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Summer 2019

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## FROM THE EDITORIAL BOARD DESK...

Welcome to the Summer 2019 issue of *Truck LoggerBC*. In this issue we explore several issues that our membership has raised over the past few months and endeavoured to answer their questions.

Many members have shared that they are experiencing an increase in the number of penalties that have been issued by WorkSafeBC prevention officers, and are wondering if there has been a change in their policies. The article “Understanding Administrative Penalties: What, Why, When and How Much” submitted by a WorkSafeBC investigations legal officer provides clarity around the criteria for imposing an administrative penalty.

Other members who are Bill 13 contractors have questions concerning retiring and their obligations to licensees. The article “Considerations for Retirement: Navigating the Assignment of Replaceable or Market Contracts” provides an overview of their available options.

The pending Caribou Recovery Agreements between British Columbia and Canada are another great concern to contractors in the Interior. In the “Forest Community: Mackenzie” article, Mayor Atkinson shares what the Agreement would mean for the District and how they’ve been affected by mill closures in the past. The “Could Collaborating with the Forestry

Industry Help Save Caribou?” article provides the Northern Interior’s perspective on potential solutions to address the Agreement.

In the wake of recent mill closures in the Interior, the TLA’s perspective in the article “What is in Store for the BC Interior Industry?” provides an overview of Jim Girvan’s forecast for BC Interior lumber production over the next decade and further mill closures to come.

One of the TLA’s strategic priorities is to support relationships with First Nations, which will in turn support local communities and help attract First Nations youths to the industry. We explore the barriers that Aboriginals experience to gain employment in the industry; the article, “Overcoming the Barrier of a Driver’s Licence for Aboriginal Workers” shares how Lucy Sager is forging a path to help First Nations communities across the province solve the problem of not being able to drive.

As always, I trust you will find this issue insightful and informative. If you have any feedback or comments, please contact our director of communications, Jennifer Kramer, at 604-684-4291 (extension 2) or by email at [jennifer@tla.ca](mailto:jennifer@tla.ca).

Dorian Uzzell  
Editorial Board Chair



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## CONNECTING WITH TLA MEMBERSHIP IN THE NORTHERN INTERIOR



On May 24, the TLA hosted its first ever member networking event in Prince George for more than 60 members and non-members from the Northern Interior. The TLA regularly holds these events to provide members with an opportunity to connect with each other; for the TLA to connect with its members and potential new members to share information about issues that are important to them; and provide an overview of the work the TLA is doing to lobby government on their behalf by standing up for our working forest.

The TLA has been experiencing a growing membership in the north. By hosting this event, we were able to engage face to face with the contractor community in that region and hear more about the concerns that are impacting their businesses.

One of the most pressing issues the north is experiencing is the pending Caribou Recovery Agreement between British Columbia and Canada, which will undoubtedly have an impact on timber harvesting contractors in the North and Interior. In May, on behalf of its membership, the TLA submitted a letter expressing concerns about potential reductions in our working forest as well as demanding compensation for affected operations, which had already been conveyed verbally to Minister Donaldson.

Another timely issue that I'm pleased to share that has recently been resolved is the gap in the Ministry of Forest's Indemnifications and Insurance Coverage policy that potentially impacted contractors across the province who have been hired by the Ministry to fight wildfires. On May 3, together with the Interior Logging Association, we spoke directly to Minister Donaldson and wrote a letter demanding immediate changes be made to the policy to

ensure contractors' equipment is covered. Thankfully our concerns were addressed and there have now been changes made to the insurance coverage provided by Wildfire BC when your equipment is contracted to fight wildfires. Thank you to all who were committed to making those changes happen.

The TLA serves as a defender of the working forest for which its members derive work. I am pleased to see TLA's responses in the media to the anti-old growth harvesting movement. As evidenced by our opinion editorial recently published in several provincial and community newspapers across BC, and interviews on CBC radio "All Points West" on Vancouver Island and "Radio West" in the Interior, our voice to defend our working forest is being heard. Our editorial addressed the inaccuracies that have made headlines over the past year initiated by environmental non-governmental organizations and protests of old growth logging. The working forest supports this province and the TLA will always stand up to protect it; however, I encourage contractors to write their own letters to government.

The TLA works for its membership, so I am proud to see the recent development of an Hourly Equipment Rate Sheet with help from TimberTracks™. The motivation behind this project came from the findings of the 2018 Contractors Sustainability Review (CSR), which incorporated financial data from the contracting community combined with personal accounts shared by contractors and licensees which formed a bleak picture of the financial state of logging contractors in BC. The CSR found that good business relationships enhance sustainability

and competitiveness in the sector, and identified that transparency (or lack thereof) as a predominant issue in relationships between contractors and the licensees who employ them.

Specifically, transparency in terms of both parties having the ability to see and discuss variables that comprise harvesting costs. As such, the CSR recommended the use of developing rate models. To do so requires equipment rate knowledge of the costs to sustainably operate logging equipment, which is an apparent gap and thus typically becomes a source of friction in relationships between contractors and licensees during rate negotiations.

Furthermore, there is a distinct weakness in understanding what the costs are to operate equipment such as grapple yarders on steeper slopes. Therefore, the TLA initiated this project to help fill this gap in knowledge for the betterment of the industry.

The TLA's advocacy efforts are ongoing with so many issues to be advocated across the province. It always surprises me when contractors question why belong to the TLA—of course I am biased as president, but this association gets to the table to get your interests conveyed. There is simply no way you could do that by yourself on so many issues. The current government is highly engaged in making changes to the forestry sector, and our members can be assured that we are making every effort to ensure your voices are heard.▲

---

*Mike Richardson, President, TLA*

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## THINGS ARE TOUGH—KNOW WHAT'S HAPPENING AROUND YOU

To be honest, conditions are becoming bad. Very bad.

If you are operating in the BC forest industry today, you need to know that what's happening around you will more than likely negatively affect your business. On the demand side, China has imposed tariffs on US lumber and logs. That means more American forest products are likely to stay within a US domestic market, which is experiencing lackluster demand and means less need for Canadian lumber for the time being.

On the supply side, sawmill costs continue to rise. The US is still imposing 20 per cent tariffs on Canadian softwood lumber imports. Due to the lagged response in stumpage, operating costs are high while lumber markets are in the tank. Lumber prices have decreased to less than half of what they were a year ago making the economically available timber supply in the Interior substantially less. Not to mention the impact of the pending Caribou Recovery Strategy Agreement, one of the largest ever spruce bark beetle infestations, potential strike action on the BC Coast, and another hot wildfire season.

Layer in the uncertainties of government implementing new forest policy on the Coast and Interior, it makes for one heck of a time to be operating a forestry-related business in BC. It should be no surprise then that BC sawmills and other forest products manufacturers have been announcing curtailments or permanent closures of their facilities in the province.

There is a lot going on.

For contractors, conditions are ugly and I don't expect much improvement for some time. Please be cautious about over extending yourself, as the good times (if contractors can call them that) are clearly over. When demand slumps, there is no rate that matters if there is simply no need for logs.

The last few years of strong lumber prices has masked the inevitable in the Interior. We can't escape the realities of Mother Nature; the mountain pine beetle

has killed much of the pine, and now with lower lumber prices and higher costs, the forecasted reductions in Interior sawmilling are finally becoming reality. Jim Girvan has forecasted that possibly 13 sawmills are expected to close in the next decade (see page 41), of which, a number of closures have already been announced. To help you make business decisions, be sure to clearly understand timber supply on the tenure you are operating on.

The TLA is working on several ways to help with your relationships with licensees including shaping new sections of the *Timber Harvesting Contract and Subcontract Regulation* (aka Bill 13) that will help replaceable and non-replaceable contractors. We have also recently released the TimberTracks™ Hourly Equipment Rate Sheet to improve the industry's knowledge of harvesting equipment costs.

Government needs to keep in mind when developing policies, that contractors, communities and First Nations keep their profits here in BC, unlike major tenure holders who have known about the looming impact of timber supply reductions for many years and have chosen to make substantial investments outside of the province.

When it comes to the host of forest policy changes being either considered or implemented, ideological intentions may not always align with on-the-ground realities. Implementation of Coast revitalization initiatives is still in its infancy, but already the feedback is that utilization policies are causing major concerns. Forthcoming changes to fee-in-lieu for log exports as well have many questioning their future harvest plans. As mentioned previously, government needs to generate business conditions that are favourable for investors of future manufacturing facilities—which they are not. If there is no demand for recovered fibre or logs that have become too expensive to export, the only accomplishment is unintended consequences.

The upcoming interior revitalization process may be needed, but timing may be questionable given the turmoil unfolding there.

Of particular note is the recent addition of Bill 22, which amends the *Forest Act* to increase government oversight in the transfer of tenure. While contractors are not often tenure holders, they have a significantly vested interest in it. The TLA was essentially founded on the opposition to state and corporate owned monopolies of forest tenure in BC. So notionally, the TLA supports efforts to address consolidation. Unfortunately, such efforts should have been made 50 years ago as consolidation has already occurred.

I would advise the government as they implement Bill 22, to ensure that the realities of any particular tenure transfer take into consideration the impact to the amount of work available to contractors. If there is no apparent immediate alternative to use a portion of tenure, then transferring that tenure to assist in the reallocation of timber supply for a sawmill might be considered a tolerable outcome given the current circumstances of required capacity rationalization.

Things are tough. Contractors never shared in the upswing of recovering lumber markets but will surely be hurt in the downturn. We need the pendulum in policy to swing to support those who remain once the storm in markets has past.▲

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## A STRONG SENSE OF COMMUNITY

As the dust literally settles on the completion of our 61st Annual Convention and Trade Show, it has clearly shown me and hopefully to many others, the strong sense of community we have in this industry. The ability to remind ourselves why and who we are doing this for is important and the ILA Convention and Trade Show is a great way for this to occur. It's not only the contractors and their families that are dependent on the success of this initiative but also all of the equipment manufacturers, dealers, suppliers, tradespeople and the communities that they support through the timber harvesting sector.

it shows that we as an industry are engaged and want to be part of the solution. During our Convention, the ILA, TLA and NWLA met with Minister Donaldson regarding this issue and the ILA submitted a letter to the Ministry of Forests, Lands, Natural Resource Operations & Rural Development requesting the ILA and its membership be recognized as a stakeholder in the process moving forward and be included in any future planning processes.

On behalf of the ILA, I would like to thank all those who supported and participated in the Convention and Trade Show. It is this continued support that

\$1,000 for trades and \$1,000 for a general scholarship. For more information or to apply, please go to our website, [www.interiorlogging.org/scholarships](http://www.interiorlogging.org/scholarships).

I would also like to take this opportunity to thank Wayne Lintott for all his years of dedication and support to the ILA and wish him and his wife Maggie all the best in the next chapter of their life. I personally want to thank him for the support that he has shown to me as I transition into the general manager position.

Whether you are in Jaffrey, Kamloops, Prince George, Smithers or somewhere in between, the ILA and its members are part of your community and we will continue to support the communities that our members work and live in by addressing the issues that affect us all. There are many other issues that we continue to tackle on behalf of our membership and moving forward communication will be critical to ensure that membership is not only involved but that we as an association are conveying the correct message on your behalf.

I encourage our membership to contact me at 250-503-2199 or [todd@interiorlogging.org](mailto:todd@interiorlogging.org) to make sure we are engaged in the issues that are important to both you and your community. 🌲

**Another issue of concern to our membership is the Caribou Recovery Strategy and the possible effects that it will have on the timber harvesting land base and subsequently what effects it will have on all of the communities that members support, work and live in.**

It is this community that will enable us and other associations to be successful as we navigate through the many issues that we are facing together. We are demonstrating this as we continue the discussions regarding contractor sustainability with Council of Forest Industries (COFI), the Interior Lumber Manufacturers' Association (ILMA) and government representatives. Throughout this process, we are always conscious of how the final decisions will affect 'our' community.

Another issue of concern to our membership is the Caribou Recovery Strategy and the possible effects that it will have on the timber harvesting land base and subsequently what effects it will have on all of the communities that members support, work and live in. I was very encouraged by the turnout at the public open houses that were held as part of the engagement process and

keeps our community strong! I would also like to thank NWLA and TLA directors and staff for attending and continuing to support our Convention with not only their attendance but working with us on the issues that affect all of our members.

I would also like to acknowledge and thank those directors who have completed their terms on the Board including: Bill McDonald, Jeff Kineshanko, Shane Garner and Matt Edmondson; and I want to welcome our new directors: Shari Smaha, Sue Hagarty, Don Mathews, Creole Dufour and Shawn McIver.

