



## Board Bulletin, Volume 14 Professional Reliance in BC Forests: Is it really the issue?

June 2013

*This bulletin explores professional reliance in BC forest management, and suggests that perhaps too many expectations are being placed on it, detracting from a more important analysis and discussion of other elements in our provincial forest management framework. It is the third in a series of five new Forest Practices Board bulletins describing important issues for forest management identified in recent Board work.*

*The other bulletins in the series deal with the benefits to the BC public of having the Forest Practices Board provide independent oversight of forest and range practices, the need to manage cumulative effects, the need for better public involvement in resource management decisions, and the need for resource managers with responsibility for an appropriately-sized landbase. These bulletins are intended to foster discussion and encourage progress toward improved stewardship of public forest and range resources.*

### Introduction

About 10 years ago, the approach to regulating forest planning and practices in BC changed substantially. The *Forest and Range Practices Act* (FRPA), introduced in 2004, was intended to streamline administration, reduce costs, and encourage innovative practices, in part by giving forest licensees much of the discretion previously held by government officials. It was assumed that high standards would be maintained, partly because licensees are expected (and in some cases are legally required) to act on the advice of professionals who are accountable to their professional associations. This approach became broadly known as “professional reliance.” The approach continues to be widely discussed and there is emerging interest in broadening the scope of professional reliance to more resource management decisions than just forest planning and practices.<sup>i</sup>

The Board frequently hears concerns that professional reliance is not meeting expectations. The concerns come not just from the public, but from professionals themselves.<sup>ii</sup> In fact, in 2012, the Association of BC Forest Professionals held a series of workshops to discuss professional reliance and address concerns among members.<sup>iii</sup>

This bulletin reflects the Board’s view, based on experience, that professional reliance has proven to be a key element of BC forest management, and that the application of this principle does have limitations. Persistence of expectations that exceed those limitations undermines the existing model. In particular,

the focus being placed on professional reliance to address many stewardship concerns may actually be distracting from important issues with the forest management framework<sup>1</sup> that need to be addressed.

## Professional Reliance in BC

Reliance on professionals is not new. Rather it is widely accepted in many sectors, and is an important concept for modern societies. In BC, we were relying on forest professionals to provide advice for managing forests as far back as 1947.<sup>2</sup> Licensees and government rely directly on the professionals they employ. The public should be able to rely on professionals (such as foresters, biologists, agrologists, engineers, and geoscientists) because of the statutory obligations of professional Acts and bylaws.<sup>iv</sup> This is an important assumption for the public, based on the premise that professionals are competent in their field of practice, and are required to meet ethical and practice standards set by their associations. Supporting this notion is the requirement for professional associations to hold members accountable to the standards they set.

FRPA shifted professional reliance considerably from professionals employed by government to those employed by licensees. In the process, the regulatory and planning support structures were pared down, reducing costs to both government and the industry.<sup>v</sup> This shift in reliance was mainly through the significant reduction in plans that previously had to be submitted to government for review and approval. The Board often sees that the public has not recognized or accepted this shift, initially bringing their stewardship concerns to local government professionals, who now actually have limited ability to address them.<sup>vi</sup>

Government and the professional associations agree that the definition of professional reliance, in the context of forest management in BC, is *“the practice of accepting and relying upon the decisions and advice of resource professionals who accept responsibility and can be held accountable for the decisions they make and the advice they give.”*<sup>vii</sup> Based on the experience of licensees and government, professional reliance may be viewed as meeting the intent of this definition reasonably well.<sup>viii</sup>

Confusion arises when discussing professional reliance because codes of ethics, developed by professional associations, require that professionals act in the public’s interest, regardless of who their employer is. Despite attempts by the associations to define what this means,<sup>ix</sup> there continue to be competing views. The Board believes that, at a minimum, it means a professional must recommend technically sound practices that comply with the law, and must take remedial action if practices fall short of expected outcomes.

Based on its experience, the Board would agree that professionals appear to be providing appropriate advice to the licensees that employ them. However the Board believes that it is unrealistic to expect professional reliance to carry the majority of the weight for balancing forest management interests.

In a 2006 FRPA discussion paper for government, it was noted that, *“In giving up control of so many forest and range management decisions, the Legislature is effectively gambling on the ability of these professionals to focus the attention of forest and range tenure holders on issues falling outside the statutory regime created by the FRPA, as well as inside, and to help these tenure holders to make prudent decisions with respect to both.”*<sup>x</sup>

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<sup>1</sup> *Forest management framework* – All of the legal requirements, policies, government priorities, administrative and regulatory structures, tenures, roles and responsibilities for BC forest management.

<sup>2</sup> In 1947 the first *Foresters Act* recognized the role and responsibilities of professional foresters.

Concerns expressed to the Board about professionals not doing a good job often turn out to be about bigger issues with the forest management framework itself.<sup>xi</sup> An underlying dilemma in most concerns is that the public is not sure who is responsible and accountable for management decisions, or how and why those decisions were made.

## **Issues with the Forest Management Framework – The Board Experience**

The Board has highlighted a number of issues with the forest management framework over the past 10 years that can affect decisions on the ground. These include weak or unclear objectives and priorities for specific resource values at appropriate scales, the lack of a process to coordinate multiple licensee activities across a landscape, and an imbalance in decision-making power between conflicting resource users.

