

# **The Evolution of Forest Management Agreements On the Weldwood Hinton Forest**

**The Foothills Model Forest History Series  
Volume 3**

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Deputy Minister R.W.(Bob) Steele and North Western Pulp & Power Vice President I.K.(Ivan) Sutherland signing the 1968 Forest Management Agreement – doubling the size of the forest management area and setting the stage for a major pulpmill expansion which did not happen.

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Stanton Hart	Woodlands Manager, NWPP
Dennis Hawksworth	Vice-President
Donald Laishley	Manager Forest Resources, Weldwood
Fred McDougall	Deputy Minister, Forestry, Lands and Wildlife
Raymond Ranger	Director of Land Use, St. Regis
Dr. Ian Reid	Physician & Surgeon, MLA, Minister of Highways
Robert Ruben	President, Athabasca Valley Development Corp.
Amelia Spanach	President, Spanach Sawmills
Robert Udell	Manager, Forest Policy and Government Affairs
Allan Warrack	Professor, MLA, Minister of Lands and Forests
John C. Wright	Chief Forester, Weldwood

In addition we pay tribute to those pioneers who left such a remarkable legacy of achievements, documents and interviews, notably:

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Reginald D. Loomis	Senior Superintendent of Forest Management

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## PREFACE

### About this Series

This history and policy analysis project had its genesis on May 4, 1995 when Bob Udell presented a paper at the Northern Alberta Forestry Show on the evolution and development of forest management plans and allowable annual cuts. At the conclusion of the speech, UBC professor Les Reid asked why no one had recorded the history of this remarkable enterprise. This led to the preparation of a series of volumes undertaken as part of a “Case study of Policies and Practices Leading to Adaptive Forest Management”.

This Volume 3 reviews the evolution of the Forest Management Agreements within the context of the history of the province, region and Company. Themes regarding social concerns are identified as well as specific turning points, where significant changes in the Agreement occurred. that the review of this evolution provides insights about how environmental management evolved through innovative and adaptive management approaches

The full list of Volumes in the Series, “**Case Study of Policies and Practices Leading to Adaptive Forest Management**” include:

**Volume 1: A Hard Road to Travel (Book)**-- Examines the history and ecology of the largely unmanaged "state of nature" that existed before 1955.

**Volume 2: The Hinton Forest 1955-2001: A Case Study in Adaptive Forest Management**  
Examines the history and description of forest management and silviculture on a historic and renowned forest. Includes the range of forestry practices from inventory, silviculture, multiple values and uses, protection, research, harvesting, and the planning and management cycle for sustainable forest management. This review is developed through 12 major chapters.

**Volume 3: Evolution of the Forest Management Agreements --** This report, using the Hinton Agreement as its core reference, examines the evolution of forest management agreements, a unique Alberta invention first tested and developed on the Hinton forest management area that later led to the application of sustainable forest management.

**Volume 4: The Development of Adaptive Management in the Protected Areas of the Foothills Model Forest --** Examines the evolution of adaptive management in Jasper National Park, Switzer Provincial and Willmore Wilderness Park.

**Volume 5: Learning from the Forest: Adaptive Forest Management at Hinton, Alberta (Book)**  
A summary document capturing the highlights of the other reports in the series for a broader audience.

**PREFACE**

**A Question of Terminology  
or  
What’s in a Name?**

*Juliet:* What's in a name? That which we call a rose  
By any other name would smell as sweet:  
--- Act Two, Scene II, line 43.  
*Romeo and Juliet*, William Shakespeare 1595

This Volume is a story about Alberta’s first operating Forest Management Agreement, how it began and evolved, and the forces that influenced it. The Forest Management Agreement has two major parts. First is the Agreement itself, a legal document detailing terms and conditions, signed by agents of the two parties -- government and Company -- and confirmed by an Order-in-Council (O.C.). Second is the forested area to which the Agreement applies, outlined on a map that is included in the O.C. as a “Schedule” or appendix.

The question under consideration is about what names and short-forms should be used in referring to these two components. For the purpose of this document the authors have chosen to use the following convention:

<b>Component</b>	<b>Short-form term</b>
Forest Management Agreement -- the document	the Agreement
Forest Management Area -- the area	FMA

However, our choice of the short-form terms is not one that is universally accepted. The difficulty arises in trying to distinguish between the two components which, unfortunately, have identical acronyms: i.e. Forest Management Agreement (FMA) and Forest Management Area (FMA). It is evident that in working use the term “FMA” is used variously to describe the both the document and area, sometimes in the same sentence, but the precise meaning of which is usually clear in the context of the discussion in which it is used. However, the most important point in this document is to be consistent with whatever terms we use.

The terms “Forest Management Agreement” and ‘forest management area’ first appeared in legal documents in the 1968 “model” Agreement. These terms have been used consistently in legislation since then, including the most recent 1999 Agreements. We also chose to apply the term “Forest Management Agreement” retroactively to the 1954 Agreement, applying that privilege in response to the explanation in the 1968 Agreement. The evolution of terms from ‘pulpwood lease’ to present terms is an interesting one and is described in the Appendix.

## Chapter 1

### INTRODUCTION

Alberta took over control of its natural resources from the federal government on 1 October 1930 through the Transfer of Resources Act. The forest industry was modest at that time -- in 1931 producing only 51 million board feet (fbm). By the end of the Second World War, production had increased to about 300 million fbm, and inquiries about possible construction of a pulp mill in Alberta were noted as early as 1946.<sup>i</sup>

The *Alberta Forest Act* of 1931 prohibited the export of unmanufactured timber to try to encourage primary and secondary manufacturing industries. However, permission to export fire-killed timber for pulpwood to be manufactured outside Alberta was approved by order-in-council in 1944-45. Quantities were shipped to Ontario and the United States the next year since there was no domestic market yet. Since the export of green pulpwood was prohibited under the *Forests Act*, recognition that Alberta had suitable pulpwood species may have stimulated interest from potential pulp mill investors outside the Province.

The government of Alberta was interested in encouraging a pulp industry to utilize the extensive stands of smaller diameter trees and to contribute to the economy. Forestry officials at that time, notably Director of Forestry Eric Huestis and Deputy Minister John Harvie, were resolved that if pulp mills were established in Alberta, forest management would be done differently than it had been in eastern Canada. In their revised *Forests Act* of 1949 they included an enabling clause to permit pulpwood leases, but with a commitment to harvesting on a “perpetual sustained yield” basis.

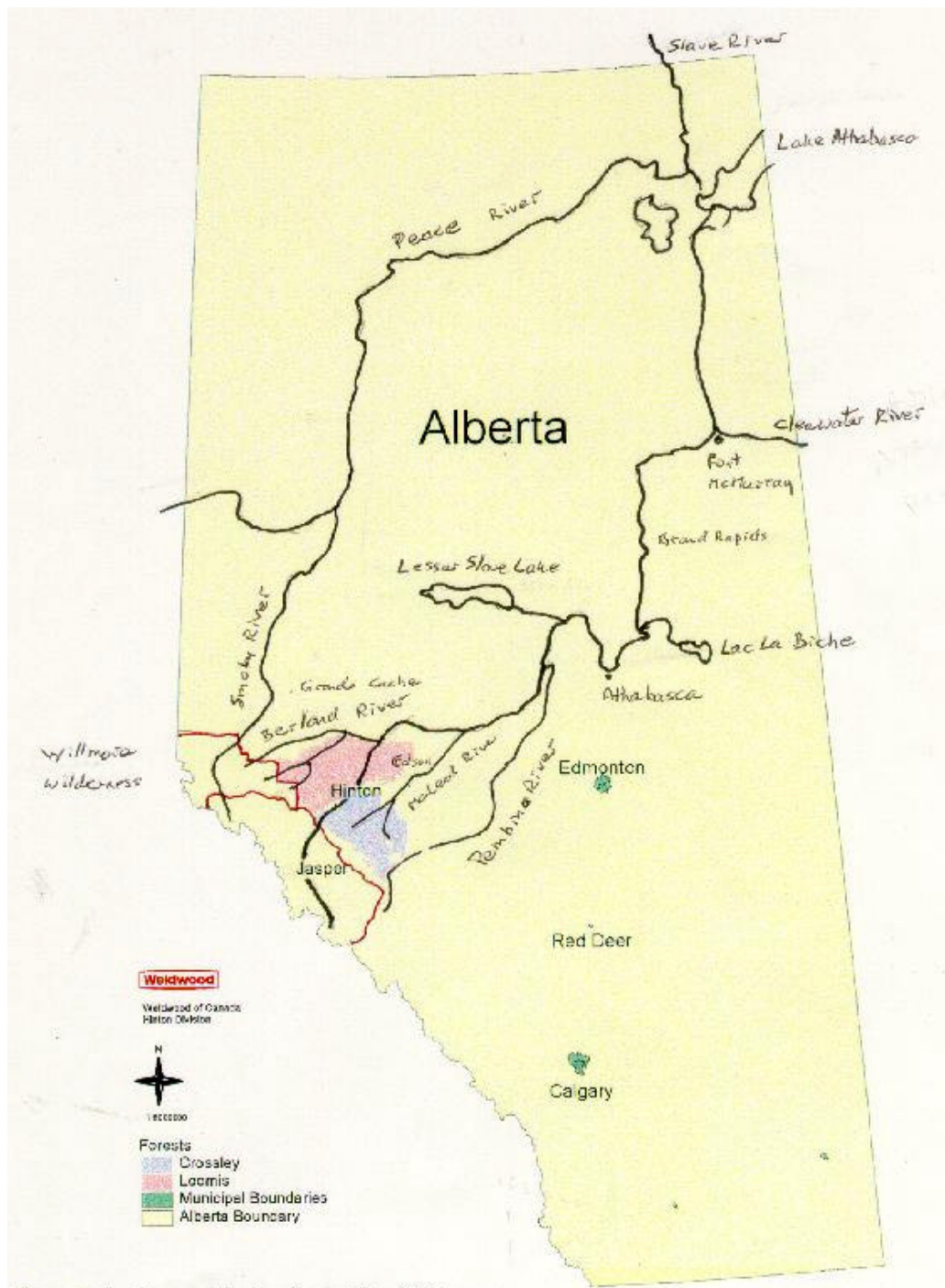
The first application for an Agreement followed in the same year that this clause was approved, but the applicant was not able to raise the capital to proceed. The evolution of the first successful Agreement, for North Western Pulp and Power Ltd., began in 1951 when Alberta businessman Robert Ruben signed an agreement and began to search for a partner. He obtained extended agreements in 1951 and 1952, finally forming a partnership with the St. Regis Paper Co. Ltd. in June 1954. Their revised Agreement of 14 September 1954 is the one that launched this enterprise. The Agreement epitomized the cooperative government-industry search for an equitable means by which their respective needs could be met while ensuring that the forests were managed to sustain “perpetually successive crops” for sustained yield.

Weldwood of Canada and its predecessor companies have been managing this large forest management area in Alberta for over 40 years. Its location in west central Alberta in the upper Athabasca River area is shown in Figure 1. The enabling Agreement of 1954, with North Western Pulp and Power Ltd., was the first of its kind in Alberta. This was a pioneering venture from the outset. In addition to constructing the first pulp mill in Alberta, it was the first pulp mill

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<sup>i</sup> In metric equivalents: 1931 was 120,258 m<sup>3</sup> and 1946 707,400 m<sup>3</sup>. By the year 2000 annual production was over 20 million m<sup>3</sup>.

Figure 1. Foothills Model Forest in Alberta including the Weldwood forest management area – geographic and historical context of the Athabasca River.



to utilize lodgepole pine as a major component, the first major forest industry to commit to sustained yield forest management, and the first cooperative agreement in which the industry assumed such a large share of the forest management responsibility. In return for this commitment, the Crown granted the Company long term security of timber harvesting rights, or 'tenure', upon which to base investments in manufacturing plants, forest improvements and forest management. This model of shared government-industry responsibility and commitment was precedent setting, and its principles provided an example, the concept of which was later emulated in some form by most other provinces.

However, the venture did not just happen – it required vision, dedication and commitment of intellect and capital. Among the most influential of the initial forestry pioneers were Eric Huestis - Director of Forestry, John Harvie - Deputy Minister, Frank Ruben - oil and coal businessman, Roy Ferguson - President and CEO of St. Regis Paper Co, William Adams - Ferguson's successor, H.V. (Pete) Hart - General Manager of St. Regis Northern Woodlands Division, Reg Loomis - Senior Superintendent of Forest Surveys for the Alberta Forest Service and Des Crossley - first Chief Forester for NWPP. The stage was set and actions supported by many other visionaries. As well, each of the successive forest resources and corporate leaders also did pioneering work as the social, environmental and corporate climates changed and adaptations were made. These people are introduced as the story unfolds. Although we identify some of these leaders, we are quick to acknowledge that there were many other important contributors -- all organizations had excellent people as part of their teams. In fact, the 40-plus years of success of this venture was founded on and shaped by the quality of all the people involved.

Since the 1954 Agreement, societal expectations for forest management have grown. Changes were made to policies and practices in response to and in anticipation of these. However, in 1992 Canadian forestry crossed a threshold with a major change in philosophy. This occurred through Canadian endorsement of the *National Forest Strategy* and *Canada Forest Accord* with their commitments to sustainable or ecological forest management with its broader requirement to consider environmental, economic, social and cultural values. As we consider the challenges of these new directions, it is prudent to examine the past as it may provide insights with which to adapt to the new course.

In recent times, adaptive management has been identified as an inherent component of sustainable forest management. However, little recognition has been given to examining the role that adaptive management may have played in forest management in Alberta for decades. This lack of recognition can be attributed in part to our own failure to examine and set forward the record.

The year 1997 marked the 40th anniversary of the first pulp production from operations of Weldwood of Canada and its predecessors at Hinton. This seemed an opportune time to start to objectively review the history of how forest management evolved and how it was changed in response to both results and changing circumstances. An objective analysis of the history would identify both strengths and weaknesses of the policies and actions taken, and would provide insights into how policies and practices evolved in the context of the time. The year 1997 also marked the 5th anniversary of the Foothills Model Forest (FMF), by that time expanded when

Jasper National park was formally added in 1995. The history of the development of forest management and practices is printed as Volumes 1 and 2 of the series.

This Volume 3 reviews the evolution of the Forest Management Agreements. We hope that reviewing this evolution will provide insights necessary to develop guides to achieve sustainable forest management through innovative and adaptive management approaches. Supported by the historical review and compilation of Volumes 1 and 2, this study reviews the successes and problems that Weldwood has had as the Agreement has evolved. We look at history as a series of issues or challenges that were faced in order to identify: specific problems that arose; what changed and did not change in response to the problem; and what factors facilitated and/or impeded responsive changes. Specifically, we consider:

1. What events may be considered to be turning points as the Agreement has evolved? What were the different options available at each turning point? Why was the choice made as it was, and why were other choices rejected?
2. At a given point in time a path was chosen given the information available. Could another better path have been chosen given the available information set? Is there something that we can add with this study to the information set currently to choose better paths for the future?
3. Historically, to what extent have social values lain beyond the interest of the tenure holder? How successfully has the government looked after those values beyond the tenure holder. Is there an historic trend? Are there elements of this trend which hold promise for or threaten the journey towards sustainable forest management in Alberta?

In order to address the questions posed above, this volume presents a historical description of the evolution of the Forest Management Agreement. Chapter 2 provides some background information regarding the historical context of the Agreement. Chapter 3 then tracks the Agreement through its evolutionary changes, identifying key turning points throughout its history. The fourth chapter summarizes this history in light of the research questions posed above. The fifth and sixth chapters analyze and pull together implications for future forest policy

As we survey and analyze this history, we note that our scope is largely limited to industry and government interactions. This scope is intentional, as these two parties have dominated the evolution of the agreement over its history. However, with currently increasing widespread participation in forest management, we do, in our analysis, discuss implications of this changing environment for future agreements. Thus, we anticipate that if the history of the agreement is documented again, in another 40 years, there will need to be a much wider research focus.

## Chapter 2

### FOREST POLICIES

#### *A brief review – to 1951*

#### 2.1 Introduction

Forest policies in Alberta reflect a heritage from a long history of Canadian precedents, beginning with Crown reserves of forests for strategic military purposes by the British and French as early as the 1600s.

Alberta assumed responsibility for its forests in 1930 after the Transfer of Resources from the federal government. In summary, the forests were (and still are) primarily in public ownership, now administered by the Alberta Land and Forest Service of the Department of Sustainable Development<sup>ii</sup> of the provincial government. The local forest industries were then comprised primarily of sawmill and tie operations. Although they were important locally, there were concerns about their sustainability in light of utilization technology at the time, and the lack of markets for the extensive post-fire forests of smaller size not suitable for sawlogs and ties. With a focus on protection from fires, increased logging was anticipated to become the primary disturbing element in the forest to ensure renewal of vigorous young forests. The Province was aware of problems with industry forest management in other parts of Canada as a result of permissive leasing arrangements that did not ensure regenerated forests, and resolved to do better in Alberta. Although oil revenues were starting to increase after Leduc No. 1 ‘came in’ on 13 February 1947, Alberta remained financially weak for another decade. It was seen as important that forest-based revenues be generated to help to cover the costs of forest protection and management.

#### 2.2 Historical Review

When the federal government acquired Rupert’s Land from the Hudson’s Bay Company in 1870, the lands, of which Alberta was a part, were incorporated as the North West Territories, administered by the federal Department of the Interior. The responsibility for protecting and managing the Dominion Forests was eventually assigned to the Dominion Forestry Branch (DFB) when it was established in 1899. The extent of the forests and magnitude of the task required their efforts to be focussed on the forests of greatest importance. In Alberta and the prairies these were generally judged to be the treed areas on higher elevations -- typically watersheds on which many of the important streams and rivers originated. They were established as Forest Reserves and received the greatest attention for forest protection and management. The rest of the forested lands were managed as Fire Ranging Districts in which staffing levels were much lower. The first forest reserves were made by orders-in council and

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<sup>ii</sup> The forest management agency from 1930 to 1992 was the Alberta Forest Service, retaining that designation through several changes of department. In 1992 the former Land Division was combined with it to form a new land and forest service. The acronyms AFS and LFS are used during their respective periods of time.

first confirmed in a 1906 Act. However, the major system of forest reserves was greatly extended under the *Dominion Forest Reserves and Parks Act* of 1911.

The major arguments for setting up Forest Reserves were to protect watersheds and to provide a supply of wood for settlers on the prairies. As Frank Oliver, Minister of the Interior, in 1911 explained<sup>1</sup>:

The primary object is to conserve the sources of water supply by the protection and production, or reproduction, of timber or wood around the sources of the water supply --- to reproduce the timber growth for the benefit of the dwellers on the prairies surrounding these areas.

However, on the Rocky Mountains Forest Reserve south of the North Saskatchewan River extensive areas of timber berths had already been issued in the 1880s to supply the sawmills cutting timber for railways and communities in southern Alberta. As Rau commented in 1908<sup>2</sup>: "*These berths cover all the available timber and considerable country, besides, which is today not covered by merchantable timber*". Location of the Forest Reserves as of 1929 is outlined in Figure 2. The two northern "Forests" of the extensive Rocky Mountains Forest Reserve, the Brazeau and Athabasca as shown in Figure 2, were initially administered from headquarters at Hinton. The Hinton area was more remote, but by 1909 in anticipation of the railway and coal mining, several timber berths were surveyed along the McLeod River, and one large berth east of Brule Lake in what would become 'Camp 1' in 1954 (Figure 3).

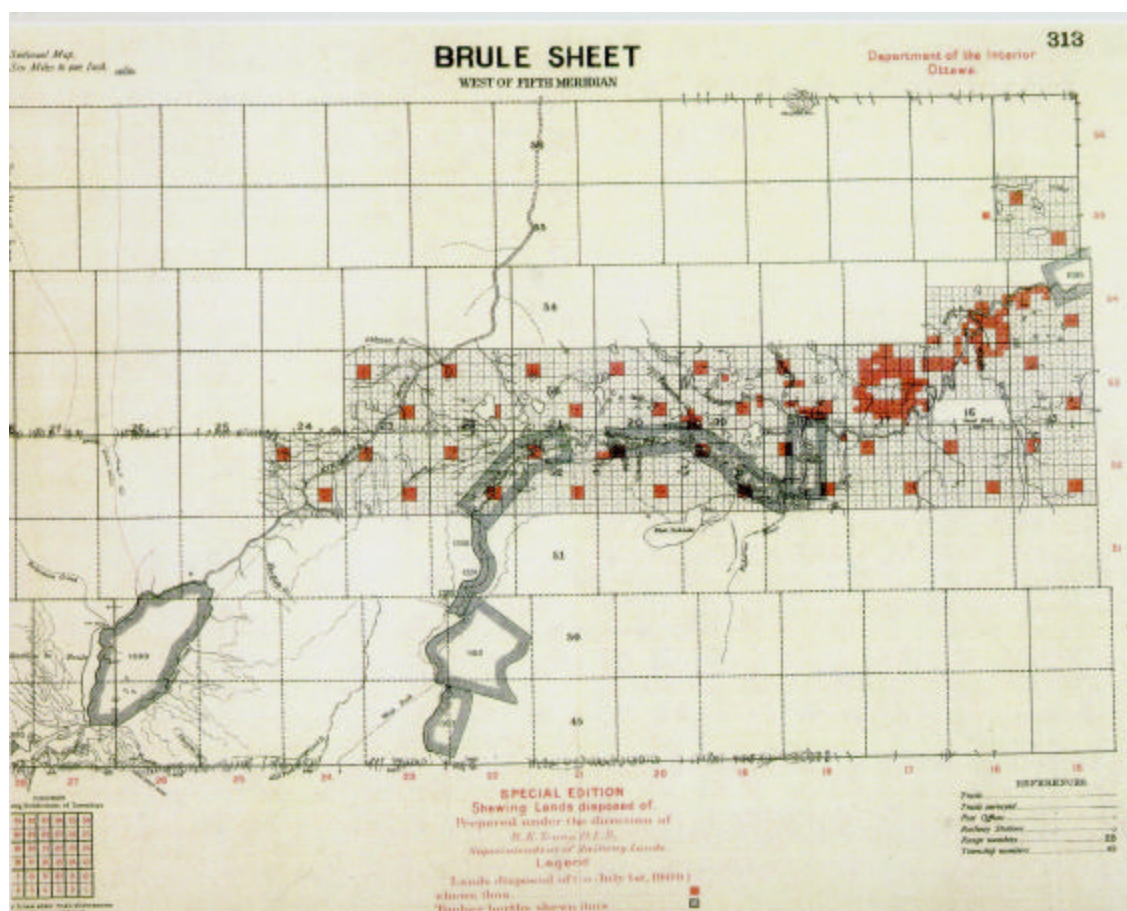
Licensed Timber Berths (LTBs) were blocks of forested land on which cutting rights were granted to the highest bidder, usually by sealed tender. They were typically issued for twenty years, often renewable. Timber dues varied from five to ten per cent of the selling price of rough lumber. Harvesting was limited to larger trees under a diameter limit system--commonly minimum stump diameters of 14 inches for spruce and 12 inches for pine. Marking the specific trees to be cut was preferred on the smaller Forest Reserves on the prairies but a shortage of staff precluded that on large berths. The philosophy of the partial cut was to remove older trees (bigger ones), leaving smaller trees to grow faster, maintain cover on the watersheds, and to provide seed trees to establish natural regeneration. Too often the cuts resulted in high-grading operations. It was assumed that nature would regenerate the forests, but the resulting site conditions often worked against it. In some cases the trees left behind grew well in response to the greater light available, but many were left scarred and broken.

The LTB approach to timber sales was intended to ensure that revenues from the wood cut would flow to the government to help pay for the costs of government services. LTBs were sold by competitive bid, as mentioned, to try to get the highest price possible. However, there was no security of tenure beyond the term of the license and the rights only applied to the LTB area.

Figure 2. Location of Dominion Forest Reserves, Proposed Forest Reserves and National Parks in Alberta in 1929.



Figure 3. Timber Berths at Brule Lake and along the McLeod River as of July 1909.



The only significant requirements were that the timber had to be harvested, but only those trees above the specified minimum stump diameter limit. After 1930 timber dues were paid on the basis of the amount of lumber sold, deemed a simpler basis on which to base calculations. The result was that the industry generally comprised small, less efficient portable mills that could be written off during the term of the berth. These mills resulted in less recovery of lumber and, combined with the dues being paid on the basis of lumber manufactured, there was little incentive to increase utilization, either in the forest or from the log. The conditions contained no responsibilities for regeneration or silvicultural practices. Since the primary demand was for saw timber and ties, only the better quality timber was sought, leaving extensive areas of trees unsuitable for those products. The bidding process also led to some hoarding and monopoly holding by financially stronger companies. These results stimulated a lot of discussion about how to do things better.

The concept of multiple-use, or multi-purpose use, of forest lands was clearly recognized by the Dominion Forestry Branch, although not simply stated in that way. There was a belief that “protected” or well-managed forests would support wildlife and provide many other benefits to many people. It was an article of faith. In addition to the initial concern about watersheds, recreational use and grazing were also encouraged, although in large measure with fire protection in mind.<sup>3</sup> As Abraham Knechtel, a Dominion Forester, stated in 1910:

... our legislators... are well aware that forests feed springs, prevent floods, hinder erosion, shelter from storms, give health and recreation, protect game and fish, and give the country aesthetic features. However, the Dominion Forest Reserve policy has for its motto, “Seek ye first the production of wood and its right use -- and all these other things will be added unto it.”<sup>4</sup>

It is interesting that although Alberta became a Province in 1905, it did not receive the rights to its natural resources until the Transfer of Resources Act in 1930. During those 25 years the Dominion Forestry Branch protected and administered the forests in Alberta, and collected dues from timber sales.

The Transfer of Resources to Alberta was made effective 1 October 1930. That fall the Province formed the Alberta Forest Service (AFS) to assume responsibility for forests, and resolved to do as good a job as the DFB. Alberta’s first forest laws and regulations remained essentially the same as those of the DFB. Unfortunately, the hard times of the 1930s Depression and drought years forced Alberta to cut back drastically on government services, including Forest Service staff. Alberta was then a “have-not” province with very limited revenues. As Ted Blefgen, Director of Forestry, reflected in 1946<sup>5</sup>: “... *during the depression years we were definitely informed that no money could be made available and during the war years the necessary labour could not be secured.*” As a result the AFS focussed on forest protection and inspection of timber cutting areas. There was no opportunity yet to practice sustained yield forest management.

Timber production in Alberta increased greatly between 1939 and 1945 in support of the war effort, and also afterwards to meet post-war building demands. As Huestis<sup>6</sup> later noted, in the

first year of provincial control of resources in 1931-32 the cut amounted to 51 million board feet (fbm)<sup>iii</sup>. In 1940-41 it was 186 million fbm, and by 1945-46 was almost 300 million fbm (in metric equivalents: 1931 was 120,258 m<sup>3</sup> and 1946 707,400 m<sup>3</sup>).

The *Forests Act* stated that all forest products must be manufactured within the Province. This was to try to ensure that at least the primary manufacturing jobs stayed in Alberta. However, in response to wartime needs and lack of local markets, an order-in-council was passed in 1944-45 granting permission to ship fire-killed pulpwood for manufacturing paper<sup>7</sup>. In 1945, Huestis<sup>8</sup> stated that the opportunity was: “ --- now being taken advantage of. Large quantities of this class of material are being shipped to Ontario and pulp mills in the United States.” The restriction to fire-killed wood was intended to try to encourage future investments in Alberta-based mills which would be based on green timber,<sup>iv</sup> while in the meantime utilizing the dead timber for which there was no local market.

In 1946<sup>9</sup> the Alberta Post War Reconstruction Committee made five recommendations about forestry: conduct a forest inventory, expand fire prevention, start a long-term program of reforestation, inaugurate training programs for men already in the forestry service and people wishing to join it, and establish additional tree nurseries. These points were remarkably similar to those made by J.H. Morgan<sup>10</sup> in 1884, sixty years before<sup>v</sup>! However, they were fundamentally important and all later came into being.

In British Columbia, Chief Justice Gordon Sloan had also reviewed forest policy in that province. His 1945 report<sup>11</sup> led, in part, to changes in their *Forest Act* in 1947. One of those changes enabled new long-term leases called Tree Farm Licenses to be managed on a sustained yield basis. In Alberta there had been little government response to pleas from foresters for additional funding to address these needs. The cash-strapped Alberta government would not significantly increase the Alberta Forest Service budget until after 1947 when the Leduc No. 1 oil well came in and petroleum revenues began to flow into the provincial treasury. The Alberta forest area was large, still mostly inaccessible and resources few.

The years 1948 and 1949 were eventful ones for forestry in Alberta, marking the start of a growing commitment to achieve sustained yield forest management. First, to rationalize settlement and provide a focus for forest protection and management, an Order-in-Council was passed on 9 January 1948 delineating lands available for settlement from lands to be retained as forests – referred to as the Green Zone (Figure 4). Second, a federal-provincial agreement provided a federal capital grant and provided shared cost management for 14 years on the three southern foothills forests, Crowsnest, Bow River and Clearwater, to be managed by the Eastern

<sup>iii</sup> feet board measure (fbm). One board foot represents a piece of lumber 1 foot by 1 foot by 1 inch thick.

<sup>iv</sup> Jack Wright noted that much of Alberta's fire-killed spruce went to the St. Regis pulp mill at Rhinelander, Wisconsin where they made glassine papers and meat wrap. Thus there was an earlier connection with St. Regis.

<sup>v</sup> Morgan was appointed as a one-man commission in 1884 to report on the forests in the former Rupert's Land, then the North West Territories.

Figure 4. Green and Yellow Zones as declared in 1948.



Rockies Forest Conservation Board comprised of federal and provincial representatives. These two events marked the beginning of modernization of the Alberta Forest Service and clearer definition of its mandate.

In 1949, Eric S. Huestis became Director of Forestry upon the ill health of Ted Blefgen. Huestis and Blefgen had worked closely to try to strengthen the Forest Service and to advance forestry practice. Besides Huestis' promotion, four significant events took place that year: the revised *Forests Act*; a contract for aerial photography, mapping and forest inventory; hiring of Reginald D. Loomis noted forester from eastern Canada; and recruitment of eight graduating foresters from the University of British Columbia.

The 1949 *Forests Act* (assented to 29 March 1949) included a new clause enabling long-term leases that stated (Section 96) that the government may:

enter into an agreement, to be described as a forest management license ... for the management of public lands ... reserved for the sole use of the licensee for the purpose of growing continuously and perpetually<sup>vi</sup> successive crops of forest products to be harvested in approximately equal annual or periodic cuts adjusted to the sustained yield capacity of the lands ...<sup>12</sup>

There were several points of background to this. One of the significant aspects was the use of the term “sustained yield” -- the first time it had been used in Alberta legislation. Huestis<sup>13</sup> had noted in his report for 1948 that the annual lumber cut had increased to 390 million board feet in 1947-48, and commented that it was “... *quite evident that we are now over-cutting*”. He was making this statement largely in respect to the lumber and tie industry. However, he had also observed that as a result of extensive forest fires in the past, there was much timber of a size too small for sawlogs and ties – then commonly 14” dbh and over for sawlogs and 12” for ties – but that it would be suitable for pulpmill<sup>14</sup>. He also noted in his report that he had been approached by pulp and paper industries. In fact, his first reference to possibilities of a pulp or paper mill was noted as early as 1946.<sup>15</sup>

Another part of the background was the concern about net cost to the government for forestry. For example, as early as 1920 R. H. Campbell<sup>16</sup>, the Dominion Forester, reported that revenues received from the forests were as yet small compared to the amount required for forest protection and management, but felt the expenditures were justified and that in time the forests would make financial returns similar to those of European forests. Industry-generated revenues were clearly seen as important. As well, as noted by Loomis<sup>17</sup> in a 1953 background paper on forest management, economic support for community stability was also an objective.

Until 1949 there had been no forest inventory, and therefore no basis on which to develop forest management plans. Huestis' concerns about over-cutting reflected both the limited areas of timber with the size and quality requirements for lumber and ties, and lack of knowledge about the kind and extent of the forest as a whole. Huestis<sup>18</sup> was personally pleased that he was able to

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<sup>vi</sup> The word ‘perpetual’ first appeared in this 1949 legislation. The word was included in a court challenge by a group of environmental organizations in the early 1990s, discussed later.

get approval to contract with Photographic Surveys Corporation (PSC) on 2 November 1949<sup>19</sup>. He explained that the rationale he presented in support of the proposal was based on post-1947 petroleum exploration needs. There was not a complete set of aerial photographs for the Province nor a set of base maps, both of which had come into strong demand by oil companies. The major part of the contract dealt with photography and maps, but Huestis was able to include a forest inventory for the southern part of the Province which was added as a third part of the contract. This area covered the forest south of latitude 54 but excluded the three southern Forests which were covered by the Eastern Rockies agreement. As Huestis described it in a press release for the signing:

The forest inventory, which, although primarily taken from photographs, will be carefully checked on the ground as work proceeds, and give a general inventory of the forest resources of the Province and will allow prospective operators to determine the amount and type of timber within reach of their field of operations. It will give the Government a picture of the amount of timber available so that the amount of cut can be controlled within the limits of increased growth, coupled with the amount cut and burned in forest fires each year.

This contract was funded entirely through the Department of Lands and Forests before the federal-provincial agreements for forest inventories were established. It was a reflection of Huestis' commitment to do proper forest management in Alberta. Huestis then needed an expert forester with experience in photo interpretation and forest inventory to oversee the project. He was fortunate, that same year, to have been able to recruit Reginald D. Loomis who was well qualified. Loomis served as the trouble-shooter for the PSC contract, ensuring a creditable standard of performance. Huestis also spoke to the 1949 graduating class of foresters at the University of British Columbia about forestry opportunities in Alberta, eventually employing eight of them – four to work on the inventory with PSC, the other four assigned to forests. Four of these foresters became directly involved with the NWPP story as will be noted later.

Loomis later stated about the forest inventory:<sup>20</sup>

The inventory has shown that (spruce) has been over-exploited and there is a serious shortage to sustain indefinitely the present production. But on the other hand, the inventory has shown that there is a reasonably plentiful supply of both pines and poplars, the other two major species groups ... in Alberta. The reason for this unbalanced condition in utilization has been ... lack of extensive markets for the other species and sizes ... the preponderance of new softwood tree growth is more suited by size for pulpwood harvesting than for lumber.

It was against this backdrop of the beginnings of technical sustained yield forest management in Alberta that the wood pulp industry was developed.

## Chapter 3

### EVOLUTION OF THE FOREST MANAGEMENT AGREEMENTS

#### 3.1 Evolution of the Forest Management Agreements -- 1949 to 1954

##### *Agreement and Locating the Forest Management Area and Mill*

We began this story with Eric S. Huestis, an Alberta forester who had started work for the Dominion Forest Service in 1923, and moved to the newly-formed Alberta Forest Service (AFS) in 1930 when the natural resources were transferred. Huestis studied forestry at the University of British Columbia and spent his working career in Alberta. He gained field experience in the Rocky Mountains Forest Reserve from the Crowsnest to Athabasca Forests, and in the Forest Reserves of Cypress Hills and Lesser Slave. He moved to head office in Edmonton in 1939 as acting assistant director, acting director in 1948, and in 1949 Huestis became Director of Forestry. He was instrumental in writing the Green Zone Order-in-Council which was passed in 1948. Then in 1949, a pivotal year, the 1931 *Forests Act* was extensively revised. It included the “pulp lease” clause that recognized that particular opportunity for investment. He also got approval for a contract for the first complete aerial photography and mapping of the Province, and started the first forest inventory for the southern half of Alberta.

As well, he hired Reginald D. Loomis to take charge of the inventory and recruited eight graduating foresters from the University of British Columbia in 1949, setting Alberta firmly on the path of sustained yield forestry. Among the UBC forestry graduate foresters were four who would become closely involved with the new Company. James D. Clark was posted to the Clearwater Forest, moved to Kamloops in 1952 to work for the BC Forest Service and returned to Alberta in 1955 to join North Western Pulp and Power. Owen Bradwell started in the Crowsnest Forest, became forest engineer with the Eastern Rockies Forest Conservation Board in Calgary then joined the Company in 1957 in Woodlands; he served as mayor of Hinton 1964 to 1968. Charles Jackson had been posted to the Edson Forest then moved to Edmonton in forest management, later working with Reg Loomis to work out details of the Hinton agreement. The fourth was Robert G. Steele who became Director of Forestry and Deputy Minister<sup>vii</sup>. It was against this backdrop of the beginnings of technical sustained yield forest management in Alberta that the wood pulp industry was developed.

The first recorded Pulpwood Agreement was with a company called Edmonton Pulp and Paper Mills Limited, signed on 19 December 1949<sup>21</sup>. This was a one-year agreement intended to lead to a firm commitment to construct a pulp mill. It described an area of about 1,500 square miles (3900 km<sup>2</sup>)<sup>viii</sup> to supply 100,000 cords (240,000 m<sup>3</sup>) per year for a 200 ton (180 tonne) per day (tpd) newsprint, paper and pulp mill in the vicinity of Edmonton. The principals were listed as

<sup>vii</sup> The other four foresters included two who stayed with the AFS: Stanley Hughes who became head of forest protection and John Hogan, head of forestry construction. Trevor Charles and Victor Heath left the AFS within five years.

<sup>viii</sup> The original agreement stipulated Imperial units. These are used as the primary reference and soft conversions to metric added.

R. O. Sweezey of Montreal, L. Glenn Fasset of Minnesota and William M Owens of California<sup>22</sup>. Sweezey was a civil engineer and investment dealer in Quebec with experience in power projects, logging, forestry work and exploration. As President of Newman, Sweezey and Co. he was involved in “extensive exploration, natural resources, throughout the hinterlands of Canada (coast to coast).”<sup>23</sup>

It is interesting to note how the wood supply area was described. Instead of a single area, Sweezey selected six disperse blocks ranging geographically from the Camp 1 area west of Hinton, Obed, Wolf Lake south of Edson, Swan Hills-Whitecourt, Smith-Fawcett and Marten Mountain north and east of Lesser Slave Lake (Figure 5). All blocks contained merchantable timber. Two of them were on the present-day Weldwood FMA. The total area was 4512 square miles (11,700 km<sup>2</sup>) from which he would select 1500 (3600 km<sup>2</sup>) – either from within any of these blocks or in combination with any intervening areas that were not otherwise allocated. In essence, the wording of the agreement appeared to be an opportunity to select any area in that region west and north of Edmonton. The Agreement stated that the mill would be located in the Edmonton area. All blocks were located on or near railways so he perhaps envisaged rail delivery of wood. Despite the flexibility and apparent advantage provided by this Agreement, he was evidently unable to attract investors and the Agreement was cancelled two years later on 19 November 1951<sup>24</sup> after a one-year extension.

This arrangement may have served Sweezey well as a license for a “fishing expedition” in order to try to attract investors. However, it is difficult to imagine how such a dispersed “forest” composed of predominantly older timber could have evolved into a model of forest management. Nor could it have contributed much to sustained support of rural economies.

Despite the cancellation of his first agreement in 1951, Sweezey had another plan. He registered a new Company -- the Beverly Pulp and Paper Mills. He negotiated a second agreement which was approved by order-in council on 16 January 1952. This time it reserved timber in two blocks, expansions of some of his previous ones (Figure 6). These were located in the Lesser Slave Lake and Coal Branch-Hinton-Berland areas. The reservation south of the Athabasca between Hinton and Cadomin clearly overlapped with what was to become the lease of North Western Pulp and Power that would be made on 12 July 1952, as discussed later. However, the Beverly lease was later given a one-year extension to 16 January 1954 and expired, so Sweezey was apparently unable to find backers for this second proposal either.

The story about the first successful proposal also started in 1949 when Frank E. Ruben first visited his newly-purchased coal mine near Robb, southwest of Edson. Mr. Ruben had come to Alberta in 1936 from California where he had been active in the construction industry and wild-cattling for oil. For a decade he actively participated in the drilling, producing and refining phases of Alberta’s oil industry. In 1947, right after the discovery at Leduc, he formed North Canadian Oils Limited and later New Pacific Coal and Oils Limited.

Figure 5. Edmonton Pulp and Paper Mills – Pulpwood Lease areas proposed by R.O. Sweezy in 1952.

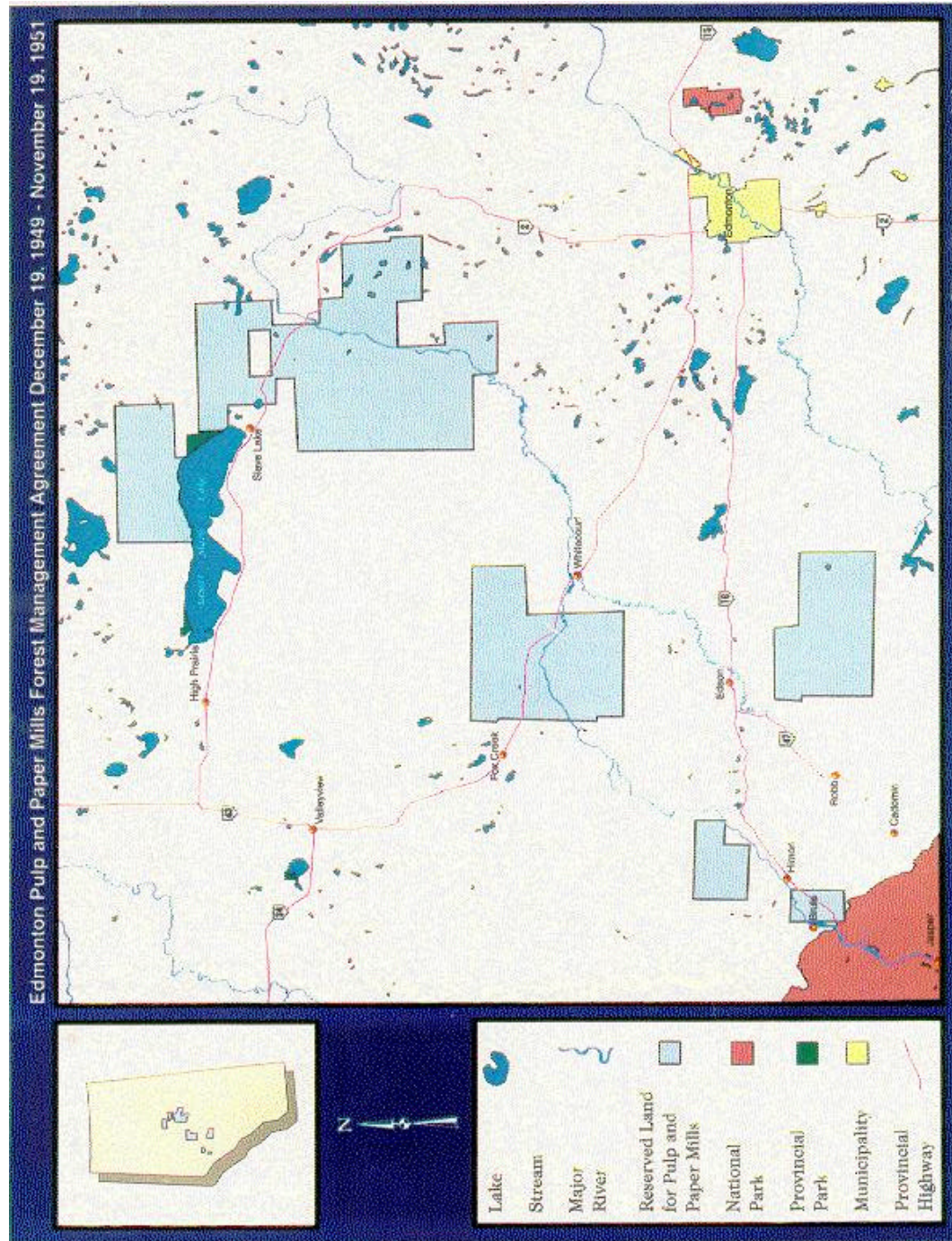
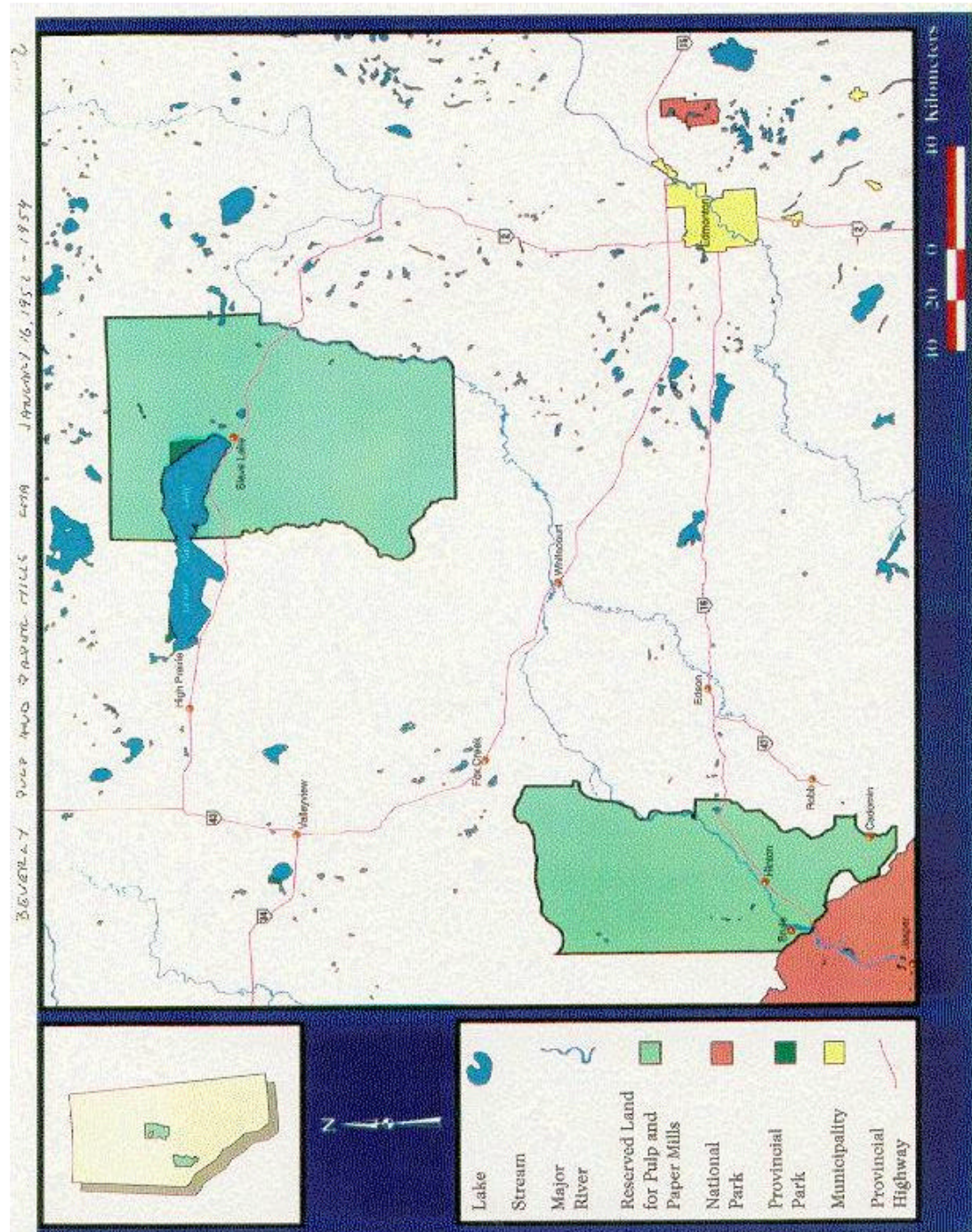


Figure 6. Beverly Pulp and Paper Mills – Pulpwood Lease Areas proposed by R.O. Sweezey in 1952.



In 1949 Frank Ruben made his first trip into the foothills country of the Coal Branch. When the Robb coal mine had shut down and its assets were put up for tender, Ruben had placed a bid and, to his surprise, was successful<sup>25</sup>. When he examined his newly-purchased land, he realized that there was still an abundance of coal and his first desire was to find a viable market. To raise capital, he invited the Bronfman family of “whiskey fame” to invest in his newly-formed company, Bryan Mountain Mining. His company secured a contract through Websters of Toronto, the largest coal distributor in Canada, as well as a lucrative contract with several American coal companies. Then, when preferential freight rates were cancelled by the federal government, his losses started to mount. In order to salvage his investment, he had to create a business of some kind that could use a lot of coal and power. He was impressed by the vast, seemingly untouched forests in the Edson-Robb region.<sup>26</sup> He felt that here was an undeveloped asset which needed only money, cheap fuel and technical know-how to turn it into marketable products -- and envisioned combining his coal power with the forests in the form of a pulp mill. With this in mind, he approached the Alberta provincial government in the persons of Nathan E. Tanner, then Minister of Lands and Forests, and his deputy John Harvie who confirmed they were looking for groups willing and able to harvest and manage forests on a sustained yield basis.<sup>27</sup>

On 23 May 1951 Ruben incorporated North Western Pulp and Power Ltd. -- the name symbolic of his two major interests. Principals were listed as “Frank E. Ruben, Oil Operator of Los Angeles, California” and “Myrtle Aileen Egleston of Calgary” as Secretary. Then, two weeks later, on 8 June 1951 his negotiated Agreement with the Alberta government for a pulpwood lease to support a mill at Edson was approved by order-in council (Figure 7). The first lease area rather pragmatically defined a rectangular block in which Edson lay at the centre. The initial area also included a spur to the southwest up the Coal Branch, perhaps to include a source of mine timbers and additional conifer pulpwood. This area appears to have been adjacent to but separate from one of Sweezey’s blocks south of Edson, Ruben’s lying to the north and west of it. This initial area was a block intended to provide up to 2000 square miles (5200 km<sup>2</sup>) of forest land surrounding Edson to supply 75,000 cords (178,000 m<sup>3</sup>)<sup>ix</sup> per year for a minimum 200 ton-per-day (tpd) (180 tonnes) mill. The block also included land of potential agricultural value to the east of Edson, which was a concern to the Director of Lands. It also contained considerable aspen and poplar while the mill would have needed more conifer, as noted later by Loomis.

Edson was a logical first choice for Frank Ruben to select for the mill location. It lay at the junction of two railway lines -- the Coal Branch would serve to deliver his coal for energy from his mine at Robb, while the CNR main line would provide other services and a link to markets. The Agreement also made provision for land for the mill at Yates, west of Edson. Ruben was required to post a \$10,000 bond that would be forfeited if construction did not begin by 1 May 1952. As it turned out, Ruben had to pay additional \$10,000 deposits in 1952 and 1953 when he applied for extensions of time.

<sup>ix</sup> Conversion from ‘cords’ on basis of average 85 ft<sup>3</sup> of solid wood per cord since ‘cubic metres’ is construed to represent solid wood. Conversion: 2.38 m<sup>3</sup> per cord.

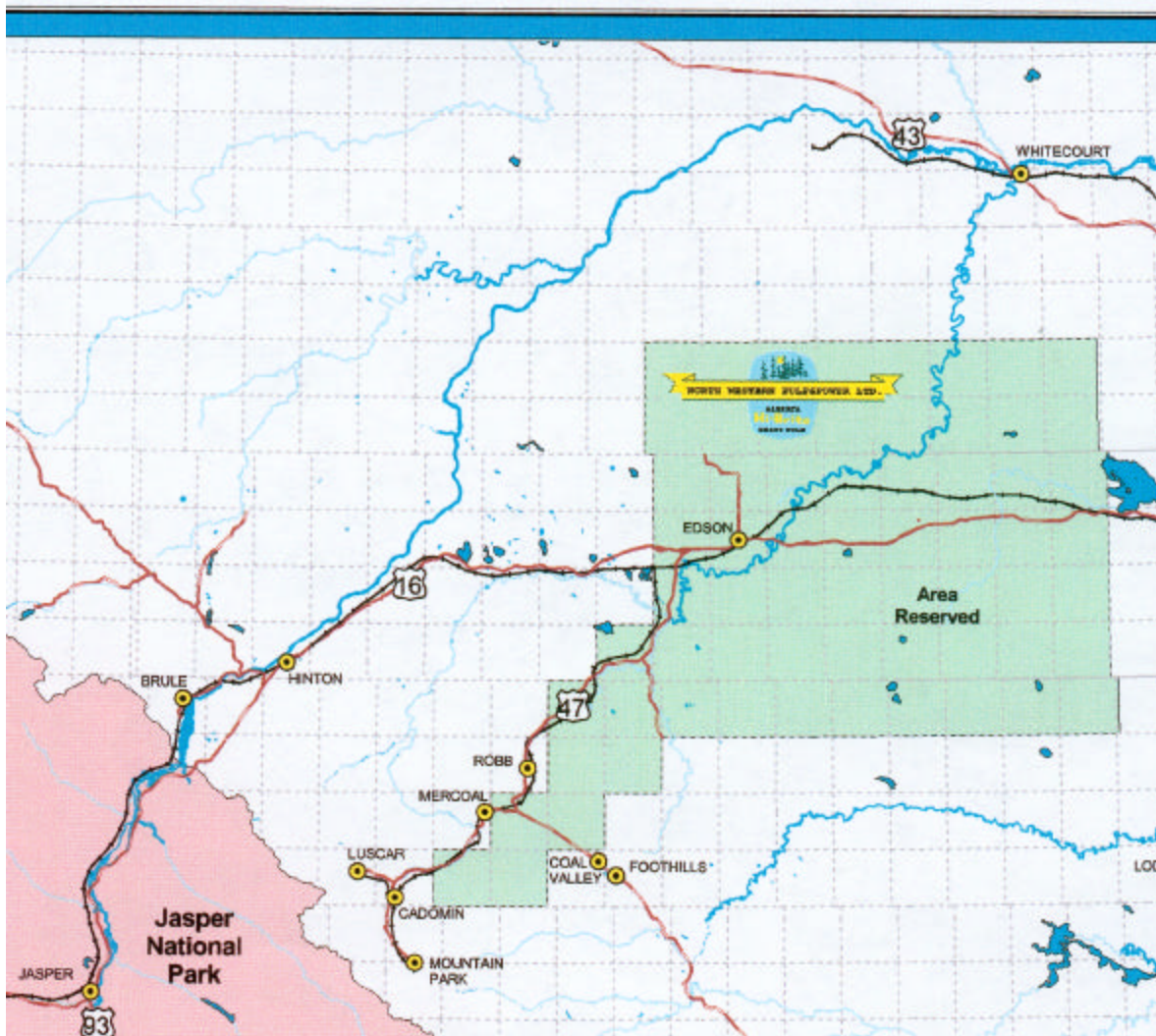


Figure 7. North Western Pulp and Power Ltd. – Pulpwood Lease Area proposed by F. Ruben in 1951 – the original.

With his 1951 Agreement in hand, Mr. Ruben and his partner Clive Reid invested in studies and surveys to assess the timber and to try to determine the best processes and products<sup>28</sup>. Among those with whom he discussed the project was Reg Loomis, head of the Forest Surveys Branch for the Alberta Forest Service. Maps and inventory data for that area had not yet been produced, but Loomis was skilled in the use of aerial photographs and mapping, and he had begun to acquire a knowledge about the local forests and forestry. As Loomis explained it<sup>29</sup>:

[Ruben] got somebody ... to lay out an area. ... I think that the (lease) was in effect before he came to me ... knowing that I knew quite a bit about aerial photographs ... and asked if I would look the area over and make a forest inventory without the maps. You see, at that time, there was no forest inventory done there. And there was nothing at all to indicate what could be provided in the way of wood for a pulpmill.

What happened at that time, you see, the (Alberta) government made a bet with him (Frank Ruben), that for \$10,000 a year, he couldn't get someone interested in establishing a pulp mill here. If he couldn't do it in a year, he lost the \$10,000.

He asked me if I would do it -- make an inventory for him -- using the aerial photographs. I had a method of gridding the photograph, spotting it, and interpreting those spots -- that is classify the forest type in those spots. Percentage wise, you could work out a reasonable estimate, using the photographs and obtain scale from a small scale map showing where the areas were -- one could work out data that would be suitable. I said I'd do it if he would get the Minister to agree to have me do it on my own time. When I looked over the map he had, I found that the location, which this chap that Ruben had got from somewhere else, had the area for a lease and for a reserve located too far east. In fact, it was very much in the poplar area, or predominantly poplar area of the Province. So I moved it back west adjacent to the Jasper National Park.

Reg Loomis recognized that the mill would rely primarily on coniferous pulpwood. He was also an advocate of using natural boundaries wherever possible. For the re-designed area to which he referred, which formed the basis of Ruben's extended agreement of 12 July 1952, he moved the lease area west to the mountains to include more of the coniferous forest, used the Athabasca and Pembina Rivers as natural boundaries and envisaged a generally downhill flow of wood east to the mill. It was to provide 2000 square miles (5200 km<sup>2</sup>) plus a provisional reserve area (PRA) for expansion, with a total estimated volume of 64 million cords (150 million m<sup>3</sup>). The boundary of the new total lease area is outlined in 8, the PRA was not delineated separately. This revised area and data served Ruben well, according to Loomis<sup>30</sup>:

He took my book of data, with just the outline of the area -- it was all on a small scale map of course -- to New York, and he got St. Regis interested in the allowable cuts which I had worked out. You know -- worked out the area by ages, heights and so on. He took it down there and St. Regis got interested on account of the data I had, and of course, signed the lease. St. Regis signed the agreement with Ruben.

It is interesting that the new Loomis-Ruben area clearly overlapped with the southern block of Sweezy's lease for the Beverly Pulp and Paper Mills proposal – the area that had been approved six months earlier on 16 January 1952 and which was later extended 16 January 1954. It is difficult to say whether this overlap was due to a weakness in the land record system or reflected a philosophy of 'first come' on the part of the government. It appears that the first NWPP agreement in 1951 was laid out to avoid overlap, while the second NWPP agreement in January 1952 had a substantial overlap. Whichever, the Beverly agreement expired in January 1954, and that cleared the area for the later 14 September 1954 NWPP Agreement.

As noted by Loomis, during this time Ruben had been actively searching for a partner for the pulp mill, starting with Canadian forest industries and extending into the United States – all without success. Most other companies apparently seemed to be secure with their current wood supplies and perhaps also saw Alberta as remote from markets and unproven with respect to its wood quality. It was over two years before he was successful.<sup>31</sup> However, it is to Ruben's credit that he persisted. He must have conveyed his confidence and proved his sustained interest to the government when they gave him his new Agreement with the revised area on 12 July 1952, as noted earlier.

The long search for partners finally led Ruben to New York to a meeting with Roy K. Ferguson, president of the St. Regis Paper Company -- the first Company to show interest in the proposal<sup>32</sup>. Ferguson was impressed and, as Stan Hart<sup>x</sup> reported, sent a seven member cruising party to Edson 18-28 May 1954 led by St. Regis forester George Abel. He also contracted C.D. Schultz, a forest consulting firm from Vancouver BC, to do an independent evaluation, and their representative Robin Caesar was also there as a member of the party.<sup>33</sup> Stan Hart, a member of the initial party, recalled<sup>34</sup>:

After the "Alberta Project", as St. Regis initially called it, was approved for further study, a fairly large group of St. Regis foresters was assembled and sent to Alberta in the spring of 1954. They came from Company operations in New Hampshire, New York, and Florida. George Abel from Florida headed up the crew. We made our base at the "Sunset Motel" in Edson. Telef Vaasjo flew in with a Bell 47J helicopter from Associated Helicopters in Edmonton and that was our main access to the woods. We rented some rather beat-up power wagons and jeeps too, from local people. Our objective was to check out the area in general, particularly the accuracy of the stand-typing and volume estimates shown in the government<sup>xi</sup> cruise. It was really a very superficial look but it served the purpose at the time.

