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File: 23060-20/DPC-27434
00145472-00

March 15, 2011

REGISTERED

First Coal Corporation
PO Box 989
Chetwynd, British Columbia
V0C 1J0

Dear Licensee:

Re: Contravention Determination and Notice of Penalty Levied under Section 71 (2) (a) of the *Forest and Range Practices Act*

This is further to the letter dated March 25, 2010 and your opportunity to be heard respecting the alleged contravention of Section 52(1) of the *Forest and Range Practices Act* (FRPA). I have now made my determination in this matter, as described below.

Authority
In October 2010, the Government of British Columbia reorganized its natural resource agencies. At that time the Ministry of Natural Resource Operations was created and most of the natural resource authorization and compliance activities were moved to that ministry. Since the activities that are the subject of this determination occurred before the reorganization, the previous Ministry of Forests and Range (MFR) and Ministry of Energy, Mines and Petroleum Resources (MEMPR) are referred to throughout this determination.

The Minister of Forests and Range has delegated to me, under Section 120.1(1) of FRPA, the authority to make determinations with respect to contraventions and administrative penalties under Section 71 of FRPA.

Ministry of Natural Resource Operations | Peace District
Location: 9000 – 17th Street Dawson Creek BC
Mailing Address: 9000 17th Street Dawson Creek BC V1G 4A4
Tel: (250) 784-1200
Fax: (250) 784-0143

Legislation

Unauthorized timber harvesting

52 (1) A person must not cut, damage or destroy Crown timber unless authorized to do so

(a) under this Act, the *Forest Act* or an agreement under the *Forest Act*,

(b) by the minister, for silviculture, stand tending, forest health, abating a fire hazard related to wildfires or another purpose,

(b.1) under the *Wildfire Act*,

(c) under a grant of Crown land made under the *Land Act*,

(d) under the *Park Act*, or

(e) under the regulations, in the course of carrying out activities

(i) under an authorization referred in section 51 or 57, or

(ii) that are incidental to or required to carry out activities authorized or approved under this Act, the *Forest Act*, the *Range Act* or another prescribed enactment.

Issues

The following issues are relevant to this case:

1. Has there been a contravention of Section 52(1) of the *Forest and Range Practices Act*?
2. Do any of the defences of due diligence, mistake of fact or officially induced error apply?
3. If there has been a contravention, what amount of penalty, if any, is appropriate?

After considering all the evidence presented to me, and for the reasons presented below, it is my determination that:

1. You did contravene Section 52(1) of the *Forest and Range Practices Act*;
2. None of the defences apply; and
3. It is appropriate to levy a penalty in the amount of $35,000 under Section 71(2)(a)(i) of the *Forest and Range Practices Act*, which, subject to the stay referred to below, must be paid by May 9, 2011. A separate invoice will be sent to you after all review and appeal periods have passed.

The rationale for my contravention determination and the decision to levy a penalty is set out below.

Summary of the evidence and findings of fact.

Based on the evidence, I am satisfied that the following facts are **not** in dispute:

In an Agreed Statement of Facts dated September 8, 2010, the following were agreed as facts not in dispute:

1. Ministry of Forests and Range has received from the Ministry of Energy, Mines and Petroleum Resources since 2005, copies of First Coal Corporation's "Mineral & Coal Notices of Work and Reclamation Program" applications that relate to First Coal Corporation's Mines Act Permit CX-09-022.
2. First Coal Corporation is or was the holder of:
    a) Free Use Permits for the area known as the Goodrich South Central, located near the headwaters of Beaudette Creek, southwest of Chetwynd;
    b) Special Use Permit S24511 for the area known as Goodrich South Central, located near the headwaters of Beaudette Creek, southwest of Chetwynd.
3. Free Use Permits were issued to First Coal Corporation for the purpose of entering and occupying Crown land to harvest Crown timber according to the terms of the Permit.
4. Free Use Permits issued to First Coal Corporation between 2005 and 2008 include:
    - #19333 issued June 28, 2005 – expired June 27, 2007;
    - #19360 issued March 10, 2006 – expired March 9, 2007;
    - #20106 issued March 27, 2007 – expired March 26, 2008.
5. Paragraph 2.04 in each of Free Use Permit #19333, #19360 and #20106 specifies a maximum harvest volume of 50 m^3.
6. Free Use Permit #20163 and #20164 were issued to First Coal Corporation on October 1, 2008. Both Free Use Permits expired on September 30, 2009.
7. Each of Free Use Permit #20163 and #20164 specifies a maximum clearing of 0.2 and 0.3 hectares and a maximum harvest volume of 50 m^3 in accordance to the *Forest Act*.
8. A reconnaissance of the area was conducted by Compliance and Enforcement on February 23, 2009.

