



AGENDA

Committee of the Whole
to be held on Thursday August 30th, 2018 in the Council Chambers at 10:30 am
Municipal Hall, 977 South Maquinna Drive

Call to Order

**Introduction of
Late Items**

**Approval
of the
Agenda**

- Business Arising**
- 1 Ministry of Forests, Lands, Natural Resource Operations and Rural Development Re: timber harvesting in the McKelvie Creek Watershed and response to Staff letter dated July 13, 2018.**

 - 2 Ministry of Transportation and Infrastructure- Head Bay Forest Service Road Long-term Planning**

Adjournment

Mark Tatchell

From: Blackwell, Romona FLNR:EX <Romona.Blackwell@gov.bc.ca>
Sent: Monday, August 13, 2018 10:08 AM
To: Mark Tatchell
Cc: pkutz@westernforest.com; Hiltner, Clementine FLNR:EX; Randy Taylor; Gwilt, Gary FLNR:EX; Mann, Brenda FLNR:EX
Subject: RE: McKelvie Creek Community Watershed - Request for Information, Documents and Maps

Good morning Mark,

Find following a response to your earlier correspondence.

As per usual and as a quick summary:

- that info which we have available publically and can share, we will share,
- that info which we may have but do not routinely share, you will need to explore and complete a FOIPPA request as applicable.
- We do not share other's information.

VIA EMAIL:

Dear Mark Tatchell,

Thank you for your email dated July 13, 2018, and the follow up letter received July 18, 2018, requesting information, documents and maps related to Western Forest Products Ltd. (WFP) proposed harvesting in the McKelvie Community Watershed.

I am aware of the Tahsis Council resolution sent to Minister Donaldson on June 27, 2018. A response to that letter will be forthcoming.

Regarding your requested information:

Watershed Assessment:

My understanding is that WFP does have a *2010 Western Forest Products Inc. Tree Farm Licence 19 Watershed Management Strategies* document that was updated in 2017. This document would be proprietary to WFP and only distributable by WFP. No exemption from an assessment has been requested.

Road permits:

The Campbell River Natural Resource District has not received any proposals or applications for road building in the McKelvie Creek community watershed. Detailed road locations would only be available at the application stage.

LIDAR:

WFPs LIDAR data is proprietary to WFP and only distributable by WFP.

UWR map:

District staff will provide a consolidated map of Ungulate Winter Ranges and any *Forest Planning and Practices Regulation*, section 7 legal notices within the McKelvie Creek community watershed as soon as possible. At this time,

many staff are out on Wildfire TEAMS or annual leave. Staff will be returning to regular duties and catching up on backlog work likely starting after the September long weekend.

Operational Plans:

Operational plans are not a legal requirement, and as such not a document that the Ministry manages. Field work would be captured in site plans. Site plans would be available to the Ministry, if requested, at the permit application stage.

Environmental issues:

The Timber Supply Review process delineates land which is available and suitable for timber harvesting and takes into account strategic level environmental constraints. Environmental issues are also addressed by the requirements of the *Forest and Range Practices Act*, the *Forest Planning and Practices Regulation*, and Forest Stewardship Plans.

First Nations:

The Ministry has the duty to consult with First Nations on all resource decisions that could potentially affect the rights and title of that First Nation. Information regarding a specific First Nation concern would be proprietary to that First Nation and only distributable by that First Nation.

Water Sustainability Act:

Instream works related to forestry activities are governed by standards or regulations set out by the *Forest and Range Practices Act* (FRPA). Approvals or notifications are not required under the Water Sustainability Act.

Forest and Range Practices Act section 8.2 has objectives set by government for water in community watersheds, and the *Forest and Range Practices Act* Government Actions Regulation (GAR) itself has some community watersheds objectives. Both the FRPA and the GAR order requirements are covered within WFPs Forest Stewardship Plan as are further commitments regarding WFP operations within the community watershed.