George Abel's report<sup>35</sup> of June 1954 was very positive, as he concluded: *"The timber resources of this reserve offer a splendid opportunity for a sustained yield operation considerably expanded over that now contemplated."*

As a result, a joint announcement 17 June 1954 by St. Regis and North Canadian Oils stated plans had been finalized for financing and construction of a bleached kraft sulphate mill in

<sup>x</sup> Stanton G.V. Hart was a forester with St. Regis Paper. Stan was on the initial St. Regis survey crew sent to Alberta in 1954, moved to Hinton in 1955 and later became Woodlands Manager.

<sup>xi</sup> Presumably the "cruise" was the estimate prepared under contract with R.D. Loomis. PJM.

Alberta. Their agreement stipulated that St. Regis and North Canadian Oils would each supply half of the equity capital and that St. Regis would assume responsibility to direct the design and construction of the mill, undertake the forest management responsibility, and sell its output through its own sales organization. NWPP also signed an agreement with Bryan Mountain Coal to supply hard coal for the entire fuel requirements of the pulp mill for 15 years.<sup>36</sup>

A third revised Forest Management Agreement (O.C. 1250/54), the one on which the construction commitment was based, was signed by Frank E. Ruben on behalf of the partners on 14 September 1954. The Directors on 31 December 1954 included Roy K. Ferguson, Edward P. Gay, William H. Versfelt, William R. Adams and Archibald Carswell and Hugh P. Griffith of Montreal, and Frank E. Ruben, Robert F. Ruben and George H. Allen, Barrister, of Calgary<sup>37</sup>. The map area was the same as shown in the 1952 agreement (Figure 8) -- designed for a mill to be built in Edson.

Detailed planning for the project got underway in June 1954. Justin H. McCarthy, vice-president and chief engineer for St. Regis was responsible for mill design and construction. He engaged H.A. Simons Ltd. of Vancouver and they subsequently took over supervision of the mill construction. Soil tests at the Edson site that fall showed that the ground was too unstable for the footings to support a mill of that size. Further, water supply in the McLeod River was judged to be inadequate for the mill -- the McLeod River at Edson would not yield 30 million gallons of water a day. In order to guarantee a year-round average, the newly-formed Company would have to build a dam, at an estimated cost of \$4 million, and buy all the land ten miles back from the water line. This complication immediately stalled all plans as such an investment was financially inconceivable.<sup>38</sup>

Frank Ruben remembered travelling west on a previous visit and noting a small settlement where the road, Athabasca River and railway came together. He, his son Robert, H.V. (Pete) Hart, General Manager of St. Regis Northern Woodlands Division, and Justin McCarthy St. Regis Vice-President and Chief Engineer drove west in a jeep on 25 January 1955. They wondered if Obed might be a possibility, but it was not. They then found that 80 km west of Edson the next location that combined water availability, suitable soil and rail access was at Hinton. They quickly launched studies to confirm its suitability -- and decided to build the mill there instead<sup>39</sup>.

The map (Figure 8) in the 14 September 1954 agreement that formed the basis of commitment by NWPP to construct the mill still showed Edson as the location for the mill along with the same lease area as 1952. The 1954 Agreement also referred to a Provisional Reserve Area (PRA) that could be granted to the Company if it committed to expansion of the mill by 1968 -- a 14-year period. The area shown on the map was presumably large enough to provide for the larger wood requirement for the mill, now proposed to be a minimum 300 tons per day, along with a PRA. When the decision was made in early 1955 to move the mill location to Hinton, there was an understanding with the government that the lease area could be re-designed to reflect the new location, as described later.

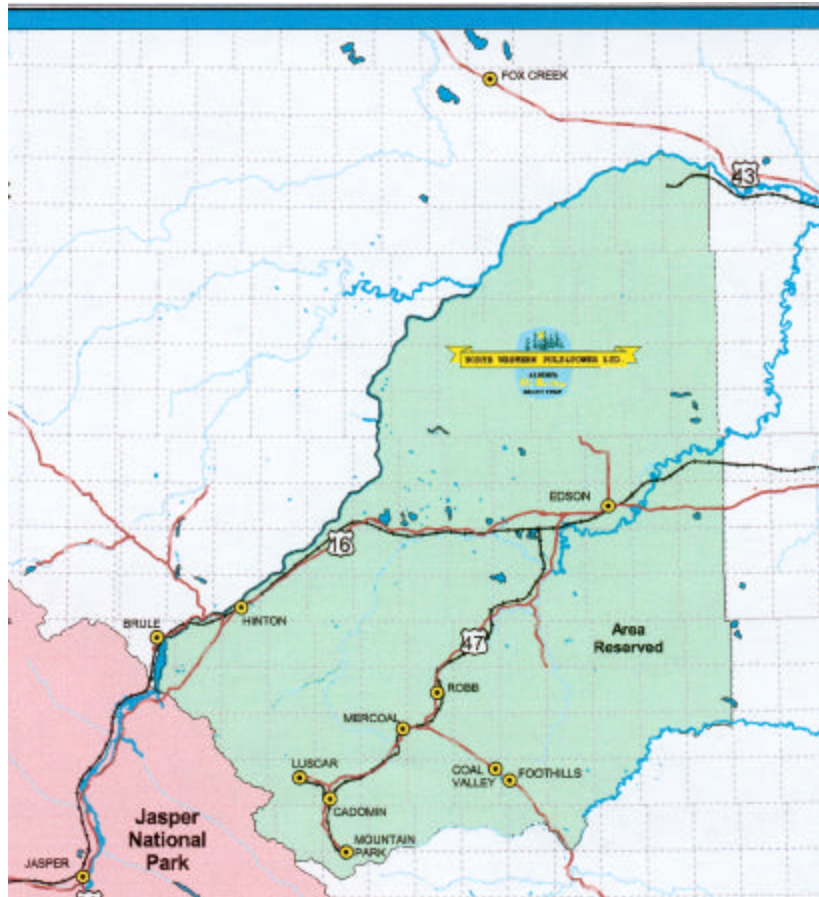


Figure 8. North Western Pulp and Power Ltd. – Pulpwood Lease Area proposed in Agreement of 1952 by F. Ruben and in 1954 by North Canadian Oils and St. Regis Paper Company Ltd. for a mill to be located at Edson.

Once the mill location was changed, it was essential to redesign the lease area. Again, Reg Loomis' expertise was enlisted to develop a conceptual lease area outline based on a mill located at Hinton that was by then expected to produce 400 tpd (360 tonnes). As Loomis<sup>40</sup> explained, after the decision was made to move the mill to the Athabasca River at Hinton, Frank Ruben asked him if he would design a new lease area to provide adequate wood to the new site:

So I said the same thing to him about getting the Minister to agree, and they did, and [this time] I got \$500! I got \$500, and then Des Crossley told me that one of the St. Regis people there, Stan Hart's father, Pete Hart, he said that the Company decided that they'd better have my inventory checked and they went to C.D. Schultz in BC and gave him \$25,000 to check the job I did for \$500! And they couldn't find anything wrong with it -- not because I was that accurate, it's just because it would be almost impossible to check that thing without a tremendous amount of fieldwork. So they actually gave him \$25,000 for nothing.

In his reconfigured lease Loomis dropped some southern areas and included major areas to the north so the mill at Hinton would be more centrally located within the forest lease area. The lease area was also increased to ensure a wood supply for the planned minimum 400 tpd (360 tonnes) mill.

In the meantime, during the period 21 October to 15 November 1954 Pete Hart, Dyer Phillips and Stan Hart made an additional trip to the Edson area to do further checks on the forest, visit with the Alberta Forest Service and local timber operators. They were working out of St. Regis Woodland Division offices in Deferiet, NY. They also spent some time visiting logging operations in various parts of the Western U.S. and eastern Canada, looking at different logging systems which might be suitable to operations in Alberta.

A team of St. Regis foresters, Dyer Phillips, Frank LaDuc, Bill Hamilton and Stan Hart visited Alberta again from 8 March to 6 April 1955 to check on the new location suggested by Loomis. The work this time focussed on the new areas north of the Athabasca, on volumes and quality of timber, availability of existing roads, and possible sites for camps. As well, on 18 March 1955 they had a meeting in Edson with the area lumbermen and Norman Willmore, MLA for Jasper-Edson and later Minister of Lands and Forests, and Ivan Casey, then Minister of Lands and Forests, to bring them up to date on developments, followed by a "social hour". Others involved were Ivan Gingrich and Opie Hayes from the Accounting Department in the St. Regis mill in Tacoma, WA, and Alex Smalley, executive from St. Regis Personnel Department in New York City.<sup>41</sup>

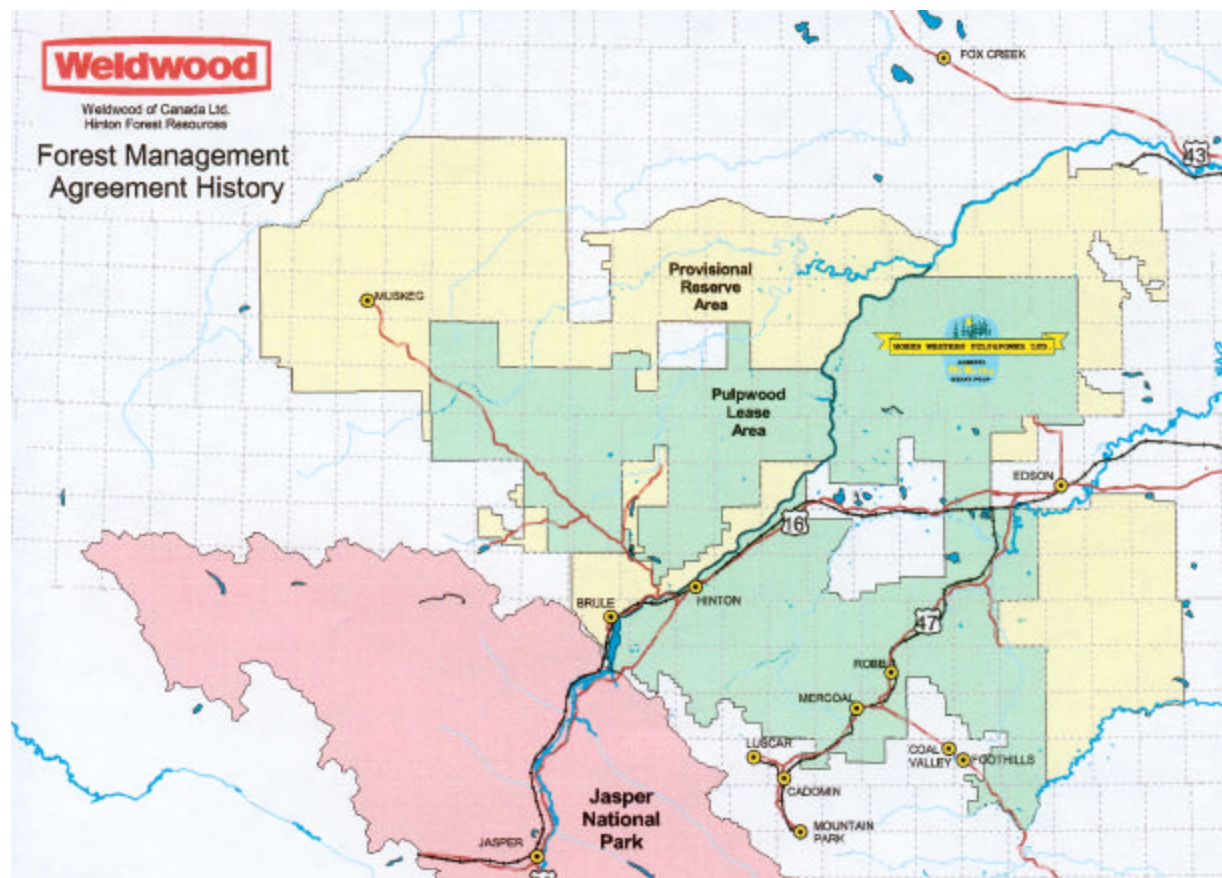
Stan Hart recalled that:<sup>42</sup>

... on April 5, 1955, Dyer Phillips and I, then both in the Woodlands Division of the St. Regis paper Company, presented to Reg Loomis in Edmonton the maps and description of the area which we had, on behalf of the Company, selected to be Alberta's first Forest Management Lease. This was the culmination of several months of cruising which had started in May of 1954.

These maps formed the basis of the next revised Agreement (O.C. 882/55, dated 13 July 1955 -- Figure 9). The major change was that the area had been moved west and extended to the north, this time clearly centred on Hinton. It showed both a Pulpwood Reserve Area and a Provisional Reserve Area for future expansion, approximately 3000 square miles (7800 km<sup>2</sup>) each, totalling some 6000 square miles (15,600 km<sup>2</sup>). This new area was approved with the understanding that the Company could refine the new boundary in response to a more structured reconnaissance of the boundary areas. For the first time it also outlined on a map the boundary of the PRA that would be held until 1968 in case the Company chose to expand mill capacity.

The significance of the achievement of this partnership of dedicated individuals is highlighted by the fact that during this same decade four other agreements for pulpwood leases with the Alberta government were signed by other parties, none of which survived the proposal stage.

Figure 9. North Western Pulp and Power Ltd. – Pulpwood Lease Area re-designed for the mill to be built at Hinton – in amended Agreement of 1955.



## Evolution of the Forest Management Agreements

### 3.2 Period 1954 - 1968

#### *Starting up the Forest Management and Mill Operations*

#### **Historical Backdrop 1954-1968**

##### **Alberta**

The Alberta Forest Service had started its forest inventory program in 1949. The first province-wide field surveys and interpretation of aerial photographs had been essentially completed by 1956. About this time, increasing attention was being directed to reforestation and silviculture, leading to creation of a silviculture section in 1960, and programs of seed collection, scarification and planting were begun. In the meantime, negotiations with the Alberta Forest Products Association attempted to rationalize the distribution of forest harvesting operations and extend achievement of sustained yield forest management over the entire province. Buoyed by the success of the Hinton Forest Management Agreement<sup>xii</sup> and its commitment to reforestation, the government suggested a similar sharing of rights and responsibilities with the non-pulpwood sector. The result was the 1966 "Quota System", a volume-based form of tenure in which companies received a share of the allowable annual cut (AAC) in a forest management unit. Quota holders also accepted responsibility for reforestation, -- either by ensuring it themselves or by payment of a reforestation fee that the AFS could use to reforest their cutovers. The Company and Alberta were therefore both clearly committed to achieving sustained yield forest management -- the Company on its forest management area (FMA) and AFS in the rest of Alberta.

Albertawest Forest Products became the second potential Agreement, with rights in the Whitecourt area granted to former NWPP woodlands manager Gordon McNab in 1958. He sold to MacMillan Bloedel in 1965, but they abandoned the project six years later. North Canadian Forest Industries (now Canfor) in Grande Prairie obtained an Agreement in 1969 in support of an expanded sawmill complex. The Forest Technology School was opened in Hinton in 1960 to serve as the AFS training centre for rangers and fire control. It was expanded in 1965 to accommodate the second year of the two-year forest technology course, a cooperative training program with the Northern Alberta Institute of Technology. The first class graduated in 1966. During the fourteen years of this period 1954 to 1968 timber harvest in Alberta increased from about 2.2 to 3.0 million cubic metres.

In Alberta, the forest increased in value with increased forest industry investments. Major fire seasons during this period dramatically illustrated the magnitude of the forest fire problem; in 1956, 1958, 1961 and especially in the spring of 1968. The fire control capabilities of the AFS were greatly increased in increments as a result of these experiences, reflected in increased staffing, prevention, detection, communications, aircraft, training and organizational efficiencies. By 1960 the oil industry had also clearly begun to impact the forest through exploration and

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<sup>xii</sup> The term "Forest Management Agreement" was first used in the 1968 Agreement, but applied retroactively to 1954.

development activities. Its impact was destined to become a major one; a new Land Use section was formed within the Forest Management Branch in 1963 to try to manage the demands.

During this time Eric Huestis was promoted to Deputy Minister, retiring in 1968. Robert Steele became Director of Forestry in 1963.

On the national forestry scene, in 1966 a federally-sponsored National Forestry Conference was held in Montebello, Quebec. This was the first national convention since 1906. There was a lot to discuss. Among the invited participants from government, industry and associations were Des Crossley and Reg Loomis from Alberta. Intense deliberations led to a number of recommendations to further the state of Canadian forest management, especially centred on concerns about lack of forest renewal. Unfortunately there was little follow-through at the national level.

## **Hinton**

This period was also a busy time for the Company. The Agreement was signed in September 1954, the mill location changed to Hinton in January 1955, forestry staff began that spring, construction of the mill and new town also got under way in 1955, and logging began during the winter of 1955-56.

Forestry staff focused on the forest inventory, basic to planning for logging and preparation of the Forest Management Plan. Cruising had already been underway to locate initial logging areas. The company took aerial photographs of the FMA in August 1955 and prepared new maps. By 1958 a preliminary Forest Management Plan (FMP) had been written. Three major fires burning on the FMA in 1956 created an intense review which led to strengthening of the AFS firefighting resources as well as more company involvement. Despite that interruption, a continuous forest inventory (CFI) program was launched and experimental scarification began that year. The first production-level planting started in 1960, and the first detailed FMP was submitted in 1961 after the CFI volume estimates were compiled and empirical growth rates extrapolated. Computer processing of data was initiated as early as 1958 for the Marlboro working circle through the IBM service bureau; then upgraded to a new family of computers in 1963. The first industry greenhouse and nursery in Alberta was built at Hinton in 1965 to provide their own quality-control planting stock, and the first full revision of the FMP completed in 1966.

Logging was initially done by hand falling and skidding with horses. Up to 700 men worked out of bush camps during the winter. These woodlands operations also experienced rapid technological changes. A skidder was tested in 1963 and tree-length hauling tried in 1966. By 1967, difficulty in obtaining men and horses convinced the Company to purchase 55 Timberjack skidders; horses were phased out within two years.

The first production of kraft pulp began to flow from the new 91,000 tonne pulpmill in May 1957, creating a sustained demand for wood deliveries to the mill. The mill was officially "opened" in July during a company celebration. During this period Desmond I. Crossley was chief forester. Gordon McNab was succeeded as woodlands manager in 1957 by Adrien

Provencher, then by Stanton Hart in 1962. Harry Collinge, the capable trouble-shooting mill manager died in December 1966, succeeded by Ivan Sutherland in January 1967.

## **Introduction**

The 1955 Agreement gave a broad definition to the Lease area. When the Forestry and Woodlands staff began to arrive during the spring and summer of 1955 they were faced with the formidable task of trying to get everything started at once. The immediate needs included getting proper aerial photographs and maps as a basis for planning the initial harvesting operations, and starting to get the forest management planning process underway. In the process of doing forest inventory it was understood that special attention could be given to the areas around the boundary of the lease so it could be refined more precisely to meet the Company requirements.

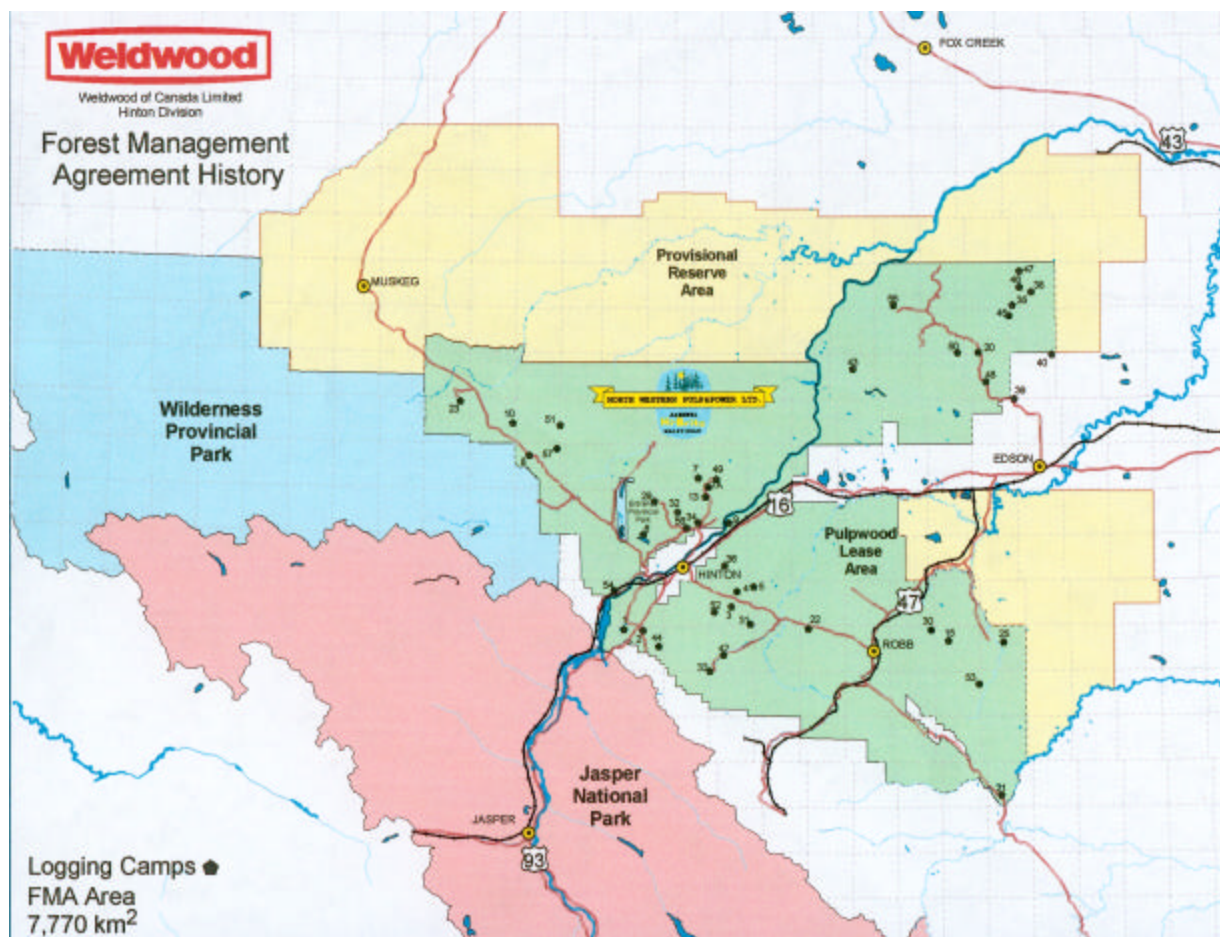
In the spirit of ‘adaptive management’ it also seemed to be understood that the conditions of the lease itself could be evaluated and revised, with consultation and agreement, to gain from the benefit of insights and experience. These ongoing consultations led to drafting a new ‘model’ agreement in 1968, the catalyst for which was a decision by the Company to expand the mill and thereby lay claim to the provisional reserve area. The review in this section traces and discusses the evolution of the major components of the lease from 1949 up to and including the 1968 agreement.

One of the leading figures in Company forest management aspects was Des Crossley. He was hired as Chief Forester effective 1 May 1955. Crossley had developed a great reputation for his solid and innovative research with the Canadian Forest Service in Alberta, particularly for his work on how spruce and pine regenerated and grew. His position as Chief Forester enabled him to advance his work from research trials to large-scale commercial operations, and his training as a scientist prepared him to apply adaptive management.

## **Lease Area**

Under Crossley’s direction, the Company immediately arranged for complete aerial photography of the lease. The objective was to use them to prepare base maps, and from which to conduct a forest inventory. In addition, the continuous forest inventory program based on permanent sample plots was begun in 1956 by John Miller, a St. Regis forester seconded to Hinton to design and implement the inventory system. Other forestry staff focused on an assessment of the boundary regions. Their objective was to determine forest conditions to decide where the boundary should be located with respect to age class structure of the FMA and operability. Adjustments were made by Orders-in-Council (O.C.) in 1955, 1956 and 1961 (Figure 10). The

Figure 10. North Western Pulp and Power Ltd. – refined FMA for the mill located at Hinton – in amended Agreement of 1961.



maps attached to each O.C. all defined the lease areas and showed a boundary for a Provisional Reserve Area (PRA). The PRA was to provide contiguous areas that could be added to the lease if the mill expanded capacity.

The first forest inventory, based on permanent sample plots, was completed in 1961; and the first Forest Management Plan submitted in 1966. Then the culminating refinement to this original NWPP lease area was made by O.C. on 30 August 1968, the 14-year deadline stipulated in the 1954 agreement. At this time the Company made a commitment to expand the manufacturing capacity of wood-pulp and “other timber products” to a minimum rated capacity of 1,000 tons (910 tonnes) of pulp daily. The Agreement, now officially referred to as a Forest Management Agreement, required the Company to begin construction on or before the first day of January 1971, and for its completion on or before 1 July 1973.

The lease area in 1968 was increased to about 6300 square miles (16,000 km<sup>2</sup>). (Figure 11) The new FMA reflected the combined areas of the previous FMA and PRA, with boundaries as refined as a result of inventories. In addition, a reserve for land replacement of about 365 square miles (950 km<sup>2</sup>), was set up in the southwest part of AFS forest management unit R4.

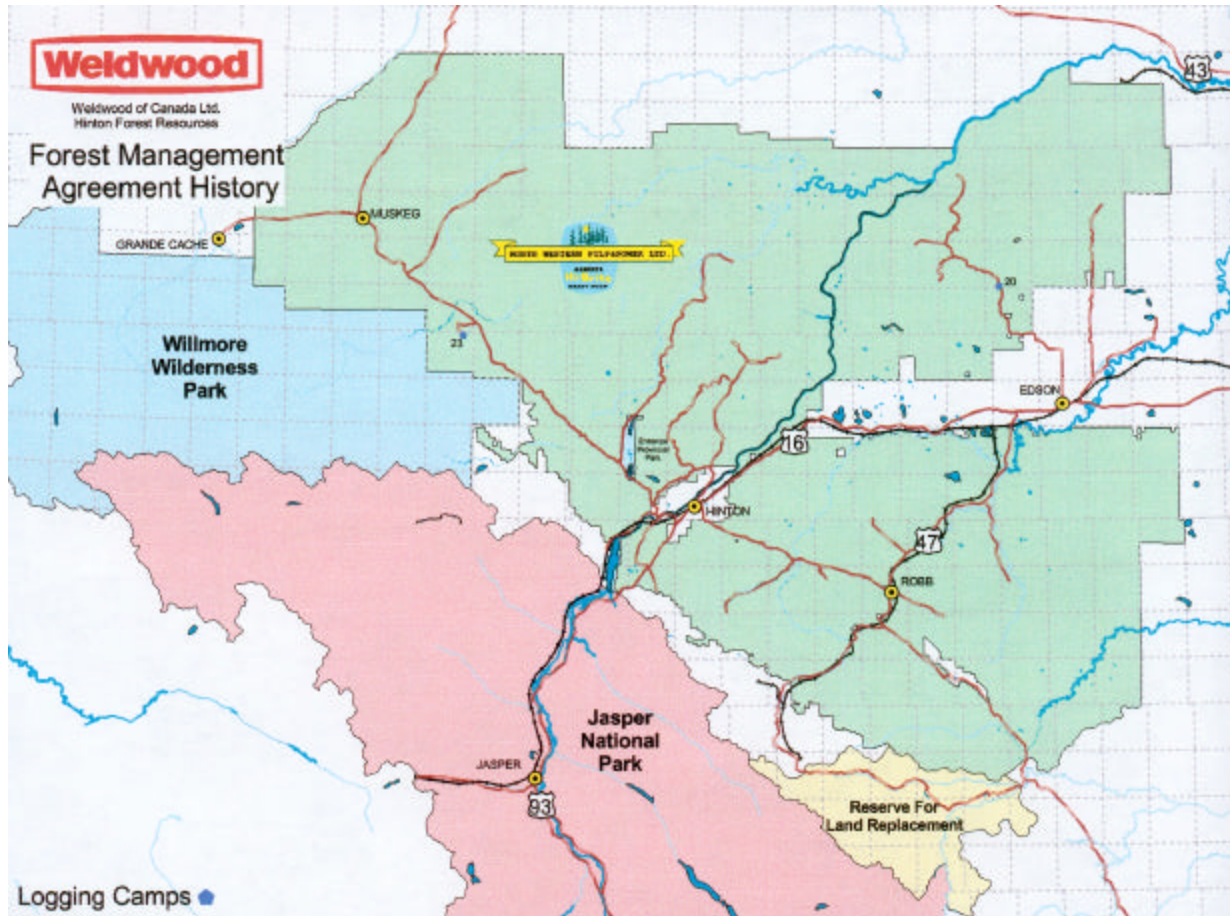
These first Agreements also provided for replacement areas to compensate for lands within the lease that the government may have had to withdraw for other purposes such as parks or sites for other uses. In the 1954 and subsequent Agreements, land could be replaced once total withdrawals amounted to more than ½ of 1 per cent of the lease area. Lands could be selected from within the PRA. In the 1968 agreement, withdrawals had to total more than 1 per cent, and replacement areas could only have been drawn from the R4 forest management unit.

The shape, size and location of the FMA changed substantially from 1951 to 1968. That this was possible is a reflection of 1) the cooperative approach of the Company and government, both of whom wanted the venture to succeed and 2) the fact that unallocated forest lands were available. Also notable was the fact that the areas were of sufficient size in every case to provide an allowable cut adequate to supply the full wood volume requirements for the mill. Although it was expected that the mill would purchase round wood from private sources as well as obtain wood chips, these supplies were considered as extra. As a result, although the Company met its reforestation requirements, there was little incentive at that time to increase yields on the lease either through supplemental reforestation or enhanced silviculture.

## **Reforestation**

The single most distinguishing feature of the Agreement was its intent to “*reserve for the sole use of the licensee for the purpose of **growing continuously and perpetually successive crops** of forest products to be harvested in approximately equal annual or periodic cuts adjusted to the sustained yield capacity of the lands*” (emphasis added), as defined in the *Forests Act* of 1949.

Figure 11. North Western Pulp and Power Ltd. – FMA expanded to support commitment to mill expansion – in new Agreement of 1968.



This stated philosophy required a commitment by the licensee to practice forest management on a sustained yield basis. It also implied that the licensee would be responsible for forest renewal, an implication that was later stipulated as a requirement as terms of the agreement were discussed and made more specific.

The first Agreement in Alberta, for Edmonton Pulp and Paper Mills, made through R. O. Sweezey, approved December 19, 1949, contained only one clause (Clause 6) in this respect (emphasis added):

1. ... grant the Company ... the right to cut and remove spruce either black or white, jack or lodgepole pine, balsam fir and poplar pulpwood timber, hereinafter called the pulpwood timber ---
6. The Company shall, on or before cutting operations commence on the cutting areas, submit to the Minister a detailed working plan covering the cutting areas which shall define the intentions of the Company to handle such cutting areas **in the best interests of forest conservation and a guarantee of perpetual yield** of the Company's requirements of timber from the area.

By the time Frank Ruben's first Agreement for NWPP was approved on 8 June 1951 the single clause had been expanded to two (emphasis added):

15. The Company agrees, before cutting operations commence on the cutting area, to submit to the Director of Forestry for approval a detailed working plan covering the cutting area which shall define the intentions of the Company to handle such cutting area **in the best interests of forest conservation**.
16. The Company agrees to have its technical forestry officer, at the request of the Minister, meet the Director of Forestry and the technical forestry staff of the Department of Lands and Forests to discuss a management plan of forestation of denuded and untimbered lands in the area reserved so as **to guarantee a perpetual yield** of the Company's requirements of timber.

The same clauses were included in the follow-up agreement with R. O. Sweezey for Beverly Pulp and Paper mills that was approved on 16 January 1952.

As discussed previously, Ruben had arranged to have Reg Loomis define a more appropriate lease area for a mill at Edson<sup>43</sup>. This revised area was the focus of the revised Agreement for NWPP which was approved on 12 July 1952. The same two clauses appeared in the revised Agreement, as well. However, by this time Loomis' influence had started to become more evident. When the 1954 agreement was being drafted, Loomis recalled :

As I remember, Huestis then sent down the proposed agreement with the Rubens to me to look over. And the thing that I noticed -- very pronounced in the agreement -- there was nothing at all about reforestation, or sustained yield, or anything of that nature at all. And I

managed to get in a paragraph or two that the agreement would state that they would have the cutting rights on a sustained yield basis or something similar -- something to indicate that they would have to do this -- to do a little more than just cut. And, from then on, I think the agreement was sent back to Harvie<sup>xiii</sup>, I can't remember exactly, but the whole agreement was rewritten, and more emphasis placed on the agreement that this was based on the sustained yield basis.

Loomis' input was clearly reflected in the Agreement signed 14 September 1954 in which two clauses, probably his, specifically addressed sustained yield (emphasis added):

1. (b) to authorize the Company to cut and remove from the pulpwood lease spruce, either black or white, jack or lodgepole pine, balsam fir and poplar timber **on a sustained yield basis**.
24. The Company agrees to have its technical forestry officer, at the request of the Minister, meet the Director of Forestry and the technical forestry staff of the Department of Lands and Forests to discuss a management plan of forestation of denuded and untimbered lands in the area reserved so as **to assure a perpetual yield** of the Company's requirements of timber.

It is interesting that the word "guarantee" had been changed to "assure" with respect to perpetual yield. However, it became clearly evident during negotiations that both the government and Company agreed that the Company would be responsible for reforestation. As Stan Hart<sup>44</sup> commented:

My impression is that Reg Loomis, and perhaps Eric Huestis as well, and maybe even Charlie Jackson didn't want to see repeated the type of "forest management" that had been traditionally practised in the east -- exploitive and laissez-faire ... St. Regis apparently went along with this and, in fact, embraced the concept whole-heartedly as the project progressed. I remember my father<sup>xiv</sup> telling me many times that the Alberta government forestry people with whom he was dealing seemed to want to do things "right" in the woods.

Pete Hart, then General Manager of the St. Regis Northern Woodlands Division, had been interviewed in 1976 by Elwood Maunder for the Forest History Society<sup>45</sup>. A question about the extent to which St. Regis did planting in earlier days resulted in this revealing exchange that supports Stan Hart's statement:

- Hart: ... We never planted much in New Hampshire or Vermont and even in Maine we haven't planted very much. The only place in the north that we have planted extensively is Hinton.
- Maunder: Why was it done there and not at these other places?
- Hart: You know why? Because the government made us.

<sup>xiii</sup> John Harvie, Deputy Minister of Land and Mines.

<sup>xiv</sup> H.V. (Pete) Hart, General Manager of the St. Regis Northern Woodlands Division.

- Maunder: In other words you were obliged to do it in Canada. You had not been obliged to do it in the northeastern states?
- Hart: On our own lands, no.

During the almost fourteen years between 1954 and the major revision to the agreement of 30 August 1968, most of the working arrangements between the Company and the government had been negotiated. In 1968 the commitment to forest renewal and sustained yield forest management is clearly reflected in references contained in six separate clauses (emphasis added):

1. (1) (c) "Forest Management Area" means the expanded tract of forest land over which the Company has, for a defined period of time, the right to manage the area for the purposes **of growing and harvesting trees thereon on a perpetual sustained yield basis**;<sup>xv</sup>
11. On the Forest Management Area the Company shall (a) follow sound forestry practices with a view **of achieving and maintaining a perpetual sustained yield** from the productive forest land,
12. (1) Not less than six months before the commencement of its woods operations on the expanded Forest Management Area, the **Company shall submit** to the Minister a **preliminary management plan** describing the methods it will follow in managing the added Forest Management Area **on a sustained yield basis** for the first agreed rotation period.
12. (2) Not more than three years after the commencement of harvesting timber, the **Company shall submit** to the Minister a **detailed forest management plan** describing the methods it will follow in managing the Forest Management Area **on a sustained yield basis** for the first agreed rotation and this plan shall replace the preliminary plan.
14. (2) Not less than four months before the commencement of each operating year or within such shorter period as may be permitted by the Minister, the **Company shall submit** to the Minister an **operating plan including reforestation** and forest protection plans covering the next ensuing operating year.
25. In its management plans and annual operating plans the **Company shall devise a program of reforestation** for implementation on the land cutover by the Company.
26. "Where regrowth of young timber established during a period of seven years following the harvesting of timber on any part of the Forest Management Area remains below the acceptable standards prescribed by the Minister at the time, the **Company shall**

<sup>xv</sup> The term 'perpetual sustained yield', first used here, has been used in all successive forest management agreements in Alberta. It was the subject of a court challenge by a group of environmental organizations in the case of Daishowa's agreement in Peace River, but was dismissed by Mr. Justice D.C. McDonald in 1992, reviewed in the Appendix.

within the next three years thereafter, **at its sole expense, implement a reasonable program of reforesting the said area** to at least the said minimum standard.

It is interesting that the 1968 agreement, in addition to introducing the terms Forest Management Agreement and forest management area, contains the first specific reference to a detailed Forest Management Plan (12 (2)). The 1954 agreement referred only to a “general working plan for the first rotation”. However a detailed plan was probably intended -- the Company submitted a preliminary plan in 1958 and their first detailed Forest Management Plan in 1961.

### **Tree Seedlings and Tree Seed Services**

The Company was clearly responsible for reforestation and at its own expense. An important new clause was added to the 1968 Agreement. It provided that:

27. (1) The Minister shall furnish to the Company, free of charge, all the required planting stock for reforestation work provided the Company furnishes the Minister with the necessary quantity of seed for growing the stock.
- (2) In the event that the Company elects to grow the said stock, the Minister shall reimburse the Company in an amount equal to the amount that it would have cost the Minister to grow the stock for the said reforestation purposes.

The derivation of this clause was not explained at the time. The government had expanded the Provincial Tree Nursery at Oliver as part of its growing support for reforestation and silviculture in Alberta as a whole. The government may have wished to centralize seedling production in an AFS nursery -- following the precedent of British Columbia and Ontario.

With respect to the second clause, the Company had already constructed Alberta's first forest industry nursery in 1965. Crossley and his group would have been concerned about both seedling quality and cost management, so the option for reimbursement for the Company operation may have been added at their suggestion. The Company certainly built on this opportunity, essentially growing its own full requirements of operational planting stock and experimental trials.

Fred McDougall, retired Director of Forestry and Deputy Minister,<sup>46</sup> later explained that these clauses in the 1968 agreement were related to both the Procter and Gamble agreement (the second such agreement) and advent of the Quota System which had been implemented in 1966. As he outlined:

I think with respect to the free seedlings – what happened is by 1968 ... the Quota System had come in. Of course there was a whole set of regulations pertaining to the Quota System and for the first time the Province had established a set of reforestation regulations but the quota holders were given free seedlings in exchange for their commitment to do reforestation. ... So in the context of both the P & G agreement and what happened with quota holders, the free seedlings [change] is understandable because what it was basically doing was making the North Western Pulp and Power agreement consistent with what was

going on in both quotas and Procter and Gamble. There was a downside to that too though because one of the issues with North Western Pulp and Power at that time was were they subject to the details of the reforestation regulations.

In connection with the last statement, McDougall<sup>47</sup> later explained that this was an attempt to extend fairness about 'free seedlings' -- to try to provide a consistency in approach to avoid a hodgepodge situation.

This clause eventually represented a significant contribution by, and expense for, the provincial government. When the government proposed in 1993 to repeal this clause it generated considerable discussion, with profound implications as discussed later.

### **Supplemental Reforestation**

Inventories and observations indicated that there were areas on the FMA that had not been restocked to reforestation standards after previous disturbances, such as fire or after logging on former Licensed Timber Berths (LTBs). The Company and the government agreed that it would be desirable to provide a means to collaborate on a supplemental reforestation program to bring those lands back into production. Such a clause was included in the 1968 agreement, essentially providing for a fifty-fifty cost shared agreement under which each would undertake to treat equal areas and for which the Minister would provide the entire planting stock.

Although the concept was well intended it was not acted upon except for a few small-scale projects. Wright<sup>48</sup> noted that the Company did plant many of the old Licensed Timber Berths that were NSR but in most cases there were either too many residual trees to site prepare properly, or too much tall grass and scattered advance growth for planting to be successful. The AFS had similar problems with their allotted areas, for example, they planted Carlson's cuts on Berland IV at least three times.

On the Company side, as Udell surmised, with the deferment of a decision to expand the mill, and subsequent loss of the provisional reserve area, there was no incentive to increase productivity. It was also restricted by the ability of the Company and Province to pay<sup>49</sup>. McDougall elaborated on this point<sup>50</sup>, stating that he strongly supported the principle and felt that it was unfortunate that the option was not used. He explained:

What that basically amounted to was a mechanism whereby there could be a shared cost taken on additional reforestation beyond cut areas, i.e. areas that were naturally understocked, potentially productive lands that for some reason or other weren't supporting full stocking -- it was a shared cost approach to doing work on those. And some work was done by the way under that supplemental clause. It wasn't a total write-off. There was more done in Grande Prairie. Procter and Gamble did quite a bit of supplemental reforestation work. Where I think it got to be controversial is in some cases it was used for aspen conversion, i.e. to convert young aspen stands over to conifer because in those days nobody was using poplar. In P & G's case some of the very best sites on their FMA and close to the mill were occupied by young poplar growth so they had a strong desire to go in and convert some of that young poplar to conifer plantation and

some of the money was used for that. And of course that caused some controversy and there was some disagreement whether that was an appropriate use of shared cost because it was partially provincial funding going into those projects. There was a little bit of a work done up at Hinton under the clause but not as much as at Grande Prairie. I think partly because they didn't have as many under-stocked potentially productive sites to work on.

What I wanted to do there, which never happened, is they had on their cut areas, small areas of non-merchantable. You would find areas where they would log around them because the stand was non-merchantable. What I had wanted to do is use some of the supplemental funds and go in and salvage what timber was salvageable from those areas and then scarify them and reforest them because with treatment they would have been able to support good future growth in sync with the surrounding reforested cut block. Otherwise I was concerned that the land in these unmerchantable areas was going to be permanently unproductive. Once it was bypassed in the initial cutting it wasn't part of the cut. It was just sitting there and in some cases that land was going to be permanently non-productive, being left like that, and that bothered me. Not all of them were suitable for reforestation of course but some were and I felt that it would have been a good use, but we were never able to get that going in any significant way. Again it was partly funding limitations and partly a concern that some of those residual areas were useful as wildlife refuges as well, so it wasn't like they were a total waste.

### **Status of the Company as an Occupant**

The 1968 Agreement contained a new clause which was to become profoundly important to the Company. Clause 9(2) stated that: *"For the purposes of interpreting The Right of Entry Arbitration Act, the Company is an Occupant of the lands referred to as the Forest Management Area."* It meant that other commercial organizations such as the oil and gas industry, that also needed access to the land, had to deal with the Company as the "Occupant" of the land. The importance of this was later clearly demonstrated as the pace of oil and gas exploration later increased.

### **Multiple Use and Prime Use for Growing Timber**

Clause 10 of the 1968 Agreement stated (emphasis added): *"Recognizing that on the Forest Management Agreement Area, timber growing is the **prime use** and in keeping with the policy of multiple uses of some of the same public land, the Minister reserves all land rights on the Forest Management Area not specifically given hereby, including by way of example, but without limiting the generality: ...".* Some of the other rights reserved were those of others to travel, hunt, fish and otherwise use the said lands for recreational purposes; to work in connection with geological or geophysical exploration, to issue short-term timber permits for public works in consultation with the Company; to continue to issue licenses and permits to existing Quota holders; the right to dispose of limited amounts of timber on the former provisional reserve area until the end of April 1973, and on such portions of the new reserve area of unit R4 until they had been added to the Company's Forest Management Area. The designation of timber growing as the "prime use" was a key phrase in support of sustained yield forest management. As Jack Wright commented:

It was also recognized that for sustained-yield principles to survive under a multiple-use concept, timber production must be identified as the “prime use” of the Forest Management Area with other legitimate uses of the land integrated within this “prime use” concept. This concept has been recognized and supported in subsequent revisions to operating guidelines, forest management plans, and in the most recent revision (1988) to the Forest Management Agreement.

### **Overmature and decadent - 1954**

The first reference to overmature and diseased timber appeared in the 1954 Agreement in Clause 22 (2) which describes the detailed operating plans required before approval of harvesting operations. It contains the stipulation that if *“the operation plan does not provide for the harvesting of over-mature or diseased trees, the Director may request the Company to amend its operation plan to include such trees, and in the event of its refusal to do so, or at the request of the Company, the Director may make other arrangements for their removal.”*

Part of the rationale for encouraging pulpwood operations was to utilize timber that would not otherwise be harvested, including smaller trees and ones with defects that would make them unsuitable for sawtimber. As well, in Loomis’ experience in the east, insect and disease problems were increased in areas with extensive overmature stands. Loomis<sup>51</sup> argued strongly for cutting the oldest first as a forest conservation measure:

And a lot of those areas that we laid out for cutting [in eastern Canada] were in immature timber. There was no thought of letting the stands stay there till they were mature and increase in growth per acre. A lot of the stands were 65 years old. When I was there, I thought to myself, if I ever had the opportunity of setting up a plan I'd make damn sure that sustained yield would be the basis of the operation. I think probably that is where the thing originated with me -- because there didn't seem to be any signs of that here -- when I came here.<sup>xvi 52</sup>

Although the clause in the 1954 agreement was probably influenced by Reg Loomis, it is interesting that Des Crossley<sup>53</sup> had evidently reached that same conclusion and acted on that premise when he became Chief Forester in 1955. As he later explained:

We had already decided that the age-classing would be of fundamental importance in our management planning, and an effective method of age-classing within fire boundaries recognizable on the aerial photos was devised. Using these maps enabled us to quickly and accurately establish the location of all our over-mature and decadent timber stands.” He further explained that the reason was principally “...from a forest sanitation point of view. While I have never been directly involved in any serious insect epidemics or disease infestations such as they have experienced in the Maritimes in eastern Canada, I have always contended that such disasters should not be permitted to occur under proper forest

<sup>xvi</sup> Wright noted that Loomis would have been familiar with logging practices in the Nipigon-Beardmore area of Ontario where he worked for Brompton Paper Company, later St. Lawrence Company. Wright added that “they regenerated cutovers with blueberries”.

management. Over-mature and decadent stands are the focal points for disaster and must be removed for two reasons. One, for sanitation and the other simply because such static acres are not producing a thing in the way of wood.

## Operating Ground Rules

While the 1954 agreement described Company responsibilities and laid a philosophical framework for forest management, it quickly became evident that many details needed to be discussed to reach agreement with respect to operational level practices. There were no rules in existence that were sufficiently detailed or permissive to meet the needs of the spirit of the Agreement. The Company was bound by the *Forests Act* and the many regulations made under its authority, but most of those had to do with the administration of timber for a largely sawlog industry. This uncertainty may have been recognized by the government as early as 1951 when this clause was included in Ruben's first lease. There was a similar clause in the 1954 Agreement.

16. The Company agrees to have its technical forestry officer, at the request of the Minister, meet the Director of Forestry and the technical forestry staff of the Department of Lands and Forests to discuss a management plan of forestation of denuded and untimbered lands in the area reserved so as to guarantee a perpetual yield of the Company's requirements of timber.

This seemingly innocuously-worded clause had a profound impact on the evolution of policies and practices. Discussions were necessary to work out details of 'forestation' and related aspects, and the Company and government were in frequent communication from the start. What eventually evolved from discussions, largely led by Crossley and Loomis, was the concept of developing operational ground rules. In their respective professional philosophies, these were to be consensus-driven understandings under which it would be possible to apply professional judgement to what was actually done on the ground. The first ground rules evolved over two years of discussion, starting a now well-established precedent that apply to all Alberta's forestry operations.

Perhaps among the first ground rules were those dated 11 March 1958 under the title 'Guiding Principles and Ground Rules for Cutting Practices on the Pulpwood Lease Area'<sup>54</sup> The document was only three pages in length. It began with the statement (emphasis added):

Since we are concerned with the management of even-aged timber ... then the cutting system to be adopted *on a trial basis* will appropriately be some pattern of clear cutting. *As many modifications of such cutting systems will be adopted as possible* in order, *by experiment*, to arrive at a system or *systems best adapted* to the silvicultural requirements of the species in question, the topography and the operational requirements inherent in economical pulpwood extraction.

A more formally-presented philosophy and approach was outlined in the opening paragraphs of a revised version<sup>55</sup> dated August 1958. It clearly described an adaptive approach to forest

management, decades before the term ‘adaptive management’ entered the lexicon of enlightened forest management.

As it is the objective of the Pulpwood Agreement that the Pulpwood Lease Area shall be managed and protected in such a manner as to insure the continuous and perpetual growing of successive crops of forest products to be harvested in approximately equal annual or periodic cuts in balance with the productive capacity of the Pulpwood Lease Area, the following initial guiding principles for cutting practices are hereby established to aid in the achievement of planned perpetual yield.

The initial cutting system and variations thereof shall be on a trial basis. As many modifications of such cutting systems shall be adopted as possible in order, by experiment, to arrive at a system or systems best adapted to the silvicultural requirements of the species in question, the topography and the operational requirements inherent in economical timber extraction.

For contrast, definitions of adaptive management from the Canadian Standards Association, Sustainable Forest Management Standard<sup>56</sup> 1996 and Alberta Forest Management Science Council<sup>57</sup> 1997 are shown in the footnotes<sup>xvii</sup>.

This second version of the ground rules was still short, only six pages in length. The contents were presented under seven headings: cutting systems, fringe timber (buffers), roadside cleanup, inaccessibility, field modifications, scarification and approval of the annual operating plan.

Ground rules were not mentioned in the initial Agreement but later became an integral part of them. Ground rules were first mentioned in the 1968 agreement, as stipulated:

12. (4) For creating the basis of the preliminary and the detailed management plans, the annual operating plans or any revisions thereof, before the preliminary plan is approved by the Minister the parties hereto must formulate by mutual agreement a set of ground rules...”.

The subjects later to be addressed in the ground rules included minimum levels of productivity on timber lands, minimum diameters and lengths to be utilized and the order of priority of cutting stands of timber. The range of interests was later extended to cover most aspects of forest management practice. It was also stipulated that the ground rules were to be reviewed every five years for the purpose of making changes “by mutual agreement” with a view of

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<sup>xvii</sup> CSA 1996: “Adaptive management is a learning approach to management that incorporates the experience gained from the results of previous actions into decisions.

AFMSC 1997: "Adaptive management is a process of hypothesis testing at the scale of whole systems. It continually evaluates and adjusts management relative to predicted responses, objectives and predetermined thresholds of acceptable change. Adaptive management includes improvement of the data and analyses on which forest management predictions are based, and testing of the assumptions underlying the management practices carried out on forest lands."

obtaining a higher utilization of the forest growth. This aspect of “mutual agreement” and apparent rigidity in enforcement of ground rules came up again in the early 1970s and was resolved in 1974 as discussed later.

### **Basis of Payment of Dues**

The rate of dues in agreements from 1951 to 1954 listed variable charges for each species. These ranged from \$1.35 per cord (\$0.57 per m<sup>3</sup>) for white spruce to \$0.45 (\$0.19 per m<sup>3</sup>) for poplar and \$0.30 (\$0.13 per m<sup>3</sup>) for balsam fir. These reflected the relative values as related to the lumber and tie industry, although the amounts per unit volume were less than dues charged on licensed timber berths. The rationale was that the timber dues, along with ground rent and forest protection charges were only a part of the negotiated package of costs for forest management and returns to both parties.

In the initial logging operations pulpwood was cut into 100 inch lengths and stacked in the woods in piles four feet high. Loggers were paid on a piece work basis so the piles were scaled on the cutting strip both as a basis of paying the loggers and for paying the dues. It became quickly apparent that it was going to be virtually impossible to distinguish among species in the piles in order to meet the requirements of the schedule of dues. As a result, the rate was officially changed to a weighted average of \$0.75 per cord (\$0.32 per m<sup>3</sup>) for “all coniferous species”, as listed in the 26 April 1956 amendment to the agreement. However, a verbal agreement to do this must have been made almost from the start of the logging in the late fall of 1955.

### **‘Land Rent’ Option**

One of the philosophies frequently espoused by Crossley, and endorsed by Loomis, was “Management by Incentive”. Their conviction was that if incentives were offered, such as through possible financial reward, forest industry would voluntarily contribute more to forest management than required through regulation alone, and do it more efficiently. They believed that there was more to be gained through the ‘carrot’ of incentive than the ‘stick’ of regulation. The major ‘incentive’ in this approach, in Crossley’s view, was the requirement to ensure forest regeneration as part of the Company’s obligations. However, a ‘land rent’ option was intended to let the Company reap the benefits of any further investments in forestry practice. Certainly, Crossley considered that the link between continued land rights or tenure on the FMA and successfully established regeneration after harvesting was a major incentive which led him to sustained efforts to ensure success while minimising costs through innovative techniques. He further endorsed the ‘land rent’ option as an extension of his faith in forest management, also seeing this as a challenge in itself, explaining in 1985:<sup>58</sup>

Concern over national wood supply is becoming more and more evident and we hear urgent calls to intensify management. This is a loosely used term. The public can be excused if it considers that it means simply to increase the degree of effort in order to keep abreast of what nature has already done. To the forest manager, however, it means to increase the effort to improve the yield beyond the sustained or natural level. This usually involved the use of fertilizers, seeding or planting genetically improved stock, stand

thinning and so on, all of which involve extra expense. It must be obvious that it would be unconscionable to spend money in this area until the original forest base is adequately protected, but this is just what others appear to be promoting. Hence the Company's insistence on first reaching the primary goal of sustaining the natural yield.

In this connection North Western initiated a clause in its revised agreement that upon arriving at the natural sustained yield level and the annual harvesting of its total annual allowable cut (AAC), entrance into the field of intensifying its efforts to out-produce nature would be encouraged by the Crown's commitment to waive current stumpage royalty payments for all timber volumes resulting wherefrom, which, in effect, suggests a switch to the system of forest land rent. The rationale upon which this was accepted was presented as follows. The costs involved to intensify the yields would be at the expense of the Company. The attraction would be the increase in wood furnish to implement mill expansion in both manufacturing and the increase in staff, all of which would result in an increased taxation base which would be gleaned by federal, provincial and municipal governments without any financial input on their part.

It was probably through the efforts of both Crossley and Loomis that Clauses 36(2) and 37 were added in 1968:

36. (2) When at any time hereafter by mutual agreement of both parties the basis for the payment of Crown charges has been changed from the measure of wood actually harvested to the calculated annual natural productive capacity of the forest management land (allowable cut), the Company shall not be required to pay dues for any wood harvested and utilized to a greater degree than it was required to by the original ground rules formulated under clause 12 (4), nor for any extra wood produced by increased growth induced artificially by efforts of the Company exceeding its mandatory obligations.
37. When at any time hereafter the parties hereto mutually agree that the calculated annual allowable cut represents the natural productive capacity of the forest land with sufficient accuracy and that it would be advantageous to both parties to compute the Crown charges on the basis of the annual allowable cut rather than on the actual scaled wood cut, at the request in writing of either party, negotiations will be carried out with the object of adopting the proposed change.

Whether or not Crossley was an author of these clauses, he was certainly an advocate for them. They formed the basis of a bold proposal he submitted to the Company in 1970 in which he advocated a program to intensify management to increase yields, as described later.<sup>59</sup>

### **Broomage Allowance**

A wood-measurement precedent for Alberta was set in the 1949 agreement with Edmonton Pulp and Paper Mills, Limited. Clause 11 stated that pulpwood taken out in four or eight foot lengths shall be measured on the basis of 128 cubic feet in each stacked cord. However, it added:

The Company shall be allowed an over-length of four (4) foot pulpwood to a maximum of two (2) inches, and on pulpwood in excess of (4) four feet in length, the over-length allowance shall be a maximum of four (4) inches.

The equivalent metric measurements are 1.22 m for 4-foot lengths, 5.1 cm for 2-inch broomage and 10.2 cm for 4-inch broomage.

The rationale was that this was an established custom in eastern Canada where most pulpwood was river-driven to the mills. An allowance of one inch at each end had been accepted for wastage due to “brooming” of the 4-foot bolts on the drive. Although most of the wood was driven in 4-foot lengths, custom also accepted that 8-foot wood would be entitled to double the broomage allowance. The argument was most probably put forward by R.O. Sweezey, the applicant, based on his experience in the eastern Canadian pulp and paper industry. During NWPP negotiations, proponents had also proposed that pulpwood could be river-driven in Alberta, too, for example as noted by Dyer Phillips<sup>60</sup> of St. Regis Paper Company in his 1954 report: *“Three methods of transportation are available in the area – truck, rail and river. However, all the wood can not be driven or railed due to location of rivers and railroads.”* Although river driving did not happen, this precedent carried through succeeding forest management agreements. The result was that ‘100-inches’ (2.54 m) became the standard length of the 8-foot wood cut and piled in the initial operations. It essentially provided a nominal 4 per cent of the wood volume free of dues, although dues had actually been negotiated as part of a ‘package’ of rights and responsibilities. It was finally removed through agreement between the government and Alberta Forest Products Association in the early 1990s.<sup>61</sup>

### **“Same-Deal” Clause**

The second Agreement for a pulpmill in Alberta to result in actual construction was with Procter and Gamble Cellulose for a mill in Grande Prairie. Their Agreement, completed within three months of the one for the expanded NWPP, was signed in December 1968. So, discussions between the government and Procter and Gamble must have been ongoing at the same time the NWPP lease was being negotiated. It is probably reasonable to assume that it was this first tangible competition that may have led to this new clause in the 1968 Agreement with NWPP.

Clause 39 of the NWPP lease stated, in essence (and at the risk of over-simplifying), that if the Minister enters into an Agreement with any other (existing or new) pulpmill in which the charges (dues, holding charges and forest protection charges) are more favourable, then the Minister shall advise the Company and will, if the Company so asks, amend the Agreement to extend those same terms to the Company. The same clause was included in the Procter and Gamble Agreement, so the terms were to be applicable to both.

This may have seemed to have been a reasonable clause to add in order to convey the appearance that the “playing field” among Alberta pulpmill was to be kept level. However, when the original ‘founding’ 1954 lease was negotiated, it was done on the basis of a ‘package’ of rights and responsibilities that went well beyond these categories of dues and charges. Factors also considered included considerations of location with respect to wood supply and shipping products to markets, capital costs of the mill, roads and bridges, and costs of logging and

delivery of wood to the mill. Also recognized was the pioneering nature of this first NWPP mill, the question of its financial viability, and the associated risks of an investment of this magnitude.

