer of 2010 – one involving a silviculture worker who was discovered to have died at a commercial campground, and the other involving 27 workers who were found to be living at a forest service campsite near Golden B.C., in substandard conditions - then Minister of Labour Coell requested that the Ministry of Labour to co-ordinate an inter-agency review to determine how to prevent similar incidents in the silviculture sector.

The Ministry of Labour, Citizens' Services and Open Government's involvement in this issue is twofold. First, two of the investigations involving Khaira Enterprises were undertaken by regulatory agencies that report directly or indirectly to the minister. Second, the ministry has been coordinating internal discussions with all ministries and agencies involved. These include: WorkSafeBC; the Employment Standards Branch (ESB); the Ministry of Forests, Lands and Natural Resource Operations (MFLNR); the Ministry of Health Services; and the Interior and Northern Health Authorities. The purpose of these discussions has been to help identify gaps, determine how information can best be shared in future, and what can be done to ensure this type of incident doesn't happen again.

On February 11, 2011, Forest Safety Ombudsman Roger Harris announced that he would undertake a four-month review around health and safety conditions found at silviculture camps to develop recommendations to ensure better coordination among ministries and agencies involved in silviculture contracting. Mr. Harris met with Rob Lapper, Barb Walman and John Blakely on March 29, 2011 and received an update on the status of inter-agency discussions at that time.

V      **DISCUSSION:**

Status of Inter-Agency Discussions:

Two meetings have been conducted with the participating agencies. The first meeting identified enforcement gaps and opportunities for improved communication between agencies. Representatives then went about developing initiatives within their individual shops and establishing communication channels with other agencies.



The second meeting, conducted on April 19, 2011, reviewed initiatives established to date, clarified some communication contacts and set a plan for reporting out to respective Deputies.

Identified Opportunities:

- BC Timber Sales (BCTS) sends notification of a contract award to WorkSafeBC's Assessment Department to ensure the firm is properly registered.
- WorkSafeBC requires that a Notice of Project (NoP) be filed with Prevention Services when a forest operation of more than five days is to commence.
- MFLNR and BCTS' contractual agreements require that a NoP be properly filed and the Ministry must be notified when a camp is to be established.
- MFLNR and BCTS require firms to be SAFE certified as a pre-bid qualification.
- ESB conducts relatively few inspections in this sector but responds to complaints which typically result in payroll audits at the firms' head office.
- Generally, complaints to the ESB from the silviculture sector have been relatively low and declining.

Enhancements Implemented:

**Ministry of Forests, Lands and Natural Resource Operations:**

- Contractors providing silviculture services to MFLNR must provide a commencement of work notice to MFLNR and this is provided to the ESB office in Prince George (effective April 5, 2011).
- MFLNR has enhanced camp standards requirements with the Ministry of Health Services input (effective May 12, 2011).
- Contractors to MFLNR must now provide 72 hours notice to BCTS, the local health authority and WorkSafeBC prior to a camp being established (effective May 12, 2011).
- There is a requirement to post Employment Standard rights and duties for worker review in camps and Employment Standards requirements are reviewed with contractors at pre-job meetings (effective April 5, 2011).
- An improved inspection guideline has been designed to assist with compliance verification and inspection is required between 24 and 48 hours of a camp being established (ongoing).
- MFLNR has established an internal SharePoint site where all MFLNR contract performance evaluations are posted. Ministry staff can use this site to assess risks and plan compliance checks.

**Employment Standards Branch:**

- ESB will continue to investigate complaints as they are reported by workers (ongoing).
- BCTS staff has direction to contact ESB in Prince George if there is a suspected violation of employment standards (effective April 5, 2011). ESB would respond to BCTS reports.

**WorkSafeBC:**

- When receiving a Notice of Project from contractors or notice of commencement of work from BCTS, WorkSafeBC will include these operations on their regional inspection plans (ongoing).
- BCTS provides a notice of contract to WorkSafeBC's Assessment Department. These will now be shared with the Prevention Department by Assessments.

- WorkSafeBC officers will attend pre-job meetings to review safety requirements with contractors and BCTS staff (ongoing).

### Health Authority

- The health authority has developed a handout for employers to advise them of standards and permitting requirements.
- A post was made on a silviculture blog describing health regulatory requirements.
- BCTS will include the health authority in pre-job meetings.
- Health Authorities post inspection results on their web sites.

### Status of Investigations:

- 
- MFLNR investigated Khaira's camp facilities and allegations from workers. Khaira's contract was terminated and it was soon after decided that Khaira Enterprises would be disqualified from bidding on government contracts for two years.
- 
- ESB determined that workers were owed over \$240,000 which the employer was ordered to pay in addition to administrative penalties of \$3,500. The employer and some employees are appealing these decisions to the Employment Standards Tribunal.
- 
- Investigation into the fatality has been turned over to the RCMP and this investigation is not yet concluded. When the RCMP investigation report is shared with WorkSafeBC a decision will be made with regard to further action, if any, that WorkSafeBC might take concerning the circumstances relating to the fatality.
- 
- WorkSafeBC issued a number of orders relating to workplace safety violations at the camps and may impose an administrative penalty. Further legal action may be initiated due to alleged falsification of fire suppression certificates. WorkSafeBC officers identified a number of violations of the *Industrial Camps Regulation* and provided these to the local health authority.
- 
- WorkSafeBC has completed their investigation of incidents at workplaces operated by Khaira Enterprises Ltd. The report is expected to be released in the near future and will generate media attention and questions to the minister and ministry staff.
- 
- The WorkSafeBC report that is about to be released does not relate to the fatality. The investigation report deals with the employer's operation but does make some commentary on the general work and contracting practices in the silviculture sector.

## VI Next Steps

As initiatives are implemented the inter-agency review group will continue to communicate and report results and issues as they arise.

It is recognized that these initiatives will not have a direct influence on private sector silviculture contracts. It is expected that the private sector will be influenced somewhat through working with contractors that have worked under BCTS contracts.

WorkSafeBC and BCTS will be engaging in outreach and education with the Western Silviculture Contractors Association.

The group is awaiting the release of the report of the Forest Safety Ombudsman and will recommend the appropriate response to recommendations he might make.

It is expected that once the group has responded to the Ombudsman's report and after monitoring the sector through this year's silviculture season, the group will conclude activity.

**PREPARED BY:**

Gary Klein CRSP, Manager  
Corporate & Strategic Initiatives  
Policy and Legislation  
250-387-5551

**REVIEWED BY:**

John Blakely, Executive Director  
Policy and Legislation  
250-356-7264



## ADVICE TO MINISTER

### CONFIDENTIAL ISSUES NOTE

Ministry of Forests, Lands and Natural  
Resource Operations

Date: June 1, 2011

Minister Responsible: Hon. Steve Thomson

# Khaira – WorkSafe draft investigation report

### ADVICE AND RECOMMENDED RESPONSE:

- The living conditions discovered last July at the silviculture camp operated by Khaira Enterprises were unacceptable and the camp was shut down.
- Immediate steps were taken by provincial government authorities to address the health and safety of the workers living in the camp as soon as the camp was discovered.
- The provincial government shutdown the Golden camp, kept Khaira's \$28,000 security deposit and banned the company from bidding on any provincial government silviculture contractors for two years.
- All BCTS contractors must be SAFE Company certified and contracts clearly state that contractors must comply with all laws, including those regarding camp standards.
- It's unfortunate that one bad operator is giving silviculture contractors a bad name. Khaira Enterprises not only misled BC Timber Sales, but Louisiana-Pacific, WorkSafeBC and regional health authorities.
- However it is also important to keep this in context. Silviculture camps are not that common – the draft investigation report noted that only 2 of the 179 active silviculture operations had camps associated with them.
- Nonetheless, in light of the Khaira incidents, BC Timber Sales took the lead and worked with the ministries of Health and Labour, WorkSafeBC, regional health authorities and the Western Silviculture Contractors' Association to update its bulletins related to employment standards and camp standards, as well as the camp standards contract schedule
- All appropriate government agency staff are also receiving additional training on issues related to contractors' meeting legislative requirements with regard to employment and camp standards and improving their ability to effectively work together

### KEY FACTS REGARDING THE ISSUE:

On June 2, WorkSafeBC is releasing its draft investigation report with regard to Khaira Enterprises and its silviculture camp at the Bluewater Creek recreation site near Golden. As part of the investigation, WorkSafeBC interviewed Khaira enterprises, workers, representatives from Vancouver Coastal Health and Interior Health and BC Timber Sales staff.