As a way of giving back to our communities, we offer ILA scholarships to those who are planning on a post-secondary education. There is a total of \$5,000 in scholarship funding available including: \$2,000 for forestry, \$1,000 for business administration,

---

*Todd Chamberlain joined the Interior Logging Association (ILA) in March of 2018. Previously, he spent the past 25 years working in the Merritt area as a woodlands manager for a major forest licensee, managed a forestry consulting firm for one of the local First Nations communities and was the transportation manager for a large trucking company. Todd started in the forest industry in 1981, graduated from Selkirk College in Castlegar with a diploma in Forest Technology in 1985, and became a Registered Professional Technologist in 2005.*

*He has worked in all regions of British Columbia and also in Alberta, Saskatchewan and the Northwest Territories.*



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## A REAL SOLUTION FOR NORTHWEST BC



The forestry sector in Northwest BC currently operates at a fraction of its potential.

Logging and sawmilling in Northwest BC today occurs in fits and starts in accordance with the fluctuations of volatile markets. Young people looking for a career have no certainty that there will be jobs for them, and contractors are uncertain whether they should invest in equipment or training.

The forest industry in Northwest BC has been subject to multiple booms and busts over the past 60 years. We continue to be in a deep bust which started in 2000 with the demise of Repap/Skeena Cellulose, followed by the departure of West Fraser and the shutdown of Eurocan.

The reason behind this bust was that the forests in Northwest BC consist of a high-proportion of “fibre-quality” logs. These logs (called pulp logs in previous decades) are part of our forests. In general terms, when we log a forest stand, 50 per cent of the logs are fibre-quality, not sawlog quality. While the cost to log a fibre log is the same as for a sawlog, the historical price paid for fibre logs is well below the cost to log and deliver these logs. This was true even when pulp mills were operating in the area, and this price disparity is the underlying reason behind each bust in Northwest BC’s forest sector.

But we can eliminate these busts and this uncertainty forever by supporting the use and processing of fibre-quality logs.

The type of use is less important than it covering the cost of delivering the logs to the processing facility. For example, by supporting the consumption of 300,000 m<sup>3</sup> of fibre-quality logs, we will:

- see increased processing of logs right here at home
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- see the construction of a fibre-processing facility
- see upgraded and revitalized sawmilling in the area
- provide stable and steady employment for forestry workers
- see reduced fire hazard due to the removal of woody material from the bush
- see a reduced carbon footprint by avoiding open burning and creating or substituting products
- see reduced pressure on the social safety net and social and health programs and facilities

Supporting the use and processing of fibre logs will provide long-term stability and prosperity for the people and communities in Northwest BC, including youth and aboriginal communities.

This stability will result in:

- the ability to engage in new product development
- reduced pressure to export logs
- mitigation of upcoming provincial mid-term timber supply impacts
- improved land-use planning
- long-term stability for logging and road building contractors

The outstanding question is then: how and who should support the use and processing of fibre-quality logs? Over the past decades, it has been various governments’ positions that the challenge of the fibre in Northwest BC would be solved by private business—this has been proven time and again to be a failed assumption. At other times, government interventions have also been tried, often through the Ministry of Forests (in its various forms) tweaking existing programs—to no avail—or by buying or bailing out the struggling company. These approaches also didn’t work, proving that the solution will not be simple. I suggest the next attempt at a solution needs to include both government and private aspects. We have some

very specific thoughts on how to achieve this, the details of which we can’t go into yet as we are trying to align the partners.

What we can say though, is that a big part of achieving this goal is full cost accounting; that is, to look at the complete suite of benefits (and costs) that would be affected by the processing of fibre-quality wood. For example, in addition to economic benefits like stumpage and fees, there will also be direct, indirect and induced economic benefits from things like wages, supplies, contracts and sub-contractors. There will also be economic savings from reduced demands on social and health programs, reduced fire hazard and improved silviculture conditions.

In effect, we suggest that tearing down the silos that exist between different government departments and between different levels of government will allow us to look at the full value of a solution for using the fibre-quality wood in northwest BC. Such a solution will cross over multiple sectors, departments and ministries.

The North West Loggers Association and our stakeholders have solutions. We know the industry. We know the timber and its operating challenges. What we need to make it happen will require leadership and commitment from cabinet and our elected representatives.▲

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*Rick Brouwer is a registered professional forester and lives in Terrace BC. He is the executive director of the non-profit Skeena-Nass Centre for Innovation in Resource Economics (SNCIRE), and a partner in Westland Resources Limited, and associate member of the NWLA. While Rick has lived and worked throughout the western half of BC, he grew up in the Skeena Valley and believes there is great potential for people in the northwest woods.*



## COULD COLLABORATING WITH THE FORESTRY INDUSTRY HELP SAVE CARIBOU?

In March 2019, the BC government announced a proposed strategy to recover southern mountain caribou populations through two draft agreements developed under the *Federal Species at Risk Act*. These agreements call for the protection of sensitive caribou habitat within an already depleting Timber Harvesting Land-base (THLB) in the Interior, and if passed will result in a reduction of timber available for harvest in the Mackenzie and Peace TSA, and TFL 48. With recent declines in the allowable annual cut (AAC) throughout the Interior, this caribou initiative would result in the loss of additional jobs and the possible closure of at least one sawmill.

The Caribou Recovery plan includes two agreements: a draft Section 11 agreement developed by the Federal and Provincial government to improve the caribou situation throughout the Interior; and the draft Partnership Agreement, between Canada, BC, and First Nations groups whose traditional territories overlap the range of the “central group” herds. This range stretches along the Rocky Mountains from the Alberta border, northwest beyond Chetwynd, BC, and west past Mackenzie. The latter of these two agreements has called for an interim moratorium on forestry (and other resources) activities on areas deemed to be of good caribou habitat. These areas total about 750,000 hectares, of which about 10 per cent is located within the THLB (this number does not include moratorium areas located within Canfor’s TFL 48). The volume that would be removed from the AAC, according to government experts, is about 300,000 m<sup>3</sup>/year. However industry has suggested that this number is closer to half a million. Regardless of the actual amount, the result would still have a very negative economic impact in the forestry communities that rely on this timber volume.

While most will agree with the importance of protecting BC’s southern mountain caribou, many in the forestry community feel that government and First Nations has taken the easy way out by blaming the industry for habitat loss and proposing a complete shut-down of the area. The government’s proposal is an act of passive instead of active management, and instead of maintaining our obligation to manage all species within our forests, they are proposing that the caribou be left to fend for themselves.

Foresters in BC have been actively managing for caribou for decades:

- Caribou habitat results and strategies are a common part of landscape and site level forestry plans that are diligently followed by logging contractors and licensees.
- Field workers are trained to identify and preserve areas of high lichen growth and overall good habitat.

Yet through the course of numerous public consultations and meetings between the government and interest groups, I have yet to hear it reported that forestry could be utilized as part of the solution. Instead of proposing a moratorium, government should be proposing caribou habitat strategies that involve harvesting and silviculture techniques to improve habitat. Such strategies may include:

- Conducting terrestrial and arboreal lichen surveys on the ground to better define the location of high habitat areas, movement corridors, areas with forest health issues and so on;
- Proposing “harvesting approaches that retain some canopy cover may be an effective way to promote lichen survival across a managed landscape” (Vitt, Finnegan, House 2019). Examples would include partial cut harvesting and mark-to-cut selective logging to thin out stands;

- “By lowering the stem density and opening up the canopy, partial cutting may improve the passability of a stand” (Lance, Mills 1993). The stand passability allows caribou to move easier along migration routes, to detect predators quicker and provides an easier means of escape;
- Conduct salvage operations in areas that have been devastated by mountain pine beetle, and more recently spruce beetle, to minimize the fire hazard and to increase passability in these stands that are, or will, be inundated by deadfall.

The government’s proposed plan to shut down all natural resource operations in the moratorium area seems to be the usual simplistic, passive strategy that fuels uncertainty and concern about mill closures and job losses. These fears are warranted because the forest industry has long been used as a scapegoat for all of the negative attention the Provincial and Federal governments get over environmental issues, both nationally and internationally.

Perhaps it is time for governments to look at the forest industry as part of the solution. We should employ active management where silviculture and harvesting techniques are showcased to the world as a way to save a species at risk. There are no guarantees that a moratorium would work; the failed attempt to save the spotted owl in the Pacific Northwest and the economic devastation that it caused is a perfect example. Adaptive management that includes everyone in actively contributing to protect the species just might save a few forestry jobs in the process.▲

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*Paul Schuetz has spent more than 20 years working in the Northern Interior forests with Industrial Forestry Service Ltd. His experience in timber cruising, road engineering and crew management give him unique insights into contractor issues in the north. If you have an issue you want to bring to the TLA, call Paul at 250-564-4115.*

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# STRATEGIES TO MAKE YOUR BUSINESS MORE ATTRACTIVE TO EMPLOYEES



In today's competitive job market and an industry where a large segment of the workforce is beyond the age of 50, forestry contractors are needing to do everything they possibly can to find and

employer is because they do not feel their ideals align with the management of the company. Most employees feel this is important in order to be engaged at the workplace. With proper engagement

can pilot drones from half way around the globe, maybe someday we will be able to harvest a forest from a couple hundred kilometres away. In the meantime, we must remember that young people thrive on technology and the worst thing we can do is not embrace it.

**In the past, the main attraction to a career was the almighty dollar and who paid the most. This has changed in the last few years in that employers are now commonly asked about their corporate values, contribution to the community, work-life balance and other non-compensation-based topics.**

retain great staff. On top of this, young people are less likely to enter the industry due to perceptions that it's against the environment, works around seasonal and erratic schedules and sometimes in remote areas. As a result, young workers may see the industry as a stepping stone to a different career.

As a forestry contractor, it's more important than ever to take a hard look at how the industry attracts talent.

## Money isn't everything—know what benefits people are after

In the past, the main attraction to a career was the almighty dollar and who paid the most. This has changed in the last few years in that employers are now commonly asked about their corporate values, contribution to the community, work-life balance and other non-compensation-based topics. Even though wages pay the bills, it's the other benefits that employees will compare to other employers. By competing in the wage field, you are entering a battle no one can win. Instead, focus on soft benefits such as paying for a tank of gas each month, buying a gift card for dinner with their spouse if they have been in camp lately, help with retirement planning, etc.

## Approachable management is more efficient

A common reason for people declining a job offer or leaving their current

employees are far less likely to leave. The first step is to ensure management is approachable so that employees feel they can approach management with new ideas. Efficiency is driven by new ideas but it will never happen if employees are told it's a bad idea every time they have a new idea or are approached to doing something.

## Know the investment return on training

One comment we hear consistently is "I can't afford to train a new guy." In some cases, this is true. However, the industry cannot afford not to train either. If things don't change in the next few years, we will be facing a labour shortage like we have never seen. There will be no new blood to replace the old guard and it will hurt the industry. We will be forced to turn to using more technology to replace workers in the forest. When considering training we need to realize it is a long-term investment and that we may need to train five people to find one good one.

## Embrace technology and new ideas

The next generation of forestry workers are a generation that has been raised in an era where technology is key. By continuing to embrace technology the industry may be able to overcome some of the things that detract young people from starting a forestry career. If the military

## Foster continuous improvement and development

Today, employees move around from employer to employer much more. Based on current trends young Canadians can be expected to hold roughly 10-plus jobs over the course of their career. The main reason reported is a perceived lack of opportunity to improve or develop in their current role. Gone are the days when high school graduates started into a role and stayed there until retirement. A company must foster a culture of improvement. Employees need to be encouraged to take extra training and develop new skill sets and a company should be looking at its future needs and develop a training plan to fill them.

## Final thoughts

A happy engaged employee can often be your number one recruitment tool. Sometimes a good measure is to have prospective employees spend a day with a current employee shadowing their actions. This also gives the prospective employer the chance to evaluate the potential hire based on what they do during the shadow. Remember it costs far less to keep a happy employee than it does to rehire.▲

*Chris Duncan, CPA, CA, is a Business Advisor with MNP's Private Enterprise group who specializes in real estate, construction and forestry businesses. Working out of the Duncan office and serving clients across Vancouver Island, Chris draws on his unique background to deliver industry-specific advice to help business owners stay in compliance, make informed decisions and achieve their goals. Chris can be reached at 250.748.3761 or [chris.duncan@mnp.ca](mailto:chris.duncan@mnp.ca)*

## UNDERSTANDING ADMINISTRATIVE PENALTIES: WHAT, WHY, WHEN AND HOW MUCH

WorkSafeBC prevention officers have a range of enforcement tools to ensure employers protect the health and safety of their workers, including orders, stop-work orders, stop-operations orders and administrative penalties, which are monetary fines. The focus of this article is the penalty process: when they are considered, how penalty amounts are calculated and what employers can do if they wish to appeal.

The primary purpose of a penalty is to motivate the employer who is receiving it—as well as other employers—to comply with the legislation and regulations that govern health and safety in workplaces.

