

**File note: Management of Ungulate Winter Ranges (UWRs) and Wildlife Habitat Area (WHA) 1-002 (Northern Goshawk) on Schedule 'A' private lands removed from TFL 44.**

File No: 36470-40/FN-TFL 44 Private

File note authored by Darryn McConkey and Erica McClaren with input from Kim Brunt.

**Background**

On September 2, 2009 the Ministry of Environment received a letter from Bill Waugh, Director of Planning and Forestry with Island Timberlands outlining Island Timberlands position regarding the long term plan for Ungulate Winter Ranges and Wildlife Habitat Area #1-002 (Northern Goshawk, *A. g. laingi*) on Schedule 'A' private lands removed from Tree Farm Licence 44 (Appendix I). In essence, the letter represents an end to negotiations between MOE and Island Timberlands that occurred between January 19, 2005 to June 22, 2008.. Although MoE and Island Timberlands came to an interim agreement on the boundaries of Ungulate Winter Ranges and WHA 1-002, negotiations ceased because we could not agree on the management regime within these boundaries. Island Timberlands wanted to extract timber resources from within UWRs and WHA 1-002 and MoE could not scientifically rationalize how the quality of these areas could be maintained

**Purpose**

The purpose of this file note is to ensure the position and opinions of MOE staff involved in the negotiations with Island Timberlands are clearly summarized. The final meeting between MOE staff and Island Timberlands occurred on July 22, 2008. Many of the opinions contained within this file note were expressed to Island Timberlands at that time (Appendix II). In addition, a "letter of withdrawal" was drafted by MOE staff in 2007 outlining MOE's position around the status of negotiations to date and our inability to agree upon a management strategy for the UWRs and WHA (Appendix III). This letter was never released but does summarize many important opinions of MOE staff. Below is an MoE perspective on where both parties were with our negotiations when they were terminated by Island Timberlands on September 2, 2009:

- MOE staff were not informed by Island Timberlands after the June 22, 2008 meeting on the results of ground surveys conducted in UWRs (both Grandparented (GP) and Areas of Interest (AOI) UWRs). Please refer to the section *Deer Population Sampling in Proposed UWRs during winter '07/'08* in the June 22, 2008 meeting minutes for a summary of MOE's concerns and questions regarding these surveys.
- MOE staff have not reviewed Island Timberlands internal strategy that will manage wildlife habitat over the long term.
- It is MOE's opinion that consensus was achieved by the Technical Committee on the amount of wildlife habitat to be protected (essentially the budget) as well as the location of this habitat, represented by the mutually agreed upon package of UWRs and WHA dated May 24, 2007.

- It is MOE's opinion that consensus was never achieved regarding the management strategy for these areas.
- It is MOE's opinion that the management strategy for UWRs proposed by Island Timberlands did not incorporate input from MOE, which was offered on several occasions. Throughout management scenario discussions, MOE maintained that Island Timberlands' proposed management strategy to harvest areas within winter ranges, while maintaining some core areas, is not supported by the best available science (Nyberg and Janz, 1990, Deer and Elk in Coastal Forests of BC). MOE has stated to Island Timberlands that potential enhancement opportunities may exist in some second-growth recruitment UWRs through stand tending to enhance the rate at which these stands attain old-growth attributes.
- MOE disagrees with Island Timberlands' assertion that harvesting within identified winter ranges meets the goal of maintaining the critical winter range needs of ungulates on their lands in coastal BC.
- Please refer to the section *McLaughlin Ridge NOGO nests* in the July 22, 2008 meeting minutes for a summary of MOE's discussion with Island Timberlands regarding their conclusion that the Northern Goshawk territory (ex. WHA 1-002) is no longer being used by goshawks. It is MOE's opinion that this conclusion is not founded on the best available science regarding Northern Goshawk ecology and annual behaviour patterns and that ITLP's conclusions were made using substandard inventory and monitoring methodology.
- MOE disagrees with Island Timberland's assertion that the preservation of forest, specifically for maintaining the post-fledging needs of Northern Goshawks in this area, is not required.
- MOE disagrees with Island Timberlands assertion that the areas that are constrained by other operational or environmental issues are adequate to provide habitat for the Northern Goshawk populations overall.