FRPA is based on government setting objectives at appropriate scales for forest values and professionals proposing results and strategies for forest practices that are consistent with those objectives. However, government has never set objectives for some forest values and, where objectives have been set, they are not always clear. For example, the BC Auditor General recently found that provincial timber objectives were not clearly defined and that objectives and strategies for biodiversity conservation have not been fully implemented.<sup>xii</sup> Yet professionals are expected to decipher the intent of these objectives and interpret how they apply across a diverse landscape so they can propose appropriate results or strategies for licensees. This can be very difficult. Balancing objectives and designing priorities can also be problematic as members of the public and other licensees often hold conflicting views of what is in the public interest. Individual professionals working for a licensee are challenged to balance their employer's interests with public expectations, placing them in a difficult position with a perceived vested interest.<sup>xiii</sup>

In an attempt to clarify objectives for landscape-level planning and management, government sometimes provides broad non-statutory guidance to licensees and their professionals. While professionals are expected to consider this guidance when providing advice, the resulting decision is still discretionary for the licensee. In 2009 the Board examined the implementation of such non-statutory guidance provided by the provincial chief forester for planning landscape and stand level retention in large scale mountain pine beetle salvage operations. The Board found that no landscape level planning was conducted as described by the chief forester's guidance over the five districts in the study area. Without a supportive and transparent process to collaboratively interpret the guidance and coordinate multiple licensee approaches and activities at the right scale, results can easily fall short of government's intent.<sup>xiv</sup>

In some cases the Board has examined, a forest licensee has been at odds with another tenured resource user on the same landbase. The licensee's professional can consider the resource user's interests and provide reasonable advice to their employer, but it is the forest licensee who has the authority to decide how to proceed, regardless of the risks to the other resource user.

The Board has previously recommended that there ought to be an impartial decision-maker or arbiter,<sup>3</sup> who can independently weigh and balance all of the priorities, risks and benefits of proceeding with

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<sup>3</sup> While the public can make a complaint to the Forest Practices Board if they have concerns, the Board does not have the authority to make or overturn decisions. The Board can only make recommendations and make its findings available to the public.

the forest management activities.<sup>xv</sup> Such an independent decision-maker would increase public confidence and provide transparency of process and decision rationale. In the Board's view, professional advice cannot totally replace the power of an impartial decision-maker, either in reality or perception.

## Conclusion

Professional reliance appears to be meeting its intent where resource management objectives and priorities are clearly defined at appropriate scales and best management practices are either well known or required in law. Where objectives are not clear, or where competing interests and values are in play, it is not realistic to expect professionals working for licensees to define the public interest.

The current source of concern about professional reliance may actually stem from misplaced expectations or deficiencies within the other elements of our forest management framework, rather than deficiencies with professional reliance itself.

Focusing stewardship expectations and concerns on professionals alone detracts from a more important analysis and discussion of other elements in our provincial forest management framework. Ignoring this important analysis and discussion may increase dissatisfaction with professional reliance even further. Refinement of the framework would lead to greater confidence in our forest professionals and, ultimately, better sustainable management of our valuable forest resource.

In the Board's opinion, reliance on professionals is a proven, legitimate approach that contributes to quality assurance for forest practices in BC, providing efficiencies for industry, government and ultimately the public, however:

- Care should be taken to characterize the professional reliance approach in a manner that does not create expectations that cannot be fulfilled.
- Reliance on professionals does not supplant the responsibility of government to ensure objectives are clear and practices are in the public interest.

A higher level of transparency by professionals, licensees and government is required if the public is to be confident in the professional reliance approach.

*We welcome your thoughts on this bulletin. You can send comments to [fpboard@gov.bc.ca](mailto:fpboard@gov.bc.ca), or join the discussion on [Facebook](#) or [Twitter](#).*



## Endnotes

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- <sup>ii</sup> Association of BC Forest Professionals. 2012. 2012 Professional Reliance Survey. September, 2012. Association Summary.
- <sup>iii</sup> Association of BC Forest Professionals. 2012. Professional Reliance Workshop: Is It Working? How It Should Work? Association Workshop.
- <sup>iv</sup> Association of BC Forest Professionals. 2008. Applying professional reliance under FRPA. Developed by the professional reliance working group.
- <sup>v</sup> Reader, R. 2006. The Expectations That Affect The Management Of Public Forest and Range Lands In British Columbia: Looking Outside The Legislation. A Discussion Paper prepared for the Ministry of Forests and Range and the Ministry of Environment by Roberta Reader (February 2006).
- <sup>vi</sup> Forest Practices Board. 2012. Aspen Logging - Grazing Conflict in the Dawson Creek TSA. Complaint Investigation Report.  
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- <sup>viii</sup> Lorimer, S. 2012. Failure is not an option when it comes to professional reliance. President’s Report – The ABCFP Professional magazine, Issue Nov-Dec 2012, page 8.
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- <sup>xiii</sup> Forest Practices Board. 2010. Logging and Lakeshore Management near Vanderhoof. Complaint Investigation Report.  
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- <sup>xv</sup> Forest Practices Board. 2011. Forest Resources and the Toba Montrose Creek Hydroelectric Project Complaint Investigation Report.  
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