

BRIEFING NOTE FOR DECISION

DATE: October 1, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Extension of Cheakamus Atmospheric Benefit Agreement Terms

RECOMMENDED OPTION:

Authorize the Director of Climate Change and Integrated Planning Branch to amend the Atmospheric Benefit Agreement (ABA) with Cheakamus Community Forest (CCF) to maintain the designated percentage at 80 percent.

BACKGROUND:

- Forest carbon offsets, the majority of which are related to the Great Bear Rainforest Agreement, are a component of BC's climate change plan and have accounted for 1.0 megatonnes carbon dioxide equivalent of emission credits towards legislated targets.
- On December 17, 2014, Treasury Board issued a directive (2/15) *Authority to dispose of Atmospheric Benefit Rights and enter into Agreements respecting sharing of Atmospheric Benefits Rights*, to facilitate forest carbon offset projects on Crown Lands.
- The directive authorizes the Minister to enter into an Atmospheric Benefit Agreement (ABA); the Minister may delegate this authority to a ministry official.
- The province and the Cheakamus Community Forest (CCF) entered into an ABA on March 1, 2015. The ABA was signed by the Forests minister at the time.
- The agreement provides CCF with rights to carbon credits generated within their tenure. The Climate Action Secretariat, Ministry of Environment and Climate Change Strategy (CAS), entered into an offset purchase agreement with CCF on April 22, 2015, contracting for offsets to be delivered in 2019 and 2024.

s.12; s.13; s.16



s.12; s.13; s.16

Approved / Not Approved

Signature

Honourable Doug Donaldson, Minister of
Forests, Lands, Natural Resource
Operations and Rural Development

October 7, 2019

Date

Attachments

1. Cheakamus Community Forest Atmospheric Benefit Agreement
2. Treasury Board Directive (2/15) *Authority to dispose of Atmospheric Benefit Rights and enter into Agreements respecting sharing of Atmospheric Benefits Rights*

¹ Based on a \$15/tonne value.



PREPARED BY:

Dennis Paradine
Manager, Climate Solutions
Climate Change and Integrated
Planning Branch
(250) 889-6938

REVIEWED BY:

	Initials	Date
DM	JA	2019/10/02
DMO	AK	2019/10/02
ADM	SBerg A/ADM	October 1, 2019
ED	MM	October 1, 2019
Program Dir/Mgr.	TW	September 6, 2019

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Withheld pursuant to/removed as

s.16

TREASURY BOARD DIRECTIVE

TO: Ministry of Forests, Lands and Natural Resource Operations

DIRECTIVE #: 2/15

SUBJECT: Authority to dispose of Atmospheric Benefit Rights and enter into Agreements respecting sharing of Atmospheric Benefit Rights.

AUTHORITY: This directive is issued pursuant to section 4 and 46 of the *Financial Administration Act*.

APPLICATION: This directive applies to all ministries entering into agreements respecting entitlement to claim emission offsets in respect of projects that sequester carbon on Crown land wholly or partially in a provincial forest or administered by the minister responsible for section 4 of the *Land Act*.

DIRECTIVE: Treasury Board hereby issues the directive set out in the attached Appendix "A".

EFFECTIVE DATE: Dec 17, 2014



Honourable Michael de Jong, Q.C.
Chair, Treasury Board

Appendix "A"

Directive governing the Disposition of Atmospheric Benefit Rights on Crown Land

Definitions:

In this directive:

"Atmospheric Benefits" means reductions in atmospheric greenhouse gases caused by reduction or avoidance of GHG emissions or increases in removals of GHGs from the atmosphere;

"Atmospheric Benefit Rights" means proprietary or contractual entitlement to rights associated with Atmospheric Benefits, including any entitlement of the holder to obtain Emission Offsets under an Emission Offset Program, but does not include any possessory rights associated with carbon sequestered in Terrestrial Reservoirs;

"Atmospheric Benefit Agreement" means an agreement between a Proponent or other person and the government regarding the allocation of Atmospheric Benefit Rights;

"Crown Land" means land owned by the government in fee simple;

"Emission Offset" means any tradable credit, offset or unit that represents an estimated Atmospheric Benefit from a GHG Reduction Project and is recognized by an Emission Offset Program and used to offset GHG emissions from other sources;

"Emission Offset Program" means a voluntary or regulatory program of the government or a third party for the recognition of Emission Offsets and application of Emission Offsets against GHG emissions;

"Forests Minister" means the minister responsible for administration of the *Forest Act*;