The *Workers Compensation Act* (Act) sets out WorkSafeBC's mandate and authority, while both the Act and the Occupational Health and Safety Regulation (OHSR) contain legal requirements that

must be met at all workplaces under the jurisdiction of WorkSafeBC. Guidelines and policies are used to help interpret and apply the Act and OHSR.

Between 2013 and 2018, forestry employers in BC received 66 administrative penalties from WorkSafeBC, totalling \$893,619.67, not including recovery of any related claims-cost levies.

The most frequently cited violation was for WCA115(2)(e): An employer must provide to the employer's workers the information, instruction, training and supervision necessary to ensure the health and safety of those workers in carrying out their work and to ensure the health and safety of other workers at the workplace. This provision was cited in 19 instances.

The second most frequently cited violation—referenced seven times—was for OHS26.24, requiring that before a tree

is felled, all workers must be clear of the area within a two tree-length radius.

### Penalty criteria

The criteria for imposing an administrative penalty are set out in WorkSafeBC's Prevention Policy Item D12-196-1. A penalty must be considered if an employer has committed a violation for which at least one of the following applies:

- The violation resulted in a high risk of serious injury, serious illness or death.
- The employer previously violated the same, or substantially similar, sections of the Act, usually within the last three years.
- The employer intentionally committed the violation.
- The employer violated Section 177 of the Act, obstructing the reporting of an injury, illness, death, or hazardous condition.

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- The employer violated Section 186 of the Act, obstructing a WorkSafeBC officer's inspection or investigation.
- The employer violated a stop-work or stop-use order.
- WorkSafeBC considers that the circumstances warrant a penalty.

A "high risk" violation, as described in Prevention Policy Item D12-196-2, refers to one that involves a high risk of serious injury, serious illness, or death. Violations relating to certain circumstances are automatically considered high risk, and are therefore designated as such under the policy.

One of those circumstances is specific to forestry: hand falling or bucking without necessary precautions to protect workers from the tree that is being felled or bucked, or other affected trees. Examples of this include:

- failing to prepare a safe escape route before falling or bucking begins (OHSR section 26.24(2))
- failing to use proper falling procedures (OHSR section 26.24(5))
- failing to fall dangerous trees before performing work in the area

made hazardous by the dangerous tree (OHSR sections 26.11 and 26.26(4))

- brushing of standing trees where brushing can be avoided (OHSR section 26.24(5.1))
- working within a two tree-length radius of a tree being felled (OHSR section 26.24(1))

Once WorkSafeBC determines there is a basis for a penalty and that a penalty is an appropriate means of enforcement, a similar set of considerations will be applied to its calculation.

### Penalty amounts

Penalty amount calculations follow a detailed set of rules described in Prevention Policy Item D12-196-6. This policy is designed to ensure that employers of a similar size generally receive similar penalty amounts in similar cases.

First, the employer's "penalty payroll" is established, which is the employer's assessable payroll for the calendar year preceding the year in which the initiating violation, or incident, giving rise to the penalty occurred.

Where an employer has multiple fixed locations or is divisionally registered with WorkSafeBC, the penalty payroll will be based on the lowest applicable amount where the violation occurred, as between the relevant fixed location, division, or classification unit of the employer. In these cases, such a penalty payroll calculation will only be made if the employer provides the necessary applicable payroll information and sufficient evidence that it has met specific health and safety-related criteria as set out in Prevention Policy Item D12-196-6.

The "basic amount" of a penalty will then be calculated at 0.5 per cent of the penalty payroll, with a minimum amount of \$1,250 and a maximum of half the statutory maximum, which is set out in the Act and is adjusted annually. In 2019, the statutory maximum amount is \$662,102.49.

A multiplier of two will be applied to the "basic amount" each time one of the following circumstances exists: (i) the violation giving rise to the penalty is found

(Continued to page 53)



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## CONSIDERATIONS FOR RETIREMENT: NAVIGATING THE ASSIGNMENT OF REPLACEABLE OR MARKET CONTRACTS

The prospect of retirement is a significant moment in one's life, especially for a business owner. A natural concern of the business owner is receiving the highest value possible for their business.

For many owners this simply means selling their shares to a suitable buyer. Or, it could also mean selling the business assets, such as equipment, receivables, or contracts for the highest price possible. An asset sale also allows the owner to sell assets off on a piece-meal basis if necessary.

The same should be true for logging contractors looking to sell their company or assets. However, logging contractors may face some hurdles in trying to sell or assign their contracts because of forestry regulations requirements and industry dynamics, which may complicate the sale process and delay or prevent retirement as planned.

Many logging contractors typically operate under replaceable contracts, also known as "Bill 13 contracts." The replaceable contracts are a long-standing feature of the forestry sector that are intended to provide stability and sustainability to the logging contractor's operations. The *Timber Harvesting Contract and Subcontract Regulation* (the "Regulation") sets out a process for rate determination and determination of predictable allocations of work which is intended, in part, to level the playing field between the licence holders who have the exclusive right to harvest timber and the logging contractors who actually do the harvesting. However, the Regulation and—more significantly—the terms of the replaceable contracts, can impose certain restrictions on the parties.

In particular, a key contractual requirement is that the logging contractor must perform the work specified in the contract throughout its term. If it doesn't perform the work, then subject to any waivers or agreement between the contractor and licence holder, the contractor

will be considered in breach of the contract and potentially liable for any damages the licence holder suffers as a result of such breach. In addition, the licence holder could terminate the contract or allow the contract to expire without offering a replacement contract. However, if the contractor has performed the work satisfactorily, the licence holder must, prior to the expiration of the current contract, offer the logging contractor a replacement contract on substantially the same terms as before. The requirement that the licence holder must offer a replacement contract is what gives replaceable contracts their name and provides contractors with a sustainable business, which is necessary to invest in equipment, training, and other cash outlays to maintain the business.

A contractor that is planning to retire has some options. These include retiring around the time the current replacement contract will expire and refusing to accept a new replacement contract at that time. Of course, doing this means that the contract reverts back to the licence holder without further compensation to the contractor. Alternatively, the contractor seeking to retire may wish to simply assign their replaceable contract. In this case, the contractor could sell the contract and assign it to another contractor. However, the Regulation stipulates that the contractor must obtain the prior consent of the licence holder before any of the contractor's interests in the contract may be assigned. Generally, the requirement to obtain the consent of another party to an assignment of a contract is not in itself unusual. However, licence holders can and often impose conditions which the contractor must satisfy in order to gain the required consent. Accordingly, the licence holder, through the imposition of such conditions for consent, can effectively limit when and to whom the contractor may transfer or assign its contract, which may reduce the pool of potential

purchasers and assignees. These conditions may involve, but are not limited to:

- the experience of the assignee and its directors, officers and employees;
- the financial status of the assignee;
- the type, age and amount of equipment;
- whether the assignee already holds a contract in the licence area; and
- the assignee's relationship with First Nations.

However, the requirement of the logging contractor to obtain the consent of the licence holder does not amount to a complete veto. The Regulation provides that the licence holder cannot unreasonably withhold its consent, and the courts have clarified that this means a licence holder can only withhold consent if it is reasonable in light of the commercial realities of the marketplace, or the economic impact on the licence holder of the assignment, or the financial capabilities and capacity of proposed assignee to perform the work. Therefore, if a logging contractor is able to find a purchaser that is roughly comparable to or exceed the logging contractor's resources and experience, and has the capacity to assume the work, it is unlikely that the licence holder will be able to prevent the assignment.

Another option is for the logging contractor to simply sell the shares of the company outright rather than assign the replaceable contract specifically. By selling the shares of the company, the contractor can recover the value of the business, including the market value of the replaceable contract. The buyer in turn may, subject to the terms of the purchase and sale agreement, continue to do business under the existing company. However, even in such a sale, it may still be necessary for the contractor to obtain the consent of the licence holder before it can proceed with the sale of the shares. While the Regulation itself

(Continued to page 45)

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## PELLET PRODUCTION IN BC

The pellet industry in the Interior has grown rapidly in the past 10 years, and as of 2018, 13 pellet plants in BC have a combined capacity of over 1.7 million tonnes per year.

Total Canadian wood pellet production was about 2.7 million tonnes in 2017 representing about 9 per cent of the 32 million tonnes of global production. Growth in pellet production has averaged about 14 per cent for each of the past 10 years in Canada with the majority of production based in BC.

Pellets are fundamentally used for residential and industrial heating. Residential use is by way of pellet stoves or pellet fueled central heating systems where consumers purchase pellets typically by the bag. Industrial heating applications include large scale power boilers used in industrial and municipal applications. This can include using pellets as the sole fuel source or in applications where they are co-fired (i.e. burned along with other fuels such as coal). These industrial applications typically consume pellets purchased in bulk.

On a consumption basis, Europe is by far the largest consumer having 77 per cent of the total global market demand where the main uses are for power generation and heating of residential and commercial buildings.

Canada has relatively poor consumption statistics with an estimated domestic market of a mere 250-300,000 tonnes annually. Pellets are used domestically for power generation in Ontario and for residential and commercial heating mainly in areas off the natural gas grid. Pellet stoves dominate the domestic market, but boiler installations are increasing, especially in the North West Territories and

Atlantic Canada. And, with a significant cost advantage over the use of other fuel types (wood pellets at \$20.76 per gigajoule in Ontario vs heating oil at \$27.55 or electricity at \$42.78), it is no wonder many people are turning to pellets.

Canadian exports of wood pellets have grown from about 1.8 million tonnes of annual production in 2014 to 2.4 million tonnes in 2017 with a projected export volume of 3.6 million tonnes by 2020. And while the United Kingdom currently dominates the Canadian export market at over 60 per cent of all exports, Japan imports about 15 per cent of Canadian production (primarily from BC).

Japanese use of pellets is growing exponentially with current demand in the 6 to 8 million tonne range. However, growth expectations suggest 15 to 18 million tonnes of consumption could be possible by 2020. This is as a result of the Japanese policy changes that favour the use of wood pellets and other renewable energy sources over non-renewables and alternative sources in the wake of the 2011 Fukushima disaster and in an effort to meet national CO2 emission targets by 2030. This growth creates a significant opportunity for BC producers given it is in this market that Canada is already a leading supplier with Canadian imports representing 69 per cent of total imports in 2017.

Prices for pellets are as variable as the markets where they are consumed, how they are delivered (bulk or bag) and from where they are produced given freight is a large component of the pellet industry cost structure. The Argus Industrial Wood Pellet Index showed industrial pellet prices of \$210 USD per tonne CIIF (cost including insurance and freight)

delivered to a port in north west Europe. Given Europe's dominance in the consumption market, this is a commonly used benchmark for understanding the economics of BC produced pellets.

Pellets are made from a variety of wood sources including sawmill residual sawdust and shavings, planer sawdust, wood chip fines and other primary wood product generated residual fine fibres. However, increasingly, the use of wood waste from post-harvest roadside residual sources and occasionally chips produced from whole logs are a key source of fibre for some BC plants.

With the new policy direction coming from government on the Coast (and soon to come to the Interior) whereby a key goal is to reduce post-harvest wood waste and encourage that wood to come to market, pellet plants may be a key beneficiary. With Japanese demand growing and BC already well positioned in this market, the government policy initiative and growing market potential seems to be aligned and growth in the BC pellet industry could occur.▲

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*Jim Girvan's 40-year career includes work in forestry consulting, pulp and paper fibre management, commercial banking and as an industry advocate with the BC Truck Loggers Association. Jim is recognized as an authority in timber supply, economic and statistical analysis and forecasting as it relates to the forest sector. With a degree in forestry and an MBA, Jim combines his extensive field experience with financial and analytical training to provide support in the areas of timber supply, fibre flow modeling and analysis, industry forecasting, statistical analysis and forest policy.*

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## BCFSC FUNDED SAFETY APP TESTED IN FIELD WITH SILVICULTURE CONTRACTORS

The BC Forest Safety Council (BCFSC), in partnership with the BC Safe Forestry Program Strategic Advisory Committee (SAC) and a technology vendor, EHS Analytics, have started testing an advanced electronic safety reporting system, which in time could be rolled out to the whole of industry.

The new system, which was made available to all SAC member companies at no charge to test, is intended to make documenting and reporting safety far easier and more efficient. Most importantly, it can provide forestry contractors and licensees with tools for viewing their safety performance and how it compares to the rest of industry. As at mid-April there were 59 organizations using the system, with 1,979 people signed in and 2,234 incidents recorded.

The project started more than two years ago when the SAC, representing a

cross-section of BC forestry and silviculture contractors and licensees, discussed the absence in the sector of meaningful data to proactively and accurately assess leading indicators of injuries and near misses that could assist employers in better preventing these occurrences. The result was the development of a safety reporting app and analytics tool for SAC members, designed by them.