It is interesting that this assurance of the ‘same deal’ seemed necessary, especially in light of the relative stages of development of the two mills. On the other hand, the clause did not appear again in the new 1988 Weldwood Agreement. McDougall later provided additional background, noting that 1968 was the year in which the Procter and Gamble agreement was signed, adding<sup>62</sup>:

... What the companies did of course was they used to compare. If you made a concession to one the other knew about it the same day. So I am quite sure that part of the difficulty that Reg (Loomis) had in those negotiations was the fact that North Western would want to make sure that any concessions granted to Procter and Gamble in their new agreement were also available to them. There was no question that the 1968 Procter and Gamble agreement had a bearing on the revised agreement with North Western. ... They actually formalised that by insisting on a clause where if one got concessions the other was eligible for the same concessions. ... Those provisions were eventually dropped because through the years they found out that it made it almost impossible to get the Province to agree to any changes because we knew that if we agreed to a change even for a very legitimate reason say at Grande Prairie, we knew we would have to make it also at Hinton, even if there was less reason for it there. So it was almost counterproductive in that it made us much more rigid and difficult to deal with because we knew any change we made would have repercussions elsewhere. I think kind of by mutual agreement it didn't work out to the benefit or satisfaction of either party so later on those clauses were dropped ...

## Forest Fire Control

The Alberta Forest Service emerged in 1930 with two major responsibilities: timber management and forest protection. Since most logging was conducted in winter, timber and fire tended to be treated as separate responsibilities. Except for concerns about treating logging slash to reduce fire hazards, or lending Company equipment for fire fighting, timber operators were not typically directly involved in fire control.

The 1951 agreement reflected this situation. The only reference to fire was to payment of a fire guarding charge of \$15,000, which equated to approximately \$7.50 per square mile (\$2.90 per km<sup>2</sup>).

A major departure appeared in the 1952 agreement in which the Company was to agree “*to accept responsibility for any fires originating in the area reserved in which the Company has an organization for the safe guarding of timber from fire and it shall compensate the Minister for any expenditures that may have been made by the Department in suppression of such fires.*” This may have been intended as a strong incentive for fire prevention. However, this would have entailed a major investment by the Company in developing a fire control capability. It would also have incurred a substantial financial liability, as later events would show.

The AFS had been struggling since 1930 to try to develop a stronger fire control capability. Unfortunately, as former Director Blefgen<sup>63</sup> later commented, as noted earlier: “*...during the*

*depression years we were definitely informed that no money could be made available and during the war years the necessary labour could not be secured.”* By the early 1950s appropriations were starting to increase, but the needs were so great that little change was evident in the field. However, forest protection staff had a vision to develop a province-wide organization for detection and effective suppression of fires. They were concerned that if industries, such as NWPP, developed their own fire control organizations, opportunities for building a strong provincial organization with an effective central dispatching and management base would be diminished. It may have been this philosophy, along with Company realization of the risk of unexpected heavy expenditures, that led to abandoning the 1952 clause and substitution of the clauses in the 1954 agreement.

In 1954 fire was addressed further, but still in general terms. A nominal fire guarding charge of \$0.02 per acre (\$0.05 per ha -- equivalent to \$12.80 per square mile or \$4.94 per km<sup>2</sup>) was stipulated. The Minister agreed in Clause 16:

...to provide and maintain an organization of men and equipment necessary for the detection and suppression of forest fires over the area reserved and to pay for the cost of fighting any fire which originates within the area reserved, (except if such fire originates on a cutting operation which is being conducted by the Company, its employees, agents, or contractors.)

The Company responsibility was

... to provide whatever additional fire protection it may deem necessary to safeguard from fire the areas in the immediate vicinity of cutting operations.

The fire control system was severely tested in 1956 when three fires, burning on or into the FMA, covered 24,000 ha -- about 3 per cent of the lease. As Crossley<sup>64</sup> later explained:

Everybody including our New York office, was upset over this unexpected situation and the Alberta Minister was made aware of this concern, which he apparently shared. It was his suggestion that our concern be documented and sent to his office in order that the situation could be assessed. I was assigned to the task of reviewing the situation in the field and preparing a brief. Two months spent in the field eventually resulted in the requested report and eventually the Minister arranged a meeting with us and his senior staff to discuss it. Unfortunately, he never did advise his staff that the brief had been prepared at his request! It was a devastating report and subsequent relations with the Forest Service were clouded for some time. Our resident manager, following the mutual discussions, made the point very strongly that our management program could not proceed unless our Company could be assured that the situation would be rectified.

This led to a meeting with the Forest Service in January 1957 which became acrimonious until the participants realized that most of the problems related to money or budget allocations to the Forest Service. At that point, as Jim Clark<sup>65</sup> explained, Eric Huestis, Director of Forestry, returned to the meeting and changed the tenor of the meeting by stating:

Gentlemen, there is a need to finish this meeting, and in a positive manner. I need a way to assure more money is made available to my Forest Service to give good forest protection. You need some positive commitment from us to assure the timber losses to forest fire is minimized on an averaging basis. I am thinking of writing ... a commitment whereby we attempt to keep the average annual loss by fire to ... something less than one tenth of one per cent ... averaged over a twenty year period. I think this commitment should help your need from us and it, in turn, if you accept this proposal, should pressure us to improve our forest protection.

In the meantime, and two years before this fire event, the Rocky Mountain Section of the Canadian Institute of Forestry had prepared a "Fire Brief" which was submitted to the government in 1954 in which it had also outlined concerns about fire control<sup>66</sup>. That, plus the 1956 experience, resulted in two major changes. The first was the start of building a fire control capability within the AFS. The other was to enlist more assistance from the industry. As Crossley explained:

...after the 1956 experience it was agreed that the Company would accept more responsibility and would be quite prepared to assist. Working closely with the Forest Service protection staff in its Edson office, we agreed to the procuring and maintenance of such equipment as pumps, hose, pulaskis, etc. Information would be provided to the Forest Service on the location of our own mechanical equipment in the field at all times so that it could be acquired rapidly in the event of a fire. The training and certification of our field staff would be the responsibility of the Forest Service. We [later] pressed for the obtaining of a fire simulator and once it was acquired our protection staff underwent training.

McDougall<sup>67</sup> recalled the government response as follows:

... the fires [of 1956] led to a very significant policy review at the end of the fire season in terms of the adequacy of the Forest Service effort and it was generally deemed that the Forest Service simply were not, either organisationally or by way of equipment, prepared for fires like that and not able to do the kind of effort that was going to be required if forest management at Hinton was going to be a reality. The Company wrote a review of that fire and I think it was instrumental in getting the Forest Service, not motivated, because I think the Forest Service were motivated to improve all along, but it gave them the reasons they needed and the arguments they needed to go to the political level and get significant additional resources.

If you look at the record after that 1956 season there was a significant boosting up of resources and personnel and growth in the Forest Service. I am sure in my own mind that it resulted in large part because of the problems on that fire. So I think the fire is a positive event in the sense that it motivated the government to expand and improve their ability in the Forest Service to fight fire.<sup>xviii</sup>

<sup>xviii</sup> As Wright reflected in a 2000 review, it was fortunate that these fires occurred at the beginning of NWPP's operation so improvements could be made before forest management planning was fully underway.

Then, in 1958 and 1959 two fires started in the Camp 2 area. The 1958 fire ignited when a propane heater in a logger's trailer parked along the road on the east side of Maskuta Creek started a fire. This blaze quickly ran up the hill to the east. These so-called "shackers" preferred to live on their own near the cutting areas. As a result of this fire, "shacking" was no longer permitted by the Company, loggers had to move to the camps or commute. The second fire, on 4 April 1959, started around midnight from a "holdover" in a slab pile that the Company burned before the start of the fire season.<sup>68</sup>

The Forest Service was quick to respond to these fires with all the tools available to it, including aircraft that it had been able to hire as a result of the aftermath of the 1956 experience. Since the fire started as a result of a Company operation, the AFS sent the sizeable bills for fire suppression costs to the Company for payment. That prompted another round of vigorous discussions that eventually resulted in a more formal fire control sub-agreement. This was reflected in the 1968 agreement which stated (Clause 31) that although the Company shall pay the cost of suppressing any fire that is caused by their operations, that *"... in no event shall the liability of the Company exceed the liability provided for by the 'Schedule 'B' Formula -- Appendix 1" of the Fire Control Agreement dated the 15<sup>th</sup> day of May 1967"*.

The fire control sub-agreement reflected the same spirit of the cooperative nature of the forest management agreement itself -- that in return for a stipulated Company commitment to fire control preparedness, the government would set a maximum level of liability for the Company. The 1968 formula indicated that the Company would be liable for a share of the total fire suppression costs on a sliding scale ranging from 50% of small fires to about 30 % of fires costing over \$65,000, to a maximum of \$19,200 liability.

The 1968 Agreement also stipulated Huestis' intention to maintain fire losses from exceeding 1/10 of 1%, based on running 20-year average to be calculated from January 1, 1957 to the current year. It stated that the Minister *"shall attempt to"* do this.

### **Licensed Timber Berths and Sawlog Trees**

The 1954 agreement stipulated that existing timber berths and permits on the lease area would be honoured until their normal expiry dates. This meant that existing sawmillers cutting timber on the lease area would eventually be phased out altogether. As well, the Agreement was for "pulpwood timber" for which the negotiated rate of dues would apply. This also meant that trees to be cut for sawlogs required a separate permit, and the dues were to be paid at the average rate, including bonuses, being paid by the berth and permit holders. Trees suitable for the production of sawlogs were defined in the Agreement (18 (1)) as *"...mature trees of satisfactory species, form and quality which are two-thirds sound and contain three or more sixteen foot (4.9 m) logs with the top log having a minimum top end diameter of eight inches (20 cm)."* It is not clear how this worked in practice. As Clark<sup>69</sup> explained in 1959, an internal study suggested that only one tenth of one per cent of trees in the lease would fall into this category and that their reservation from harvest would be a "ridiculous requirement" which they were sure the government never intended.

However, on the PRA, although pulpwood was reserved, the Minister retained the right to grant permits to cut sawlogs. The 26 April 1956 revision defines sawlogs for spruce as 13.6 inches (34.5 cm) dbh and over, pine 11.6 (29.5 cm) inches dbh and over, and no balsam fir or poplar regardless of size. The definition was changed in the 29 June 1961 revision to define sawlogs as spruce 14 inches (35.6 cm) and over measured at 'stump height' of 12 inches (30.5 cm) from the ground, and pine 12 inches (30.5 cm) and over. However, in this case, the Minister retained the right to permit harvest of any of those trees if they showed any signs of deterioration.

When the expanded lease of 30 August 1968 was approved no such restrictions applied except for two Quotas that had been issued to that point, and which continued until the 1988 Agreement.<sup>70</sup>

Putting an end to the issuance of new timber harvesting permits for sawlogs on the FMA in 1954 meant the end of a way of life for many local sawmillers. Some found new timber harvesting areas outside the FMA, a few contracted for the new pulp Company, but most went into other occupations or left. Amelia Spanach operated a logging and sawmill business in Mercoal and commented about when the mill was proposed<sup>71</sup>:

The timber operators were very concerned. All of us that were there met several times with Norman Willmore. He was the Minister then. We begged him to leave us alone and that the timber that the pulp company would be using we don't use anyway because of the size. But we met in Hinton. We met in Edson. We even met in Robb once but to no avail.

I know we were all cheezed off. There were operators from Robb. There was myself from Mercoal ... (others) from Cadomin. ... then the people around Edson. There were three or four small operators around Edson. They were all concerned and they all wanted to be left alone but it wasn't to be. ... At one meeting in Edson he said if you can't make it logging go start raising sheep. ... There were a couple of verbal attacks on him that time. I think a lot of people started disliking him from there on in. ... Not just the operators but the people that worked for these operators too because, let's face it, their jobs were at stake too, and some of us took our people with us. Like the foreman would be there -- not just yourself. He lost a lot of friends with that statement.

McDougall<sup>72</sup> also recalled these concerns and noted one of the longer-term implications:

... when the North Western Pulp and Power agreement was first entered into -- the 1954 agreement -- the sawmillers who were in that FMA were all evicted. There were no quotas ... at that time. ... Sawmill operations were all forced out of the FMA over time. ... Imperial Lumber had some contract sawmills north of Marlboro, for example. Those were all phased out -- so over a period of (three or) four to ten<sup>xix</sup> years they were all phased out ... and that of course caused some hard feeling at the time, and that lingered. That lingered with some of the operators with people like Dick Corser. I think it may have been one of the reasons why later on there was some opposition from independent sawmillers to pulp

<sup>xix</sup> McDougall 10 April 2000 personal communication -- re-stated his estimate of the time period. Udell pers. comm. March 2000 also noted that he thought it was more than 3-4 years when their licenses expired. He recalled that they were still reporting LTB volumes in the late 1960s.

developments -- the history of what happened at Hinton and west of Edson. After the quota system came in, of course the sawmillers were protected and allowed to maintain their quotas in FMAs in subsequent agreements like with Procter and Gamble and subsequent pulpmill. But certainly in the case of North Western Pulp and Power the operators were phased out.<sup>xx</sup>

### **Some Implications of the Agreement**

As a result of the requirements stipulated in the Agreement combined with its inherent longer-term rights on the FMA, the Company approached its forest management and woodlands operations with a different philosophy than which prevailed in Canada at the time. By the time of the 1968 negotiations, several positive results had become clearly evident. Three of the different approaches that affected the Company are described next: Company commitment and Crossley's "Ten per cent", forest regeneration, and Company road system. As well, the results influenced the government to develop its concept of 'timber development areas'.

#### ***Company Commitment and Crossley's "Ten Per cent"***

When Des Crossley was invited to apply for the position of Chief Forester he sought assurance that the Company was committed to sustained yield forest management. As he explained, when he was invited to work for the company<sup>73</sup>:

I therefore indicated my interest, provided that St. Regis would be approaching its management commitments seriously. I was assured that I would be given full authority to prepare and administer such a program. --- my support from the New York office was never in doubt, which of course was the critical thing.

The challenge that North Western faced was to make a concerted effort to initiate a program that would keep costs to an acceptable level, without destroying the goal of sustained yield management to which it was committed. Innovation became an on-going challenge and the staff was encouraged to adopt a critical attitude to previously acceptable procedures and to become aware that improved and less expensive approaches lay all around, that it would require wit and imagination to recognize them, and that it must keep abreast of advancing technology and the possibility of adapting it to its cause. The challenge turned out to be very productive in innovative cost-cutting approaches, and staff involvement resulted in an invaluable *esprit de corps*.

Crossley also was keenly aware of the heavy initial expenses incurred by the Company during the development phase of both the mill and forest management program. As he explained<sup>74</sup>:

We had agreed within our department to cut every possible expense corner. Shortly after we had arrived on the site we prepared a broad outline of the program we were proposing

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<sup>xx</sup> Wright qualified Mc Dougall's statement by adding that several operators opted to take contracts with NWPP which provided them with sawlogs and the pulpwood was purchased from them by the Company. Examples included Terris at Camp 2, Garneau at Camp 32, Corser at Camp 25, Johnson at Camps 15 and 30, Kennedy at Camps 51, 55, 57 and several others.

for the approval of our New York office. Once this was accepted we then requested some guidance on the magnitude of the Forestry Department's annual budget that might be acceptable. After considerable discussion it was agreed that it should be tailored to the Operations Department's costs of annual harvesting and the laying down of the wood furnish at the mill gate. Ten per cent of that figure would be the limit of the Forestry Department's budget for each ensuing year. Over the first twenty-year cutting cycle this figure was never exceeded. It was not a munificent sum but the staff was aware of its restraining effect, and with imagination and innovative approaches it was made to suffice.

This assured budget for Forest Management was a rarity among forest companies. Crossley resolved to make the most of it, gaining a reputation from some of being parsimonious, but encouraging the work to be done through incentives and innovation.

One of Crossley's ideas was to argue that the cost of regeneration should be treated as an operational cost rather than capitalized. As Crossley explained<sup>75</sup>:

Over a rotation period of eighty years following harvesting, capital costs of regeneration can go out of sight and such an eventuality could not be countenanced. Even forest economists had missed the point that since the stand of mature timber being harvested was put in place by natural means, its harvesting must generate the source of funds to finance its replacement. We kicked the idea around amongst ourselves while expensing these regeneration costs before approaching our Comptroller, he agreed that we had a viable argument, and the next time the tax officers appeared they agreed to it.

Senior management of the Company assured its Forestry Department that the agreement would be honoured *in toto*, that it would be the latter's responsibility to recommend the approaches to that end, and to incorporate them during the preparation of the first Management Plan. This department responded enthusiastically to the challenge, and therein lies an important key to a successful management program. Success throughout Canada had often been thwarted by the excessive costs involved and on the uncertainty of co-operative funding. It was internally predicted that public funding would always be scarce, or, at best, intermittent and its availability unpredictable. The solution would be a Company commitment to finance its own management program, thereby avoiding falling behind in its management performance targets. In this connection it should be recognized that the current assumption of the costs of forest renewal by some provincial governments precludes the option of claiming a tax rebate from the senior government.

This 10 per cent guideline represented a commitment by the Company. Although Crossley may have underspent in some years through frugality, nevertheless he was assured of the 10 per cent dedication each year. Although these points were not explicit in the Agreement, it is clear that without the Agreement it would have been very difficult to have ensured this support of forest management practices.

The commitment by the Company to support forest management to the extent of ten per cent of the delivered wood costs represented a major departure from conventional industry practices. The commitment set a precedent for the entire Alberta forest industry.

The arrangement enabled the Company to consider these as legitimate operating costs. It ensured funds that could be used for specific requirements as identified by the Forestry Department and, as explained, provided both support for meeting the basic commitment and an incentive to make the best possible use of those dedicated funds.

Under the present Company organization<sup>xxi</sup>, harvesting and forest management are treated in a systems approach within the now-combined department of Forest Resources. As a consequence, the previous “ten per cent budget” has been abandoned, but the commitment to forest management has been maintained as part of the corporate objective. To this end, the explicit regeneration requirements in the more recent agreements helped to ensure that the renewal commitment would be met. Meeting them through an integrated systems approach made sense – consideration of the process from pre-harvest through logging and renewal to ‘free-to-grow’. It is interesting that the Agreement concept enabled both approaches to function at their respective times for a similar effect in achieving regeneration.

### ***Forest Regeneration***

Crossley noted in 1985:<sup>76</sup>

During the period 1956-77, 184,724 acres were harvested, of which all but 3,698 acres have been regenerated to stiff Forest Service seventh-year establishment standards, or a success rate of 98 per cent. The 2 per cent NSR backlog is scheduled for enhancement planning in 1985.

This achievement of regeneration success has been sustained throughout the Company operation. During the economic down-turn of 1983-84 with reduced sales and serious cash-flow problems, Company management deferred post-harvest scarification treatments. Unfortunately, two years later competing vegetation had become so firmly established that the cost of treatment and planting was considerably greater.<sup>77</sup>

The point, however, is that the Agreement gave the Company the option of following that course -- and a) the job was done with only a short delay, and b) the Agreement gave the Company the flexibility to make that decision -- even though it cost more as a result of extra site preparation expenses.

### ***Company Road System***

One of the more notable early decisions was to disperse the harvesting areas and to develop a road system that would result in a more or less constant hauling distance over the full rotation. This policy was in marked contrast to the more typical approaches in the east in which the wood closest to the mill was harvested first and roads subsequently extended to reach the wood further away. As Crossley explained:

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<sup>xxi</sup> This change was made in 1986 by amalgamating Woodlands and Forestry into a single Department of Forest Resources.

Since the lease was so big, it became apparent that it must be sub-divided into more manageable units. A decision was made to create four units or working circles, each of approximately half a million acres, each to be managed separately with its own allowable annual cut, and each to come on stream progressively. Each working circle was sub-divided into compartments, each designed to support a cut to be spread over a twenty-year period. Those compartments containing the most over-mature and decadent timber were allocated to the first twenty-year cycle. Obviously, these initial compartments were scattered haphazardly throughout the working circles and this meant that haul roads would have to be built to each. This meant a major decision had to be made.

How was our New York office going to react to the capital costs of such a massive road building program during the early years of development? With some selling on our part, sympathetic ears were reached and the capital was made available. One of the telling arguments was that this approach to road planning would result in almost constant average hauling distances throughout the whole rotation. This subsequently proved to be attractive to the Company's shareholders.<sup>78</sup>

### ***Timber Development Areas***

As Loomis mentioned, he had been given permission to work with the Rubens to lay out an appropriate lease area for their proposed mill at Edson, and then again to outline a different area for the mill at Hinton. Then, as Loomis<sup>79</sup> later recalled: "...after that I did the same thing in the same way for an area at Rocky Mountain House, and one in Whitecourt and that part of Slave Lake that was adjacent. I also did the same thing for the one at Grande Prairie ... and I knew of a good area in the Peace River -- in the Clear Hills"<sup>80</sup>

The area at Grande Prairie formed the basis of the negotiations with Procter and Gamble Cellulose for their December 1968 agreement. Forest industry developments in the other areas took much longer to materialize. However, Loomis recognized that the same problem of utilizing smaller trees remained in the rest of the Province, and believed that an expanded pulp-based industry was needed to achieve fuller utilization. As he reviewed the data from the forest inventory he envisaged other possible areas and locations suitable for pulpwood leases and pulpmill. He noted these ideas on a map of Alberta, drew tentative boundaries, and referred to them as potential Timber Development Areas (TDAs). The TDA approach was later adapted as an instrument of policy by the Alberta government. A report<sup>81</sup> outlining five such areas was released in 1979. Most these areas, but not all, are now incorporated into committed Agreements. However, the configurations differ from those proposed as a result of the history of negotiations for them. Although interesting as a concept, it also created other problems in its application, as will be discussed later.

On a closing note, with respect to the 1968 Agreement, this comment by Jack Wright<sup>82</sup> is particularly appropriate:

During these negotiations the two parties were dedicated to making this a model Agreement incorporating current knowledge of harvesting and silviculture practices while at the same time recognizing the changing attitudes, of both the public and private sectors,

towards multiple use ideologies and the protection of the environment in a much broader sense than previously envisioned. It was also recognized that for sustained-yield principles to survive under a multiple-use concept, timber production must be identified as the “prime use” of the forest management area with other legitimate uses of the land integrated within this “prime use” concept. This concept has been recognized and supported in subsequent revisions to operating guide lines, forest management plans, and in the most recent [1988] revision to the Forest Management Agreement.

In December 1968, a Forest Management Agreement was signed with Procter and Gamble Cellulose Limited to build a kraft pulpmill at Grande Prairie, and this Agreement was modelled after the recent North Western Agreement.

## Evolution of the Forest Management Agreements

### 3.3 Period 1968 - 1977

#### *Land Use and Loss of the Provisional Reserve*

#### **Historical Backdrop 1968-1977**

##### **Alberta**

This was a period of growth in the forestry sector in Alberta. The Quota System was well established which assisted the solid wood sector in consolidating and expanding. These activities also led to a great increase in silviculture, especially in scarification and planting. A growing deciduous forest industry focused on plywood and, at a new mill at Slave Lake<sup>xxii</sup>, on lumber from aspen. The second pulpmill in Alberta was confirmed for Procter and Gamble Cellulose at Grand Prairie with construction starting in 1970, production in 1973. In the meantime, the MacMillan Bloedel Agreement in Whitecourt was declared by the government to be in default in 1970 and was cancelled. The volume of timber harvested in Alberta increased from about 3.0 to 4.4 million cubic metres.

Extensive forest fires in the spring of 1968 were a great shock, leading to further major improvements in forest protection. These included a build-up of preparedness and initial attack capability, construction of access roads and landing strips, and including purchase of a DC3 to move fire fighting crews.

In 1971 the Peter Lougheed Progressive Conservative government took over from Social Credit with a new cabinet, new philosophies and programs. With the cancellation of the MacMillan Bloedel Agreement, a new Whitecourt-Fox Creek Timber Development Area was advertised with calls for proposals. Awards were made to Simpson Timber and Fox Creek Lumber in 1974.

However, environmental concerns began to intensify during this time. In 1971 one of the early environmental activist groups (STOP<sup>xxiii</sup>) publicized a set of photographs taken on the Hinton FMA which purported to show destructive practices and absence of regeneration. By taking repeat photographs at the same photo points the AFS and Company were able to refute the allegations, but the issue led the government to hire C.D Schultz Forestry Consulting (Shulco) to review the environmental impacts of forestry practices in Alberta. Their report issued in 1973 was both supportive and critical of prevailing practices, and led to some positive changes. In 1974 a review of land use policies on the Eastern Slopes was launched. This resulted in an East Slopes policy document in 1977 which attempted to minimize land use conflicts through a system of zoning. The Alberta Forest Research Development Trust was also set up in 1974 to both support and coordinate forest research, of which Jack Wright was a member. In 1976 land use planning elements were consolidated in a new Resource Evaluation and Planning Branch

<sup>xxii</sup> North American Stud Company -- the first to make lumber from Aspen, unfortunately a short-lived operation.

<sup>xxiii</sup> Save Tomorrow Oppose Pollution

(REAP) which gave a higher profile to broader land use issues. In 1970 the University of Alberta approved a forestry degree program with the first class starting that fall, graduating in 1974.

In 1974 a new Department of Energy and Natural Resources was created in which the Alberta Forest Service became part of the Natural Resources sector. At this time Robert Steele was promoted to Deputy Minister for Renewable Resources and Fred McDougall became Director of Forestry. In 1977 Don Getty was named Minister, through whom the forestry sector was to be given a much higher profile.

There was increasing concern nationally about an increase in the areas of previously-forested land that was not satisfactorily restocked with trees after accumulated disturbances such as logging and fire. The Canadian Forestry Association and Canadian Institute of Forestry/Institut forestier du Canada co-sponsored a National Forest Regeneration Conference in Quebec City in 1977. Again, action was called for to address the 'regeneration backlog', and again, there was little immediate response -- but this event led to more determined action.<sup>xxiv 83</sup>

## Hinton

At Hinton, the pulpmill had established itself as a successful operation, capitalizing on its quality wood supply to produce a consistently superior product. As a result, the Company chose to commit itself to expansion of the pulpmill, as provided in its 1954 Agreement. A new Agreement was signed in August 1968 in which the Company agreed to expand the mill and thereby assume management of the provisional reserve area to supply it. As part of that commitment, in 1971 it began construction of a 50 million fbm studmill, officially opened in 1972. However, the Agreement had stipulated that the Company was required to begin construction of an expanded pulpmill on or before the first day of January 1971, which it did not. Although the intervening events are complex, the result was cancellation of the expansion Agreement by the new government in February 1972. The FMA was reduced to that of the pre-1968 Agreement. In the meantime, St. Regis purchased a 49 per cent share of the Company from its partner North Canadian Oils in January 1969, becoming sole owner of North Western Pulp and Power, Ltd. However the original name was retained for about ten years before becoming St. Regis (Alberta) in 1978.

Despite the setback of the reserve cancellation, the Company continued to effect improvements in its approach to management and regeneration. Among the emerging issues were concerns about land use. A new set of aerial photographs in 1969 clearly illustrated the impact of oil and gas activities. The Company set up its own Land Use section in 1970 under the direction of Ray Ranger. They also negotiated a means by which compensation for damages from oil and other industrial activity could be recovered. Innovations in reforestation led to the development of improved container seedlings, launching a new technique which became widely adopted. Their

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<sup>xxiv</sup> Wright noted that he had been invited but declined knowing, as he put it, that most of the eastern provinces and companies were not taking the matter seriously and it was doomed to be an exercise in futility. He also questioned Quebec City as a location - he asked why not somewhere where delegates could see reforestation being practiced. He replied that he was too occupied with regenerating all of their own cutovers at the time.

1965 greenhouse pioneered nursery production of container seedlings. Company forester Steve Ferdinand, in cooperation with Hank Spencer of Spencer-Lemaire Industries, developed the 'Roottrainer' system in the early 1970s, replacing the old Ontario tubes. The first of the Company recreation projects at Emerson lakes began in 1970, and the first hiking trails, the Wild Sculpture Trail was begun in 1973, extending their commitment to multiple use. Earlier, in 1971, the Company worked with the local Junior Forest Warden club to reclaim a 20 km section of the Bighorn Trail. Their revised Forest Management Plan was submitted in 1977 as scheduled.

Stan Hart, Woodlands Manager, transferred to the eastern St. Regis operations in 1968, succeeded the same year by James D. Clark who presided through this period. Des Crossley retired at the end of October 1975, Jack Wright succeeded him as Chief Forester at the start of the next month. In 1976 Jim Bowersock replaced Ivan Sutherland as Resident Manager; Kenneth W. Hall succeeded him in 1977 when Bowersock moved to St. Regis in New York.

## **Introduction**

The year 1968 represented the zenith of the initial development of the lease. The Company had established Alberta's first pulp mill, brought it into production and successfully addressed the start-up and production capacity problems. Forest planning and management for sustained yield had been put into place, and logging was keeping the mill supplied with wood at a competitive cost. Given the opportunity to increase the lease area, the Company had successfully negotiated a revised Agreement, approved 30 August 1968 that doubled the lease area on the condition that the Company start construction on or before 1 January 1971 -- just two years and eight months hence. The down-side was that the Company did not meet the deadline for starting construction of the new pulpmill and the expansion was cancelled in 1972.

## **Tenure And Land Use**

In the meantime, a growing problem related to land use had become the focus of major attention. Since this greatly affected the concept of "tenure" or long-term management rights, background to this topic is provided here for perspective.

Granting of tenure represents an act of faith by the government that the lands will actually be managed in the public interest and to sustain the forest. However, as Crossley argued:<sup>84</sup>

The leasing of Crown land leaves the ultimate control in the hands of the Crown, as well it should, but probably the greatest obstacle in the past to private sector success has been inadequate tenure. It is of the utmost importance that this be recognized and accommodated, with tenure being based on performance, periodically monitored.

Although tenure provides a nominal basis of security, tenure alone cannot guarantee that there will be no withdrawals from the land base nor later constraints on how the lands may be used. Crossley felt very keenly about this, as did succeeding Company forest managers, as McDougall commented:<sup>85</sup>

That was always an issue with the Company. When Des was there he guarded the land base, and rightly so. I appreciate his reasoning there but he guarded that land base very, very diligently and in detail. So any time there was any kind of industrial development, whether it was coal or whatever out there, there was always a fight with him in terms of making sure that we absolutely minimised the amount of land used and the amount of land withdrawn from the FMA. It was a constant kind of process of healthy disagreement. That wasn't a case where in principle we had any difference. There were times when we were accused of being too lenient with the dispositions and we didn't feel we were. We felt we were being pretty stringent. But there was always that kind of tug of war back and forth over whether other uses of land were acceptable and to what degree.

### **Land Use and Timber Damage Assessment**

Almost from the start, there was a recognition that uses of land other than for growing trees could result in withdrawals of specific areas within the FMA. This recognition was explicit in the 1954 agreement, as outlined earlier, in which provisions were made to replace withdrawals amounting to over one-half of one per cent of the lease.

However, the extensive impact of activities connected with oil and gas exploration and development were probably not envisaged. By the late 1960s forestry staff had become alarmed about the linear disturbances that were increasing every year, along with roads and well sites. These caused damage to both timber and young growth -- comprising external disturbances over which they had neither control nor influence. Ray Ranger had been on forestry staff since 1956 and had been appointed in 1970 as head of a new Land Use Section, responsibilities that had previously been handled by Bill Hanington. As Ranger<sup>86</sup> explained, the problem grew on them:

When we first came here a seismic line was a rarity. In fact we kind of looked at it as a God-send actually. ... On the ground there was a good deal of the area not even surveyed and so all ground work entailed a lot of tough walking and chaining and all the rest of it. It was slow going. So when the first seismic lines were encountered they were a rarity and here was this swath through the bush that you could walk down and chain rapidly and in the winter time you could get down with a vehicle or snow machine or certainly on snow shoes ... and when you were doing your field work it afforded you ground access and mapping control. So they certainly weren't unwelcome.

Along about the 1960s that started to change because they discovered natural gas<sup>xxv</sup>. The first area was in the Marlboro Working Circle in what they called the Pine Creek Field. And of course once they drilled a few wells and proved it up, it became obvious that there was going to be considerable activity (roads, well sites, pipe lines) and along with that a certain amount of interruption to the timber resource. So Des (Crossley) took it on himself to go down and straighten the oil companies out. It was unfamiliar territory to Des ... and he was on their turf. It was Des and the oil companies and they were two of a kind. Des was the master of the forest up at Hinton. They were masters of the oil patch and until this

<sup>xxv</sup> Jack Wright noted that in 1956 Imperial Oil found significant natural gas at a well north of Obed, about five miles north of the Athabasca river. (Personal communication)

point ... they only talked to the government. The government, because they relied so heavily on the income from the oil patch, they let them pretty well do what they wanted. In fact I think by-and-large they catered to them. So all of a sudden here was this upstart from out of the north country telling them they couldn't go cut these trees. .... So we had confrontation right off the bat.

... the government, when pressured, would say yes they (NWPP) have the right to the timber. It was in black and white. Not only that but we had additional rights in that we had a lease. We have now a Forest Management Agreement but originally we had a lease and that gives you some additional rights other than just the trees. ... there were five major oil companies ... and they said we don't owe you anything. We have the rights to gas. To get at that gas we have to disturb the timber. We have always paid the government a royalty for that timber. We will continue to do that but we don't recognize you as being lease holders and we don't think that you in fact have rights to the timber.

We had two major problems with the oil companies in our area. Firstly; they did not recognize that we had the rights to the timber and that if timber was destroyed due to their activities then we should be compensated. Secondly; so intensive and rapid was their development that they were unable to accurately document the areas of actual disturbance. Eventually we found it necessary to solicit the aid of Shtabsky and Tussman, a new young law firm in Edmonton to represent us and to proceed to bring the matter to litigation.

As Crossley noted in his Journal<sup>87</sup>, he and others from the Company met with the Shtabsky firm on 10 and 11 June 1970:

Together with I.K. Sutherland and Crawford (St. Regis, New York) met with Aaron and Eli Shtabsky, Barristers & Solicitors in Edmonton to discuss the question of legal aid in Timber Damage Assessment on the FMA. We decided to retain this firm and begin gathering the necessary information. Following these meetings, I met with Mr. Shapina, Secretary of Arbitration Board and explained our proposed action. He advised that every assistance would be given to the lawyers in the way of pertinent Acts and Regulations.

Jack Wright<sup>88</sup> recalled:

Harry Smith<sup>xxvi</sup> produced a timber value table for the oil companies based on a present worth approach but using arbitrary and unsupported values such as silviculture costs, etcetera. Eli Shtabsky and the Company hired a forest economist, David Haley<sup>xxvii</sup>, also from the University of British Columbia, to work out a timber value table based on a cost value approach but using actual documented values. Although those values were higher than Harry Smith's, when we put actual values into the Present Worth formula the timber values were astronomical, so the oil industry became more accepting of the cost value approach. This formed the basis for the government Timber Value Table and was accepted by both the Company and the Petroleum Association.

<sup>xxvi</sup> Dr. J.H.G. Smith, professor of forest management at the University of British Columbia.

<sup>xxvii</sup> Dr. D. Haley, professor of forest economics at the University of British Columbia.

As Ranger explained further:

Following our statement of claim it became quite clear at the Discovery Hearings that the oil company's records vis-à-vis the actual area of damages was not adequate and I think that in itself played no small part in their decision to capitulate short of a formal court hearing. Herb Laycraft headed the litigation team for the oil companies and I believe they were very capably represented as he later went on to become Justice Herb Laycraft.

About the same time as this was taking place another breakthrough of sorts took place ... at a meeting of the Petroleum Association. Prior to that meeting no one at the Department of Lands and Forests had been too forceful about confirming the Company's rights to the timber. However at the meeting, Bill Kammermayer<sup>xxviii</sup> was asked what rights do the pulp Company have to the timber? "What rights to compensation do they have?" At this point Bob Steele, who was the Deputy Minister, took the floor and in no uncertain terms confirmed that under the terms of our agreement North Western Pulp and Power Ltd. had the rights to the timber and in turn compensation. In our subsequent agreements two things happened -- the word "lease" was changed to Agreement and our rights to the timber was more clearly defined.

With respect to records of area disturbed, Ranger added:

Our cut-over records were the most accurate and this created a problem. You see the oil companies would submit plans to Special Land Use for delineations (because they all came out of the Forest Management Agreement area) and the lands were always less than what was actually denuded of timber.

--- we were trying to reconcile these figures all the time and so to do that I would keep very accurate control of it and then I would send a copy of the mapping in to Bill. And then he would bring the oilmen up and show them and say, "Well in fact you took a borrow pit or an extension to your well site or whatever and this is what it should be." "Oh yes. I forgot about that." Because they would apply for one thing and there was such a lag between the time the paper work got through on that land delineation meantime they had been in there and had to have an extension for whatever reason or a borrow pit or change in the road plan they would be wanting to finalize it and get payment from us because we collected the dues for the royalties on behalf of the government as well as our own. So that is why it had to be reconciled you see. I would be billing and sending money before they even had knowledge of the additional deletions.

When asked whether there was ever a question about the damage compensation going to the Company and not to the government, Ranger responded:

Yes. It was raised several times. The oil companies were of the opinion that we were Johnny-come-latelys. Here all of a sudden we were inheriting a windfall, as it were. Heretofore of course there was only one seismic line here and there and nobody paid

<sup>xxviii</sup> Bill Kammermayer was a land use officer with AFS in Edmonton with specific responsibilities to work with the petroleum sector.

anything, except the Crown charged royalties for the timber that was destroyed, which was a negligible amount as far as that goes. But all of a sudden, with the heavy concentration of activity in our area, they realized that hey, these fellows have quite a large portion of land and if we do intensive work over there, here is a large amount of dollars that is going to go their way for timber that they just got yesterday, kind of thing. That was one of the arguments that they presented at their preliminary arguments in our court case. We in fact said well quite simply if you went into the farming country and you went across the farmer's crop of wheat you pull out your wallet and you pay him for it. You don't go into the history of whether he had inherited that for nothing from his great grandfather or whether he has only had it a short time. You just pay for it. So from our perspective that isn't a go.

The fact of compensation and consulting on records led to opportunities for further negotiations, such as on the Company roads charging a fee or royalty for use. As Ranger explained:

That was one of the things that we did negotiate. They approached us first. They saw very readily: "Why should we build 20 miles of road if there is 20 miles of road already here?". We said yes. No problem at all. Not only that but when we started building all-weather roads we were building for 100 ton loads which was something they were not used to. They were used to operating on lower class or winter roads which if they did run on it in the driest day of the year there would be no road left you see. In our case they did very little damage to the road. By the same token they had lots of traffic on that road ... So it gave us some hardship. But there was a mutual benefit there. It progressed to the point where we would sit down and really go at it like real partners. They would phone and they have a proposed well site at this location and I would get that phone call very early on. They had no idea where they were going to put the road. They had no location. We would get a call from Calgary. "We are going to put a well site in here Ray. Is it going to be much of a problem?" And I would look on the map. "No. We've got a road within 15 or 20 miles of it and you can go here and go there but you better send your man out and we will fly it together." Then they would come back and say, "Well yes we would like to use that." I would say, "Well yes except that this part isn't finished yet. We weren't going to really finish that." Or in some cases two years from now we have got a road schedule and will go right along where you were going to go. "If you want to pay part of the costs of that road, build it this year instead of two years from now." Hey good deal! They get their road for half the price they would normally pay for it and we get our road there, be it two years sooner, for half the cost ... where it belongs and not some place else. These sorts of things -- so once that original conflict was out of the way we worked together very readily.

It is clear that the lease (subsequently Agreement) was an essential document through which to confirm the Company rights to compensation for damage to the forest crops -- either standing timber or young growth being cultivated.

McDougall supported the Company position, adding to the story from his perspective<sup>89</sup>:

[The Company] hired Shtabsky and the oil industry went out and hired J. Harry G. Smith from UBC. Smith submitted a report which took the oil industry perspective which was

that unless the Company actually suffered an allowable cut reduction (I am oversimplifying here to its very essence) they really weren't suffering any damages at all and there should be no compensation. Interestingly enough on this issue we tended to side with the Company. We felt that in fact there was damage occurring. It was obvious to us. There was timber being bulldozed and destroyed that could and should be utilized for the production of forest products and that there was waste occurring and there was also some environmental damage -- not a lot, but some. The way the *Forests Act* was structured in the 1971 rewrite ... and with the wording of the Surface Rights legislation in the Province -- we made sure that (and this was partly at Des' insistence but I think he was right) Forest Management Agreement areas were recognised as occupancy under the Surface Rights Act. With the *Forests Act*, in effect giving ownership of the timber on an FMA to the Agreement holder subject only to the right of the Crown, we didn't think [Harry] Smith adequately recognised the Agreement holder's rights. These things put the pulp companies in a stronger legal position (this was obviously pointed out as well by Shtabsky) than they were in BC and perhaps other jurisdictions.

The problem we had is that we were being caught in the middle. We had North Western Pulp and Power insisting that we require the oil companies to pay them compensation in significant amounts and the oil industry violently objecting. Interestingly enough that still goes on today. We settled it, and it worked for a number of years -- we did [it by] compromise -- rather than being seen to be coming down heavily on the side of one company, North Western Pulp and Power, against the whole oil industry, and people representing the oil industry warning us that we better be careful. So we came out with our own Timber Damage Assessment table. We made it very clear when we brought it out: "This is what we think Crown timber is worth." We said, "This is what we think is a fair value for Crown timber that is taken down in the course of industrial operations." What that did is it put something fair and reasonable on the table and that way we weren't taking sides in a legal dispute because Shtabsky and the oil industry had gotten to the point where they were threatening to sue each other and we didn't want to get in the middle of that. We published our stand damage table by cover type, which gave what we considered to be fair values for timber land. And [valuation for] the lower height classes was basically based on the cost of reforestation. ... Each cover type would yield an average volume of forest products with a market value less the cost of logging and manufacturing to get a residual value for the stand. Then we simply joined those two values with a curve.<sup>xxix 90</sup>

McDougall<sup>91</sup> later added further comments about the significance of two of these aspects. First was to highlight the clause in the *1971 Forests Act*, of which he was a primary author. It conveyed ownership of the timber on a FMA to the Agreement holder<sup>xxx</sup>. This was unique in

<sup>xxix</sup> Wright explained that since the government Timber value Table was based on the Cost/Value approach but using AFS values rather than the Company's (and their own interest rates), the Company agreed to use it as the basis for Timber Damage Assessment on the FMA.

<sup>xxx</sup> *Forests Act* 1971. 16 (2) Except as against the Crown and subject to any agreement to the contrary, ownership of all Crown timber on land subject to a forest management agreement or forest management lease is, during the term of the agreement or lease, vested in the holder of the agreement or lease, who is entitled to reasonable compensation from any person who causes loss or damage to any of the timber or any improvements created by the holder.

Canada at the time, as he noted, and perhaps still is. It was this provision that strengthened the case for the Company in its dispute with the energy sector. He felt that the resulting arrangement for collection of damages was quite consistent with the Agreement concept. On Quota areas, ownership passed to the Quota holder only when the timber was cut. Second was the unique situation in Alberta in which energy sector exploration and development was focussed. There were no precedents on which to draw, so rules and working relationships were innovated as events unfolded.

## **Resurgence of Coal Mining**

Although the demise of the coal industry in the early 1950s was one of the catalysts for the pulp mill project, new demands for coal caused a resurgence in coal mining, lasting well into the 1990s, this time with conflicts to the forestry sector.

In the late 1960s the Japanese steel industry began looking toward Canada as a potential supplier of bituminous coal suitable for coking. Cardinal River Coals Ltd., on the basis of coal reserves in the Luscar region, signed a 15-year contract to supply over one million tons of processed coal per year. Mining began in the summer of 1969 and the first coal train left Luscar for Vancouver in March of 1970. Production was increased to 1.5 million tons (1.4 million tonnes) in 1973.<sup>92</sup>

The government resolved that it would not support a new one-extractive-industry town at Luscar so the operation was set up on a commuter basis from Hinton. The government constructed a new highway south from Hinton to support busses and commuter traffic.

In 1965 a new coal mine was authorized at Grande Cache, about 150 km northwest of Hinton. Despite its previous resolution about one-industry extractive resource communities, the government approved a new town to be constructed there. Further, it approved construction of the Alberta Resources Railway (ARR) from Brule to Grande Cache to haul coal to market, later extending the line to Grande Prairie. Construction of the ARR resulted in further loss of productive forest land on the FMA. By 1973 the New Town of Grande Cache was clearly in financial difficulty, for two major reasons. First, the town was planned for a larger population than materialized, and second the economic viability of the mine itself became uncertain through a combination of difficulties of mining in those formations coupled with great fluctuations in demand and price for the available grade of coal.

In response to the problem, on 14 March 1973, the government appointed the Grande Cache Commission made up of three members and chaired by N.R. Crump<sup>93</sup>. It was given a broad mandate to inquire into “... *the various issues that affect the present and future economic and social situation in the New Town of Grande Cache*”. The so-called Crump Report was presented on 30 November 1973, containing 43 recommendations. One of these was that : “... the Department of Lands and Forests take immediate steps to ensure the exploitation of the forest resources, such exploitation to be conditional upon the operation being centred at or near Grande Cache.” The word ‘immediate’ was underlined in the report.

In a follow-up summary on 21 March 1974 of activities proposed with respect to the recommendations, H.W. Thiessen, assistant deputy minister of Alberta Environment advised Dr. A.E. Hohol, minister of Manpower and Labour of their Conservation and Utilization Committee<sup>xxxii</sup> review. It identified the forest resource recommendation to be of “major” impact, “immediate” timing and with “major” budget implications. It was stated that there would be no decision before September 1974 because the AFS was reviewing development of timber resources in a large area extending from Grande Cache to north of Edson, of which Grande Cache was one alternative.<sup>94</sup> This action would play a prominent role in the subsequent advertisement in 1978 of the Berland-Fox Creek Timber Development Area and its resolution in November 1979.

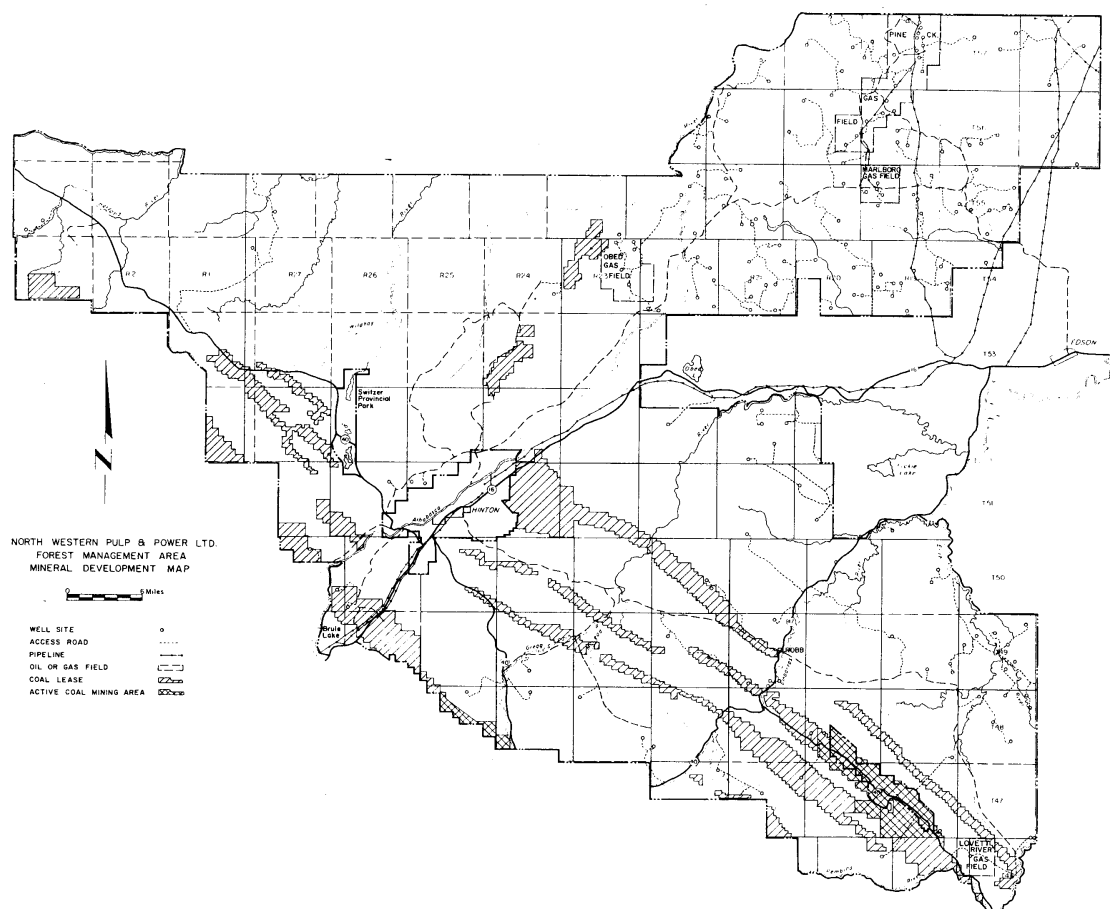
Later, in 1981 Union Oil Company of Canada Ltd. and Rescon Coal Holdings announced construction of a mine in the Obed Mountain Field<sup>95</sup>, 20 km north east of Hinton. This coal was intended for domestic use as steam coal for use in thermal power plants. It is also a commuter operation. As well, thermal coal mines were opened in the Foothills area on the Coal Branch with markets largely in Ontario, and workers commuting largely from Edson and Robb.

All mines were worked as surface strip mining operations. This meant land withdrawals from the lease as well as questions about reclamation and restoration, as will be discussed later. The magnitude of the latent problem is illustrated in the map showing the extent of coal leases in the Edson area, the majority of which underlie the Weldwood FMA (Figure 12).

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<sup>xxxii</sup> The Conservation and Utilization Committee was a government committee comprising Deputy Ministers of departments influencing and affected by resource development proposals.

Figure 12. Coal Leases in the Hinton area, 1977



### **Deadline for Mill Expansion and Cancellation of the Provisional Reserve Area.**

Clause 40.(1) of the 1968 Agreement was clear. It stated that the: *“Company agrees to commence on or before the first day of January 1971, construction of an addition to the mill....to a minimum rated capacity of 1000 tons of pulp daily.”*

Not only was construction of the mill not started, but neither was serious planning for it underway, although commitment had been made to construct a sawmill. On 4 February 1972 the newly-appointed Minister of Lands and Forests under the recently-elected Progressive Conservative government, Allan Warrack, wrote to I. K. Sutherland, Company Vice President & General Manager. He briefly outlined the background and then advised:

The Company defaulted by failing to comply with paragraph 40. The period of grace for remedying the default expired on June 30, 1971. The Lieutenant Governor in Council did not extend the time for the Company to remedy the default.

Since it is not in the public interest to keep a renewable resource of the magnitude involved herein out of active use for a prolonged period of time without a definite commitment, pursuant to clause 41 (1) of the Agreement, the rights of North Western Pulp & Power Ltd. under those parts of the Agreement which provide for the enlargement of the forest management area are declared at an end and cancelled out of the said Agreement.

This was a traumatic moment for the Company. The response of many of the Forestry staff was one of disbelief. Precisely why this happened has been difficult to ascertain because as late as December 1971 the Department and the Company were still discussing terms for the new enterprise. As Crossley<sup>96</sup> later commented:

One of the other disappointments we experienced was the fact that the option of an additional two million acres being held by the Forest Service for North Western as a reserve timber supply for expansion was never exercised. This is due to a lot of reasons. Certainly we did quite a bit of work in the Forestry Department on air photographing and age-classing this timber and also compartmentalizing it on air photos and planning our roads, etc. in an effort to be prepared for the time when the option was exercised.

--- the Company had no intention of losing the right to acquire this reserved area, nor had we any reason to believe that the government might be planning to withdraw the option. It is true that as the year 1968<sup>xxxii</sup> approached, the economic situation did not favour immediate expansion, but the government recognized this and assured us of accommodating extensions. However, we were slowly becoming aware of a cooling off between our two parties, which appeared to emanate from the office of the Minister involved. Accusations were made that the Company was in default, but no satisfactory explanation was ever obtained. At this point in time a new Minister took office. It was my opinion that he never clearly understood what this was all about, but probably felt obliged

<sup>xxxii</sup> Crossley stated 1968 in his interview, but was perhaps thinking about the end of 1969 since the deadline for commencement of construction was 1 January 1971 and time would have been needed beforehand to develop plans and contracts.

to proceed with his predecessor's apparent desire to withdraw the option. Much correspondence flew back and forth in an attempt on the Company's part to clarify the issue, but our protests that we had done nothing to justify option withdrawal fell on deaf ears and the final result was an Order in Council which documented the withdrawal of the option. Since I was not privy to some of the more confidential correspondence between our Resident Manager, our New York office, and the office of the Minister, this is as far as I care to go, other than to say that I was never able to understand why a stronger action to defend our rights was not undertaken.

Wright was more direct in his view:

In August of 1971, the Social Credit government, which had been in power [since 1951], was defeated at the polls and a new government sworn into office. As might be expected, all agreements made by the previous government were suspect and the recently negotiated Agreement with North Western was no exception. Progress on the Company's expansion project, which had been acceptable to the previous regime, was deemed to be in default and the proposed pulpmill expansion was halted, although the new sawmill was already under construction.

Then Ken Hall<sup>97</sup>, in retrospect, observed:

The provisional reserve --- had --- been taken away because of the failure of the Company to meet its commitment to increase production from its facility to utilize the reserve. When it didn't occur, the government was quite right in taking it back and allowing somebody else the opportunity.

The following summary is an attempt to sort out the sequence of events and points of view from a variety of sources. Although the answer is not clear, the review illustrates the interesting interplay among provincial governments (previous and newly-elected), and the Company, and the influence of government and Company leaders with respect to terms of the Agreement and assumptions about their intent. The story also illustrates the significance and strength of the Agreement -- for while it conveyed rights to the Company, which were upheld, it also enabled the government to insist on meeting its terms for expansion.

References include Crossley's journal and interview, letters and e-mail correspondence from Allan Warrack, J. D. Clark memoirs, J. C. Wright policy paper, annual reports of the Department of Lands and Forests, and comments from Ken Hall, Fred McDougall, Allan Warrack, Ian Reid and Jim Bowersock. Attempts were made to obtain copies of government files through the Alberta Provincial Archives and Department of Environmental Protection, without success. R. G. Steele, Director of Forestry at the time, was not able to recall significant events during his interview in 1997. Robert Ruben declined to be interviewed, although he did send some references that were not related to this incident.

Expansion of the mill was clearly an option since 1951. Following the 1968 Agreement, expansion seems to have been considered a 'given'. Crossley's<sup>98</sup> journal referred to preparations for expansion as early as 6 March 1970 when he noted:

Met with management gang and we were advised by the Resident Manager that we are ready to make the final presentation with regard to expansion. The Resident Manager wishes a very complete and well put together report which must be completed by the end of the month.

Crossley also had entries on 6 April 1970 referring to a meeting with Tom Breuner and Cliff Mack along with Company staff to review the timber base necessary, indicating that St. Regis foresters were being consulted as well. A note<sup>99</sup> two days later stated that it was “... *apparent that in order to make the most attractive presentation the Company in Hinton must consider a 900 ton a day addition.*”

In the meantime, the annual report for the Department of Lands and Forests for the fiscal year 1970-71 (ending 31 March) contained a statement in the report of the Timber Management Branch: “*North Western Pulp and Power Limited at Hinton, announced the immediate construction of a sawmill-planer mill complex with a rated annual production capacity of fifty million board feet of dimension (studs) lumber. This expansion will enable the Company to retain their former reserve area until a major pulpmill expansion can begin in 1973*”.

McDougall<sup>100</sup> explained later that he was Forest Management Branch Director at the time and that their expectation was that the new mill would be constructed and operational in 1973. This view had been corroborated independently by Allan Warrack.

Although the letter of transmittal from Dr. Warrack in the Annual Report was dated December 15, 1971, it is difficult to ascertain the dates on which the various sections of the annual report were completed -- presumably comments and data reflected the situation at the end of March 1971. Dr. Warrack's later comment<sup>xxxiii</sup> on this was: “*I would interpret the statement as a sawmill-planer mill complex (meeting with Dr. Donovan Ross?) gaining NWPP an extension of the DECISION, but that they must make the decision in time to expand the pulpmill beginning in 1973.*”

Crossley's next two journal entries illustrate a major turning point in events<sup>101</sup> (emphasis added).

Friday, July 23, 1971. Met with Sutherland and Clark. Sutherland advised of contact from Minister of Lands and Forests re discussion on changes in our Agreement. It was agreed that Sutherland would arrange to meet with the Minister and gather more information on what the latter is seeking without committing the Company. The subject could then be discussed professionally before further action is taken.

Wednesday, August 11, 1971. Crossley attended a meeting with Clark in Edmonton with the Director of Forestry (Steele) and McDougall on the subject of the Minister's suggest to revisions to the Agreement. **This turned out to be a rather shocking experience, particularly when the Director advised us that the Company was in default as of July first and we no longer had an operating Agreement.** After ten hours of work the subject under discussion had not been fully resolved and another meeting will be necessary.

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<sup>xxxiii</sup> From his e-mail response to the 17 October 1997 letter from Murphy.

Crossley noted that he and Clark had met with Steele and McDougall in Hinton to discuss this further, and again talked about the situation with Steele and McDougall while visiting areas on the lease.

Crossley and Wright met with Sutherland and Clark on 20 August 1971 to review the complete picture on their recent meeting with Steele and McDougall and a subsequent meeting with those same people on the Edson staff which had been called to complete the amendments to the ground rules. Crossley's journal entry<sup>102</sup> continued:

In meeting with Sutherland he emphasized the necessity for considerable thought and study on new ways to make the whole operation more effective and this gave us the opportunity to advise him that we are not pushing for more staff because of this difficult time, but there is every likelihood that we will be losing many, if not all, of our technicians within the next few months if something is not done about salaries.<sup>xxxiv</sup>

This suggests that the Company may also have been experiencing financial difficulties, although Jack Wright<sup>103</sup> later commented that the salary scale was more a problem of those "at the top" not recognizing the value of Woodlands and Forestry workers as compared to others in the Company with similar training and experience.

A pivotal moment in this episode was probably the Provincial election in August 1971. As a result, the Social Credit government of over thirty years was defeated by the Progressive Conservatives led by Peter Lougheed. Dr. Allan A. Warrack<sup>xxxv</sup> was appointed Minister of Lands and Forests in Lougheed's first cabinet.

On September 7, Crossley noted a telephone conversation with Arden Rytz of the Alberta Forest Products Association<sup>104</sup> in which they discussed the subject of a new Minister of Lands and Forests:

Apparently his executive (Rytz – AFPA) is meeting today to discuss the matter further, feeling that they would like to see appointed, a man with some knowledge of the forest products industry, but he is afraid that no such candidate is available. I suggested that Copithorne had been mentioned as a likely candidate, but it was my firm conviction that prior knowledge of this industry would be nowhere as near as important as obtaining a strong man with good administrative abilities who could then draw on his permanent staff for the expertise needed.