"Future Activity Project" means a GHG Reduction Project or component of a GHG Reduction Project where Atmospheric Benefits arise directly from the Proponent carrying out or causing to be carried out a physical activity such as:

- (a) afforestation and reforestation;
- (b) forest or range rehabilitation;
- (c) forest fertilization, spacing or thinning;
- (d) forest fire or disease suppression; and,
- (e) re-vegetation or rehabilitation of vegetation on land or foreshore,

after the execution of an Atmospheric Benefit Agreement relating to that project;

"GHG" means greenhouse gas;

"GHG Reduction Project" means a specific course of action or management that leads to measurable Atmospheric Benefits;

“Intentional Reversal” means a Reversal caused by activities undertaken or authorized by government, or undertaken pursuant to a disposition of an interest in land by the government;

“Lands Minister” means the minister responsible for administration of section 4 of the *Land Act*;

“Non-Intentional Reversal” means a Reversal caused by factors not within the direct control of government, including trespass, or natural causes such as fire, wind, disease or drought;

“Proponent” means the person who carries out or causes the carrying out of a GHG Reduction Project for the purpose of obtaining Emission Offsets;

“Provincial Forest” means “Provincial Forest” as defined in the *Forest Act*;

“Reversal” in relation to a GHG Reduction Project, means the release of carbon into the atmosphere, where such carbon has previously been sequestered in Terrestrial Reservoirs, and such sequestration was the basis for an Emission Offset;

“Sequestration Project” means a GHG Reduction Project that yields Atmospheric Benefits by increasing levels of carbon sequestered in Terrestrial Reservoirs above levels that would exist in the absence of the project;

“Terrestrial Reservoir” means a place where carbon is sequestered from the atmosphere in vegetation, including trees and aquatic vegetation, and soils, including foreshore, but does not include underground geological formations.

Background

Proponents of GHG Reduction Projects are typically, under the terms of Emission Offset Programs, required to show that they have Atmospheric Benefit Rights that entitle them to claim Emission Offsets resulting from their project. This is generally achieved by these persons entering into commercial arrangements where other potential claimants to the offsets agree that the Proponent has Atmospheric Benefit Right.

Except in relation to land where government recognizes aboriginal title, the government generally takes the position that, in the absence of any agreement or legislation to the contrary, it is the owner of Atmospheric Benefits Rights resulting from Sequestration Projects on Crown Land.

Thus, Proponents of Sequestration Projects on Crown Land generally must enter into an Atmospheric Benefit Agreement with the government so as to evidence their entitlement to Atmospheric Benefit Rights.

Reversals may reduce or eliminate any Atmospheric Benefits from Sequestration Projects. Proponents of Sequestration Projects may be required under Emission Offset Programs or arrangements made with purchasers of Emission Offsets to replace Emission Offsets that represent reductions that were subsequently reversed.

The government has an interest in:

- encouraging GHG Reduction Projects that enhance Provincial resource values and employment by providing entitlement to Atmospheric Benefit Rights arising from such projects;
- ensuring that it does not grant Atmospheric Benefit Rights in respect of Atmospheric Benefits for which the government has already granted Atmospheric Benefits Rights;
- ensuring that government decision makers granting tenures in relation to Crown Land, authorizing activities on Crown Land, or carrying out activities on Crown Land, are able to identify Crown Land that is subject to Atmospheric Benefit Agreements;
- ensuring that government ministries responsible for administering specific Crown Land approve Atmospheric Benefit Agreements related to that land; and
- limiting any risk to the government associated with Reversals.

Atmospheric Benefit Agreements that grant entitlement to Atmospheric Benefits Rights arising from activities that have already occurred on Crown Land may involve a disposition of public property requiring statutory authority. The directive is intended to:

- (a) authorize such dispositions; and
- (b) ensure Atmospheric Benefit Agreements, whether or not involving a disposition of public property, are approved by the appropriate minister, and consider key factors

but is not intended to apply to Atmospheric Benefit Agreements respecting GHG Reduction Projects carried out solely on Crown Land that is not in a Provincial Forest or administered by the Lands Minister.

DIRECTIVE

Atmospheric Benefit Agreements to be approved

- 1(1) If an Atmospheric Benefit Agreement is to provide that a Proponent or other person is to be entitled to all or a portion of Atmospheric Benefit Rights arising from a Sequestration Project occurring, in whole or in part, on Crown Land, and that land is under the administration of the Lands Minister, the government may only enter into that agreement as represented by or with the approval of the Lands Minister.
- (2) If an Atmospheric Benefit Agreement is to provide that a Proponent or other person is to be entitled to all or a portion of Atmospheric Benefit Rights arising from a Sequestration Project occurring, in whole or in part, on Crown Land, and that Crown Land is in a Provincial Forest, the government may only enter into that agreement as represented by or with the approval of the Forests Minister.