The mobile and web-based tools allow for capturing and coordinating safety records and activities for users as well as providing them with a simple and informative way of assessing performance through a visual dashboard.

The early adopter contractors are pleased with the results, the ease of use of the technology, the privacy and security features.

Zanzibar Holding Ltd.'s Sylvia Fenwick-Wilson said: "This initiative has helped us modernize our safety data recording and analysis. We can now capture our inci-

As at mid-April, 59 forestry contractors and other organizations had signed up to use the app and over 2,200 incidents had been reported using the app.



Photo courtesy of BCFSC

dents and investigations in the field at the cutblocks and camps, with the ability to share those immediately throughout the company. Reporting to the companies we work for is now easier and we have better ability to analyse our performance alongside our peers, with the goal of making things safer for our workers."

Golden Fire Jumper Ltd.'s Max Jolin said that they had been using the app "for a while and had great success. The reporting is easier than before and helps us maintain



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our own records. We can then use this information to help guide us in making our work safer.”

Access to EHS Analytics is paid for by the BCFSC, and contractors or licensees may use one or both parts as follows:

1. They can use the mobile app and web-based forms, called “EHS Forms” to record all their injury, incident, and close call records. The system provides silviculture-tailored forms that can be completed online or offline. The mobile app functions online and offline and can be installed on most smart phones or tablets. The web-app can be accessed online for laptops or mobile devices as well. The forms automatically synchronize with a cloud database across all devices and provide updated reporting summaries for rapid management review. Completed incidents can easily be reported via email to necessary parties like a licensee, and information can be transferred into a WorkSafeBC Form 7 report and submitted electronically if needed. In order to review their data and performance, companies that use the app have access to dashboards and summary tools for analysing safety.

2. For those contractors or other employers with their own existing reporting systems, use of EHS Forms is not required. Employers can connect their existing systems to EHS Analytics and automatically sync records to a cloud database and gain access to the full suite of analytical tools and dashboards. There are many firms in the forestry industry already linked to the EHS Analytics' system this way. EHS Analytics' is compatible with most leading safety management systems.

All contractors and other employers, whether using the EHS Forms or those who link existing systems to EHS can use the dashboard and its full suite of tools. EHS Analytics' users are able to instantly view and analyse incident report data for their own company and, should they choose to, share and compare their activity with a pool of data based on peers in their sector. Employers that generate only a small number of reports are able to view their incidents and close calls as part of a larger field of data.

As employers take further steps to improve their safety programs, solid data analysis will be increasingly valuable for assessing the success of their initiatives. The use of electronic reporting tools is

becoming the norm in forestry and other sectors, and more industries are moving towards collaborative data-sharing systems that help them learn from each others' experiences. These tools are evolving rapidly, and EHS Analytics is providing a way for companies to access advanced safety management strategies, including enhanced support for claims management and comprehensive data for program review and improvement.

These systems gain power and value with the number of companies that join into the data-collaboration system, and there is an opportunity for employers to make the data they are already required to collect work for them.

The BCFSC will evaluate how this system has worked for the SAC employers later in fall 2019, and then look at expanding and configuring the platform to the other sectors within forestry who could also benefit.▲

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*Cherie Whelan has been the Director of SAFE Companies of BC Forestry Safety since 2016 and brings more than 25 years of health and safety experience from both the public and private sectors.*

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## FOREST COMMUNITY: MACKENZIE

By Robin Brunet

Like all great BC logging towns, Mackenzie is surrounded by wood. Literally. To the point where although this community of 3,700 people has diversified its economy, the forests remain its key source of prosperity.

Being nestled within this resource also has its challenges, as exemplified by the provincial government's proposed Caribou Recovery Agreement (which will guard a portion of the land base against not only industrial activity but could also potentially impact recreational snowmobile access), the threat of wildfires (which last year closed Highway 39, Mackenzie's only means of evacuation) and the large number of logs

leaving the Mackenzie Timber Supply area to be processed in other communities.

But if outsiders perceive Mackenzie as being vulnerable to the hazards of 21st century living, the response of its mayor, Joan Atkinson, is "We are a resilient community and I'm confident we'll be able to deal with whatever comes our way."

Atkinson, a former Ontarian who moved to Mackenzie in 1997 due to her husband's work, isn't speaking as a politician, but instead as someone who fell in love with the community early on. "What struck me the most about Mackenzie besides its natural beauty was that everyone looks out for each

other," she says. "That remains our great strength today. It's led to collaborations that have benefitted our community, and it's made us attractive to new residents seeking a simpler—and far more affordable—way of life."

A great example of a successful business collaboration is the McLeod Lake Mackenzie Community Forest, a partnership between the McLeod Lake Indian Band and the district of Mackenzie, which in the last three years has generated \$3.2 million in shareholder equity, evenly distributed between the two parties. "The Band used their share to develop infrastructure, and Mackenzie's share

helped to partially fund the upgrades to our recreation centre, which is a community hub,” says Atkinson. “It houses an aquatic centre, weight and cardio rooms, ice arena, climbing wall, child’s play area, community hall and our public library.”

Another great strength of Mackenzie compared to other locales is that it’s young, with a corresponding vitality that suggests its best years may still lie ahead. The town (strictly speaking, a district municipality) came about after the provincial forest service in the early 1960s built a road from ‘the junction’ (where Highway 97 meets Highway 39) to Finlay Forks. Given the sudden access to abundant forest resources and the availability of local power, BC Forest Products and Alexandra Forest Industries Ltd. announced in 1964 that they would build a \$60 million dollar forestry complex in the region, with pulp mills, sawmills, and other logging operations.

As part of this development, Mackenzie was incorporated in 1966 under the *Instant Town Act* by Alexandra Forest Industries (later acquired by BC Forest Products), and Cattermole Timber (which later partnered with Jujo Paper in 1970 to create Finlay Forest Industries). The initial purpose of the community was simply to house workers.

Today, Canfor, Conifex and Paper Excellence are Mackenzie’s largest employers, providing over 800 well-paid jobs to Mackenzie residents. “The community also benefits from the operation of smaller sawmills, and on the ground from loggers, log haul drivers, forest professionals and seasonal silviculturalists,” says Atkinson.

But Mackenzie in 2019 is hardly just an industry town, even though it still prominently displays the world’s largest tree crusher (a 175-ton machine that was used to clear non-merchantable timber from the Rocky Mountain Trench during the building of the W.A.C. Bennett Dam). As with so many rural BC communities, it is becoming a tourist destination, and especially a winter playground, with ice fishing, downhill skiing, snowshoeing, and nearly forty kilometres of quiet, groomed cross-country ski trails all available within the town limits.

Mackenzie’s ability to weather hard times became most apparent during the economic downturn of 2008, which caused the town’s then biggest employer,

AbitibiBowater Inc., to close two sawmills and a paper mill, wiping out 560 jobs. The pulp mill owned by Pope & Talbot went bankrupt, throwing another 230 people out of work, and Mackenzie soon earned headlines for being Ground Zero of the province’s economic woes.

Atkinson recalls, “It was a devastating time, but we picked ourselves up, and in some ways re-invented ourselves. A perfect example of this is the Conifex (formerly AbitibiBowater) newsprint facility, which closed during the downturn: it was converted into a biomass power plant utilizing existing infrastructure. The biomass plant consumes residual and former waste products, which means full optimization of sawlog fibre.”

Paper Excellence engaged law firm Miller Titerle + Company to make a deal that would bring the Mackenzie pulp mill back to life. The facility’s original owner

## **Mackenzie faces new challenges, one of the foremost being the agreement between BC and Ottawa under Section 11 of Canada’s *Species at Risk Act* that applies to all southern mountain caribou in the province.**

had become insolvent in 2008, and a few former employees kept the mill’s boiler running over the winter in order to preserve its integrity.

MT+Co co-founder Jim Titerle notes that these employees purchased a front end loader and used it to deliver wood chips to the boiler, all without pay: “These unsung heroes saved the mill and their town.” Paper Excellence bought the mill in 2010.

While the downturn is now just an unpleasant memory, Mackenzie faces new challenges, one of the foremost being the agreement between BC and Ottawa under Section 11 of Canada’s *Species at Risk Act* that applies to all southern mountain caribou in the province. The agreement outlines some immediate recovery measures for South Selkirk and South Purcell herds, as well as a three-year recovery plan.

Under this plan, it has been determined that 100,000 cubic metres will be removed from the Mackenzie Timber Supply Areas’ Annual Allowable Cut of 4.5 million cubic metres (which, incidentally, is widely expected to be downgraded to three million after assessments are completed this year, due to pine beetle-infested wood—which led to the AAC

being increased in 2014—having largely been processed). “It’s still unclear exactly what will be accessible and what will be off-limits, but the biggest problem we face is lack of trust between government and the communities this initiative will affect,” says Atkinson.

As leaders of numerous regions gird themselves to accommodate the Caribou initiative, Mackenzie is taking a pro-active approach to solving another issue. “The wildfire south of our community last June that virtually cut off the only route out of Mackenzie, identified a potential risk for all residents,” says Atkinson. “Fortunately we were in the final stages of updating our Community Wildfire Protection Plan (CWPP), so we were ready to tackle this issue.

“In late August, the Mackenzie Wildfire Advisory Committee was formed, which has identified the need to work on the

reduction of fuels on either side of the highway leading out of town. The Community Forest is funding the hiring of a wildfire coordinator who will work on implementing the 37 recommendations of the CWPP, which will reduce the risk of our town being devastated by any future fires.”

Having already proven their resiliency a decade ago, Mackenzie residents are confident that their prosperity will continue—and unlike in the past, they have economic diversification to support them, including Centerra Gold’s Mount Milligan mine employing several dozen people, and an emerging tourism industry. “Our community is a great and safe place to live, work and play, with affordable housing, good paying jobs and incredible recreational opportunities,” says Atkinson. “Currently, 35 percent of our tax dollars are reinvested in community services to help make our town more appealing to newcomers who are considering living and working here.”


The mayor concludes, “We’ve been through a lot, and being a small rural resource community means we will continue to face challenges. Issues will evolve, but our determination will not.”▲

# WORK TO BE DONE

## CFI'S Second Contractor Survey

### Unearths More Roadblocks

By Maria Church



Three years ago Canadian Forest Industries (CFI) and woodbusiness.ca shared results from our inaugural contractor survey that found Canadian logging contractors continue to struggle with logging rates, profitability and succession planning. To continue the conversation and record industry trends, last year we followed up with a second survey conducted in June 2018 by independent research firm Bramm & Associates.

The survey generated over 275 replies to a detailed list of questions. Respondents were distributed according to the geographic breakdown of the forest industry, with 40 per cent in Western Canada, 25 per cent in Quebec, and the rest found in Ontario, Atlantic Canada, and central Canada. Within BC responses were split between the BC Coast and Interior.

By comparing results from both surveys, it's clear Canada's contractors have roadblocks ahead of them if they are to have healthy, profitable futures in the industry.

In 2016 contractors in BC stood out as the area of Canada where mill relations had soured, rates were stagnant and profitability was in question. Shortly after CFI's 2016 survey research was published, the BC government launched a Logging Contractor Sustainability Review. The report, completed and published in the spring of 2018, outlines 13 proposals that aim to improve mill and contractor relations through best practices.

Our 2018 Contractor Survey was conducted in June, a month after the review was made public.

The most recent survey results show that while Coastal loggers continue to have concerns about the future of their industry, there have also been some positive trends to report in the region. It is possible the somewhat improved situation on the Coast is a response to the issues raised by the 2016 survey and the formal sustainability review.

And while there are some positive initial signs in the BC Interior, digging

through the 2018 survey results reveals significant discontent among loggers there. Rates may have increased, but so have operational costs, which has led to lower profits and unhappy contractors.

BC respondents, in general, reported the following:

#### Rates and profits

Across Canada logging rates are a mixed bag. Compared to 2016, more contractors report stagnant rates over the past five years however, fewer report a rate drop. There was a small bump in the percentage reporting a rate increase in 2018, and it's not unlikely the source of the increase is BC.

Unlike in 2016, Coastal contractors in 2018 fared better than the national average. In total 44 per cent of Canadian contractors have seen a rate increase; on the coast that number jumps to 58 per cent and in the Interior 63 per cent. This situation is remarkably better than in Atlantic Canada where nearly half have seen no



rate increase, and just 28 per cent an increase of 5 per cent or less.

The BC Interior also takes the win for the largest percentage of loggers seeing increases of greater than 5 per cent (19% say they've increased more than 5% and another 7% report that rates have increased more than 10%). Just over a third of Interior loggers have seen their rates stagnate or decrease, well below the national average.

Yet it seems the rate increases are not offsetting costs for Interior contractors, who are among the most likely to report dismal profits last year. Thirty five per cent of companies say they made no profit in 2017, while another 43 per cent say their profit was 5 per cent or less. Just 20 per cent made 6 per cent or higher. This is a significant slide from our 2016 results, when Interior contractors were among the most profitable.