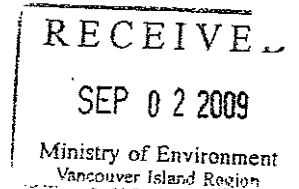
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ITCLP  
Letter  
= Appendix  
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September 2, 2009

Ministry of Environment  
PO Box 9339  
Stn Prov Govt  
Victoria BC V8W 9M1



Attention: Mr. Doug Konkin, Deputy Minister

Dear Sir:

**Re: Managed Forest 74 – Wildlife Management Strategy**

By letter dated July 9, 2004 (Removal Decision), the Minister of Forests approved the removal of approximately 74,000 hectares of private land from Tree Farm Licence 44 (TFL 44). One of the conditions of the removal was as follows:

"Weyerhaeuser [the owner of the land at the time] will maintain all current critical wildlife habitat areas within the subject private lands for 2 years while a long-term plan for protecting Ungulate Winter Ranges and Wildlife Habitat Area #1-002 [Northern Goshawk] is developed with the Ministry of Water, Land and Air Protection."

In conjunction with the Removal Decision; a Letter of Agreement (LOA) between Weyerhaeuser and the Ministry of Water, Land and Air Protection (now the Ministry of Environment) was signed with regard to the process for development of the plan referenced in this condition.

In June 2005, Island Timberlands purchased the lands. Since then, as contemplated by the LOA, it has:

- carried on discussions up until the present with the Ministry of Environment (MOE) in regard to the preservation of wildlife habitat;
- maintained the original "grand-parented" UWR (GP UWR) as identified in the LOA;
- established a committee of internal and external experts including representation from MOE to define biologically suitable UWR for protection;
- carried out intensive ground surveys over multiple years during critical snow conditions to determine ungulate presence in both GP UWR and Areas of Interest (AOI); and
- developed an internal strategy that will manage wildlife habitat over the long term.

The term of the LOA was two years effective July 9<sup>th</sup>, 2004 and expiring July 8<sup>th</sup>, 2006. Since July 8, 2006 Island Timberlands has voluntarily restricted its operations on a large area of its lands, while discussions with the MOE have been ongoing.

The Removal Decision and LOA did not require the preservation of the existing GP UWR or Wildlife Habitat Area #1-002 (WHA 1-002) beyond the designated two year period, and specifically allowed for the substitution of other areas with acceptable attributes (including within the land that remained in TFL 44).



It is now apparent, however, that it will not be possible to achieve consensus within the committee on how much protected wildlife area is required, where these areas should be located, or how they should be managed over time for both the UWR and WHA 1-002.

It has been and remains the position of Island Timberlands that the winter range needs of ungulates on our private lands can be effectively managed without permanently reserving specific areas of land from timber harvesting activity, and that the habitat requirements for UWR and WHA 1-002 within Managed Forest 74 can be met with a proactive strategy that is science based and provides a foundation for an overall habitat management strategy. There has been no indication from MOE of the Minister's desire to make a critical wildlife habitat designation in relation to UWR or Northern Goshawk habitat on Island Timberlands' private lands.

In order to move forward, Island Timberlands will implement an internal wildlife management strategy that will comply with all legal requirements applicable to private landowners, including the *Species at Risk Act*, *PMFL Act* and the *Wildlife Act*, and will continue to consult with external experts to provide guidance and advice on the management of wildlife within all of our private land. The following points briefly outline our strategies for managing ungulate winter habitat needs and Northern Goshawk nesting sites on a go forward basis.

#### **Ungulate Winter Range Management**

- Consistent with the Provincial Timber Supply Review #1 (TSR1) (which limits the impact of wildlife habitat to 1% of the AAC), approximately 600 hectares within MF 74 will be managed for ungulate winter range attributes at any one time.
- Stands selected for harvest will be spatially well distributed within MF 74
- UWR attributes will be considered in accordance with "Table 1 - Vancouver Island Columbian black-tailed deer winter range assessment variables" (Kim Brunt, November 2004).
- Selected stands will be subject to periodic review and replacement with other stands as UWR attributes develop over time.
- Management within selected stands will be carried out with consideration given to the maintenance of UWR attributes.
- Island Timberlands will continue to monitor and measure impacts of the strategy.