Due to the size, scope and / or fact that the following types of documents and information is not routinely available, a formal request must be submitted under the Freedom of Information and Protection of Privacy Act (FOIPPA) for the following requests:

- investigations, notices and records filed against WFP, WFP logging contractors, WFP subcontractors,
- reports or studies on forest activities by various Ministries in the Tahsis, Leiner and McKelvie watersheds

This act enables the public to request and obtain copies of records held by B.C. government ministries or the Office of the Premier, when those records are not routinely available.

Guidelines and general information on how to complete a Freedom of Information and Protection of Privacy Act request is located on the following website: <https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/open-government/open-information/freedom-of-information>

We will be available to discuss these issues further with Council on August 30.

Sincerely,

Ro

Romona Blackwell | District Manager

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Campbell River Natural Resource District | Tel: 250.286.9329 | email: romona.blackwell@gov.bc.ca

From: Mark Tatchell [<mailto:MTatchell@villageoftahsis.com>]

Sent: Friday, July 13, 2018 10:36 AM

To: Blackwell, Romona FLNR:EX

Cc: pkutz@westernforest.com; Hiltner, Clementine FLNR:EX; Randy Taylor

Subject: McKelvie Creek Community Watershed - Request for Information, Documents and Maps

Hi Romona,

Please see the attached correspondence.

Mark

Mark Tatchell
CAO
Village of Tahsis
(250)934-6344



Village of Tahsis

Our File No.

Via e-mail (romona.blackwell@gov.bc.ca) and mail

July 13, 2018

Ministry of Forests, Lands, Natural Resource Operations and Rural
Development
Campbell River Natural Resource District
370 S. Dogwood Street
Campbell River, BC V9W 6Y7

Attention: Romona Blackwell, District Resource Manager

**Re: Obligations Outstanding under the Tree Farm License 19
Tahsis Tree Farm License dated for reference January 1, 2011
between Her Majesty the Queen in Right of the Province of
British Columbia, as represented by the Minister of Forests and
Range, and Western Forest Products Inc., Western Forest
Products Inc.'s Forest Stewardship Plan for the Central Island
Forest operations (TFL 19) dated May 9, 2017 ("WFP's FSP"),
Order – Ungulate Winter Range #U-1-014
Applications Authorizing WFP to Make Changes In and About
a Stream that connects with the Leiner and Tahsis Watersheds
or McKelvie Creek Community Watershed**

As you know I am the Chief Administrative Officer for the Village. I have been asked by Acting Mayor Taylor and Council to write to you with regard to the above.

Context for the Requests for Information, Documents and Maps

On December 5, 2017 representatives of WFP attended before Council and me and informed the Village that WFP proposes to cut timber and build roads in TFL 19 and in the area of the McKelvie Creek community

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watershed, which was designated under the *Government Actions Regulations* as such on June 15, 1995.

The McKelvie Creek community watershed supplies drinking water to the Village and the watercourses connected to the McKelvie Creek community watershed and the watershed itself is fish bearing.¹ The McKelvie Creek community watershed also provides habitat to a variety of wildlife species including blacktail deer, roosevelt elk, black bear, cougar and numerous other small mammals and birds.

Within WFP's FSP (at page 27), it is stated that WFP must conduct its "road building in a manner that is consistent with any special practices for primary forest activities that are determined in a Watershed Assessment (eg. Watershed Strategies Report or CWAP)" or WFP must seek an exemption from the Minister under subsections 8.2(3), (4), or (5) of the *Forest Planning and Practices Regulation*. WFP also notes that recommended practices may be modified by a rationale prepared by a qualified professional that addresses the objectives and sensitivities of the area in question. WFP further notes that a watershed assessment may not be needed in certain circumstances provided a hydrological evaluation is done.