While the draft report does not make any recommendations it makes two findings: 1) Khaira did not comply with contractual and legislative requirements; and 2) BCTS' system of overseeing contractor compliance is inadequate.

The draft report contains a number of inaccuracies (see attached), especially about BC Timber Sales' actions and roles and responsibilities with regard to enforcing camp standards in silviculture contracts.

Like WorkSafeBC, BC Timber Sales can only inspect silviculture camps when it is aware that camps exist. For the vast majority of silviculture work, workers either travel from their homes or from motels or other commercial accommodation. It is very rare for stand-alone camps to be established. The draft report noted that of 179 active silviculture contracts examined in September 2010, only 2 had camps associated with them.

On July 20, 2010, BC Timber Sales learned about Khaira's camp at the Bluewater Recreation site, and on July 21 it was inspected. Because the camp was not up to standard, it was shutdown immediately. On July 23 (verbally) and on July 26 (in writing), Khaira was informed that their contract was terminated and they were banned from bidding on BC Timber Sales silviculture contracts in the Okanagan-Columbia business area for two years. Khaira also lost its \$28,000 security deposit. In September 2010 that two year ban was extended to all provincial government silviculture contracts anywhere in the province.

The report also alleges that BC Timber Sales neglected to file notices of projects – forestry with WorkSafeBC on Khaira's activities. In its pre-work meetings BC Timber Sales makes it clear that the contractors are to do this. In light of some contractors not doing this, BC Timber Sales now requires contractors to provide BC Timber Sales with a copy of the notice of project number that is provided by WorkSafe BC.

The B.C. Forest Safety Ombudsman is also conducting a review around health and safety conditions found at silviculture camps. His report is expected before the end of June.

Communications Contact:	Vivian Thomas	250 356-2475
Program Area Contact:	Mike Falkiner	
File Location:	Issues\2011\Khaira\	

## ADVICE TO MINISTER

A quick review of the draft document highlights the following notable inaccuracies or clarity.

### Okanagan-Columbia

- Page 5 – last paragraph – the camp was not closed on July 26, 2010 but was dismantled July 22, 2010. The contract was verbally terminated on July 23, 2010 and followed up by a formal letter on July 26, 2010.
- Page 13 – top paragraph – Khaira was also performing contract work for Louisiana Pacific at the time the unauthorized camp was established at the Bluewater Rec Site. The report indicates that Khaira also misled the LP contract representative and did not reveal that a camp was established at the Bluewater Rec Site. Khaira did not inform BC Timber Sales of any camp until July 20, 2010. BCTS inspected the camp on July 21, 2010 and took immediate action.
- Page 16 – Termination – The ADM Field Operations expanded the suspension of Khaira for two years from bidding on all silviculture contracts in the Province of BC
- Page 19 – second paragraph – inaccurate statement. The BCTS Woodlands Manager did not make the statement “although contractors usually keep BCTS informed of their lodging location, contractors are not required to notify BCTS if lodging arrangements change and a camp is subsequently established after the pre-work meeting is held”. What was conveyed was that contractors staying in motels often do not advise us when they change locations to another motel. BCTS is required to be notified if a camp is to be established.
- Page 19 – third paragraph – The following statement is not accurate “BCTS personnel from the Vernon TSO had not considered inspecting or applying the Silviculture Camp Standards to contractors who elected to lodge their crews in commercial or privately owned RV campsites.” What was conveyed was that staff were not certain whether we were to inspect in this situation.
- Page 20 – second paragraph – Khaira Enterprises provided BCTS a copy of a letter Khaira stated they had faxed to WSBC as proof of notification to WSBC that the project was commencing. WorkSafe BC indicates that they never received it.
- Page 21 – second paragraph from bottom - BCTS has not resisted filing these notices. BCTS included the responsibility to perform this task as part of the contract obligations.
- Page 21 – last paragraph - an inaccurate statement. BCTS could not ensure permit approvals when the contractor did not advise us that a camp was established.
- Page 23 – Sect 2.3 second paragraph – an inaccurate statement – “BCTS inspectors noted a foul smell from food emanating from the freezers and refrigerators.” This statement is not correct.
- Page 23 – second paragraph from bottom – as soon as the camp was known and the deficiencies were detected the camp was shutdown.
- Page 24 – second paragraph – BCTS can’t ensure permits and approvals when the contractor does not advise of the camp as required under the contract. As soon as the unauthorized camp was detected, effective action was taken.
- Page 25 – second from bottom paragraph - Okanagan Columbia BCTS staff were not aware of substandard camp issues related to Khaira during the evaluation and award of the Revelstoke/Golden contract. During the tender evaluation we had one reference regarding Khaira’s camps and this reference was positive.
- Page 27 – second paragraph. This section is not accurate. The BCTS Woodlands Manager did not make the statement “although contractors usually keep BCTS informed of their lodging location, contractors are not required to notify BCTS if lodging arrangements change and a camp is subsequently established after the pre-work meeting is held”. What was conveyed was that contractors staying in motels often do not advise us when they change locations to another motel. BCTS is required to be notified if a camp is to be established. Khaira Enterprises did not inform BCTS that they intended to set up a camp in Golden and this is contrary to the contract conditions. As soon as a camp was detected immediate actions were taken. BCTS is not able to “approve” camp locations when the contractor fails to notify us or purposefully misleads us. This camp violation, when detected, was immediately dealt with and the contract was ultimately cancelled and 2 year bidding suspension applied.

## Strait of Georgia Comments on WSBC DRAFT Inspection Report

- Page (P) 10, paragraph (Para) 1
  - Coastal Health and RCMP jointly inspected March 17<sup>th</sup>, BCTS and WSBC coincidentally inspected on March 19<sup>th</sup>
  - Missing Facts – WSBC orders written March 19<sup>th</sup> on Khaira, regarding:
    - Training records not available – two orders
    - Passenger van did not have parking brake set
    - ETV used for storage, not in ready state
    - Camp cook alone for 4 hours each day with no check-in system
    - “Notice to Workers” not posted
    - Inappropriate footwear.
  - These Orders were complied with on March 29<sup>th</sup>.
- P.25, Para 1
  - missing facts, WSBC wrote 7 orders and confirmed they were complied with on March 29, there was no reason to conduct a follow-up inspection.
  - Health Authority also indicated in Khaira that conditions appear to have been rectified, they chose not to re-inspect.
  - Just because camp is relocated should not preclude a follow-up or new inspection.
  - If regulatory violations are left outstanding, everyone has a responsibility to follow-up with the contractor to ensure compliance. Contractual control end in most cases though when contract is over.
- P. 26, Section 2.5.2 Inspections of Khaira Enterprises by other agencies
  - BCTS and Health Authority have a shared responsibility, this section appears to only single out BCTS as not enforcing contractual requirements. There were both contractual and regulatory requirements to fulfill.
- P. 28, Section 3.2.1 Health Officials not informed of camp
  - Health Officials were aware and inspected the camp on Texada and were aware of the relocation of the camp to the Garnet Rock RV site in Powell River. The conclusion in this section is inaccurate as currently written.



## IH Briefing Note

### May 27, 2011 update

#### Topic

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Worksafe BC is releasing a report on the closure of a Khaira Enterprises silviculture camp 30 km north of Golden that was closed last summer due to unacceptable living conditions for workers. Significant media attention at the time. IH prevention services (public health) may get follow-up media after the Worksafe BC report is released.