#### **Northern Goshawk Management**

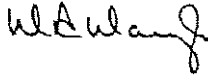
WHA 1-002 was established for the protection of up to three Northern Goshawk nests that were located in close proximity to each other in the China Creek watershed. The most recent survey located one nest at this site that does not appear to be active. Therefore, the preservation of this large area of forest specifically for fledging or post fledging needs of this species is not required, and the areas that are constrained by other operational or environmental issues (15-20% of the land base) are adequate to provide habitat for the Northern Goshawk. In addition, we intend to carry out the following Goshawk Nesting Site Strategy:

- Activities will be planned so as not to damage or destroy active nest sites.
- Harvesting, road building and site preparation activities will be restricted within 200 meters of active nests from April 1-August 31.
- Helicopter operations will be restricted within 1 km of active nest sites.

Island Timberlands will continue to manage any threatened and endangered species on its lands as required by the applicable legislation. The details of these management regimes are found in our Practices Guides and are a requirement of our Sustainable Forestry Initiative (SFI) certification that is independently audited.

I would like to thank MOE staff in particular Ron Diederichs, Kim Brunt, Erica McClaren and Darren McCloskey for the time and effort they put into this process. The input that they have provided has formed the basis for our internal management strategy and Island Timberlands would welcome their review of our strategy and the results over time.

Yours truly,

A handwritten signature in dark ink, appearing to read 'W.A. Waugh', with a stylized, cursive script.

W.A. Waugh, RPF

Director Planning and Forestry  
Island Timberlands

cc: Dana Hayden, Deputy Minister of Forests  
Chris Kissinger, Ministry of Environment

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Appendix  
2  
notes  
from  
22 July 08  
meeting

### Schedule 'A' Private Lands UWR and WHA Meeting

Date: Tuesday, July 22, 2008 10am to 12:00pm

Location: Northwest Bay ITLP Office

In Attendance: Ron Diederichs, Kim Brunt, Darryn McConkey (MOE)  
Bill Waugh, Tony Norris, Brad Rodway, MaKenzie Leine (ITLP)  
Ron McLaughlin (Consultant)

Meeting notes taken by Darryn McConkey

### Deer Population Sampling in Proposed UWRs during winter '07/'08

- TN presented some results of the deer population sampling ITLP undertook in a portion (42%) of the proposed UWRs during February, 2008. Sampling included surveying occupancy based on track counts and measurements taken at plots along transects. Surveys were not completed in all UWRs due to limited resources, safety issues and snow levels below critical thresholds. Survey results were being compiled and maps generated.
- Based on the survey results, "core areas" and "adjacent areas" within UWRs were delineated based on the number of tracks encountered where areas with no tracks and low numbers of tracks were assigned to adjacent areas and areas with moderate and high track numbers were assigned to core areas.
- A field card was presented that surveyors filled out at each plot centre along transects (approximately every 100m).
- A map showing survey transects, plot locations, track numbers and core and adjacent areas of the proposed UWR at Father and Son lake was used as an example of the type of data collected. As a general rule, transects with no few or track counts were designated as being in "adjacent areas" and transects with 3 or more track counts were designated as being in "core areas".
- KB asked if the time since last snowfall was recorded as this can impact the number of tracks seen and explained that this is important information with regards to interpreting track counts as tracks accumulate over time since last snowfall
- TN stated that deer sinking depths were recorded and if only 4cm, then deer can travel easily all over
- BW stated it would be possible to figure out time since last snowfall looking at past weather records
- KB explained deer tend to hunker down after snow and once freeze/thaw cycles occur deer can move on top of the crusts
- TN explained there was a lot of snow this past winter which represented critical winter conditions and they had good weather during the two week period the surveys took place. IF snow depths were not considered critical then surveys were not conducted.
- RD asked what snow depths were considered to represent critical winter conditions and TN responded that 30cm would not be suitable for surveying and

that 50cm at the bottom of lower elevations in UWRs was. Some areas were surveyed when snow depths at upper elevations in UWRs approached 1.5-2 m.