The BC Coast seems to be in the middle of the pack when it comes to profits, with 54 per cent of its loggers reporting

a profit between 1 and 5 per cent, 16 per cent reporting 6 per cent or higher, and 23 per cent claiming no profit. This is a major improvement from three years ago when the BC Coast fared poorly, besting only Ontario's profit margins.

It's unsurprising then to see that BC contractors are more likely to have seen cost centres increase significantly compared to the national average, particularly when it comes to machinery purchases, parts and service, and fuel costs. Labour, hauling, supervision and insurance costs were also above average.

#### **Operator pay**

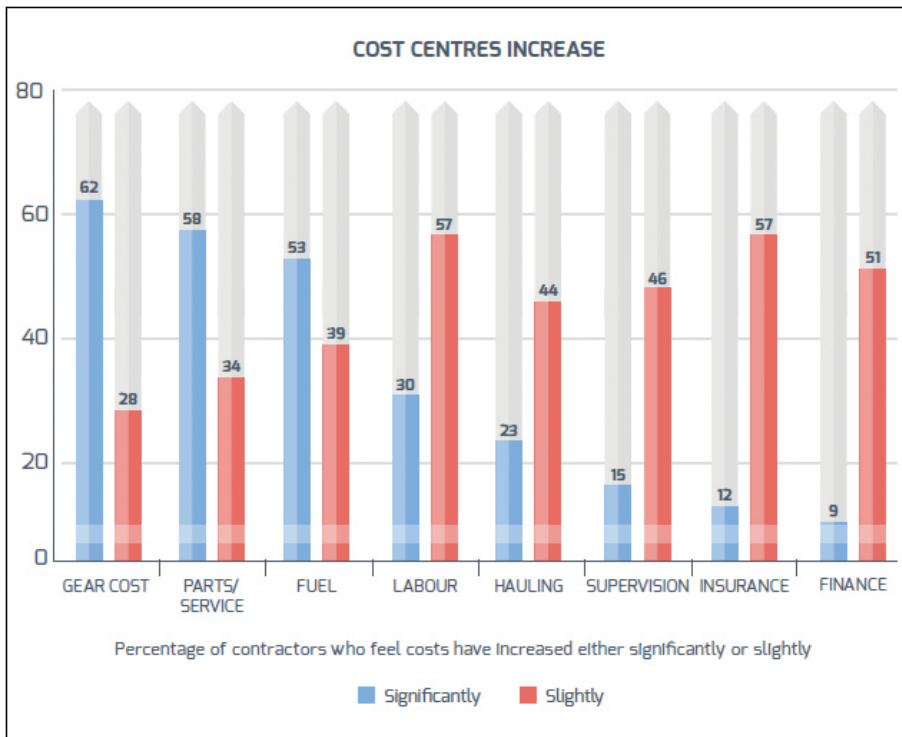
The competition for labour rages on in Western Canada, the results of which are reflected in our survey results. Coastal loggers continue to pay the highest operator rates in Canada, followed by the BC Interior and Alberta. While the average logging operator in Canada earns \$29 an hour, the average on the Coast is \$37 and the Interior is

\$34. Just 8 per cent of Coastal contractors are paying \$30 an hour or less; in the BC Interior and Alberta where competition is similarly fierce, that number jumps to 41 and 43 per cent respectively. Any further east and you won't find any contractors paying over \$30 an hour.

Similar to our 2016 results, BC contractors are more likely to offer benefits than the national average, with an overwhelming 96 per cent of Interior contractors and 85 per cent of Coastal contractors offering some form of benefits to employees.

#### **Company size**

Compared to their Western regional counterparts, BC Coastal loggers are on the smaller side, although they run large next to contractors in Quebec and Atlantic Canada. The BC Interior sits in the middle of the pack among the western regions when it comes to company sizes, revenues and volumes.



The estimated average annual volume for Coastal companies is 163,000 m<sup>3</sup>, less than half of the estimated average output of Alberta contractors at 398,000 m<sup>3</sup>. The Interior sits comfortably in the middle at 237,000 m<sup>3</sup>. These numbers are not surprising given the unique species and challenges of Coastal logging. With more hand falling required on the Coast, it also helps explain why Coastal loggers require less than half the machines used by Interior and Alberta contractors where logging is entirely mechanized.

These factors add up to average revenues higher than the national average, but lower than their Western Canada counterparts. Coastal contractors make an estimated average annual revenue of \$5.3 million, whereas the Interior brings in \$7 million and Alberta \$6.9. The Canadian average is \$4.5 million.

### Contractor age

BC is one of three regions where the average contractor age is over 50, joined by Atlantic Canada and Ontario. On the BC Coast, 44 per cent are 56 or older, while 52 per cent are between 36 and 55. Just 4 per cent are under 35, which is less than half that demographic reported in the 2016 survey. Twenty three per

cent of Interior contractors are over 65, which is well above the national average of 12 per cent. Another 18 per cent are 56 to 65, and another 30 per cent are 46 to 55. While the numbers are not surprising given the significant investment

**BC contractors are still among the most concerned about improved co-operation with government and forest companies.**

needed to take over a logging company, it is a problematic trend that fewer young people are working as contractors in BC than just three years ago.

Something needs to give if these established contractors are to continue operating in BC. Nearly half of BC contractors (46% on the Coast and 47% in the Interior) say they will be out of the industry in five years or less. Without a succession plan in place, these companies could be facing the same fate as W.D. Moore Logging, a 90-year-old Vancouver Island contractor that made news in 2017 after calling it quits.

### Succession planning

Unfortunately, it appears more contractors than ever have no real plan for their business after they retire or quit the

industry. All told, 40 per cent of Canadian contractors admit they have no plan for the business, up 15 per cent from the same response in 2016.

The BC Coast is just below the national average for that response at 39 per cent. Another 15 per cent expect their children to take over; 23 per cent hope to sell to another contractor; and 15 per cent are resigned to auctioning their equipment and shutting down the business.

Just 23 per cent of Interior contractors have no plan for succession, which, when compared to the national average of 40 per cent, is a good sign. Interior loggers are the most likely to expect their children to assume control of the business, at 35 per cent. They also have the highest percentage of respondents who say managers are interested or planning to take over.

### Future

In spite of the progress made since 2016 to aid communication between the licensees and contractors, and the relative improvements to profitability compared to the rest of Canada, BC contractors are still among the most concerned about improved co-operation with govern-

ment and forest companies. Close to 85 per cent of them rate this as the greatest opportunity to improve operations and/or profitability, compared to the 68 per cent national average. Improving logging rates, addressing the cost of machinery and attracting employees are also stand-out concerns.

These survey results show there is more work to be done by all parties—contractors, mills and governments—if we are to continue seeing healthy loggers in BC in five years.

For a copy of the 2018 *CFI Contractor Survey* report, please email [mchurch@annexbusinessmedia.com](mailto:mchurch@annexbusinessmedia.com).▲

# CAN BC MEET ITS TREE PLANTING TARGETS?

By Jim Girvan

In 2017, our provincial and federal governments implemented a climate change strategy relying in large part on carbon sequestration through increased reforestation in BC. With that they signed a federal/provincial forest restoration agreement as part of the federal Low Carbon Economy Fund.

This initiative suggests that the reforestation sector is now on track for tree planting numbers to rise to over 300 million seedlings by 2020 and 2021, levels not seen for decades. The increased demand for reforestation has also been pushed by two consecutive years of substantial plantation losses due to wildfires in BC.

In the Winter 2019 issue of *Truck LoggerBC (Tree Planting: An Industry at Risk?)*, John Betts, executive director of the Western Forestry Contractors Association (WFCA) detailed the potential stumbling blocks to achieve potentially record-setting seedling growth and planting numbers, which included: the increase in the provincial minimum wage; attracting an ongoing tree planting workforce; and the reality that contract

tree planting prices have not kept up with inflation. The message was clear, contract tree planting prices would have to rise in order to ensure a suitable workforce capable of planting record numbers of trees on an ongoing basis.

“For the 2019 planting season, the province has about 270 million trees in the queue,” notes Betts. However, looking forward to 2020 sowing requests suggest planting numbers will rise to about 308 million or a 15 per cent increase over this year. With nursery capacity limited, but keeping pace with sowing requests, the industry may have to be creative in order to ensure we can grow increasing numbers of seedlings to meet the climate change initiative goals.

“There was a significant amount of expansion in the nursery sector for 2019, but it has been a challenge to entice nurseries to invest in expansion given how uncertain the length of the forest carbon program will be,” notes Rob Miller of PRT, North America’s largest producer of container-grown forest seedlings. Even with expansion, nurseries report several customers could not find nursery space





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this year, so demand numbers could rise even more in 2020. Like the planting sector, labour recruitment has been a challenge for nursery operators and in 2019 wage rates will need to rise in order to attract enough seasonal labour to ensure the crop is harvested successfully. Out of province and contract labour sources will also be pursued. As a result, tree prices have been rising in the face of this challenge.

So as the planting season unfolds in BC, how did the planting contractors fare with respect to rates and recruitment?

Timo Scheiber, CEO at Brinkman Reforestation Ltd. is well versed in the tree planting industry given they operate in locations across Canada. For 2018, Brinkman managed to secure a workforce sufficient to complete all contracted work but has concerns for the future. "Yes, contract tree planting rates increased for 2019 and that will help. Across the industry, someone who made \$250 a day in 2018 might make \$285 in 2019 in the same conditions, although accounting for inflation, we are still falling short of wages that were earned 20 years ago.

I remain concerned that planting 308 million trees in BC in 2020 will be a tall order even with the positive increases to planting prices projected for 2019. I am sure it will draw some (new) people, but will it draw the extra 600 planting recruits we need to meet the 308 million tree target? Improved earnings will help, but they might not be sufficient to start the social media fire the industry needs to drive recruiting for the increased 2020 planting season. I am hopeful, but other solutions like further earnings increases and extending the season are probably needed."

Crawford Young, senior operations manager of Spectrum Resource Group in Prince George concurs with Scheiber and also saw contract planting rates go up this year, which will allow them to pass along some of that as improvements to piecework rates paid to planters.

Despite the rate improvements however, hiring for the 2019 season remained tenuous and at the time of writing, Young was still looking for a few new recruits to fill their roster when they started planting in early May. "Hiring is typically done around Christmas and often times ahead of final contract negotiations for

many projects," notes Young. "As a result, it is difficult to attract new recruits without committing to final prices and what we will be paying planters."

The perception of the industry and the money that can be made is the key driver that makes people decide to plant trees in the first place, based on surveys Spectrum does of their workforce. After they decide to plant for the season, they then look for the contractor that suits them the best. "Money is important, but camp quality and location play a part in it. The bottom line is that if people don't think that they can make big bucks, they won't even start to look at planting as a summer job," notes Young. "If a planter does well in one year, they tend to be a bit more loyal, but the workforce is still mobile and competition is strong for veteran planters."

Experienced people are always being poached and some that are hired for a summer plant just don't show up as they may take a couple of offers and show up at the contractor who is offering the best rates.

"If the industry finalized planting contracts in the fall, it would give us more certainty in hiring and recruitment," says Young. Spectrum also believes that multi-year contracts would help them plan for labour and camp location. "Certainty allows us to refine our business model and allow for better planning so as to maintain our high quality of service."

"We are always training new people. There are simply not enough experienced planters to go around as tree numbers are rising every year. This reality has to be a fundamental part of any business model," adds Young.

Young also agrees that attracting recruits next year may be tough if the perception of the industry does not remain positive. "If we don't invest in the piece work prices paid to planters as an industry, it will be difficult to attract new recruits next year. Companies must follow through with wage improvements year over year or the word gets out that it is simply not worth it."

The WFCMA made a variety of recommendations to government and industry as the forecast growth in planting numbers materialized, recommendations

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that remain relevant if we have any chance of hitting the 2020 and beyond tree planting targets.

On the nursery side, strategies to grow more seedlings in order to address the short-term demand for trees spurred by the carbon strategy include: tendering earlier so growers can consider expansion; growing smaller cavity trees; reducing tree specifications to increase yields; and growing more open compound pine and shelter house spruce and Douglas fir. Where increased long-term capacity is needed, multi-year contracts would help support the investment in greenhouses.

On the tree planting side, the main recommendations pertain to taking the pressure off the spring planting window whenever possible. “We won’t succeed if we try to plant all our seedlings in May,” cautions Betts. “We need to start planting trees in other windows like the fall or summer. Fall planting especially may become a favourable option as a remedy to the drought losses we are seeing repeated on some sites in the Interior.” Ironically the summer

plant option creates a bottleneck at the nurseries due to the narrow window for harvest and delivery of livestock.