This was followed by a note on September 13 that Sutherland had advised that because of the results of the recent election, negotiations over Quotas, lease alterations etc. would remain in a

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<sup>xxxiv</sup> The forest technicians and scalers subsequently joined the Woodlands union (IWA) and negotiated higher wages under the IWA Agreement. R.U./JCW

<sup>xxxv</sup> Dr. Allan A. Warrack was then a professor of Rural Economy in the Faculty of Agriculture and Forestry at the University of Alberta. He was elected to the Legislature in August 1971 as a Conservative candidate. He was appointed Minister of Lands and Forests in the first Lougheed government. Warrack returned to the University after serving a legislative term, appointed as a professor and associate dean in the faculty of business.

state of limbo and they should govern themselves accordingly in discussions with members of the Alberta Forest Service.

On October 6, 1971, Dr. Warrack wrote to I. K. Sutherland, Vice President, thanking him for his letter of September 27 requesting a meeting.<sup>105</sup> Warrack noted that since coming into office he had an opportunity to briefly review several matters that required urgent attention, one of which was the proposed amendments to the Agreement “*that existed between your Company and the Alberta government.*” He stated that in discussions with several other members of the Executive Council it was agreed that they should finalize the amendments at the earliest possible date, and invited Sutherland to meet in Warrack’s office on October 15 at 9:00 a.m. to resolve any differences -- and then invited Sutherland to bring one or two members of his staff. Of particular interest was his reference to attaching the latest draft of proposed amendments which could be used as a basis for their discussions. The letter sounded permissive and concluded with the hope that they could amiably agree to the proposed amendments to the Agreement.

The draft Agreement also sounded permissive, and clearly recognized the default position of the Company -- although it is not clear if this document was written by the Company, government or jointly. However, among the “whereas” were the statements: “*Whereas the Company has been prevented, from circumstances beyond its control, from expanding its mill; and whereas the Company has agreed to construct and have in operation by July 1, 1972 a sawmill with a minimum rated capacity of 50 million board feet; and whereas the parties hereto desire to partially amend the said Agreement.*” Within the draft Agreement were many amended clauses, including three related to Clause 40 and one for Clause 41. The four amended clauses were:

- 40(1) The Company agrees to commence on or before the first day of July, 1973, construction of an addition to the mill increasing the minimum rate of design capacity of the mill by 750 tons daily so that the minimum rate of design capacity of the entire pulpmill complex will equal or exceed 1,180 tons of pulp daily. (amendment)
- 40(2) Confirmation of commencement of construction was defined as the date on which a firm contact had been let “...providing for construction of a substantial portion of the mill on a schedule that will permit commencement of production on or before July 1<sup>st</sup>, 1975.” (amendment)
- 40(4) “The Company agrees to complete and have in operation by July 1<sup>st</sup>, 1972, a sawmill and planer mill complex with an annual manufacturing capacity of fifty million board feet.” (addition)
- 41(1) This lengthy clause essentially requires the Minister to give notice to the Company in the event that construction fails to commence and giving the Company six months to remedy the default, and permitting the Minister to cancel those parts of the Agreement which provided for the enlargement of the Forest Management Area. (amendment)

The meeting on Friday, October 15, 1971 seems to have been another pivotal event. As Crossley<sup>106</sup> noted in his journal:

Friday, October 15<sup>th</sup>, 1971. Sutherland, Clark & Crossley met with Minister of Lands & Forests (Allan Warrack), his Deputy (Dr. Wood), Steele and McDougall and reviewed in detail the revisions proposed by the previous Minister in our current agreement. Nothing was finalized at this meeting, mainly because we were not prepared to accept most of the proposals offered and the Minister must look into the question of default.

This may have been the same meeting to which Jim Clark referred in his memoirs in which he stated: “ *The Minister of Forestry called a meeting of the Hinton management staff and advised NWPP that he was withdrawing the reserved timber from the Company due to its lack of development to utilize this timber. It was an embarrassing meeting.*” Clark also referred to what he considered strange behaviour on the part of their Vice President which, to him, conveyed the impression that he was not particularly interested in nor concerned about Warrack’s comments.

Upon reading a draft comment about this recollection, Dr. Warrack responded<sup>107</sup>:

The word “embarrassing” is intriguing. I remember Jimmy Clark as a fine man, and it may be that he felt personally that the Company had failed to honour its agreed obligations with the government/public of Alberta. While in the context of the many meetings with Mr. Sutherland, I do not explicitly recall this one (though my book diary confirms that the meeting occurred and when), I do have a firm impression. I believe that Mr. Sutherland was convinced that the government would never have the gumption to face them down; he was wrong.

Warrack also added, with respect to Sutherland:

--what I do remember is that he was always cleaning/playing/lighting his damn pipe, and smoking in my office without asking. Certainly Ivan Sutherland and I had no personal “chemistry”, but I was determined that that not be any factor in the policy decisions at hand.

Crossley noted<sup>108</sup> on October 18<sup>th</sup> 1971 that he had met with Sutherland for a short discussion and agreed that each of them should write pertinent notes on the meeting. He stated that it was also agreed Sutherland would contact the Deputy Minister suggesting that he and the Minister, if possible, should arrange to visit Hinton and review their program. As it turned out, it was not until January 1973 -- over a year later -- that Dr. Warrack visited the operation at Hinton.

Crossley’s journals also indicate the situation was discussed on 13, 22 and 30 December 1971<sup>109</sup>. On the meeting of the 13<sup>th</sup> Crossley noted:

Wright and Crossley met with Clark and Sutherland to discuss Lands and Forests Minister Warrack’s final proposals on the Agreement revision. Since Warrack maintains that the Company is in default, nothing can be done at this end until Sutherland gets a statement from former Premier Strom as to the intent of historical discussions on this subject. In the

meantime Crossley is to contact Steele for further information on the implications of the fifty thousand cord quota in the Simonette.

It was evident that discussions with the Minister were continuing. The reference to a letter from former Premier Strom<sup>xxxvi</sup> suggests that there may have been a verbal understanding with his government about a delay in this expansion. However, on January 12<sup>th</sup> Crossley<sup>110</sup> noted discussing with Sutherland: “...a letter received from Strom re subject of Agreement of Default and advised him that I didn’t believe letter received was adequate to satisfy our requirements.” If there was a verbal understanding, perhaps the perception of the understanding differed.

Dr. Warrack noted that his: “... book schedule shows a Forestry meeting (27 January 1972 at 10:00 am) with B.S. & F.M. initials (Bob Steele and Fred McDougall), and that appears to be the department decision-making meeting to deal with the NWPP’s failure to meet its obligations. While it is not noted (nor would I be likely to do so as per my administrative practice), I am positive I would not have had such an important meeting without the presence of Dr. V.A. Wood as Deputy Minister of Lands and Forests.” The result of this meeting may have been the letter of 4 February 1972 from Warrack to Sutherland<sup>111</sup>.

The Company appeared to have been continuing discussions about the Agreement and the Default -- Crossley noted on January 19<sup>th</sup> and 21<sup>st</sup> meetings with Sutherland, completion of submissions to be presented by Sutherland to the Minister. However, on Tuesday, February 8<sup>th</sup>, 1972 Crossley wrote<sup>112</sup>, emphasis added:

Attended a management meeting to discuss the preparation of a feasibility study for expansion, but the meeting was interrupted upon **the arrival of a letter from the Minister of Lands and Forests stating categorically that we are in default and had lost the rights to the Reserve Area.** Clark and Crossley discussed this later with Sutherland and he is to make contacts in the city before proceeding further to resolve the situation.

Sutherland apparently followed this up with a visit to the minister. Dr. Warrack noted:

My book schedule shows a meeting with NW Pulp (10 February, 1972 at 10:00 am); my book notes include I. Sutherland. I would not seek to know in advance who (if any) Mr. Sutherland would bring with him... Again, I would not have had such a meeting without the presence of Wood, Steele and McDougall. I had many meetings with Sutherland, more usually with him attending alone from NWPP, so I cannot recall this particular meeting as distinct from the several others. But there is NO doubt that the meeting of 10 February 1972 took place at my office.

It is likely that Sutherland was alone at this meeting, since Crossley noted on February 14<sup>th</sup> only that he had discussed with the resident manager his discussions with Dr. Warrack over the recent letter regarding default.

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<sup>xxxvi</sup> The letter from former Premier Strom dated January 10, 1972 did not support Sutherland’s position -- cited later.

An interesting sidelight to the decision to cancel is provided by Warrack<sup>113</sup> in his recollection of events following the cancellation of the lease:

The pulp project at Hinton originally had been initiated by promoters out of Calgary, perhaps driven by the “power” component. For some reason I remember a name ... Mr. Bob Ruben of Calgary; Ruben contacted then-Premier Lougheed after NWPP received the letter [4 February 1972]. Ruben had requested, on behalf of NWPP, that the Government re-evaluate their decision. Mr. Lougheed asked for a briefing; I recall that he suggested we take a walk together around the Legislative Grounds, we did so and I briefed him. The result was that he asked me (paraphrasing) to ensure I had all the information, and to do what I felt was the right thing. I was NOT pressured to change the decision. I would have reviewed the matter with (at least) Dr. Wood in one of our frequent and regular meetings dealing with department affairs. The matter was thus concluded.

The government seemed to have moved quickly following this decision. Crossley’s notes<sup>114</sup> for February 21<sup>st</sup> indicate that he advised Sutherland that the Edson office of the AFS had received instructions from Edmonton that forest management unit E12 was being withdrawn from their FMA and transferred to the Whitecourt district. In addition they had received information that E11 is being withdrawn as a reserve area and that AFS would commence cruising immediately for quota possibilities.

The New York office of St. Regis would have been kept informed. On March 6<sup>th</sup> Crossley’s journal<sup>115</sup> noted: *“Clark and Crossley met with Sutherland who briefed us on New York office’s reaction to the default on the reserve area, also the quandary this places us in relation to proceeding with the Timber Damage Assessment cases. Sutherland has to decide on the action that will be taken on instructions received from New York.”* It is interesting that discussions on the Timber Damage Assessment question were proceeding apace and there was an apparent link.

Crossley’s notes show continuing discussions within the Company about the reserve area and a possible proposal from the government, and alternatives proposed for ultimate submission to New York. On July 4, 1972 Crossley recorded this perplexing comment<sup>116</sup>, emphasis added:

Met with the Resident Manager and he provided the following information that resulted from his recent trip to the New York office. **We are going to wait for the Minister of Lands and Forests to come to us re the re-acquisition of the R.A. Otherwise we would be working from a position of weakness!** Advised Ivan that we cannot run the mills on present allowable cut and we are in the position that we must have more wood. He stated that we had advised NY that we had enough wood to run the present mills from the P.L.A. and he would be prepared to drop utilization standards in order to do so. Ivan feels that Warrack’s letter has caused serious damage to our cause, in that NY is not in the mood to be pushed around and might dump the plant on the market rather than expand. The government then would be in the position of having destroyed a viable community enterprise.

About this time the annual report for the Department of Lands and Forests for the fiscal year of 1971-72 stated in its report of the Director: *“New plants under construction during the year*

*included the Proctor and Gamble Cellulose Ltd. bleached kraft pulp mill with a rated capacity of 750 tons per day, a sawmill-planer mill of North Western Pulp and Power Ltd. with a capacity of 50 million board feet per year and a poplar stud mill by North American Stud Company."*

The Director also noted: *"The public has become much more concerned in recent years with the manner in which the forested areas of the Province are being managed. This has resulted in careful and frequent reviews of forest land policies and practices and in greater complexities in administration."* This greater public concern may also have had a bearing on this decision.

In the AFS report for the Timber Management branch<sup>117</sup> for 1971-72: *"There were several woods products expansion possibilities which did not occur. The proposed pulp mill expansion by North Western Pulp and Power Limited at Hinton did not materialize by July, 1971 so that the development of the substantial timber reserves in the Edson area has been delayed. MacMillan Bloedel did not proceed with the development of a pulp mill at Whitecourt, and alternative means of utilizing the extensive small diameter stands of lodgepole pine and white spruce in the vicinity of the towns of Whitecourt and Fox Creek were being developed at the end of the year."*

However, despite Warrack's February 1972 letter of cancellation, discussions with the government appear to have continued. On July 18, 1972 Crossley<sup>118</sup> noted that he and Clark had met with Steele and McDougall to discuss various aspects of their forest management and timber extraction. Crossley noted: *"It was pointed out that it is imperative that more timber be available from the Reserve Area to accommodate the present sawmill. The reply, of course, was obvious. The department is waiting for the Company to make a submission on the whole Reserve Area and the request for more land to accommodate the sawmill requirements will not be entertained by the department at this time. ... Steele stated that we should be aware of the fact that his department is proceeding with land dispositions in the Reserve and the longer we postpone making a commitment the greater the likelihood that choice acreages will be lost."*

Proposals were apparently prepared and on July 31, 1972 informal discussions were held with Dr. Warrack. On September 26<sup>th</sup> Crossley noted that he and Wright had met with Sutherland to discuss the advice being sent to Haselton about his coming meeting with the Alberta government cabinet on the subject of the future of our forest management leases. Then on January 29, 1973 Dr. Warrack and Bob Dowling, a local MLA and Cabinet Minister visited the mill but the focus of the discussion seemed to have been on the impact of geophysical and gas and oil development programs on their forest management program. However, on February 1<sup>st</sup> 1973 Crossley<sup>119</sup> talked to Sutherland about their status with regard to expansion and recorded: *"He advised that as the matter now stands, he and Dr. Warrack must get together to further discuss the changes the department wishes in our management plans and ground rules. If an agreement can be reached then the next move is for the department to meet with New York officials for a final decision."* After discussing ground rules and other conditions, Crossley noted: *"At this time I felt it important to remind the resident manager that if we do not pick up the reserve area, the department (Steele) has stated that we would not be entitled to any additional timber to take care of stud mill requirements!"* There are no further references in Crossley's journal with respect to expansion beyond that date -- but it is interesting that the topic persisted for at least a full year beyond the date of the letter of cancellation.

In the 1972-73 annual report of the Department of Lands and Forests the Timber Management branch reported<sup>120</sup>: “A study was made of the timber in the former North Western Pulp and Power Limited Reserve Area to determine which alternatives would be of greater advantage to the Province.”

Warrack also recalled ongoing meetings and discussions about expansion<sup>121</sup>. He specifically mentioned a trip to New York with Fred McDougall stating that he did: “... travel to New York (St. Regis HQ) and we met with them (9 November 1973 at 11:00 am). I remember vividly because we stayed at the Waldorf Astoria hotel, and on one of our elevator trips Jimmy Hoffa (murdered soon after) was on it with us; ...” He also noted that St. Regis purchased NWPP sometime later<sup>xxxvii</sup> and that they (Department of Lands and Forests) had renewed hope that St. Regis would undertake the desired expansion with attendant environmental improvements. In fact, as Hall<sup>122</sup> noted later, expansion was also important to St. Regis: “St. Regis (Alberta) Ltd.’s annual and five-year strategic plan submissions to the parent Company continued to propose modernization, and expansion plans so vital to its long-term survival.”

McDougall put the cancellation into a political context<sup>123</sup>, explaining that the outcome of the provincial election of August 1971<sup>xxxviii</sup> had a profound influence. He also referred to the New York meeting with Warrack.

... in 1971 the Social Credit government was defeated and the Conservative government under Peter Lougheed was elected and Alan Warrack became Minister. There was quite a change. At that time I was head of the Forest Management Branch. Alan Warrack to his credit was of a very inquiring mind and very active, and a lot of stuff was challenged. One of the things that people forget is that in that 1971 election the quota system was one of the things that the Conservatives, Frank Appleby running up in Athabasca Riding and one or two other MLAs who formed the government after 1971, had criticized and questioned. One of the first things that I had to do for Warrack was to prepare an explanation of our forest policies. What made it really interesting is that in 1971, just prior to the election, I had been given the responsibility by Bob Steele and V. Wood to draft a new *Forests Act*. One of the last acts that the old Social Credit government passed was the 1971 *Forests Act*. So that had tended to give forest policy an exposure ... beyond what it normally would have. And of course the 1971 legislation ... was challenged by Alan Warrack and the new Conservative government. I think to their credit we were able to maintain that legislation and the quota system. But I don’t think, to this day, the people in the industry understand how close they came to losing the quota system -- it was seriously challenged. People wondered why these guys were being protected from competition, and why we dropped the old auction system -- the old timber berth auction system -- which some of them felt was fair. The whole thing was under severe question. So that is background to all this.

Part of the things that were questioned was the granting of these extensive timber areas under FMA to companies like North Western and Procter & Gamble. In that context the

<sup>xxxvii</sup> The mill was renamed St. Regis (Alberta) Limited in 1978. The North Canadian Oils share had been purchased by St. Regis in 1969, but the name had remained NWP&P

<sup>xxxviii</sup> The Alberta provincial election was on August 1971, already over 7 months past the deadline date for start of construction of a pulpmill addition as stipulated in the Agreement.

fact that the North Western Pulp and Power Provisional Reserve Area was questioned isn't surprising at all, particularly when the records showed very clearly that the existing FMA without the provisional reserve area was being undercut. There was a very significant volume of wood accumulating on that FMA -- and the Berland Working Circle was hardly being cut at all.

The other thing was that Warrack was absolutely convinced our revenues from FMAs were too low. We had a forest economist working on staff at the time -- he had done some comparative studies internally and supported Warrack's view that we simply were not getting enough revenue out of the two FMAs. That is what motivated the trip to New York [in November 1973] by Warrack and I. We had a meeting with Bowersock and Hazleton<sup>xxxix</sup> who were the 'powers that be' in St. Regis. Warrack was convinced that he could convince them to voluntarily increase the timber dues that were payable. They gave us a nice listen -- and basically gave us the brush-off -- so it wasn't a very successful trip. But Warrack was sincere, and rightly so I think, still to this day in his belief that the revenues the Province was getting out of the FMA were not adequate and should be increased.

... with that background -- when the provisional reserve came up for review -- I don't think it was surprising, and I supported Warrack's action in terminating their rights because they had held the area for some time (I guess almost 20 years - 1954-1972). It was clear on the record that their current facilities didn't require that timber and they were in fact undercutting the FMA.

We had a meeting with them and I recall Sutherland's behaviour there -- I remember Sutherland sitting in the office combing his hair while the meeting was on -- in front of the Minister -- with a Minister of the Crown it is not typically what you do in a meeting. It was odd. Warrack explained his concerns and I think had the Company come forward at that time with a significant proposal for development it might have been different. But as I recall their position -- it seemed to be that we should just leave the area for potential future expansion without them giving us any real solid commitment to an investment or a facility that would utilize the extra timber. The Department and the Minister didn't view that as an adequate response so the reserve was cancelled.

In the meantime, the government had been made aware as early as 1964 about concerns of the sawmilling industry about an apparent favouring of the pulp industry over sawmilling, as McDougall had noted. A submission to the government from the Alberta Forest Products Association in 1964 contained two points of dissatisfaction, one presumably about the Hinton Provisional Reserve Area, the other about the inactive FMA in the Whitecourt area.

... there are millions of feet of pulp timber in this province being destroyed each year by the agencies of decadence, fire, insects and disease, while at the same time within the one

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<sup>xxxix</sup> Bill Hazelton was CEO of St. Regis Paper Co. McDougall remembers Bowersock welcoming them and being at the meeting and lunch in their corporate dining room. Jack Wright questioned Bowersock's presence. Bowersock had been superintendent of the technical, or pulping, division at Hinton, later mill manager of the Weyerhaeuser Kamloops mill. He may have been visiting New York at that time.

pulp lease that is operating there are millions of feet of saw logs being pulped each year and lumber operators have had to cease operations in that area due to the fact that they cannot obtain this timber. ... It is apparent that from our brief that we do not agree that our Alberta forests are more suited to a pulping and fibre economy at the expense of the lumber industry.

Of the two leases granted to pulp companies one has resulted in an operating pulpmill [Hinton]. The other lease [Whitecourt] issued in 1956 had a term of 1 year for the company to show performance. The lease has, however, been renewed for a short term on any number of occasions to date and is still in effect. We question the validity of the continued extension of this lease. It provides the opportunity for speculation in a public natural resource by the holders of the lease. It jeopardizes any possibility that the provincial government might have of attracting proposal from a pulp industry for the area covered by the lease. It jeopardizes the position of sawmill operators who could be harvesting saw log timber from the area held under this lease.

Upon recent reflection, McDougall<sup>124</sup> recalled that there had been “rumblings” within government as early as 1970 about both the undercutting of the Hinton FMA as well as lack of action on expansion. He believed that the government did give clear warnings and felt that the Company should have known -- leading him to conjecture that there may have been some internal corporate failure not to have responded. The sawmill was accepted as an interim response -- it bought them a little time -- but it was not viewed as a substitute.

Ken Hall<sup>125</sup> also explained later when he was asked about the so-called “non-performance” of the Company before the 1971 deadline: “Did the Company appear to be reluctant to invest further?” -- Hall replied:

Yes, I believe they had been for some time because of the difficulty they experienced and the money they lost in the early years of the operation’s history. The kraft mill had a very difficult start-up and it took an abnormal length of time to consistently reach original design capacity. As a consequence of the experience they would have obviously been reluctant to repeat the experience. On the other hand they fully appreciated the potential of the forest resource, and the installation of the stud mill in the early 70s was probably motivated not only by an effort to better utilize the resource by integrating lumber manufacture into the operation, but also to demonstrate their continuing interest in further resource utilization.

In response to the question: “Were they in a profit-making position at the time you arrived?”:

Oh absolutely, and they had been for some time, but I presume that when proposals to expand Hinton were compared with other opportunities to invest available corporate capital it didn’t have sufficiently greater return on investment potential to offset the adverse experience associated with the original investment.

James E. Kussman was vice-president of public affairs and public relations for St. Regis Paper Company in New York in 1975 when he was interviewed for the Forest History Society<sup>126</sup>. His

comments about profitability support Hall's previous remarks, and Kussmann's comments on stumpage perhaps have a bearing on apparent lack of concern by St Regis head office about the 1972 cancellation:

Since Hinton's completion in 1957, forest land has become more valuable. Stumpage is becoming higher priced. We've got a very favourable stumpage contract with the Alberta government. ... We originally had an option to acquire another two million acres of land for the expansion of the mill or building a new mill, whichever one we chose, and that option ran for ten years. It was terminated because we didn't do anything with it at that point. ... Alberta wants a lot more for the stumpage than we are willing to pay; so the deal, throwing it all together for a total stumpage, isn't at this point attractive to our company.

To conclude the review about the loss of the provisional reserve, final comments from two of the principals from the previous and present government side seem appropriate.

In correspondence with Allan Warrack<sup>127</sup> attention was drawn to references which suggested that the Company appears to have believed they had an understanding with the previous government that if they proceeded with the sawmill, the delay in building the pulp mill could be excused. In response, Dr. Warrack commented:

...now in my time as Minister -- I do not know about the sawmill delay, but that was for better utilization of the current wood resource rather than a basis for extended holding of the provisional reserve area; I do know the sawmill did proceed, and I believe that is independent of Reserve Area rights for the purpose of pulpmill (and attendant Environmental Improvement) commitments. NWPP no doubt characterized the indecision about pulpmill expansion as delay, but Department/Minister (myself) concluded that NWPP was in breach of its obligation. In July 1971 the then - government<sup>x1</sup> was facing a long-delayed election call, and in electoral trouble (as subsequent results showed), so would have been highly vulnerable; I would not have weighed any "informal extension" with such timing as valid.

Warrack added, in response to a question about his 4 February 1972 letter:

--- I do expect the letter was a surprise to them in as much as I do not think he [Ivan Sutherland] really took the government seriously as to acting on their failure to meet the commitment. I think his "ethos" was to be confident he could reverse any department policy decision by political intervention, and perhaps that was true with earlier governments and thus a projected misreading of the new government of Alberta and its leadership.

And the letter from former (Social Credit) premier Harry Strom<sup>128</sup> to Ivan Sutherland, to which both Crossley and Sutherland had referred was also explicit; dated January 10, 1972:

I am very disturbed at the apparent misunderstanding that had developed regarding the agreement reached by my Government and your Company last year.

<sup>x1</sup> The Social Credit government, Harry Strom, Premier.

The letter of December 31<sup>st</sup>, 1970, is very clear in stating your Company was in default of the agreement and would have six months to remedy the default.

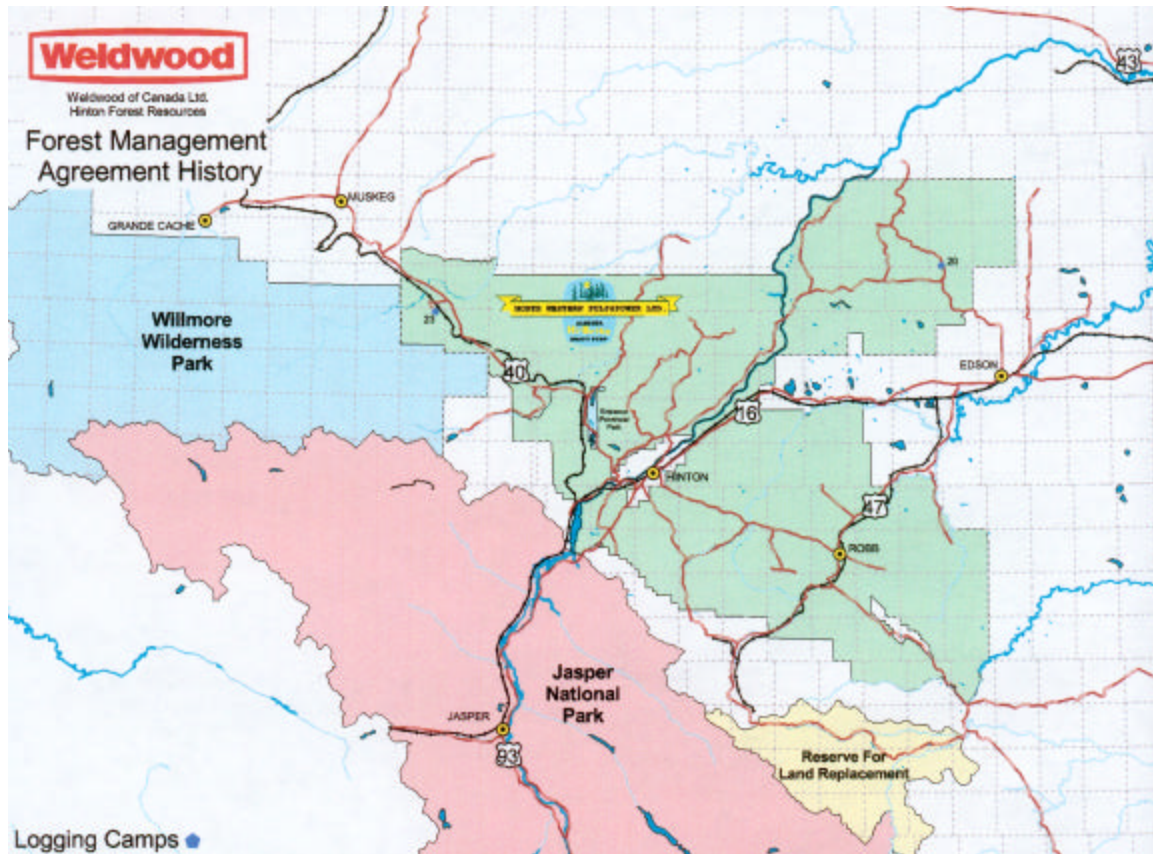
The letter of February 18<sup>th</sup>, 1971, written following our meeting in my office, is also clear in that it outlines the Government's requirement of your Company to remedy the default. This letter stated very clearly that if the Company fulfilled these requirements you would be permitted to maintain your reserve area. The February 18<sup>th</sup> 1971 letter also stated that rules governing woodland operations and environmental control would be clarified.

I must say that, in my view, the letters referred to above are the pertinent ones and are in accord with the Government's agreement with your Company to remedy the default. This opinion is also shared by Mr. A.R. Patrick who was present at our meeting.

So, even the previous government was not under the impression that it had an understanding, formal or informal. It is curious how this misapprehension was fostered and advocated for so long, despite the otherwise clear messages that the Company was in default and that the 'expansion' part of the Agreement would be cancelled.

The reduced Forest Management Agreement area reverted to the original 1968 FMA, shown in Figure 13.

Figure 13. North Western Pulp and Power Ltd. – FMA reduced to former size in 1972 after expansion area cancelled.



## Enhanced Forest Management (EFM)

As the inventory data became available and growth and yield information was generated from the Continuous Forest Inventory (CFI) program, opportunities for silvicultural treatments to increase growth rates became apparent. Crossley developed a forward-looking proposal in 1970 *Wood potential from the pulpwood lease through the intensification of management*<sup>129</sup> to increase yields of timber through investment in more intensive forestry practices. He introduced his proposal with a visionary statement:

A fundamental condition of our Agreement with the Crown and its continued renewal is that we sustain the natural wood yield from the encompassed lands. This is not a simple, easy to satisfy obligation, but examined critically, it will be recognised that it supposes an effective industrial growth rate of zero! No enterprise can remain prosperous unless it continues to move forward.

Wood is our basic resource, a continued increasing supply of which our immediate operation depends. Because of the nature of our location within the Province, the land available from wood production is not expected to increase. On the contrary, because of the demands for forest land for products other than wood, the area presently available to us for wood production will very likely steadily decrease. In order to remain as a viable production unit it is imperative that we move steadily, not only to the sustaining of yield, but toward the optimization of wood yield from the acres available to us. This means increasing the efficiency of wood harvest and utilization, the effectiveness of protection measures and the intensification of silviculture.

This report presents the potential of the land under management to produce more wood immediately, in the intermediate-future, and in the distant future. Long range plans must be made if we wish to make optimum use of the land and of the trees we grow. High yield forestry is a sophisticated, ambitious program with the results well worth the effort.

His calculations suggested a potential increase in AAC of up to 166 per cent if the full range of short- to long-term treatments was applied. These innovative opportunities were probably just a little ahead of their time. There appeared to be no imminent shortage of wood in 1970 and the mill management did not share his vision.

The proposal was not accepted within the Company, partly since the current allowable cut still apparently exceeded their current consumption<sup>130</sup>. Crossley again expressed concern in his Journal<sup>131</sup> on 20 March 1973:

Provided I.K. Sutherland with a figure on 1973 wood requirements and pointed out to him that we could not keep up this volume of extraction from the Lease and must make every effort to provide additional wood to satisfy the new requirements.

Subsequently in 1996, 23 years later, a proposal for a comprehensive Enhanced Forest Management (EFM) program was accepted and implemented by the Company. This recent proposal, containing many common themes with the 1970 one, showed that incremental AAC from EFM could be generated at less cost than the incremental cost of purchased wood. In 1996, however, the FMA was capable of producing only about 70 per cent of the required wood supply for the Company, so there was then another very compelling reason for investing in EFM.

### **Warrack - Sutherland Accord of 1974**

As explained earlier, the concept of ground rules evolved from 1955 as the Company and government began to discuss details about how to achieve sustained yield forest management. The ground rules were first specifically mentioned in the 1968 Agreement which attempted to codify in a model format many of those details that had been worked out through vigorous debate and growing understanding. The ground rules themselves were clearly one of those details.

Clause 12(4) stated (emphasis added): *“For creating the basis of the preliminary and detailed management plans, the annual operating plans ... the parties hereto must formulate **by mutual agreement** a set of ground rules ...”*. Then, 12(5) went on to state: *“The ground rules shall be reviewed by the parties hereto every five years for the purpose of **making changes by mutual agreement** with a view of attaining a higher utilization of the forest growth.”* The wording reflects the spirit of collaboration that had largely prevailed to that time.

However, it appeared to the Company that in some cases members of the AFS proposed to impose changes whether or not the Company agreed with them. Perhaps it was a reflection of the change in government in 1971, as Wright commented: *“The dedication of the Forest Management Agreement holders to forest renewal was also viewed with suspicion and the government was determined to exercise more control over all aspects of Forest Management activities regardless as to who was responsible for carrying them out.”* Negotiations were conducted at a senior Company-government level to try to resolve this apparent disagreement of “negotiated agreement” or “decree”, along with several others. The result was that on 31 July 1974 the Company and government agreed to a number of amendments to the 1968 Agreement with respect to ground rules and operating guide lines. A significant new sub-section 12(6) was added:

In the event that the Company refuses to accept the changes in the established ground rules proposed by the Minister, the Minister may implement such changes by an order of the Lieutenant Governor in Council.

There are two major issues inherent in this discussion: 1) the “determination” of the government to exercise more control over all aspects of forest management activities, as noted by Wright, and 2) the request of the Company to involve the Lieutenant Governor in Council as a final authority in approving proposed changes, if necessary. These two issues are discussed separately.

#### **1) “Determination” of the government to exercise more control**

With respect to the first issue, that of the government exercising more control, McDougall explained<sup>132</sup> that there was a convergence of several influences during the mid- to late- 1960s which led to their decision to try to exert a greater influence on NWPP operations. These included the beginning of the ‘second pass’ logging when residual blocks started to be harvested in the Camp 1 area that resulted in increasing public concerns about clearcutting. Other influences included the low level of harvesting in the Berland area, ground rules, introduction of the Quota System, and interplay of personalities. As he noted:

... on the annual operating plan review we did develop some confrontational situations with the Forestry staff at Hinton. ... There was a general concern in the public and shared by some of the Forest Service that some of the cut areas at Hinton were excessively large -- that the clear cuts were larger than perhaps they should be.

I came onto the scene in about 1965, so by 1966-67 there was already some thought of taking out some of the initial reserve blocks. So it wasn't any longer an academic thing. We were starting to see what was going to happen and it was going to open up large areas. For example, in what was called the Camp 1 area, which was heavy to spruce, it was going to open up. We could see that it was starting to open up some very extensive cut areas because the re-growth on the initial cuts was still very small. It was there. It was successfully regenerated but a lot of it was spruce seedlings which were still down in the grass. So from a wildlife perspective it was turning into one gigantic clear-cut and there were concerns about that -- about the removal of the reserve blocks after ten years. It was rigid. You knew the initial cut was taken and 10 years later the reserves were to go out. Stelfox<sup>xli</sup> and others had pointed out ... the negative effect of this ... on ungulates. ... The clearcutting in Des' system was working and working well but we felt that it wasn't giving adequate consideration to other resource values, either the aesthetics or particularly wildlife, and Stelfox had done some work that supported our concern.

... we finally did prevail. I can't recall how long it took but it took some time and we did impose, I guess would be the word, the "Six-foot rule" which meant that they couldn't cut the reserve blocks until the coniferous regeneration on the initial cuts was at least six feet tall. But it took a while to get that change implemented. It was a fairly bitter fight over that.

On the Berland issue, McDougall<sup>133</sup> explained:

There was also a concern that the FMA generally was being under-cut – that they were accumulating under-cut volume at an excessive rate. That showed up clearly in the Berland Working Circle. The problem was that rather than have that under-cut distributed across all the Working Circles they would maintain the full cut in say the McLeod and the Athabasca Working Circles so that those were managed according to plan but the Berland wouldn't get cut at all or get cut for almost an insignificant amount of wood.

McDougall<sup>134</sup> confirmed that the Ground Rules were intended to be guidelines:

<sup>xli</sup> John Stelfox was a wildlife biologist with the Department of Lands & Forests that time.

They were guidelines and they were intended to be applied with professional judgement. In other words the reason they were ground rules and established that way rather than in regulation was to allow flexibility and modification where appropriate. I think what happened here is that in 1964-65 the Forest Service, i.e. the Province, started to get more aggressive in terms of wanting input to those ground rules and how they were written and, in fact, demanding changes in some cases, like I have already explained. I think that put the whole ground rule discussion in a more confrontational light and I can see that being perceived perhaps on the other side of the issue as being an attempt to change them from professional judgement to rules that were rigid. It was never intended to make them rigid but it was certainly our belief at the time, and our intent to incorporate changes that we thought were necessary, and enforce those where appropriate.

Also directly influencing this 'rigidity' was introduction of the Quota System for sawmill operators in the rest of Alberta in 1966. As McDougall<sup>135</sup> explained, they felt that the Company must also follow the full requirements of the new reforestation legislation:

... one of the issues with North Western Pulp and Power at that time was they were subject to the details of the [new] reforestation regulations. They had developed their own system and were doing things their own way and one of the issues that again caused some difficulty between the Forest Service at that time and the Company was our feeling that the reforestation regulations applied across the board. It wasn't that they weren't doing reforestation, because they were and they were doing a good job. But the issue was the regulations that we had developed required a fairly extensive set of surveys to ensure that the reforestation was properly done. Of course this was absolutely necessary when you are dealing with one hundred and some odd quota holders. We had to have a good tight system of verification and so we stipulated in detail when the surveys had to be done and how they had to be carried out and how the results had to be recorded.

With respect to personalities, McDougall noted that he replaced Reg Loomis as head of the Forest Management branch when he retired in 1969, adding:

Reg and Des had a very close relationship professionally and saw eye to eye on things and tended to work together to work things out in a very, very cooperative way -- to the credit of both of them, partly by circumstance and partly by personality. When I replaced Reg, the cooperation would have been less evident. It was more confrontational and we were more demanding, and part of that was circumstance. ... Des had previously, when he thought we were being unreasonable or too demanding, gone to Reg and Reg would tend to be the moderating influence there. Once I replaced Reg, from their perspective, the moderating influence was gone and the hard line probably became a little deeper and more difficult to deal with

As well, he noted the influence of some tensions he observed between Forestry and Woodlands staff of the Company itself with their separate responsibilities respectively for forest management and wood supply:

It wasn't just Crossley we were dealing with here. It was also the Woodlands people and there was -- in their organisation -- a bit of a split there. There was Des on the Forestry side and there were the Woodlands guys who were more accountable for costs and I think they had some interesting dialogues between their different groups too.

So, in summary, as a result of these events and issues, the government felt it had to impose its influence, as outlined by McDougall<sup>136</sup>:

... these were some of the issues that we disagreed about and it was internally quite a heated debate. I recall writing a letter to Des in 1964 -- which was almost like a declaration of war -- but we stated some of our concerns and more or less directed them to make changes and this is what Des didn't appreciate. We directed them to make some changes -- and that got the debate going in a fairly confrontational way that persisted for some time.

... that debate got elevated up to Bob Steele's level ... the dispute went right up to the top of the department and took place over quite a long extended period of time.

a lot of it was simply that the Forest Service was being put on the defensive. We were starting to see criticism -- some of which we regarded as valid -- of what was happening around Hinton, so the atmosphere changed.

... the public was relying on the Forest Service to ensure that all of the obligations that North Western had under the agreement were being met and we took that seriously. We also felt we had a broader obligation where there were other legitimate interests like wildlife to make sure that those were recognised because there was a multiple use aspect written right into the Forest Management Agreement -- although as Des used to like to point out, timber production was the primary use and forest management was the primary thing. ... Nevertheless we felt that there was still an obligation to ensure that there was no degradation of the water resource -- that the streams continued to be silt free -- and that the wildlife concerns were addressed at least to some extent in the way the timber cut areas were planned and taken out. Those were some of the issues that we struggled with through that period of time.

## **2) Request of the Company to involve the Lieutenant Governor in Council as final authority**

Addressing the second issue, the significance of possible involvement of the Lieutenant Governor in Council in approving proposed changes, as R. Udell explained, is that disputes could thus not be arbitrarily resolved by unilateral decision of individual members of the Forest Service. Instead, unilateral changes would have to be made through a Cabinet order which would involve discussion at a more senior level. Obtaining an Order-in-Council is a more serious undertaking. The Company felt that this clause would both minimize imposition of decisions at a possibly arbitrary or frivolous level, as well as providing a mechanism for representations and reflective second thought. In effect, 'principled negotiation' was to replace 'command and control' as a mechanism for change in their perception.

This decision was soon put to the test by members of the Department of Lands and Forests. In this regard, the legal firm of Shtabsky & Company was again retained by the Company. Writing a letter of transmittal to the Departmental Solicitor about proposed amendments to the Forest Management Agreement on 4 May 1977 Eli Shtabsky provided the following explanation and view:

In executing this Agreement and in our returning same to you our client wishes us to bring to your attention the concern that it has relative to the manner in which certain of the members of your department have been attempting to utilize the amendment which appears in this amending Agreement as clause 12(6) [the new one which referred to the Lt. Gov. in Council]. At the time that preliminary Agreement was arrived at between Mr. I. K. Sutherland on behalf of North Western Pulp and Power Limited and the then Minister our client was assured that this provision would only be utilized by the Minister after full consultation with the Company and after the Minister had insured that he had given the Company a full opportunity to make its position known on any matters which might become the subject of the Ministers action under clause 12(6). To date, on a few occasions, certain members of your department in discussions with representatives of North Western have in effect indicated that should North Western not accede<sup>xlii</sup> to the requests being made by the department relative to changes in the ground rules that such changes would simply be brought about arbitrarily under the new provisions of 12(6). In each of such instances when these matters were brought before more senior members of your department they were resolved in our clients favour without any suggestion of clause 12(6) coming into play.

Our client is continuing in his dealings with your department in good faith and in the reliance that it will at all times have an opportunity prior to the Minister implementing his powers under 12(6) to make specific submissions to the Minister in that regard in order to insure that the Minister is acting upon more than simply “one side” of a particular dispute.

The further significance of this accord, as explained by R. Udell, is that it lays the foundation for cooperative Forest Management and negotiated agreements in Alberta. This clause has since been embedded in all new Forest Management Agreements in Alberta, including one as recent as 1999.

McDougall commented in 1998<sup>137</sup> that in his view Clause 12(6) was a compromise. As he stated:

We felt that the act and the regulations gave us, through the annual operating plan approval mechanism and the forest management plan approval mechanism, authority to insist on, if necessary, changes. And the big issue there, as I said, was the reforestation survey requirement. That was one of the big points of difference between us whether they were subject to those regulations or not. But this was kind of a compromise. They argued that they had to be protected against an unreasonable Minister and an unreasonable department

<sup>xlii</sup> The text read “exceed” -- I took the liberty of changing what I believe to be a typo, perhaps from a dictated draft. PJM.

and reference to Cabinet gave them at least some degree of comfort that an unreasonable Minister couldn't force or impose an unreasonable requirement on them unilaterally. So it was a compromise solution. It has never been done to my knowledge. It has never happened that any company has taken those kind of issues forward to Cabinet to over-rule a Minister's decision.

The Warrack - Sutherland Accord of 1974 also dealt with two other points. One dealt with the utilization of the deciduous timber on the FMA. The minister retained the right to grant third-party permits to cut deciduous timber which was not being used by the Company. However, in consideration of the threat of damage to coniferous trees, permits to harvest poplar in stands with more than eight cords per acre of merchantable coniferous trees could not be issued until after the coniferous trees had been harvested.

The annual forest protection charge was increased from \$12.80 to \$19.20 per square mile (\$4.94 to \$7.41 per km<sup>2</sup>). Added was a formula for adjusting the rate annually based on the Statistics Canada Implicit Price Index. The Fire Control Agreement was also amended requiring the Company to reimburse the Minister for fifty per cent of the cost of suppressing fires caused directly or indirectly by the Company, to a maximum charge on any one fire of \$20,000. If the fire was caused under circumstances in which the Company failed to comply with the Forest and Prairie Protection Act and its subsidiary regulations the Company would be required to pay the total cost of suppressing fire less any sum that the Minister decided to waive.

### **Operating Ground Rules and the Environment Conservation Authority background paper**

Related to the discussion of operating ground rules, another perspective was provided by DePape and Phillips<sup>138</sup> in their 1977 background paper for the Environment Conservation Authority (ECA) forestry hearings. By this time ground rules had also been developed applicable to the rest of the forest industry throughout Alberta. Their assessment of the Alberta situation was:

Timber harvesting can have a significant impact on the resources of an area. To lessen and control the environmental impact, the Government has devised the operating ground rules. Among other things, these serve as a substitute for an environmental impact statement of proposed harvesting activities. With approximately 50,000 acres being harvested annually in the Province and with only the physical inventory of the timber resource completed in most areas, it is currently physically impossible to carry out complete environmental impact statements on each cutblock. The ground rules define standards which form the basis for special operating conditions that the disposition holder must meet. ... disposition holders, along with the Alberta Forest Service, use the ground rules as planning and operational guidelines. ... the ground rules are designed to fit average or normal conditions. Consequently, they do not have to be adhered to rigidly in all cases. ... there are three principal categories of activity associated with timber production: timber harvesting, timber movement and site treatment reforestation. All sets of ground rules address in considerable detail measures intended to safeguard the environment with respect to timber harvesting and timber movement. Post-harvest site treatment, on the other hand, is handled somewhat differently. All cut over areas ... must meet the same regeneration standards. These are set out in the Timber Management Regulations. Forest management

agreement holders are responsible for reforesting all areas that they cut over. The “how” of reforestation is essentially left with the agreement holder provided the technique has satisfactory results. ... these provisions can be classified according to five environmentally and/or silviculturally related objectives: to promote appropriate natural regeneration; to control erosion and protect watersheds; to prevent wind throw; to protect wildlife and its habitat; and to maintain an aesthetically pleasing environment.

In an assessment section, the authors concluded:

The ground rules for license (quota) and permit holders are considered second to none in Canada in terms of stringency and scope. Those for Simpson Timber, Procter and Gamble, and North Canadian Forest Industries are not far behind. On the other hand, the ground rules for North Western Pulp and Power need considerable improvement to achieve the scope and stringency of the other sets of ground rules. However, without the company’s consent these lagging ground rules can not be revised.

This observation perhaps reflects the operational philosophy within which the NWPP ground rules had evolved -- that they were more objectives-based than rules-based. The comment may also reflect the intent of the AFS to exert more control over timber operations in response to growing public criticism. A third influence is that the quota and permit holders were not governed by an objectives-oriented Agreement, such as the one under which NWPP was operating, so that ground rules had to be written more specifically “in terms of stringency and scope”. Whichever the case, the authors made their assessment based on the written documents, without reference to achievements of results on the ground -- an important distinction that must be made.

In this connection it is appropriate to cite Crossley<sup>139</sup> who was keenly aware in 1985 of the important distinction between region-specific ground rules and province-wide regulations:

Province-wide ground rules are designed to provide the uniformity that the transient nature of government staff requires. They do nothing to encourage cost saving regional approaches which emanate from on-the-ground experience.

The story so far has shown how both the Agreement and forestry practices evolved at Hinton through the dedicated efforts of staff of both the Company and AFS, most notably under the influence of Crossley and Loomis. That achievement was apparently not appreciated at all levels within the Company as reflected in this gratuitous comment in 1975 by J. E. Kussman<sup>140</sup>, vice-president of public affairs and public relations in New York:

We practically taught the forestry group in the province, in the government, what they know about forestry because we were the first ones in there with any forestry programs and we sort of wrote the rules as we went along and they accepted them and worked with us. By accepting them, I don’t mean they were pushovers, but they just didn’t have any experience up to that point so they were learning while we were doing.

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Agreeing that the statement was preposterous, Stan Hart<sup>141</sup> added: “ ... *this comment is not at all reflective of those in top management in St. Regis, who were familiar with the people involved in the Alberta government and in NWPP and what they were doing in setting up the forest management plans and woodlands operations.*” This statement may have reflected Kussman’s public relations ‘spin’, possibly ignorance, but Crossley and Loomis and their colleagues would not have been amused.

## Evolution of the Forest Management Agreements

### 3.4 Period 1977 - 1988

#### *Determined Pursuit of Expansion*

#### Historical Backdrop 1977-1988

##### Canada

Nationally, a recently-formed (1985) Canadian Council of Forest Ministers (CCFM) sponsored another multi-interest national workshop in St. John, New Brunswick to develop a Forest Sector Strategy for Canada. This was a landmark document with 34 recommendations. It was strong on forest management but weak in wildlife and the emerging concept of sustainability as described in the Brundtland Report *Our Common Future* published later that year. However, the Strategy was an important start of a national consultative process that continues to the present.

##### Alberta

This period was characterized by great expansion in forest harvesting and policy initiatives directed both to forest industry development and forest land management. Wood harvest almost doubled from 4.4 to 8.3 million cubic metres as a result of expansion of existing mills and construction of new mills, including Procter and Gamble coming on stream in 1973.

The first *Policy for Resource Management of the Eastern Slopes* was released in 1977. It was a first step in trying to manage land uses to reduce environmental impacts and conflicts among forest users. Part of the Hinton FMA was included, although their FMA was largely included in the 'multiple use' zone in which forest harvesting was a permitted activity. However many of the riparian areas were zoned as 'critical wildlife' which the Company had recognized. In 1978 the *Forests Act* was amended to enable designation of 'Forest Land Use Zones', primarily to restrict travel by motorized vehicles and, in some instances, horses to reduce disturbance of wildlife at critical times, and to reduce conflicts with back-country visitors using non-powered means of travel. No FLUZ areas were designated on the Weldwood FMA until 1999.

The Environment Conservation Authority commission on environmental effects of forestry operations in Alberta, of which Des Crossley was one of four members, submitted its report in 1979. One of the results was a revision of the East Slopes policy in 1984 which elaborated on the forest land use zoning policy as a further attempt to reduce conflicts. Another recommendation with major impact was to no longer grant FMAs of sufficient size to provide the full fibre needs of proposed mills, the objective being to encourage fuller utilization and more intensive forest management.

Two new Timber Development Areas, Berland-Fox Creek and Brazeau, were opened to proposals and new sawmills were established as a result of their awards. As well, Pelican Mills

built Alberta's first oriented strand board (OSB) mill at Edson in 1983, signalling major expansion in hardwood utilization. A major impetus was provided in the government's 1984 White Paper on economic development in which the forest sector was identified as one of four economic pillars. A federal-provincial Forest Resource Development Agreement (FRDA) supported research in aspen utilization. In support of these initiatives, a new Forest Industry Development Division was created in 1984 to promote and negotiate new forest industry agreements.

Land use and environmental concerns also continued to feature prominently. A program to expand Natural Areas was instituted, and the AFS and the Department extended integrated resource management planning, including recreation, watershed management, management of oil and gas development activities, and reclamation. These were all taking place in addition to an expanding program of forest regeneration and silviculture. The new Pine Ridge Forest Nursery was opened in 1981 to augment seedling supply, also housing a genetics and tree improvement program. A seven-year Maintaining Our Forests program was launched in 1979, supported by the Heritage Savings Trust Fund that provided an augmented program of silviculture. An increased focus on forest research was signalled in 1980 with creation of a Forest Research Branch. The profession of forestry was recognized in 1985 when the legislature passed the Profession of Forestry Act. Three major fire years in 1980, 1981 and 1982 resulted in another major reassessment, reorganization and more resources for forest fire management.

Robert Steele retired as Deputy Minister in 1978, succeeded by Fred McDougall. Al Brennan was named to head the AFS. In 1984, when the Forest Industry Development Division was established, Brennan became its Director, and Cliff Smith became Assistant Deputy Minister in charge of the AFS.

## **Hinton**

In Hinton, new resident manager Ken Hall saw great potential for an expanded operation, and resolved to make it happen. Although he was not successful in his bid for the Berland-Fox Creek Timber Development Area in 1979, he launched direct negotiations in 1986 which resulted in a new agreement in 1988. The new Agreement increased their area from 800,000 to 1,012,000 ha, enabling expansion of the pulpmill and construction of a new sawmill.

The Company had been renamed St. Regis (Alberta), Ltd. in 1978, although it had been fully owned by St. Regis since January 1969. During the initiatives for expansion, St. Regis was absorbed by Champion Forest Products through a friendly takeover in 1984 in response to outside "green mail" threats. It was renamed Champion Forest Products (Alberta) in 1985; then purchased by Weldwood in 1988, becoming Weldwood of Canada Limited – Hinton Division. Despite the turnover among owners, staff and policies remained essentially the same. In the meantime, the 50 million FBM stud mill which had opened in 1972 was expanded to 70 million in 1981.

This was a time of great advances in silviculture and forest management as well. Reforestation and scarification trials combined with employment of the first tree-improvement forester and start of programs in tree improvement and stand management raised the level of silvicultural

practice even further. A new Company forest nursery and greenhouse in 1981 provided a base for tree improvement work and enabled increased quality of planting stock. Major growth and yield advances were based on the historical Company data base combined with innovative research and analysis. The results enabled an increase in AAC in the 1986 Forest Management Plan which had been substantially rewritten to reflect the increased complexities of forest management.

Through a Company initiative a wildlife task force was established in 1982 comprising Company and government representatives. The idea arose from a wildlife-forestry conference in Jasper in 1981 where Jim Clark made an offer to use the Hinton FMA as a pilot study area. The 1987 committee report set the stage for a new wildlife program within the Company.

Jim Clark retired in 1985, Jack Wright in 1987. Before their retirement they jointly prepared a proposal to merge forestry and woodlands for greater coordination and efficiency. Don Laishley was brought in as head of a new Department of Forest Resources in January 1986, Robert Udell was named head of Strategic Planning and Ray Ranger continued as head of Land Use.

## **Introduction**

The major story during this period was the determined search for an opportunity to expand manufacturing capacity and the forest base to support it. There were two major events during this period -- the Berland-Fox Creek timber development proposal 1977-79 and the negotiations leading to the new Agreement of 1988. The events centre on Ken Hall who moved to Hinton in November 1977 as Vice-President and General Manager. He replaced Jim Bowersock who had been transferred to the St. Regis head office in New York. Ken was a mechanical engineer from BC who had extensive experience in the pulp and paper industry in that Province since his graduation in 1950. He also had international experience through the World Bank, and was general manager of the Crestbrook mill near Cranbrook when he was approached to move to Hinton.

However, before beginning that story, in 1982 there were two additional amendments made to the 1968 Agreement concerning the 'Same Deal clause and pollution abatement. These are described first in this Chapter.

## **The 1982 Amendment to the Agreement**

The 1968 agreement was amended by Order in Council 1046/82 on 6 October 1982 by the repeal of paragraphs 39 and 59 (4).

Paragraph 39 was the so-called "Same Deal" clause, that was eliminated after its twelve year appearance. Reasons for the repeal were not given, but it seems likely that its inappropriateness was recognised, as mentioned previously by McDougall<sup>142</sup>.

Paragraph 59 (4) provided that if the capital cost of facilities for control of water pollution, air pollution and odour abatement as needed to meet requirements established by the provincial

Board of Health exceed the sum of \$4.1 million in total, then the excess costs shall be borne by the Government of Alberta. When the Company constructed its new recovery boiler in the early 1980s, initiated in large part to meet new environmental standards, the cost was greater than \$40 million. The government's share, under clause 54 (4) approached \$40 million. As Udell noted<sup>xliii</sup>, despite the Company's view that this was the sum owed, it agreed in an out-of-court settlement to shoulder the bulk of the cost and agreed to the removal of the clause in the Agreement. The net result appears to have been a cost of over \$36 million paid voluntarily by the Company. However, McDougall<sup>143</sup> added an interesting after-word in connection with this clause:

Bowersock sued us for over 30 million bucks. My recollection is \$37 million. That is probably what it was. He sued us under the pollution cost-sharing clause in their agreement. Merv Leitch was the Minister at the time still so it must have been about the same time. I am speaking here in the early 1980s. The Province retained McLennan-Ross as solicitors and I believe that the Company used Shtabsky again although I could be wrong on that. That is my recollection. Anyway, what eventually happened is we settled out of court for somewhere between \$2 and \$3 million dollars. I can't recall the exact number but it was a small percentage of the law suit. We settled it out of court but one of the terms of the settlement was that the clause would no longer apply – no more pollution cost sharing. They ended up collecting the \$2-3 million from the Province as a result of their suit which I thought was fair. I felt that the lawsuit for the entire \$36 million was grossly exaggerated because what it failed to do was recognise that in those costs was included a whole lot of stuff that had operational benefits to the mill, either cost reductions or production increases. In other words there were other benefits accruing to the mill besides just strictly pollution control. What we tried to do is factor those out so that we were left looking at just those things that were purely related to pollution control. It brought it down to a number very close to where we ended up settling.

### **The Berland-Fox Creek Timber Development Area**

This was the first of the two major events during the period to 1988. It is perhaps useful to start with a review of the Company's effort to expand before specifically discussing the Berland-Fox Creek Timber Development Area.

Although there had been discussions about expansion as late as July 1974, nothing came of them. In a letter from Dr. A.A. Warrack<sup>144</sup> to Dr. W. R. Haselton, President of St. Regis Paper Company on July 19, 1974, he referred to a suggestion from some other senior officers that the Company was reconsidering the possibility of an addition to their proposal that would incorporate a groundwood mill using 100,000 cords of wood per year, and a paper plant was also mentioned as a third-stage possibility.

That possibility seems to have been left hanging, since the Company then entered a period of changes and uncertainties. In 1975 Des Crossley, the first Chief Forester retired. Jack Wright was appointed to replace him, providing a smooth transition and continuity. In 1976 Ivan

<sup>xliii</sup> R. Udell pers. comm. 17 April 2000. Note on earlier draft.

Sutherland was asked to leave and Jim Bowersock became Resident Manager for about eighteen months before moving to the St. Regis head office in New York. In November 1977 Ken Hall became Vice President and General Manager, and the following year North Western Pulp and Power Limited changed its name to St. Regis (Alberta) Limited. St. Regis had purchased the remaining shares in the Company from North Canadian Oils Ltd. in 1969 and it became a wholly-owned subsidiary of St. Regis since that time.

The expansion possibility was of major interest to Ken Hall<sup>145</sup>, as he later explained about coming to Hinton:

I accepted the offer based on an assessment of the North Western Pulp and Power Limited assets, operating, economic and financial results, labour, provincial government and community relations -- and particularly the potential of its under-utilized forest resource base which revealed an exciting opportunity to play a part in the challenge of initiating and hopefully achieving the unrealized potential of this Company that had obviously eluded it for too long.

He went on to state that the single most attractive element identified in his review of the Company was: *"...the potential of the under-utilized forest resource base and the adjacent available unallocated forest land. The key to a successful forest products operation is obviously a quality forest resource well located relative to its infrastructure needs (e.g.: community, water supply and transportation) and its manufacturing facilities. North Western Pulp and Power had just such a resource well located to its manufacturing facilities and infrastructure needs."*

Of particular interest was Hall's six-point summary of his primary observations, made as a part of his assessment of whether or not he should move to Hinton<sup>146</sup>. As he recounted:

--- Some of the primary observations that were part of the assessment that I made after being approached to go to Hinton to determine whether I wanted to accept the offer were these factors:

1. It had an excellent economically competitive northern softwood forest resource base that was under-utilized.
2. The forest management agreement between the Province of Alberta and the Company signed in the mid-50s, and its actual field application since, was and still is a model to the rest of Canada of how to achieve increasing sustained yield and virtually constant average haul distance over time.
3. The annual allowable cut was not fully utilized and would support the addition of further lumber and pulp and paper capacity to the existing operations.
4. Favourable provincial government, community and employee relations combined with the forest resource benefits provided an opportunity to initiate a

forward integrated value-added development as well as increased lumber and bleached kraft market pulp production.

5. The overall operations at Hinton were competitive internationally but were restricting the forest resource potential return per unit of fibre utilized because of their scale of size, process, process control, and environmental equipment was lagging behind available technology.
6. The capacity of the manufacturing facilities for both pulp and lumber were too small to be able to remain cost competitive in the world market for its products and to avoid eventual obsolescence and consequent shut down.