In WFP's FSP, WFP also noted that the general wildlife measures apply within the established ungulate winter range. In that regard, (at page 50 of WFP's FSP), WFP mentioned that a notice of species under section 7 of the *Forest Planning and Practices Regulation* was not received for TFL 19 as ungulate winter ranges were already established and that WFP did not specify a result or strategy within the FSP. From research, it seems that the wildlife measures to be applied are those of Ungulate Winter Range #U1-014 issued on December 14, 2004², which was amended on January 30, 2006, November 9, 2007, September 30, 2008 and March 15, 2012.

WFP has provided to the Village preliminary maps showing where road construction and harvesting of timber within and in the vicinity of the McKelvie Creek community watershed is to occur. Those preliminary maps

¹ See also the Ministry of Environment, Environmental Protection Division Water Stewardship Division, Ministry of Environment, Water Quality Assessment and Objectives for the McKelvie Creek Community Watershed Overview Report dated November 27, 2007 for further information about the McKelvie Creek community watershed.

² The ungulate winter species at issue are black-tailed deer and roosevelt elk.

do not clearly indicate whether the proposed harvesting of timber and road construction will cross over into the boundaries of the Ungulate Winter Order and wildlife habitat, including species at risk³.

On May 29, 2018 WFP presented to the Village at a Committee of the Whole Meeting a dated (March 2008) watershed indicators report, which was not based on a site assessment⁴ or recent climatic change data and relied on dated and limited information⁵, about the McKelvie Creek community watershed. Even with dated and limited information caution was

³ At page 50 of WFP's FSP, WFP mentioned that a notice of species under section 7 of the *Forest Planning and Practices Regulation* was not received for TFL 19 as ungulate winter ranges were already established and that WFP did not specify a result or strategy within the FSP. WFP noted that the general wildlife measures apply within the established ungulate winter range.

As noted at page 15 of Melanie Boyce, Deputy Chief Forester's August 10, 2010 Rational for AAC Determination effective August 10, 2010 ("AAC Rationale for TFL 19 August 2010"), the Ministry of Environment has issued a legal notice for species at risk - marbled murrelet - under section 7 of the *Forest Planning and Practices Regulation*.

The BC Species and Ecosystems Explorer Search Results listed 18 species that are located within the Strathcona Regional District, of which the Village is a part:

http://a100.gov.bc.ca/pub/eswp/jsp/results_print.jsp. The species listed which are vulnerable or at risk are as follows: western toad, short-eared owl, common nighthawk, evening grosbeak, olive-sided flycatcher, townsend's big-eared bat, black swift, wolverine (*luscus* subspecies), barn swallow, little brown myotis, sunset phyllis, whitebark pine, bull trout and grizzly bear. There are other species listed that do not yet have status: painted turtle, peregrine falcon, and a species of wolverine.

⁴ Section 14 of the Village's Official Community Plan ("OCP") – Development Permit Area No. 1: Riparian Areas- provides that prior to the issuance of a development permit with respect to forest harvesting activities and practices in a watershed the stability of the natural slopes and the potential for erosion or flooding, and the impact of the proposed development on, or by, such natural hazard conditions should be addressed by a *site specific investigation* and report prepared by a registered professional with specific experience in geotechnical and/or hydrological engineering.

⁵ Glynnis Horel, P. Eng. of G. M. Horel Engineering Ltd. ("Horel 2008 Report") relied on 1995 black and white airphotos; 2004 and 2005 satellite images; digital inventory data as of May 2007 from WFP's geographic information system, inventory data developed in 2006 project; and public source information - bedrock geology mapping at 1:250,000 scale, biogeoclimatic mapping, and Environment Canada precipitation data. In the Horel 2008 Report, it is noted (with emphasis added in bold) at page 5 that:

Ecological indicators (temperature, turbidity, habitat complexity, resident fish populations, and macroinvertebrate diversity) are not within the scope of this project. While habitat complexity is not directly assessed in this project, some inferences can be made from stream channel type and riparian condition. For example, an alluvial stream with unlogged riparian forest could be expected to have greater habitat complexity than a nonalluvial stream; or than an alluvial stream where the riparian forest has been logged and has inadequate riparian forest to supply large wood debris (LWD) or limit channel bank erosion (CBE).

recommended - Glynnis Horel, P. Eng., stated within her March 2008 Watershed Indicators report that:

(...) In TFL 19, annual precipitation likely ranges from 2800 mm in the lower Gold River valley to about 4000 mm at the upper elevations. All of TFL 19 is in Snow Zone 1 and drains to the west side of Vancouver Island. This is the wettest zone on the windward side of coastal B.C. (Hudson 2004).

