

## **ORDER UNDER THE HEALTH ACT**

WHEREAS, pursuant to sections 1 and 37 of the *Health Act* R.S.B.C 1996, c. 179, the Board of the Sunshine Coast Regional District ("SCRD") is deemed to be a Local Board of Health (hereafter, the "Local Board of Health");

AND WHEREAS an area generally described as the Chapman Creek Watershed (the "Watershed") is located within the geographic jurisdiction of the Sunshine Coast Regional District and the Local Board of Health;

AND WHEREAS, Western Forest Products Inc., by its officers, employees, agents, contractors and others (collectively, "WFP") has initiated forestry and forestry related activities (collectively, the "Forestry Activities") in the Watershed;

AND WHEREAS, on or about June 22, 2007, the SCRД received a complaint under section 57 of the *Health Act* (the "Complaint") with respect to Forestry Activities undertaken by or for WFP in the Watershed;

AND WHEREAS, the persons making the Complaint ("the Complainants") stated that a health hazard exists and is imminent";

AND WHEREAS, section 58 of the *Health Act* requires the Local Board of Health to investigate the cause of a complaint received under section 57 of the *Health Act*:

AND WHEREAS, on July 12, 2007, the Local Board of Health resolved to investigate the Complaint by way of a hearing to commence on July 23, 2007 (the "Hearing");

AND WHEREAS, notices were issued on behalf of the Local Board of Health that it would investigate the Complaint, and invitations to attend the Hearing were provided to the Complainants, WFP, and others;

AND WHEREAS, the Local Board of Health held the Hearing at its offices at 1975 Field Road, Sechelt, British Columbia on July 23, 24 and August 8, 9, and 10, 2007;

AND WHEREAS, the Local Board of Health has received and considered the representations and submissions made at the Hearing concerning the Complaint;

AND WHEREAS, under section 59 of the *Health Act*, the Local Board of Health may issue an order if it has reason to believe that a health hazard exists:

AND WHEREAS, the Local Board of Health has concluded that it has reason to believe that a health hazard, as that term is defined by the *Health Act*, exists due to the Forestry Activities undertaken by WFP in the Watershed;

THEREFORE, pursuant to its authority under the *Health Act*, the Sunshine Coast Regional District, sitting as a Local Board of Health, ORDERS AS FOLLOWS:

1. By no later than 12:00 am on Sunday, August 12, 2007. WFP shall cease all Forestry Activities in the Watershed where slopes measure 60% or greater, except as otherwise stated below in paragraphs 3 and 4 of this order.
2. For greater certainty, WFP is not to build or complete the construction or reactivation of the following road in the Watershed: (Block WC-043), which WFP has defined as D1000 in the affidavit of Jeffrey Ternan sworn July 4, 2007.
3. Notwithstanding the prohibition specified in paragraph 1 of this order, WFP may remove, by helicopter, logs and timber as follows:
  - A) those trees that, as of 12: 00 pm, August 11, 2007 have already been felled in cutblock WC-043;
  - B) those trees that, as of 12:00 pm, August 11, 2007 have already been prepared for removal by helicopter from cutblocks WC-043 and WC-043P.
4. AND FURTHER, notwithstanding the prohibitions in paragraph 1, this Order does not preclude WFP from undertaking a reforestation program in the Watershed as may be required or permitted by law.
5. AND FURTHER, rainfall guidelines for all Forestry Activities not precluded by any section of this Order shall be amended so that no road construction shall be permitted during any period when rainfall exceeds 37 mm (1.5 inches) in a 24 hour period and for the further 24 hours following the end of that period.
6. AND FURTHER the prohibition against Forestry Activities shall also extend to and apply in all riparian areas, defined in this Order to be 30 meters on both sides of all watercourses in the Watershed measured from the high watermark;
7. AND FURTHER, laboratory reports on all water sampling and monitoring in relation to Timber License No. T0707 shall be provided on a daily basis by WFP for a period until two weeks after the conclusion of all Forestry Activities, with the locations of sampling and monitoring to be established by WFP in consultation with the SCRDC. conducted in cooperation with the SCRDC, and with such areas to include the entrance to Chapman Creek. Copies of all monitoring and testing results are to be delivered to the SCRDC concurrently with WFP:
8. AND FURTHER that WFP shall retain a hydrologist to work with or under the direction of the Medical Health Officer and/or the Drinking Water Protection Officer to review any impact of Forestry Activities on water quality for a period until two weeks after the conclusion of all Forestry Activities and report the conclusions of that review to the SCRDC;
9. AND FURTHER that this Order shall not preclude any removal of any trees that must be removed because they constitute a safety hazard and as may be permitted by the Ministry of Forests or WorkSafe BC.
10. AND FURTHER that WFP shall not burn any logging debris in the Chapman Creek Watershed.