Clearly, Hall recognized the need for expansion as well as the potential to support it. Hall's first step on his arrival, as he put it, was "*just basically minding the store*". This included initiatives to address the organization, productivity, cost, quality and environmental requirements to improve the performance of the existing operation as it was, and to develop the organization to address the future. He saw these as ongoing activities. As he commented about his impressions when he arrived in Hinton<sup>147</sup>:

When I got to Hinton, it was indeed a profitable mill. It had an excellent return on investment. However, by the mid 1970s the return on investment couldn't be sustained into the future. It was at the level it was because of depreciation -- that it could favourably compete with newer mills built at significantly higher capital cost. The flip side of the coin was that while the scale of size and technology was the latest when it was built in the 1950s, it was no longer a competitive scale of size, nor was it technologically competitive to convert the forest resource -- which was the jewel in the whole enterprise -- in terms of quality, quantity, haul distance, and cost in the wood yard in the long term.

What emerged from Hall's vision<sup>148</sup> was:

...a proposal for a major expansion of pulp capacity by the addition of a bleached chemical thermo mechanical pulp (BCTMP) plant adjacent to the bleached kraft mill, the addition of a two-machine light weight coated paper mill, and expanded and modernized sawmill facilities that would optimize the utilization of an expanded Forest Management Area, maximize the manufacture of solid wood products from sawlogs previously chipped for pulp manufacturing, and increase the value added benefit of high quality paper manufacture from bleached kraft pulp (BKP) and BCTMP.

In 1978 he began inquiring of individuals within the government about obtaining:

*"...additional forest resources to supplement the existing FMA (which) triggered the area being advertised for development with some, as I recall, 17 proposals being submitted to the Province for the resource."*

The advertisement to which he referred was an invitation for *Timber Development Proposals under Forest Management Agreements for the Berland and Fox Creek Timber Development*

*Areas*<sup>xliv</sup>. The Berland TDA comprised, in large measure, the northern provisional reserve area which had previously been taken from NWPP. The area proposed in the Company submission is shown in Figure 14.

Whether or not it was Hall's inquiries that triggered the call for proposals, the advertisement elicited a major response. The government held public hearings about the proposals before making its decision.

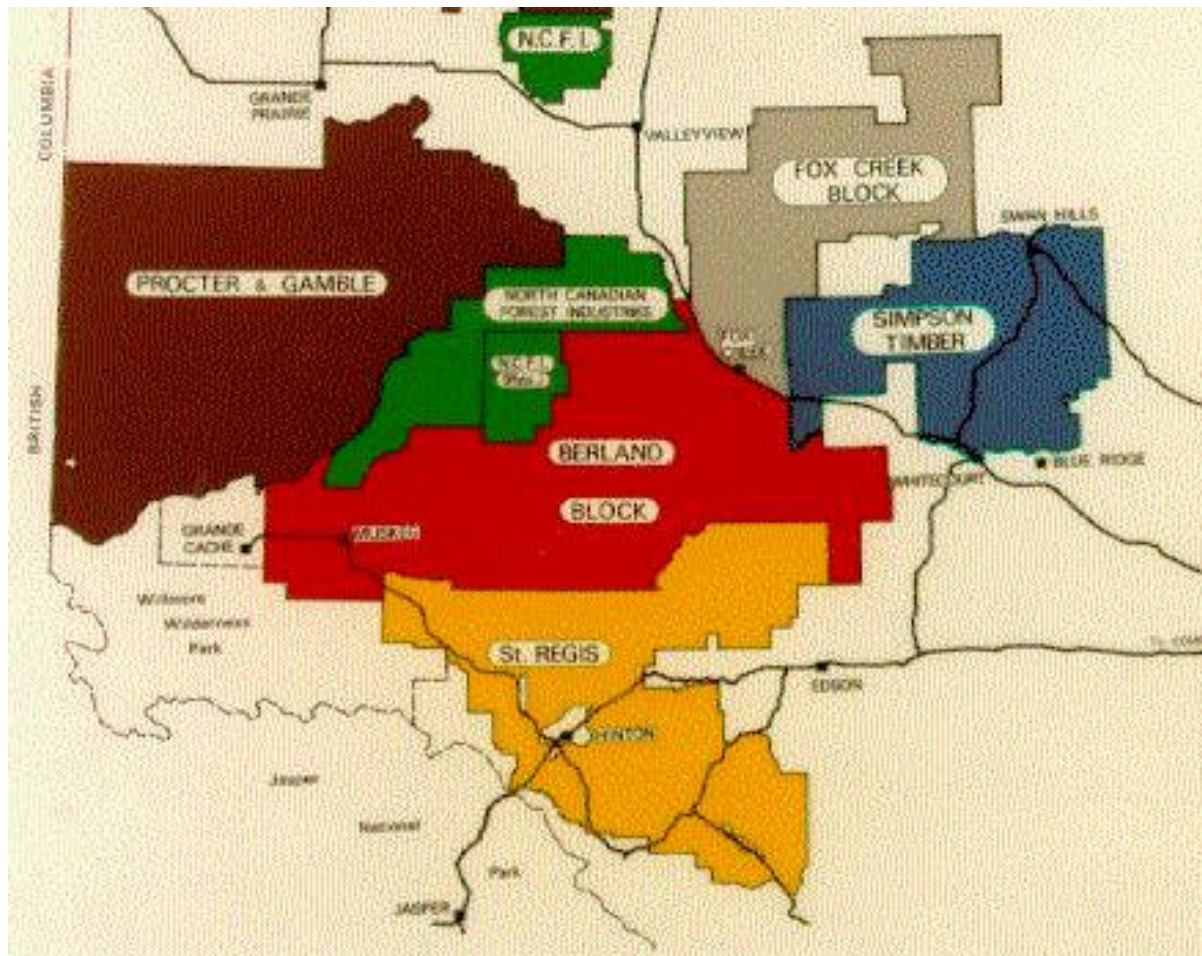
For the Company, Hall led a team to assemble a comprehensive proposal for the acquisition of the Berland TDA. The proposal, in two phases, included the elements which he had envisaged -- an expanded pulp mill, an expanded and refined sawmill, and a two-machine light weight coated paper mill. In summary, these included<sup>149 150</sup>

- Increasing annual lumber production to 196 million fbm in two new mills located in Hinton and Grande Cache
- Manufacture annually of 78,150 air-dry tons (ADT) of BCTMP at Hinton for the first light-weight coated (LWC) paper machine at Hinton
- Produce annually 170,400 ADT of lightweight coated publication paper from the first LWC machine at Hinton
- Produce annually 170,400 ADT of lightweight coated publication paper from the second LWC machine at Hinton
- Increase annual production of BKP pulp from 195,000 to 220,000 ADT
- Produce building logs for construction of 150-200 log homes per year at new facility in Grande Cache.

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<sup>xliv</sup> Public Notice, not dated, but stipulating a closing date for receipt of proposals of May 1, 1979.

Figure 14. St. Regis (Alberta) Ltd. – area proposed for the Berland Timber Development Area 1979.



To their surprise and great disappointment, on 23 November 1979 the government announced the award of the Berland area to BC Forest Products, Ltd. Three days later Hall wrote an open letter to staff <sup>151</sup> which began: “*No letter has been more difficult for me to write.*” After reviewing the history and describing the extreme disappointment of the Company and that of himself personally, he added:

On behalf of the Company, as well as personally, I want to thank those who worked so hard and with such dedication and enthusiasm on the development and presentation of our proposal. It was a job well done. ... It is important for all of us to remember that we cannot allow this disappointment over the loss of a very significant and unique opportunity to enhance the pulp and paper industry in Alberta and Canada to adversely influence the continuing outstanding performance for which Hinton is known. ... This event is a regrettable and disappointing setback. Surely other opportunities will present themselves to develop our operation from the excellent base that is already established.

The implications of that decision were later outlined by Hall <sup>152</sup>:

Once the Forest Resource award was made to BCFP, the cancellation provision of the contract with Trans Alta was exercised at a cost of about \$9 million and the decision was made to expedite construction of the BCTMP and light weight coated paper mill at the existing St. Regis Sartell Minnesota paper-making facility. The Hinton project was cancelled and the bleached kraft pulp required at Sartell was shipped from the existing Hinton mill. The result -- we as Albertans lost the opportunity to produce a sophisticated high value-added product requiring a highly skilled well paid work force. The BCFP project failed.

The Provincial Government -- which did such an excellent job of developing the Forest Management Agreement at Hinton, the first in the Province, with the St. Regis Paper Company in the 1950s with both organizations being advised and guided by dedicated and skilled foresters, Reg Loomis of the Alberta Forest Service and Des Crossley from St. Regis that provided long-term tenure, regulations that insured compliance by the Company and free of the influence of the short-term horizon that is the climate to which politicians and corporate directors are exposed -- lost a golden opportunity to build on this excellent base -- an opportunity to forward integrate into top quality sophisticated paper making technology because of a concept of spreading development around the Province regardless of economics and employment benefits. The sad result -- perpetuation of Canada continuing to be only slightly ahead of being ‘hewers of wood and carriers of water’.

The events surrounding the decision are complex and interesting. There have been many reasons put forward for the government decision. Among these, as Hall recalled in 1997 were these <sup>153</sup>:

The decision was made by the government on the basis of the recommendations of the Forestry Caucus Committee to diversify the utilization of the resource to Grande Cache and Whitecourt.

Following the Province's decision to award the utilization of the forest resource to BCFP, I pursued the matter with Hon. Merv Leitch, Minister of Energy and Natural Resources and he evoked the response that the reason for the award was that St. Regis was an American company and that the town of Hinton was successful and didn't need any further assistance.

Some of the background reasons why I believe the decision to award the resource to BCFP was made are as follows: 1. The Province had a policy to diversify development throughout the Province, for example, the gas ethylene plant near Red Deer instead of Fort Saskatchewan. 2. Extensive lobbying by Peter Trynchy, MLA for the Whitecourt area. 3. Dr. Reid, MLA for the Edson-Hinton constituency believed that St. Regis would proceed without the additional resource assuming, I presume, that the unutilized annual allowable cut from the existing FMA was sufficient.

He and others on the Forestry Caucus Committee also probably misread the fact that St. Regis had arranged with Trans Alta Utilities to proceed with ordering power line towers, subject to cancellation -- I believe this was so in spite of the fact that they were advised very carefully and explicitly not to misinterpret this event as being presumptive about their decision about the resource.

This relatively brief account of the Berland TDA decision belies the complexity of events behind it. Further consultation with Ken Hall followed by interviews with former Deputy Minister Fred McDougall<sup>154</sup>, former MLA and Forestry Caucus Committee member Dr. Ian Reid<sup>155</sup> and former Senior Vice-President for St. Regis Jim Bowersock<sup>156</sup> described interesting interactions between the government and Company, and intriguing interplays within both the government and Company.

McDougall first explained the circumstances which led to government putting these areas up for bids:

The Berland was an interesting block because it was half-way between Procter and Gamble, Canfor and North Western. So it was a central block and we were getting some pressure, not just from North Western but from those to the north and from some of the independent operators in the Fox Creek area for more timber. There was a political decision taken to put the Berland block up for proposals. At that time we followed a very formal process. In other words rather than just handing it to North Western as a reserve area in exchange for some less-than-definite commitment it was felt that the appropriate procedure was to put it up for proposals and see what came in.

[Also] ... remember what happened in 1975 -- we had strong interest from Weyerhaeuser and Simpson Timber in the Whitecourt timber block in 1975. In other words we were starting to see outside interest by major companies in the Alberta resource by the mid 1970s. The award of that Whitecourt block went to Simpson Timber. ... The Simpson-Alberta Energy Company (AEC) partnership didn't go very well -- and Simpson, some years later ... sold out and left Alberta Energy Company with the entire Blue Ridge

Lumber. The big thing there was the fibre board plant (the MDF plant) at Blue Ridge<sup>xlv</sup> which is still operating today and is an excellent facility and plant – it wasn't a pulp mill but it was more complete utilization of the resource. By this time we were trying to get utilization of the resource beyond just sawmill and whether it was fibreboard or OSB or pulp we were trying to get a variety of products and trying to get economic utilization of residual fibre.

So now in 1978 we had a request for more wood so it was decided to put the Berland block up for proposals and we received a proposal from North Western Pulp and Power. But you see now they were forced to compete and they gave us proposals for the Berland block but so did Canfor and so did British Columbia Forest Products and Mulyk, Mostowich, McCorkel and Meunier (the four M's at Fox Creek). So we had a number of proposals as well as a whole bunch of very strong demands from quota holders for increased quota allocations. The Berland hearings<sup>xlvi</sup> became very, very highly charged politically. The Forestry Caucus Committee under the chairmanship of Frank Appleby – the entire Forestry Caucus Committee was in attendance at those hearings. The press coverage was major. There were headlines on the front page of the Journal for quite a few days. Forestry Caucus Committee was Fjordbotten, Ian Reid and Jack Campbell, as well as Frank Appleby. So quite a high-powered group of MLAs were in attendance. It was a very high profile situation and decision.

In 1979 Merv Leitch was the Minister. The beauty of Merv Leitch was nobody could end run him. Lougheed had absolute faith in him and he was extremely fair and very, very thorough and very, very balanced. So after the hearings in July 1979 the Department and the Forestry Caucus independently did an assessment of the proposals. I never did see the Forestry Caucus assessment but we submitted a departmental assessment. We had a huge chart and we had each proposal and a detailed list of the pros and cons -- things like how much investment, how much fibre utilization, level of forest management, job creation, and all of those factors that government was interested in were evaluated for each of the proposals in detail on a chart. I reviewed that with Merv Leitch and he took it to Cabinet and they made a very balanced decision. So I think it was very fairly done and very thoroughly done.

Now, having said that, one of the issues that came up was that we felt that the North Western Pulp and Power proposal had a lot to recommend it. It was an excellent proposal. It would have involved paper production in the Province which was something we wanted to have. But when we analysed it we couldn't see that it required the entire Berland block to do it. In other words the amount of timber that it required was less than the total Berland TDA. So we asked them if they would proceed on a partial allocation of, I can't recall precisely, -- 50-60%. In other words they were offered approximately half the Berland block if they would do their proposal on that basis. They turned the Minister

<sup>xlv</sup> Jack Wright clarifies that although the sawmill is at Blue Ridge, the location of the MDF plant is near Mayerthorp.

<sup>xlvi</sup> McDougall also noted that the hearings themselves represented a change in government policy to enable communities, companies and individuals to hear about and comment on these major proposals. This set a precedent that was followed during subsequent proposals. Pers. comm. 10 April 2000.

down. Leitch made that proposal himself to St. Regis. I am not sure who he talked to. I wasn't at the meeting where it was done but I know it was done because that was the recommended approach. But the Company insisted that they have it all. The trouble with all or nothing is that it is sometimes 'nothing'. They overplayed their hand. They didn't get anything. So it went to BCFP and a significant part of the timber went to the independent sawmill at Fox Creek to the 'Four-Ms'.

Ken Hall commented that he could not recall receiving such a call. In fact, he mentioned that after the decision had been announced he called Leitch to arrange a visit in order to try to learn from the experience – adding that if he had turned down such an offer from Leitch, he certainly would not have arranged that follow-up visit. However, Ian Reid<sup>157</sup> provided additional background and confirmed that Leitch had made a phone call to St. Regis:

What had happened in the term from 1975 to 1979 when Getty was responsible -- they had had a successful request for bids in one area (Whitecourt), so they did the same thing again. Merv Leitch<sup>xlvi</sup> asked the Forestry Caucus Committee, which was chaired by Frank Appleby - - and there was LeRoy Fjordbotten, Jack Campbell, Fred Bradley and myself as I recall. We got quite a lot of proposals -- varied in nature.

One of those was from St. Regis (Alberta) Ltd. In the proposal they were going to put in a light-weight coated magazine-type paper machine. The reason for that was that a lot of the very high grade pulp that was going from Hinton was going to paper mills and being blended with other papers. ... The requirements of the request for proposal were that there should be significant employment in Grande Cache, and subsequently it showed up that there was another community called Fox Creek that was in a similar situation because of natural gas plants. The Committee ... became fairly apprised that Fox Creek was maybe in even worse potential shape than Grande Cache because it was a smaller community. They had a real go-ahead Mayor, and he really pushed for Fox Creek getting something. Now in the Fox Creek area there was already a bunch of small logging companies, none alone were capable of applying. I think Buchanan from Slave Lake came down as well with a fellow called Mostowich and some others and they put in a proposal to put in a modern-day sawmill at Fox Creek. That sounded very attractive so straight away we were looking at taking the east end off the block and allocating it to Fox Creek rather than to Grande Cache or some other community.

The people in Grande Cache from the Mayor on down through the administration, and the business people, were leery of the St. Regis proposal because they felt that anything that St. Regis put into Grande Cache would be run from Hinton. They were really wanting to have an office entity in Grande Cache as well. The same applied to proposals from the Grande Prairie companies (Canfor, Procter and Gamble). They felt that it would be a side issue so they really didn't want anything that was attached to an existing (mill) ... in Grande Prairie. They wanted something that was Grande Cache-based. And British Columbia Forest Products were the people who were wise enough, if that's the right word, to sort of go around and find out attitudes and detail a major proposal -- so that very much the people in Grande Cache wanted the British Columbia Forest Products proposal.

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<sup>xlvi</sup> Hon. Merv Leitch, then Minister of Energy and Natural Resources.

Whether it was ever viable, of course, is another question because a lot of the wood in the Grande Cache area was relatively poor quality timber, and certainly not for a British Columbian type high-tech laser-measured sawmill, which was used to logs two feet in diameter. They weren't going to get any of those.<sup>xlvi</sup> Canfor proposed to put in a sawmill using, and attaching it to, some of their south-end lumber, which was timber of quite good quality, and that would have made a package. The two pulp mills, of course, were largely interested in fibre. Those just weren't going to fly with the people at Grande Cache. Now, as that went along and we listened to all of these people and the committee thrashed out what was the best thing, it became apparent that the size of sawmill that BCFP were proposing didn't require anything like the whole block. Essentially there was no road from Grande Cache to Fox Creek at that time. ... The people at the east end were very much attached to this group of locals, so we felt that we would take the area that they needed for their sawmill, some of which was east of Highway 43, and that is one question settled.

Now we have got the big question at the other end where we have the definite offer of something that the Province really wants which is a paper mill. But the politics are such that Grande Cache will never accept the proposal that the whole of that area goes to St. Regis. And we had some discussions. I don't think the whole committee was there, but we had some discussions with Merv about it with the result that some people in the department were asked to come up with some figure that would enable St. Regis to have enough fibre to put in the paper machine -- because they would need additional fibre because the pulpmill as it existed was capable of using most of the available cut ... The requirement for the paper machine would be in addition to that -- additional fibre. At that time of course we didn't have hardwood pulp from aspen available. It was a "junk" tree so it had to be coniferous timber.

We attempted to have a triple parcel. The west end for Grande Cache and a sawmill, the east end for a sawmill in Fox Creek, and the possibility of giving back to St. Regis a chunk of what they had lost in the 1972 ... decision to see if we could get them to build the paper machine. My understanding is the people in the department said yes there is enough fibre there, and there was a bit away down south that was also available. Whether St. Regis were playing hardball or not I don't know, because it was 'all or nothing' as my understanding.

I wasn't involved in it because I was not a Minister and Merv Leitch was. But Merv was involved in that because he and I had several discussions about where we should go. Peter Trynchy<sup>xl</sup> was of course into the east end, with all his political background. You know, we really thought that it was possible, Merv and I, and the people who were providing the information from Fred McDougall's department, that this could be a go -- that we could

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<sup>xlvi</sup> Jack Wright clearly recalled this point of contention: "They built a sawmill based on their experience in the B.C. interior and they knew better than that. ... they had asked Des to give them an estimate on AAC of the Berland area. Des gave them an estimate and it was a pretty fair estimate. He based it on what we had for allowable cut here per unit area and downgraded for that location. They completely ignored it, and they proposed something that was based on about twice the allowable cut that was actually there." (J.C. Wright interview 11 June 1997).

<sup>xl</sup> Peter Trynchy, MLA from Whitecourt.

get the paper machine, a sawmill in Grande Cache, a sawmill in Fox Creek, and the big chunk in the middle for St. Regis along with stuff southeast of Robb, and we would get what we wanted.

Now who in St. Regis said “all or nothing”? Who Merv Leitch spoke to, I don’t know because they were private conversations because this was very much outside the original parameters of Don Getty’s request for proposals. I think that it was probably done very much on the phone. ... I would suspect it was people in New York, because Hinton was not regarded as independently as it had been back in the Harry Collinge day.<sup>158</sup> There was much more of a control from New York on financial expenditures and things like that, so I have a feeling in my own mind that Merv Leitch spoke to people in New York about it. Merv was a very astute and bright guy who could keep an incredible amount of information in his head with the utmost accuracy.

... (Leitch) and I had several conversations and we really thought that we had this package put together -- Grande Cache, Fox Creek, and what we really wanted in a paper machine. We have had promises and promises and promises of paper machines and not one is done except the newsprint mill. What we really wanted was -- we wanted to get something where we were upgrading the Alberta fibre to as high a degree as was possible in Alberta instead of shipping stuff out elsewhere. It is rather like the petrochemical industry which mushroomed as well under Merv’s aegis. Instead of shipping the gas someplace else why don’t we make the petrochemicals here and ship them? It is the same thing – value added. When Merv said to me that St. Regis were not going to buy this -- I think they probably were playing hardball on an all or nothing basis and didn’t understand or didn’t know the nature of Merv Leitch. Because it was the Province’s wood, not theirs.

We all have selective memories, but somewhere I am pretty sure that St. Regis regretted subsequently, and as you know the coated paper mill went in at Sartell, Minnesota. The end result was that nobody got what they should have got.

In response to the question<sup>159</sup>: “Some would say that part of the reason the decision went the way it was because ‘everybody knew that St. Regis was going to go ahead with a paper mill anyhow -- they started the transmission line and it sounded like it was a done deal whether they got the agreement or not.’ Is that a fair assessment?” -- Dr. Reid reiterated:

I think it is more that St. Regis were over-confident that their proposal couldn’t be turned down as originally made. I think that the “all or nothing” concept, as Merv described it to me, the “all or nothing” concept -- somebody in St. Regis thought that it was too good a deal for Alberta to turn it down. Because I don’t know what Merv said to them about the Grande Cache problem -- that I don’t know about. All I know is that he said to me, “It is not going to fly. They want it all.” I said, “Well they can’t have it all. Do they understand that?” He said, “Yes.” But I think they were playing chicken – a high-priced chicken. It is not an unreasonable explanation I think because -- you know the personalities involved.

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<sup>1</sup> On the others hand, Wright noted that commitments of this magnitude were always made by St. Regis even in Harry Collinge’s day.

Merv was a very bright guy who dreamed up a lot of new concepts in energy through some pretty tough times. You know the negotiations with Marc Lalonde were not nice.

Jim Bowersock recalled these events from his industry perspective while he was Senior Vice-President with St. Regis in their New York office. He had previously seen a copy of these comments from McDougall and Reid with their respective permission and responded:

I don't really find any particular difference of opinion with Ian Reid and Fred McDougall, but I have very definite different perceptions. ... I recall a couple of meetings which I believe, in my mind, predicted the final decision. ... My recollection is that we spent a lot of time talking with the government. Ken Hall really spent a lot of time with them. Obviously I was the contact in New York and I would keep Ed McMahon<sup>li</sup> apprised of how things were unfolding or not unfolding. But after a long time, McMahon was getting a little nervous that he was going to get stiffed. He probably didn't have the confidence that Ken Hall did that this proposal was going to be successful.

Near the end of the process -- we didn't know it was near the end at the time -- Ed said "We've got to make a decision." So he and I flew to Edmonton -- Ken came in from Hinton -- and we met with Merv Leitch alone at the Petroleum Club for dinner. McMahon simply impressed upon Leitch that we needed a decision now, as our customers wanted confirmation that we were building the Light-Weight-Coated (LWC) paper machine and that they would be able to get more LWC paper. While that sounds strange today, at that particular time the market for LWC paper was growing almost exponentially and consumption was limited by supply. In other words, it was supply constrained. So when we told Time Magazine we were going to build a machine, that was great news for them. However, they were depending on our new mill for their future supply, so they were on our case as to: "When is it going to be built?" and we were not able to answer that question.

So this was a problem for us at St. Regis, and certainly from McMahon's level. So he pressed Leitch at dinner and said, "Look, we need a decision now," and Leitch said -- and Leitch's words were pretty specific -- Leitch said, "I can give it to you now, but it's not the answer you want." He said, "You need to give me some more time." He indicated to us that this issue was open to the total Caucus for discussion and it wasn't going in our favour. To resolve it in the sort of way we would want -- it would take some time to get that position accepted because there were sixty people having a shot at it. I remember this very specifically. ... Leitch went on to say that Peter Trynchy had a big impact on that Caucus. We left there with the impression that Cabinet or Loughheed would not rule on this issue, but Caucus would decide. They were going to be very "democratic".

A few days later I know Leitch phoned McMahon and said he was sorry but the decision was made -- that they couldn't agree to the St. Regis proposal, the whole reserve was not available, but he hoped McMahon would see his way clear to build the LWC paper machine anyway. This may be when Leitch made him a counter offer for part of the lease -- and I'll get into why we would not be amenable to that. I did not specifically hear that, but if Leitch said that to somebody I would suspect he called McMahon and tried to put

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<sup>li</sup> Ed McMahon -- President & COO of St. Regis.

forward that proposal. As an aside, I know McMahon liked Leitch, liked the way he worked and that he was an up-front guy. They were similar people really.

I do not know what Leitch might have offered to McMahon in a final phone call before the decision was announced. If he came back at us with the amount of wood that it took to supply the mechanical pulp portion of this thing, well that would have been a non-starter. We knew we were asking for a lot more wood than what we needed for this project. The government missed the point which I think was obvious while we were negotiating.<sup>lii 160</sup> I think, as Hall mentioned, they probably thought we were going to build it anyway and they probably thought, "We'd give them a little bit of wood, keep them happy and we could still do all these other projects." But we had to get something out of it because we were taking all the risk. ... I don't think I would have been prepared to stick my neck out for it. I honestly thought that we deserved the wood for putting that machine in there.

Also, earlier on when he was getting nervous about this thing, McMahon had us work on a parallel scheme in Sartell, Minnesota so that we wouldn't have to be starting from zero, if in fact we got stiffed in Alberta. So we had done maybe three to six months of preparatory investigation and work on how we could do it at Sartell.

I have two other recollections that may provide insights about the background to the government decision. The first was a meeting with Don Getty which I remember vividly. I think it was early on in the process, once the TDA was up for grabs. Again, it was McMahon, Ken and myself who met with Getty. Getty sat us down and we were telling him how good we were, and he said, "Yeah, yeah." He said, "Understand something. There will be no project at Hinton without a sawmill at Grande Cache." We explained how the wood didn't flow that way, the wood was the wrong size and with the natural wood flow and the terrain, it wouldn't work. He just looked at us and said, "Understand something. That's not the issue. There will be no project at Hinton without a sawmill at Grande Cache. We will have a sawmill at Grande Cache<sup>liii</sup>." We went out of there with that firmly implanted in our minds, that even if we didn't build a sawmill we damn sure knew we were going to have to throw something at Grande Cache. This was probably the tip of an iceberg that was driving some of the rationale, I think, in government.

The second point -- and I don't know how we got this -- I think we probably heard it from Getty at that meeting, and Ken may have heard it from the Forestry Caucus committee. But a major concern in the whole Caucus was that Hinton and that whole area was too well off, and putting a paper machine there would simply compound the issue. The feeling was that Alberta needed more development in other parts of the Province to spread the economic wealth. So when we made a pitch on behalf of Hinton that had a value-added concept, it got very few points, if any, because it did not address spreading the wealth out

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<sup>lii</sup> Wright supported this comment, noting that maybe it was more wood than required for one LWC machine but it was needed to make the Hinton operation suitable for optimum use of the wood fibre e.g. lumber and other solid wood products with by-product chips used to feed the pulp mills and an additional paper machine.

<sup>liii</sup> This clearly reflected the Crump Report recommendation about a forest products enterprise at Grande Cache and government support of it.

for Albertans. We got that message, and that (I'm guessing now) is probably why the total Caucus had a lot of impact.

... we were well aware that we didn't need all that wood for the LWC paper project.<sup>liv</sup> However, what no one was recognizing, understood or believed was the tremendous risk that St. Regis was undertaking to bring the production of LWC paper to Hinton. It was in an area that was far from any similar paper making experience, let alone ability to provide the significant technical and technological demands of coated paper manufacturing. Probably Ken and I were less worried about that than the executive in New York, but understand this was a major, major risk as seen by Bill Haselton, the CEO of St. Regis and my boss, McMahon. So for us to step out to Alberta -- I won't say we were betting the farm -- but we bet a big piece of the quarter section. This project had to work, and when you got a long way from Bucksport, Maine or Deferiet, New York -- there was a feeling of hesitation or insecurity, and there had to be something there that gave a reward for the risk. From our perspective -- and I don't think anybody was being cute -- if we were going with that coated paper machine then what the government had to do for us was come at us with a wood basket -- and that was a pretty simple approach on our behalf. We weren't being cute and we weren't trying to be more clever than the Albertans. I think your comment in your letter about these being "honourable people negotiating in good faith" -- was exactly how we felt whether we agreed with them or not. ... I feel more than comfortable saying that at no time did we sit there in Alberta and think, "Well, they can't tell us what the hell to do, we'll tell them what to do" -- it was just that for our risk we wanted an adequate reward on the other side. And one thing they didn't realize or think about, and obviously we couldn't guarantee it anyway, was that typically one paper machine doesn't normally exist, that it doesn't take very long before there are two paper machines. That possibility never got a value.

St. Regis never went into this thing thinking about "all or nothing". I would tell you that we went in thinking that putting this LWC paper mill in Alberta was such a huge move, I would be very honest in telling you we couldn't believe how anybody could turn it down. Maybe we were naive in that regard, but we knew what coated paper was worth. And when I talk about the risk, at that time our coated paper operations in St. Regis (even as big as we were), the coated paper operations were probably responsible for 75 per cent of our profit. So, you know, you just didn't screw around with that business. So again, that risk/reward to us in St. Regis was certainly viewed differently by us than it would be by outsiders.

A follow-up story in that regard. Three years later the next minister of Energy and Natural Resources, John Zaozirny, was in New York begging us to do it. The same Ministry, same government, but humbled by reduced oil prices. By this time we had probably started up the new mill at Sartell. They made a major trip to visit with McMahon, and I sat in with them. "What could we do to get you to come to Alberta?" I don't know how many people know about that. It was a different sensitivity to the situation versus the two or three years before when we had been setting out our LWC proposal. That may have set the tone for

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<sup>liv</sup> Note also Hall's explanation about the size of the area for which they applied -- described in Hall's comments following.

the next negotiation for an expanded lease. I was mostly out of that one because I went over to Champion only for a short time after St. Regis was taken over by them. ... Whether Alberta was more receptive then, I simply can't comment personally because I was not involved at all at that stage -- but I believe from what I saw in New York from Zaozirny that it is highly likely.

Since the St. Regis proposal for the Berland-Fox Creek TDA was initiated by K. Hall, perhaps it is appropriate that he be allowed the last comments. He addressed two issues in his 21 May 2000 review -- the first was about the so-called "last offer", the second about the size of the area requested.<sup>161</sup>

After reviewing the comments from Bowersock, McDougall and Reid I am more perplexed than ever about the "offer" that was supposedly made to St. Regis by Merv Leitch. The first news I received that the St. Regis proposal was rejected was when several of us from Hinton arrived for a project review meeting that I recall was held at the Corporate Engineering office in Jacksonville. Senior Corporate personnel including Jim Bowersock and Ed McMahon were in attendance as was normally the case for all major project reviews.

On our arrival and before the meeting Jim advised us that Ed McMahon had been advised by Merv Leitch that the St. Regis proposal was rejected. The project meeting agenda was consequently replaced with an agenda to expedite the cancellation of all activity in the Hinton project to minimize engineering losses and immediately revise all planning to provide for locating the paper mill and BCTMP facilities at Sartell, Minnesota. It was essential to expedite this activity in order to address a serious LWC market supply/demand imbalance concern particularly as it affected Time Inc., a major customer.

On my return to Hinton I requested a meeting with Merv Leitch to determine why our proposal was rejected so that we could learn from the experience and consequently improve our chances in the future. The long term survival of the Hinton operation depended on expansion and modernization with emphasis on optimum resource utilization manufacturing from a combination of solid wood products and residual fibre processed at least into bleached kraft pulp for it to be a cost competitive operation in the future.

The Minister's response as I stated previously was that St. Regis was an American company and that the Town of Hinton was already successful and our project was turned down for these reasons. If an offer of a reduced resource base for the Hinton Project had been turned down by St. Regis (i.e. Ed McMahon), Merv Leitch's response to me would logically have been that St. Regis had turned down his offer for the fibre supply to furnish the BCTMP for a LWC paper machine, why are you asking me? Jim Bowersock wasn't aware of any "offer". Ed McMahon made no reference to it. Merv Leitch made no reference to it in my meeting with him. Very curious indeed!

The second point addressed by Hall was about the size of the area requested.

A point of clarification is important regarding the additional forest resource requirement for the proposed expanded St. Regis operation. Jim Bowersock ... stated "...we knew we were asking for a lot more wood than we needed for this project...". Indeed we were asking for more than the fibre required to produce the BCTMP for one LWC machine. The rest of the additional resource was primarily required to optimize the utilization of the existing FMA resource in order to achieve acceptable economic and financial results as well as optimum net economic benefit to the Province as we should and as specified in the Province's invitation for proposals for the Berland TDA.

I can recall being impressed on reviewing the invitation for proposals for the Berland TDA conditions that the Province was intent on pursuing net economic benefit as a goal by asking for this information to be included in a proposal to be considered in awarding the resource. The additional resource base required to supplement the existing FMA and achieve these objectives was selected from the area of the Berland contiguous with the northern boundary of the FMA leaving the balance on the eastern end located closest to the Fox Creek-Whitecourt area where it could best be processed by existing or added facilities in that area.

The total forest area consisting of the existing FMA supplemented by the additional resource area mentioned above was determined as the total area required to supply the standing timber needed to achieve optimum resource utilization of the expanded FMA resource area and supply an operation that would be a cost competitive producer of the ... annual volumes of value added products [as listed earlier] with excellent established markets that would optimize the economic net benefit of the revised Agreement to the Province. [These included 220,000 ADT of BKP, 156,300 ADT of BCTMP, 340,000 tons of LWC in two machines, 196 million fbm lumber mills at Hinton and Grande Cache and 150-200 log homes at Grande Cache.]

A resource allocation to provide only the additional AAC to the existing FMA that was required to supply one LWC paper machine with the BCTMP furnish (the "offer") would not make economic, financial or forest resource utilization sense for the following reasons:

- There would be insufficient resource to produce the balance of lumber and wood chips required to optimize the utilization of the available forest resource by:
  1. maximizing production of solid wood products and furnish the pulping operations with by-product chips;
  2. chipping only those stems and tops too small or otherwise unsuitable for lumber production;
  3. utilizing the bark, shavings and sawdust unsuitable for pulping to generate process steam and electrical power for economic and replacement of non-renewable resources otherwise required.
- Lumber and other solid wood products return much greater value per cubic metre of log than BKP or BCTMP pulps when the forest resource is processed in this way.

- Selecting the combination of solid wood and pulp and paper products to match the forest resource quality and volume data is critical to the success of a project in terms of optimum forest resource utilization and economic and financial return.
- There was no provision for the addition of a second LWC paper machine which normally follows the initial one in order to capitalize on the synergy of a two machine operation once the market demand will absorb the additional tonnage.
- The overall economic benefit to the Province of Alberta would be significantly reduced in terms of the total product volume, employment, market diversification, individual and corporate taxes, etc. per cubic metre of forest resource harvested because the significant reduction in additional resource would create an imbalance of the product volumes required to optimize the most beneficial utilization of the existing FMA.

By comparison, the total resource base from the existing FMA plus the “offer” would best be utilized to produce the following product mix given the constraints of resource availability: 65,000 MFBM of lumber, 200,000 ADT of BKP, and 78,750 ADT of BCTMP. The following data compares the resource utilization effectiveness of the St. Regis proposal and the provincial “offer” proposal:

#### Resource Utilization Effectiveness Comparison

Timber Resource Log Volumes (per cent)	St. Regis Proposal	Provincial “offer” proposal
Utilized for lumber	49%	29%
Utilized for wood chips	51%	71%

Note: Available sawmill technology at the time (1978) was capable of economically processing approximately 50% by volume of this resource base on the basis of an analysis of the resource stem distribution by DBH, taper, etc.

A forest products operation that harvests a forest resource which contains timber suitable in terms of species and quality to be manufactured into solid wood products by lumber and plywood and instead plans to process those logs to make only pulp and paper is as irresponsible in terms of resource utilization, economic and financial considerations as a meat packing plant where Herefords are brought in one end and the only edible product produced and shipped out the other end is hamburger.

The same observation applies to a legislature that:

1. Allows constituency politics to override a logical and thorough analysis of proposals for resource development that incorporates detailed separate reviews of each competitor to determine the utilization effectiveness of each proposal to convert an investment quality resource database produced for the area for or by the provincial forest service;

2. Accepts product and product volumes specified by the competitors without reference to a satisfactory resource base for validity. The BCFP proposal is an example.
3. Doesn't rate proposals first and foremost on the overall net benefit to the Province. Legislative constituency and community considerations should obviously be addressed but as a secondary issue and certainly not at the expense of the economic benefit to the Province.

These comments do not provide a clear answer to the question about what happened. However, they do reflect the complex interactions inherent in decisions involving so many players with diverse objectives.

### **1988 Forest Management Agreement**

After the Berland TDA decision had been announced by the government it was 'back to the drawing board' for Hall, as he explained<sup>162</sup>:

A new solution to address future survival of St. Regis Alberta Limited had to be found. The apparent Company's foreseeable future need for additional capacity in any of its paper paradises were no longer an option, which left some combination of solid wood products and market pulps as the alternative to pursue. Analysis of a number of options revealed the best choice to be a combination of utilizing the full potential for lumber production from the forest resource in a state-of-the-art lumber mill facility of a size that would be cost competitive -- and increasing the bleached kraft softwood market pulp capacity to the level required for the pulpmill to also become scale-of-size competitive by modernizing and expanding the existing pulpmill, utilizing the latest proven process, process control and environmental technology.

However, before further plans could be developed several major events transpired, starting in 1982 with a serious down-turn in the economy, including the pulp industry. In 1983 and 1984 'green mail' attempts by Rupert Murdoch and Sir James Goldsmith resulted in St. Regis being bought out entirely by Champion International Corporation in November 1984, a more 'friendly' purchaser. Also in 1984 the government of Alberta issued a white paper on economic development which included a reference to forestry as one of the four major underpinnings of economic development in the Province.

Perhaps adding to the concerns about wood supply was the resurgence of the coal mining sector as mentioned previously. As Crossley recalled<sup>163</sup>:

... A more recent intrusion has been surface strip-mining for coal – another wasting resource. That such a use could be superimposed on an active forest management program by the government is almost incomprehensible. ... with the advent of gigantic drag-lines, much of the surface extraction of coal depends upon their use in the removal and returning of the overburden. What such extraction methods would do to renewable resource management must have been obvious, but the government's defence of its decision to

permit such programs apparently rested on the commitment that a coal operator must agree to: after the removal of the coal to the returning of the overburden, every disturbed acre must be returned to its original levels of timber production, in both quantity and quality. This has never been accomplished under Alberta conditions at these elevations. This fact was brushed aside, as was the wasted time interval between coal extraction and the initiation of new stands.

During this time of transition and turmoil Hall had been preparing a strategic plan for the Company which he completed in 1985.

As Hall looked for an alternative approach to secure the additional resource that would be needed to supplement the existing FMA, the search was confined to the area south of Highway 16 and east of the FMA -- an area that already had Quota assigned throughout to existing sawmill companies. As a result of these complexities, including hauling distance, he determined that the area would prevent competitive modernization and expansion of the Hinton operation to secure its future viability. However, he commented<sup>164</sup>: *"St. Regis (Alberta) Ltd.'s annual and five-year strategic plan submissions to the parent Company continued to propose modernization, and expansion plans so vital to its long-term survival."*

In the meantime, BC Forest Products constructed a sawmill at Grande Cache which soon confirmed that the timber quality and availability was inadequate to ensure a cost competitive operation -- as previously determined by St. Regis. Then, with the general economic down-turn, and other company-related financial problems in British Columbia, BCFP defaulted on its Agreement, leaving the Berland area essentially unallocated and potentially available again for development. Hall immediately saw this as an opportunity to obtain sufficient additional forest resource area free of Quota conflict adjacent to the existing FMA boundary. As well, this resource area to the north had an improved average haul distance and better resource quality than the southern resource option to fulfil the additional fibre requirement needed to make an economically viable modernization expansion possible. His 1985 strategic plan built on this possibility.

As Hall<sup>165</sup> explained:

The technical, economic and financial feasibility studies upon which the 1985 strategic plan was based revealed that if additional resource area adjacent to the existing FMA could be obtained it should be possible to reach the level of return on investment set by the parent Company to consider opportunities for investment that would favourably contribute to its corporate objectives of return on equity to the shareholders. The next step after the approval of the 1985 strategic plan was the preparation of a detailed feasibility study to review all of the project inputs of resource, product markets, capital and operating costs, risk analysis, etc. in much greater detail than a preliminary study warrants in order to determine that the project will in fact produce the results expected and warrant the approval of the Board of Directors. This process itself requires a significant capital expenditure to conduct that would not be justified in the pursuit of every investment opportunity at the preliminary study stage. Obviously a key part of this detailed study

involved detailed discussions and reaching agreements with the Province -- not the least of which was the necessary additional forest resource

### **The 1984 White Paper for an Industrial and Science Strategy**

The timing of development of Hall's strategic plan in 1985 was exemplary. Following the economic downturn of the early 1980s the government reassessed its own strategic directions and issued a White Paper<sup>166</sup> in July 1984 to invite discussions on and proposals for an updated industrial and research strategy. The introduction to the paper cited Premier Lougheed's comments in the Legislature on October 19, 1983:

We came to a conclusion over the course of the spring and summer that for these and other reasons -- the market changes, the technological developments, the other factors involved - - it was an appropriate time for us to reassess Alberta's economic strategy, to take stock of our accomplishments, our setbacks, the changes that have occurred, the opportunities involved, the competitive position of the province for the balance of the 1980s.

Among the "positive factors" listed was the forest products industry which: "... has shown its ability to sustain production even in difficult cyclical periods -- to open up opportunities for new plants and products, and to explore the promise of the economic use of Alberta's vast underdeveloped reserves of hardwood." As well, among the positives were mentioned Alberta's marketing ability, transportation system and the heritage Savings Trust Fund. After describing the petrochemical sector, the White Paper next discussed the forest products sector:

Alberta's forest products industry is a well-established contributor to the economy of the province with great potential for significant growth. Based upon a plentiful forest resource of highly desirable commercial species, the industry ships over \$800 million annually of quality softwood lumber and long-fibred bleached kraft pulp. The industry is also developing into a significant producer of hardwood panelboard products.

There is a very real potential for expanding the forest industry in Alberta. The sawmill industry recently surpassed over one-billion board feet of lumber a year. The forest resources of the province have the potential for annual production to increase to two billion board feet. At the present time, the two pulpmills have a capacity of 500,000 tonnes of high quality bleached kraft pulp production. Moreover if all the existing sawmills were equipped to produce woodchips, they could easily furnish the fibre for another two kraft pulpmills.

Its list of five proposed economic goals and objectives for Alberta 1985-1990 included the intent to:

- build on significant resources and talents
- sustain a climate for profits, investments and jobs
- broaden the diversity of the economy by upgrading and new economic development
- upgrade skills of citizens
- broaden opportunities for growth throughout the regions.

Hall's strategic plan was closely aligned with these objectives.

### **The Company Strategic Plan**

It was within these developments of possible timber availability, favourable government policies and Company objectives that Hall prepared his 1985 Strategic Plan for expansion. This marked the beginning of this last phase of the process which led to the 1988 Agreement. It was a complex undertaking, involving negotiations with three levels of government--Federal, Provincial and Municipal. Negotiations were also conducted within a changing St. Regis-Champion-Weldwood corporate structure during the period 1984-88.

*"The strategic plan was approved by Champion in April 1986 as the Hinton Modernization and Expansion Project -- but with many conditional 'subject-tos'."*<sup>167</sup> To get the process started, Hall arranged a meeting later that same month to apprise the Province of Alberta of their proposed Modernization and Expansion Project. As Hall described<sup>168</sup>:

A meeting was held to apprise the Province of Alberta of St. Regis (Alberta) Ltd.'s proposed modernization and expansion project April 1986.

The meeting was attended by Premier Don Getty; Minister of Forestry, Lands and Wildlife; Don Sparrow; Solicitor-General and MLA for the Edson Riding and Member of the Forestry Caucus Committee Dr. Ian Reid; and Deputy Minister of Forestry, Lands and Wildlife Fred McDougall and members of his staff with Whitey Heist Champion International Vice-President of Pulp and Paper, myself and Don Laishley Forest Resources Manager from Champion Forest Products (Alberta) Ltd. representing the Company.

The agenda for the meeting included:

1. Advising the Premier that the proposal to modernize and expand the Hinton operations was being favourably considered by Champion International and that Champion International was prepared to approve \$2.75 million to upgrade the engineering studies to funding-estimate quality as soon as the previous operating cost study can be revised that is valid except for assumptions that were made with regard to: 1) the sources, security and cost of wood; 2) taxes, investment and other related considerations that should be revised or incorporated.
2. Informing the Premier of the key factors that impact on the feasibility of the project.
3. Determining from the Premier the climate for investment in terms of specific resource availability, tax and incentive factors in Alberta that should be incorporated in a final detailed economic and financial investment quality study to compare the Hinton location with other opportunities available to Champion International.
4. Appraising the Premier of the following background pertinent to the proposed project that the Company, in cooperation with the Provincial Government and the Alberta Forest

Service has been a leader in forest management in Canada in the fulfilment of the Company's Mission Statement commitment to the stewardship of the forest resource entrusted to it;

- That the result is a forest management area that has increased sustained yield, provides an economically competitive wood supply and has effective multiple use, conservation and protection of the resource.
- That Champion Forest Products (Alberta) Ltd. has been a reliable employer and taxpayer that has operated continuously in Hinton since 1957 and that its future survival depends on being able to attract the investment dollars to modernize and expand.
- That the pulpmill is thirty years old and requires modernization and expansion to insure continued success in an increasingly cost-competitive international market for its products.
- That the process technology incorporated in the proposed project design will enable the additional bleached kraft pulp to be produced well within the limits of total colour and biological oxygen demand and air emissions permitted by the current environmental permit.
- That the success of the modernization and expansion project depends on having a secure supply of wood at an economically viable delivered cost in sufficient volume to supply the increased lumber and bleached kraft production levels.

Hall concluded this review by stating that the proposal to modernize and expand Hinton was favourably received by the Government as it fit well with their objectives of economic diversification and interest in the forest products industry, particularly pulp manufacture to improve forest resource utilization. Hall also requested a "one window" approach to dealing with the provincial government. As he explained<sup>169</sup>:

Since timing was of the essence in pursuing the project while a window of opportunity existed for forest resource acquisition and the climate was favourable within Champion International and the forest products market, I requested the Premier to consider allowing us to have a "one window" arrangement with his government in order to expedite decision making by avoiding the delays that the private sector often experiences in its interface with governments. The example that came to mind was the great difficulty and cost incurred by the Alsands project. In that case the project management were faced with a total of some 21 windows on government (Federal and Provincial combined). These 'windows' all too often expected responses that were in direct conflict with one or more of the other window's stated requirements -- that resulted in excessive direct cost and time delays.

The Premier's response was direct and to the point, no doubt because of his experience as Minister of Energy and Natural Resources and on his own interface with government while in the private sector. His response was: "Your window is right there," and he pointed to Don Sparrow, Minister of Forestry, Lands and Wildlife. As the meeting was concluding. I asked the Minister when we could get started. His response was: "How about right after this meeting?" This we did and that first meeting carried on into the evening. This response to my request certainly exceeded my expectations in terms of timing.

Shortly after this, on the 5<sup>th</sup> of May 1986, Champion Forest Products (Alberta) Ltd. announced that it would commence a \$3,000,000 feasibility study to modernize and expand the Hinton operations that would focus on engineering design construction and funding of the project as the Company continued to work cooperatively with the Provincial and Federal governments and the town of Hinton to establish the viability of the project<sup>170</sup>.

By late October 1986 Hall recorded that with the assistance of Simons Engineering of Vancouver they were making good progress on the preparation of the engineering design and construction funding estimates as well as the operating cost estimates for the manufacturing part of the project. However, most of the other aspects, including the forest resource, transportation, taxation, sewer and water supply to Hinton, and virtually all of the Federal, Provincial and Municipal issues were still unresolved. As Hall<sup>171</sup> commented:

The non-forest resource issues were stalled in spite of the best efforts of Al Brennan, Director of Forest Industry Development acting for the Minister as our "Window" on the day-to-day issues of dealing with departments other than Forestry, Lands and Wildlife. It was difficult to arrange meaningful meetings with individuals who would or could make decisions. Written decisions represented as a department position would be subsequently reversed or modified at another level or levels within the department up to and including Deputy Minister and Ministers.

Hall then arranged a project status report meeting with the Hon. Don Sparrow. Hall explained that the meeting “... was held November 7, 1986 to bring him up to date with our work and to review the government’s progress and identify means to expedite the flow of approved government decisions.”<sup>172</sup> The review and list of points provides an interesting summary of the scope and extent of the needs and issues which remained to be addressed. Negotiations on these proved to be difficult, complex and time-consuming. It was still to be over a year and a half before all elements were successfully resolved.

The to-date results of the initial review and update of the Preliminary Project Feasibility Study based on inputting the Government's inputs regarding forest resource allocation wood costs, depreciation, Municipal, Provincial and Federal taxes, variable costs of manufacture and capital costs revealed that the project internal rate of returns and delivered cost of sales was at best marginal. The project would not fly in terms of meeting corporate investment objectives and would certainly not compete against other opportunities being worked on by other locations in the U.S. and Brazil for corporate investment dollars.

A detailed study of selected alternatives to improve project results was carried out and economic and financial analysis of each alternative were conducted.

The results showed that we have identified a modernization and expansion plan that with the help of the Province on some specific issues and from the Federal Government in others the project can succeed against the other projects with which it is competing.

The changes to the preliminary project study were:

- Increase pulpmill production to 424,000 tons (385,800 tonnes) per year
- Incorporate process and process control technology to reduce material and labour costs
- Obtain a favourable ruling from the Canadian Transport Commission regarding the four per cent increases imposed on western Canada pulp freight rates effective January 1, 1986 and January 1, 1987 in violation of a previous commission order and having the proposed "Freedom to Move" legislation enacted that was tabled in the House of Commons November 4, 1986.
- Expand the Forest Management Area to provide the additional fibre resources from the management units that have been previously discussed with your department. These volumes and costs are essential to the success of the project. The Forest Management Agreement also requires renewal to incorporate the additional areas and the current terms and conditions and modifications that have been discussed to reflect current practice.
- Obtain a capital allowance of \$8 million from the Province in return for an undertaking to provide water and sewer services to the Town of Hinton on the basis of extending the current agreement for a period of 21 years at an increased volume of 3.5 million imperial gallons (16 million litres) per day.
- Exemption from any future adverse tax changes such as Provincial and Federal Sales Tax, Value Added Tax, or Business Transfer Tax, which would impact negatively on the capital expenditures of the Modernization and Expansion Project.
- Elimination of the Municipal tax assessment on machinery and equipment in the Province. In the meantime make provision for exemption of the machinery and equipment associated with the Modernization and Expansion Project.
- Environmental conformance specifications as per preliminary discussions with Alberta Environment that comply with the Province's new mill standards need to be expeditiously developed into permits to construct.
- Support of the Provincial Government on previously specified Federal Government related issues.

Hall concluded by stating: *"We need to have favourable decisions, on those issues just reviewed, in principle by the end of November. We are confident we could then sell the Project. We would then wish to take up your Government's offer to examine financing assistance alternatives"*.

But despite this request, as it turned out, delays continued. Almost a full year later, on 19 October 1987, Hall<sup>173</sup> wrote to Hon. Don Sparrow to advise him that their project costs and production schedule were seriously affected and, as a result, Champion had found it necessary to put the Hinton Expansion Project on hold, pending resolution of the issues. Further, they had advised their primary consultants and suppliers of the situation. As Hall had stated earlier<sup>174</sup>, he had hoped for favourable decisions, at least in principle by the end of November 1986. This must have subsequently happened -- Hall evidently advised the government that the Company had withdrawn the "hold" order effective 21 December 1987, presumably on the strength of verbal commitments from the government. LeRoy Fjordbotten, Minister of Forestry Lands and Wildlife wrote to Hall on 2 February 1988 to confirm Hall's letter and to clarify the status of various aspects of the project<sup>175</sup>. Still, progress was fraught with delay. Although the Forest Management Agreement was formally signed 15 June 1988, a few other important agreements remained unresolved. It was in January 1989 before Hall could state that the last of the

arrangements had been made -- as he put it: *“The elapsed time from initiation of discussions with the Province on April 1, 1986 to conclusion: 33 months.”*

In the meantime, early in 1986, Hall had assigned responsibility for negotiating a new Forest Management Agreement to Don Laishley, Director of Forest Resources. Laishley selected two of his staff to round out his negotiating team. Bob Udell was chosen for his knowledge about the technical forestry side, particularly regeneration and seedling supply, inventories, growth and yield, and allowable cut calculations. He also noted that Bob had written the last management plan and was also *“a very good negotiator and brings a great dry sense of humour to the table.”* Ray Ranger, in charge of the Company Land Use section, was chosen for his knowledge and experience about land law and land uses, including timber damages, road rentals, the petroleum and coal industries and land uses in general. He noted that Ray was *“a very capable negotiator to begin with --- he was a lands man -- he knew forestry and forest industry -- and he knew the land business”*. As Laishley explained, he sat down with Ken Hall and said: *“If we are going to proceed on this in a reasonable manner we need a team, and this is the team, and I think we will do very well.”* On the government side, Fred McDougall, Deputy Minister, was spokesman, and he and Cliff Smith, Assistant Deputy Minister for the Alberta Forest Service were the two major representatives. They were supported as well by Con Dermott, head of Timber Management and Rick Keller, a forester with AFS Timber Management. Lawyers from both sides got involved closer to the end to work out proper wording of the agreement.

Principles seem to have been firmly established at the beginning. One was a commitment from the Premier that as a result of the negotiations there would be no generic increase in costs in forest management<sup>176</sup>. On the Alberta Forest Service side, it was made clear that the FMA would not be made of sufficient in size to provide all wood needs, and that there would be no provisional reserve area<sup>177</sup>. However, as Udell pointed out there was one philosophical point on which they did agree:

--- The main thing we wanted to keep was the prerogative to manage the FMA in our own way. We wanted to retain the relationship with the Province whereby we had the right to manage based on mutually accepted goals and objectives, that we would do the management and the Province would audit our performance and that would be the way that area was managed. There was a willingness in both parties to continue that.

Initial proposals from the government suggested that the expansion should take place primarily to the south of the FMA. However, previous studies by the Company had established that the cost of wood from that area would be greater, and the quality less suitable for its products. During negotiations, the Company was able to secure most of the expansion area from the E6 and E7 management units to the north and east. The final area is shown in Figure 15.

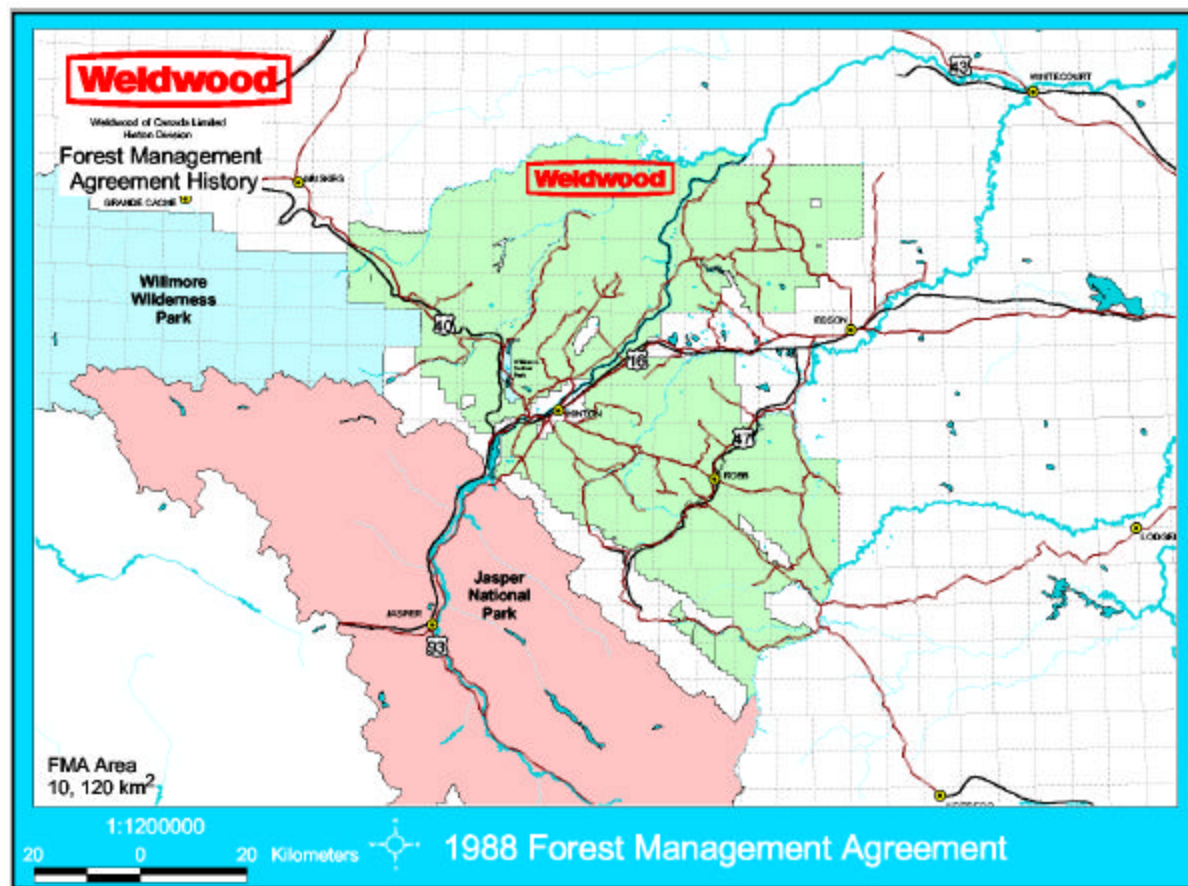
There were many issues that needed to be resolved. The major one was the fundamental question of wood supply. Others that generated considerable discussion concerned seedling supply, better means by which the ground rules could be changed, the deciduous forest resource and dues on gravel. Several other issues were addressed, and a summary of changes in the 1988 agreement follows this discussion of the major ones. These major issues are discussed again when amendments to the 1988 Agreement were subsequently proposed.