Over half of TFL 19 is in steep terrain (Table A5, Map 3); most watersheds have steep mid and upper slopes. Several watersheds rise to alpine areas with rockslides and avalanche tracks. (...)⁶

Potential hazards include areas of steep terrain logged since 1995. These areas may be vulnerable to further open-slope landslides, which may be a consideration in risk management for future harvesting on steep slopes. Road length of moderate or higher hazard that is not deactivated indicates the potential for possible future landslides, and is a consideration for risk management of road maintenance.⁷ (...)

The presence of floodplains with channel migrations zones reflects the potential for channel instability to occur following harvesting.⁸

Ms. Horel also noted that:

- The Tahsis watersheds have a high to very high fish capacity; large or potentially large anadromous runs have high sensitivity with significant disturbance still apparent.⁹
- There are moderately disturbed, or improving but still of concern legacy effects on the watersheds in TFL 19 which legacy effects include riparian harvesting, cross stream yarding, logging of unstable terrain, and road construction practices that resulted in landslides and erosions.¹⁰
- In Tahsis watersheds there is a highly disturbed¹¹ and unstable

⁶ Horel 2008 Report at page 3

⁷ Horel 2008 Report at page 9

⁸ Horel 2008 Report at page 11

⁹ Horel 2008 Report at pages 14 to 15

¹⁰ Horel 2008 Report at page 15

¹¹ At page 12 of the Horel 2008 Report, Ms. Horel stated:

The following conditions were considered in assigning a watershed disturbance rating:

alluvial channel from riparian logging and it would take 50 years to improve. Tahsis' watershed sensitivity, trend and fish rank should be the highest priority for assessment in TFL 19.¹²

On May 29, 2018, Ms. Horel stated that WFP obtained light detection and ranging ("LIDAR") data in 2016. However, WFP has not disclosed the LIDAR data to the Village in response to requests by the Village.

The Village has also sought but WFP has not prepared and disclosed a sediment management control plan.

In response to the Minister of Forest and Range, Forest Analysis and Inventory Branch's June 26, 2009 letter about, among other concerns, WFP's use of an old seral cover constraint to meet the non-spatial old growth requirements, WFP stated that "if there is currently insufficient old growth to meet the OGMA requirement in moderate and high BEO LUs the model is constructed such that there are penalties imposed as long as there is insufficient old growth". That response strongly suggests that WFP will simply cut down old growth within the McKelvie Creek Community Watershed and then pay whatever penalty may arise. That response and perspective is also disturbing to the Village considering the low effectiveness of stewardship results in Campbell River related to riparian areas.¹³

Requests for Information, Documents and Maps

Please provide the following information, documents and maps:

1. Has WFP obtained a watershed assessment or hydrological evaluation or exemption from needing to obtain a watershed

* Frequency of landslides from roads and cutblocks

* Length of stream channels with inadequate riparian forest to provide LWD

* Length of stream channels within inadequate riparian forest to control bank erosion and maintain channel stability (CBE). This is from airphoto (sic) evidence of channel instability or overwidening (sic).

¹² Horel 2008 Report at pages 17 and Table 3

¹³ At page 5 of the Forest and Range Evaluation Program, Multiple Resource Value Assessment Report, Campbell River District November 2015 it is noted that effectiveness of practices in achieving resource stewardship objectives in riparian areas post 2006 in Campbell River was 53%.

assessment or hydrological evaluation of the McKelvie Creek community watershed?