In addition, in both written and verbal submissions, First Coal Corporation (FCC) acknowledged that it had harvested Crown timber without proper authorization.

The key facts that are in dispute are: the area and timber volume that was harvested without authority and whether the three year limitation period for levying an administrative penalty has expired.

With respect to the facts that **are** in dispute, MFR staff presented the following evidence:

- MFR Compliance and Enforcement (C&E) staff calculated the area harvested with a GPS traverse of the perimeter of specific openings. On trails and roads, the length was measured and a number of sample width measurements were taken to develop an average width which was then multiplied by the length. These calculations result in 95.3 ha associated with roads, trails and minor clearings and 12.0 ha associated with the bulk sample area.

- MFR C&E staff calculated the timber volume by applying the volume per hectare numbers from the Vegetation Resource Inventory (VRI). The calculated areas were reduced by 50% to reflect the patchy nature of the forest stands in the area. A VRI volume of 61.66 m^3/ha was applied to the roads, trails and minor clearings resulting in a total volume of 2935 m^3 (95.3*0.5*61.66). The 300 m^3 of volume authorized under Free Use Permits was deducted, resulting in 2636 m^3. A VRI volume of 119.0 m^3/ha was applied to the bulk sample area resulting in 714 m^3 (12.0*0.5*119.0). The total timber volume harvested without authority was thus calculated as 3349 m^3 (2636 + 714).

- MFR C&E staff state that the three year limitation period for levying a penalty under the Forest and Range Practices Act began on February 23, 2009. On that date Forest Official, Warren Fowler conducted a field inspection based on a February 20, 2009 referral. February 23, 2009 was the date on which the facts first came to the knowledge of an official.

In turn, you presented the following evidence:

- FCC conducted a LIDAR survey which indicated a total disturbed area of 90.9 ha. The LIDAR survey found the bulk sample area to be 12.0 ha resulting in 78.9 ha for the roads, trails and minor clearings. FCC further states that 7.0 ha of this area was dealt with in a July 2005 contravention and Violation Ticket and should not be subject to further enforcement action. Thus the company's submission is that the area under consideration for this alleged contravention is 12.0 ha for the bulk sample site and 71.9 ha for the roads, trails and minor clearings.

- FCC accepted the VRI volume per hectare numbers of 61.66 m^3/ha for the roads, trails and minor clearings and 119.0 m^3/ha for the bulk sample area. The bulk sample site was selected, in part, because it was substantially a natural opening, and 75% of the area free of merchantable timber. Thus only 357 m^3 (12.0 ha -75% * 119.0 m^3/ha) was harvested and FCC had obtained an Occupant Licence to Cut for 400 m^3. As a result, no volume should be considered to have been harvested without authority from the bulk sample area. In calculating the volume harvested from the roads, trails and minor clearings, the volume should not only be reduced by the 50% applied by MFR C&E staff but by a further 25% to reflect company practice to avoid merchantable timber. Thus the volume harvested should be 1662 m^3 (71.9 ha * 61.66 m^3/ha = 4433 m^3 - 50% = 2216 m^3 - 25% = 1662 m^3). Since FCC held Free Use Permits authorizing the harvest of 300 m^3 the volume harvested without authority should be 1362 m^3.

- FCC submits that a ministry official had knowledge of the facts associated with this alleged contravention starting in July 2005 when Forest Official Warren Fowler conducted an inspection which resulted in a Violation Ticket being issued. MFR staff was further made aware of facts associated with this alleged contravention in January 2007 when MFR staff member, Dillon Stuart attended a meeting where a slide show was presented showing works conducted on the site. Since both of these dates are more than three years in the past, the limitation period has expired and no penalty can be applied.

Having regard to all of the foregoing evidence, I have made the following findings with respect to the facts in dispute:

- I accept that a LIDAR survey is a more accurate and reliable means of measuring the harvested area, particularly in comparison to the lengths and widths method used by the ministry on the roads and trails. I therefore accept FCC's number of 90.9 ha as the total harvested area. I also accept that the estimated 7.0 ha dealt with by the 2005 Violation Ticket should not be subject to further enforcement action. Thus I find that the total area subject to this determination is 83.9 ha. FCC and the MFR agree that the area of the bulk sample area is 12.0 ha and thus I find the area of roads, trails and minor clearings to be 71.9 ha.