Other recommendations to address the potential planting bottleneck include taking a more flexible approach to getting projects done. “The typical June 21 deadline for spring planting may in some cases be an artificial, if not impractical, milestone, especially when spring gets off to a late start,” warns Betts.

“In the end, pressing contractors who may be short of labour to high rates of production may have the unintended consequence of shortening the planting season workdays for some workers. This reduces the chances of making the kind of money they need in order to participate in this kind of seasonal work,” cautions Betts.

On the worker retention front, multi-year planting contracts would give contractors more certainty about their future prospects and allow them better opportunities to recruit, train and retain competent workers for longer terms. “Everyone knows that keeping seasonal workers

coming back year after year will increase the capacity of the sector as a whole,” notes Betts.

To make this work, to ensure we grow and get the trees into the ground required to meet climate targets, improved contractor/licensee cooperation and some give and take around the execution of growing and silviculture contracts will increase the overall chances of the provincial program succeeding. This should also include better cooperation between government and the licensees to improve seedling demand forecasts and to prioritize projects to ensure carbon trees are grown and planted within the prescribed funding window. This approach could help level out peak demand over a longer period, easing workforce issues and making it more attractive to invest in new growing space. Implementation of all of these strategies could create a win/win for all stakeholders in the industry.▲

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# SOMETHING FOR EVERYONE AT ANNUAL ILA CONFERENCE

By Jackie Pearase



Industry representatives, trade show vendors, sponsors or forest minister—there was something for everyone at the 61st annual Interior Logging Association Conference and Trade Show in Kamloops May 2-4.

The veracity of the 2019 theme, "Our Strength...Is Your Membership," was demonstrated with strong attendance at Friday's annual general meeting and the lunch, business and learning that followed.

Minister of Forests, Lands, Natural Resource Operations and Rural Development Doug Donaldson generated interest and applause with his speech after lunch

for a crowd of ILA members, government representatives and industry stakeholders.

Topics of key interest included the Forest Service Providers Compensation Fund; amending the *Forest and Range Practices Act* with Bill 22; progress of the logging contractor sustainability review; and a government-led forest renewal process for the Interior similar to the Coast Forest Sector Revitalization Initiative.

Donaldson announced at the conference an additional \$250,000 for the Forest Service Providers Compensation Fund to provide financial assistance to forestry

contractors and service providers adversely affected by licensee insolvency.

"To date, the fund has provided \$484,000 in distributions to three small business insolvencies since its inception and with this 2019 grant, there's over \$8.4 million remaining available. So we've got your backs on that one," said Donaldson to applause.

The audience also showed appreciation for his comments on Bill 22, which received second reading in the BC Legislature on May 2.

Donaldson said the amended *Forest Act* will provide public accessibility and



transparency around forest stewardship plans and foster a diverse forest industry that can address some of its new and ongoing challenges.

He said it is unwise to renew multiple year forest tenures, increase concentration of tenure and swap tenures without first considering changes in the forest over the past decade and what is in the best public interest.

“We want to make sure people know that businesses will look after businesses as it should be, but government’s role is to look after the broader public interest when it comes to the publicly owned forests. It’s

a recognition that increased concentration has really created some of the situations that we see: the downward trend in employment and a downward trend of domestic manufacturing,” he explained. “It’s an initiative to try to bring more public oversight and public control around a publicly held natural resource: our forests.”

The provincial government’s Logging Contractor Sustainability Review, launched in January 2017 and completed January 2018, resulted in 13 recommendations around improving competitiveness of logging contractors and licensees.

“I understand ministry staff are working closely with the ILA and other associations and licensees on the changes to the Timber Harvesting Contractor and Sub-contractor Regulation. I know that was very important to you,” Donaldson said. “The changes are needed to make the new structure efficient, transparent and durable. We’re working on that and working to finish that quickly.”

He said the changes are designed to improve transparency around rate development and provide an effective and timely process to resolve disputes between parties.



“It represents fundamental change so it’s important that all parties work collaboratively to get this right,” he added.

An Interior forest policy strategy to help address challenges drew an enthusiastic response.

Donaldson said the Interior forest sector faces a shrinking supply from beetle kill, the impact of wildfire, US lumber trade action and declining lumber prices, which negatively impacts the 50,000 high-wage harvesting, processing and

manufacturing jobs the Interior forest industry supports.

“To address these challenges and secure and restore BC forestry jobs, we need to take a different approach,” he noted. “We’ll be engaging with First Nations, industry, labour, communities and stakeholders to shape new policies that support retrieving maximum value, not volume, from our forests. That’s the future in the Interior.”

Increasing the use of mass timber is part of the solution, with the government committing \$20 billion over three years for public infrastructure projects using mass timber to help drive the domestic market, increase investment and tap into markets outside BC.

Donaldson said the Interior forest policy strategy process includes six months of extensive consultation and is linked to the Interior TSA coalition process that will develop a TSA-level vision for industry competitiveness and community economic stability.

“It’s fundamental that we have a high degree of integration and collaboration on these initiatives. My hope is for strong engagement from all First Nations, licensees, local governments, labour leaders, various stakeholders and associations like yourselves on this opportunity. It’s a real opportunity to shape the future of the Interior industry and the communities it supports.”

Donaldson also touched on the impact wildfire has had on the province, particularly in the past two years, and ongoing efforts by the government to not only fight fires on the ground but to take preventative actions like prescribed burns



and wildfire risk reduction projects with local governments and First Nations.

Percy Guichon, at the event representing Tsi Del Del Enterprises Ltd., was one of many who spoke with the minister after lunch.

Guichon wanted to highlight his concerns about the Caribou Recovery Strategy and the future AAC reduction, but also to put his support behind plans for the Interior.

"I'm interested in the Interior revitalization project and we'd love to be a part of it," Guichon stated. "The government needs to really go out and reach out to everybody that's going to be impacted by their decisions. They have to be knocking on their door right up front, not at the end of the project."

The Interior Safety Conference on Thursday was enough to pique the interest of first-time conference attendee Norman Druck, Timber Lands Manager at Weyerhaeuser.

"I thought the speakers there were world class. I found it so valuable that I think we're going to participate more next year," Druck noted.

He was impressed with the presence of the Forest Minister at the AGM and conference and he is anxious to learn more about the initiatives Donaldson talked about.

Druck also enjoyed the trade show at the Tk'emlúps te Secwépemc First Nation Powwow Grounds where he satisfied his interest in loaders while also perusing the wide array of equipment, products, services and organizations.

The conference also included a workshop on the Harvest Billing System and the *Freedom of Information Act* from John Drayton of Gibraltar Law Group and Wendy Sherman, Gudeit Bros. Contracting Ltd. logging administrator. Dave Earl, British Columbia Trucking Association president and CEO, led a second workshop on cannabis in the workplace.

Everyone enjoyed a delicious dinner and dancing to the Shawn Lightfoot Band Friday night and took part in the silent auction hosted by the Shuswap Branch of Canadian Women in Timber.

The conference finished with a final day of the Trade Show on Saturday. 🌲

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# WHAT IS IN STORE FOR THE BC INTERIOR INDUSTRY?

TLA Perspective

Photo: TLA Staff



At the 9th Annual FEA/WOOD MARKETS Global Softwood Log and Lumber Conference in Vancouver, local BC consultant and industry forecaster, Jim Girvan, left some in the audience somewhat stunned by his forecast for BC Interior lumber production over the next decade. In 2010, Girvan and business partner Murray Hall collaborated with Russ Taylor, produced a blockbuster outlook for the Interior timber harvest and wood products industry. The resulting forecast of “16 sawmills to close by 2018” made headlines nationally and around the world.

## Mountain Pine Beetle Impact

Girvan provided an update to the original forecast, which predicted the fate of the Interior industry in the wake of the Mountain Pine Beetle epidemic. Girvan reported that since the 2010 report, 12 more mills had permanently closed (up to April 2019) and six others had reduced shifting, or the equivalent closure of 15+ mills. “The only reason the sixteenth mill was still operating was as a direct result of the exceptionally strong lumber markets in the first three quarters of 2018,” noted Girvan, suggesting that “its closure was imminent.” And, as if foretelling the fu-

ture, the very next day Tolko announced closure of its Quest mill in Quesnel, BC and the elimination of one shift at its Kelowna mill.

While the mountain pine beetle epidemic has fundamentally subsided, strong markets in 2018 kept sawmills operating at close to capacity while, at the same time, the allowable annual cut (AAC) continued to fall in the Mountain Pine Beetle-impacted forest management units across the Interior. In 2018, over 40 million cubic metres of logs were converted into lumber (as compared to 56 million cubic metres in 2005).

However, looking forward, and when considering the current forecasts for mid-term timber supply (or within the next 10 years), there remains a deficit of 6.5 million cubic metres of forecast sawlog supply as compared to the operational log capacity required to furnish existing mills. With the average BC Interior mill consuming about 800,000 cubic metres per year at full capacity, it suggests the Mountain Pine Beetle alone could account for up to eight more mill closures.

### Forest Fire Impacts

But it is not just the Mountain Pine Beetle that is threatening the Interior sawlog supply, explains Girvan. In 2017 and 2018, the Interior saw its worst two fire seasons on record where 1.2 and 1.35 million hectares, respectively, were burned. Much of this area contained green timber that was meant to support the mid-term AAC. Looking forward, the 2019 fire season is shaping up to be just as bad with further reductions possible in the AAC. Girvan pointed to a 2018 government analysis of the Caribou region fires in 2017 which suggested incremental reductions in the mid-term AAC of up to 10 per cent, depending on the forest management unit in question. This analysis demonstrates large fires have the potential to impact the mid-term timber supply in BC wherever they occur.

### Spruce Beetle Impacts

In north-central BC, the spruce beetle epidemic in the Omineca region is also killing green timber that had been set aside to support the mid-term harvest during the time that dead pine timber was being harvested. The 2018 province's aerial reconnaissance (used to gauge spread of the spruce beetle epidemic) indicates to date there is about 100,000 hectares in "moderate to severe" attacked areas with an additional 200,000+ hectares in "light and trace" attacked areas. What is troubling is that very little of this timber has been harvested to date and, unlike pine, the shelf life of dead spruce is much shorter. Again, reductions to mid-term timber supply are forecast.

### Mountain Caribou Impacts

Then there is the Mountain Caribou, a threatened species under the Federal *Species at Risk Act*. Since 2017, BC and the federal government have been developing a *Bilateral Conservation Agreement*

under Section 11 of the Federal *Species at Risk Act* to protect the species. The draft Section 11 Agreement contains overarching commitments, measures and strategies to aid in the recovery of Mountain Caribou in BC, while attempting to minimize impacts to local governments, communities and the various industry sectors that operate in caribou habitat.

This agreement builds on a draft Partnership Agreement the BC government, the federal government and the West Moberly and Sauteau First Nations negotiated in 2017 covering the Central Caribou Group located in the Peace Region in the northeast of the Interior, effectively expanding its scope to all Southern Mountain Caribou in BC.

The draft Partnership Agreement covering the Central Group includes protection of important caribou habitat while a long-term plan is developed through engagement with local communities, stakeholders and Indigenous peoples. It ensures the federal government won't unilaterally impose resource development closures in the region via an emergency order. The Central Group Agreement may represent the template for Caribou recovery plans for the remainder of the province in areas where Caribou are considered at risk.

When the Central Group plan is compared to the timber harvest land base of the underlying forest management units, an immediate impact of a 7 per cent reduction in the mid-term AAC can be expected, with the potential for greater impacts as the habitat protect plans are finalized.

### Summary

Putting all of these threats to the timber supply together—the residual impacts of the mountain pine beetle, forest fires, spruce beetles and the likely impacts of a provincial program to protect Caribou habitat—the net result is a continued decline of the timber supply for the Interior.

As the Interior sawlog supply (within the framework of the mid-term AAC) falls, a best case scenario suggests a deficit of 9.7 million cubic metres in the sawlog supply to the operational mill capacity. This cumulative deficit points to the equivalent of an additional 13 sawmill closures over the next decade. If these sawmills were to close, then it will allow all remaining Interior

sawmills to operate close to their full operational capacity. This is in addition to the 16 mills that have closed since 2010 and the 27 mills that have closed since 2005. So, between 2006 to 2029, it is possible that a total of 40 sawmills may close in the Interior.

Alternatively, a combination of sawmill closures and mill shift reductions (as was seen this month by Tolko in Kelowna) or intermittent down time (as we are seeing with most Interior lumber producers this spring) may spread the impact, but the forecast for lumber production remains the same. By the end of the next decade, the Interior lumber production is forecast to fall to 8.7 billion board feet from the high of 15 billion BF in 2006 and the 11 billion BF achieved in 2018.

