

FW: FLNRO Media Request: Gate Closures - Court Case

August 23, 2021 12:04 PM

Subject	FW: FLNRO Media Request: Gate Closures - Court Case
From	Hooper, Tyler GCPE:EX
To	Harris, Megan GCPE:EX; Renneberg, Tim FLNR:EX; Monroe, Danielle FLNR:EX; Yano, Brady GCPE:EX; Pierson, Nova GCPE:EX; Plummer, Glen GCPE:EX; Haslam, David GCPE:EX; Sather, Kelly ENV:EX; Smith, George PREM:EX
Sent	July 15, 2021 1:49 PM

Hello QRT,

Nova was able to confirm this is public information. As result, we recommend we provide the following. Let me know if you have any concerns or questions.

- Legislation governing traffic control devices, including gates and closures on Forest Service Roads and Road Permit Roads is outlined in the Forest and Range Practices Act (FRPA), Forest Service Road Use Regulation (FSRUR) and Ministry of Forest and Range Act (MRFA).
 - o **FRPA Section 22.2** - Non-industrial use of a road - [Forest and Range Practices Act \(gov.bc.ca\)](#)
 - o **FSRUR Section 6 (1)** - Traffic control devices - [Forest Service Road Use Regulation \(gov.bc.ca\)](#)
 - o **MRFA, Sections 4 b and c** - [Ministry of Forests and Range Act \(gov.bc.ca\)](#)

Up to date Teal gates approved from May 1 – July 15, 2021

Gate	Teal Cedar Products Ltd	Caycuse Main	Station 6+000	Date Issued 2021-06-23	Date temp permit end 2021/11/30
Gate	Teal Cedar Products Ltd	Gordon Main	Station 44+500	2021-06-23	2021/11/30
Gate	Teal Cedar Products Ltd	McLure	Station 14+800	2021-06-14	2021/11/30
Gate	Teal Cedar Products Ltd	Gordon Main	33+000	2021-06-04	2021/11/30
Gate	Teal Cedar Products Ltd	Braden Main line and Truck Rd	0+100 (Braden) and 0+ 200 Truck Road	2021-05-27	2021/11/30
Gate	Teal Cedar Products Ltd	McLure	14+800	2021-05-20	2021/11/30
Gate	Teal Cedar Products Ltd	Caycuse Main	11+000	2021-05-17	2021/11/30

South Island road closures are regularly updated here:

<https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/resource-roads/local-road-safety-information/south-island-natural-resource-district-road-safety-information#Road>

Reporter

Ethan Cox, Reporter
Ricochet Media
ethan@ricochet.media
Deadline ASAP

Request

From reporter: We understand from submissions made in court this week that your ministry must explicitly authorize all road closures on public land enacted by Teal Jones or other parties. A government lawyer has told the court that private gates can only be placed by Teal Jones or another logging company to restrict access with explicit permission of the ministry.

I'd prefer to avoid having to send an FOI, but that'll be my next step. Hoping we can avoid that.

Can you provide a list of all authorizations for gates/road closures within the injunction area (or if that's hard to pull out, for Vancouver Island as a whole) between May 1, 2021 and July 15, 2021?

Additionally, can you provide a copy of the ministry guidelines that govern decisions to grant a request for a road closure/gate?

Recommendation**Background**



11250-01/Gate

June 14, 2016

All Licensees:

Recently, I have received several requests by forest licensees to install gates on Forest Service Roads (FSR) and Road Permit Roads (RPR) on Crown land within South Island Natural Resource District for various reasons. Also, it has come to my attention that there may be gates already in place that are not authorized as per the legislation. I am sending this letter to remind forest licensees about the legislation governing traffic control devices, including gates on FSR and RPR as outlined in the *Forest and Range Practices Act (FRPA)*, *Forest Service Road Use Regulation (FSRUR)* and the *Ministry of Forests and Range Act (MFRA)*.

FRPA, Section 22.2 states:

22.2 (1) Subject to subsections (2) to (4) and to regulations respecting roads made under the Industrial Roads Act, a road that is

- (a) a forest service road, or*
- (b) constructed or maintained by the holder of a road permit or a woodlot licence may be used by any person, other than a person referred to in section 22.1, without charge.*

(2) The

- (a) district manager, for a forest service road, or*
- (b) holder of a road permit or a woodlot licence, for a road under the permit or licence, may take action under subsection (3) if*
- (c) use of the road under subsection (1) would likely*
 - (i) cause significant damage to the road,*
 - (ii) cause significant sediment delivery, or*
 - (iii) endanger property, public health or public safety, or*
- (d) the presence on the road of a vehicle or animal would likely cause damage to the road or environment or endanger life or property.*

(3) In the circumstances described in subsection (2),

- (a) the district manager, for a forest service road, may*
 - (i) close the road or restrict its use, or*
 - (ii) remove a vehicle or an animal from the road at the expense of the owner of the vehicle or animal, and*
- (b) the holder of a road permit or a woodlot licence, for a road under the permit or licence,*

.../2

- (i) with the prior consent of the minister, may close the road or restrict its use, or*
 - (ii) may remove a vehicle or an animal from the road at the expense of the owner of the vehicle or animal.*
- 4) The minister, in accordance with the regulations, may specify types of expenses that must be paid to*
 - (a) government for a road referred to in subsection (1) (a),*
 - (b) holders referred to in subsection (1) (b), or*
 - (c) other persons who meet prescribed requirements by a person, other than a person referred to in section 22.1, who uses a road or class of roads.*