- (3) If an Atmospheric Benefit Agreement is entered into pursuant to an agreement between the government and a First Nation that deals with reconciliation of aboriginal rights or title with the Canadian legal system, the government may only enter into that agreement as represented by or with the approval of the Minister responsible for the *Treaty Commission Act*.
- (4) The minister entering into an agreement under subsection (1), (2) or (3) must not enter into or approve an Atmospheric Benefit Agreement
 - (a) without first obtaining the approvals required by those subsections and consulting with any other ministries who have potentially significant interests in the Crown land covered by the Agreement, and
 - (b) meeting constitutional consultation and accommodation obligations to First Nations.
- (5) Nothing in this directive is intended to limit or otherwise affect the authority of the Lands Minister or Forests Minister to delegate to officials in the ministry of that Minister the authority to sign or approve Atmospheric Benefit Agreements.

Authority to Dispose of Atmospheric Benefits

- 2 The following persons are authorized to dispose of the Province's interest in existing or future Atmospheric Benefits Rights from Sequestration Projects occurring on Crown Land in a Provincial Forest or under the administration of the Lands Minister:
 - (a) the Lands Minister or the Forests Minister in respect of the land for which that minister's approval is required by section 1.
 - (b) the minister responsible for the *Treaty Commission Act*, if the agreement is:
 - (i) with a First Nation, group of First Nations or entity controlled by First Nations,
 - (ii) approved under section 1(1) or (2), as applicable, and
 - (iii) for the purpose of reconciliation of aboriginal rights or title with the Canadian legal system.

Retention of Share of Atmospheric Benefits

- 3(1) Except as provided by subsection (2), an Atmospheric Benefit Agreement relating to Sequestration Projects on Crown Land, other than Crown Land where the government recognizes aboriginal title, must provide that a share of the Atmospheric Benefits derived from such projects are retained by the government, to be dealt with or disposed of at the discretion of the government.

- (2) An Atmospheric Benefit Agreement is not required to provide that a share of the Atmospheric Benefits derived from a Sequestration Project on Crown Land is retained by the government,
- (a) if the project:
- (i) is a Future Activity Project,
 - (ii) is reasonably expected to have a positive impact on job creation and long term provincial revenue, and
 - (iii) in the case of projects relating to forest management and silviculture, is reasonably expected to have a positive effect on future timber supply; or
- (b) the agreement is for the purpose of reconciliation of aboriginal rights or title with the Canadian legal system.

Contents of Atmospheric Benefit Agreements

4(1) Before entering into or approving an Atmospheric Agreement under section 1, the minister must:

- (a) ensure the agreement excludes government liability arising from Non-Intentional Reversals; and
 - (b) ensure that any potential liability for Intentional Reversals is commensurate with the benefits received by government under the agreement and takes into consideration
 - a. consistency of the agreement with existing policies, statutes and mandates of the Executive Council regarding compensation;
 - b. future anticipated use of the land and risk of Reversals;
 - c. the existence of interests in the relevant Crown Land that are held or obtained by third parties, including rights under the *Land Act*, *Water Act* or legislation dealing with sub-surface interests, the exercise of which may cause Reversals, and the potential for third parties to obtain such interests under existing legislation;
 - d. the potential for counterparties to Atmospheric Benefits Agreement to obtain, under existing statutory schemes, compensation from third parties holding interests referred to in paragraph c.; and
 - e. the potential to limit government liability to an obligation to retire emission offsets in the event of a Reversal.
- (2) An Atmospheric Benefit Agreement entered into under section 1, must require that Atmospheric Benefits resulting from the GHG Reduction Project that is the subject of the Agreement are quantified by the *Protocol for the Creation of Forest Carbon Offsets in British Columbia* or another applicable protocol published or approved by government.

Management of Atmospheric Benefit Agreements and Atmospheric Benefits.

- 5(1) The minister entering into an Atmospheric Benefit Agreement pursuant to section 1(1) to (3) must provide copies of the agreement to the Lands Minister, and the Lands Minister must ensure that:
- (a) appropriate notations or entries are included in the Integrated Land and Resources Registry under section 7.1 of the *Land Act* or similar databases or registries that will alert government decision makers to the Atmospheric Benefit Agreement during the entirety of its term and alert decision makers to the potential interest of holders of such agreements in maintaining Atmospheric Benefits; and
 - (b) an appropriate record is maintained of the Atmospheric Benefits retained or obtained by the government, or obtained by the Proponent or other persons under Atmospheric Benefit Agreements.