And, as sawmills close, the supply of residual wood chips, sawdust, shavings and hog fuel are all reduced thereby putting consumers of sawmill residual fibre at risk. Using the same forecast, Girvan suggests, "at least one Interior pulp mill may be at risk of closure along with two pellet plants, one energy plant, not to mention rising costs for all fibre consumers." So, the stakes are high in BC with the potential of even more mill casualties beyond sawmills.

For logging contractors in the Interior, the message is simple. Be aware of the potential for harvest reductions in your area and participate every chance you get when public input into forest management policy decisions is requested. It is only with a strong voice that the impacts of these forecast reductions in harvest will be mitigated or avoided.

A full report will be available in the summer of 2019 that includes complete region by region details of this forecast with an outlook to 2028. The report is prepared in conjunction with the Industrial Forestry Service, Prince George, BC and will be published by Forest Economic Advisors (FEA), Vancouver, BC and Littleton, MA.▲

# ADDRESSING BARRIERS TO EMPLOYMENT OF ABORIGINALS

By Robin Brunet



In the next 5 years, over  
**14,000 JOBS**  
will be opening up in the forest sector



Despite shutdowns, slowdowns and the relentless advance of mechanized harvesting, the BC forestry sector needs more able-bodied workers than ever before, largely because so many traditionally employed in the sector are aging out and younger workers are migrating into other sectors, including oil, gas, mining, and construction. At the recent Truck Loggers Association's Convention the inability to recruit skilled labour, especially in remote locations, was a common topic of conversation. "I have 20-25 positions I need to fill immediately," lamented Adam Wunderlich of the KDL Group. The negative impacts of not having a sufficient number of adequately trained employees

include increased costs due to underutilization of equipment, increased difficulty in meeting contract obligations, higher repair and maintenance costs, and aggravated health and safety risks.

And yet, there also exists in British Columbia a largely underutilized pool of labour, much of which is spread out in remote locations throughout the province. According to a report published by the BC First Nations Forestry Council (BCNFC) in 2017, between 13,000 and 48,000 Aboriginal workers will be coming available to work over the 10-year period from 2014-2024. It looks like a perfect storm of opportunity, but despite the requirements of industry and

the desire of many Indigenous people to find work and establish careers, the uptake has been slow. According to Bob Joseph of Indigenous Corporate training, there are considerable numbers of barriers to employment of Aboriginals that are persistent and ongoing despite "massive studies done on this issue for years." His list includes: poor literacy and lower levels of education; cultural differences that can sometimes create an atmosphere of disrespect, resentment or distrust on worksites; racism, discrimination and the persistence of negative stereotypes; self-esteem issues; poverty and poor housing conditions that impact physical and mental well-being; lack of a

► Develop pathways for skills training through partnerships with ASETs

driver's licence or transportation options (see page 46); and lack of affordable and safe child care.

Although these are barriers that will require primary efforts in terms of both education and the provision of targeted government services, there is much that can be done by both industry and First Nations to bridge the gap. The good news is that efforts are currently underway on both sides to break down the barriers.

According to Lisa Luscombe, program manager for workforce and industry relations at the BCFNFC, many Indigenous people are not encouraged to enter forestry because they see it less as a career option than a collection of dangerous jobs. "They need to understand the positive side of the forest industry," she says. "There have been advancements in safety and technology, and there are a lot of fun and interesting jobs; it really can be a career."

To help promote the upside of forestry to the Indigenous community the BCFNFC is developing forestry career exploration programs designed to introduce First Nations' adults and youths to the industry and the many career opportunities that exist within it. There will be two separate initiatives, one aimed at adults aged 18-30, and one aimed at young people aged 15-18. The first program is set to go this summer, and partners include the Homalko First Nation and Interfor. The adult cohorts will visit Interfor forestry operations where they will enjoy trying out a virtual reality forest management interface, walking in the woods to discuss planning and wildlife management, visiting active logging operations, touring a dryland sort, and touring a tree seedling nursery. The younger cohorts will also visit remote logging sites operated by the Homalko to see how they operate.

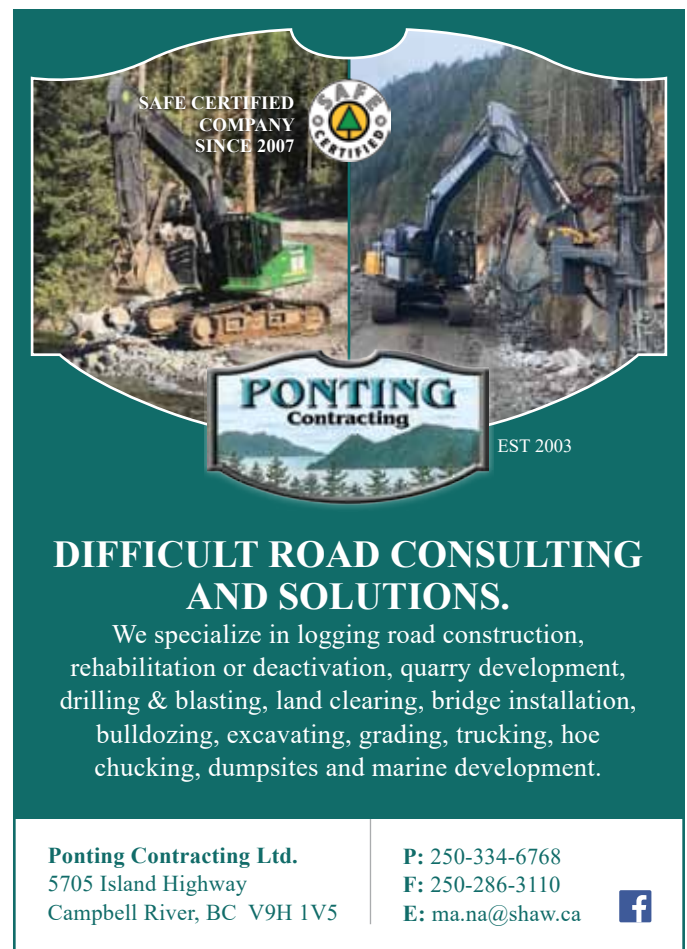
"Interfor recognizes that a strong and sustainable forest economy includes Indigenous participation," says Trevor Joyce,

manager, economic partnerships and sustainability at Interfor. "We are committed to promoting careers in the industry and capacity building with our partner communities. We hope to help light a spark of interest and to encourage both youth and adults to pursue further training or schooling in forestry. Ultimately, we are looking to hire the next generation of Indigenous foresters and engineers."

Both programs include a cultural piece supplied in part by the presence of a First Nations' elder. "Interfor will be exposed to the cultural side of the Homalko, but it will go both ways, role models from industry will speak to the groups as well," says Luscombe.

This summer's inaugural programs will be treated as learning exercises that the BCFNFC will use to create a template other industry and First Nations' partners can use to increase employment in their area. Additional partners could include local Indigenous Skills and Employment Training (ISET) Program providers as well as non-Native political and social stakeholders. "Each area will self-design for their neighbourhood using the template," says Luscombe. At a different level of engagement, the BCFNFC is also offering scholarships to young people interested in pursuing forestry at the post-secondary level.

At the contractor level Luscombe says the training tax credit for contractors willing to hire unskilled labour currently being proposed by the TLA is a good step forward, but she'd also like to see regional players in the industry getting together with their local First Nations' community representatives to discuss what they need from each other and how they can move forward. "Maybe they could pool their money to provide training or transportation," says Luscombe.



There are a number of strategies contractors hoping to employ First Nations can utilize when hiring and working with Indigenous people, and there is no cookie-cutter solution. According to Statistics Canada there are more than 270,000 First Nations, Inuit and Métis people in BC speaking 30 languages and as many as 60 dialects. Bob Joseph of Indigenous Corporate Training advises visiting communities nearest your project and learning about that community's culture, history, challenges and achievements. "Invite Elders to visit your worksite to talk about their culture and beliefs," he advises. "Ensure that every person in your organization, including those in head office, takes a cultural awareness course. Recognition and respect of cultural differences has to be systemic, and it has to be supported from on high to be sustainable and effective."

It's also a good idea to reject stereotypes and ensure that at the interview and job level applicants feel respected and valued, although Luscombe says she doesn't think racism is really the issue. "I think it's more a lack of awareness of each other, and that can lead to misunderstandings," she says. "If you share teachings and break down barriers that can create good relationships and better work environments."

Inadequate or non-existent transportation and access to safe and affordable child care are other significant barriers to employment. Obviously, these are to address for individual companies working with tight margins, but they need to be considered in the overall equation. Solutions include arranging shuttle service for employees to transport them to job sites in the morning and home again at the end of the day. Child care is a tougher nut to crack, but Bob Joseph would go so far as to say "if the community does not have a child care facility, build one and hire a qualified child care worker, or provide qualified child care on-site, or connect with a local, culturally aware child care provider to ensure there are spots available for the children of your employees."

If Indigenous people feel welcome and valued, and training and support can be provided, it could go a long way toward filling the labour shortage that currently exists, one that is only going to get bigger if bridges don't get built sooner rather than later.▲

(Continued from page 20)

does not contain any provisions dealing with a change of control in a company, it is common practice for the contract to include terms and conditions that provide that a change of control will be deemed an assignment. Accordingly, contractors should carefully review the terms of their contracts in order to understand whether there is a need to seek the consent of the licence holder prior to the sale, keeping in mind that the licence holder will still not be able to unreasonably withhold consent.

Finally, regardless of whether the replaceable contract expires and is not renewed, or is assigned or is sold outright in conjunction with the contractor's business, the retiring contractor must consider whether there are any subcontractors operating under replaceable subcontracts. If there are, the Regulation mandates that as a condition of a sale and assignment of the replaceable contract, the contractor must require the buyer of the contract to either assume those obligations or offer a new replaceable subcontract to the subcontractor on

substantially the same terms and conditions. As with seeking the consent of the licence holder, this may limit the pool of possible purchasers.

In sum, retiring requires careful planning and consideration of the contractual obligations under the applicable contracts, the suitability of potential purchasers, and the potential impacts on the licence holder. If in doubt, or if an issue arises, it is always worthwhile to speak with a lawyer. Terminating or assigning a contract, including a replaceable contract, may not always be a simple process, but with sufficient preparation and due diligence it is entirely feasible.▲

*Charles Bois has a diverse practice that focuses on the oil and gas, energy, mining and natural resources, Aboriginal, environmental, commercial, and construction and infrastructure sectors. In addition to his legal experience, Charles has over 20 years of business experience in the natural gas industry, including senior management and consulting roles.*

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# OVERCOMING THE BARRIER OF A DRIVER'S LICENCE FOR ABORIGINAL WORKERS

By Ian MacNeill

**N**ot having a driver's licence is one of the biggest barriers to employment for Indigenous people living on reserves in British Columbia.

"It's a real problem," says Lucy Sager, owner of All Nations Driving Academy, a company that provides customized driving-training packages to far flung communities throughout the province. In her peregrinations around BC—she estimates she's put as many as 50,000 clicks on her Toyota 4Runner since she started up 18 months ago—she says she's discovered that the percentage of people

living on reserves that have a licence ranges from a high of about 40 per cent to a low of just five, as compared with 75 per cent for British Columbians as a whole. Of course not having a licence is no big deal if you can hop on a bus or SkyTrain, but those options don't exist if you live in places like Kitasoo and Soda Lake.

Bob Joseph, a Gwawaenuk Nation member and founder of Indigenous Corporate Training on his website (Ictinc.ca), says that acquiring a driver's licence when you live in a remote community can be problematic at best. "Just getting to the

nearest office to write the initial test can be challenging; taking driver's training is similarly a challenge as there may not be easily accessed training providers or, for that matter, a vehicle on which to learn," he says.

Statistics for what the impact of not having a licence has on employability for Indigenous people in BC are sketchy, but a study by The George Institute for Global Health in Australia is revealing. It found that having a driver's licence quadruples the chances of obtaining full-time employment for Aboriginal people.



On an anecdotal level however, the impact of not having a licence in a remote area is easily illustrated, says Sager. She tells the story of a young woman living on the south side of François Lake who landed a job working at a bank in Burns Lake. However, lacking both a driver's licence and access to reliable public transit she had to hitchhike to work, a process that could take as long as two hours each way, every day. It was fine in the summer, but fearful of freezing to death at the side of the road in winter, or in town waiting for the bank to open, she quit her job and is now living on social assistance. "She wants to work," says Sager. "But the situation makes it difficult for her to do so."

The impact is not just felt in terms of lost employment opportunities. With no viable transportation alternatives people living on reserves have difficulty shopping and accessing needed government services. "People are driving all day just to get to a laundromat, and when it comes to shopping, a lot of communities run on Amazon," says Sager, which probably goes a long way in explaining why the online retailer is investing so heavily in drone-delivery technology.