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## Wood Supply

Discussions about wood supply seem to have been strongly influenced by two events. One was a recommendation in the 1979 ECA report on the environmental effects of forestry operations.<sup>178</sup> Acknowledging that additional pulp mills in Alberta were currently financially feasible, the report recommended (Recommendation 56) that any new mill should have timber limits that are less than needed to operate at full capacity -- 85 to 90 per cent was suggested as a target. Intensive management, increased utilization and purchased wood were believed capable of providing the additional wood requirements. The second event was that in the Weldwood case, because both existing and proposed commitments to the adjacent forest lands were so extensive, a much reduced available land base meant that an even smaller percentage could be allocated.

Figure 15. Weldwood of Canada, Hinton Division – FMA as negotiated in new Agreement in 1988 to support expansion of the pulpmill and new sawmill.



This situation was reflected in Bob Udell's comments: <sup>179</sup>

Probably the biggest issue we had to deal with in the negotiation was the wood supply. The Province was bound and determined that they were not going to give us a land base large enough to support the mill. And, that we would be required to buy by-product chips on the open market and that we would not have any land base for replacement, which was something we had in all our previous agreements. That was a real problem for us. We wanted as secure a wood supply as we could get. In all our previous agreements we had an FMA that would inherently support the mills that we had here, and it was unproven ground for us to be embarking on building a mill that did not have a dedicated wood supply. Several of the meetings that we had were centred around where the by-product chips were going to come from, and under what authority we could ask for their direction. Also we agreed on a protocol whereby if a quota holder failed to deliver directed chips to us we could still get that volume and continue to run our mill. We were quite uncertain about the strengths of the commitment by the government in terms of guaranteeing that we would get the chips. Fred repeatedly reassured us that he had all the authority he required to direct chips to our mill from whoever he felt like directing them from. And in fact Fred and Con and Cliff<sup>lv</sup> came up with a list of quota holders and their allowable cuts -- their quota volumes and the by-products chips. A lot of the negotiations were around ... how much of that volume was directable, conversion factors for how many chips would be produced, where the wood was coming from, and how much it would cost us to get it here. Periodically we would pull "the letter" out again and remind Fred of the cabinet's promise [of no net increase in wood costs]. We probably spent fifty per cent of our time on that issue alone. It was a tremendous exercise. The ink wasn't long dried on the agreement before the Crown came back to us and wanted us to voluntarily relinquish our directed chips from Grande Cache, which was a lot of volume.

The end result of the negotiations was that a new FMA that, when facilities were complete, would provide only about 70 per cent of the wood requirements, the final negotiated FMA illustrated in Figure 15. In order to help to meet the shortfall the government promised to direct chips -- if asked -- from quota holders in the surrounding region. Some of the Company negotiators felt uneasy about this prospect, both because it was contrary to principles of free marketing and raised inherent uncertainties about continuity of volume and quality. The Company argued strongly for a reserve area from which round wood could be harvested in the event of a failure in chip supply but, on balance, had to accept the chip direction alternative.

As Udell stated<sup>180</sup>:

We listed quotas that were supposedly going to supply us the extra volume, and that has worked reasonably well. The only real uncertainty we had was the Grande Cache chips. The Grande Cache mill was up for sale and in order for the sale to proceed the new owners [Weyerhaeuser] did not want to be encumbered by directable chips. But they had

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<sup>lv</sup> Fred McDougall, Deputy Minister of Renewable Resources, Con Dermott, Director of Forest Management and Cliff Smith, Assistant Deputy Minister Alberta Forest Service.

expressed a willingness to talk to us about negotiating long-term agreements and continuing the relationship, so on that basis, and at the request of the Province, we gave up those directed chips. The quota areas were rolled into Weyerhaeuser's FMA. But subsequent events proved that we were unable to negotiate a long-term agreement for those chips with Weyerhaeuser, which has been very disappointing.

In a retrospective review, McDougall<sup>181</sup> recalled:

We insisted that available residual sawmill chips be factored in as part of their wood supply because they were already buying some chips and we felt that should form part of the wood supply in support of their facilities. That was a point of difference and we went through a very difficult time. One of their arguments was: "What do we do if the quota holders don't deliver for some reason? What if the sawmill shuts down or whatever?" So we built in protection for them where they could actually access the quota holder's timber supply if the quota holder failed to meet his chip delivery requirements.

Those provisions were put in there to cover their concern about the reliability of sawmill chips. But we insisted that available chips be factored in as part of their timber supply and I think rightly so. You know, it is good utilization of the resource that ensured a market for sawmill chips and again it saved a whole lot of standing timber which turned out to be very necessary for subsequent investments in the Whitecourt area. If we hadn't done that there wouldn't have been enough wood. So we did the right thing but it was difficult and it involved us putting together a whole lot of arrangements for access to quota holder's timber. And we had to go so far in that regard that the sawmillers themselves weren't very happy about being subjugated to the North Western agreement. It required us to make subsequent amendments to quotas and to make sure we could enforce those provisions in the agreement. So it involved third party rights in other words. So it wasn't an easy thing to put in place but it was the right thing to do and I think it has worked fine.

Looking back on subsequent events, Udell commented:

Despite the uneasiness associated with long term supplies, the Company -- particularly Bryon Muhly and Don Laishley -- worked long and hard to strike long term strategic supply agreements with solid wood manufacturers who produced by-product chips. They developed a new pricing formula for chips, based on the selling price of pulp, that set the standard in Alberta and was recognized by all concerned as fair and equitable. Various other means were used to secure long term agreements, including fibre exchanges and access to 40 plus years of forest management expertise for new enterprises in Alberta. Security of long term fibre supply was also a major consideration in the purchase of Sunpine Forest Products in September 1998.

As a result of this hard work with our fibre suppliers, the Company never had to ask the government to exercise its authority to direct chips to the Hinton pulpmill. By 1998 we were able to accommodate the province's desire to remove the chip direction clauses entirely

## Free Seedlings

The 1968 agreement required the government to provide free seedlings for reforestation, providing that the Company provided the seed. The government wanted to take that out of the 1988 agreement and, as Udell explained<sup>182</sup>: “... *We resisted that, using the letter from the Minister<sup>lvi</sup> as a basis for that resistance, and succeeded in more or less retaining it although not to the same extent as we had in the previous agreement.*”

## Changes to the Ground Rules

The 1974 Warrack - Sutherland Accord was challenged again. As Ranger explained<sup>183</sup>, government lawyers:

... wanted to include in the agreement a clause which would allow them to unilaterally change or amend the ground rules. Our position, of course, was that we could never accept a situation where one party could, at a whim, change the very procedures under which we operate without our input, let alone no ability to defend our rights be it through the politicians or as a last resort the courts. It made us ask the question “What are they planning to do and why are they afraid to negotiate future changes?” The issue was raised several times. In the end we would not accept that bureaucrats should be in a position to make arbitrary changes to our ground rules and not have to answer to either the politicians or to the courts.

## Dues on Gravel

This was one of the points in which Ranger was directly involved. As Ranger explained<sup>184</sup>:

There were a few irritants that [the government] wanted to change. Some of them they did get changed. For instance, prior to the 1988 agreement, because we had an open road policy and were building roads and allowing the public to use them -- [we] therefore had some obligation to keep those roads in reasonable condition at all times. You can appreciate there would be times when we didn't use the Robb road particularly for anything other than access and the haul would be some place else and so we quite easily could have done away with the gravelling or the day-to-day maintenance on it. However we felt that because the public were travelling and commuting back and forth there was a need to have those roads gravelled all the time and in reasonable shape. So recognizing that, we had been allowed to obtain our gravel dues-free throughout the Forest Management Area. I think that concession became an irritant to the Forest Service in that oil companies and others were subject to the gravel permit requirement and we were the exception. On one hand we were being awarded monies for road construction for eventual government usage of those roads and on the other hand it would be by-and-large recovered over the next ensuring 20 years by government gravel revenues. It was frustrating! We went back and forth on that for a time and where it wound up is that we were not to be charged for *in-situ* gravel, in other words if we were to run along an esker or through a gravelled area there would be no charge for that in-situ gravel that was on the right-of-way.

<sup>lvi</sup> Letter from Hon. Don Getty confirming no net increase in charges.

But -- if we developed a pit somewhere else other than within the right-of-way we would pay dues the same as anyone else.

Clause 7 (5) gives permission for the Company to obtain sand and gravel needed for its operations subject to the payment of the fees and royalties prescribed in the regulation. However, an exemption is made for in situ right-of-way material used in the immediate area where it is found.

### **Utilization of the Poplar Resource**

This question was well summarized by Udell who was the lead negotiator on this point<sup>185</sup>. As he explained:

The other issue that caused quite a bit of discussion ... was the rights over aspen. In the previous Agreement we had the right to the aspen but if we didn't use it the Crown had the opportunity to give it away. In the new Forest Management Agreement those rights were somewhat partitioned. We had to come up with a plan to utilize the aspen on the FMA or the Crown had the right to take the aspen allowable cut on the eastern side of the FMA and issue it for long-term dispositions. We had a period of time during which we had to come up with a proposal to use the species.

The relevant clauses in this regard are that within five years (1993) the Company had to prepare a specific plan for the full utilization by the Company of the deciduous timber. In addition, until such time that the Company had a facility capable of utilizing deciduous timber it was required to supply a total of 57,000 cubic metres of deciduous timber annually to others who operated deciduous wood products facilities. This was changed in the 1992 renegotiations.

### **Summary of Notable Changes Appearing in the 1988 Agreement**

The most notable change in this agreement was the commitment of the Company to expand the pulp mill to a rated capacity of 424,000 tons (386,000 tonnes) of pulp annually, the mill to be completed by April 1, 1990; and construction on an expanded sawmill complex which would increase the capacity to 150 million board feet of lumber annually, the construction to be completed by November 1, 1993. In return, the Forest Management Area would be expanded to 1 million ha. Terms and conditions were detailed in the Forest Management Agreement. As Udell pointed out, the management philosophy remained essentially the same, but a number of changes were incorporated.

### **Definitions:**

The term “**perpetual sustained yield**” was retained<sup>lvii</sup>, and that phrase was inserted in several new places. However, in the definition of Forest Management Area the phrase was qualified by

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<sup>lvii</sup> This term is still being used. A brief review of Justice McDonald's 1992 decision in the action against Daishowa is included in the Appendix.

the words “for a defined period of time”, setting more finite time boundaries than previously implied.

**Merchantable coniferous stands** were defined as having 47.5 cubic metres or more per hectare of merchantable coniferous trees, and a merchantable coniferous tree was defined as having a minimum 15 cm diameter outside bark at 30 cm above the ground, having a minimum 3.66 metre usable length to a 10 cm top diameter inside bark.

### **Return of Lands to the FMA**

Given the sensitivity of the Company to reductions in the size of the FMA, clause 5 required that when lands excepted or subsequently withdrawn from the FMA become available for disposition, and where such lands were productive or potentially productive at the time of withdrawal they should be returned to the Forest Management Area in a potentially productive state. The two key points in this are the Company’s desire to have any lands returned to the FMA, and also to have them returned in a potentially productive state.

Udell<sup>lviii</sup> noted that it was also interesting that the two Quotas that had been established in the former PRA were relocated to forest management unit E 1, leaving the Hinton FMA quota-free -- a situation unique among Agreements in Alberta.

### **Withdrawals**

The minimum net aggregate area withdrawn for use by the Crown before compensation may be payable to the Company was increased from 1.5 per cent to 2 per cent of the original net Forest Management Area. The clause states that the Minister shall determine the compensation in respect of such excess and arrange for reimbursement to the Company “for the actual loss or damage ... but not for any loss of profit, inconvenience nor increased cost ... harvesting ... coniferous timber elsewhere.” However, the clause for the first time, makes no reference to replacement of area or timber.

### **Prime Use**

The “prime use” clause was retained, but with implied qualifications. It now reads “8 (1) *Recognizing that on the forest management area, those areas not designated for other prime uses by integrated resource plans have a prime use for the growth and harvest of timber, and in keeping with the policy for multiple use of the public land, the Minister reserves all land rights on the Forest Management Area not specifically given hereby to the Company in this Agreement,*” and provides several examples, several of which were the same as previously. However, the clause reserving rights by the Minister related to fish and wildlife was changed to read: “ c) *the right to maintain and enhance fish and wildlife resources provided the Company’s right to manage the area for timber production is not significantly impaired.*” Also new was clause (d) related to grazing: “*The right to authorize domestic stock grazing provided however, that the coniferous regeneration will not be damaged to the point where the overall*

<sup>lviii</sup> R. Udell -- notes on an earlier draft 17 April 2000

*stocking is reduced below the reforestation stocking standard as set out in the Timber Management Regulation.”*

### **Sound Forestry Practices**

As before, Clause 9 (a) stipulated that the Company shall follow sound forestry practices with the purpose of achieving and maintaining a perpetual sustained timber yield from the productive forest land, *while not diminishing the productivity of the land*. The final phrase is a new one.

### **Ground Rules**

Jointly developed ground rules continued to be required. The clause about changes to them confirmed the 1974 Warrack - Sutherland Accord in which consensus was the goal; the government was required to go through the Lt. Governor-in-Council to effect changes otherwise. The only amendment was that in addition to required review at intervals not exceeding five years, provision was made for review at the initiative of either party in the meantime.

### **Required Production**

For the first time, a clause was introduced stipulating the required minimum volume of timber to be cut within a twenty-year period, defined as a percentage of the periodic allowable cut. This reflected the Province's desire to achieve full utilization of the AAC across the Province, along with attendant economic benefits.

### **Inventories for Operating Plans**

A new clause required each operating plan to incorporate other resource needs and in so doing minimize the adverse impact on such public resources as fish and wildlife throughout the Forest Management Area. In this connection, clause 15 stipulates that *“the Company shall at its own expense make such surveys of the Forest Management Area as are necessary to prepare the plans required by paragraphs 10, 12 and 13.”* By implication, this suggested that surveys of such values as fish and wildlife had to be included, although the question of the extent of the Company's financial responsibility for doing these remained in dispute for a few more years. However, since the Company's mandated rights were restricted to timber management, responsibility for inventories and management of other resources on the FMA actually remained with the province which also retained the management prerogative.

### **Salvage of Timber**

The salvage of dead, damaged, diseased or decadent timber is required -- it is interesting that this fundamental requirement has remained since 1954. Clauses 16 (1) and (2) also require the Company to utilize all the merchantable coniferous trees growing within merchantable stands cut in road construction and other incidental operations, and to salvage all the deciduous trees in the same circumstances. These reflect the good-faith commitment described previously by Jim

Clark and Don Laishley<sup>186</sup> with respect to striving to utilize the full volume of wood available by extending salvage to all pipeline construction areas within the FMA.

### **Chip Direction**

Clause 18 deals with the question of chip purchase and direction. The requirements and authorities are detailed in six sub-clauses. They range from a requirement by the Company to purchase all pulp-quality chips which are offered to it from specified quotas at prices which are equal to or less than the average price being received for pulp quality chips at sawmills in Alberta. It gives the Minister the authority to direct chips; it gives further authority to order the delivery of chips by specified quota holders; and failing that authorizes the Company to enter on to quota holder licenses to remove an equivalent volume of coniferous trees. This was changed in the 1998 Agreement revision.

### **Coniferous Seedling Trees**

The provision of free seedlings by the government to the Company is confirmed, essentially as previously, up to a maximum of three million seedlings in any one year. It also provides that the Company may receive reimbursement for an equivalent amount if it chooses to grow its own seedlings. This was also changed in the 1992 renegotiation.

### **Intensive Silviculture**

Section 27 provides that if the Company implements, at its own cost, more intensive silvicultural practices than required under the agreement, and if these result in a sustainable increase in allowable cut, the Minister may authorize an equivalent cut to the Company free of timber dues. This is clearly an incentive to practice more intensive silviculture, and was in part influenced by the 30 per cent shortfall of wood requirements from the FMA. The previous land rent clause in the 1968 agreement does not appear in this one. Bob Udell explained:<sup>187</sup>

Although the Company wanted to retain the option, the Province was unwilling to do so, in part because of perceived difficulties around the definition of “natural productive capacity of the forest land” for clauses 36. (2) and 37. This is unfortunate because, for the first time, the Company’s needs were about to surpass the available AAC. Also, the same concept was being discussed in 1998 in the context of EFM discussions between the AFPA and the Province.

### **Forest Protection**

The forest protection clauses are similar to those established in 1968, again providing ceilings on fire fighting expenditures in return for preparation of fire control plans and commitments as specified under a special fire control agreement.

With respect to area burned, the maximum allowable burn target stipulated in the 1968 agreement of one tenth of one per cent of the area was deleted. Further, the agreement stipulates

that the Minister shall not be liable for damages to the Company resulting from a failure to prevent, control or suppress any fire.

The fire control sub-agreement of 1989 specifies the detail required in the Company's fire control plan, and describes Company responsibilities for such provisions as a fire control organization, minimum inventory of fire-fighting equipment, Company fire crews, minimum training standards, initial attack responsibilities and communication with the LFS. Payment of fire suppression costs is described under three categories: 1) the Minister pays for costs of suppressing all fires in the FMA except 2) where a fire is caused directly or indirectly by Company operations [accidental] in which the Company pays 50% up to a maximum amount of \$55,860 in 1981 dollars adjusted by the Implicit Price Index published by Statistics Canada, or 3) when the Company causes the fire through intentional or negligent act or omission, it pays 100% of costs less sums the Minister may decide to waive.

### **Charges and Dues**

The same categories of holding charge, forest protection charge and timber dues remained. The holding charge remained the same at \$1.16 per square kilometre. The Forest Protection charge was increased from the equivalent of \$4.94 per square kilometre to \$26.06. The government had successfully argued that the previous charge fell far short of the actual costs of forest protection.

### **Supplemental Reforestation**

A similar requirement to that of 1968 (clause 28) appears in the 1988 agreement (clause 24). The maximum supplemental reforestation was stipulated to not exceed 15 per cent of the total area harvested during the immediately preceding year.

For the first time, the Company was made to be: “--- *solely responsible for reforesting all lands burned by fire, when the fire has been caused by the Company, its employees, its agents or its contractors.*”

### **Timber Dues**

Dues on all coniferous species were increased to \$1.44 per cubic metre from the previous metric equivalent price of \$0.27, and deciduous species were increased to \$0.65 per cubic metre, up from \$0.18. These apparent increases largely reflected the pre-1988 annual adjustments in rates based on a price index, so were not actual increases related to the negotiations. A similar scale for adjusting (holding charges), forest protection charges and rates of dues with annual adjustment based on price indices was also included.

### **Summary**

Looking at the lease reflectively, Laishley commented<sup>188</sup>:

... in the final analysis I think we got a very good agreement. Our Company was happy with it. ... I think when you are looking at a land base of roughly a million hectares and a

dynamism that is gone through the last ten years, and what I suspect is going to be the next ten years, I think we dealt with a lot of the issues. I think that we have been able to, in a reasonable fashion recognizing that there are still some unknowns, we have been able to go ahead in an industrial sense and develop our industry knowing that we have got a pretty secure supply of wood there. This is a relative thing.

Presumably the government felt the same way since both parties signed the agreement. However, McDougall<sup>189</sup> also reviewed some of the issues and difficult points which they encountered during the negotiations.

To their credit I think it was a reasonable agreement ... There was a need to revamp that Hinton mill. It was becoming obsolete. They had a lot of staff in that mill because it was old and it wasn't properly instrumented the way a modern mill would be so it was a higher cost mill to run. I think [Hall] was bang-on in that assessment. And we sat down in good faith once we recognised that they were prepared to make a significant investment there and improve that facility.

By this time BCFP had disappeared from the scene and the timber along the Berland was still available, in part at least. So we sat down with them and negotiated a new Agreement and it did include adding back in some additional areas south of the Berland River and north of their FMA. But there was a very, very tough negotiation. We felt that they were again demanding more wood than they really required to wood the pulp mill expansion, and part of it was also a significant expansion of their sawmill operation. It wasn't just the pulp mill requirements. They wanted to expand their sawmill to 150 million board feet at the same time.

They did a very smart thing (a shrewd business thing) and that is prior to entering into what they knew were going to be tough negotiations with the department, they went to Premier Don Getty, and got a commitment from him that they would get the wood they needed, and he agreed to that. He also agreed that there would not be any significant (pulpwood) timber dues increase because they anticipated that the department knew that particular area of the Province had by far the best timber situation of any area in the Province and could afford to pay higher dues.<sup>lix</sup> When the 1968 agreement expired we had ideas of negotiating a significant increase to the timber dues. They anticipated that was where we were likely to come from -- they obtained a political decision that there would be no significant increase in timber dues. So they went into our negotiations with kind of two pre-conditions established at the political level without our input which frustrated us. In other words we started off a little bit frustrated. Not that we believed they should not get the timber they needed. We had no real quarrel with that because that was common sense and the needed wood was still there so they still had to demonstrate need. But the limitation on timber dues we felt was unfortunate.

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<sup>lix</sup> McDougall emphasized again (on 10 April 2000) that the AFS had hoped to increase timber dues throughout Alberta on FMAs and Quotas. However, the Hall/Getty agreement preempted that. General dues increases were delayed for about a decade. Pers. comm. PJM 10 April 2000.

The other thing is this was the first in a round of significant developments. We were on the verge of a very significant expansion of the industry and if we couldn't get more revenue for this timber where could we? They had by far the best timber chance in the Province. We knew this was going to be a precedent. So it limited our ability to extract more revenue in other situations down the road in the future. We were aware that might be the case although we didn't appreciate fully at that time how significant it would be.

So we went into the negotiations with that situation in front of us and we had a very difficult time because we felt the Company was understating the amount of timber in the area and overstating their need. We had a very difficult time with that. It was a very difficult negotiation with Don Laishley and Bob Udell and others over that issue. We finally compromised. But I guess the subsequent events proved that we were essentially correct in the numbers we were using because the sawmill at Hinton ended up being 250 million board feet and not 150 million board feet so that demonstrated that there was at least 100 million board feet of cushion in their numbers. The problem was that they had all the inventory data on their FMA because we had relied on their inventories and their work -- and it was excellent work -- but we did not have the same quality of data on our side of the table. That FMA had been excluded from inventory work we had done subsequently in the Province because it was under management and they were doing the inventories. I am not questioning here in any way the quality of their work. The issues that we had were more interpretation of the wood requirements and conversion factors and that kind of thing (technical arguments). But we did feel that their numbers tended to understate the productivity of the FMA and overstate their requirements. I feel that subsequent events proved that to be the case. In any event that took a lot of time because we literally fought that boundary line section by section for some considerable period of time. We ended up compromising on it. Why it was so critical is -- had we not taken a stringent stand there and fought as we did, there is no question that we would not have had the resource for the newsprint mill at Whitecourt. It was very tight but our efforts there did protect an adequate base for the newsprint operation and had we not gone through that difficult and confrontational set of negotiations that would not have been the case.

[So that probably] contributed to the duration of the negotiations. It also set a fairly negative tone for the whole thing because we started off somewhat frustrated over the timber dues issue and then that frustration carried over into quite a difficult disagreement over the wood volumes and allowable cut calculations. Then there was all the other kinds of details to work through after that. ... Thirty three months though sounds longer than it actually took. I think that might have been the entire period from when [Hall] first approached government to when the legal agreements were finally executed -- to when the agreement was signed, sealed and delivered. And of course they were fairly lengthy negotiations -- although they were difficult they didn't take 33 months. I think that included a period of time for the agreement to be legally prepared and as I recall there was some delay in the signing process. So I think there were some other things that contributed to that. The negotiations, although they were lengthy and difficult, didn't take 33 months.

Again, the last word goes to Bob Udell.

The perspective of the Province's negotiators and ours was somewhat different on a number of these issues. In the first place, the commitment given the Company was that the end result of the negotiations would be no increase in timber dues and other crown rates arising from the FMA. However, in my view, the provincial negotiators would have been able to get their increase in pulpwood dues (note that sawlog stumpage was always paid at regulation rates) if they could have identified other values that would have offset those extra costs.

We stand behind the estimates of the forestland productivity that we used in the negotiations. These estimates were extrapolations from the approved allowable annual cut in our 1986 forest management plan. We used them, not only to defend the existing FMA productivity, but also to evaluate the estimates on crown management units being considered for addition. To be more certain, we sent cruise parties out to examine stand volume estimates as well as yield tables for the candidate expansion areas, and used those data to adjust our own estimates for those areas. These amply showed that the figures we presented to the provincial negotiators were sound and defensible.

At the end of the negotiation, even though it was protracted, I am not certain that the province came up on the short end of the stick. We lost ground in costs such as gravel royalties (we went from paying no royalties to paying regulation rates) and seedling reimbursement that were not offset in other savings. We ended up with an FMA that, in respect of committed wood to facilities, was the most severely leveraged of any of the new agreements. Only 70% of our fibre needs can be generated from our own FMA.

## Evolution of the Forest Management Agreements

### 3.5 Period 1988 -2000

#### *Resolving Some Residual Agreement Issues*

#### **Historical Backdrop 1988-2000**

##### **Alberta**

Events during this period reflected the convergence of two major forces. The first was the continuing provincial economic policy to encourage investment in the forestry sector. The second was coalescence of environmental concerns which had begun to manifest themselves in the early 1970s in response to more visible logging and petroleum developments. Alberta passed a number of environmentally-focused acts in the mid 1970s but concerns continued to grow as population and pace of development grew. The global Brundtland Report of 1987 *Our Common Future* was a catalytic event. It reviewed these forces from a worldwide perspective, emphasized the need to find a balance between environment and economy, and used the concept of “sustainable development ” as a philosophical objective.

In Canadian forestry, the concept of sustainable forest management (SFM) was described through public forums leading to the National Forest Strategy and Canada Forest Accord of 1992 (reviewed and renewed in 1998) and the Forest Round Table on Sustainable Development of 1994. SFM was further defined by the nationally-developed Criteria and Indicators of the Canadian Council of Forest Ministers in 1995. This was followed by creation of third-party programs to certify forests that were being managed to achieve sustainability -- ones such as the Canadian Standards Association and Forest Stewardship Council internationally, and Alberta ForestCare provincially.

This period also saw growth and strengthening of environmental organizations – international ones such as Greenpeace and World Wildlife Fund for Nature (WWF) with local chapters, along with national, provincial and local groups. Working individually and collectively, these groups became strongly influential. In forestry, their objectives range from attempts to improve forestry practice to creation of protected areas or elimination of logging altogether.

These developments placed enormous challenges on forest managers to develop ways to sustain or increase wood supply while managing forested lands for a broader range of values, including environmental, ecological, social and economic. The planning process was also to entail participation of interested citizens.

In Alberta, the impact of the economic aspect is reflected in the volume of wood harvested -- doubling again from 8.3 to 16.6 million cubic metres. The effects of the Forest Industry Development Division were reflected in their comment that the Millar

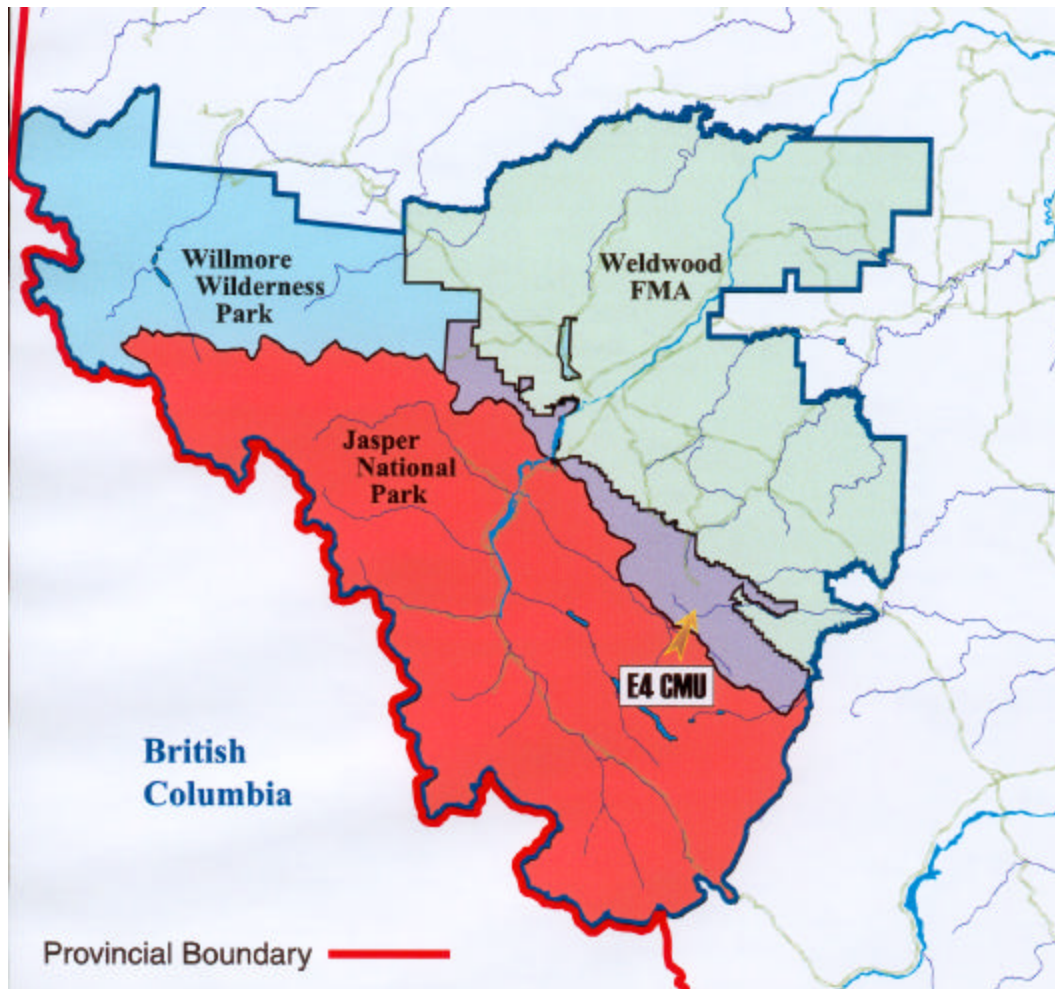
Western pulpmill at Whitecourt in 1988 was the first new pulpmill since the Procter and Gamble mill of 1973; then reported five other new or expanded pulpmills along with numerous other solid wood plants utilizing both coniferous and hardwood stock.

The most recent of the major approved pulpmill proposals was for Alberta-Pacific Forest Industries, announced as the largest single-line pulpmill in the world. This was also a catalytic moment for environmental movements, resulting in vigorous demonstrations and sustained criticism. The government responded by forming two commissions: one to review water and air concerns, the other impacts on forests and forestry. The Expert Panel on Forestry was formed in 1989, reporting in 1990. The four-member panel comprised Bruce Dancik as Chair, Lorne Brace, John Stelfox and Bob Udell of Weldwood's Forest Resources. One of their recommendations led to the Alberta Forest Conservation Strategy exercise, a multi-stakeholder consultation group established in 1994 and whose 1997 report was published as the *Alberta Forest Conservation Strategy*. The government's response took the form of an action framework released in February 1998 as the *Alberta Forest Legacy: an implementation framework for sustainable forest management*. A Forest Management Science Council was established in March 1996 to advise how science could be applied to achievement of SFM. It reported in the form of a management protocol in January 1998, and its recommendations were incorporated into the *Forest Legacy* document.

In 1999 three Forest Land Use Zones (FLUZ) were established in or near the FMA on the Coal Branch, Athabasca Ranch and Brule Lake. These were to protect sensitive sites and minimize disturbance of elk. The *Special Places 2000* program affected several areas on the FMA and a number of proposed sites was submitted by the Company.

The importance of forest research also came to the fore -- in 1989 the industry-government Alberta Forest Research Advisory Council was formed, replacing the previous 1974 Forest Development Research Trust Fund. When new sawlog stumpage rates were negotiated with the industry in 1994, provision was included for a portion of that stumpage to be set aside in a dedicated fund to be used to support approved forest management activities -- such as research - over and above regulatory obligations. This fund, the Forest Resource Improvement Program (FRIP) was subsequently (1997) transferred to the Forest Resource Improvement Association of Alberta (FRIAA), an arms-length administrative organization established to administer the fund. Also following was increasing involvement of the Alberta Research Council in forestry and wildlife research. Then a University of Alberta-led consortium successfully applied to establish a National Centre of Excellence in Sustainable Forest Management at the U of A through a program of the Natural Sciences and Engineering Research Council of Canada (NSERC). More recently a Centre for Enhanced Forest Management supported by Weldwood, Weyerhaeuser and NSERC was also established at the university. Research in the Hinton area was boosted by its designation as the Foothills Model Forest in 1992 under Environment Canada's national Green Plan (Figure 16). This program was

Figure 16. Foothills Model Forest – established 1992 with Jasper National Park added in 1995.



administered by Natural Resources Canada until 1997 when it was assigned entire responsibility for funding and direction.

A three-member sub-committee of the Standing Policy Committee on Natural Resources and Sustainable Development was chaired by Wayne Jacques, MLA from Grande Prairie-Wapiti to review government policy with respect to Agreements. Their June 1996 report confirmed policies which had evolved through negotiations with Weldwood and others. However, it also resulted in recommendations for profound changes in terms for renewal of Agreements with increased emphasis on investment and economic contributions. It certainly influenced Weldwood's 1998 amendments.

Within the AFS, Free-to-Grow legislation was passed in 1991, with terms negotiated with forest industry, designed to ensure sustained yield. Silvicultural practices were enhanced through increased ecological considerations. Management planning increasingly emphasized integrated resource management, and greater attention was being paid to Aboriginal and Metis rights and entitlements. Major forest fires in 1998 and 1999 were a reminder of the persistent inherent risk from wildfire; it also highlighted the increased vulnerability of Alberta's forest industry to threats to a wood supply, which had been increasingly allocated. The AFS continued under the Department of Forestry Lands and Wildlife until 1992. Ralph Klein succeeded Don Getty as Premier and reorganization later resulted in AFS becoming part of a new Department of Environmental Protection, then Department of Environment, and in 2001 to a new Department of Sustainable Resource Development. Government fiscal policies also resulted in significant downsizing of government departments, in part based on a philosophy of increasing self-regulation by industries. As part of this process Lands Division was combined with AFS in 1992 becoming part of a new Land and Forest Service (LFS).

Fred McDougall retired in 1989, Cliff Smith became Deputy Minister, taking early retirement in 1992. Ken Higginbotham was named ADM for the AFS in 1989, but left to work with forest industry in 1995. At that time Cliff Henderson was appointed ADM. In 1999 the Premier announced and unveiled *Alberta's Commitment to Sustainable Resource and Environmental Management*. This led to some major changes in government departmental organization and structure. A new Department of Resource Development took over the Forest Industry Development Division (FIDD) of Alberta Environment. For a brief time (1999-2000), the new department had an Associate Minister of Forestry, Mike Cardinal, but this position was phased out. In early 2000, FIDD was given the lead role in forest management agreement negotiations under the *Forests Act* for the province. The LFS remained at the negotiating table, dealing with the management and administrative sections of the negotiations in 2001 the two were brought together again under the Land and Forest Division headed by Howard Grey. Forest Protection was split off, headed by Cliff Henderson. A new Ecological Landscape Division had been added to LFS and Dennis Quintilio was appointed the new Director to advance the development of integrated resource management in Alberta. In 1992 this unit became part of the reorganized Department of Environment and Quintilio retired.

## Hinton

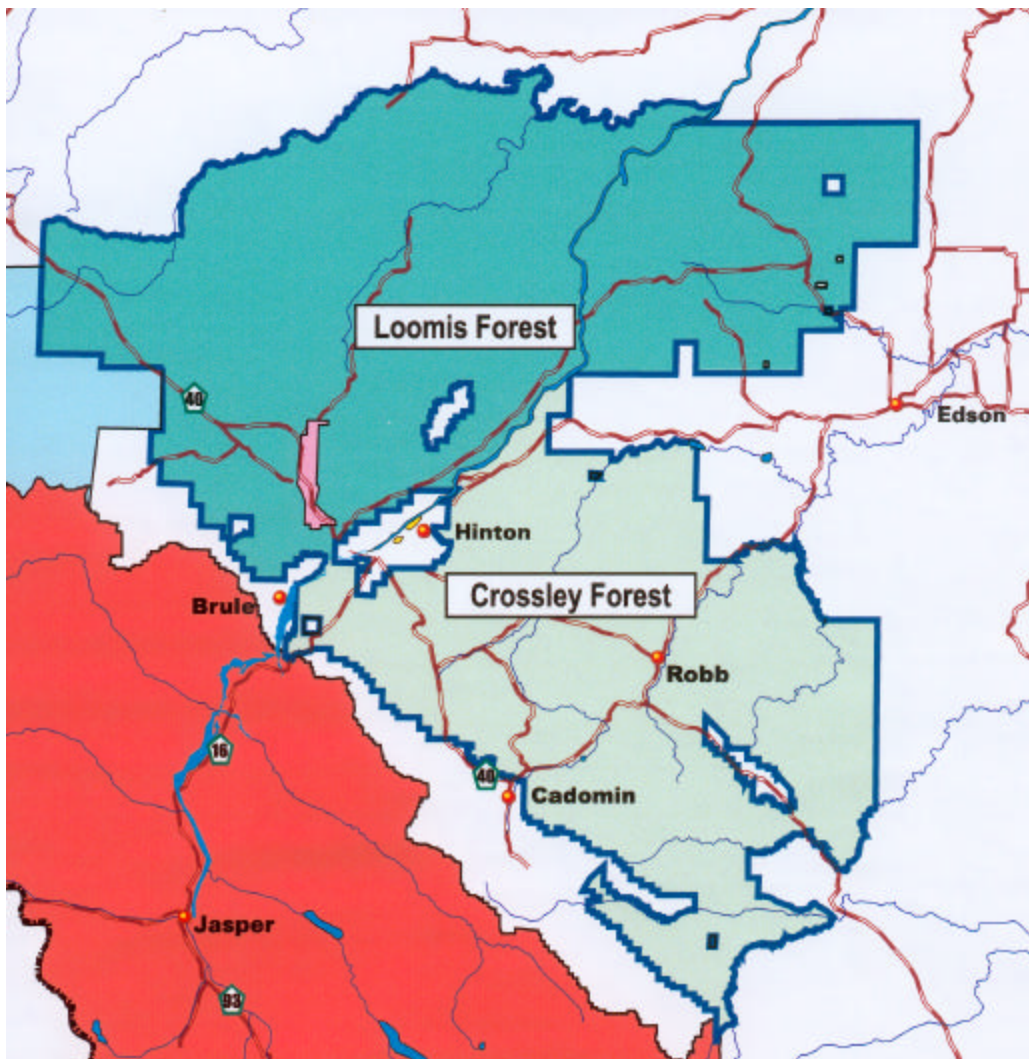
The new Hinton Agreement signed in 1988 enabled expansion of the pulpmill and construction of a new sawmill. The 385,000 tonne pulpmill was opened in 1990, the 220 million fbm Hi-Atha sawmill opened in 1993. However, the expanded area could provide only about 70 per cent of required wood supply. Further, the new sawmill had demanding requirements for size, quality and volume of timber, so it became the primary determinant of wood supply to the mill. The challenges for forest management therefore included those of increasing wood supplies, maintaining wood quality to the sawmill, managing the FMA for sustainability for a broader range of values including biodiversity and visual qualities, and incorporating public participation, all in a cost-competitive process. These objectives are being pursued through a number of technical forestry and resource management innovations within a sustainable forest management context.

Weldwood hired their first wildlife biologist, Alberta's first forest industry biologist, Rick Bonar in 1988. Then, a Company-government Integrated Resource Management Steering Committee (IRMSC) was formed to enhance collaboration. This launched an expanded wildlife, biodiversity and recreation program. Two more biologists were added in 1994.

Public participation in Weldwood's forestry planning was begun in 1989 through the Forest Management Liaison Committee. This was the first such industry group in Alberta. It was reorganized in 1993 as the Forest Resource Advisory Group. Among its achievements were major inputs to the 1991 and 1999 forest management plans, and review and refinement of the Forest Harvesting and Operating Ground Rules published in 1996.

A broad coordinated approach was taken by the Company to addressing forest management and wood supply. Activities included employing a tree improvement forester (again), joining the Huallen Seed Orchard in 1994, membership in an inter-provincial growth and yield cooperative, and introduction of the Linked Planning Process (developed with the LFS), Crossroads Enhanced Forest Management, Intensive Silviculture, and ecological classification/pre-harvest assessment programs. Milestones included selection of the Weldwood area as the Foothills Model Forest (1992) and celebrations of planting the 50 millionth tree in 1991, 100 millionth in 1999. By 1997 the Company forest was certified by Alberta ForestCare, and celebrations marked planting of the 90 millionth seedling, and the 40<sup>th</sup> anniversary of first pulp production at Hinton. Part of those celebrations included renaming the two sustained yield management units of the FMA after Des Crossley and Reg Loomis (Figure 17).

Figure 17. Weldwood forest management area after working circles consolidated into two Forests named after pioneers Des Crossley and Reg Loomis.



Two revised Forest Management Plans were submitted, the 1991 FMP incorporated planning for the expanded area, the 1999 FMP was restructured to reflect the Company commitment to sustainable forest management. The 1999 FMP was the first management plan in Alberta, perhaps in Canada, to include an explicit analysis of forests, wildlife and hydrological interdependencies. The Company received registration of its FMA as a sustainably managed forest under the demanding Canadian Standards Association Standard for SFM in 2000.

Don Laishley transferred to Vancouver in 1996. In the meantime Dennis Hawksworth had moved to Hinton in 1988 as project manager to design, build and operate the new sawmill. He was appointed General Manager of Forest Resources and Hi-Atha in 1996, and Vice President of Hinton Forest and Solid Wood in 1997. In 1996, Forest Planning and Forest Operations were merged under one manager, Bryon Muhly. This freed Bob Udell to head Policy and Government Affairs, a position in which he could focus on forest policy relationships with government, as well as his responsibilities as president of Foothills Model Forest. In 1999, Jim LeLacheur became General Manager of Forest Resources and Lumber. Bryon Muhly was appointed Manager, Resources Optimization, Alberta focussing on optimization of fibre exchanges for Weldwood's facilities throughout Alberta. Rick Kziesopolski was hired in 1999 to replace Muhly as Forest Resource Manager.

## **Introduction**

The philosophy of the Forest Resources group, since 1986, was to try to effect integration on a number of fronts, including integration of the administrative, planning and operations functions within the department, integration of forestry and logging, integration of planning for forest values including biodiversity and timber supply, and integrating timber supply to meet the needs both of the sawmill and pulp mill. Once the 1988 Agreement was in place, no further amendments to the Agreement were seriously contemplated. However, some of the issues previously discussed surfaced again and were resolved through additional negotiations that resulted in further amendments.

## **Latent Issues in 1992**

Provisions of the 1988 agreement remained in place without serious dispute for over five years, until 10 November 1993. However, two letters in the meantime raised questions about latent issues.

On 10 December 1992 K.O. Higginbotham, ADM for the Alberta Forest Service, sent a letter to Don Laishley, Manager of Forest Resources, apparently in response to Laishley's inquiry about utilization of deciduous timber.<sup>190</sup> The letter reminded Laishley that the Company had to submit a satisfactory plan to the Minister by 14 June 1993 that provided for the full utilization of the deciduous timber.

The second letter from Higginbotham on 11 December 1992<sup>191</sup> advised that the department had cancelled coniferous quota certificates E8-Q3 and E10-Q1, thereby negating the chip direction clause for those areas cited in the agreement. Further, the letter advised that the land base formerly associated with Forest Management Unit E8 and the east part of E10 had been “rolled” into the Procter and Gamble Forest Management Area effective 27 November 1992 -- and also advised that from that date the Company would have to deal directly with Weyerhaeuser Canada with respect to chips from that area. These were the topic of discussions by the Company but the concerns were left unresolved. Bob Udell commented:<sup>192</sup>

In the desire to continue a viable enterprise in Grande Cache, and in the belief -- encouraged by the Assistant Deputy Minister -- that a long-term chip deal could be negotiated with the new owners, the Company voluntarily gave up its rights to chip direction. Clearly this was a condition of the sale.

Unfortunately, a long term chip supply agreement could not be struck with Weyerhaeuser for the Grande Cache chips. Weyerhaeuser, however, continued to sell most of the chips to Hinton, but retained the option to re-route them to its Grande Prairie mill as necessary.

#### **Government Repeal of the “Free Seedlings” clause of 1993 -- and Re-Negotiation of Selected Clauses for 1995**

On 6 December 1993, the Minister of Environmental Protection, Hon. Brian Evans wrote to Graham Bender, President and CEO of Weldwood of Canada Ltd. in Vancouver<sup>193</sup>. The Minister stated that the government was now moving to have industry assume the full responsibility for seed and seedlings on Forest Management Agreement and Quota tenures effective immediately. He then requested (emphasis added): *“I recognize that your FMA addresses the supply of seedlings and seed; however, I am requesting that you voluntarily provide for all seedlings and pay for seed services.”* He expressed the hope that these changes would be accepted by the Company and that they would continue to grow, add their own seedlings, or obtain them from Alberta’s developing tree nursery industry. In this way, he said: *“--- we can avoid protracted negotiations and possible legislative action.”* Evans concluded by asking for a letter within the next two weeks waiving the appropriate clauses of the Agreement, adding that it would be appreciated. This letter was evidently in response to the cost-cutting and downsizing policy of the Alberta government which had been recently inaugurated. The Department of Environmental Protection was faced with a reduction of approximately 30 per cent in its overall budget, as Ken Higginbotham later explained<sup>194</sup>, thus increasing the pressure on the Department to reduce costs and increase revenue s.

In response, Graham Bender advised the Minister on 21 December 1993 that although they understood the fiscal pressures exerted on the government and wished to maintain a high level of cooperation, they did have concerns with this proposal:<sup>195</sup>

We have invested substantially in our Hinton operation and fully expect this to be a profitable endeavour over the business cycle. This investment was made with the

confidence of the Hinton Forest Management Agreement which was the subject of protracted negotiations with significant give and take on many issues to achieve its final balance. Our concern stems from the possibility that there may be other aspects of our FMA for which changes may be proposed in the future and that the balance and integrity of the agreement could be affected. You may know that we have already waived certain provisions respecting the direction of chips from Grande Cache.

Bender concluded by noting that they had also consulted with other members of the forest industry in Alberta and found that they had concerns similar to theirs. In view of that, he said:

--- we believe it would be appropriate for the industry and government to engage in discussions to address these concerns and to clarify your government's intention with respect to forest management agreements. I believe a dialogue on this issue will assist in maintaining the hallmark cooperation present between the forest industry and the Alberta government.

This response set the stage for a series of negotiations about an extended range of items of concern to the Company and forest industry.<sup>lx</sup> This process began on 11 January 1994 when representatives of ten Agreement holders and the Alberta Forest Products Association met with senior staff of Land and Forest Service to discuss the seed and seedling cost transfer. Higginbotham<sup>196</sup> confirmed that the overall budget of the department had been reduced and mentioned several particular aspects that were either underway or being reviewed in order to effect cost reductions to increase revenues, including:

1. transfer of seed and seedling cost to industry
2. forest protection costs during peak fire load years
3. initiating a new system of collecting crown dues for softwood lumber, and
4. a portion of increased government revenues from softwood lumber proposed to be available to improve the forest resource (FRIP) to support approved forest management activities over and above current obligations.

Higginbotham further advised that the Minister of Environmental Protection was very much aware of "stacking costs" to industry; however, the Minister was not prepared to go back on decisions already taken - i.e. the seed and seedling cost transfer and the softwood lumber stumpage increases. Higginbotham concluded his remarks by stating that: "... department and government is prepared to discuss ways and means of "levelling the playing field" as it pertains to the seed and seedling cost transfer and each Forest

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<sup>lx</sup> In a note on an earlier draft of this paper Jack Wright posed the question: "Whatever happened to commitments by Ministers that the Government wouldn't increase costs such as dues, payment of seedlings, etc. as stated in Fjordbotten's letter of 2 February 1988?" He also referred to the Premier's promise that there would not be any significant timber dues increase. This discussion addresses some of these questions.

*Management Agreement holder.*” Subsequent events suggested that in addition to collective action, each Company also entered individually into negotiations with the government with respect to its own particular Agreement and related needs.

In the case of the Weldwood Agreement, negotiations proceeded over the following two years, led by Bob Udell. On 9 March 1995 Graham Bender<sup>197</sup> wrote jointly to the Ministers for Environmental Protection and Economic Development to review the negotiations that had been set in motion in late 1993, and reminding them both that the request to give up the rights to free seedlings represented an annual value to their Company of around \$1.5 million. Bender also pointed out that in late 1993:

The Minister committed that his staff would work with Weldwood to find equivalent value to Weldwood, while not imposing additional financial burden on the Province, through modification of other clauses in the Agreement.

Bender noted that several changes to the Agreement had been negotiated, but added that the key change that offset the additional financial burden on Weldwood was the granting of full rights to the deciduous allowable annual cut (AAC) to the Company. He also noted the commitment that Weldwood would utilize a minimum of 80 per cent of the periodic AAC and that Weldwood would prepare a plan to utilize the hardwood within six months of the forest management plan being approved. He concluded by informing that Weldwood accepted the revisions to the agreement, noting that: “... *in anticipation of the successful conclusion of this process, we will continue to pay the costs of our own seedling supply as we have in good faith since late 1993.*”

The stage had therefore been previously set to provide a means by which the Company and government could explore options to offset the increased costs incurred through repeal of the seedling commitment as well as to address some of the other unresolved issues. These were sorted out through negotiation and the Order-in Council amending the Agreement was passed on 6 September 1995. Among the issues addressed in the O.C. the following eight points are particularly worth noting.

#### **a) Deciduous Timber Rights**

The major change to the agreement was stated simply in the revised Clause 7 (2):

The Company shall harvest all deciduous timber approved for harvest under each approved annual operating plan; and make available annually to others who operate wood products manufacturing facilities in Alberta any deciduous timber ... which is not utilized by the Company.

For the first time, this gave the Company timber harvesting rights that were not attached to utilization in one of its own facilities. This left the Company in a position to either use the wood itself or to use the wood for trade or sale in order to help to make up its shortfall in coniferous wood supply on the FMA.

## **b) Livestock Grazing**

The Company had long complained to the province about the impact of uncontrolled as well as licensed grazing, mostly horses, on its reforestation areas. The demand for grazing was increasing and the Crown would not agree to eliminate licensed grazing. This paragraph revision confirmed the right of the Minister to authorize domestic stock grazing, but added the provisions that it could only be done after consulting with the Company and that the growth performance of the managed tree species (both deciduous and coniferous in this case) would not be impaired and that regeneration would not be damaged by domestic stock grazing, and provided that the Company's rights to manage the area for timber production was not significantly impaired. This left the Minister with opportunities to allow stock grazing in the philosophy of multiple use, but enabled the Company to add constraints as necessary to protect reforestation and timber production.

## **c) Small Timber Permits**

The right of the Minister to offer limited numbers of small timber permits for public works and local residents had been in place since the first agreement. This amendment adds the requirement for consulting first with the Company and also stipulates maximum volumes (8500 m<sup>3</sup> coniferous and 1500 m<sup>3</sup> of deciduous annually) rather than referring to the previous limit of 0.5 per cent of the approved AAC. As well, if the Company through its own efforts, increased the AAC, that increase would not then increase the total cut available to small timber permits.

## **d) Stewardship Agreement**

A new enabling sub-clause (3) was added under paragraph 8:

--- the Company and the Minister may enter into an agreement for forest management activities on the Forest Management Area which will define and outline the roles and responsibilities of each party with respect to the planning and operational activities on the forest management area.

This is a generally worded permissive clause intended to enable some freedom of choice and flexibility of operations on the part of the Company to negotiate assumption of selected responsibilities for doing more with respect to other land management activities. This has been referred to as the "Stewardship Clause". It holds promise to enable an expanded role for the Company, for example, to assume management of selected campgrounds. However, it would require faith and good will on the part of all parties to make it work. A potential risk, as Udell commented: *"the downside is the risk of heavy handed retribution and substantial penalties if we fail to deliver on our commitments."*

## **e) Minimum Harvest Levels**

Clause 11 was amended to stipulate that the Company shall harvest a minimum of 80 per cent of the periodic allowable cut in each cut control period -- in contrast to the variable table of harvest requirements stipulated before.

A major departure to previous agreements was the recognition that wood chips and roundwood timber purchased by the Company from Alberta sources may, at the discretion of the Company, be considered 'harvested' under this agreement within the applicable five year cut control. Up to this point the Company was under pressure from the regulations to meet its levels of minimum harvest. As a result there was a *de facto* disincentive to purchase outside wood. This new arrangement provides additional flexibility to the Company to adjust harvest levels in response to availability of outside wood. It represents the first time that purchase of outside wood could be formally recognized as not jeopardizing minimum harvesting requirements.

#### **f) Defined Responsibility for Inventories**

The previous paragraph 15 required the Company to conduct all surveys necessary for forest management plans and operating plans "*at its own expense*". Traditionally, that had only involved forest inventories. However, but ecologically-based management requires a number of additional surveys and inventories such as wildlife habitat, landscape, aquatic systems and ecological site classifications.

The revision confirms the requirement that the Company shall at its own expense conduct such forest inventories on the FMA as are necessary to prepare their required plans, and shall also maintain the inventory as well as updating it annually to reflect growth and depletions in reforestation. This requirement is specific to management of the forest for timber production.

The revision requires that all information and data related to the FMA that has been collected by the Company shall be made available to the Minister free of charge upon his request for use in matters relating to the agreement or such other uses as agreed to by the Company.

A significant point in the amendment is that the term "*at its own expense*" applies only to the forest or timber-related inventories. This provides the opportunity for the Company to apply for funds from other sources to assist with the non-timber related surveys.

#### **g) Reforestation - Seedlings and Seed Services, Intensive Silviculture and Supplemental Reforestation**

This related to the catalytic request from Minister Brian Evans in his 10 November 1993 letter that led to this amended agreement. Under this new paragraph the Company remains responsible for ensuring regeneration on all land cut over by the Company. However, paragraph 23 which previously provided for partial seedling reimbursement, and free tree seed services was repealed, as Evans had initially requested. The replacement clause states in essence that the Company shall "*at its sole expense*" furnish

all of the coniferous and deciduous seedling trees and propagules required for its reforestation needs, and that these should be produced in accordance with rules established by the Minister.

The previous clauses about intensive silviculture and supplemental reforestation were repealed and a new single clause substituted that essentially enables the Company and the Minister to enter into an agreement which would define programs and conditions designed to carry out silviculture programs on lands on the FMA capable of supporting tree growth on which the timber was cut over by individuals other than quota holders or the Company, or destroyed at any time by natural agencies and which nature had failed to restock to the required standard. This is permissive and provides flexibility for inauguration of supplemental programs as mutually desired and as funds permit.

### **Intensive Silviculture**

Paragraph 27 of the 1988 Agreement permitting the Company to practice more intensive silviculture under an agreement between the Company and the Minister was also repealed, and new conditions substituted. The intent remains essentially the same -- that the Company at its own expense could implement intensive silviculture programs designed to increase the allowable annual cut. Additional AAC resulting from the Company's efforts "*shall be offered*" by the Minister free of timber dues, but the additional AAC would only be offered free of dues after the Company had fully utilized the annual AAC approved in the Company's management plans.<sup>lxi 198</sup>

Two important points were added. The first was that where significant areas of intensive forest management had been developed by the Company and clearly identified, the Minister shall reserve such lands for the future use of the Company in accordance with section 17 (d) of the Public Lands Act, in order to minimize any potential damage from industrial activities -- thus providing explicit protection for these intensively managed areas. The second point was that the increased AACs agreed upon were not to be used for the purpose of calculating the periodic AACs for cut control purposes as specified previously.

This resolution also set the stage for the Company's commitment to a program of enhanced forest management, picking up from Crossley's 1970 proposal.

In summary, the opportunity for re-negotiation of the agreement that was triggered in response to Hon. Brian Evans' letter of November 1983 enabled resolution of many of the issues and uncertainties that had concerned the Company at the conclusion of the 1988 agreement. However, at the same time, it enabled the government to honour its unilaterally-declared political commitment to end the provision of free tree seedlings.

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<sup>lxi</sup> Wright expressed a residual concern that if increased AAC from intensive silviculture is used to offset withdrawals from the FMA, why shouldn't that amount be dues free -- otherwise the Company would never realize the financial benefit of intensive silviculture.

### **Further Amendments to the 1988 Agreement -- O.C. 17/98 -- 21 January 1998**

In 1996, chip direction became a political issue in Alberta, culminating in a commitment by the Province to remove such provisions from Quota certificates. Also, the Province was entering negotiations with a number of quota holders with the intent of converting their rights to Agreements. Recognising that both these initiatives again impacted Weldwood's Agreement rights and the promised security of wood supply, the Crown approached the Company to engage in negotiations to remove such quota direction. Negotiations began late in 1996 and continued through 1997. As explained by Bob Udell:<sup>199</sup>

Obviously the experience at Grande Cache left the Company very wary about unsecured chip supplies. Negotiations began on two fronts. Udell led discussions with the Crown on potential Agreement revisions and offsets while Muhly advanced negotiations with other companies to reach strategic fibre supply agreements which would remove the need for formal chip direction.

In the end, most of the quotas with chips identified as "directable" to Weldwood under the 1988 Agreement were folded into new Agreements held by Sundance Forest Industries and Weyerhaeuser Canada at Drayton Valley and Edson. Both these Agreements include chip direction clauses representing the formerly directable quota volumes. Additionally, three Drayton Valley quotas held by Weyerhaeuser which were not rolled into its new Agreement were retained as directable. All these "directable" clauses were subsequently removed in conjunction with the 2000 Agreement negotiations, upon conclusion of successful long term fibre agreements.

Bryon Muhly and his team negotiated a strategic fibre agreement with Sundance Forest Industries, and another with Weyerhaeuser was completed in 1999.

Two Memoranda-of-Agreement emerged from negotiations with the Crown. One resulted in O.C. 17/98, amending the 1988 Agreement once again. It deleted clause 18 - dealing with outside wood supplies. The substitute clauses maintained the same intent, including the requirement for the Company to make efforts to purchase roundwood within the Province. A new clause added the same requirement with respect to chips. Directable chips from designated Agreements and quotas retained much of the original directed volume, less the Grande Cache chips relinquished earlier. New provisions removed the Minister's obligation to direct merchantable timber if the Company failed to purchase it, and specified that the chip direction would be maintained until 14 June 2008, or five more years if their Agreement was extended.

The second Memorandum was not to be included in the revised Agreement since it dealt more with administrative and policy matters within the purview of the Minister and senior Company policy representatives. This Memorandum contained most of the "offsets" needed by the Company in return for the rights lost under the revised Agreement. It provided for:

1. Wood Supply -- a continuance of wood supply from Grande Cache through non-competitive permits should the mill there cease production. Also, chip direction would be added back into the obligations of any new owner.
2. Offsets to the erosion of landbase -- an intention by the Minister to return reclaimed coal mining lands to the FMA in a productive state when available for disposition. This included local mines within and external to the FMA boundaries.
3. Full utilization and purchased wood opportunities from Crown FMUs -- a commitment by the Minister that any timber dispositions issued in FMU E4 (formerly E4, E5 and E11) and the Cache Percotte Forest would be done on a competitive basis to individuals who must process the wood in facilities which include debarking and wood chipping capacity.
4. Utilization of undercut arising from start-up -- an undertaking by the Company to balance its harvest to the sustainable AAC for the 20-year term of the Agreement (1988-2008).