- TN expressed interest in comparing their recent survey results with past assessments.
- RM explained most past assessments were habitat surveys in summer conditions
- KB explained, in general, the ranking system developed by MOE to rank UWRs
- BW stated that the surveys represented a snapshot in time and that there were more surveys to do, even in areas that have already been surveyed
- KB explained the difficulty in interpreting lack of use data for UWRs as lack of use can be due to numerous other factors that are not captured in the surveys such as predation effects, local weather and snow pack conditions and fluctuating population levels. KB explained that information on high-use data is more readily interpreted.
- RM agreed and stated that it is tough to prove a negative
- BW asked if MOE had any numbers on deer populations from a watershed level perspective.
- KB explained that a range from 2-3 deer per square km to 15 deer per square km, with an average of approximately 9 deer per square km currently existed on Vancouver Island and that MOE conducts deer counts in some management units, but not all, and extrapolates results for estimates in other units lacking inventories.
- RD explained that predation effects in particular affect the cycle of deer population numbers and that multiple surveys and long-term monitoring, not one-time surveys, are needed for interpreting population trends and usage of UWRs.
- TN recognized that survey results are influenced by where the population cycle is at when the survey took place

**ACTION ITEM – KB to provide IT with deer population estimates for Region 1**

- TN asked how IT's operating area compared with other areas on the Island
- KB estimated it is currently likely just below average and comparable to Management unit 5 (which includes Nanaimo Lakes)
- TN asked how current population levels compare with historic levels
- KB explained population numbers have been building in most areas in recent years but nowhere near historic levels. Densities > 10 deer/square km provide good hunting opportunities and <5 deer/square km do not.
- TN explained ITLP is hopeful to receive funding for next year to continue surveys, with a focus on areas not surveyed to date and that it will depend on good snow conditions
- BW asked if MOE had any information on historic population levels
- KB explained there is some information indicating very high population levels in some areas that supported market hunting of deer. European settlers had widespread predator management programs which allowed deer populations to flourish
- KB emphasized to the group that there is more than one explanation for lack of use data and cautioned interpreting lack of use data.
- KB asked what the ultimate goal was for using the information collected during the deer inventory work

- BW explained IT was not sure at the moment but would be related to management strategies in the future that looked at harvest opportunities outside core areas but emphasized that no conclusions had been made and that IT was looking for science to build the process on. IT also wanted to share the information with MOE for review and comments.

### **McLaughlin Ridge NOGO nests**

- RM reported attempts to visit the locations of 5 NOGO nests on McLaughlin Ridge; 2 in old-growth and 3 in second growth one month earlier. RM did not locate any of the nests in second growth and stated it was not very suitable nesting habitat. One located nest (previously photographed by Mike Stini) was dilapidated and unused for years and the other located nest had not been used this year but showed signs of being used more recently. There was no response to call playbacks in the area and RM concluded the nests were not being used and that the territory was unoccupied.
- DM commented he thought the second growth stand was much older than 30-40 years as stated by RM
- BW asked what happens if nests are not occupied in NOGO WHAs
- RD explained the areas are set aside permanently based on high capability and expressed surprise that the nests were unoccupied as they have previously been occupied for many years and the area had successfully fledged young on numerous occasions.
- RD explained that, as with deer, population cycles influence nest occupancy and that in other areas, nests and areas are not occupied continuously. Population cycles (lower population numbers) may explain nests not being occupied versus interpreting absence as being related to the nesting habitat not being suitable. Absence does not tell one much beyond information for that season.
- KB explained the NOGO exhibit multiple nesting scenarios and maintain and use multiple nests, even working on nests without actually using them and that it is not surprising to see unoccupied nests in a territory. The five NOGO nests are likely the result of one breeding pair, not five separate pairs and that the birds may still be nesting somewhere else on the hillside. This is one of the reasons NOGO WHAs are designed with a large buffer around known nest locations.
- TN commented that the NOGO nests in the King Solomon basin were inactive as well.

### **Discussion on UWR features**

- RD explained that management for deer UWR is important even in times of low population numbers as deer populations fluctuate and will build over time to utilize habitat.
- TN stated the size of the core area of Father and Son lake UWR to be 15 ha and adjacent area to be 37 ha.
- RD mentioned that interior forest condition is important for deer UWR and that variation within UWR is also important to provide areas for snow interception,



forage and exposure under different snow conditions. RD mentioned that 15 ha core area is not large and that MOE has generally avoided designating UWRs below 20ha in size.