Ironies abound. "The government's giving tenures to First Nations they can't use because they can't get to them," she says. "So they end up contracting out and watching others working them simply because that can't drive. People have been

seven days and an immediate driving prohibition. A third offence is when the legal rubber really hits the road; anyone caught behind the wheel while prohibited is liable for a \$500 fine and as much as six months in jail.

## The government's giving tenures to First Nations they can't use because they can't get to them.

taught to be aware and about chainsaw safety, but somewhere along the way they forgot to teach them how to drive."

Not surprisingly, there are an unknown number of people who may not have a licence but know how to drive and have access to a vehicle. And while it may be true that you don't need a licence to drive on reserve, it is to be suspected that vehicles with unlicensed drivers are venturing out onto public roads. This is a dangerous and potentially costly alternative. According to RoadSafetyBC, the first time you get pulled over without a licence you will get a violation ticket and "you will not be permitted to drive the vehicle any further on the road." A second offence will get the vehicle impounded for

On the other hand, having a licence can be transformative, not just for an individual, but for communities. Sager tells the story of a young Wet'suwet'en man living in Moricetown adjacent to the Bulkley River. He obtained a Class 2 licence with air brakes and now drives a bus for the local community, providing himself with employment and the community with opportunities, including swimming lessons for the children, something that's pretty important when you live alongside a river.

Sager is attempting in her own small way to rectify the situation; she currently has a contract to travel around the province providing driver training, and she is currently working with 13 nations along Highway 16. She has trained as many as



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240 individuals, ranging in age from 16 to 74, because the no-licence problem is one that is often intergenerational. "For some of the older people their first memory of a car is traumatic," she says. "The first time they saw one was when they were being put in one for the drive to the residential school." And of course if mom and dad don't have a licence they're in no position to teach their children how to drive, and so the cycle becomes self-perpetuating.

Obviously she can't train everyone by herself, and even if she could, it wouldn't solve the systemic problem that exists. "It's like I'm handing out fish," she says. "But when I leave the people are still hungry; we need to teach them how to fish themselves." She's doing that by helping bands set up driver training programs of their own. It's not a franchise gig. She's not empire building here. Once the job is done she hands over the keys to the operation and moves on. So far the biggest success story has been with the Haisla in the Kitimat area. The band now has cars, a curriculum and two driving instructors, but more needs to be done elsewhere.

Sager says she's met with Attorney General David Eby and officials from ICBC and reports that they are supportive of government programs that would result in the establishment of driving schools on reserves. She estimates that the setup costs for 20 driving schools, 40 instructors, some new vehicles, a website, and a curriculum would ring up at about \$3.5 million. "It makes sense when you think about how much more money people would be injecting into the community if they could just get to work," says Sager.

Industry can, and in some case, is helping to turn the wheels. According to Nation Talk, an Aboriginal news and employment website, BC Hydro is working with several First Nations and a local driver training company to train Indigenous people from Halfway River, Saulteau, Blueberry River and McLeod Lake First Nations. And earlier this year LNG Canada announced it will be contributing \$80,000 to driver training sessions in Terrace and Kitimat areas that will be offered by the Kitimat Valley Institute (KVI) in partnership with Haisla Driving School.

The TLA and its Aboriginal Affairs Committee fully support the work that Sager is doing. "It is absolutely stunning that as an industry we routinely think that First Nations are a potential workforce to tap into, without identifying why that hasn't already happened," says David Elstone, executive director, Truck Loggers Association. "Sager shines a light on this subtle but real barrier."

Sager says she'd like to see more driver-training initiatives from the forest industry as well. "They have a vested interest in building relationships and accessing a workforce, they should be putting some money in the pot," she says. "And if all the resource industries worked together they could reduce costs."

Until that happens she'll keep the pedal to the metal, conducting training and setting up turnkey programs on reserves whenever and wherever she can. "Strong, able-bodied and willing people are watching work going by because they don't have a licence," says Sager. "My dream is to never hear that a driver's licence is a barrier again."▲



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# INDIGENOUS ENGAGEMENT IS A BUSINESS AND MORAL REQUIREMENT OF FORESTRY COMPANIES—INCLUDING CONTRACTORS

By Rob Miller



Photo: TLA staff



The nature of the relationship between Indigenous peoples and the private sector in Canada has shifted dramatically over the past decades. This change has been influenced by increasing legal and political recognition of Aboriginal rights and title, rooted in the immemorial occupation, use, and stewardship of lands and resources by Indigenous peoples. Indigenous nations that have asserted or proven Aboriginal rights and title (including treaty rights) exercise an ever-increasing degree of control over their lands and resources within this framework.

Recognition of the importance of these rights has steadily increased within British Columbia's resource sectors. In the courts, landmark decisions like *Tsilhqot'in* and *Haida* have demonstrated that Indigenous self-determination includes the right of Indigenous nations to manage and control natural resources on their lands according to their own customs and traditions. In practice, the right of self-determination and consultation requirements have meant that resource companies have been hard at work developing relationships with Indigenous

groups that seek to share the benefits of development and generate support for extractive activities.

Social and political shifts in Canada have also reflected an increasing emphasis on relationship-building with Indigenous communities. The provincial government has shifted its focus away from traditional treaty-making towards broader and more flexible reconciliation initiatives. The federal and provincial governments have both moved towards adopting the United Nations Declaration on the Rights of Indigenous Peoples. The adoption of the Declaration, which recognizes the right of Indigenous nations to exert meaningful jurisdiction and control over natural resources, further emphasizes the need for forward-looking private sector companies to consult and cooperate in good faith with Indigenous communities when seeking to develop resources.

All of this makes sense because the stakes, and the costs of getting it wrong, have never been higher. There are numerous examples of major infrastructure and development initiatives being delayed or cancelled as a result (at least in part) of

Indigenous opposition—including Trans Mountain pipeline, Northern Gateway pipeline, and the New Prosperity mine. Coastal GasLink pipeline, which has support of many impacted *Indian Act* bands, has also been in the news recently for not obtaining the support of traditional governance structures. The forest industry is far from immune—in fact, many of the leading legal cases about the duty to consult and protection of Aboriginal rights and title arise in the context of forestry, including *Haida* and *Tsilhqot'in*.

## Why Timber Harvesting Contractors Should Engage Indigenous Nations

There are three primary reasons why timber harvesting contractors need to engage Indigenous nations.

First, recognition of Indigenous jurisdiction over lands and resources will continue to increase in British Columbia, as will the harvest volume controlled by Indigenous nations. As licence holders and resource owners, these nations control access to harvesting contracts and are likely to expect contractors to help build Indigenous economies through meaningful partnerships and to abide

by best forestry management practices. Contractors who seek to bid on contracts with this growing class of Indigenous licensees will be required to maintain good Indigenous relationships, and to adopt new business structures and practices.

Second, at the same time as the number of Indigenous licensees is growing, major licensees are starting to follow the model of engagement developed by the mining industry and entering into Impact Benefit Agreements (IBAs) with Indigenous nations. IBAs can ensure that licensees within a Nation's territory are harvesting with the Nation's support and with consideration for its preferred forestry management practices. Importantly, IBAs often include procurement provisions, and truck loggers who have developed relationships with Indigenous parties to an IBA are more likely to be considered for related contract or supply chain opportunities. Here, meaningful Indigenous participation will increasingly be a prerequisite to getting work from non-Indigenous major licensees that have signed IBAs.

Third, the social landscape in Canada has shifted. The Truth and Reconciliation Commission Calls to Action have flagged reconciliation as a responsibility of Canadian businesses, calling on the private sector to commit to the building of respectful relationships with Indigenous peoples and to seek their free, prior, and informed consent prior to proceeding with development projects. Canadian businesses are expected to play a leadership role in reconciliation with Indigenous nations—and forestry contractors are no exception.

Given all of these legal, political and social trends towards greater inclusion of Indigenous people in the resource economy, it is clear that securing future service and supply chain opportunities will depend on positive relationships with the Indigenous nations.

### Who Should be Engaged within Indigenous Nations?

But who should contractors engage with? Band councils? Treaty organizations? Hereditary chiefs or traditional governments? To provide a simple (and unsatisfying) answer to a complex question: it depends.

Aboriginal rights and title are collectively held and their holders have the right to determine the appropriate entity



Photo courtesy of Hmako First Nation

to represent them. This can include a band council, a treaty or tribal council, or any customary system of self-governance. Correctly identifying the appropriate mandate-holding entity to engage with can be challenging without guidance. Band councils, while often having some role in administering a Nation's rights and title, may not always be the appropriate entity to deal with in a given community. Hereditary systems can be difficult to understand from the outside. There may even be controversy within any given community about the identity of the proper rights holder.

Thankfully, despite all of this ambiguity, there are practical steps that can be taken. First and foremost, when there is a lack of certainty regarding who should be engaged within a given Nation, one should seek to understand the community. Open communication and investment in relationships can go a long way to answering the "who to engage with" question and are the foundation of almost every successful Indigenous-industry relationship.

Understanding your business case for engagement is also helpful. For example, if your objective is to work with an Indigenous

group to access more opportunities with a licensee, understanding which Indigenous group actually holds preferential access to contracts will help point you in the right direction.

Legal, political, and social trends all point to one conclusion—that future access to contract opportunities in the forest industry will require strong relationships with local Indigenous groups. This means that contractors looking to maintain or grow the scope of their business in the coming years should be creating strategic engagement plans that identify how they will be developing respectful relationships with Indigenous nations and which groups they will be engaging. In today's environment, developing these relationships makes good business sense and is the only defensible strategic approach to shifting legal and political realities. But just as importantly, it is a modern moral and ethical requirement of doing business in sectors that have traditionally relied upon land and resources owned (at least in part) by Indigenous nations. Bluntly put—it is the right thing to do.▲

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to be high risk; (ii) it was intentional; (iii) it involved obstruction of an officer (a violation of section 186 of the Act); (iv) it involved obstruction of reporting (a violation of section 177 of the Act); or (v) it involved breaching a stop-work or stop-use order.

If, for example, a penalty of \$1,250 is levied for a high-risk violation where the employer ignored a stop-work order, it

an employer has a record of three similar prior penalties, the basic penalty amount will be multiplied by 2x2x2, or eight.

Where there are at least two prior similar penalties and the employer's response to past violations has led WorkSafeBC to believe more motivation is required, the resulting amount may again be doubled. Lastly, if WorkSafeBC determines that the

be imposed up to the statutory maximum amount and are rarely imposed.

Once a penalty has been levied, the circumstances and amount are published online at [worksafebc.com](http://worksafebc.com) and in print in *WorkSafe Magazine*.

### Appealing a penalty

The Employers' Advisers Office provides impartial advice on assessment, prevention, claims and compliance matters to all employers covered by WorkSafeBC.

If an employer, worker, union, or other directly affected party (such as a family member of a deceased worker) disagrees with a WorkSafeBC decision to impose an administrative penalty, they can request a review within 45 days of the penalty order that was issued. Reviews are conducted by the Review Division of WorkSafeBC.

The second level of appeal is conducted by the Workers' Compensation Appeal Tribunal (WCAT), an external, independent tribunal. Review Division decisions relating to an administrative penalty must be appealed to WCAT within 30 days.▲

*Rodney Scollard is an Investigations Legal Officer in Legal Services at WorkSafeBC.*

## The primary purpose of a penalty is to motivate the employer who is receiving it—as well as other employers—to comply with the legislation and regulations that govern health and safety in workplaces.

will be multiplied by 2x2, for a penalty total of \$5,000.

In exceptional circumstances, the "basic amount" may at this point be increased or reduced by up to 30 per cent.

Next, WorkSafeBC determines whether the employer has received a "prior similar penalty," the criteria for which are also set out in Prevention Policy Item D12-196-6. The "basic amount" for the penalty will be multiplied by 2n, where n is the number of prior similar penalties. For example, if

employer incurred any potential or actual financial benefit from committing the violation initiating the penalty, WorkSafeBC may make a reasonable estimate of such financial benefit and add it to the overall penalty amount calculation.

In some cases, WorkSafeBC may impose a discretionary penalty in excess of one calculated based on the employer's payroll if specific circumstances, as set out in Prevention Policy Item D12-196-6, warrant one. Discretionary penalties may

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The golfers' generosity helped raised \$5,770 towards the TLA Forestry Education Fund, including \$1,000 from the silent auction, \$3,000 from the live auction of celebrity carver Ryan Cook's one-of-a-kind TLA inspired carving, and \$1,770 from the Nootka Sound Timber Co. Ltd. shooter bar.



**Congratulations to the tournament winner of Crown Isle course, Mike Hamilton Logging, and The Park course, Coastal Community Credit Union, as well as the best dressed team for the second year in a row, Cokely Wire Rope whose logger-themed attire included plaid shirts, suspenders, and a real chainsaw! Congratulations to all other contest winners.**

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