Relation of Atmospheric Benefits and Atmospheric Benefit Agreements

- 6 For greater certainty the authority granted by this directive is not an authority to dispose of an interest in Crown Land, or an authority to authorize any activity on Crown Land.

BRIEFING NOTE FOR INFORMATION

DATE: September 20, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: **Penticton Indian Band request for shared decision-making over Carmi Forest Management**

BACKGROUND:

- BCTS Okanagan-Columbia (TOC) met with Penticton Indian Band's (PIB) Director of Natural Resources, James Pepper, at the community on August 19th, 2019. Mr. Pepper gave an account of recent meetings with Premier John Horgan (PJH) and Minister Scott Fraser (MSF) in which PIB proposed a collaborative management planning process within an area of ~5,800 ha they identify as 'Carmi Mountain Forest'.
- The proposed area overlaps BCTS Okanagan-Columbia's (TOC) Skaha (~3,000ha) and Weyerhaeuser's (~2,770ha) operating areas as well as a parcel of private land (64ha).
- At the meeting TOC was informed that PIB is open to discussing the exact boundary of the area and that all developments proposed by BCTS within that area must be put on hold until the Province and PIB sign a new FCRSA.
- PIB has described the goal of collaborative management and will invite representatives from the Regional District of Okanagan-Similkameen, Carmi Trails stakeholders, John Davies (Davies Wildfire Management Inc.), Community Futures and BCTS for a September meeting to discuss a land use plan for the area.
- The land use plan will identify areas for fuel mitigation, partial cutting, areas of no harvest, and management for other Syilx cultural values.
- PIB indicated that they will have the ultimate decision-making power over this plan and the land use within.
- PIB has strong strength of claim in the area identified.
- On August 28, 2019 PIB sent a letter to PJH indicating that in their July 25, 2019 meeting PJH agreed to discuss the Carmi Forestry Management Area and supported in principle the concept.
- At a subsequent meeting on August 29, 2019 PIB representatives asked TOC to defer harvest developments on an additional area within a 4km buffer surrounding the original identified management area. PIB indicated that they may wish to include this area in the Carmi Mountain Forest Management Area.
- PIB supports in principle a fuel mitigation operation within the proposed area.
- PIB is currently advancing an alternative riparian management strategy that may be adopted by the eight-member communities of the Okanagan Nation Alliance (ONA). The suggested riparian strategy could potentially impact TOC's and other forest licensees' ability to harvest up to 20% of its apportioned volume.



s.13; s.16

Attachment(s): 1: 2019 08 28 Letter to Premier Horgan 2: KMZ file: PIB Carmi Mountain Forest

PREPARED BY:

Yuval Maduel
Operations Manager
BCTS Okanagan -Columbia
(250) 558-1715

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM	G.M.	Oct. 1, 2019
Program Dir/Mgr.		

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Withheld pursuant to/removed as

s.16; s.13

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s.13; s.16

BRIEFING NOTE FOR INFORMATION

DATE: October 8, 2019

PREPARED FOR: John Allan, Deputy Minister, Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Current and potential new policies and procedures to improve the fibre utilization in the interior.

BACKGROUND:

- The interior forest sector is currently going through a contraction largely driven by a reduction in fibre supply due to the Mountain Pine Beetle infestation and wildfires.
- The reduced fibre supply will last approximately 50 years, therefore, to sustain as many forestry jobs as possible in the interior a focus is needed on ensuring fibre that is harvested is more fully utilized and more value is being added.
- Improving fibre utilization has been an ongoing goal of government and the ministry for many years. Significant efforts were made in the early to mid-2010s through the Forestry Fibre Working Group to change policy and procedures to support fibre utilization. More recently, the Coastal Revitalization Initiative implemented waste policy and pricing changes in an effort to improve fibre utilization.
- Improving fibre utilization can be achieved by improving the utilization of fibre as part of primary harvesting activities or through the harvesting of certain stand types that are currently not being utilized.
- Successful policies to improve utilization usually require a combination of government policy, positive economic conditions, and relationships between primary harvesters and secondary fibre users to enter into business-to-business arrangements that can benefit both parties.
- Early information from the Interior Renewal engagement shows a high interest from the participants to improve fibre utilization.

s.13; s.16



s.13; s.16

Attachment(s): Appendix 1 – Existing Policies and Pricing Tools to Support Fibre Utilization

PREPARED BY:

