

## Indigenous Winds Of Change – Modernizing Forest Policy In BC

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The voice of Indigenous peoples is rising loudly and with it comes the winds of change to the BC forest sector. These winds are being carried forward by a multitude of policy initiatives and legislation instigated by the NDP government, and largely underpinned by the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) and reconciliation.

While I suspect many in the sector are worried about the uncertainties of the government’s initiatives, I believe these are exciting times to witness First Nations (re)gaining greater control of lands within their traditional territories and seeking to strengthen their economic self-sufficiency.



### MODERNIZING FOREST POLICY IN BC:

Last June, Premier Horgan announced his government’s *Modernizing Forest Policy in BC* intentions paper which conveys a collection of visions for higher value forest products manufacturing, increasing diversification of the sector, supporting good jobs, and increasing local communities and Indigenous values in the forest sector including more discussion on old growth timber harvesting deferrals. The current allocation and availability of forest tenure along with the process for managing allowable annual cut (“AAC”) are prominent elements targeted for change.

### INCREASED PARTICIPATION: FOREST TENURE

One of the guiding principles of *Modernizing Forest Policy* intentions is to increase forest sector participation, with a specific goal “to increase the amount of “replaceable” forest tenure held by Indigenous peoples to 20% from the current level of approximately 10%.”

To increase tenure held by Indigenous peoples (or First Nations), the intentions paper identifies creating future tenure opportunities through tenure redistribution.

Tenure redistribution harkens back to Bill 28, the *BC Forest Revitalization Act* of 2003 when the BC Liberal government at that time, conducted a “take back” of 20% of the AAC from major licensees for redistribution to First Nations and the creation of BC Timber Sales. That take back process shaped the sector to this day.

Contemplating another take back of sorts is a significant move. To contextualize the goal of



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increasing First Nations held tenure, I have conducted an analysis to estimate the amount of forest tenure owned by First Nations. I have included under the First Nations owned banner any form of forest tenure with any percentage of equity stake that I could identify, which means my ballpark estimate is probably a slight overestimation.

Replaceable tenure is a form of tenure that can be replaced or in other words is “ongoing.” It contrasts with “non-replaceable” tenure which has a fixed term, typically for five years. Replaceability is key to sustainability for the tenure holder.

Replaceable tenure can include both “volume-based” in reference to timber volume or “area-based” as in reference to a specified land base. There are a variety of types of tenures that are replaceable such as Tree Farm Licences (“TFL”), Forest Licences (“FL”) or First Nations Woodland Licences (“FNWL”) etc. Note FLs can also be issued as non-replaceable.

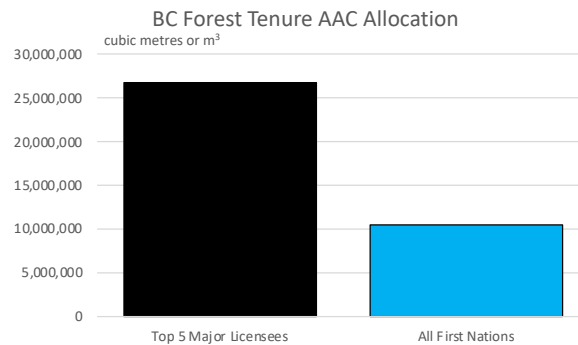
The amount or size of tenure is referred to typically in terms of timber volume or AAC.

I have counted nearly 300 First Nations-owned forest tenures of various sizes, with some First Nations owning multiple tenures. There is an estimated 10.5 million cubic metres (m<sup>3</sup>) of tenure/AAC or 17% that has some level of First Nations’ ownership out of a total estimated 63.4 million m<sup>3</sup> of apportioned and committed AAC (both replaceable and non-replaceable).

**Estimated First Nations Held Forest Tenure**

Licence	Tenure		AAC/Lump Sum m <sup>3</sup>
	Type	Replaceability	
Tree Farm Licences	area	yes	1,698,475
First Nations Woodlands Licences	area	yes	849,834
Woodlots	area	yes	144,281
Community Forest Agreements	area	yes	996,855
Forest Licences	volume	yes	3,107,646
First Nations Forest Licences	volume	yes	86,958
Forest Licences	volume	no	2,194,252
First Nations Forest Licences	volume	no	1,379,798
<b>Total</b>			<b>10,458,099</b>

For comparability, the amount of AAC controlled by the top five largest tenure holders (non-First Nations) in the province is 26.7 million m<sup>3</sup> (not including BCTS). To be fair, some of these large tenure holders have made efforts to partner or form strategic relationships with First Nations.