2. If the answer to question number one is yes, please provide a copy of the applicable watershed assessment, hydrological evaluation or exemption.
3. Please provide maps and the shape file that clearly identify the areas where WFP is proposing to build roads within TFL 19 and within the area of the McKelvie Creek community watershed.
4. Has WFP applied for and received a road permit for construction of roads within and in the vicinity of the McKelvie Creek community watershed?
5. If the answer to question number four is yes, please provide a copy of the road permit application and issued road permit.
6. Please provide the LIDAR data that WFP obtained in 2016.
7. Please provide a map (one consolidated map) that clearly delineates the boundaries/area that is the subject of Ungulate Winter Range #U1-014, as amended, and any other ungulate winter range orders and legal notices for species at risk issued under section 7 of the *Forest Planning and Practices Regulation* that apply to TFL 19 and the McKelvie Creek community watershed.
8. Does WFP have or do WFP's logging contractors or sub-contractors have any notices or other records filed against them for their failure to perform an obligation under a license or other agreement or an obligation under the *Forest Act*, the former Act, the *Forest Practices Code of British Columbia Act*, or the *Forest and Range Practices Act*, under any regulation pursuant thereto or under other legislation (for example, the *Environmental Management Act*, the *Wildlife Act*, *Riparian Areas Regulation*, *Fisheries Act*, *Species at Risk Act* and *Water Sustainability Act*), or are there any investigations because of WFP's non-compliance or the non-compliance of any of WFP's logging contractors or sub-contractors working within TFL 19 with these obligations?

9. If the answer to question number 8 is yes, please provide copies of the notices or other records filed against WFP and WFP's logging contractors and sub-contractors and advise whether the status of the investigations is still underway.
10. Please provide us with copies of any reports and studies that MFLNRRD, the Ministry of Environment and Climate Change Strategy and Island Health Medical Health Officers have undertaken and which are related to forest companies' and their respective contractors' and subcontractors' primary forest activities within the Leiner and Tahsis watersheds and McKelvie Creek community watershed.
11. What is the status of WFP's operational plans and what are WFP's outstanding obligations in relation to those plans?
12. Are you aware of any particular environmental or First Nation's issues that could potentially have an impact on WFP's ability to harvest timber from and within the vicinity the McKelvie Creek community watershed?
13. Has WFP received an approval under the *Water Sustainability Act* authorizing WFP to make changes in and about a stream that connects with the Leiner and Tahsis watersheds and McKelvie Creek community watershed (under sections 11 and 12 of the *Water Sustainability Act* or section 4 of the *Water Sustainability Regulations*)?
14. If the answer to question number 13 is yes and WFP did receive such approval, please provide a copy of those approvals and the application and supporting documents, including prescribed plans, specifications and reports of assessments submitted (including those submitted in relation to sections 12, 15, and 16, if applicable, of the *Water Sustainability Act*).
15. If not specified in the approval, if issued, authorizing WFP to make changes in or about a stream that connects with the Leiner and Tahsis watersheds and McKelvie Creek community watershed, are there any watershed objectives or mitigation measure terms and conditions or water sustainability plan restrictions or prohibitions or terms under a fish population protection order imposed?

16. If the answer to question number 15 is yes, please provide a copy of the watershed objectives or mitigation measure terms and conditions or water sustainability plan restrictions or prohibitions or terms under a fish population protection order imposed.

The Village asks that your reply be sent by e-mail to mtatchell@villageoftahsis.com, and if not possible to send by e-mail, due to the size of maps and documents, by mail to my attention. As WFP is proposing to construct roads within TFL 19 and within the area of the McKelvie Creek community watershed as early as 2019, the Village would appreciate receiving your response with the requested maps and documents as soon as possible.

Thank you for your assistance.

Yours truly,



Mark Tatchell
Chief Administrative Officer

cc: Acting Mayor Taylor and Council
Western Forest Products Inc. attention: Paul Kutz, RPF
Tim Sheldan, Deputy Minister, Ministry of Forests, Lands, Natural
Resource Operations and Rural Development