#### Background

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- Interior Health first became of this particular camp July 21, 2010 when a complaint was called in by a Conservation Enforcement Officer. IH's Environmental Health Officers could not take any action until they received more information from the complainant.
- Interior Health was previously unaware of the existence of this particular camp and had no record of any inspection at the camp.
- IHA was never contacted by the operator regarding the intent to set up this camp.
- Interior Health alerts Forests and Range about the provisions of the Industrial Camps Health Regulation and Drinking Water Protection Act and have their forest officers watch for these issues when issuing contracts and visiting camps. If they encounter problems or if there are outbreaks we then will visit.
- IH will investigate once it receives a complaint but would not likely issue penalties until it has a chance to allow the operator to improve sanitary standards.
- IH does not have resources to search large areas of rural and remote geography for unregistered camps.
- The camp near Golden was dismantled before IH's Health Protection staff could inspect the site.
- Interior Health was not able to pursue any further investigation into this camp or any legal action as no evidence was gathered by our staff.
- Under the "Industrial camp" regulations, if an industrial camp does not meet requirements it will be shut down immediately.
- According to the Worksafe report, the camp conditions included:
  - Drinking water from Bluewater Creek that was not treated.
  - No floor in kitchen area
  - No dining area
  - Utensils were not properly cleaned
  - Cook could not produce valid food handler's certificate
  - Camp had only one shower, one toilet and no wash basins for more than 30 people
  - Grey water from shower and kitchen was disposed of on the ground
  - No infiltration pit was constructed
  - No separate drying room was provided
- General requirements for an industrial camp that Interior Health would monitor include:

- Proper filtration and disinfection of drinking water
- Food safety - cook with proper certificate/proper refrigeration of perishable food items/access to and proper cleaning methods for cooking tools.
- Proper toilet and showering facilities.
- Proper disposal of sewage and other waste.

## **Key Messages**

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- Interior Health's role when it comes to backcountry silviculture camps is to ensure that operators are providing a safe environment for workers – this would include potable water supplies, proper toilet and washing facilities, safe food preparation and safe disposal of waste.
- Operators are required to secure food service and water system permits, and that's also how we become involved and aware, and able to monitor. As indicated in the Worksafe BC report, the operator of the camp near Golden did not come to us for these permits. Interior Health learned about this camp through a complaint to our office in Invermere and before we could investigate the camp was dismantled.
- The challenge IH faces is that there are only a handful of industrial camp operators that actively come in to seek approvals and permits in a given year. Typically, Interior Health becomes involved when we receive a formal referral or complaint about an industrial work camp, as most camps are small, transient in nature and located in the bush. IH does not patrol the woods for camps in rural and remote areas.
- In terms of inspections, IH works in partnerships in our communities with other Ministries, Agencies and the public. We rely on our partners to be our eyes and ears and let us know if they see situations that need further investigation.

## **PREPARED FOR: VP of Communications/Public Affairs**

**PREPARED BY:** Karl Hardt, Communications Officer, IH East  
250-354-3030  
[karl.hardt@interiorhealth.ca](mailto:karl.hardt@interiorhealth.ca)

## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p><b>Ministry: Labour, Citizens' Services &amp; Open Government</b></p> <p><b>Updated: Nov 29, 2011</b></p> <p><b>Minister Responsible: Margaret MacDiarmid</b></p> <p>Created by Government Communications and Public Engagement</p>	<p><b>KHAIRA (COMPREHENSIVE) - UPDATE</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- I'm pleased to say we've recovered an additional \$24,000 on behalf of the former employees of Khaira Enterprises.
- These funds are being distributed to the workers. The Province is working hard to recover funds so all the workers get the compensation they're owed.
- We're pursuing the outstanding balance of approximately \$116,033 plus interest.
- The conditions these workers were subjected to are completely unacceptable.
- Our government will continue to look after the health and safety of workers in B.C., and if a company is negligent, we will take appropriate measures.

### SECONDARY:

- We're acting on the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established;
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.

### If asked about payments:

- To date, we've recovered a total of \$129,171 (plus interest accrued) for payment to the former employees of Khaira Enterprises.
- Approximately \$124,500 has been disbursed among 44 workers. We are continuing to pursue the outstanding balance of approximately \$116,033.
- Right now, \$4,633 is being held for 14 workers once efforts to locate them are



successful.

- If workers have any questions about their cheques they can call the Employment Standards Branch at 250 387-3300 or any Employment Standards office.

*If pressed regarding timing (why decision was made before final ruling):*

- There still remains a reconsideration application by the employer, but given our legal advice and from their risk assessment we feel that it was appropriate to release the funds to the workers at this time.

**If asked about WorkSafeBC investigation and criminal charges:**

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- I understand the Criminal Justice Branch has approved charges against Khaira Enterprises, following a WorkSafeBC field investigation.
- Two charges of fraud and two charges of uttering forged document have now been laid.

**If asked about RCMP investigation:**

- The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.

## **KEY FACTS REGARDING THE ISSUE:**

An additional \$24,000 has been recovered on behalf of the former employees of Khaira Enterprises. The cheques will be distributed on Nov. 30 or Dec. 1, 2011.

To date, the Province has recovered \$129,171 (plus interest accrued) for payment to the former employees of Khaira Enterprises.

## **BACKGROUND:**

### **Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation" which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
- BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC, develop a "Silviculture Workers Training Program" that is the minimum requirement for any new employee working in the silviculture sector (Training, #11).

### **WSBC Inspection Report:**

This follows on the final version of WSBC's inspection report related to Khaira Enterprises that was released to at least one media outlet and the BC Federation of Labour through an information request.

- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry



## ADVICE TO MINISTER

(NOPF) with WSBC prior to the commencement of a project.

- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Since the company is no longer in business and has no assets, WSBC determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52, including wages owing (\$232,833.10), interest (\$3,967.42) and penalties (\$3,500).

- The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, the Tribunal issued separate decisions for each of the nine appeals:

- Four of the employee appeals were referred back to the Tribunal for recalculation. The recalculations were submitted to the Tribunal on July 21. Appellants had to August 8 to accept or dispute the amounts.
- Three appeals resulted in those employees' determination being revised.
- One employee appeal resulted in the Tribunal confirming the original determination.
- With respect to the employer's appeal, the Tribunal confirmed the ESB determination (subject to the orders made concerning the other appeals).
- **On August 22, the Tribunal varied the determination to show Khaira's liabilities under the Act to be: \$241,704.77 plus administrative penalties in the amount of \$3,500.00 for a total liability of \$245,204.77**

### **ESB court action:**

- **ESB has not initiated a lawsuit against Khaira, but are collecting under the authority of the Act.**
- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors.
- When one of the directors tried to transfer his assets, the Director of Employment Standards filed a court action **not Khaira** to have the transfer of assets declared invalid.
- If the court action is successful, any assets improperly transferred can be seized by the Director of Employment Standards and used towards recovering the balance of any unpaid wage claims.

S22

s 22

### **Decision to issue payment:**

**Criminal Charges:**

**Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises following a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.**

**RCMP investigation:**

Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

Communications Contact: Allison Jensen/Melody Wey  
Program Area Contact: Donna Freeman, John Blakely, Andy Wichary  
File Created: July 27, 2011, Updated Oct. 18, 2011, Nov 24, 2011  
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Labour\2011\Final\Employment Standards\IN\_Khaira  
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Minister's Office	Program Area	ADM/Deputy	Communications
	HS/DF	JB/BW	BW

## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p><b>Ministry: Labour, Citizens' Services &amp; Open Government</b></p> <p><b>Date: July 27, 2011, Updated Nov 25, 2011</b></p> <p><b>Minister Responsible: Margaret MacDiarmid</b></p> <p>Created by Government Communications and Public Engagement</p>	<p><b>KHAIRA (COMPREHENSIVE) - UPDATE</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- I'm pleased to say we've recovered an additional \$24,000 on behalf of the former employees of Khaira Enterprises.
- These funds are being distributed to the workers. The Province is working hard to recover funds so all the workers get the full compensation they're owed.
- The conditions these workers were subjected to are completely unacceptable.
- Our government will continue to look after the health and safety of workers in B.C, and if a company is negligent, we will take appropriate measures.
- We're pursuing the outstanding balance of approximately \$116,033 plus interest.

### SECONDARY:

- We're acting on the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established;
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- If workers have any questions about their cheques, I encourage them to call the Employment Standards Branch toll free at 1 800 663-3316 or any ESB office.

### If asked about ESB determination status:

- To date, we've recovered a total of \$129,171 (plus interest accrued) for payment to the former employees of Khaira Enterprises.
- Approximately \$124,500 has been disbursed among 44 workers. We are

continuing to pursue the outstanding balance of approximately \$116,033.

- Right now, \$4,633 is being held for 14 workers once efforts to locate them are successful.
- If workers have any questions about their cheques they can call the Employment Standards Branch at 250 387-3300 or any Employment Standards office.

*If pressed regarding timing (why decision was made before final ruling):*

- There still remains a reconsideration application by the employer, but given our legal advice and from their risk assessment we feel that it was appropriate to release the funds to the workers at this time.