The second point reflects Company concern about maintaining as much as possible the extent of its land base. It is interesting that the agreement stipulated that the returned lands be “*in a potentially productive state.*”

### **Continuing Discussions and Refinements from 1990**

As conditions have changed since 1954 the Agreement documents have also changed through negotiation of new agreements and amendments to the ones in force. Although the 1988 agreement has been amended twice, in 1995 and 1998, as noted, policies and practices continued to evolve through means and events other than legislation. Some of the influencing developments include the following. There were 16 of particular note during the dynamic decade of the 1990s.

#### **a) Integrated Resource Management Steering Committee (IRMSC) 1988**

Senior officials from the Company, the AFS and Fish & Wildlife Division met in 1988 to discuss a collaborative approach to integrated resource management on the Weldwood FMA. From these discussions arose the Integrated Resource Management Steering Committee -- IRMSC. This committee is charged with developing and implementing an integrated resource management program on the FMA. Members include Weldwood's management forester and chief biologist, along with their counterparts from the LFS and Natural Resources Service (NRS). When plans are agreed to, each agency commits to playing its regulatory or delegated role in implementation -- recognising that everyone has a part to play if IRM is to be achieved. Disputes are referred to senior regional government and Company management.<sup>200</sup>

#### **b) Expert Review Panel and Report 1990**

This four-member panel, of which Bob Udell was a member, was formed by the Minister of Forestry Lands and Wildlife in early 1989 in response to public concerns about the impacts of forest harvesting. Its 1990 report was based on briefs, questionnaires and public hearings. The Brundtland report (Our Common Future) <sup>201</sup> was cited, and clearly the report reflected concepts of sustainable forest management -- ecosystem-based and reflecting a wide range of values and products. This was an auspicious introduction for the 1990s. Among major points of emphasis were an integrated resource management approach to both planning and operations, public participation, expanded inventories for a broader range of values, and improved growth and yield calculations. Of particular interest was the comment that environmental impacts in forest landscapes could be addressed most effectively by expanding and refining the ground rules process and by periodic audits of forest management by the ECA -- and that environmental impact assessments (EIAs) were neither designed for nor appropriate for forestry programs. These points have all been reflected in Weldwood's operations and in government policies.

Also important was a recommendation for a forest conservation strategy for Alberta that led to provincial consultations and publication of Alberta's Forest Conservation Strategy.

#### **c) 1991 Forest Management Plan**

The FMP process provides an opportunity to reflect on performance, to adjust the course of management practices and to set new objectives. The 1991 FMP was the first for the 1988 agreement and included an expanded set of objectives including sustaining coniferous yield, scheduling balanced operations, improving stand vigour, and integrating renewable resources management. This was clearly a forward-looking transitional document that provided a focus on managing for specific ecosystems through space and time to conserve wildlife species and to integrate other uses. In its concluding statement, reference was made to the data collection and analysis that would occur and several special studies which would be completed before the next FMP and suggested that the 1999 plan would be still more comprehensive in the spirit of sustainable forest management.

#### **d) Forest Management Liaison Committee/Forest Resources Advisory Group (FRAG) 1989**

In 1988, ADM Ken Higginbotham met with the forest management agreement holders in Alberta. He advised them that, based on public sentiment about forest management in the province, the government believed that industry should consult the public more extensively in developing its forest management plans. He challenged the industry to develop an expanded process, promising that the province would do the same for crown management units. He also advised that, if industry chose not to respond to the request, the province would define such a program and impose it on industry. The Agreement holders agreed to accept the challenge, and Weldwood was first off the mark.

The precedent-setting public advisory group, the Forest Management Liaison Committee (FMLC), set up in 1989 was reorganized in 1993 as the Forest Resource Advisory Group (FRAG). This working public advisory group comprises representatives of about 20 interest groups including governments, chaired by an elected member, with meetings run by a paid facilitator. This is the major public participation process, but not the only one. FRAG has had a major influence on forestry practices, as noted later in this list.

#### **e) Foothills Model Forest 1992**

Weldwood and the province, along with the Forest Technology School, collaborated in a proposal for one of Canada's 10 model forests in a nation-wide competition in 1991. The awarding of the model forest to Hinton in 1992 set in motion an unprecedented period of co-operation and collaboration in the development of research and application of a wide spectrum of forest management challenges. Led by a Board of Directors representing the major land managers within the model forest borders, including Jasper National Park which joined in 1995, the Foothills Model Forest program has gained national and international recognition for the area. Directed research on integrated resource management has resulted in many changes in forest management in the area. Weldwood cited 11 specific applications of model forest research in its 1999 forest management plan. The criteria and indicators program of the model forest was adapted to the 1999 forest management plan as well as the 2000 sustainable forest management program prepared as support for its forest certification.

#### **f) Forest Harvesting and Operating Ground Rules (OGR) 1996**

An early and major task selected by FRAG was to work with the Company and LFS/NRS negotiators to develop an expanded Ground Rules which addressed the concept of sustainable forest management. As might have been expected, the process took longer than proposed, spanning three years. However, the exercise provided an ongoing opportunity for discussion of both technical details and philosophical principles, proving to be an educational experience for both FRAG and the Company. And the selected goals set the stage for the 2000 forest management plan revision.

#### **g) Crossroads 1993, Tree Improvement 1995 and Enhanced Forest Management 1996**

These three Company initiatives were designed to meet objectives of the forest management plan. The Crossroads report of 1993 emphasized the importance of silviculture and recognized that silviculture was a responsibility of all Forest Resource department operations. It led to a closer integration of silviculture into the entire forestry process from planning through harvesting and post-harvesting treatments.

The tree improvement and enhanced forest management reports offered specific activities that would support an improvement of allowable annual cut on the FMA.

This improvement was deemed necessary as an offset to lands set aside for other purposes, e.g. biodiversity conservation, as well as an increase in overall AAC. The tree improvement and enhanced forest management reports are noteworthy in their similarities to the 1970 Crossley report which proposed essentially the same program. The 1995 and 1996 reports were adopted by the Company, not because their arguments were more compelling, but because the wood supply was immediate. They also made the case that increased AAC through intensive management could come at lower cost than purchased wood and also, because it would come from the company's landbase, would be more certain than open market purchases.

#### **h) Linked Planning Process 1994**

In 1994, a joint Company/AFS committee was struck to develop a planning process for sustainable forest management. Company management, considering the levels of harvest at full AAC, was concerned about the impacts on long term sustainability should the assumptions and strategies contained in the higher level FMP not be reflected in development and operational plans.

As part of the approach, the Company invested more funds in the silviculture program. The Linked Planning Process was designed to institutionalize adaptive management, applying Baskerville's six steps to forest management<sup>202</sup> including measurable objectives, monitoring results, and a feedback mechanism to reassess practices where results were not meeting objectives. The process was integrated into all planning phases from annual to ten-year plans.

This ground-breaking process was applauded by ADM Ken Higginbotham as the mechanism he needed to delegate more authority and resulting accountability to registered professionals. The new Forest Management Planning Guidelines for Alberta (1998) entrench this process in provincial policy.

Meanwhile, in 1995, the next suite of recommendations was accepted, dealing with the development and implementation of a tree improvement program. A program of Enhanced Forest Management was implemented in 1996 to enhance the productivity, value and AAC of the FMA. These comprised a suite of strategies to increase growth, capture mortality through thinning and a number of alternative silviculture systems designed for specific sites and stand conditions.<sup>203</sup>

#### **i) Enhanced Forest Management Task Force Report 1997**

The 1996 Jacques Report recommended, among other things, that forest industry be encouraged to practice intensive forest management. This was also one of the three 'legs' of the triad in the 1996 Alberta Forest Conservation Strategy.

A joint AFPA/LFS Task Force, co-chaired by Trevor Wakelin and Bob Udell, backed up by technical experts including Paul Hostin and Hugh Loughheed of Weldwood, and Daryl Price of the LFS, developed a comprehensive report

recommending a direction in which the province should proceed in responding to these two reports.<sup>204</sup> Udell and Wakelin presented the recommendations to Minister of Environment Ty Lund, and the Standing Policy Committee in early 1997 where it was warmly received.

This led to further industry/government activity in developing policies and procedures for the application of enhanced forest management on Crown lands in Alberta. This work culminated in late 1999 with necessary changes in policy, regulation and guidelines.

Weldwood dedicated considerable effort to the task force report and subsequent activities, because the need was apparent to increase its AAC through intensive management, and to document such increases.

#### **j) National Consultations 1992-1998**

The Canadian Council of Forest Ministers (CCFM) developed a Forest Sector Strategy for Canada in 1987 through consultation with selected stakeholders. Following release of the Brundtland report that same year, it became apparent that neither the scope of consultation nor the range of values addressed in the first CCFM Strategy was adequate. In 1990 CCFM launched a series of national consultations and questionnaires involving a wide range of interests. These culminated in 1992 with a first National Forest Strategy (NFS)<sup>205</sup> and signing of Canada's National Forest Accord. Weldwood endorsed the accord through membership in the Alberta Forest Products Association. The NFS essentially described the component elements of sustainable forest management listed under the headings of ten strategic directions and contained 96 commitments. Progress was evaluated after five years by a Blue-ribbon committee and a second national review took these commitments a step further in 1998.<sup>206</sup> In the meantime, the National Round Table on the Environment and Economy set up a Forest Round Table on Sustainable Development, also comprised of representatives of a wide range of interests, of whom Don Laishley, then Weldwood's forest resources manager, was a member. The 26 principles listed in their 1994 final report gave further direction to the achievement of sustainable forest management.<sup>207</sup> Following the 1992 NFS, CCFM organized a second national consultation to develop criteria and indicators to define on a national scale how progress towards sustainable forest management was being achieved. Their 1995 report<sup>208</sup> described more specifically national expectations for SFM.

#### **k) Forest Certification 1996**

While national and international strategies for sustainable forest management were being developed, thought was being given to the development of standards that could be used to certify performance that would lead a forest to a sustainable state. Three such systems emerged in 1996 which would influence forestry practices in Alberta. The Canadian Standards Association standard for sustainable forest management was developed through multi-interest consultation. It adopted the CCFM criteria as the

governing conditions for the forest, required a sustainable forest management system which incorporated public participation, goal setting, monitoring and a feedback loop incorporating adaptive management. Certification of a defined forest area would be awarded after a third-party audit. The Forest Stewardship Council, supported by the World Wildlife Fund for Nature, developed a similar system based on adherence to a set of international principles with a sub-set developed by regional committees. The Alberta Forest Products Association developed its own ForestCare system governed by similar principles but with second- and third-party audits. These standards essentially incorporate the requirements for sustainable forest management articulated during national and global consultations.

The International Standards Organization (ISO) also extended its systems-based management standards to the environmental and forestry sectors. However, in this approach there is no audit of performance of the system in the forest.

### **1) The Jacques Report 1996**

This report was developed as an Alberta government initiative through its standing policy committee on natural resources and sustainable development, a sub-committee chaired by Wayne Jacques, MLA from Grande Prairie-Wapiti. Its report in 1996 contained ten recommendations developed, as indicated in the report: “*in consultation with existing FMA holders.*” It re-emphasized the basic principles of sustainability, fairness, security of tenure, stability and maximizing value from the timber resource. However, the recommendations suggested a more politically-driven agenda to try to increase revenues to the province, increase corporate investments in the forest and value-added production, and sharing the value of the forest through strategic partnerships with other forest tenure holders.

In concept the Jacques report and subsequent government endorsement stipulated that in order to renew an agreement the company had to show more than just adherence to the previous terms. Requirements for renewal included further investment in manufacturing capacity for value-added production and greater economic activity, enhanced forest management to ensure sustainability and increased social benefits, or some combination of these.

The recommendations were sent to the Alberta Forest Products Association for review and comment. One of the more significant proposals was for a form of an ‘evergreen’ clause that required a mid-term review at 10 years which, with agreement, would result in a 10-year extension of the agreement. It also provided for a 20-year renewal at the end of the nominal 20-year term. This was intended to ensure that a company would have an assured term of agreement of between 10-20 years at any one time.

The AFPA formed a Forest Management Agreement Renewal Task Force (FMAR Task Force) comprising senior members of six Agreement holders and chaired by Murray Summers. In a 24 July 1998 letter to Cliff Henderson, following meetings

with LFS and internal AFPA deliberations, Summers summarized five of the 26 strategic directions required for the Alberta forest products industry to reach its potential that reflected the importance of tenure. After discussing implications of the 10- and 20-year renewals, he listed examples of actions that could be taken to meet the objectives for economic, social and environmental considerations. This report was never accepted nor rejected by the Province, although the FIDD -- now responsible for Agreement renewals -- took steps to reconvene the task force in 2001.

The Jacques Report had an immediate influence. The new Agreement for Sundance Forest Industries, whose O.C. was dated December 1996, included the “evergreen” clause. They were also clearly reflected in the renewed Agreements with Millar Western and Vanderwell in 1997, and the Canfor, Daishowa (DMI) and Blue Ridge agreements of 1999. They certainly influenced the 1998 amendments agreed to with Weldwood, and, at the time of writing in 2001, negotiations for a 20-year renewal under the “evergreen” clause had already begun.

#### **m) Alberta Consultations**

In the spirit of public consultation, Alberta established the Alberta Forest Conservation Strategy in 1991 as recommended by the expert review panel. This multi-interest group held public hearings and met frequently, reporting in 1998. Their recommendations were considered in the government’s Forest Legacy document. The government also formed a Forest Management Science Council in 1995 to explore how science could contribute to enabling the transition to sustainable forest management. The recommendations in 1998 incorporated philosophies of the Forest Legacy and application of a closed-loop sustainable forest management system incorporating public participation.

#### **n) Special Places in the Forest 1998**

In the meantime, a government-appointed Special Places committee held hearings and received briefs to establish protected areas or “Special Places”. Considerable dissension developed over the extent and conditions of protected areas.

Weldwood became involved in the program in 1996, when the province advised that it was considering withdrawing 60,000 ha from the Company’s FMA for Special Places designation. It pointed out the difficulties this would present to the province as well as the Company, and offered to propose alternatives. This process was accepted, and Weldwood announced its *Special Places in the Forest* program in 1998. This program proposed that areas with unique and special value be given unique and special management consideration ranging from official protection to intensive treatment for priority values. *Special Places in the Forest* contributes to the framework for the Company’s biodiversity and landscape management program. It includes protected areas connected by special management zones; unique areas of historical significance; recreational trails; provincial recreation areas; and Company-

developed campsites. The sites were reviewed by a local committee of Yellowhead County chaired by councillor Jack Williams. The committee report went to the Minister in early 2000, and following further review and adjustment the final site selection passed the Standing Policy Committee in December 2000.

In addition, access-restricting Forest Land Use Zones (FLUZ) were set by LFS on the Coal Branch and Brule Lake to protect sensitive sites, and on the Athabasca Ranch to minimize disturbance to elk.

**o) Handbook of Forest Stewardship 1999**

Forest workers are at the front line of applying principles of sustainable forest management. Weldwood developed a program of Forest Stewardship to train field workers to understand the science behind forest practices. This is done through training in cooperation with the Environmental Training Centre at Hinton and field demonstrations. In 1999 a profusely illustrated Handbook of Forest Stewardship was printed as a reference guide to best management practices (BMPs) for workers. Topics include the dynamics of the forest ecosystem, soil, watersheds, silviculture and wildlife and protection. The program also includes an accreditation program for loggers that incorporates both pride and performance.

The handbook and Weldwood's program were acknowledged by Wildlife Habitat Canada, which awarded the Company its Forest Stewardship Award at the Thunder Bay sustainable forest management conference in the spring of 2000.

**p) 1999 Forest Management Plan and the Sustainable Forest Management Plan 2000**

The 1999 FMP represented a major departure, for the first clearly oriented towards sustainable forest management. Goals were described using the format of the CCFM criteria to try to bring it more in line with the sustainable forest management system advocated by the Canadian Standards Association. The Company obtained CSA certification of its FMA in 2000 following a successful third-party audit. The Sustainable Forest management Plan requires an annual update for the compliance audits.

## **Evolution of the Forest Management Agreements**

### **3.6 Period 2000 and Beyond**

#### *Some Ongoing Issues*

##### **Introduction**

Several ongoing issues continue to influence the Agreement and how it is applied. Four of these are discussed in this section. Resolution of these and others is expected as the same traditions of consultation and negotiation are continued.

##### **Costs of Sustainable Forest Management and Increasing Responsibility**

As discussed previously, sustainable forest management requires consideration of a broader range of values that complicate the forest management planning process. Accommodating these additional values may also result in reduced AACs or, at least, may constrain efforts to fully increase them through silvicultural treatments. The government and the Alberta Forest Products Association have already committed to sustainable forest management through signing the National Forest Accords of 1993 and 1998. Sustainable forest management is also a tenet of the ForestCare program of the Alberta Forest Products Association and of Alberta's *Forest Legacy*. However, it is still necessary to develop an equitable means for sharing the additional costs incurred.

A possible cooperative means to address at least some of the components of sustainable forest management is provided within the 1988 agreement in a so-called "stewardship clause" which states 8(3):

The Company and the minister may enter into an agreement for forest management activities on the forest management area which will define and outline the roles and responsibilities of each party with respect to the planning and operational activities on the forest management area.

This clause was further clarified in the 2000/01 Agreement negotiations:

The Company and the Minister may enter into an agreement for resource management on the forest management area, which will define and outline the roles, responsibilities and authorities of each party with respect to the planning and implementation of resource management on the forest management area, specifically related to resource values not currently the responsibility of the Company under this Agreement.

In the meantime, at the request of the forest industry, the Canadian Standards Association has developed a standard for sustainable forest management<sup>209</sup>, and the Company achieved registration of its FMA in 2000. Evidence of commitment to achieving sustainable forest management may emerge as an important marketing requirement for forest products.

McDougall<sup>210</sup> also reflected on the ability of the Agreement concept to address such issues as biodiversity and paying the costs of sustainable forest management:

As far as biodiversity -- I think that has to happen in the forest management planning work that is done, and the Agreements are flexible enough to allow this. They have to be. Public expectations do change over time. They are not static. And as some of our disagreements over the years have shown, there does have to be some change to the forest management system and the incorporation of biodiversity to the extent that it is needed. It generally has to be expected that not every square inch of every FMA is going to be managed for optimum or maximum fibre production and that there is going to have to be an accommodation. I think policy is already shifted that way and you see public advisory committees being incorporated in FMA reviews. You start to see much more involvement with fish and wildlife managers and biologists in forest management planning work and putting plans in place and determining what is going to be cut and where and when.

... the FMA concept is flexible enough to allow those adjustments to take place. I don't see the FMA system necessarily as an obstacle to incorporating biodiversity and other objectives into forest management. You know at some point in time if it got to the point where it was threatening wood supply then a trade-off is going to have to be made. But that trade-off would have to be made in the economy regardless. I mean if you are going to take productive forest lands and not manage them for fibre production there is an economic trade-off there regardless of your tenure system. So I think it is wrong to blame the tenure system for that. I mean that becomes a public policy debate in its own right and probably can be resolved just as easily under the FMA system as any other and a lot easier than if you had private ownership.

[With respect to costs] I think he who benefits should pay. If you are taking land and managing it for fibre production then I think it is proper and correct that the person utilising the timber should pay all the costs of that. But if you want to set aside land base in areas for other uses, say songbird production or elk production or whatever, then those people who visit the area to enjoy those resources should pay. One of the challenges to public policy is to define a fair and equitable way for other users to bear their share of those costs. It shouldn't all be dumped on the shoulders of the guy who is utilising just the fibre. It should be shared with the people who are enjoying those other benefits as well. Also what I think people are missing now which was recognised many years ago and is no longer recognised adequately by the general public, is that if you want to insist on public ownership of the forest land base, if you want public ownership of forest land, that brings with it a certain

responsibility and a certain obligation of stewardship. If you are the land owner there is only so much that you can fairly ask the tenant to pick up. I mean there is a fairness here. If I am renting a house to you how much maintenance and repair is it fair to ask you do as a tenant if I still own the house? I mean that comes into this too, and particularly when you start managing for benefits other than timber. At some point or other either the user (the direct beneficiary of those benefits), or the landowner have to be involved.

### **Forest Land Management and Cumulative Impacts**

When the original FMAs were written it was presupposed that forest harvesting would be the major land use, in fact later designated as the 'prime' use. However, the extensive impact of energy sector, petroleum and coal, had not been anticipated, nor had the greatly increased year-round recreational use with power toboggans and all-terrain vehicles. The cumulative impact of these activities, combined with the backdrop of natural disturbances has become a concern with respect to conservation of biological diversity and aesthetic features. Many of these influences are beyond the authority of the Company to manage. The previous timber damage assessment mechanism has encouraged more cooperation with the energy sector. The Land and Forest Service in 1999 established a new Integrated Resource Planning division to try to develop workable solutions. However, in the meantime, the further influence of provincial authority has also become necessary. As Udell commented<sup>211</sup>:

Recent concerns about the cumulative impacts of uncontrolled, or at least unintegrated, activities on the land base have led the Province to embark on a new integrated resource management (IRM) process to address this issue. This approach is being prototyped in the North East Slopes Region, with Foothills Model Forest as the heart of the information base for the development of planning tools.

A parallel on-the-ground process is underway by the Alberta Chamber of Resources looking at how the two industries [energy and forestry] can work together to reduce their footprint on the landscape.

### **Environmentalism and Marketing**

The emergence of the environmental movement in the early 1970s has served to sound alarms about a host of problems affecting the global ecosystem. Among these are water, soil and air pollution, loss of agricultural soils, forest degradation, endangered species and spaces, and climate change. Some of those whose mission is directed at forests have focussed on such questions as 'old growth', wildlife habitat and forest species diversity, fragmentation, wilderness and forest harvesting influences on soils and watercourses as they affect fisheries habitat.

Actions by the Company, some in anticipation of these very problems, others in response to them, have resulted in changes in policies and practices, as have been described. The

sum total of ecosystem influences is reflected in the term 'sustainable forest management' (SFM), a commitment to the achievement of which by the Company was started as early as 1985 with the advent of their forest wildlife program. The resulting changes in approach in response to SFM are reflected in their subsequent Forest Management Plans (FMPs). The 1991 FMP was both an advanced and transitional plan. It reflected the commitment to SFM, but the 1988 Agreement stipulated that the plan had to be submitted in 1991, before all the new philosophies could be articulated and new surveys completed. The 1999 FMP was entirely restructured to reflect the Criteria for SFM that had been developed by the Canadian Council of Forest Ministers through national consultations. In addition the Company had undergone successful certification audits under the Alberta ForestCare and ISO 14001, then in 2000 was successful under the demanding Canadian Standards Association (CSA) SFM standards. The CSA standard for sustainable forest management incorporates elements of ecology, environment, economics and social values, developed through a technical committee representing a balance of interests including environmental and industry.

However, several ENGOs have their own additional specific requirements for certification, many of which are broadly prescriptive and difficult to adopt under the Company's objectives-based approach. A few other ENGOs seem determined to stop all harvesting in so-called primary and secondary forests -- essentially the only kinds of forests growing in Alberta. To this end some of these groups have developed aggressive campaigns in European and US markets with threats of boycott of Canadian forest products, and domestically have threatened demonstrations, pickets and boycotts of major retailers.

On the local or working level on the Weldwood FMA working relationships seem to have been made possible through FRAG with opportunities for exchanges of views and discussion. It remains to be seen what the outcome will be with respect to markets and marketing, but the threats have certainly added elements of uncertainty and urgency.

### **1998 Fires Highlight Inherent Risk**

In May 1998 three major forest fires occurred in the Swan Hills, Slave Lake and High prairie areas. These fast-spreading spring fires covered about 180,000 hectares. Most of the forested area burned was within forest management areas, resulting in loss of timber and AACs to FMA and embedded quota holders. The LFS policy is to recalculate AACs at five-year intervals. In the case of major disturbances, an immediate recalculation is triggered if the estimated impact is greater than a 2.5 per cent reduction in AAC. On one of the most-affected FMAs the coniferous AAC was reduced to 55 per cent of the pre-burn level. LFS policy requires immediate (within three years) salvage of fire-killed timber. On FMAs where the reduction in AAC from fire is over 2.5 per cent, operators affected can harvest the salvage volume in addition to allotted AACs; otherwise salvage volumes are considered part of the normal AAC.

Since the Agreement conveys ownership of the timber, the companies affected had the option to utilize some or all of the salvaged timber in their own operations, or to sell to or

trade with other operators outside the FMA. For example, one such trade was based on 3 units of salvaged timber in exchange for 1 unit of green timber to be provided sometime after the three-year salvage period.<sup>lxii</sup> The terms of the forest management agreements provided the latitude to enable these kinds of arrangements to be negotiated.

These fires did not affect the Weldwood operation at Hinton, but the event was a reminder of the inherent risk of fire losses.

### **Evergreen Renewal -- start of negotiations 2000**

Following government acceptance of one of the recommendations of the Jacques report of 1996, new Agreements have contained the “evergreen” form of renewal. Under this initiative, the government and Weldwood opened re-negotiations in 2000 in respect to its 1988 Agreement that would nominally have run to 2008. It is premature to conjecture what changes may be negotiated, other than inclusion of the “evergreen” clause. The major revised features on the most recent pulpwood Agreement renewals included the “evergreen” clause, support for enhanced forest management with a dues-free clause for increased volumes that can be substantiated to be as a result of increased silvicultural efforts, and requirements for more investment in upgrades and/or new facilities. For Weldwood adding the “evergreen” clause seems to be inevitable and enhanced forest management is already enabled and being practiced under their revised agreement. Whether or not specific upgrades or new facilities will be required, or other conditions will be added are yet to be determined.

### **Softwood Lumber Dispute: Canada – U.S. 2000-2001**

The Canada-U.S. trade dispute over softwood lumber has surfaced many times over the last century. The present issues, in essence, is the claim by many U.S. lumber manufacturers that Canada’s “low” stumpage rates on public lands constitute a subsidy that enables Canadian mills to compete unfairly in U.S. markets. The claim has serious implications since Canada has sold about \$10 billion of conifer timber in the U.S. in 2000, supplying about 34 per cent of its consumption. The most recent agreement set a “quota” for penalty-free exports to the U.S.; the quota was apportioned among the provinces in rough approximation to their historic market shares. Mills in the Maritime Provinces were excluded since a high proportion of their timber was cut on privately-owned lands, presumably with market-based stumpage. However, when this agreement expired in 2001 the U.S. manufacturers, under the U.S. Coalition for Fair Lumber Imports, lobbied their federal government to impose penalties on Canadian imports to offset the alleged “subsidy”, the levy averaging about 32 per cent of the selling price.

At the time of publication, negotiations were continuing on this dispute through offices of the government of Canada in a national response. As well, many independent representations have been made through trade associations and provincial governments.

<sup>lxii</sup> D. Tapp, personal communication 2001-04-24.

Canada had appealed the imposed penalty through the World Trade Organization (WTO), but time is a problem since the softwood lumber sector is suffering financially in the meantime. The concern is that provincial governments may feel forced to adopt more so-called “market-based” stumpage systems. As Mary Janigan, a *Maclean’s* analyst explained:<sup>212</sup>

Ottawa argues that stumpage fees are fair because firms pay plenty to comply with rules to protect the environment in Canada – and that cost is *not* included in stumpage. So stumpage fees alone are not a fair gauge of corporate timber costs. It is hard to escape the suspicion that much of the problem arises simply because the two systems differ. Almost 95 per cent of Canadian timber is harvested from Crown land; 90 per cent of the U.S. harvest comes from privately owned land. It is disquieting. “This issues represents the first time the Americans interfered with somebody else’s resource policies anywhere.” Says SFU geography professor Roger Hayter. “We have never been able to shake them off.”

What influence these arguments and resulting decisions have on the forest management agreement system in Alberta remains to be seen. Its fundamental concepts appear to be anathema to the Coalition, which seems to focus primarily on the sole aspect of market-based stumpage.

## Chapter 4

### SUMMARY

As a bridge between the historical description of the Agreement (Chapters 1-3) and the analysis of the lease (Chapter 5), we review here some key points regarding the evolution of the Forest Management Agreement. We start with a summary of the major events that happened since the inception of the provision for leases in the 1949 *Forests Act*. Next, we review the current structure of the Agreement by re-visiting key aspects of the agreement. We conclude by considering some of the spin-offs that have resulted from the Agreement process.

#### 4.1 Major Events in the Evolution of the Lease

As this story about the evolution of the lease unfolded, we identified a number of major points of decision or change. These reflected, in various combinations, the objectives and relative influence of the government and the Company, and their interactions. Thirteen of the major points of decision or changes are commented on in this summary. A more comprehensive list is included in the Appendix.

1. In 1949 the Agreement concept was made possible through government initiative. The *Forests Act* was amended in 1949 to include an enabling clause. The clause in the Act was a response by government to utilize forests of smaller trees and to stimulate economic development. The timing was probably a result of enquiries by prospective industries about pulp mill development in Alberta as well as government's concern about trying to increase revenues to offset costs of forest management and stimulate investment and employment.
2. Industry initiatives were the catalysts to start the process of evolution. In 1949 and 1951 R.O. Sweezey applied successively for Agreements on two areas. In 1951 Frank Ruben established a new Company that he named North Western Pulp and Power Limited. He signed a new Pulpwood Lease Agreement with the province, starting the process that resulted in the joint venture partnership in 1954 with St. Regis Paper Company. Sustained support by both corporate partners, in the case of NWPP, resulted in this venture succeeding through to the present Weldwood operation, while Sweezey's and two other applications in the 1950s died for lack of corporate interest.
3. Clearly, both government and the Company wanted this project to succeed. For example, government willingness to adapt and respond to the unsuitable site conditions at Edson enabled the immediate and smooth change of location from Edson to Hinton, without the delay of a re-written agreement. A spirit of good faith also eased concerns about their ability to work out details as they went along.
4. In 1955 the Company forestry team began in earnest to prepare for forest management and logging. Professional commitment in both the Company and government laid a solid framework for planning, along with a philosophy of cooperation that has endured to the

present. It is particularly significant that the Company commitment was sustained during the first decade despite the large investment in capital, planning and operating, difficult cash flow and minimal revenue opportunities during the start-up that resulted in a slow initial return on investment. The continuity of funding for forest management was initially ensured by Crossley's internally negotiated forestry budget agreement that provided his department with funding equivalent to 10 per cent of the costs of wood delivered to the mill.

5. Company interest and vision resulted in their commitment in 1968 to expand the mill and to negotiate the new "model" Forest Management Agreement of 1968. Professional forestry staffs in both Company and government were dedicated to refining the Agreement to create and maintain an equitable framework through which to achieve sustained yield forest management.
6. The cancellation of the expansion area in 1972 reflected a government decision to enforce the terms of the Agreement by cancelling the expansion area, citing Company failure to start building the expansion stipulated in the Agreement. This was a newly elected government in August 1971, which began its term by examining all the policies and programs it inherited from its predecessor. But the decision by the government to cancel the provisional reserve was probably inevitable, given the terms of the Agreement, increased interest in the area by other potential investors and growing public concern about how their forests were being leased and managed. The atmosphere surrounding the decision may also have been coloured by the personalities, vision and judgement of the senior Company and government officials at the time.
7. Advertising of the Berland Timber Development Area reflected a government/political decision to promote the opportunity for investment in the forestry sector. The decision to openly advertise was, at least in part, in response to its stated belief in more openness in government, combined with greater interest among other potential investors. Some of the conditions, such as requirements for specific investments, seem also to have been made oblivious to the fundamental financial considerations by which the companies were constrained.
8. The decision in 1982 to award the Berland TDA to BC Forest Products instead of NWPP was a complex one, but certainly involved a strong political input to the decision process while also attempting to spread the anticipated financial benefits across the Province<sup>213</sup>
9. The 1984 White Paper on industrial and research strategy specifically identified the forest products industry as one with "a very real potential" for expansion.
10. The agreement in 1988, which resulted in an expanded lease to accommodate the proposed Company expansion of the pulp mill and construction of a sawmill, was the result of four important factors: a) a strong sustained Company initiative to obtain the additional area and construct more manufacturing capacity to keep the operation financially viable, b) a strong, dedicated Company official (Ken Hall) who was able to prepare a Strategic Plan acceptable to the Company and which it enrolled to enlist the support of senior elected government officials, c) a change in government policy that favoured corporate investment in the Alberta

forestry sector and d) availability of suitable forest lands as a result of failure of the previous FMA holder, BC Forest Products.<sup>lxiii214</sup>

11. The several but significant revisions to the 1988 Agreement negotiated in 1993 and 1994, culminating in January 1995, were the results of a government/political decision to reduce government expenditures and increase revenues. The ensuing negotiations reflected spirited input from Company officials who had been seeking an opportunity to redress some of the issues that had not been resolved in 1988, and a strong Company response to the request for unilateral changes, arguing that “a deal is a deal.”
12. The further amendments to the agreement in 1995 and 1998 reflected a congruence of Company and government concerns: by the Company to maintain the viability of the mill; and by the government to resolve administrative issues and political concerns about chip direction from sawmills.
13. The Jacques Report of 1996 made it clear that the province has higher expectations of performance and investment when Agreements are renewed, both with respect to wood volume and quality, and investment leading to new employment opportunities. Further, the term of the Agreement will be converted to a ten-year evergreen renewal within a twenty-year term. Launching of new negotiations in 2000 for a revised Agreement was a result of the Jacques Report recommendations that agreement lengths should be converted to an “evergreen” basis with renewals at ten-year intervals for extended 20-year periods. Negotiations are still underway at the time of writing in 2001.

The significant point is that all these issues were raised and resolved, or are being worked on, within the framework of the Agreement. The Agreement has provided the focus and the link of continuity to enable these issues to be addressed, largely through negotiation.

## 4.2 Highlights of the Agreement

The Forest Management Agreement is a comprehensive document that consolidates numerous operational clauses and conditions. A decade after his retirement, Crossley published a review of his experience with the FMA at Hinton: *Towards a vitalization of Canadian forests*.<sup>215</sup> He prepared this as a template for future forest management agreements in Canada. In it Crossley listed seven of the highlights as he saw them in 1985. These included the importance of: forest renewal, sustained yield, recreational and multiple uses, protection of the tenant’s land base, management planning and ground rules, forest protection, and timber as a primary use. The essence of most of these points has been retained through the last 45-plus years, although many details have been changed through

<sup>lxiii</sup> Wright noted that Hall had put the previous Berland proposal together as well as the one leading to the 1988 agreement, but the difference this time was Getty’s philosophy and business sense -- that industry knows what makes good business sense -- and that bureaucrats don’t, but do not want to be confused with facts.

negotiations. Therefore, we structure the following summary regarding highlights of the lease around seven quotes taken from Crossley's 1985 paper, denoted in the bulleted paragraphs.

#### 4.2.1 Crossley's Seven Summary Points

##### Forest Renewal

- The Alberta government recognized that **forest renewal** was essential and that land tenure was a major element needed to ensure industry's commitment. This was resolved by granting tenure for an initial period of 20 years, to be renewed in subsequent 20-year periods provided that the tenant could demonstrate the sustaining of the original wood capital. Adequate management assured a perpetual timber supply, and the periodic control over tenure satisfied the politician.

Regeneration of cutovers was a priority activity right from the start. The first ground rules clearly identified the relationship between cutblock design and seed source. Immediate trials of scarification techniques confirmed their value and ongoing experiments resulted in site- and species-specific refinements in approach. Planting techniques were also developed for application where inadequate seed sources or site conditions limited natural regeneration.

##### Sustained Yield

- The immediate renewal of harvested forests is fundamental to the **sustaining of yield** and is therefore vital to the satisfaction of tenure rights. Seven years following harvesting, regeneration surveys were obligatory, with three years to rectify any not-satisfactorily restocked areas. Failure to rectify by the 10th year would result in default and would seriously jeopardize tenure renewal in the 20th year.

This term had its origins in section 96 of the 1949 *Forests Act*, which enabled agreements for growing "... *perpetually successive crops of forest products...*". The term "perpetual yield" was used in the 1951 agreement and the term "perpetual sustained yield" was in the 1954 agreement. This was an important clear signal supported by both Huestis and Loomis that achievement of sustained yield forest management was expected.

##### Recreational/Multiple Purposes

- It also set forth the right of others to travel, hunt, fish and otherwise use the said lands for **recreational purposes**, "as well as to conduct any work in connection with geological or geophysical exploration and development."

Multiple-use was an accepted tenet of forest management as early as 1955. This was reflected, in part, in the clause that stipulated free public access on Company roads. Recreational use

followed quickly on all new roads. The Company was also cognisant of the multiple use philosophy during its planning, as Crossley later explained:<sup>216</sup>

In addition to the success of sustaining the wood yield, one should not lose sight of the fact that the Company has, by its simple presence, and by specific modifications in its management plans, carried much of the load for all other renewable resource operations within its lease.

### **Protection of the tenant's land base**

- Another clause provided for the **protection of the tenant's land base**. Once the aggregate area of lands withdrawn from the forest management area exceeded one per cent, the Crown would replace any further land deletions.

Protection of the tenant's land base may be viewed as an important attribute of tenure security. The concept of tenure security may well be the most important single attribute of the Agreement as perceived by the Company. It is clear from comments previously cited that it was significant in bringing St. Regis in as a partner in 1954, and it was the first item listed in Crossley's summary of highlights. Security of tenure also figured prominently in Company decisions to invest in expansion and diversification.

However, the 1988 Agreement provided a land area capable only of providing about 70 per cent of wood needs. Further, the clause for replacement of land withdrawn was taken out. Instead the Minister was authorized to determine compensation for lands exceeding 2 per cent of the original net forest management area, but only for actual loss or damage, and not for incremental costs of replacing coniferous timber.

### **Management Plans and Operating Ground Rules**

- Overall **management plans** were to be prepared by the tenant for Forest Service approval, and operating guidelines and **ground rules** were to result from joint consultation. The tenant's operating plan had to be submitted and approved before the next year's program could commence.

During negotiations leading to the 1954 Agreement, as discussed, it was clear that both the government and Company were committed to sustained yield forest management. That this also included Company responsibility for forest management planning and renewal that also evolved during that time.

Forest management responsibilities represented a dilemma to the Woodlands Manager who was responsible both for forestry and for delivering wood to the mill at a cost-competitive rate. In the initial stages of the operation, it was clearly important that the Forestry Department have its own assured budget in order to establish the precedence of responding to the full forest management responsibility. Forest harvesting had been typically viewed as the final stage in the growth of the forest. However, as was subsequently learned by the Company, as an inherent component of a silvicultural system logging should also be viewed as the first stage of the silvicultural process

leading to the new forest. By considering both requirements, efficiencies can be achieved that can result in lower total costs of logging and renewal.

The concept of Ground Rules was the product of early discussions by Crossley and Loomis and their colleagues about the difficulty of specifying conditions for forest harvesting. In addition to the varied conditions throughout the lease were many uncertainties about the impact of logging at the scales required to supply the mill. As explained earlier, they agreed that the ground rules should be consensus-driven understandings under which it would be possible to apply professional judgement to what was actually done on the ground in order to reach agreed-upon objectives. Ground rules were launched in a precedent-setting collaborative agreement among Company and government foresters in March 1958 that foretold adaptive management.<sup>217</sup>

Since we are concerned with the management of even-aged timber on our Pulpwood Lease Area, the cutting system to be adopted on a trial basis will appropriately be some pattern of clearcutting. As many modifications of such cutting systems will adopted as possible in order, by experiment, to arrive at a system or systems best adapted to the silvicultural requirements of the species in question, the topography and the operational requirements inherent in economical pulpwood extraction.

### Forest Protection

- **Fire hazard** created by slash accumulation following harvest was to be reduced no later than the second year, and fire control was the responsibility of the Alberta Forest Service Protection Branch.

As clearly demonstrated in the age-class study of the late 1950s, virtually all forest stands on the lease have originated following forest fires. Forest fires in the past have been both pervasive and extensive, and the potential for fire remains high, as exemplified by recurrent severe seasons elsewhere in Alberta. To address these concerns requires a cooperative approach between the industry and government both to ensure a fire fighting capability and to seriously consider possible fuel management designs as a part of forest management planning and operations.

Epidemics of destructive forest insects and diseases seem not to have been common on the lease, perhaps because of the past frequency of fires and resulting younger ages of forests. However, there remain extensive stands of ageing forests so a risk exists. The mountain pine beetle is perhaps the most significant latent current insect threat. The forest protection clause in the agreement includes a requirement that the Company and government will cooperate in “suppressing” epidemics on the forest management area. Perhaps as important will be management on the FMA to minimize the possibility of epidemics combined with suppression or management activities outside the FMA if they appear to threaten extensive mortality.

### Multiple Use and Prime Use for Growing Timber

- The agreement contained a clause that recognized the growing and harvesting of **timber as a prime use** of the forest land held under lease, but legitimate co-users were to be accommodated wherever possible.

The FMA, lying on the foothills adjacent to Jasper National Park, has long been inherently attractive for outdoor recreational pursuits. The amount of use increased substantially as access roads were constructed, providing opportunities for outdoor-oriented local populations as well as visitors from Alberta and abroad. Sustainable forest management for a broader range of values gives the multiple use aspect a much higher priority in planning and management. Furthermore, the Company's Special Places in the Forest program, announced in 1998, provides a framework within which integrated and sustainable forest management will be practised on the FMA.

Oil has also been a historically important use. Since the 1968 agreement, the Company has been recognised as an "occupant" with timber production being designated as a "prime use". These clauses formed the legal basis for compensation for timber damages from the energy sector and provide some incentive for the energy sector to consult with the Company in coordinating timber and petroleum operations.

#### **4.2.2 Two Additional Points of Significance**

Crossley's seven highlights are important ones. However, there are two others, which are also, worthy of note, one from Crossley's era, the other more recent: road system and average haul, and public participation.

##### **Road System and Constant Average Haul Distance**

The renewability terms of the Agreement gave reasonable assurance to the Company that investments in an extensive network of roads could be justified and amortized over longer periods should they wish. Thus was born an early decision to disperse the harvesting areas in response to age-class distribution and to develop a road system that would result in a more or less constant hauling distance over the full rotation. This policy was in marked contrast to the more typical approaches in the east in which the wood closest to the mill was harvested first and roads subsequently extended to reach the wood further away.

##### **Public Participation**

During the 1980s it was becoming increasingly clear that various publics were interested in and concerned about forest harvesting and its impact on the natural forest ecosystem; and wanted more opportunities to learn about and participate in the planning process. The 1988 agreement was silent on the concept of public participation. However, following ADM Higginbotham's 1989 advice, the Company initiated an advisory process that same year. It was restructured more formally in 1993 as the Forest resource Advisory Group (FRAG) with representation of 15 interest groups, chaired by an elected member, with professional facilitation. Public participation has since become a requirement under Alberta government rules.

### **4.3 Spin-offs**

A number of spin-offs from the evolution of the Agreement occurred during its evolution including, among others, the quota system, Timber Development Areas (TDAs), innovations, and forest research.

### **The Alberta Quota System**

The quota system was largely born as an attempt to emulate some of the conditions found on the lease in the rest of the public forests of Alberta to try to ensure sustainability. As Loomis<sup>218</sup> later explained:

... we had already got the pulp industry going in Hinton and gave them an incentive to do work other than just harvest. ... the lumber industry knew they were just cutting trees to make lumber, with no incentive to build good roads to where their mills were going to be located, and to the area that they were going to cut -- or to cut the trees with no idea of the future. ... since the Pulp Company had a good reason for looking to the future, the lumber industry didn't have it at that time. ... so we figured if we could get them established more permanently, therefore more interested, it would be good for us and good for them. Thus we set up the Quota System with that in mind. ...

The Quota System is a volume-based tenure within specified forest management units in which each operator was given a "quota" of the allowable annual cut, a proportion based on the previous five-year level of harvesting. In exchange for this greater security of tenure, the operators had to ensure regeneration on their cutovers -- either by doing it themselves or paying into a fund to cover the cost of contract treatments. This led to both a rationalization of harvest levels spread out over the forested areas of the Province, and also set the stage to bring the rest of the forest industry into involvement with forest renewal and silviculture.

### **Timber Development Areas**

As Loomis reviewed the data from the first Alberta forest inventory he envisaged other possible areas and locations suitable for pulpwood leases and pulpmill, besides the Hinton FMA, the initial boundaries of which he had delineated himself. He noted these new ideas on a map of Alberta, drew tentative boundaries, and referred to them as potential Timber Development Areas (TDAs). The TDA approach was later adapted as an instrument of policy by the Alberta government to encourage investment in the forestry sector.

### **Innovations**

As Crossley frequently mentioned, the framework of the agreement, along with Company philosophy, provided an incentive to innovate -- to develop and apply new techniques to enhance forest management. Among the many examples listed by Crossley in 1985<sup>219</sup> were:

- air-photo cruising with aerial stand-volume tables and photo-point sampling

- physiographic site classification
- mechanical disposal of slash through scarification to reduce fire hazard and prepare suitable seed beds
- planning for minimum average hauling distance over the whole rotation
- expensing rather than capitalizing of forest renewal costs
- field transportation by helicopter and internal program of helicopter photography
- Company photo-lab facilities
- container planting
- harvesting of standing dead timber

Others not listed by Crossley and some additional ones developed more recently include:

- age-class mapping as a guide to management planning
- development of the ground rules concept
- developing a framework for annual operating plans
- design and preparation of Alberta's first Forest Management Plan <sup>lxiv</sup> 220
- Company greenhouse for quality control and trials
- permanent sample plots and ongoing growth and yield studies
- Six-foot rule for wildlife
- wildlife studies and adaptations of harvesting design
- integration of wildlife and hydrology into quantitative AAC analysis
- non-timber resource inventories
- Company involvement in non-timber resource management, e.g. recreation
- ecological site classification
- integration of harvest and silviculture planning
- application of geographic information systems into forest management
- application of geographic positioning systems in planning and mapping
- partial cutting in riparian zones
- watershed and erosion control measures
- forest protection agreements
- linked planning process
- enhanced forest management policy framework
- intensification of management for all values on the FMA
- public participation

Many of these were subsequently incorporated into planning documents or ground rules. The *Handbook of Forest Stewardship* printed in 1999 perhaps represents a culmination of the application of innovative forestry practices to this point.

## Forest Research

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<sup>lxiv</sup> Wright added parenthetically that the FMP was developed with little or no input from the government, and was later accepted by AFS and used as a template for future forest management plans in the province.

The Agreement is silent on forest research. However, the Company has actively encouraged and supported research from the start of their operation. One of the most immediate questions needing research was how to ensure forest regeneration. Crossley had brought with him his own research knowledge, but he quickly involved CFS scientists in studies on the FMA. The CFS set up a lab and trailer park west of Hinton. Subsequent studies were extended to include watersheds, wildlife and fisheries, fire, soils and mixedwood management. Other research agencies have also been involved including the Canadian Wildlife Service, the Alberta Research Council and universities.

In addition to its own substantial expenditures in research, the Company has been able to augment many of its current research needs through the Foothills Model Forest. Alberta's new (1994) sawlog stumpage system added the Forest Resource Improvement Program, funded through Company contributions and providing a broader provincial basis for funding and voluntary coordination of research effort. At the same time, the Company has been a subscribing member of Forintek and Feric, both agencies representing a form of cooperative in their respective fields of wood products and forest engineering. There has been no such national agency to encourage collaboration with respect to research on the forest itself. The National Centre of Excellence supported by NSERC and industry through the University of Alberta holds possibilities to enhance future cooperative linkages to extend forest-related research.

The Centre for Enhanced Forest Management at U of A, announced in 2000 and headed by Weldwood/Weyerhaeuser/NSERC Chair Dr. Vic Lieffers, also will advance research in intensive management in Alberta.

## Chapter 5

### ANALYSIS OF THE EVOLUTION OF THE WELDWOOD FOREST MANAGEMENT AGREEMENT

#### 5.1. Introduction

The previous review shows that as natural resources, technology and social values have changed over time, changes in the institutional structure have sometimes proven necessary, and the Forest Management Agreement framework has evolved. The objective of this chapter is to review some of these changes in order to assess why the Agreement framework changed over time and to investigate other tenure changes that could have potentially occurred to better facilitate evolving turning point issues.

This chapter starts with an overview of some of the themes of important changes that have driven tenure policy over time. Next, the turning points identified in the previous chapters are summarized and analyzed using the forest tenure taxonomy of characteristics developed by Haley and Luckert (1990)<sup>221</sup>. These characteristics include: duration, comprehensiveness, exclusiveness, fees, size specification, security, transferability, use restrictions, allotment type, operational requirements, and operational controls. For each of these characteristics where significant changes have occurred, we try to explain why things changed as they did, and assess potential consequences if alternative paths had been chosen. For some of those characteristics that have not changed much, we consider whether changes might have been fruitful.

#### 5.2. Evolutionary Forces Driving Change in the Weldwood Forest Management Area

Agreements have changed in response to numbers of influences. Paramount have been the social concerns regarding what society wants from its public forests. This section will identify some of the themes that have been instrumental in creating turning points and subsequently influencing the Agreement's evolution.

One clear theme is the continuous desire by the province for economic development of the timber resource. A number of turning points, such as the initial development of the agreement, the lease cancellation and subsequent expansion, and the Berland TDA, were driven by the overall desire to obtain economic benefits from the timber resource. This economic development, however, was frequently defined differently by involved parties. For the forest industry, economic development meant maintaining and increasing profits to shareholders by continuously seeking means of maintaining a competitive operation in a dynamic economy. For the provincial government, economic development meant returning revenues to the provincial treasury and maintaining and diversifying economic activity in the form of jobs for rural development. Much of the evolution of the Agreement, to be discussed below, represented negotiations to facilitate these sometimes-conflicting objectives regarding economic development. As a backdrop to this development, there was also a desire to achieve a high level of forest management. Increased

forest productivity and access as a result of designing a managed forest were also seen as potential benefits from development. Accompanying the desire to develop timber resources has been the sometimes-conflicting development of oil and gas and coal resources. Desires to jointly develop interdependent resources led to turning points relating to timber damage assessments.

The theme regarding economic development progressed against a background of technological change. Technology was constantly altering the connection between processing plants and the natural resource base. Processing technologies changed rapidly requiring ever-changing sizes and types of mills. The subsequent changes in mill utilization requirements caused accompanying AACs to be in constant flux, requiring repetitive re-negotiation. Potential new species utilization added another twist as new technology made deciduous timber valuable. Management practices and accompanying responsibilities were altered significantly by increasingly comprehensive inventory and information systems regarding timber and other forestry resources.

Another theme influencing the evolution of the Agreement has been increasing environmental concerns. Issues regarding clearcutting, the adequacy of regeneration, biodiversity, and herbicides played pivotal roles in the changing conditions of operating ground rules. Evolving responsibilities for multiple uses, such as wildlife and recreation also played prominent roles in directing changes to the Agreement.

Finally, the general increase in community participation in forest management was influential in shaping the Agreement. The failure to secure the Berland TDA expansion seems to have been influenced by pressures placed on the government in public hearings and private lobbying in caucus to spread development to “have-not” areas of the province. The Forest Resources Advisory Group (FRAG) also has had significant influences on the way that forestry in Hinton has evolved. They have played a major role in the formulation of the 1991 and 1999 detailed forest management plans, and in the 2000 sustainable forest management plan that was developed for certification by the Canadian Standards Association. FRAG was also actively participating in the development of 1996 Ground Rules.

### **5.3. Evolutionary Changes to Characteristics of the Weldwood Forest Management Agreement**

Changes to the Agreement may be tracked by viewing whether and how specific characteristics of the tenure framework have changed. The characteristics in the framework that follows have been chosen to analyze this evolution, as they have specific implications for assessing how and whether the Agreement is furthering social objectives. This framework has also been used to categorize, forest tenures across Canada (Haley and Luckert 1990)<sup>222</sup> allowing direct comparisons between experiences elsewhere and in Alberta.

#### **5.3.1 Duration**

Duration refers to the period over which tenure is granted, and is affected by the probability of renewal of the agreement. Duration is a crucial component of forest tenure, as this characteristic

dictates over what period a tenure holder may attempt to secure economic benefits and recover costs of investments. Accordingly, investment decisions may be dependent on the duration of the tenure, and the tenure holder's perception of the probability of renewal. This characteristic also has significant importance to the provincial government, as it influences how much flexibility they will have to change policies over time.

Up to 1996, the year of the Jacques report, Agreements were granted for 20 years, and were renewable. The early Weldwood agreements were for 21 years, and were renewable, but these were changed, slightly, to 20 years with the 1968 agreement. The most recent agreement began on June 15, 1988 and would normally expire on June 14, 2008.

Until recently, Alberta had not adopted “evergreen” policies, unlike most other major tenures in other Canadian provinces. Evergreen policies allow tenures to be considered for renewal well before the expiration of their current term. For example, Tree Farm Licences in British Columbia are for a period of 25 years, 10 years evergreen, meaning that the renewal process is undergone each 10 years for a further 25-year agreement. However, following the recommendation of the Jacques report, Agreements since 1996 are considered for renewal every 10 years for a further term of 20 years. By late 2000 Weldwood negotiations for an “evergreen” renewal were already underway.

It is somewhat curious that Alberta has lagged behind most Canadian provinces in adopting evergreen provisions. Although evergreen provisions are designed to increase the security of tenure, tenure security may be influenced by potential changes of numerous tenure conditions, in addition to variants on duration (Luckert 1991b)<sup>223</sup> (see *Security* section below). Therefore, security may be thought to be more a function of the stability of the political environment, within which rights are granted and constantly re-negotiated, than the existence of individual tenure conditions. Given the relatively stable political environment within which Agreements have been granted and have evolved, it may be that evergreen provisions have not been deemed necessary. Indeed, when the initial mill was being built, the prospect of a 20-year agreement, with another 20-year extension highly probable, was likely thought to be sufficient to justify investment in a mill that could be written off, probably within the first term.

### 5.3.2 Fees

Fees refer to payments made by the tenure holder to the Crown as part of the Agreement. These payments may include stumpage fees, holding fees, and protection fees. Fees may represent an important cost item for operations of tenure holders, and thereby provide important signals for investments in harvesting, wood processing, and silvicultural activities. For example, stumpage fees based on the amount harvested may provide disincentives to invest in silviculture, as increased volumes involve increased stumpage fees.

Despite the importance of fees, they do not represent the sole return to the Crown on behalf of the public. Other costs to industry include taxes and costs incurred from the numerous provisions of tenures whereby the government chooses to collect “social rents” on behalf of the public at large instead of collecting stumpage fees (Luckert 1991a)<sup>224</sup>. For example, the government may choose to forgo stumpage values by leaving undisturbed areas along streams so that social values

of wildlife habitat are protected (see *Operational Requirements* below). These types of restrictions also imply restricted profits for industry. The existence of social rents implies that fees must be assessed within the context of the overall Agreement conditions that influences the profitability of timber operations for tenure holders.

Charges for timber dues, holding charges and forest protection charges in the 1954 Agreement were negotiated as a package of rights and responsibilities that went well beyond these three categories of costs alone. Under terms of the agreement the Company accepted a number of additional costs not incurred by licensed timber berth operators at the time. These included the full costs of forest inventory and forest management planning, construction of an all-weather transportation system of roads and bridges that would also be open to the public, ensuring forest regeneration and providing supplemental fire control.

When the 1954 agreement was negotiated there was an element of concern about the financial viability of pulp manufacturing in Alberta. Covering this risk factor was part of the Company strategy in its negotiations, and the ensuing agreement represented the balance of anticipated costs and returns as acceptable to both government and the Company. Financial concerns certainly arose during the first decade of operation.

In recognition of the costs and risks to the Company, stumpage fees were somewhat low. In the early 1950s, spruce was bought for between \$1.35 to \$1.50 per cord, while poplar and balsam sold for \$0.45 and \$0.30 per cord, respectively. With the 1956 revised agreement, a single ‘averaged’ dues rate of \$0.75 per cord for coniferous species was established. Since there was no market then for hardwood species, no hardwood dues rate was specified in the revision.

Although stumpage fees in the 1950s were intended, for administrative ease, to remain unchanged till 1977, when the new agreement in 1968 was negotiated as a “model” for the province, dues were changed as part of the new package. Although the level of dues did not change much, a rate for deciduous dues was again added. Conifer dues increased to \$1.00 per cord while deciduous was charged at \$0.45 per cord. Those rates were firm for 10 years, after which time they were also linked to a price index.

Once difficulties in the new pulping process were resolved, production resulted in a high-quality marketable product, vindicating the investment decision. In retrospect, the agreement with its apparently low dues and charges seems to have been a reasonable one. However, once the viability of pulp processing was assured, then subsequent negotiations might have included a reassessment of charges. However, this was generally not done. Although sawlog stumpage fees were set according to regulatory rates, and therefore changed with the regulations, pulpwood fees were negotiated specific to the agreements. These rates were influenced by the “Same Deal” clause in the 1968 Agreement that suggested an intent to maintain the balance of rights and responsibilities at the same level for all pulp mills. This intent was irrespective of other factors such as FMA and mill location, operating costs, costs of forest renewal, and distances from markets and start-up status. That the same relatively low charges were applied both to new operations and renewals suggests that even in comparative terms the dues may have been inequitable with respect to the relative stages of development. It suggests that new Agreements and extensions of existing ones may have been negotiated more by formula than on the basis of

individual situations. Along these lines McDougall commented: “*What the companies did of course was they used to compare. If you made a concession to one the other knew about it the same day*”.

Company negotiators anticipated the question of dues and charges as they began the discussions resulting in the 1988 agreement. Through a strategically arranged meeting with the Premier, Company negotiators obtained agreement that there would be no net increase in the pulpwood dues or other fees.<sup>lxv</sup> However, these amounts had been tied to changes in selling price indices as published in the Pulp and Paper Weekly. Therefore, with the new agreement in 1988 and increased pulp prices, coniferous dues had risen to \$1.44 per m<sup>3</sup> for coniferous, and \$0.65 per m<sup>3</sup> for deciduous. That agreement held in 1988 but subsequent government determination to increase revenues from natural resources industries has resulted in increases, also linked to an index of selling price.

During the early 1960s, there were some discussions to move from a stumpage system to a system of land rental values based on the inherent productivity of the land. The objective was to encourage intensive forest management. Indeed, a clause (37) in the 1968 agreement left the door open to switch to a land-based rental system. However, in the following years, the Company was not cutting its fully allocated AAC, so putting mechanisms in place for intensive management were not a high priority, and the clause was never exercised. The idea also suffered from difficulties in establishing a means of calculating the rental charge. For example, it was thought that the rental charge would be based on the “natural productivity” of the site so that incentives would exist for exceeding this baseline. However, defining this baseline, and perhaps adjusting it over time, would have been difficult. Furthermore, in the 1988 negotiations concerns were directed more towards the size of the land-base to be made available for harvest than to mechanisms for intensive silviculture. The focus on harvesting and processing existing timber, rather than developing agreements to provide incentives for investing in future forests, is a common feature of forest tenures across Canada, and part of the current issues regarding how to facilitate incentives for enhanced forest management (see *Forest Management Rights* below).