- FCC accepted the VRI volume per hectare numbers of 61.66 m^3/ha for the roads, trails and minor clearings and 119.0 m^3/ha for the bulk sample area. There was also acceptance of the 50% reduction to reflect the patchy nature of the forest stands harvested. The company, however, submits that there should be further reductions to reflect company policies to avoid merchantable timber. I do not accept this further reduction. The VRI volume per hectare numbers are quite low and already reflect the patchy nature of these sub-alpine stands. I find that the 50% reduction adequately reflects the non-timbered areas involved and any efforts to avoid merchantable timber. The 400 m^3 Occupant Licence to Cut (L47139) authorized harvesting for a road in another area. The volume from this licence cannot be applied to another, unauthorized harvest area. No harvest volume or stumpage has been attributed to the licence (L47139). Thus I find the total volume harvested to be 2930 m^3 (12.0 ha – 50% * 119.0 m^3/ha = 714 m^3) + (71.9 ha – 50% * 61.66 m^3/ha = 2216 m^3). Since FCC held Free Use Permits that authorized the harvest of 300 m^3, I find the volume harvested without authority to be 2630 m^3 (2930 – 300).

- I find that the limitation period, as defined in section 75 of FRPA, did not commence in July 2005. Much of the activity that is the subject of this determination did not even occur until the following year. In July 2005, FCC self reported a non-compliance and suspended its activities. The case was concluded with a Violation Ticket. The company has also argued that the area and timber volume associated with the 2005 case should not be subject to further enforcement action. FCC has suggested that, on the basis of the July 2005 incident, the ministry should have maintained a high level of oversight of the company's activities. I find that the company's behavior with respect to this incident: self reporting, suspending activity, cooperation with MFR officials, and dismissal of the consultant involved, indicated a clear understanding of the importance of maintaining compliance and it was reasonable for MFR to expect that the company would take measures to keep itself in compliance with the law.

- I also find that the limitation period did not start with the attendance of MFR employee, Dillon Stuart at the January 2007 Northeast Mine Development Review Committee meeting. The topic discussed at the meeting was "Bulk Sample Application Review" and it is clear that Mr. Stuart attended for the purpose of discussing authorizations and other issues (e.g. road use) related to **planned future** activities. Mr. Stuart was not a C&E Official and did not attend the meeting in a compliance or enforcement capacity. There was no expectation that Mr. Stuart would be assessing the past activities of the company. I have reviewed the 'slide deck' and minutes from the meeting. A number of slides showed pictures of activity on the property, however, there was neither a clear summary of the overall magnitude of the clearing nor any indication that the activity may not be authorized. Numerous items were discussed and the context was clearly about the application process and activities that would occur in the future. The forest authorization material was limited to a single slide and a single bullet in the minutes. In these references, the forest authorizations are characterized as complex, involving a number of specific permits and that "5,000 m3 **will be** harvested". Mr. Stuart's notes from the meeting focus mainly on road issues but at one point he does note "Timber cruising and surveying is completed 5,000 m3 of timber **to be** cut – merch". There is no indication that Mr. Stuart was aware that substantial unauthorized harvesting may have already occurred.

- I do not accept FCC's position that MFR officials knew about the company's activities and chose not to act until the West Moberly First Nation complained. Up until the Barkhouse s.22 visit on August 13, 2008, there is no indication of knowledge of the extent of activities at the site by any MFR staff. FCC's activity was primarily regulated by MEMPR and the very minor harvesting authorized under Free Use Permits would be assessed as low risk and likely not receive priority for inspection. The August 13, 2008 visit appears to have been an afterthought since Barkhouse s.22 were in the area for other purposes. On this visit, potential issues with clearing widths were noted and referred to MEMPR on September 25, 2008. MEMPR inspected the site on October 16, 2008 and subsequently notified FCC of its unauthorized activity in a letter dated December 15, 2008. The correspondence from legal counsel for the West Moberly First Nation was received on February 6, 2009 and was presumably triggered by MEMPR's notification of unauthorized activity on the site. I do not find these time lines to be unreasonable given the competing priorities for MEMPR and MFR staff and the information available at the time. It was reasonable for MFR to defer to MEMPR as the primary regulator of FCC's activity. MEMPR's notice of unauthorized activity was dated December 15, 2008. Considering the winter conditions, complications accessing the site, and the Christmas holiday season, these response times are not unusual.