**If asked about WorkSafeBC investigation and criminal charges:**

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- I understand the Criminal Justice Branch has approved charges against Khaira Enterprises, following a WorkSafeBC field investigation.
- Two charges of fraud and two charges of uttering forged document have now been laid.

**If asked about RCMP investigation:**

- The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.

## **BACKGROUND REGARDING THE ISSUE:**

**\*New information in bold\***

### **Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation" which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
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### **WSBC Inspection Report:**

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- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported

## ADVICE TO MINISTER

assessable payroll related to tree planting and brushing.

- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Since the company is no longer in business and has no assets, WSBC determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52, including wages owing (\$232,833.10), interest (\$3,967.42) and penalties (\$3,500).

- The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, the Tribunal issued separate decisions for each of the nine appeals:

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- **On August 22, the Tribunal varied the determination to show Khaira's liabilities under the Act to be: \$241,704.77 plus administrative penalties in the amount of \$3,500.00 for a total liability of \$245,204.77**

### **ESB court action:**

- **ESB has not initiated a lawsuit against Khaira, but are collecting under the authority of the Act.**
- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors.
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the Director of Employment Standards filed a court action ( S22  
**not Khaira**) to have the transfer of assets declared invalid. s 22
- If the court action is successful, any assets improperly transferred can be seized by the Director of Employment Standards and used towards recovering the balance of any unpaid wage claims.

### **Decision to issue payment:**

**Criminal Charges:**

**Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises following a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.**

**RCMP investigation:**

- Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

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Minister's Office	Program Area	ADM/Deputy	Communications
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## ADVICE TO MINISTER

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### ADVICE AND RECOMMENDED RESPONSE:

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- The conditions these workers were subjected to are completely unacceptable.
- Our government will continue to look after the health and safety of workers in B.C, and if a company is negligent, we will take appropriate measures.
- We're pursuing the outstanding balance of approximately \$116,033 plus interest.

### SECONDARY:

- We're acting on the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
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- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported



## ADVICE TO MINISTER

assessable payroll related to tree planting and brushing.

- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
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**Decision to issue payment:**

**Criminal Charges:**

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**RCMP investigation:**

- Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

**Comment [s2]:** Still true?

Communications Contact: Allison Jensen/Melody Wey  
 Program Area Contact: Donna Freeman, John Blakely, Andy Wichary  
 File Created: July 27, 2011, Updated Oct. 18, 2011, Nov 24, 2011  
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Minister's Office	Program Area	ADM/Deputy	Communications
	HS	JB	

## ADVICE TO MINISTER

<b>CONFIDENTIAL ISSUES NOTE</b>  <b>Ministry: Labour, Citizens' Services &amp; Open Government</b> <b>Date: July 27, 2011, Updated Oct 18, 2011</b> <b>Minister Responsible: Margaret MacDiarmid</b>	<b>KHAIRA (COMPREHENSIVE)</b>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable.
- We have already taken actions that address some of the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established;
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- We will continue to work with our partners and across government to protect the health and safety of forestry and silviculture workers in B.C.

### If asked about WorkSafeBC investigation and criminal charges:

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
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- I understand the Criminal Justice Branch has approved charges against Khaira Enterprises, following a WorkSafeBC field investigation.
- Two charges of fraud and two charges of uttering forged document will be laid.
-

**If asked about ESB determination status:**

S13

***If pressed regarding timing (why decision was made before final ruling):***

- There still remains a reconsideration application by the employer, but given our legal advice and from their risk assessment we feel that it was appropriate to release the funds to the workers at this time.

**If asked about RCMP investigation:**

- The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.

**BACKGROUND REGARDING THE ISSUE:**

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- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

## ADVICE TO MINISTER

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52, including wages owing (\$232,833.10), interest (\$3,967.42) and penalties (\$3,500).

- The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

- four of the employee appeals were referred back to the ESB for recalculation. The recalculations were submitted to the EST on July 21 and appellants have until August 8 to accept or dispute the amounts.
- three appeals resulted in those employees' determination being revised
- one employee appeal resulted in the EST confirming the original determination.
- With respect to the employer's appeal, the EST confirmed the ESB determination (subject to the orders made concerning the other appeals).

### **ESB court action:**

- **ESB has not initiated a lawsuit against Khaira, but rather are collecting under the authority of the Act.**
- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors.
- When one of the directors tried to transfer his assets, S22 the Director of Employment Standards filed a court action to have the transfer of assets declared invalid.
- If the court action is successful, any assets improperly transferred can be seized by the Director of Employment Standards and used towards recovering the balance of any unpaid wage claims.

### **Decision to issue payment:**

s 14, 22

On Monday September 22, 2011 ESB staff sent cheques to the 34 employees for whom we had addresses.

S13

### **Criminal Charges:**

The Criminal Justice Branch has approved charges against Khaira Enterprises following a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.

Two charges of fraud and two charges of uttering forged document will be laid at the Revelstoke courthouse.

**RCMP investigation:**

- Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

Communications Contact: Allison Jensen/Melody Wey  
Program Area Contact: Donna Freeman, Pat Cullinane, John Blakely, Rod Bianchini  
File Created: July 27, 2011, Updated Oct. 18, 2011, Oct 19, 2011  
File Updated:  
File Location: N:\OPERATIONS\Issues\Issues Notes - Labour\2011\Final\Employment Standards\IN\_Khaira (Comprehensive)\_Oct 18 2011\_FINAL.docx

Minister's Office	Program Area	ADM/Deputy	Communications

## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p>Ministry: Labour, Citizens' Services &amp; Open Government</p> <p>Date: July 27, 2011, Updated Oct 18, 2011</p> <p>Minister Responsible: Margaret MacDiarmid</p>	<p><b>KHAIRA (COMPREHENSIVE)</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable.
- We have already taken actions that address some of the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established;
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- We will continue to work with our partners and across government to protect the health and safety of forestry and silviculture workers in B.C.

### If asked about WorkSafeBC investigation and criminal charges:

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- I understand the Criminal Justice Branch has approved charges against Khaira Enterprises, following a WorkSafeBC field investigation.
- Two charges of fraud and two charges of uttering forged document will be laid.
- As this matter is now before the courts, I cannot comment further.

**If asked about ESB determination status:**

S13

S13

***If pressed regarding timing (why decision was made before final ruling):***

- **There still remains a reconsideration application by the employer, but given our legal advice and from their risk assessment we feel that it was appropriate to release the funds to the workers at this time.**

**If asked about RCMP investigation:**

- **The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.**

**BACKGROUND REGARDING THE ISSUE:**

**Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the “failures leading to the Khaira situation”, which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
- BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC, develop a “Silviculture Workers Training Program” that is the minimum requirement for any new employee working in the silviculture sector (Training, #11).

**WSBC Inspection Report:**

This follows on the final version of WSBC's inspection report related to Khaira Enterprises that was released to at least one media outlet and the BC Federation of Labour through an information request.

- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that “WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents.”

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.



## ADVICE TO MINISTER

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52, including wages owing (\$232,833.10), interest (\$3,967.42) and penalties (\$3,500).

- The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

- four of the employee appeals were referred back to the ESB for recalculation. The recalculations were submitted to the EST on July 21 and appellants have until August 8 to accept or dispute the amounts.
- three appeals resulted in those employees' determination being revised
- one employee appeal resulted in the EST confirming the original determination.
- With respect to the employer's appeal, the EST confirmed the ESB determination (subject to the orders made concerning the other appeals).

### **ESB lawsuit against Khaira:**

- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors.
- When one of the directors tried to transfer his assets, S22  
the Director of Employment Standards filed a court action to have the transfer of assets declared invalid.
- If the court action is successful, any assets improperly transferred can be seized by the Director of Employment Standards and used towards recovering the balance of any unpaid wage claims.

### **Decision to issue payment:**

S14, 22

On Monday September 22, 2011 ESB staff sent cheques to the 34 employees for whom we had addresses.

S13

### **Criminal Charges:**

The Criminal Justice Branch has approved charges against Khaira Enterprises following a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.

Two charges of fraud and two charges of uttering forged document will be laid at the Revelstoke courthouse.