- TN stated IT may look at harvest opportunities if the numbers of deer are not there and the habitat quality is not the greatest.
- BW emphasized that IT is not proposing harvest in adjacent areas at this time, just collecting information on the proposed UWRs
- KB explained that distribution of deer within UWRs depends on conditions at the time, that deer utilize specific areas during severe conditions and spread out during non-critical times utilizing resources throughout UWRs. KB explained that if UWRs are reduced to 15 ha core areas, overall capability of the UWR will decline because populations will be reduced by predators and depletion of resources as a result of concentrated deer use of smaller areas.
- RM explained the critical UWRs provide feeding areas for the deer when they are most desperate
- RD explained that snow interception capability may be a more important feature in UWR than forage
- TN commented that higher-use areas had lower canopy closure than expected based on discussions with RM, recognizing that canopy closure measurements are subjective in nature and subject to observer bias.
- KB explained that may be a real phenomenon due to open areas having larger lichen loads for food source and rock bluffs may receive more sun and melt faster, reducing snow depths and/or producing crusts that facilitate movement
- RD explained he has experienced this in other UWR where higher elevations are more exposed and subsequently have reduced snow packs compared to lower elevations
- BR explained that lower slopes may not be receiving sun at all during winter
- BW asked about severe winters on Vancouver Island
- KB explained that we have not experienced winters of the severity of '68/'69 or '71/'72 in recent decades, but there have been significant deep snowpacks in recent years at higher elevation winter ranges. It is unknown what effects climate change might have on snow accumulation during winters on Vancouver Island.

### **Non-Critical GP UWR**

- BW referred to a map on the wall showing the location of proposed UWRs, AOIs and GP UWR and stated that IT is interested in freeing-up non-critical GP UWR that are critical for IT's operations due to difficult economic times. BW stated IT has no plans to harvest in any proposed UWRs or AOIs at this time but wants to move forward and have MOE "release" GP UWRs that are not part of the negotiated package.
- RD explained that MOE also wants to conclude the process and recognizes IT's desire to plan harvest operations
- KB explained that MOE is likely to be hesitant to "release" GP UWR, even though they are not part of the negotiated package, due to the uncertainties around what the proposed management strategies will look like in the proposed UWRs in

the future. MOE will likely be hesitant to write off the old areas until we are certain what management regime will be applied to the new areas (proposed UWRs).

- BW explained that an alternate is to go into the AOIs and keep the old GP UWR
- BR explained that the management strategy is going to take a while to develop and requires compiling more information to develop a process including monitoring
- KB stated that is encouraging to hear
- RD explained MOE's position that a mutually agreed upon roadmap will be required that builds a framework to collect the data necessary to build a science-based management strategy on. In MOE's opinion, the research necessary to build the supporting rationale for the management strategy should occur outside proposed UWRs but could occur in portions of AOIs not part of the negotiated package and depending on outcomes, incorporated into management strategy that maintains UWR integrity and deer populations. MOE will need to know details before releasing GP UWRs.
- TN explained that IT's interpretation of MOE's current position ties up everything including GP UWRs and AOIs in addition to the proposed UWRs and is a constraint to IT's operational plans and that IT considers it reasonable to do the research involved in developing the management strategy in the proposed areas.
- BW explained IT would like to develop and implement the management strategy in the proposed areas because otherwise it becomes another constraint on their landbase
- RD explained MOE does not support timber harvest-based management strategies in proposed areas and that during negotiations to reach a final package, compromises were made based on the assumptions the UWRs would be maintained as unmanaged stands. The science does not exist that shows harvest can occur in old-growth UWRs without negatively impacting UWR values. Without properly conducted trials that show equivalent winter habitat value in managed stands, MOE cannot support management strategies that propose harvest within old-growth UWRs
- TN explained that time is important and MOE's position impacts his ability to do his job and locate harvest opportunities and constrains IT's business
- BW explained IT understood MOE's position that it is the crux of these negotiations and that the group will have to talk to IT's management regarding MOE's position on not having management strategies within proposed UWRs. IT has a different opinion, and would prefer to see research conducted in the proposed UWRs.
- KB stated that details of the roadmap are important such as sampling design and how much area of AOI is needed for research to support development of a management strategy and these types of questions are better answered by someone with a research background in sampling design.
- TN asked under this scenario, when would other areas be released?
- BW explained it would occur when IT and MOE agreed to the details of the roadmap. RD agreed.