- While the approximately six months between the August 2008 visit and the February 2009 formal referral to MFR C&E staff is a lengthy period, even if the start of the limitation period is set at August 13, 2008, which is the earliest I find it could be set at, the three year period has not expired and so section 75 of FRPA does not preclude an administrative penalty.

Do the facts support a finding of contravention if no defences apply?
I conclude that the facts set out above support a finding of contravention of Section 52(1) of the *Forest and Range Practices Act*, provided the defences set out in Section 72 of the *Forest and Range Practices Act* do not apply. My reasons are as follow:

The MFR case report outlines clear evidence that FCC harvested Crown timber without authority. FCC acknowledged that it harvested Crown timber without proper authority in both its written and verbal submissions. No evidence was presented that would indicate that FCC did not harvest Crown timber without authority.

Do any defences apply?
You raised all three of the available defences of: due diligence, mistake of fact, and officially induced error, provided for in Section 72 of the *Forest and Range Practices Act*. I conclude that the facts set out above do **not** support these defences for the following reasons:

To establish a defense of due diligence, FCC must demonstrate that it took all reasonable care to avoid the contravention. The company's submission is that it had a policy of full compliance with the law, that it expected to be held to the letter of the law, and it took reasonable steps to ensure compliance. The evidence, however, in my respectful view, appears to contradict these assertions.

At the hearing, the company was characterized as founded with entrepreneurial spirit but not business and professional capacity. Files from the Chetwynd office were found to be in disarray and s.22 It was stated that the company understood that they were operating in an environment of pragmatic cooperation. The decision to clear the bulk sample area was characterized as being made on the fly. s.22 affidavit identified miscommunication between the site and the office. These statements are not consistent with a policy of full compliance and they do not demonstrate due diligence. A defense of mistake of fact requires that the company honestly and reasonably believed in the existence of facts that if true would establish that it did not commit the contravention. FCC's position is that it had no difficulty receiving permit approvals and believed its operations were in compliance. The evidence, some of which I have recited above in the due diligence discussion, casts doubt on the reasonableness of this belief. Permit approvals were based on plans submitted by the company yet operations at the site deviated from those plans. The MEMPR inspection on October 16, 2008 found that roads had been constructed and approximately 17 ha had been cleared that was not authorized under the Mines Act Permit. There was miscommunication between the site and the office, an important harvesting decision was made on the fly, and there was a lack of understanding of the rules. The Free Use Permits held by FCC were for very limited areas and limited to 50 m^3 each. At the January 2007 meeting the company's forestry consultant described the forestry permitting as "complex" and that 5000 m^3 would be harvested. I do not find FCC's mistaken belief to be reasonable, even if it was honestly held.

To establish a defense of officially induced error, FCC must demonstrate that it relied on the advice of an official that persons would reasonably believe provided such advice. The company's submission refers to a number of assumptions, primarily based on a lack of comments received from MFR. There is no indication that any advice was received from any MFR staff. The one well-documented exchange between FCC and MFR was the 2005

incident that resulted in a Violation Ticket being issued. I find that the company's actions: suspending operations, self reporting, cooperation with the investigating officials, and apparently dismissing a consultant who had contributed to the event, indicated to MFR that FCC understood the need to keep operations compliant with permits. I find that FCC was not induced into error by an official and that the defense must fail.

Is a penalty appropriate and if so how much?

Under Section 71(2)(a)(i) of the *Forest and Range Practices Act*, I am authorized to impose a penalty of up to $200 per m^3 ($200 * 2630 m^3 = $526,000) for a contravention of Section 52(1) of the *Forest and Range Practices Act*. Alternatively, under Section 71(2)(a)(ii) of the *Forest and Range Practices Act*, I may refrain from levying a penalty if I consider that the contravention is trifling and that it is not in the public interest to do so. If I do levy a penalty, I must consider the following factors in Section 71 (5) of the *Forest and Range Practices Act*:

(a) your previous contraventions, if any, of a similar nature;

(b) the gravity and magnitude of the contravention;

(c) whether the contravention was repeated or continuous;

(d) whether the contravention was deliberate;

(e) any economic benefit you derived from the contravention;

(f) your cooperativeness and efforts to correct the contravention; and

(g) any other considerations that the Lieutenant Governor in Council may have prescribed.