### **RCMP investigation:**

- Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

Communications Contact: Jeff Groot/Allison Jensen  
 Program Area Contact: Donna Freeman, Pat Cullinane, John Blakely  
 File Created: July 27, 2011, Updated October 18, 2011  
 File Updated:  
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Minister's Office	Program Area	ADM/Deputy	Communications
	PC/MT	BW	JG/DG

## ADVICE TO MINISTER

<b>CONFIDENTIAL ISSUES NOTE</b>  Ministry: Labour, Citizens' Services & Open Government Date: July 27, 2011 Minister Responsible: Stephanie Cadieux	<b>KHAIRA (COMPREHENSIVE)</b>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable and we welcome this report and the recommendations provided by the Forest Safety Ombudsman to prevent situations like Khaira from happening again.
- In fact, we have already taken actions that address some of these recommendations, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established;
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- We will continue to work with our partners and across government to protect the health and safety of forestry and silviculture workers in B.C.

### If asked about ESB determination status:

- Both Khaira Enterprises and multiple employees appealed the determination made earlier this year by the Employment Standards Branch.
- Although the employer's appeal was dismissed, there are still other appeals before the Employment Standards Tribunal.
- Any party that disagrees with the Tribunal's final decisions could apply within 30 days to have the Tribunal reconsider those decisions. Currently, the ESB is holding approximately \$105,000 in trust until the appeal process is complete.
- At that time, the Branch will also take all possible steps to ensure the remaining wages owing will be collected. This could include placing property liens, filing a determination in court or seizing assets.

### If asked about appeal timelines:

- I understand the appeal process can typically take several months to complete.
- If any of the parties choose to challenge the outcome of the appeal, a judicial review could follow.

**If asked about WorkSafeBC investigation:**

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.

**If asked about RCMP investigation:**

- The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.

**BACKGROUND REGARDING THE ISSUE:**

**Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation", which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
- BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC, develop a "Silviculture Workers Training Program" that is the minimum requirement for any new employee working in the silviculture sector (Training, #11).

**WSBC Inspection Report:**

This follows on the final version of WSBC's inspection report related to Khaira Enterprises that was released to at least one media outlet and the BC Federation of Labour through an information request.

- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

**Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52, including wages owing (\$232,833.10), interest (\$3,967.42) and penalties (\$3,500).

## ADVICE TO MINISTER

- The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

- four of the employee appeals were referred back to the ESB for recalculation. The recalculations were submitted to the EST on July 21 and appellants have until August 8 to accept or dispute the amounts.
- three appeals resulted in those employees' determination being revised
- one employee appeal resulted in the EST confirming the original determination.
- With respect to the employer's appeal, the EST confirmed the ESB determination (subject to the orders made concerning the other appeals).

Once the EST confirms the recalculations, the parties will have 30 days to request a further reconsideration of the decision. Media has reported the employer intends to take his appeal to the B.C. Supreme Court. Judicial reviews can take months or years to complete, depending on the complexity of the case.

The ESB is currently holding approximately \$105,000 in trust until such time as all appeal processes are complete.

### **ESB lawsuit against Khaira:**

- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors.
- When one of the directors tried to transfer his assets, S22 the Director of Employment Standards filed a court action to have the transfer of assets declared invalid.
- If the court action is successful, any assets improperly transferred can be seized by the Director of Employment Standards and used towards recovering the balance of any unpaid wage claims.

### **RCMP investigation:**

- Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

Communications Contact: Jeff Groot  
Program Area Contact: Donna Freeman, Pat Cullinane, John Blakely  
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(Comprehensive)\_July 27 11\_FINAL.docx

Minister's Office	Program Area	ADM/Deputy	Communications
	PC/MT	BW	JG/DG

## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p>Ministry: Labour, Citizens' Services &amp; Open Government</p> <p>Date: July 31, 2012</p> <p>Minister Responsible: Margaret MacDiarmid</p>	<p><b>KHAIRA (COMPREHENSIVE) July 2012 update</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable.
- We have already taken actions that address some of the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established; *(BC Timber Sales or MFLNRO responsible)*
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- We will continue to work with our partners and across government to protect the health and safety of forestry and silviculture workers in B.C.

### If asked about WorkSafeBC investigation and criminal charges:

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises, following a WorkSafeBC field investigation.
- As this matter is now before the courts, I cannot comment further.

### If asked about ESB determination status:

- Following a determination by the ESB, approximately \$127,000 in wages owing has been disbursed among 46 workers.

- About another \$2,200 is being held in trust for 12 workers we have not been able to locate.
- On June 8 2012, ESB issued a decision on five additional Khaira employees, finding they were owed \$18,000 (approximately) in wages.
- We are continuing to pursue the outstanding balance of wages owing of approximately \$131,000. However, Khaira is now out of business and neither the organization nor the directors have any known assets.
- Like everyone else, we are anxious for the employees to get this portion of what they are owed.
- If workers have any questions about their cheques they can call the Employment Standards Branch at 1-800-663-3316 or visit any ESB office.

*If pressed on why there is a second determination as of June 8, 2012:*

- The existence of these five employees was not known to the Branch until they came forward with their claims after the original determination was issued.

If asked about RCMP investigation:

- The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.

## **BACKGROUND REGARDING THE ISSUE:**

### Forest Safety Ombudsman's report:

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation", which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
- BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC, develop a "Silviculture Workers Training Program" that is the minimum requirement for any new employee working in the silviculture sector (Training, #11).

### WSBC Inspection Report:

This follows on the final version of WSBC's inspection report related to Khaira Enterprises that was released to at least one media outlet and the BC Federation of Labour through an information request.

- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has



## **ADVICE TO MINISTER**

determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52 (\$236,800.52 for wages owing and \$3,500.00 for penalties). On August 22, 2011, the Employment Standards Tribunal varied the total amount to \$245,204.77 (\$241,704.77 for wages and \$3,500.00 for penalties).

The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

ESB issued a second determination dated June 8, 2012 which found a further \$18,398.53 owing in wages to five additional Khaira employees (i.e., employees not known about at time of original determination) plus an additional \$500.00 reg.46 penalty.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

- four of the employee appeals were referred back to the ESB for recalculation. The recalculations were submitted to the EST on July 21, 2011.
- three appeals resulted in the determination for those employees being revised
- one employee appeal resulted in the EST confirming the original determination.
- With respect to the employer's appeal, the EST confirmed the ESB determination (subject to the orders made concerning the other appeals).
- On September 9, 2011, a request for reconsideration was filed with the EST by the employer. The EST decision to reject the application for reconsideration and uphold the Tribunal's decision on first appeal was issued on November 30, 2011.
- A further judicial review has been filed by counsel for Khaira.

### **ESB lawsuit against Khaira:**

- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors. A director and/or officer of a company can be liable for up to two months' wages owed to each employee.
- When one of the directors tried to transfer his assets, S22 the Director of Employment Standards immediately filed a court action to have the transfer of assets declared invalid.
- ESB has now settled the court case and received payment, which has been disbursed to the employees.

### **Decision to issue payment prior to final ruling:**

S14, 22

### **Criminal Charges:**



Two charges of fraud and two charges of uttering forged document were laid in November 2011 against the owner of Khaira Enterprises. The charges follow a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.

**RCMP investigation:**

Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

Communications Contact: Allison Jensen  
Program Area Contact: Donna Freeman, Chris Johnson, John Blakely  
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Branch\in\_Khaira (Comprehensive) Feb 2012 update FINAL.docx

Minister's Office	Program Area	ADM/Deputy	Communications
	CJ/JB	TH	JM

## ADVICE TO MINISTER

<b>CONFIDENTIAL ISSUES NOTE</b>  <b>Ministry: Labour, Citizens' Services &amp; Open Government</b>  <b>Date: February 24, 2012</b>  <b>Minister Responsible: Margaret MacDiarmid</b>	<b>KHAIRA (COMPREHENSIVE)</b> <b>Feb 2012 update</b>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable.
- We have already taken actions that address some of the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established; *(BC Timber Sales or MFLNRO responsible)*
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- We will continue to work with our partners and across government to protect the health and safety of forestry and silviculture workers in B.C.

### If asked about WorkSafeBC investigation and criminal charges:

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises, following a WorkSafeBC field investigation.
- As this matter is now before the courts, I cannot comment further.

### If asked about ESB determination status:

- Approximately S13 has been disbursed among 46 workers.
- About another S13 being held in trust for 12 workers we have not

S13

been able to locate.