(collectively, the 'Orders')

The Local Board of Health makes these Orders for the following reasons, which the Local Board of Health adopts as its reasons for the purposes of section 59(1.3)(b) of the *Health Act*.

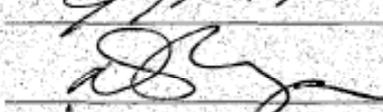
1. WFP is an occupier of land in the Watershed pursuant to Timber License T0707 and Cutting Permit No. B.
2. WFP has been undertaking Forestry Activities in the Watershed, and intends to continue undertaking Forestry Activities in the Watershed.
3. The Watershed supplies raw water to the SCRD Chapman Creek water treatment plant.
4. The Chapman Creek water treatment plant is part of a multi-barrier system which supplies domestic water to approximately 23,000 customers in the SCRD.
5. Source protection is one of the barriers in the SCRD's multi-barrier water system. A Source Assessment conducted in 2006 on the Watershed rated the hazard to drinking water from Forestry Activities as high. Forestry Activities on steep slopes in the Watershed have been shown to have an adverse impact on the quality of raw water in the Watershed. In particular, Forestry Activities on steep, unstable terrain with soils which are sensitive to disturbance contribute to drainage alteration, increased turbidity and sediment and changes in levels of organic carbons and pH.
6. The Chapman Creek water treatment plant has encountered difficulties in being able to appropriately treat water received from the Watershed due to variations in water turbidity, such as those that could result from Forestry Activities in the Watershed.
7. The approval processes for Cutting Permit No. B and Road Permit R07354 have not considered or taken into account the impacts of the activities authorized by those permits on public health.
8. In the face of uncertainty about the scientific basis of a significant threat to health or safety, principles of prudent avoidance may justify taking steps to protect public safety. In the absence of any prescribed Best Management Practices (BMP) standards in British Columbia, it has been difficult for the Local Board of Health to assess the quality of WFP's plans, particularly given conflicting evidence heard by the Board.
9. The evidence presented in support of the complaint did not sufficiently demonstrate that a health hazard exists, as defined by the Health Act, on the more gentle slopes of WC-021 and WC-023. WFP has demonstrated diligence and attention to water quality issues in the development of its management practices and have established an independent environmental monitoring program since the complaint first came before the Local Board of Health. The environmental monitor hired by WFP has already made changes to road construction strategies that have been instituted by WFP, as an example.

In regard to the extremely steep slopes of WC-043 and WC-043P, however, evidence of the problems posed by old growth forest cover removal was very compelling, resulting in a different evaluation of the hazard to the Watershed in that area. Standing stem helicopter removal of a relatively small number of trees (20%) in block WC-043P will leave an intact forest cover and might have been an option for block WC-043 as well. However, 30% of the tree cover in block WC-043 has already been felled, removing that option from consideration.

10. Some of the evidence presented by WFP was contradictory. Specifically, some of the soil and terrain stability assessments presented contradictory conclusions about the level of precaution to be taken.
11. In some cases insufficient fieldwork was conducted. Some of the evidence presented was based on other studies which, in turn, were based on still others.
12. Despite statements to the contrary, there was evidence that no hydrologist had been involved in review of impact of Forestry Activities on health issues and water quality.
13. Authors of studies presented by WFP would not provide acceptable guarantees of their work. Disclaimers posted at the end of every study did not give the Local Board of Health the certainty it requires to determine that the hazard does not exist.
14. There was evidence presented that cutblocks WC-043 and WC-043P overlap a Forest Ecosystem Network (FEN) designation which had been created during a detailed Integrated Watershed Management Plan (IWMP) process in the past. In addition an Old Growth Management Area (OGMA) was changed to allow for these blocks. Although the IWMP was not adopted for unrelated reasons, it has been understood that the creation of the FEN was for the express purpose of Old Growth retention and watershed and biodiversity protection.
15. There was also evidence before the Board that:
  - (a) significant rainfall events affect the raw water quality; and
  - (b) logging is occurring within riparian areas in the Watershed and impacting watercourses.
16. The Board has concluded that burning of logging debris may affect air and water quality in the Watershed, which would constitute a health hazard.
17. Some of the material presented, while very compelling, did not pertain to the issue of a health hazard. Rather, it dealt with legislative inadequacies and/or jurisdictional issues pertaining to the Watershed. The Sunshine Coast Regional District Board, as the organization charged with the legal responsibility for the provision of potable water to the community, is considering pursuing some of the avenues proposed and as the Local Board of Health wishes to ensure that this Order pertains to Timber License T0707 only and is given without prejudice to future efforts to protect public drinking water provided by the Chapman Creek Watershed.

Dated at Sechelt British Columbia this 11th day of August 2007.

The Sunshine Coast Regional District, sitting as a Local Board of Health

Chair Ed Steeves	
Director John Rees	
Director Garry Nohr	
Director Donna Shugar	
Director Lorne Lewis	
Director Barry Janyk	
Director Lee Turnbull	