- There are no previous contraventions of a similar nature. Although there are certain similarities with the 2005 Violation Ticket, it dealt with Section 22(2) of FRPA as opposed to Section 52(1).
- I assess the gravity and magnitude of this contravention as considerable. The area of unauthorized harvesting was 83.9 ha and the volume was 2630 m^3. Mike Torpe, R.P.F., forestry consultant to FCC assessed the timber involved as "not commercially and economically viable". I agree with this assessment, but forest stands provide other values beyond the commercial value of the timber. This area was known to have important habitat value for caribou, a blue listed species. The cover letter from MEMPR to MFR for the April 2006 Notice of Work states: "The work program outlined in the Notice of Work has subsequently been revised and reduced by the applicant to avoid potential impacts to ungulate winter range for caribou". The extent of the disturbance, in a known caribou sensitive area, is my primary reason for assessing the gravity and magnitude as considerable.
- I do not find that the contravention was repeated or continuous. While the activity in question took place over an extended period, there is no evidence to suggest that it continued or was repeated after the company became aware that it may be operating without the required authorizations.

- The decisions to clear the bulk sample area and clear and construct unauthorized roads and trails were deliberate. These actions were not the result of a mistake by a machine operator or misinterpretation of field markings. There is some evidence to suggest that at least some key personnel had a poor understanding of the permitting and authorization requirements. On this basis I do not find that the contravention was deliberate in the sense of knowingly and deliberately contravening the law.
- I accept FCC's statement that no timber was sold and the company did not receive any economic benefit from the timber. The company would have derived some economic benefit from expediency. There would likely be some time and cost savings associated with not obtaining the required permits, although this was not addressed in the evidence and so I decline to make any finding in relation to it.
- FCC has cooperated fully with MFR in addressing the contravention. The current management has made significant efforts to enhance communication with its regulators and stakeholders and ensure its activities are compliant.
- No additional considerations have been prescribed by the Lieutenant Governor in Council.

Having regard to the facts of this case, I have decided the contravention is not trifling and that it is therefore appropriate to levy a penalty in the amount of $35,000.00 for the contravention of Section 52(1) of the *Forest and Range Practices Act*. My reasons are as follows:

Under Section 103(3) of the *Forest Act,* stumpage will be assessed for the timber cut and the Crown will be compensated for the timber value.

No economic benefit was derived from the timber harvesting. It is not necessary, in my view, to assess a penalty amount to remove any economic benefit derived from the contravention.

Among the factors I must consider under Section 71 (5) of FRPA, all of the factors were favourable to the company except for one: the gravity and magnitude of the contravention. I found that the timber, although of low commercial value, was cut over a large area, part of which had important value for caribou, a blue listed species. Further, the company knew that it was operating in sensitive caribou habitat areas. In my estimation, the company fell considerably short of meeting an acceptable standard of due diligence.

Weighing in the company's favour is the fact that it has made changes to its personnel and its approach to business since this contravention. This speaks to recognition on the part of the company that it is vital to be compliant with the regulatory regime within which it has chosen to operate, and that it is serious about doing what is necessary to be compliant. The new management of FCC has been very cooperative and has made substantial effort to improve its reputation.

Although the management changes bode well for the future compliance of FCC, and argue for a lesser deterrent penalty, my assessment of penalty must also be based on the circumstances and conduct in play at the time of the contravention, and their consequences. To fail to give proper weight to these findings would send a message to the larger community that it is acceptable to take a less than diligent approach to operations, commit a contravention of considerable gravity and magnitude, and then only change one's way of doing business after a

contravention is discovered. In addition to specifically deterring the company from conducting its affairs in a similar manner in the future, there is a need to send a message more generally to the regulated community that such conduct is not acceptable.

Having considered all the factors, and the need for both general and specific deterrence, I find it appropriate to levy a penalty in the amount of $35,000.00.

Based on the MFR Case Report, the average stumpage over the applicable period for the northeast zone as specified in Table 6-1 of the Interior Appraisal Manual was $12.89/m^3. Multiply this by the 2630 m^3 cut without authority, the result is $33,900.70. I find this calculation to be a useful guide for my penalty determination. I feel that a penalty of $35,000 appropriately addresses my consideration of the factors above, including the need for deterrence and compensation for the loss of the caribou habitat.