FSRUR, Section 6 (1) states:

Traffic control devices

- 6 (1) A district manager or an official may cause a traffic control device to be erected on a forest service road if, in the district manager's opinion, restrictions on the use of the road or the traffic on the road are required to achieve the purposes of section 4 (b) and (c) of the Ministry of Forests Act.*
- (2) Without limiting the generality of subsection (1), a traffic control device may be used in any of the following ways:*
 - (a) to close the road to all traffic or to specified categories or sizes of motor vehicles including those not engaged in commercial activities;*
 - (b) to close the road totally, or for a specified period of time;*
 - (c) to regulate the movement of traffic;*
 - (d) to require the use of 2-way radio systems during certain hours in order to coordinate the movement of traffic, including specifying the radio frequency to be used on portions of forest service roads;*
 - (e) to restrict the use of vehicles having characteristics that could damage the forest service road or create a safety risk;*
 - (f) to warn drivers of hazardous or unusual conditions existing on forest service roads.*
- (3) A person must not erect a traffic control device on a forest service road without the prior consent of the district manager in whose district the road is situated.*
- (4) A person must not damage, deface or remove a traffic control device erected or posted on a forest service road or its right of way without the consent of the district manager.*
- (5) A person must not operate a vehicle contrary to a traffic control device.*

MFRA, Sections 4(b) and (c) states:


- 4. The purposes and functions of the ministry are, under the direction of the minister, to do the following:*
 - (a) encourage maximum productivity of the forest and range resources in British Columbia;*
 - (b) manage, protect and conserve the forest and range resources of the government, having regard to the immediate and long term economic and social benefits they may confer on British Columbia;*
 - (c) plan the use of the forest and range resources of the government, so that the production of timber and forage, the harvesting of timber, the grazing of livestock and the realization of fisheries, wildlife, water, outdoor recreation and other natural resource*

- values are coordinated and integrated, in consultation and cooperation with other ministries and agencies of the government and with the private sector;*
- (d) encourage a vigorous, efficient and world competitive*
- (i) timber processing industry, and*
- (ii) ranching sector in British Columbia;*
- (e) assert the financial interest of the government in its forest and range resources in a systematic and equitable manner.*

When seeking District Manager approval to gate a FSR or a RPR, please provide the reasons consistent with *FRPA 22.2(2)(c)* as well as the proposed gate location and the time period you are seeking access restricted.

If you have any questions or if you have placed gates on FSRs or RPRs that you are unsure if they are authorized by the District Manager, please contact Dean Fenn, A/District Engineering Officer at 250-731-3039 by June 30, 2016.

Yours truly,


Digitally signed by Rhonda (Morris) Coleman
DN: cn=Rhonda (Morris) Coleman,
o=Ministry of Forests, Lands and
Natural Resources, ou=South Island
Natural Resource District,
email=RhondaMorris@gov.bc.ca, c=CA
Date: 2016.06.14 11:12:10 -07'00'

Rhonda Morris
District Manager
South Island Natural Resource District



File: 11250-01/Gate

October 12, 2017

All Forest Licensees:

This letter is a follow-up to my June 14th, 2016 letter to all forest licensees regarding gates on Forest Service Roads (FSR) and Road Permit Roads (RPR) on Crown land within South Island Natural Resource District (the District).

Since receiving my June 14th letter, some licensees have requested and received temporary authorizations to restrict access to a FSR or a RPR. Others have expressed that they believe they already have authorization to restrict access and point to previous historic arrangements including outdated District Standard Operating Procedures and written or verbal agreements that have varying levels of detail and specificity.

As you know, providing public access to forested crown land is an important cornerstone of our forest tenure system. The Forest and Range Practices Act (FRPA), Section 22.2 (1), specifies that a FSR or RPR may be used by any person without charge.

Previous historic arrangements between a licensee and the District to restrict access to a FSR or RPR do not diminish the right granted by section 22.2 (1) to any person wanting to use a road. It is the responsibility of the gate owner to allow any person wanting to use a road section beyond a gate location, the ability to do so.

Unless use of a road would likely cause significant damage to the road, cause significant sediment delivery, or endanger property, public health or public safety, all gates are to be left in an open position. As a licensee, you can apply to me for approval to temporarily restrict access to a FSR or a RPR, if these situations are likely to occur. As part of your application, please provide your reasons consistent with FRPA section 22.2 as to why you are seeking to restrict public access, as well as the location of the existing or proposed gate, and the dates and duration of the proposed restriction.

If you have any questions, please contact Ed Kleywegt, District Engineering Officer at 250-731-3021.

Yours truly,


Digitally signed by Rhonda (Morris) Coleman
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o=Ministry of Forests, Lands and Natural
Resources, ou=South Island Natural
Resource District,
email=Rhonda.Morris@gov.bc.ca, c=CA
Date: 2017.10.12 14:26:04 -07'00'

Rhonda Morris, RPF
District Manager
South Island Natural Resource District

List of Gate Authorizations Issued to Teal Cedar Products for closure of Road Permit Roads on TFL 46 from May 1st to July 12, 2021

1. May 17 – 11 km Caycuse Mainline
2. May 20th – McClure Branch M10
3. May 27th – Braden Mainline and Truck Road 11
4. June 4th – Gordon River Main 33 km
5. June 14th – McClure Mainline
6. June 23rd – Gordon River Mainline 44.5 km
7. June 23rd - Caycuse Mainline

No gate applications were denied for closure of Road Permit roads on TFL 46 from May 1st to July 12, 2021