Doug Stewart
Director
Forest Tenures
(778) 974-2481

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM		
Program Dir/Mgr.	ds	Oct 8, 2019

Appendix 1 – Existing Policies and Pricing Tools to Support Fibre Utilization

Tenures/Tools/Policies	Description	Other
Road and Landing Tenures	Tenures that can make post harvest residual fibre piles available to secondary users.	
Do No Damage Orders	District managers can order residual fibre piles to not be destroyed if there is an interest in the fibre.	
Grade 4 Credit	Allows licensees to send Grade 4 credit logs to a non-saw log facility and receive a cut control credit.	Interior only.
Biomass Handling Guidelines	Guidelines for machine operators on how to stack residual fibre for ease of pick up.	Only best practice at this time. Require a regulation to make mandatory. BCTS is testing on some TSLs.
Concurrent Harvest Residual System	Allows sawlog and lower quality material to be removed from a cut block concurrently.	Interior only. Coast later in 2019.
Coast Fibre Recovery Zone	3x stumpage penalty for waste left post harvest above the waste bench marks.	Interior fibre recovery zone developed by not in force.
Waste bench marks	Reduced benchmarks establish on the Coast for certain types of logging operations.	
Dry Grade 4 Cut Accountability	Dry Grade 4 left post harvest above waste bench marks cut accountable.	Interior only.
Chief Forester Partitions and Minister's Partition Orders	The chief forester can partition AAC by type of timber, terrain or area of a TSA, and the minister can specify maximum harvest limits by partition to ensure sustainability.	
Restoration Cutting Permit Process	A cutting permit processes that allows government funding to be used to support the harvesting of fibre that is uneconomic.	
Innovate Timber Sale Licence/Forests for Tomorrow	Allows for BCTS to issue TSLs for low quality fibre removal where the costs of rehabilitation make the work uneconomic.	
Forestry Licence to Cut	Harvest authorization that can be used for falling and decking only, or for the removal of decked timber only.	For apportionment purposes, volume is accounted for using the Forest Service Reserve category.

Supplemental Forest Licence	A forest licence that can be directed to a certain profile of timber that will only allow a licensee to apply cutting permits if their traditional source of fibre supply is unavailable.	This tenure was developed as a new type of pulpwood agreement.
Non-Replaceable Forest Licence	Provide the right to harvest a set volume of Crown timber within a timber supply area or a tree farm licence area. The maximum term is 20 years.	Flexible tenure that can include restrictions on timber profile and requirements to operate timber manufacturing facility. Requires apportioned volume in TSA.
New Interior Waste and Residue Sampling Manual	The new waste standards are providing more accurate estimates of billable waste for revenue and cut control. Waste revenue and cut control charges are increasing. Faced with paying more for waste that is not utilized, some licensees will be incented to increase utilization.	Maintain support for waste program; monitor waste levels.
Monitor 2017 Fire Salvage Pilot	An appraisal pilot is being tested on 2017 fire damaged stands. Pricing is based on a cruise estimate and scaled and wasted timber. The cruise (final billing) will be adjusted based on actual scale and waste.	This pilot has the potential to streamline and encourage salvage by providing a pricing regime that better values the deterioration of damaged timber.

BRIEFING NOTE FOR INFORMATION

DATE: October 15, 2019

PREPARED FOR: John Allan, Deputy Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Yekooche First Nation support for Fort St. James Green Energy Non-Replaceable Forest Licence Amendment

BACKGROUND:

- Fort St. James Green Energy Limited Partnership (FSJGELP) was a successful applicant under BC Hydro's Phase II call for power and were awarded an energy purchase agreement in 2011.
- As part of FSJGELP's Phase II proposal, a 20-year bioenergy Non-Replaceable Forest Licence (NRFL) for 370,000 m³/year was to be awarded once commercial operation date (COD) of the bioenergy facility occurred. Eligible stand criteria for the NRFL was identified in the tender as greater than 70% pine by net volume of which greater than 90% had to be dead.
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development (Ministry) staff have worked extensively with FSJGELP since 2012 on profile criteria due to concerns raised by FSJGELP on their perceived economic availability of the fibre. Criteria changes were incorporated into the draft NRFL.
- After numerous delays, the energy facility became operational and the Ministry entered into the NRFL on October 19, 2018. No harvesting has occurred on the NRFL to date.

s.13; s.16



s.13; s.16

Attachment: Yekooche letter dated: September 27, 2019

PREPARED BY:

Jim Sayle
Director Tenures and Pricing
North Area
(250) 561-3401

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM		
Program Dir/Mgr	JS	Oct 15, 2019

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