This is not a stumpage rate determination. As noted below, the actual stumpage determination will be carried out by another official under the *Forest Act* and will result in a separate invoice for stumpage. That official is not bound by my calculations, other than in relation to volume of timber cut without authority

Determination does not forestall other actions that may be taken.
Please note that this determination does not relieve you from any other actions or proceedings that the government is authorized to take with respect to the contravention described above.

Opportunity for correcting this determination.
For 15 days after making my contravention determination and penalty determination under Section 71, I am authorized under Section 79 of the *Forest and Range Practices Act* to correct certain types of obvious errors or omissions. I may do this on my own initiative or at your request. If you think there are valid reasons to correct the determination, you may contact me at (250) 997-2203 within this 15 day period.

Opportunities for review and appeal.
If you have new information that was not available at the time I made this determination, you may request a review of my determination on the basis of this new information. A request for review must be in writing, must be signed by you, or on your behalf, and must contain:

a. your name and address; and the name of the person, if any, making the request on your behalf;
b. the address for serving a document to you or the person acting on your behalf;
c. the new evidence that was not available at the time this determination was made; and
d. a statement of the relief requested.

This request should be directed to me, at Ministry of Natural Resource Operations, 9000 17th Street, Dawson Creek, BC V1G 4A4 and I must receive it ***no later than three weeks*** after the date this notice of determination is given or delivered to you. If you request a review, you may appeal the decision made after the completion of the review to the Forest Appeals Commission.

The provisions governing reviews are set out in Section 80 of the *Forest and Range Practices Act* and in the Administrative Review and Appeal Procedure Regulation. Please note the **3 week time limit** for requesting a review.

Alternatively, if you disagree with this determination, you may appeal directly to the Forest Appeals Commission.

The appeal request must be signed by you, or on your behalf, and must contain:

a. your name and address; and the name of the person, if any, making the request on your behalf;
b. the address for serving a document to you or the person acting on your behalf;
c. the grounds for appeal; and
d. a statement of the relief requested.

The Forest Appeals Commission must receive the appeal ***no later than three weeks*** after the date this notice of determination is given or delivered to you.

The provisions governing appeals are set out in Sections 82 through 84 of the *Forest and Range Practices Act*, in Sections 131 through 141 of the *Forest Practices Code of British Columbia Act*, and in the Administrative Review and Appeal Procedure Regulation. To initiate an appeal, you must deliver a notice of appeal, together with the requisite supporting documents, to the Forest Appeals Commission. The address for the Forest Appeals Commission is:

The Registrar, Forest Appeals Commission
PO Box 9425, Stn. Prov. Govt.
Victoria, BC V8W 9V1

Please note the **3 week time limit** for delivering a notice of appeal.

Determination is stayed pending review or appeal.
Under Section 78 of the *Forest and Range Practices Act*, my contravention determination and penalty determination under Section 71 are stayed until you have no further right to have this determination reviewed or appealed, after which time they take immediate effect.

Payment of Stumpage.
Under Section 103(3) of the *Forest Act*, a person who cuts, damages, destroys or removes Crown timber without authorization must pay stumpage. The amount of stumpage is based on:

- a determination under Section 103(3) of the *Forest Act* of the volume or quantity of timber that has been cut, damaged, destroyed or removed; and
- a stumpage rate determination under Section 105(1) of the *Forest Act*.

As the Minister's designate, I am authorized to make a determination of volume or quantity under Section 103(3) of the *Forest Act*. I determine that you have cut 2630 m^3 of timber

without authorization. Please note that the *Forest Act* does not provide for review or appeal of my determination under Section 103(3), however, you may wish to consult your legal counsel with respect to other options that may be available to you, such as judicial review.

I will now forward this file to the appropriate Ministry employee in the Ministry of Natural Resource Operations, Omineca Region in Prince George, BC to determine a stumpage rate under Section 105(1) of the *Forest Act*. Please note that the determination of a stumpage rate is subject to appeal under the *Forest Act*. An invoice for stumpage will be sent separately from any penalty invoice.

Yours truly,

Dave Francis
District Manager
Mackenzie District
Ministry of Natural Resource Operations

pc: Brian Oke, Timber Pricing Coordinator, Omineca Regional Operations