- KB explained that the best areas for conducting research are inevitably going to be the best areas for harvest opportunities for IT and that understory and overstory response to treatments is the most important aspect of the proposed research
- RD asked if IT had links to forest research departments at Universities to look for support for developing research proposals to support development of management strategy
- RM said IT has used Kim Iles in the past and TN stated that FERIC may be potential
- BW explained that IT needs to move on this in the near future and that these issues need to be resolved. IT needs to strategize as a group and decide on what to recommend to management
- TN explained this scenario may tie-up too much of IT's land for too long and constrain their business. This will make it tough to support. TN asked if MOE had any other ideas that would free up areas for harvest other than what MOE had proposed
- RD explained that developing the science to base a management strategy on is something crucial for MOE support and that support will be based on MOE being comfortable with the science behind the strategy and there must be scientific rigour built into the research trials as well.
- KB explained that MOE's proposal does free up harvest opportunities in AOIs outside areas targeted for research
- BW explained that IT is interested in a light-touch management strategy on proposed areas and that IT may go down a different road than what MOE has proposed based on the fact that IT has negotiated for 2 years and can't agree with MOE. Selling this to the public is a real concern for IT.
- KB explained it is similar crunch point from MOE perspective – that we can't agree to a management strategy that does not have the science to support it.
- BW stated that the only way to ensure areas are tied-up on IT's lands in perpetuity is for them to be purchased for the purpose of preservation
- BW stated that the next step is for IT to have internal discussions and then go to management with recommendations and request direction.
- RD stated that MOE staff require time for discussing issues as well

**ACTION ITEM – IT to contact MOE by September 15, 2008 to discuss further**

DRAFT  
letter  
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#3

Dear: Bill Waugh  
General Manager, Island Timberlands

Negotiations between Island Timberlands and the Ministry of Environment (MOE) regarding the protection of Ungulate Winter Ranges (UWR) and Wildlife Habitat Area #1-002 within the private land portion of TFL 44 have been ongoing for a number of years. MOE believes considerable progress has been made and recognises that compromises have been made on both sides to reach the mutually acceptable suite of UWRs that were provisionally agreed within the May 24, 2007 package and were to incorporate protection for the goshawk Wildlife Habitat Area in China Creek.

Since the agreed package has been the result of considerable give and take, at both the individual UWR and landscape level, MOE has previously communicated expectations that, to maintain their value as critical winter habitat for deer and elk, management of the UWR polygons would require harmonisation with management of UWRs and goshawk WHAs elsewhere on Vancouver Island. MOE has maintained that, based on the best available science, (Nyberg and Janz, 1990, Deer and Elk in Coastal Forests of BC) enhancement opportunities through stand tending for long term benefit of stand structure may exist within some second-growth recruitment UWRs, but that we are unaware of science that supports harvesting within old-growth UWRs. Recent correspondence with a member of your staff suggests that ITLP will be proceeding with harvest in the UWRs and former WHA without further collaboration with MOE. This appears to close the door to further discussions that we were expecting to occur with ITLP staff and professional wildlife consultants on the management regime. This is indeed unfortunate.

The management strategy we last saw as a proposal by ITLP was developed without support by MOE and appeared to be based on an example of harvest within another company's private forest lands. An initial MOE review of this example concluded that the level of harvest within these UWRs may have significantly compromised the ability of these areas to provide high quality winter range habitat, but that insufficient information was collected by the company regarding pre- and post- harvest conditions and the impacts of the harvest to support a scientifically defensible assessment.

MOE is not aware of the final management regime that will be used to support logging in the old growth UWRs, but we suggest that if ITLP's management strategy is not founded on scientifically defensible trials outside the UWRs or supported by peer-reviewed scientific information, MOE is not able to support further reductions in habitat quality via single-stem and patch-cutting harvests within the old-growth UWRs. As these cutting treatments are not supported by the best available science and will, in our opinion, reduce the habitat quality necessary to support the species in these areas MOE will also be unable to maintain agreement on the suite of UWRs as proposed by the Technical Working Group, on the May 24, 2007.

Should Island Timberlands be prepared to reconsider the planned harvest in the UWRs that we negotiated to replace those withdrawn from TFL 44, my staff and I would be pleased to engage in further discussions toward development of scientifically based management regimes. Feel free to call me to discuss this issue.

Yours truly,

Dick Heath  
Regional Manager  
Environmental Stewardship Division  
Ministry of Environment

Cc: Nancy Wilkin, ADM, MOE  
Peter Poland/ Darrell Robb, MFR  
Judith Sayers, Hupacasath FN  
Leah Malkinson, ILMB