



## A Forest Lands Vision and Current Regulatory Structures

A. Gage is a staff lawyer with West Coast Environmental Law and oversees the organization's Environmental Law Alert and Environmental Legal Aid Programs.

### Abstract

**BC's laws governing the use of our forest lands are many and complicated, but at their core were developed with the regulation of individual industries in mind and with an emphasis on ensuring industrial access to natural resources. A Forest Lands Vision requires changes to our laws to allow other values to be protected and (where appropriate) prioritized above industrial access to natural resources.**

The “*Healthy forests – Healthy communities*” initiative asks British Columbians to engage in the important discussion of what their vision is for our province's public forests. But once the discussion has been had, and a Forest Lands Vision is developed – how will it be implemented? In particular, do B.C.'s current laws governing forest lands allow for the implementation of such a vision, or would new laws be required? There's already a vision that is implicit (and sometimes explicit) in B.C.'s current forest laws: a vision of an economy that maximizes the production of timber on public lands. Other land use laws also emphasize facilitating the access of mining companies, oil and gas industry and others to our province's natural resources. To the extent that the Forest Lands Vision emphasizes different values, it will be difficult to implement under B.C.'s current land use laws.

### Forest Laws: Require cutting vs. protect the environment

B.C.'s *Forest Act* is a key piece of legislation governing forests lands – determining who has the right to log on public lands.<sup>1</sup> Despite recent re-allocations of logging rights to First Nations, community forests and smaller operators,<sup>2</sup> the right to log on public lands is still mostly held by large logging companies. The *Act* as it stands also restricts the ability of government to reduce the amount of timber that companies can take without compensation. A central point to understand about B.C.'s forest laws is that they **require** forest companies to cut trees. The *Forest Act* empowers the Chief Forester - a government official – to set an “Allowable Annual Cut” (AAC) based on the information about tree growth in a region. Logging companies may be penalized if they cut much above, or much below, the AAC.<sup>3</sup> While logging companies have some control over where and when they cut, the AAC set by the government assumes that virtually all accessible forest lands will be cut over an 80 year or so period (shorter depending on the particular region). These laws have encouraged logging companies to log the easiest to access, highest quality timber first, so that much of what is being cut now is difficult to access and contains lower quality timber.

---

<sup>1</sup> Forest Act, R.S.B.C. 1996, c. 157.

<sup>2</sup> The [Forestry Revitalization Plan, 2003](#), at pp. 10-15;

<sup>3</sup> [Forest Act, Part 4, Division 3.1, “Cut Control”](#).

Beginning in the 1990s new laws were introduced that allowed government to limit logging in key wildlife habitat and to protect other environmental features.<sup>4</sup> This was supplemented by “land use plans” that were developed for much of the province, identifying areas which would be protected from logging and areas where logging would be allowed. The Chief Forester does consider these constraints on timber harvesting in setting the AAC. However, in at least some cases the government has artificially constrained such reductions in the AAC. For example, in 2004 the government adopted a regulation requiring an elaborate evaluation of the impacts of environmental protection on logging levels before it implemented any new environmental protection measures.<sup>5</sup> The law currently addressing the environmental impacts of logging is the *Forest and Range Practices Act*, which leaves many key decisions about how to meet the province’s environmental objectives in the hands of the forest companies.<sup>6</sup> Many of the current objectives are vague, making it difficult for public servants to require forest companies to protect environmental values.

## Other industries

Logging is not the only industrial activity that occurs on Forest Lands. Mining, oil and gas development, power projects, and other industries can impact forest lands, and each has its own laws.<sup>7</sup> To date there is no law that allows government to set environmental objectives, or protect environmental features, and have them protected from all industrial operations<sup>8</sup>, short of complete protection under parks or other protected areas legislation. Areas that are off-limits to logging may be mined, and objectives set for the oil and gas industry do not automatically apply to logging. There is also no law that requires, or even allows, government decision-makers to consider how all the different types of industrial activities collectively may adversely impact the environment.

## Conclusion

BC’s laws governing the use of our forest lands are many and complicated, but at their core were developed with the regulation of individual industries in mind and with an emphasis on ensuring industrial access to natural resources. A Forest Lands Vision requires laws that allow other values to be protected and (where appropriate) prioritized above industrial access to natural resources. These laws need to apply to all industrial operations taking place on forest lands.

---

<sup>4</sup> This was originally accomplished through the *Forest Practices Code of British Columbia Act*, R.S.B.C. 1996, c. 159. This Act has since been repealed and replaced with the *Forest and Range Practices Act*, S.B.C. 2002, c. 69 (“FRPA”). While FRPA functionally plays a similar role to the Forest Practices Code, in that it governs how logging is done, it is widely viewed as less effective in protecting the environment than its predecessor.

<sup>5</sup> *Government Actions Regulation*, BC Reg. 582/2004.

<sup>6</sup> West Coast Environmental Law. [DeRegulation Backgrounder: Bill 74 – Forest and Range Practices Act](#) (Vancouver: 2002).

<sup>7</sup> *Mineral Tenure Act*, R.S.B.C. 1996, c. 292; *Mines Act*, R.S.B.C. 1996, c. 293; *Oil and Gas Activities Act*, S.B.C. 2008, c. 39; *Land Act*, R.S.B.C. 1996, c. 245, amongst others.

<sup>8</sup> Sections 93.1-93.3 of the Land Act would allow the provincial Cabinet to set objectives that apply to other industries. However, these sections of the Act, while passed by the Legislature, are not currently in force. A cabinet order would be required to make them into law.

Currently, this is a major gap that needs to be addressed if a Forest Lands Vision is to be implemented in the province.