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Changing Land Use Designations and Reducing Harvesting Constraints

Overview of Land Use Designations

Over the past century, British Columbia has developed an extensive framework of land use designations to conserve and protect natural values of importance to the public. This framework enables commercial forestry on public lands and provides economic certainty to forest licensees.

Land use designations that may constrain timber harvesting are usually specific areas established to sustain values associated with biodiversity, fish, wildlife, water, and recreation, as well as cultural, heritage and First Nations values. Legal land use designations are established under a variety of regulations and statutes and at various scales.

Land use designations are often proposed as a result of land use planning processes where agreement has been reached between stakeholders, conservation interests, First Nations, and other levels of government, or they may result from the implementation of existing provincial policies (which have also been negotiated with stakeholders).

Considerable analysis and negotiation occurs before designated areas are legally established, including assessment and 'tests' for their impact on other values (e.g. economic values), First Nations consultation and, where required by regulation, a period of public review and comment. The emphasis in identifying areas for designation is to protect certain values while minimizing impacts to timber supply.

Types of Commonly-Used Land Designation Tools within the Mountain Pine Beetle Area Include:

Protected Areas:

The *Park Act*, the *Protected Areas of British Columbia Act*, the *Environment and Land Use Act*, the *Ecological Reserve Act*, and the *Wildlife Act* (for Wildlife Management Areas) are statutes used to establish and protect areas for natural and social values, as described by the respective legislation. (Over 14% of the total provincial land base is protected from resource development through these Acts).

The Provincial Non-spatial Old Growth Order:

Established under the *Land Act*, s.93.4, in June 2004, the Provincial Non-spatial Old Growth Order sets minimum standards for old forest retention at the landscape unit/ecosystem level, for biodiversity conservation. Each region/district may develop its own old growth order (usually pursuant to a land use plan) which then supersedes the provincial order.

The Land Act, section 93.4:

For the purposes of the *Forest and Range Practices Act*, the Minister may establish land use objectives for the use and management of Crown land and resources. Land Use Objectives Orders are often used to give legal weight to objectives developed and approved through land use planning processes, and to landscape biodiversity objectives (e.g. old growth management areas) that supersede the the Provincial Non-spatial Old Growth Order.

Where Land Use Objectives Orders under the *Land Act* are used to capture objectives from land use plans, they must meet the following tests:

1. Consider land use plan or relevant information.
2. Add value in a manner that has not otherwise been provided for.
3. Avoid conflicts with other objectives or specify the nature and extent of conflict in the order.
4. Provide balance of social, economic and environmental benefits.
5. Minister must be satisfied that importance of the objective outweighs any adverse impact on opportunities for timber harvesting.

Provisions under the *Forest and Range Practices Act*:

Sections 149 and 150 of the *Forest and Range Practices Act* enable regulations to be made that prescribe objectives for a number of values including soils, visual quality, forage and associated plant communities, water, fish, wildlife, biodiversity, recreation resources, resource features, and cultural heritage resources. Section 5 of the Act requires that a forest stewardship plan specify intended results or strategies in relation to objectives set by government.

Government objectives are further identified in the Act's *Government Actions Regulation*. Sections 5-15 of the Regulation enable orders to be established for: resource features; lakeshore management zone and objectives; scenic areas and visual quality objectives; community watersheds and water quality objectives; general wildlife measures; wildlife habitat areas and objectives (see detail below); wildlife habitat features; ungulate winter range and objectives; species at risk and regionally important wildlife and ungulate species; fisheries sensitive watersheds and objectives; and temperature sensitive streams.

Government Action Regulation orders are established after considerable negotiation and consultation, often over several years, and the Minister or delegated decision-maker must be satisfied that the following tests have been met:

1. Is special management required? Is that special management – that would conserve or protect the specific resource value in question, in the same area – provided in the *Forest and Range Practices Act* or by another enactment?
2. Is the proposed action consistent with established objectives?
3. Would the proposed action unduly reduce the supply of timber from B.C.'s forests?
4. Do public benefits from the action outweigh any material adverse impact on delivered wood costs and any undue constraint on the ability of a forest or range agreement holder to exercise their rights under the agreement?

Wildlife Habitat Areas and Ungulate Winter Ranges:

Government Actions Regulation orders are used, amongst other things, to protect habitat for the following two categories of wildlife, which together are referred to as identified wildlife under the Identified Wildlife Management Strategy.

- Species at risk, which includes endangered, threatened, or vulnerable species of vertebrates and invertebrates, and endangered or threatened plants and plant communities that are negatively affected by forest or range management on Crown land and are not adequately protected by other mechanisms. There are currently 85 species (all listed under the federal *Species at Risk Act*).
- Regionally important wildlife, which include species that are considered important to a region of British Columbia, rely on habitats that are not otherwise protected under the *Forest and Range Practices Act*, and may be adversely impacted by forest or range practices.

Constraints on the Timber Harvesting Land Base

Government Actions Regulation Orders for the *Forest and Range Practices Act* must include a rationale and analysis, and impacts associated with meeting objectives for non-timber resource values must meet policy limits set by government. The limit is 6% overall impact on the timber harvesting land base, which was first mandated by government in 1996 through the *Forest Practices Code Timber Supply Analysis*.

Process for Amending or Cancelling Land Use Designations

Protected Areas

Protected areas under the various acts listed in the protected areas section above are established through Order-in-Council and normally require a Cabinet decision.

Land Use Objectives Orders under the *Land Act*, s.93.4:

The *Land Act* authorizes the Minister of Forests, Lands and Natural Resource Operations to establish legal land use objectives. While the Minister may delegate the authority, actions to establish, amend or repeal objectives that are likely to have substantial social, environmental or economic implications must be referred to the Minister for decision.

The *Land Use Objectives Regulation* prescribes the process for establishing, amending or cancelling an objective, which includes advertising the proposal regarding the land use objective(s) for review and comment, holding a public review and comment period (by default the period is 60 days), preparing a briefing package that includes a copy of the order ready for signature, and advertising a notice of an order being made, often through publication on the ministry website and in the BC Gazette. Urgent orders may deviate from this process. The *Land Use Objectives Regulation* sets criteria for objectives, including that they provide an appropriate balance of social, economic and environmental benefits.

Government Actions Regulation Orders:

Authority for *Government Actions Regulation Orders* has been delegated from the Minister to the Deputy Minister and district and resource managers. The regulation includes provisions for consultation and providing notice of an order. Before an order can be made under sections 5-15, the regulation requires an opportunity for review and comment to organizations and agreement holders that may be affected or to those on whom the order may have a material adverse effect. Notice of an order is required, and is sufficiently given if a copy of the order or particulars or a summary of the order is posted on the ministry website, published in the BC Gazette, and made publically available in the appropriate regional office.