S13

- **We are continuing to pursue the outstanding balance of approximately S13. However, Khaira is now out of business and neither the organization nor the directors have any known assets.**
- **Like everyone else, we are anxious for the employees to get this portion of what they are owed.**
- **If workers have any questions about their cheques they can call the Employment Standards Branch at 1-800-663-3316 or visit any ESB office.**

S13

s 13

- **Given our legal advice and from their risk assessment we felt that it was appropriate to release the funds to the workers prior to the final ruling.**
- **In the final reconsideration issued November 30, the Tribunal's decision on first appeal was upheld.**

**If asked about RCMP investigation:**

- **The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.**

**BACKGROUND REGARDING THE ISSUE:**

**Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation", which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
- BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC, develop a "Silviculture Workers Training Program" that is the minimum requirement for any new employee working in the silviculture sector (Training, #11).

**WSBC Inspection Report:**

This follows on the final version of WSBC's inspection report related to Khaira Enterprises that was released to at least one media outlet and the BC Federation of Labour through an information request.

- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

## ADVICE TO MINISTER

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52 (\$236,800.52 for wages owing and \$3,500.00 for penalties). On August 22, 2011, the Employment Standards Tribunal varied the total amount to \$245,204.77 (\$241,704.77 for wages and \$3,500.00 for penalties).

S13

The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

- four of the employee appeals were referred back to the ESB for recalculation. The recalculations were submitted to the EST on July 21, 2011.
- three appeals resulted in the determination for those employees being revised
- one employee appeal resulted in the EST confirming the original determination.
- With respect to the employer's appeal, the EST confirmed the ESB determination (subject to the orders made concerning the other appeals).
- On September 9, 2011, a request for reconsideration was filed with the EST by the employer. The EST decision to reject the application for reconsideration and uphold the Tribunal's decision on first appeal was issued on November 30, 2011.

S13

### **ESB lawsuit against Khaira:**

- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors. A director and/or officer of a company can be liable for up to two months' wages owed to each employee.
- When one of the directors tried to transfer his assets, S22 the Director of Employment Standards immediately filed a court action to have the transfer of assets declared invalid.
- ESB has now settled the court case and received payment, which has been disbursed to the employees.

### **Decision to issue payment prior to final ruling:**

S14, 22

**Criminal Charges:**

Two charges of fraud and two charges of uttering forged document were laid in November 2011 against the owner of Khaira Enterprises. The charges follow a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.

**RCMP investigation:**

Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

Communications Contact: Allison Jensen  
Program Area Contact: Donna Freeman, Chris Johnson, John Blakely  
File Created: July 27, 2011, Updated February 24, 2012  
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Branch\in\_Khaira (Comprehensive) Feb 2012 update FINAL.docx

Minister's Office	Program Area	ADM/Deputy	Communications
GP	CJ/JB	BW/KH	DG

## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p>Ministry: Labour, Citizens' Services &amp; Open Government</p> <p>Date: February 24, 2012</p> <p>Minister Responsible: Margaret MacDiarmid</p>	<p><b>KHAIRA (COMPREHENSIVE) Feb 2012 update</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable.
- We have already taken actions that address some of the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations and to the local employment standards branch;
  - Inspections of silviculture camps are required in the first 48 hours of a camp being established; *(BC Timber Sales or MFLNRO responsible)*
  - BC Timber Sales' silviculture contractors are also now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.
- We will continue to work with our partners and across government to protect the health and safety of forestry and silviculture workers in B.C.

### If asked about WorkSafeBC investigation and criminal charges:

- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises, following a WorkSafeBC field investigation.
- As this matter is now before the courts, I cannot comment further.

### If asked about ESB determination status:

- Approximately S13 has been disbursed among 46 workers.
- About another S13 is being held in trust for 12 workers we have not been able

to locate.

- **We are continuing to pursue the outstanding balance of approximately S13**  
**However, Khaira is now out of business and neither the organization nor the directors have any known assets.**
- **Like everyone else, we are anxious for the employees to get this portion of what they are owed.**
- **If workers have any questions about their cheques they can call the Employment Standards Branch at 1-800-663-3316 or visit any ESB office.**

***If pressed on why cheques were distributed before final ruling:***

- **Given our legal advice and from their risk assessment we felt that it was appropriate to release the funds to the workers prior to the final ruling.**
- **In the final reconsideration issued November 30, the Tribunal's decision on first appeal was upheld.**

**If asked about RCMP investigation:**

- **The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.**

## **BACKGROUND REGARDING THE ISSUE:**

### **Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation", which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
- BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC, develop a "Silviculture Workers Training Program" that is the minimum requirement for any new employee working in the silviculture sector (Training, #11).

### **WSBC Inspection Report:**

This follows on the final version of WSBC's inspection report related to Khaira Enterprises that was released to at least one media outlet and the BC Federation of Labour through an information request.

- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

# ADVICE TO MINISTER

## **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52 (\$236,800.52 for wages owing and \$3,500.00 for penalties). On August 22, 2011, the Employment Standards Tribunal varied the total amount to \$245,204.77 (\$241,704.77 for wages and \$3,500.00 for penalties).

The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

- four of the employee appeals were referred back to the ESB for recalculation. The recalculations were submitted to the EST on July 21, 2011.
- three appeals resulted in the determination for those employees being revised
- one employee appeal resulted in the EST confirming the original determination.
- With respect to the employer's appeal, the EST confirmed the ESB determination (subject to the orders made concerning the other appeals).
- On September 9, 2011, a request for reconsideration was filed with the EST by the employer. The EST decision to reject the application for reconsideration and uphold the Tribunal's decision on first appeal was issued on November 30, 2011.

## **ESB lawsuit against Khaira:**

- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors. A director and/or officer of a company can be liable for up to two months' wages owed to each employee.
- When one of the directors tried to transfer his assets, S22 the Director of Employment Standards immediately filed a court action to have the transfer of assets declared invalid.
- ESB has now settled the court case and received payment, which has been disbursed to the employees.

## **Decision to issue payment prior to final ruling:**

S14, 22

## **Criminal Charges:**

Two charges of fraud and two charges of uttering forged document were laid in November 2011 against the owner of Khaira Enterprises. The charges follow a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.

## **RCMP investigation:**

Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July



21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.

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Minister's Office	Program Area	ADM/Deputy	Communications
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## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p>Ministry: Labour, Citizens' Services &amp; Open Government</p> <p>Date: January 30, 2012</p> <p>Minister Responsible: Margaret MacDiarmid</p>	<p><b>KHAIRA (COMPREHENSIVE)</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- The conditions these workers were subjected to are obviously unacceptable.
- We have already taken actions that address some of the recommendations from the Forest Safety Ombudsman, including coordinating an inter-agency group to come up with solutions to improve information sharing and ensure a similar incident does not happen again.
  - Specifically, government-contracted silviculture employers are now required to provide a start of work notice to the Ministry of Forests, Lands and Natural Resource Operations and to the local employment standards branch;
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- WorkSafeBC has imposed a penalty of \$9,100 on Khaira Enterprises.
- Unfortunately, as Khaira is now out of business and the firm has no assets, WSBC has determined there is no legal way to collect the penalty.
- WorkSafeBC has explored its legal options and must comply with federal bankruptcy law.
- Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises, following a WorkSafeBC field investigation.
- As this matter is now before the courts, I cannot comment further.

### If asked about ESB determination status:

- Approximately \$125,000 has been disbursed among 44 workers.
- About another \$5,000 is being held in trust for 14 workers we have not been able

to locate.