The total amount of replaceable tenure held by First Nations is estimated at 6.2 million m<sup>3</sup> or 10% of all tenure and includes both area-based and volume-based tenures. If only considering replaceable volume-based tenures, the amount held by First Nations is 3.2 million m<sup>3</sup>.

Using contemporary tenure valuations, a potential across-the-province buy-out to effect redistribution to achieve the goal of increasing replaceable tenure held by Indigenous peoples has an estimated value between C\$450 million and almost C\$1 billion. It is no surprise that the intentions paper indicates the government will be looking at other ways to redistribute tenure, possibly through legal mechanisms.



There is also an estimated 3.6 million m<sup>3</sup> of non-replaceable tenure held by First Nations, much of which is coming close to the end of their 5-year terms. Some conversions of non-replaceable tenure to replaceable tenure are likely, but are not easy given the full allocation of AAC already.

## **BILL 23 ~ FOREST & RANGE PRACTICES ACT 2.0**

Arising out the *Modernizing Forest Policy* intentions has come some recently introduced legislative changes, with amendments to the *Forest and Range Practices Act*. Through what is known as Bill 23, *the Forests Statutes Amendment Act*, the government has essentially reasserted its control over forest management.

While there are aspects of Bill 23 that I am still studying, one important positive change is the introduction of shared decision making with government and First Nations in the development of forest landscape plans. This change represents further steps to reconciliation and greater (and direct) assertion of the Indigenous voice at the forest landscape planning level.

Looking at the big picture, the following is my offering of considerations for government, industry, and First Nations, (not in any order of priority):

**MEANINGFUL RELATIONSHIP** building by industry participants with First Nations will be critical to ensure a steady supply of fibre to mills. Government wants this to happen too, for obvious reasons.

**NO GUARANTEES** that First Nations owning tenure and harvesting timber will help achieve economic self-determination. Tenure management is not easy and is costly. There

may be cases where owning tenure is not actually the optimal path for a First Nation to increase management control over their traditional territory. A lot depends on the objectives of each First Nation community and the economic feasibility of the tenure. Too small of a tenure is challenging to operate.

**CAPACITY** is a critical element for success. It is my understanding (and I do not speak for any First Nation) that under capacity is a major constraint for economic development of First Nations as well as dealing with resource referrals etc. With Bill 23, what kind of support will there be for First Nations decision makers to help with landscape level planning?

Finding experienced staff to work for government will be a major pinch point as it increases its role in forest management.

And from a recent *Spar Tree Group* survey of logging and road building contractors, a shortage of skilled workers was the top issue cited in holding back growth in their businesses.

**UNCERTAINTIES** are part and parcel of operating in the natural resource sector today. Yes, there is a growing mountain of unknowns, but the reality is that financial markets are increasingly asking for major corporations to enhance and provide Environmental, Social and Governance (“ESG”) reporting which includes milestones for having relationships with Indigenous peoples. If the industry survives this time of transition, an upside could be a BC forest sector well positioned for market opportunities.

**INEVITABLE CONSEQUENCES WILL BE A SMALLER INDUSTRY** – landscape level planning, old growth deferrals, wildfires, at risk



wildlife species habitat management – all will likely contribute to reductions in AAC. The *BC Pulp & Paper Coalition* recently conducted an assessment which is summarized in an article (authored by Jim Girvan) in [the TruckLoggers BC magazine that reviews the potential impacts to AAC.](#)

It is no surprise the *Modernizing Forest Policy* intention paper pushes higher value over volume manufacturing because to keep the same level of employment in the economy, more value will have to be generated from less volume.

## COLONIALISM & RETURN MAXIMIZATION

Perhaps my closing comment might be taken as controversial. It seems to me First Nations owning tenure and being a supplier of logs still resembles a type of colonial relationship in terms of being at the beginning of forest sector's value chain. I would like to see and help more First Nations move further along the value chain with their harvested timber, maximizing returns to their communities.

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