- **We are continuing to pursue the outstanding balance of approximately \$115,000. However, Khaira is now out of business and neither the organization nor the directors have any known assets.**
- **Like everyone else, we are anxious for the employees to get this portion of what they are owed.**
- **If workers have any questions about their cheques they can call the Employment Standards Branch at 1-800-663-3316 or visit any ESB office.**

***If pressed on why cheques were distributed before final ruling:***

- **Given our legal advice and from their risk assessment we felt that it was appropriate to release the funds to the workers prior to the final ruling.**
- **In the final reconsideration issued November 30, the Tribunal's decision on first appeal was upheld.**

**If asked about RCMP investigation:**

- **The RCMP investigation into the death of an individual at a work camp operated by Khaira is ongoing.**

## **BACKGROUND REGARDING THE ISSUE:**

### **Forest Safety Ombudsman's report:**

On July 27, 2011, the Forest Safety Ombudsman released his report examining the "failures leading to the Khaira situation", which includes two recommendations for WorkSafeBC (WSBC):

- The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate the potential to establish a practical shared delegated authority model for in-field inspections (Enforcement, #4).
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- According to the final report, WSBC had no prior knowledge of the work site, despite the fact that silviculture contractors (government (BCTS) or private) are required to file a Notice of Project – Forestry (NOPF) with WSBC prior to the commencement of a project.
- Neither BC Timber Sales (BCTS) nor Khaira Enterprises filed the required NOPF with WSBC to inform safety regulators of the existence of the forestry worksites in the Revelstoke and Golden areas. In fact, WSBC records show Khaira had not filed NOPFs for approximately six of the 11 years the firm reported assessable payroll related to tree planting and brushing.
- The report concluded that Khaira did not abide by the terms of its contract with BCTS or file the required notices.
- In addition, it found that BCTS did not ensure contractor compliance by relying on the parties with whom it contracts to do so.
- Finally, the report stated that "WorkSafeBC was significantly underinformed about the firm's activities and locations, even during years when WorkSafeBC did receive some NOPF documents."

WSBC's investigation into safety matters on the work site is now complete and a \$9,100 penalty was issued to Khaira Enterprises. Because the company is no longer in business and has no assets, WSBC has determined there is no legal way to collect the penalty. WSBC has stepped back from its investigation into the Khaira Revelstoke fatality until such time as the RCMP makes a decision on a course of action.

## ADVICE TO MINISTER

### **Employment Standards Determination:**

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52 (\$236,800.52 for wages owing and \$3,500.00 for penalties). On August 22, 2011, the Employment Standards Tribunal varied the total amount to \$245,204.77 (\$241,704.77 for wages and \$3,500.00 for penalties).

The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

On Mar. 14, 2011, the Employment Standards Tribunal (EST) received appeals from legal counsel on behalf of both the employer and the BC Public Interest Advocacy Centre regarding nine of the 25 employees they represent. On June 28, 2011, the EST issued separate decisions for each of the nine appeals:

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### **ESB lawsuit against Khaira:**

- On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.
- In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors. A director and/or officer of a company can be liable for up to two months' wages owed to each employee.
- When one of the directors tried to transfer his assets, S22 the Director of Employment Standards immediately filed a court action to have the transfer of assets declared invalid.
- ESB has now settled the court case and received payment, which has been disbursed to the employees.

### **Decision to issue payment prior to final ruling:**

S14, 22

### **Criminal Charges:**

Two charges of fraud and two charges of uttering forged document were laid in November 2011 against the owner of Khaira Enterprises. The charges follow a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.

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File Created: July 27, 2011, Updated January 30, 2012  
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Minister's Office	Program Area	ADM/Deputy	Communications
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## ADVICE TO MINISTER

### CONFIDENTIAL ISSUES NOTE

Ministry of Jobs, Tourism and Skills Training  
Date: February 14, 2013 (Updated Jun 10)

Minister Responsible: Hon. Shirley Bond

## Khaira Enterprises – ESB Update Feb 2013

### SUGGESTED RESPONSES:

- The conditions these workers were subjected to are obviously unacceptable.
- We have taken several actions across government to ensure a similar incident does not happen again. For example:
  - An inter-agency group was coordinated to come up with solutions to improve information sharing between government ministries, agencies and other relevant groups.
  - BC Timber Sales' silviculture contractors are now required to provide 72 hours notice to BC Timber Sales, the local health authority and WorkSafeBC prior to any camp being established; and
  - WorkSafeBC officers will review safety requirements with BC Timber Sales and silviculture contractors as necessary.

### If asked about Employment Standards efforts to collect wages:

- The Employment Standards Branch completed its investigation into Khaira Enterprises in January 2011 and determined that Khaira owed more than \$241,000 in wages to 58 employees.
- A further investigation completed in June of 2012 determined that five additional employees were owed more than \$18,000.
- The Employment Standards Branch has collected and

- disbursed approximately \$127,000 in wages to 48 workers.
- About another \$2,200 is being held in trust for 10 workers the branch has not been able to locate.
  - Unfortunately, Khaira is now out of business and neither the organization nor the directors have any known assets. It is unlikely that the outstanding balance of approximately \$135,000 (including penalties) will be collected.
  - If workers have any questions about their cheques they can call the Employment Standards Branch at 1-800-663-3316 or visit any branch office.

## **BACKGROUND:**

### Employment Standards determination

In February 2011, the Employment Standards Branch (ESB) completed its investigation into Khaira Enterprises and issued a determination for \$240,300.52 (\$236,800.52 for wages owing and \$3,500.00 for penalties). On August 22, 2011, the Employment Standards Tribunal varied the total amount to \$245,204.77 (\$241,704.77 for wages and \$3,500.00 for penalties).

The determination affected 58 employees and covered a six-month period from January to July 2010. The wages amount includes unpaid wages, unpaid overtime, improper deductions from wages, statutory holiday pay and vacation pay.

ESB issued a second determination dated June 8, 2012 which found a further \$18,398.53 owing in wages to five additional Khaira employees (i.e., employees not known about at time of original determination) plus an additional \$500.00 penalty (sec 46 of the regulation).

### ESB lawsuit against Khaira for payment of wages to employees:

On Mar. 8, 2011 the ESB also issued determinations for personal liability against the two directors of the company as there were insufficient assets recovered from the company to cover the total amount of wages found owing.

In the event that there are insufficient corporate assets to satisfy the claim once the appeal has been resolved, the director of Employment Standards can pursue collection against the personal assets of the company directors. A director and/or officer of a company can be liable for up to two months' wages owed to each employee.

## **ADVICE TO MINISTER**

When one of the directors tried to transfer his assets, S22  
s 22 the Director of Employment Standards immediately filed a  
court action to have the transfer of assets declared invalid.

ESB has now settled the court case and received payment, which has been  
disbursed to the employees.



## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p>Ministry: Labour, Citizens' Services and Open Government</p> <p>Date: September 21, 2011</p> <p>Minister Responsible: Margaret MacDiarmid</p>	<p><b>ESB TRUST PAYMENT TO KHAIRA EMPLOYEES - UPDATE</b></p>
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### ADVICE AND RECOMMENDED RESPONSE:

- We have begun the process of disbursing the funds being held in trust by the Employment Standards Branch to the former Khaira employees.
- A total of \$105,000 (plus interest accrued) will be disbursed among 58 workers.
- We are continuing to pursue the outstanding balance of approx \$135K
- Like everyone else we are anxious for the employees to get this portion of what they are owed.
- If workers have any questions about their cheques they can call the ESB at 250-387-3300 or any ESB office.

#### *If pressed regarding timing (why decision was made before final ruling):*

- There still remains a reconsideration application by the employer, but given our legal advice and from their risk assessment we feel that it was appropriate to release the funds to the workers at this time.

### BACKGROUND REGARDING THE ISSUE:

#### Decision to issue payment:

S14, 22

On Monday September 22, 2011 ESB staff sent cheques to the 34 employees for whom we had addresses. There are about 24 more some of which we don't have addresses for yet.

Communications Contact:	David Greer
Program Area Contact:	Donna Freeman, Hans Suhr, John Blakely
File Created:	September 21, 2011
File Updated:	
File Location:	

Minister's Office	Program Area	ADM/Deputy	Communications

## ADVICE TO MINISTER

<p><b>CONFIDENTIAL ISSUES NOTE</b></p> <p>Ministry: Labour, Citizens' Services &amp; Open Government</p> <p>Date: September 21, 2011</p> <p>Minister Responsible: Stephanie Cadieux</p>	<p><b>ESB TRUST PAYMENT TO KHAIRA EMPLOYEES</b></p>
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## ADVICE TO MINISTER

### CONFIDENTIAL ISSUES NOTE

Ministry of Forests, Lands and Natural  
Resource Operations

Date: July 26, 2011

Minister Responsible: Hon. Steve Thomson

# Khaira Situation – Review by Forest Safety Ombudsman

### ADVICE AND RECOMMENDED RESPONSE:

- We welcome this report and the recommendations provided by the Forest Safety Ombudsman to prevent situations like Khaira from happening again.
- In fact, we have already taken a number of actions that address some of these recommendations brought forward by the Forest Safety Ombudsman. For example:
  - BC Timber Sales silviculture contractors are now required to provide 72 hours notice prior to any camp being established.
- Safety is a shared responsibility. A number of ministries and safety agencies all have important roles to play in ensuring that silviculture contractors and operators act in the best interests of their workers.
- We will continue to work closely with the other groups directly involved in developing practical solutions to the coordination gaps that were brought to light by the Khaira case.

### *(if asked about Khaira situation in general)*

- The living conditions discovered last July at the silviculture camp operated by Khaira Enterprises were unacceptable and the camp was shut down. Immediate steps were taken by authorities to address the health and safety of the workers living in the camp.
- Khaira has been barred from bidding on any new contracts with the Ministry of Forests, Lands and Natural Resource Operations until September 2012.
- All BCTS contractors must be SAFE Company certified and contracts clearly state that contractors must comply with all laws, including those regarding camp standards.

### KEY FACTS REGARDING THE ISSUE:

BC Forest Safety Ombudsman Roger Harris will release a “Review of Failures Leading to Khaira Situation” on Wednesday, July 27. The report contains 13 detailed recommendations to a variety of ministries, agencies and organizations. Government has already responded to a number of the recommendations:

#### Notification Recommendations

1. MFLNRO review its current notification requirements for camp operators – specifically camp geographic coordinates and calendar dates for setup and operation.
- **Action already taken:** Notification requirements for silviculture contracts have been upgraded.

2. MFLNRO develop a system for making camp operator information available and accessible to others.
  - **Action already taken:** Relevant information is now being made available and accessible to other agencies and organizations.
3. MFLNRO require operators (at least 48 hours prior to set-up) to report exact camp location and operating timelines before commencing any operations.
  - **Action already taken:** Silviculture contractors are now required to provide 72 hours notice prior to any camp being established.

### **Enforcement Recommendations**

4. The Province, WorkSafeBC, BC Forest Safety Council form a working group to investigate a potential model for in-field inspections.
  - **Action already taken:** MFLNRO has established a collaborative inspection process under which the ministry, when conducting in-field inspections, acts as the eyes and ears for other affected agencies and organizations. Inspection results are reported to provide them with information they need to determine if and when to follow up with their own in-field inspections.
  - MFLNRO also conducts joint in-field inspections with other agencies and organizations where necessary.
  - MFLNRO will participate in any effort to explore a shared-delegation model with other affected agencies.
5. BC Forest Safety Council enhances its monitoring, auditing and in-field inspecting processes.
  - **Response:** This recommendation is to be addressed by the BC Forest Safety Council to ensure the integrity of SAFE Companies certification.
6. The Province establish and identify a lead ministry to coordinate information sharing.
  - **Response:** MFLNRO is supportive and will participate in any effort to improve the flow of information among affected agencies and organizations.
7. The provincial government considers establishing an advisory committee to review progress to date on the 2008 Auditor General's report and make recommendations for improving safety outcomes.
  - **Action already taken:** One of the recommendations from the Auditor General's report was more coordinated sharing of information. This has been accomplished with additional eyes and ears on the ground, and more in-field inspections.

### **Contract Qualification Process**

8. MFLNRO establish a contract qualification process for silviculture contractors that bid on government contracts.
  - **Action already taken:** A system of eligibility requirements is already in place that needs to be met by prospective contractors.
  - To be eligible to bid on BCTS silviculture contracts, the company must meet BC Forest Safety Council requirements respecting safety certification or endorsement.
  - Contracts are awarded to the lowest qualified and compliant bidder – not just the bidder with the lowest price.
  - It is also standard practice for BCTS to review the past performance of contractor bidders.
9. Western Silviculture Contractors Association investigate the establishment of professional standards code for its membership.
  - **Response:** This recommendation is to be addressed by the Western Silviculture Contractors Association.
10. BCFSC continue to expand the monitoring and auditing of SAFE Companies.

## ADVICE TO MINISTER

- **Response:** This recommendation is to be addressed by the BC Forest Safety Council to ensure SAFE Companies are operating within the terms of their certification.

### Training Recommendations

11. Develop a “Silviculture Workers Training Program” for new employee working in the silviculture sector.
- **Response:** This recommendation is to be addressed by the BC Forest Safety Council and Western Silviculture Contractors Association in conjunction with WorkSafeBC.
12. Visual inspection of camp facilities to include checking that all pertinent employee information is posted in a manner and location accessible by all workers.
- **Action already taken:** It is now a requirement that employment standards be posted for the benefit of all workers.

### Tender versus Proposal Driven Models

13. MFLNRO explore the option of expanding use of proposal-driven contracts, especially where working conditions present a high degree of difficulty or hazard.
- **Action already taken:** The ministry will continue to explore opportunities for more efficient and effective tendering contracts, including the use of Requests For Proposals.
  - The ministry is always looking for additional ways to improve contracting and works with the contracting community to do so.
  - During the BCTS tendering process, it is also standard practice for bidders to provide evidence that they have successfully completed similar work.

### Background:

On Feb. 11 Forest Safety Ombudsman Roger Harris announced that he would be undertaking a four-month review around health and safety conditions found at silviculture camps. The review is triggered by the Khaira incident and calls that the Ombudsman has received in the past.

The Forest Safety Ombudsman is appointed by the BC Forest Safety Council, a not-for-profit organization that advocates for safety across the forest sector. The BC Forest Safety Council board of directors is made up of representatives from all aspects of the forest sector and from the provincial government. The Forest Safety Ombudsman follows the standards and code of ethics set out by the International Association of Ombudsman.

In July, then Ministry of Forests and Range staff discovered people working for Khaira Enterprises Ltd. in unsafe conditions north of Golden. Khaira was under contract to BC Timber Sales on a silviculture contract.

Khaira forfeited its security deposit and in September 2010 was banned from bidding on ministry silviculture contracts for two years. BC Timber Sales requires all its contractors to be SAFE Company certified and requires contractors to be in compliance with all laws. As a result of the Khaira situation, BC Timber Sales has strengthened language in its bulletins related to camp standards and employment standards.

The Ministry of Health, Ministry of Labour, WorkSafe BC, Western Silviculture Contractors Association and the Consulting Foresters of BC have all been informed of the changes. BC Timber Sales staff who deal with contracts will also receive training on the changes.

Communications Contact:	Cory Shirshac	250-953-4200
Program Area Contact:	Graham Archdekin	250-387-8302

File Location: J:\!Workgrp\Issues\2011 - Issues\Khaira
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Program Area	PAB	ADM	Minister's Office
GRAHAM ARCHDEKIN	CORY SHIRSHAC	TOM JENSEN	



**Key Messages: Khaira Enterprise and additional payment**  
**Nov. 30, 2011**

- I'm pleased to say we've recovered an additional \$24,000 on behalf of the former employees of Khaira Enterprises.
- These funds are being distributed to the workers. The Province is working hard to recover funds so all the workers get the compensation they're owed.
- We're pursuing the outstanding balance of approximately \$116,033 plus interest.
- The conditions these workers were subjected to are completely unacceptable.
- Our government will continue to look after the health and safety of workers in B.C, and if a company is negligent, we will take appropriate measures.

**Background on payment:**

- The cheques will be distributed on Nov. 30 or Dec. 1, 2011.
- To date, we've recovered a total of \$129,171 (plus interest accrued) for payment to the former employees of Khaira Enterprises. Approximately \$124,500 has been disbursed among 44 workers. Right now, \$4,633 is being held for 14 workers once efforts to locate them are successful.
- On August 22, the Employment Standards Tribunal's determination showed Khaira's liabilities under the Act to be: \$241,704.77 plus administrative penalties in the amount of \$3,500.00 for a total liability of \$245,204.77. The determination affected 58 employees and covered a six-month period from January to July 2010.
- Two charges of fraud and two charges of uttering forged document have been laid against Khaira Enterprises following a WorkSafeBC field investigation of the employer for falsification of certificates of training in forest fire prevention and suppression.
- Golden RCMP arrested and charged one individual with assault related to the Khaira Golden camp on July 21, 2010. Their investigation into the Khaira Revelstoke camp fatality remains ongoing.
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- If workers have any questions about their cheques they can call the Employment Standards Branch toll free at 1 800 663-3316 or any Employment Standards office.