Holding fees and protection charges have followed a similar trend to stumpage charges. For holding charges or ground rent, the initial 1951 amount was \$17,500, which changed to \$3 per square mile in 1954 and persisted till the 1988 agreement (for a FMA total of \$9000 in 1954 and \$18,900 in 1968). In 1988, the charge was changed to \$1.16 per square kilometre (for a FMA total of \$11,739) and adjustments according to changes in the Annual Implicit Price Index published by Statistics Canada were added.

Protection fees started at \$15,000 in 1951, but were revoked in 1952 when it was suggested that the Company would accept full responsibility for protection. Much of the protection responsibility was retained by the province in 1954 and charges of \$0.20 per acre, (for a FMA total of \$38,400) were implemented. These dues were converted to the equivalent \$12.80 per square mile in 1968 (for a FMA total of \$80,640). In 1988, the rate changed to \$26.06 per square kilometre (for a FMA total of \$263,727) that was to be adjusted according to the consumer price

<sup>lxv</sup> As Ken Hall explained, this prior agreement was an essential element regarding the parent company’s willingness to invest in this particular project. (Personal communication PJM)

index. Within this policy the Company was responsible for suppression costs on fires originating as a result of their operations. The fire control sub-agreement of 1989 specifies the detail required in the Company's fire control plan, and describes Company responsibilities for fire crews and training levels. Payment of fire suppression costs is described under three categories: 1) the Minister pays for costs of suppressing all fires in the FMA except 2) where a fire is caused directly or indirectly by Company operations [accidental] in which the Company pays 50% up to a maximum amount of \$55,860 in 1981 dollars adjusted by the Implicit Price Index published by Statistics Canada, or 3) when the Company causes the fire through intentional or negligent act or omission, it pays 100% of costs less sums the Minister may decide to waive. The fire control sub-agreement is another example of the linkage between fees or dues and responsibilities -- as has subsequently evolved, additional expenditures by the Company on agreed-upon fire prevention measures may be credited towards the forest protection charges levied under the Agreement.

For the many companies negotiating 10-year "evergreen" renewals, the previously negotiated stumpage rates for pulpwood are converted to the Regulation rate set by the province. In most cases this process has not resulted in significant increases. As Udell commented<sup>lxvi</sup>: *"There have been no increases in stumpage fees for pulpwood in our Agreement and in the proposed changes in 2001 to base dues on the Regulation rate will remain more or less neutral. There has been no real change to the stumpage fee for sawlogs since the 1994 sawlog stumpage changes in the regulation. Rates are driven by the selling price of lumber."* Of course, dues on sawlogs have been paid at the regulation rate since 1954. However, this approach represents another step towards standardization among Agreements.

In general, the history of fees shows that the complexity of the collection systems has increased as the amounts of these fees have risen. One key issue with respect to these fees has been to recognize that fees are part of a complex package of conditions, all of which have implications for the profitability of the Agreement. Accordingly, when one condition of a tenure needs to be changed, such as stumpage fees, it is possible to compensate tenure holders for this change with changes to other conditions that might increase profitability to tenure holders. This may influence the security of tenure and will be discussed further below. Another key issue relates to the level of uniformity that should be adopted in setting fees. Administrative ease and equity amongst tenure holders suggests that uniformity should prevail. Towards this end, the "same-deal clause" of 1968 was an attempt to legislate an even playing field. However differences in local situations, and variations in negotiated agreements suggest non-uniformity. Accordingly, this clause was destined to be removed, and it disappeared from the 1988 agreement.

### 5.3.3 Exclusiveness and Comprehensiveness

Exclusiveness refers to the right to exclude others from enjoying the benefits that may be derived from a tenure, while comprehensiveness refers to the number of resources over which a tenure holder has rights. Comprehensiveness and exclusiveness are at the core of defining the tenure holders' rights, in that they heavily influence how and whether benefits from the resource may be derived. Those rights not conferred to the tenure holder remain with the provincial government

<sup>lxvi</sup> Bob Udell. Personal communication December 2000.

and thereby greatly affect specific roles and responsibilities in forest management. This partitioning of responsibilities may have large influences regarding whether the resource is efficiently managed. Allocating multiple resource rights to one user may promote integrated resource management, in that interactions between multiple resources are coordinated by a single resource user. However, allocating multiple resources to a single user may also create inefficiencies, in that the single user may not have the expertise and/or facilities to use the multiple resources. Furthermore, concerns regarding equitable distributions of provincial resources may be violated if one property holder receives too many resources. In the case of Agreements, the relevant rights to be allocated include rights to timber harvesting, timber management, non-timber resources, and fossil fuel rights.

Rights to forest resources may be difficult to define and identify. In defining rights, it is not sufficient for a government to merely state that a right exists for a tenure holder to enjoy. Having a resource right implies that the tenure holder has access to some stream of benefits within a system of tenure conditions that the Crown specifies. These conditions frequently require tenure holders to undertake costly activities that can erode the potential benefits that a right may confer. In extreme cases, tenure conditions can become so onerous that the benefit stream may be completely eroded and disappear. In these cases, the government has effectively expropriated rights. Such has been the claim of some tenure holders in British Columbia as tenure conditions, such as the Forest Practices Code, have become more onerous. Yet another complication in identifying rights arises from trying to distinguish the source of the benefit stream among the different types of forest resources. For example, in the discussion below, it will become evident that benefits from timber harvesting and management may become mixed in a sustained yield framework, and that benefits from recreation management may also not be easily identified.

### **5.3.3.1 Timber Harvesting Rights**

Timber harvesting rights have been central to Agreements since their inception. However, like most large tenures in Canada, these timber rights have not been completely comprehensive or exclusive. Comprehensiveness of timber harvesting rights has been limited on most Alberta Agreements by Crown reservations that provide for harvests that spread provincial resources to other smaller firms, such as through Quota Certificates that had been previously granted within Agreement areas. In contemporary Agreements, the government also reserves the right to issue one-year timber permits on Agreement areas to local residents for their own use and for public works, providing that the total volume does not exceed stipulated percentages of coniferous and deciduous AACs (limits typically set at 0.5 percent to 1.0 per cent) or in some cases a stated maximum volume.

In the first lease in the Hinton area, the government agreed to give the Company exclusive rights to the conifer timber on the Agreement area, but existing LTBs would be honoured for the length of their respective terms (1954 agreement clause 21 (1)). However, on the Provisional Reserve Area, the government retained the right to allocate new licenses for timber suitable for sawlogs. This right continued through amendments in 1956 and 1961. In the 1968 Agreement (clauses 10 g and f) the government could sell up to 80% of the sawlog AAC from the Provisional Reserve until the expanded mill was completed.

When the Quota system was inaugurated in 1966, Quota rights became imbedded in all Agreement areas except for at Hinton. At Hinton, there had not been any quotas in the original Agreement area. However, there were two quota holders in the area to be included in the 1988 expansion, but these quotas were subsequently moved to another area upon expansion, leaving the FMA uniquely free of quota holders.

With respect to the deciduous timber resource, rights to these trees were written into the original 1954 agreement. At that time the Company was entitled to cut any class of timber subject only to permit and payment of dues. The situation remained essentially the same in the 1968 agreement, which stated that the Company was not obligated to harvest any deciduous, but could with permission of the Minister up to the AAC level. As the deciduous resource on the FMA became valuable, questions arose as to whether Weldwood would use the resource, and if not how could the timber be passed on to someone who could. With the 1988 agreement the Company was required within five years (1993) to submit a plan for full utilization of poplar in a facility of their own. Until such time a facility was constructed the Company was obligated to supply 57,000 m<sup>3</sup> annually to others who could use it. In fact, during the negotiations in 1992 the government sent a letter to the Company reminding it that such a utilization plan was expected and had not yet been received. By 1995 the amendment in response to the “free seedlings” cancellation stipulated that the Company shall harvest all the deciduous AAC and make available to others any volume not utilized in a Company facility. This clearly granted unqualified rights to the deciduous timber, enabling the Company to use it or dispose of it by sale or trade. This situation has prevailed since.

Provinces across Canada were dealing with similar issues and generally adopted one of two approaches: assign property rights to two or more firms and have them attempt to negotiate integrated solutions, or assign property rights to one firm and allow them to use, lease or sell the resource (Luckert 1993)<sup>225</sup>. Results from a Canada-wide survey showed the latter solution to generally result in fewer resource integration problems. This is the solution ultimately adopted on the Hinton FMA.

In sum, unlike most Agreements in Alberta, and most forest management tenures in Canada, the Hinton FMA includes exclusive rights to all of the timber resources within its boundaries. Accordingly, as the complexity of forest planning and management increase with sustainable forest management, the Hinton FMA is well poised to deal with these challenges without the complications of negotiating with holders of overlapping timber rights.

### 5.3.3.2 Timber Management Rights

Although Canadian forest tenures confer timber harvesting rights, and responsibilities to manage the timber resource, it is doubtful that they confer timber management rights (Haley and Luckert 1990). That is, it is not evident that tenure holders have a clear right to a benefit stream within the conditions that tenures establish. For timber harvesting rights, it is clear that tenure holders have a benefit stream that they derive from harvesting trees within their AACs. However, for forest management rights to exist, there would have to be a benefit stream associated with *increased* AACs derived from managing timber. Surveys across Canada have revealed that most forest management is done because it is required, and that tenure holders do not generally have

incentives to undertake management activities beyond requirements (Luckert and Haley 1989, 1995)<sup>226</sup>.

The same appears to have historically been the case for the Weldwood Agreement. During the period 1968-1988 a supplemental reforestation clause was in place. This enabled the Company and government to share the cost of reforesting any land that had become denuded by industries other than the Company or by natural agencies. A few trials had been attempted but no major programs resulted, perhaps largely because harvest levels had not yet reached the AAC.

An early account<sup>227</sup> suggested that St. Regis, partner of the Agreement holder, was planting on the FMA while they were not planting on their other forested lands in eastern North America, because of the Alberta Agreement requirements. Perhaps in response to this realization, in 1968, the *de jur* right to “grow” timber was added to the pre-existing rights to harvest timber on the Weldwood FMA. These rights were maintained in the 1988 agreement that specified the “right to establish, grow and harvest timber”. However, despite the *de jur* provisions for encouraging forest management, enhanced forest management was a long time in coming. Although efforts began in 1970 to encourage intensified management, it wasn’t until 1988 agreement that the harvesting levels had reached the AAC, and foresters were able to show that increased AAC could be generated at a lower cost than purchasing wood. Accordingly, foresters previously had a hard time justifying enhanced forest management, except for a program of juvenile spacing between 1974 and 1987.<sup>lxvii</sup>

Further evidence that the Agreement did not confer management rights arises out of the 10 per cent rule and the philosophy of counting costs of regeneration against benefits of current crops. With regards to the 10 per cent rule, the setting of a specific percentage allocation implies that management costs represented expenditures, not investments. With investments, such as was the case with capital in processing plants, the Company was not constrained to a set percentage but was constantly seeking ways to justify varying levels of costs based on justified returns. In contrast, the 10% expenditures were undertaken without explicit weighing of benefits relative to the costs. The relegating of management expenditures to a flat percentage implies that alternative expenditure levels were not, habitually, being considered relative to alternative returns. In other words, management operations appear to have been treated as a cost centre, to be included in the larger calculations of the processing profit centre. In a survey of BC firms, this practice is identified as common (Haley and Luckert 1991)<sup>228</sup>.

With respect to the philosophy of counting regeneration as a cost of reaping current benefits, Luckert and Haley (1993)<sup>229</sup> explain how this practice is a function of the tenure system that does not confer sufficient incentives for tenure holders to consider future benefits. As such reforestation is conducted as an obligation, necessary to avoid the risk of defaulting on the Agreement that would then preclude further harvesting. This practice may have serious implications regarding the types of expenditures that are undertaken, as tenure holder may have little stake in the future forests that their practices create (Luckert 1998)<sup>230</sup>.

Furthermore, recent policy developments raise questions regarding whether Agreements confer, *de facto*, the right to grow trees by giving tenure holders sufficient incentives to undertake

<sup>lxvii</sup> J.C Wright comment on a review draft 2001.

enhanced forest management (EFM) activities. Although there may be some EFM activities occurring, there are apparently potential opportunities not being taken advantage of because of the tenure system. A new policy to attempt to strengthen ACE<sup>lxviii</sup> incentives to facilitate EFM has been put in place. The fact that such policy changes have been underway suggests that historically, the tenure framework has not provided a clear or sufficient benefit stream to justify management expenditures at the levels desired. However, under the new policy, there are companies who have submitted EFM plans within their detailed forest management plans. As the specifics of the approval, monitoring and enforcement processes for EFM are worked out, we will see whether companies persist in their pursuit of EFM activities. If these new EFM provisions fail to provide incentives for voluntary investments, then it is likely that management expenditures will nonetheless increase, as recommendations of the Jacques report suggest that intensified forest management may be a condition for Agreement renewal. If these recommendations become the motivating force behind forest management, then we will be back to the situation where timber management rights have not been established, and that expenditures are being undertaken in order to maintain access to current cuts that make up timber harvesting rights.

Finally, it should be noted that while attempts are being made to add *de facto* rights to forest management, *de jur* rights are being removed. Statements regarding rights to manage timber resources are being removed in the new round of Agreement negotiations. Following concerns that management rights would give Agreement holders the right to dictate AACs of quota holders within their FMAs, the government has decided that such rights should be retained by the Crown. Although *de facto* rights may ultimately be more important than *de jur* rights, the elimination of *de jur* rights could cause confusion regarding the perceived intentions of government, thereby adding insecurity that would weaken *de facto* rights.

### 5.3.3.3 Non-Timber Forest Rights

As is the case across Canada, rights regarding non-timber forest resources on the FMA have generally been reserved by the Crown. As early as the 1950s agreements, Crown reservations included lists of specific land areas, lakes, and rivers that were not part of the Agreement holder's rights. Within the 1968 agreement, reservations for purposes of "multiple uses" were made explicit. The agreement also made explicit that timber was considered the "prime use", thereby protecting the tenure holder's interest in the timber. The 1988 agreement retained the prime use clause, but added some qualifications for non-timber concerns and enhanced rights for wildlife resources and livestock. Throughout the evolution, rights to recreation values have not been granted to Agreement holders, and are held, non-exclusively, by the Crown on behalf of the public at large, who are allowed to recreate on the FMA with few restrictions. Although investments in non-timber forest resources, such as recreation, have been undertaken by the Agreement holder, they have not been income-generating activities. Accordingly, similar to some forest management expenditures described above, these recreation investments have been undertaken as part of the corporate responsibilities associated with maintaining freedom of operations in timber harvesting.

<sup>lxviii</sup> ACE refers to the Allowable Cut Effect that could allow tenure holders to increase their current AACs if investments in forest management are shown to increase future yields.

A new and potentially important direction was taken in 1995 when a general clause was added that could allow the Company and the Minister to enter into specific agreements regarding multiple-use activities. This so-called ‘Stewardship’ clause could allow explorations into the joint development of non-timber resources. For example, forest recreational facilities could be worthwhile for the Company for several reasons. These include goodwill with the public and with interpretational opportunities, reduced fire risk from random camping that has increased as privately run facilities have raised charges, and freedom to operate with reduced protests from private camp ground operators, some of whom have claimed that harvesting may reduce the value of their viewscapes.

Partnerships between tenure holders and provincial governments could also seek to pass control of certain aspects of non-timber resources, such as recreation, to tenure holders, while governments retain monitoring and regulatory control to guard against potential market failures (Luckert 1995)<sup>231</sup>. What remains to be seen is whether Weldwood and the Alberta Department of Sustainable Resource Development (both the Land and Forest Division and Fish & Wildlife Division are now involved) have the incentives to undertake such activities. Potential impediments for Weldwood include insufficient returns from non-timber activities (in terms of revenues or public relations) resulting in insufficient resources allocated to non-timber enterprises. Potential impediments for Alberta Sustainable Resource Development include willingness to participate -- willingness conditioned in some cases by interest group lobbying.

Although the development of some types of non-timber uses may be facilitated by government-industry agreements, Luckert (1995)<sup>232</sup> warns that the private provision of many types of non-timber values (such as biodiversity) may be difficult. Diffuse values that are enjoyed by large sectors of the population may imply large degrees of government involvement given that the benefits to managing such resources lie beyond the realm of the tenure holder. However, cost sharing partnerships may be possible where the government is responsible for benefits to society at large, and where the tenure holder is responsible for timber values (Haley and Luckert, 1998)<sup>233</sup>. Other institutions outside of tenure agreements may also influence management of non-timber values. The National Forest Strategy, the Alberta Forest Legacy and Certification are all having a bearing on non-timber values, imposing explicit expectations that the Company may opt to meet, on its own or negotiated with government.

#### **5.3.3.4 Rights to Fossil Fuels**

Another category of Crown reservations that limits the comprehensiveness of Agreements are the exclusive rights to oil and gas exploration and extraction that have been granted to energy mining firms. As with most Canadian forest tenures, non-forest rights to resources on the Forest Management Area, such as oil, gas and minerals, are generally held by firms specialized in non-renewable resources. These reservations were made explicit in the 1968 agreement. Despite the fact that Agreement holders do not hold rights to oil and gas, they were able to secure compensation for damages to their timber harvesting rights in 1970 as a result of oil and gas exploration and extraction. This precedent, based on their status as ‘occupant’ of the lands, basically began a long series of negotiations and cooperation that has led to a greater integration of management of forestry and oil and gas resources by specialized firms.

One important result, which arises from the lack of comprehensiveness regarding fossil fuels, is an increasing concern regarding cumulative impacts. The Agreement holder, with its set of rights over the timber resource, does not have control over the entire forest. With rights to forest and fossil fuel resources in different hands, responsibility for the cumulative impacts of two sets of industrial operations is not clear.

### 5.3.4 Size specification

Size Specification refers to the designated location and size of a tenure. These characteristics are crucial to the operations of a tenure holder as they dictate economies of scale that may be achieved, and influence production costs related to the location of the woodland and processing operations, influenced by distance to production inputs and product markets. Sizes of tenures also influence whether firms may be large enough to exert market power in the purchasing of inputs of the selling of products.

The history of the FMA shows that size and geographic location have changed significantly over time. The desire to increase and/or maintain profitability of the wood processing operations in the face of changing technology and markets caused a constant pursuit to revamp and revise FMA boundaries. The original agreements in 1951, 1952 and 1954, were based on areas around the notion of a processing plant being located in Edson. The earliest agreement covered an area of 4895 km<sup>2</sup>, with provisions to delete and substitute areas to a maximum of 5180 km<sup>2</sup>. The maximum of 5180 km<sup>2</sup> was reached in the 1952 revision where the FMA was defined within an area that had been moved west towards Jasper National Park. In 1955, the location of the mill was specified as Hinton, and the 7700 km<sup>2</sup> area was shifted north to accommodate this new position. A Provisional Reserve Area (PRA) of approximately equal size was also added to the FMA that provided the option for potential future expansion. In 1961, the borders of the lease area were rationalized but leaving the lease and PRA areas about the same size.

When the new agreement was signed in 1968, the size of the FMA increased to 16,317 km<sup>2</sup> with the Company exercising its potential option to expand. However, this agreement, with the proposed expansion, was cancelled in 1972, so that the lease area reverted to the 1968 Agreement area of 7700 km<sup>2</sup>.

In 1988, Weldwood negotiated a larger lease area, of approximately 10,012 km<sup>2</sup> in response to proposed expansion of its pulpmill and construction of a new sawmill. This area has remained essentially unchanged to the present day. The size of the 1988 Agreement area was less than that required to support the proposed facilities, following the recommendation of the 1979 ECA report. Whereas historically, all wood was taken from the FMA, current FMA harvests only supply 70% of processing plant capacities with the remainder being bought from or traded with other suppliers. This trend marks a significant deviation from historical wood allocations, as it partially severs the tie between woodlands and a specified processing plant. If this trend were to continue, more active markets for wood fibre (i.e. increased wood exchanges and inter-company strategic alliances) may develop thus freeing mills to seek their optimum plant size and configuration more independently of the specific timber resources on their individual FMAs. This point will be developed further under *Operational Requirements* below.

A further implication, of having processing plant requirements larger than FMA cuts, relates to incentives for EFM. If wood must be purchased, then savings associated with growing wood internally are clear returns to EFM. Furthermore, as the Jacques report specifies, the Agreement holders' renewals will be based, in part, on performance regarding EFM. Thus, as discussed under *Timber Management Rights* above, incentives for EFM may come from requirements and/or because of increased scarcity of timber.

### 5.3.5 Transferability

Transferability refers to conditions governing the sale of the tenure itself, or the products derived from the tenure. Transferability can be important to the evolution of tenures over time, in that sales of tenures, or products therefrom, may allow property to be held by those who value it most. For most large tenures in Canada, including Agreements, tenure rights may be sold with the consent of the minister.

Although the current Weldwood Agreement changed names several times, ownership only changed hands two times; once in 1985 with a friendly takeover by Champion International Ltd. and in 2000 when International Paper Ltd. purchased Champion International Ltd. (Appendix 7.4). Sales of products are also restricted, in that there are provincial restrictions on the export of logs from Crown lands in unprocessed forms. Accordingly, Agreements in Alberta must include a processing plant to add value to harvested fibre (see *Processing Requirements below*). However, as a result of 1995 amendments the Hinton Agreement holder was given full rights to harvest the deciduous AAC and to either utilize it or sell it as logs within the province.

In addition to provisions governing the sale of logs, agreements may also contain provisions dictating specific sales of forest products. Many of these clauses are meant to insure that timber operators, other than the Agreement holder, would have a market for harvested timber. In the early agreements of 1951, 1952, and 1954, the Company agreed to purchase small tops from other timber operators and to purchase pulpwood from settlers. In the 1968 agreement, the provision regarding purchases from other timber was changed so that the Agreement holder would purchase logs and other forest materials from operators if these inputs were needed, and if the price and quality were reasonable. The wording was further changed in the 1988 agreement in that the Company must make every reasonable effort to accept roundwood, if required, and if the price and quality are reasonable.

The purpose of directed transfers changed significantly in the 1988 agreement when it was specified that the Agreement holder would purchase chips from specified quota areas, and that the Minister may direct specified chips to the Agreement holder. Whereas historically, directed transfers were done to benefit other firms, largely for reasons of equity, the purpose of the chip transfers were to secure a wood supply for Weldwood in the absence of a resource base that could completely supply the mill. Despite the provisions that directed chip transfers, private negotiations among forestry firms prevailed, and the provisions were eventually phased out of the agreements. These points will be further elaborated under *Operational Requirements*, below.

### 5.3.6 Use Restrictions

Use restrictions are elements of land zoning policies that restrict specified types of uses in some areas. For example, in Alberta, there are areas of land designated as “white zone” wherein agriculture is a dominant land use, while forestry operations are largely practiced in the “green zone”. Use restrictions may be looked at as a means of keeping land uses that may be incompatible separate. Most large tenures specify that forest tenures be used for forestry purposes, but that the Minister can change the land use for other purposes. In the case of FMAs, the minister may make withdrawals from the lease area in accordance with the provisions discussed below under the section *Security*.

Although the basic policies governing withdrawals from land use changes have been fairly constant over time, the actual land uses have changed considerably. As discussed above, Crown reservations for non-timber uses and oil and gas exploration (and coal) have increased. Nonetheless the designation between “white and green zones” has largely held, as most land use changes on FMAs are occurring within “green zone” parameters. However, distinctions within the “green zone” began to appear with the 1977 East Slopes Policy with its system of eight zones, advent of Forest land Use Zones (FLUZ) under the *Forests Act* in 1979, the 1984 revision of the East Slopes policy, Special Places in the 1990s and, most recently, a prototype integrated resource management planning initiative.

### 5.3.7 Allotment Type

Allotment type refers to whether tenure holders have area-based or volume-based rights. With some forest tenures, such as timber quotas in Alberta, tenure holders have volume allotments that convey rights to an annual volume of timber that may be taken within a designated management area. The provincial forest service is responsible for calculating an Allowable Annual Cut (AAC) that is allocated among a number of quota holders in the management area. Alternatively, tenure holders have area-based tenures, such as the Agreement at Hinton, wherein the Company is responsible for calculating the AAC that it will cut, subject to approval by the LFS. In cases where quota holders are located within AACs, the Agreement holder is required to calculate an AAC for the area that specifies the AAC(s) of the quota holder(s). However, the government retains the ultimate authority in approving such cuts and in approving proposed harvesting locations so that the Agreement holder does not have control over the quota holder (see *Timber Management Rights* above).

Area allotments are generally offered to large firms that have the resources to invest in acquiring long-term, site specific, management knowledge of an area. In contrast, volume based allotments are frequently held by smaller firms that may not have the capacity to invest in this type of knowledge and may rely on government management capacity. With the use of government management capacity comes the ability for the government to direct the location of volume allotments within planning units.

Forest Management Agreements in Alberta have always been area based, although historic cutting by pre-existing firms, and more recently the increased utilization of coniferous and deciduous species, has frequently led to situations where timber quotas may exist within FMA

boundaries. A marked trend away from this situation occurred at Hinton when the deciduous resource was awarded to the Agreement holder, as described above under the section *Timber Harvesting Rights*.

### 5.3.8 Operational Requirements

Operational requirements refer to a number of different types of conditions to which tenure holders must adhere, including regulations governing harvesting, processing woodlands management and public participation. These requirements are crucial to the profitability of the tenure holders operations, and how the resource base is managed and used over time.

Similar types of requirements exist in almost every tenure type in Canada, and common problems may be encountered. First, as with fees, there seems to have been a compelling administrative need to standardize requirements while the situations between tenures may be quite varied. Second, if tenure holders are motivated solely by requirements, they have no incentive to exceed requirement levels. Instead, tenure holders have incentives to minimize the combined costs of meeting requirements and paying penalties for non-compliance (See for example, Luckert 1998)<sup>234</sup>. Third, requirements can be quite costly to firms. As discussed under Fees above, there may be “social rents” derived from restricting the operations of an Agreement holder. However, the question remains whether the costs borne by industry are greater than the benefits derived by society at large from social rents.

Of particular significance to operational requirement on FMAs was the development of the ground rules concept in 1958. These enabled joint Company- government discussion and negotiation of operational requirements that eventually covered a broad spectrum of activities. The significance lies in the fact that many operational requirements may add to wood costs. These extra costs may be avoided or minimized through two mechanisms: first they may be negotiated, enabling the Company to raise and address concerns about what might have been arbitrary or inappropriate practices (see *Security* below). Second, the ground rules are intended to provide guidelines or objectives within which professional judgement may be applied on a site-specific basis to develop appropriate actions.

Although operational requirements are varied and complex across Canadian forest tenures and within Agreements, it is nonetheless possible to identify some major trends that have occurred at Hinton with respect to harvesting, processing, management, and public participation requirements.

#### 5.3.8.1 Harvesting Requirements

Harvesting requirements include: sustained yield requirements that specify AACs and minimum harvest levels; and requirements for protecting non-timber resources from harvesting activities.

### 5.3.8.1.1 Sustained Yield Requirements

Sustained yield requirements have been prevalent since the inception of Agreements, in that an AAC has been calculated, and companies were required to follow these cutting levels. Even the earliest agreements specified that forest lands would be managed to guarantee a perpetual yield of the companies need for timber. However, over time, concerns had begun to grow regarding timber ‘hoarding’, a condition that developed at times during auction of LTBs that enabled financially stronger companies to collect LTBs on speculation. The Quota system was intended, in part, to get away from this. The 1968 Agreement approached this on the FMA in clause 11 (b) stating that the Company *shall* “harvest the annual allowable cut of timber in approximately equal annual or periodic cuts”. The 1988 Agreement strengthened this, stating that a minimum of 80 per cent of the periodic cut had to be harvested within each cut control period. This requirement, was, however, made somewhat flexible in that purchased wood could be counted as harvested timber.

The flexibility afforded tenure holders in meeting sustained yield requirements that evolved within FMAs may be crucial to the profitability of their operations. Studies have shown how revenues from timber may be greatly reduced if firms are restricted in their production decisions in the face of changing market conditions (e.g. Boyd and Hyde, 1989; Alavalapati and Luckert, 1996; Hegan and Luckert, 2000)<sup>235</sup>. In the case of FMAs, there is some flexibility for harvest levels to deviate from AACs, however harvests and AACs must converge over time. Furthermore, The large area comprising the FMA allowed for more possible harvesting combinations in meeting sustained yield targets than a smaller area would have afforded, thereby also reducing the costs of the constraints. What remains to be seen is whether further flexibility may be built into harvesting policy to further reduce the costs of sustained yield. In addition to reducing costs, added flexibility may better facilitate tests of natural disturbance paradigms, which sometimes call for large fluctuations in timber production. However, current trends in cut controls, as being negotiated during 2001 for a revised Agreement, are going in the opposite direction, with less flexibility to deviate from AACs over time. The potential for added flexibility will be further discussed under *Processing Requirements*.

### 5.3.8.1.2 Harvesting Requirements Protecting Non-Timber Values

As mentioned above, non-timber resources have laid largely outside of tenure holders’ rights. Accordingly, they are protected with requirements that restrict timber harvesting. These requirements are common to all Canadian forest tenures and frequently suffer from the common problems discussed above. However, the concept that emerged in the 1950s Agreements, on forming operating ground rules with a consensus-based evolutionary approach between government and industry, was novel and provided a basis to deal with these problems. Recognizing that setting harvesting requirements was inherently difficult; it was crucial to put a flexible system in place that could be adjusted over time. The concept of ground rules provided a basis from which ongoing negotiations could proceed as the Agreement evolved.

Despite the historic importance of ground rules, the future potential for the Company to hold non-timber rights, such as an agreement under the “Stewardship Clause” may eliminate some of

the reliance on non-timber requirements. As tenure holders are allowed to receive benefits from their actions, regulatory checks may be decreased.

### **5.3.8.2 Processing Requirements**

Processing requirements of Canadian tenures frequently state that the tenure holder must operate a processing plant in order to get access to Crown Timber. Agreements in Alberta have all been awarded in conjunction with proposed processing facilities. In recent times, the Jacques report has also specified that promoting value-added will be a criterion for assessing the renewal of Agreements. As discussed above, the size of the Weldwood FMA has been dependent on processing capacity over time, although more recently, the timber production capacity of the lease area has not grown as fast as mill capacity.

This small beginning to sever a direct tie between processing plants and the resource base could be significant. In other jurisdictions, such as the United States, it is common for processing plants to rely, to varying degrees, on markets to supply fibre. The presence of such a market can alleviate a number of potential problems that the Agreement has faced over time. First, the need for the government to direct chips arises out of the absence of a robust market for chips. If the market were not thin, there would be no need for the government to organize chip transfers. Indeed, the history of the Weldwood Agreement shows how markets for chips developed as sales agreements were negotiated in the absence of government direction. Second, it would be easier for governments to contemplate the awarding of deciduous and coniferous species to a single tenure holder, as was eventually done with the Weldwood Agreement, if markets were available to sell fibre to firms specialized in the production of particular sizes, qualities and species of trees. This is increasingly evident as Weldwood has entered into strategic alliances with Weyerhaeuser of Canada Ltd. and Sundance Forest Products Ltd. Finally, the costs of sustained yield could be greatly reduced as wood supply could come from a conglomeration of areas with a jointly calculated AAC, as opposed to a single FMA, wherein age class gaps could be filled in with more harvesting combinations over larger areas. For example with the common ownership of Weldwood and Sunpine Forest Industries Ltd. by International Paper Co. Ltd. current market trades could be rationalized within a common AAC. This aggregated AAC could also be needed to facilitate experiments in natural disturbance paradigms that may require large harvested areas, sporadically over time.

### **5.3.8.3 Management Requirements**

Management regulations include requirements to ensure successive crops of trees with practices such as reforestation and forest protection. Once again, while *de facto* management rights do not seem to have evolved within the Agreement, reforestation requirements have been explicit in the 1968 and 1988 agreements; and specifications have evolved as part of the operating ground rules. Although details about the requirements have changed over time, a common theme was a commitment to reforestation.

As part of the 1968 agreement, clauses were introduced confirming a previously negotiated arrangement whereby the Company would supply seeds to the government, who would then

grow the seeds on behalf of the tenure holder. The Agreement holder could choose to grow their own seedlings, and be reimbursed for costs by the minister within agreed-upon limits. In the 1988 agreement, new clauses were added that allowed for 50/50 cost sharing between the tenure holder and the government for reforestation previously non-forested areas, or areas denuded by natural disturbances. However, in 1995, the “free seedlings clause” was eliminated, as part of negotiated package with compensating benefits, resulting in all regeneration costs being borne by the Company.

Reforestation of areas burned as a result of Company operations is the responsibility of the tenure holder. Protection responsibilities rotated back and forth between the government and the Agreement holder in early agreements, as trial and error was indicating where the responsibility might best lie. The current result is to have a shared financial and operational responsibility (see *Fees* above regarding shared financial responsibility). This shared responsibility recognizes the economies of scale associated with providing fire protection on a province wide basis, while also considering the specific role that Agreement holders play in influencing risks of fire with their timber management and harvesting operations.

#### **5.3.8.4 Public Participation**

The establishment of NWPP and the major construction effort that followed was a newsworthy story in 1955. It was the first large capital project in forestry, taking its place among similar mega-projects of the day in the oil and gas sector. By 1957 Robin Huth had been recruited from the Forestry department to provide a focus on public relations as part of his human resources responsibilities. Feature stories, news items, hosting of delegates and offering of tours were among the approaches taken to inform various publics.

As the visible evidence of forest harvesting increased, particularly along highway 16 west of Hinton and along the Robb road to the south, public critics became more vocal. Criticism of the logging was at first local. Then in 1971 the Save Tomorrow – Oppose Pollution (STOP) Report elevated the criticisms to a broadly provincial level. Early Company responses were to address the criticisms on a case-by-case basis. The Company became more pro-active in the early 1970s -- establishing an interpretive trail at Emerson Lakes in 1971 in collaboration with the Forest Technology School. In 1973 the Company started what was to become a system of hiking trails. Interpretive programming was also added to the trail in the Gregg River burn area to explain pine management. In addition to the hiking trail system, two driving tours were also developed, one each to the north and south of Hinton.

Public participation was not mandated under the agreement or ground rules, but limited consultation was implied in the 1988 agreement in clause 12(6):

“Each operating plan shall incorporate other resource needs and in so doing minimize the adverse impact on such public resources as fish and wildlife throughout the forest management area.”

The Company voluntarily established a Forest Management Liaison Committee in 1989 “to provide input to the Company’s forest management plan”. This was the first public advisory

committee on forest management in Alberta. Its function was reviewed in 1992 and a revised Forest Resource Advisory Group was established in 1993. This group was more broadly representative of regional community interests and had new terms of reference. One of its first tasks was to look at biological diversity for the next forest management plan, then later to participate in a major review of the operating ground rules.

Despite the longstanding presence of public participation on management decisions for the FMA, this aspect of policy is likely in its infancy. As multiple values and stakeholders associated with SFM have increased, there still remain a number of outstanding questions. To what extent should the Agreement dictate necessary public involvement? Who should be represented in the public participation processes, and what mechanism(s) should be used? How should power in these processes be shared among tenure holder and the interests of relevant publics? Research on such questions is beginning under the auspices of the Foothills Model Forest (see the section *Research* in Chapter 4.

### 5.3.9 Operational Controls

Operational controls are the means that governments use to ensure that operational requirements are adhered to. Operational controls include required planning processes and products, reviewed by the government, and field checks to audit actual on the ground performance. Whereas stringent operational controls can help ensure operational requirements are followed, increased control includes increased costs for government and industry.

The earliest Agreements contained requirements for planning and provisions for field checks. However, with respect to planning, increased complexity of forest operations and enhancements in planning technology have resulted in an increasingly sophisticated planning process. Today, an Agreement holder submits a number of different types of plans ranging from annual harvest plans to 200-year projections for forest management AAC calculations.

With respect to policing of Company operations, government policy wavered between more specific requirements and intensive field monitoring, to more general objectives and less intensive policing. Prior to 1972, the less intensive operational control policies dominated. However, policing of specific requirements then increased until another switch to more general controls in 1986. Subsequently, government resources for policing tenure holder operations again increased steadily until the mid 1990's. However, in the face of government budget cuts, and reduced government resources, government policy changed from a system of intensive field monitoring of specific actions, to setting more general objectives that companies must meet by whatever means they feel is most appropriate. Accompanying this change was a reduced government policing role with companies becoming more responsible for audits.

Throughout these policy shifts, industry has continuously expressed the desire to be given general objectives for forest management, and incentives to pursue these objectives. For example, the phenomenon of establishing "Linked Planning" was based on the concept of having leeway to pursue alternative ground-level operations that were linked to higher-level objectives. Similarly, the Stewardship program, which produced guides for "best management practices",

was a further initiative designed to pursue high-level forest management objectives. These developments are in accord with McDougall's comment<sup>236</sup> that, emphasis added:

With NWPP there was never an argument about **how** they achieved regeneration. We [the AFS] just wanted records so we could report on the province as a whole. We were developing a system of reporting on a provincial basis -- the question was how we could bring Hinton into this.

Another ongoing theme relating to operational controls has been the desire by the government and the Company to collect information as monitoring has been undertaken. As the results of industry have been monitored the collection of information has been crucial for facilitating feedback mechanisms necessary for adaptive management.

As more responsibility for monitoring is being handed down to Agreement holders, provincial forest policy is being reviewed to assess the types of monitoring procedures that should be required to ensure that Agreement holders are effectively pursuing SFM. If the past is any indication of the future, such processes will increasingly be linked to multiple objectives, set by multiple stakeholders, which more carefully link forest practices to high-level resource management objectives.

### 5.3.10 Security

Security refers to whether and how characteristics of tenures may change over time. A secure tenure may be defined as having stable characteristics, or being subject to potential changes in characteristics that do not impose extra costs or decrease benefits for tenure holders (Luckert 1991b)<sup>237</sup>. Security of tenure is crucial in that it affects the ongoing investment climate of tenure holders as they consider investments in silviculture and renewal and expansion of processing facilities. However, achieving security through stable tenure characteristics may prevent changes needed to adjust to changing environmental and social conditions. Over time, there were a number of provisions in the evolution of the Agreement that attempted to provide security while preventing rigidity.

One aspect that led to a sense of security in the presence of change was that both parties, especially as exemplified by Crossley and Loomis, resolved to honour both the letter and the spirit of the Agreement. They realized the uncertainties and complexities but focused on the objective of achieving sustained yield forest management and all the values that it encompassed at the time.

One area of change in the Agreement had to do with pollution control. In 1982, the agreement was amended so that the Crown would pay costs required for pollution control in excess of \$4.1 million. However, this clause did not last long. The Company installed a new recovery boiler in the early 1980s as part of a pollution abatement program. The total cost of this and other modifications approached \$40 million. Accordingly the Company requested the difference of \$36 million from the government, payment of which was refused. The Company then filed a lawsuit for the difference between their statutory obligation and the amount of the enhancements. The suit was settled out of court, with the understanding that the full expenditure also included

costs of measures that would result in increased productivity for the Company. With this settlement the clause was removed.

Another key area that affects the security of tenures is withdrawal policies. In the 1954 agreement, provisions existed that any withdrawals of land from the Agreement area of more than 0.5% would be replaced by the Crown. This provision was revised in the 1968 agreement wherein the Crown would replace forest land if withdrawals were more than 1%, and compensate in other ways for under 1%. This aspect of agreements was revised again in 1988 so that the Crown was to determine compensation for amounts over 2%, with no mention of forest land replacement. By this time there were no additional unallocated lands on which to draw for this purpose. However, provision was made to attempt to return withdrawn areas for coal mining to the FMA in a “potentially productive state”. The proposed new 2001 agreement, once again, contains a similar clause that states that the Minister shall determine compensation, replacement lands if available or a combination of both. There were also changes to forest management aspects. Some of the financially related issues between senior Company and government officials involved legal representations, but were all eventually resolved within the umbrella of the agreement.

#### **5.4 Summary and Conclusions**

The agreement represented a negotiated package of rights and responsibilities, both the letter and spirit of which should be honoured. The negotiations that followed found innovative means of compensating the Agreement holder through other adjustments to the agreement including the awarding of deciduous timber rights and increased flexibility to sustained yield cut controls.

Although much of the success of these negotiations may be due to the personalities that have been involved, the process was aided by an established institutional framework that facilitated negotiations. Specifically, the Warrack - Sutherland Accord of 1974 meant that if the Company disagreed with a governmental change to the ground rules, it could only be imposed if approved by the Lieutenant Governor in Council. Thus there was a check in place regarding what industry would perceive as sometimes arbitrary, bureaucratic decisions. Although the Agreement concept was challenged periodically through the evolution of the Agreement, it has remained in the face of increasing demands to protect non-timber resources. Furthermore, the stable political climate and relatively consistent policies towards investments in the province created an atmosphere where the Agreement holder seemed to be confident that their profitability would be maintained.

The “spirit of the agreement” seems to have prevailed for the most part except, possibly, during the late 1960s and 1970s as outlined previously when the province believed it had to be seen to be exerting more “control” over the forest products industry in general. However, the spirit of those earlier relationships seems to have been re-established.

The spirit of the Agreement will be further tested as events proceed. The Jacques Report<sup>238</sup> of 1996 appears to have introduced some uncertainties about the strength of security of tenure as related to forest management performance. Recommendation 3 states that Agreement renewals should be negotiated on the basis of five performance criteria: the Agreement is in good standing, proven track record of sustainable forest management, demonstrated efforts to improve quality and quantity of timber, history of facility reinvestment, and initiatives to generate

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significant measurable economic benefits for both the province and Agreement holder. The statement is not explicit, but makes it clear that more is expected for renewal than meeting minimum Agreement requirements

## Chapter 6

### CONCLUSIONS

#### 6.1 Introduction

In 1951, Alberta pioneered the collaborative Forest Management Agreement system. Then and now, this system defines a large portion of the context in which forest management decisions have, and are being, made. Historically the primary objectives of forestry operations were to provide economic benefits to Alberta, an acceptable return on investment to the Company at Hinton, and maintenance of a dynamic forest. More recently, social concerns regarding the environment, multiple use, and public participation have been added to the list. As the list of objectives has become more complex, the potential for conflict among industry, government, and other interested parties has also increased. A key role of the Agreement was, and is, to try to provide a framework to pull these objectives into alignment.

The Forest Management Agreement is defined in a legal document. Its conditions have been negotiated between the Company and government as a package of rights and responsibilities with respect to a specified area of forested land. The agreed-upon terms were accepted by both parties, confirmed by signatures of the responsible corporate officers, and by government through the signature of the Premier or Minister and confirmed through an Order-in-Council made under authority of the *Forests Act*.

However, there is much of the Agreement that lies beyond these neat and orderly legalities. The Agreement system has involved a government-industry search for an equitable means by which their respective needs could be met while ensuring that foresters managed to sustain “perpetually successive crops”. The Agreement system also involves an area of forestland that changes in nature under the influence of the dynamic forces of the ecosystem as well as through management interventions. And, perhaps especially, the system involves people -- individuals and groups within the government and corporation at different levels. The story reviewed in this volume clearly reflects the influence of many individuals and the interaction of corporate and government objectives. It also reflects the interaction of professional foresters and managers both with the Company and government whose views were not necessarily always in accord, although their general aims may have been similar. And finally, it is increasingly reflecting a host of “publics” who may be affected by the forest, interested in it, or both. This heterogeneous public interest has, for the most part, been nominally represented by the government that interprets ‘public interest’ with respect to forests within its framework of political philosophy and/or political implications. However, given the diversity of human views, no one government could purport to represent every point of view. Accordingly, there are trends towards greater public participation.

Has the Agreement concept been successful? “Success” is a subjective term, and judging its achievement is based largely in the ‘eye of the beholder’, depending on his or her own objectives and philosophies. Success from any one viewpoint may be judged by the degree to which those objectives and philosophies have been realized.

Certainly, the concept of the Agreement has been embraced and sustained by the objectives and philosophies of the two major partners, the government of Alberta and major forest industries. This has been demonstrated in two major respects. First is the continuation of the Weldwood Agreement from the original commitment to invest in 1954 and for the 47 years since. Negotiations are underway at the time of writing (December 2001) -- that suggest a possible extended ‘life’ of 20 years to a total of at least 67 years. The following statements by representatives of the two major partners seem to substantiate the perception of the value of the Agreement.

Weldwood CEO Graham Bender<sup>239</sup> in his letter to the Minister of Forestry, Lands and Wildlife on 21 December 1993 in response to the proposal to unilaterally withdraw provision of “free” seedlings stated:

We have invested substantially in our Hinton operation and fully expect this to be a profitable endeavour over the business cycle. This investment was made with the confidence of the Hinton Forest Management Agreement, which was the subject of protracted negotiations with significant give and take on many issues to achieve its final balance.

Jack Wright commented<sup>240</sup> that the first two Agreements (1954 and 1968):

--- culminated nearly fifteen years of dedicated province/industry cooperation in Alberta and established an enviable standard for allocation of responsibilities and joint management of crown-owned lands in Canada.

Perhaps of greatest fundamental importance was that, as Bob Udell expressed, the philosophy is now essentially the same -- as he had stated in 1998<sup>241</sup>:

We wanted to retain the relationship with the Province whereby we had the right to manage based on mutually accepted goals and objectives -- that we would do the management and the Province would audit our performance and that would be the way that area was managed. There was a willingness in both parties to continue that.

Fred McDougall, retired Deputy Minister, commented in response to a question about the Agreement concept:<sup>242</sup>

... it was pioneering legislation when it was first brought in. It has been widely copied. The dilemma that it solved was “how do you get companies to make significant forest management investments on public lands?” And they are investments, not expenditures. If you start with the assumption, as we do in

Canada, that we are not going to sell off our forest lands, that we are going to retain our forest lands in public ownership then you have got to come up with a mechanism that allows companies to make huge investments in mills and forest management. You have got to come up with some system that gives them some security of tenure. The Agreement concept solved that dilemma and problem very, very well. I think it has worked very, very well over the years. There have been frictions, but all these disagreements were resolved within an essentially sound system. Certainly, when I was charged with rewriting the Forest Act in 1971 I gave no thought at all to changing the Agreement concept because it was extremely well done. I think it has met all its expectations.

The second indicator of ‘success’ of the Agreement concept is that as of January 2002 15 companies held 18 Forest Management Agreements, with two additional proposals still being considered<sup>lxix</sup>. Seven were awarded in the last six years. The 18 FMAs comprise 57.8 per cent of the Green Area and account for 59.7 per cent of the total Alberta AAC. They range in size from 5.8 million ha with 2.56 million m<sup>3</sup> AAC (Al-Pac) to 56 thousand ha with 31 thousand m<sup>3</sup> AAC (Vanderwell). The Weldwood FMA at Hinton ranks third in AAC at 2.087 m<sup>3</sup> and fifth in size at 1.016 million ha. The distribution is summarized in Table 6.1. The three smallest ones, Vanderwell, Sundance and Millar Western, together add up to about 0.6 million ha, equivalent to 2/3 of the Hinton Agreement area. The five largest current FMA holders, each managing more than 1 million ha, are clearly in a different size class than the others.

However, it should be noted that the above indicators of success are largely reflective of the limited viewpoints of Industry and Government. Given that the history of the Agreement has been dominated by interactions between these two parties, this volume did not investigate, and does therefore not reflect, some of the other interested parties that have been affected by the Agreement over time. Accordingly, it is not the purpose of this final chapter to assess whether, or to what degree, the Agreement has been successful overall. Instead, we conclude by looking at some of the basic features of the processes that have guided the Agreement evolution in an attempt to project towards the future. For this, we return to the three original questions posed in Chapter 1.

<sup>lxix</sup> The two pending agreements are Grand Alberta Paper and Manning Diversified Forest Products. The status of Grande Alberta is uncertain, and the outcome of the Manning proposal will depend in part on what happens to the area reserved for Grande Alberta.

Table 6.1 Forest Management Agreement Holders and Potential Agreements in January 2002 listed by year of origin.

Agreement Holder	Year Started	Agreement Area	Agreement Volume	Area % of Green Area	AAC % of Green Area
		1,000 ha	1,000 m <sup>3</sup>	%	%
Weldwood -- Hinton	1954	1,016	2,088	2.9	8.7
Canfor -- Grande Prairie	1964	650	730	1.9	3.0
Weyerhaeuser -- Grande Prairie	1968	1,354	2,163	3.9	9.0
Blue Ridge Lumber (1981)	1975	667	708	1.9	2.9
Weyerhaeuser -- Edson	1983	513	344	1.5	1.4
Weyerhaeuser -- Drayton Valley	1985	425	438	1.2	1.8
Weyerhaeuser -- Slave Lake	1986	719	607	2.0	2.5
Millar Western -- Whitecourt	1988	288	446	0.8	1.9
Alberta Newsprint -- Whitecourt	1989	374	457	1.1	1.9
Daishowa-Marubeni -- Peace River	1989	2,433	1,056	6.9	4.4
Slave Lake Pulp	1990	630	370	1.8	1.5
Al-Pac Forest Products -- Boyle	1991	5,802	2,560	16.5	10.6
Sunpine Forest Products -- Sundre	1992	574	761	1.6	3.2
Sundance Forest Industries -- Edson	1996	268	411	0.8	1.4huy
Tolko -- High Level	1996	3,562	604	10.2	2.5
Tolko -- High Prairie	1997	380	372	1.1	1.5
Vanderwell Contractors -- Slave Lake	1997	56	31	0.2	0.1
Spray Lakes Sawmills (1980) -- Cochrane	2001	573	227	1.6	0.9
Proposed Grande Alberta		1,002	419	2.9	2.9
Proposed Manning Diversified		596	270	1.7	1.7
Non-FMA Forest Mgt. Units		13,201		37.6	9.9
Non FMA-Holder AACs on FMAs					27.6
Total Green Area		36,083	24,076	100.0	100.0

## 6.2 Return to the Original Questions:<sup>lxx</sup>

### 6.2.1 Question 1.

*What events may be considered to be turning points as the Agreement has evolved? What were the different options available at each turning point? Why was the choice made as it was, and why were other choices rejected?*

The numerous turning points and contexts described in this volume are so varied, that common themes are hard to come by. However, one key aspect to this evolution has been the long-term involvement of only two primary players, industry and government. The relative simplicity and stability afforded by this environment afforded long term working relationships to develop. It also facilitated the development of key agreements such as the Warrack-Sutherland accord, which added stability to negotiations in the forms of checks and balances on governmental power. Similarly, this long-term relationship provided for institutional memory that kept track of the complex giving and taking that occurred as changes to the agreement were negotiated over a broad range of tenure characteristics.

The importance of the flexibility afforded by this process is difficult to overstate. If we accept that change is inevitable, a key to facilitating change is to engage in processes that maintain the investment environment required to attract large private investments on public land. The maintenance of this security has been a key plank to the “Alberta Advantage” that is epitomized by an environment of government and industry cooperation.

However, it could be argued that forestry in Alberta has historically been practiced in a relatively docile political environment, compared to many other provinces in Canada. The involvement of other interested parties, such as environmental groups, has been later in coming, and is still in its early days. Although strategies for inclusion of these “publics” are still being formed, it is quite clear that the days when Agreements served primarily to align industry and government concerns over timber supply alone are disappearing. Although the Agreement is a legal document between the Company and government, the agreement system itself is being called on to do much more to accommodate the values and interests of many more groups of people as part of the complexity of pursuing sustainable forest management.

The business side of forestry production has also been putting increasing stress on the Agreement system. Whereas forest products have historically been produced and marketed as commodities, increasingly, forest product companies are searching out specialized markets and responding with specialized products. Again, the key on the

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<sup>lxx</sup> The discussion that follows benefited from a brainstorming session that was held in Hinton on 22 January 2001 involving the authors and colleagues with senior Weldwood Forest Resources staff.

business side is to be able to pursue flexible strategies that change with business cycles and production technologies.

Furthermore, consumers who are exhibiting “green preferences” are increasingly influencing the business side of the Agreement system. This phenomenon is influencing forest management through certification processes, which too are changing, and may be used strategically as non-tariff trade barriers to create comparative advantage.

Another key challenge facing Agreement holders is the recurrent impact of forest fires. The major fires of 1998 in the Swan Hills - Slave Lake - High Prairie area highlighted this concern. The serious losses incurred from these fires required adjustments to harvesting rights. First, logging operations were focussed on salvage timber which required Agreement and Quota holders to re-direct their harvesting efforts. Second, with large losses of standing timber, there will be a need to recalculate AACs on the various forest management areas within and adjacent to the burns.<sup>lxxi</sup> Losses by these fires included mortality and charring of timber and, in some cases, reduction of AAC on forest management areas. In one case, the coniferous AAC was reduced to 55 per cent of the pre-burn level. The terms of the Agreements enabled operators on the affected areas to sell or trade salvaged timber that was surplus to their immediate needs; in one case a trade was negotiated to provide three units of fire-killed timber for one unit of green timber to be received sometime after the salvage period. On a positive note, it is evident that the Agreements enable these kinds of sale or trade as a short-term measure to adjust to the fire impact. However, these deals must be negotiated under inherent duress and there is no assurance that negotiated terms would necessarily include reciprocity of exchanges or, in the longer term, would they necessarily address the problems of future shortfalls. All forest management agreements are silent on the impact of major fire losses on any one FMA. There is no over-riding mechanism available to the province address sharing of deficits incurred by natural disturbances such as fire. Presumably there is an expectation that these problems would be resolved as they occurred through negotiation between and among operators and the economics of the market place.

The above paragraphs point towards the importance of having the flexibility to adapt to change. However, there are three key features that may inhibit this flexibility in the future.

First, the fact that rights to harvest timber have historically been closely tied with processing plant capacity has greatly reduced flexibility in the forest industry. With log supplies tied to specific mills, logs are not necessarily channelled to that mill which will yield the highest value end product. Similarly, processors, desiring specific types of logs have not always been able to find them in their Agreement areas. Although this problem is apparently decreasing, as more log trades begin to occur, the absence of developed log markets can significantly reduce the ability of processing firms to respond to changing markets in ways that minimize costs and maximize the potential return to forest resources.

<sup>lxxi</sup> Darren Tapp, personal communication 2001-04-24.

Second, as mentioned above, the negotiating mechanisms that have historically facilitated change are themselves changing fast, and we are not sure what will replace them. Whatever it is, the basic structure that will guide this change seems sufficiently different, so that there may not be the long-standing, relatively stable, history of industry–government negotiations guiding the evolution of the Agreement.

A third potential difficulty in dealing with future change will likely come from the apparent trend to standardized Agreements. Originally, Agreements were largely considered to be contracts with specific provisions negotiated by each company. However, over time, there has been an increased trend to make all Agreements similar. From the viewpoint of government this trend has led to greater administrative simplicity, perceived equity among tenure holders, and easier explanations to the public regarding what is allowed on public forestland. However, in the face of the changes described above, different firms are likely to face differing situations. Thus, “one size fits all” tenure may be less able to deal with these trends than the specialized agreements of the past. In the face of increasing public pressure, although it may be easier for governments to stand behind standardized regulations, it may be more productive to embrace the complexity of forest management by spending more time negotiating exceptions at the time of renewal, and less time negotiating rules.

### 6.2.2 Question 2.

***At a given point in time a path was chosen given the information available. Could another better path have been chosen given the available information set? Is there something that we can add with this study to the information set currently to choose better paths for the future?***

As the Agreement has evolved, the paths chosen were largely a function of the process (discussed above) and the information available. As with the processes described above, there are currently rapid changes underway with respect to information available to support forest management decisions. As political and business environments have become more complex, the value of information to deal with these complexities has increased, spurring on research efforts, and causing significant changes in adaptive management.

One of the working principles of SFM is that of adaptive management. Adaptive management recognizes the limits of our knowledge but provides for the application of reasoned judgement. However, it also requires that the hypotheses and expected results be documented, that treatments be monitored and evaluated, and that practices be adjusted if the results are not as forecast.

Adaptive management was not part of the lexicon in 1954. However, Crossley with his research background, and Loomis with his reservations about clearcutting were clearly experimenting. As noted earlier the “*cutting system to be adopted on a trial basis will appropriately be some pattern of clearcutting. As many modifications of such cutting systems will be adopted as possible in order, by experiment, to arrive at a system or systems best adapted to the silviculture requirements ...*”. Different approaches were

subsequently assessed and, through negotiation between Company and government, suitable approaches were reduced in number.

The historical focus of generating information on harvesting and regeneration are not surprising given the values that drove forestry operations of the time. Some of the research thrusts that we see today, regarding biodiversity concerns and socio-economic consequences of alternative forest practices and policy, were not driving concerns. Instead, in a more stable Agreement environment, the stimulus for policy change came largely from reacting to problems rather than anticipating problems before they occurred. Accordingly, adaptive management was practiced much more passively than we see today.

More recently, adaptive management for the Agreement was discussed indirectly in the Crossroads and Linked Planning proposals in which monitoring of results and reassessment of plans was clearly identified. Furthermore, adaptive management has been a major role of the Foothills Model Forest, which has sponsored research designed to feed into forest management decisions. In the 1999 forest management plan adaptive management is specifically identified as a goal. As stated in section 5.6.3:<sup>243</sup>

“Adaptive forest management requires a strong commitment to monitoring and a framework in which on-the-ground results are compared to forecasts and assumptions. The 1999 FMP outlines Weldwood’s monitoring commitments while the Linked Planning Process lays the framework for ensuring that the results of Company forest management operations are related back to planning assumptions.”

Despite these efforts towards adaptive management, there have been impediments. First, part of the pro-active approach to adaptive management advocated today, involves risky experimentation. Conducting risky experiments are thought to provide valuable information to be registered in feedback processes influencing forest management. However, when operating on public lands, under the scrutiny of public officials and non-timber forest user groups, risky practices may be interpreted to be performance failures, where companies are shirking responsibilities. Similarly, innovative policies, designed to try to provide more flexibility to industry, may be viewed as shirking governmental regulatory responsibilities. Although some of these concerns may be alleviated if innovation is attempted with small-scale experiments, not all innovations are feasible on small scales. Current natural science questions regarding “natural disturbances” may require large-scale trials. Similarly, it may be difficult to implement some policies on small-scales within a system that is increasingly being homogenized across Agreement holders (see discussion above).

A second impediment relates to the returns from generating information. As discussed in Chapter 5, historically, rights to timber management and recreation resources have not been clearly granted to Agreement holders, although responsibilities and expectations were clearly defined. Accordingly, the incentives to generate information to manage these resources have not been great. Although current trends of increased accountability to multiple publics are now providing more incentives to collect information on these

aspects, there are still likely dimensions of these resources missing that might have a stronger presence in research, if these rights were more clearly defined within the Agreement framework.

### **6.2.3 Question 3.**

***Historically, to what extent have social values lain beyond the interest of the tenure holder? How successfully has the government looked after those values beyond the tenure holder? Is there an historic trend?***

Some of the biggest challenges of the agreement have come from managing a land base where rights to only one of many resources –timber – have been granted. As discussed in Chapter 5, rights to timber management, recreation, and biodiversity have not been clearly granted by the Agreement, while rights to fossil fuels have been granted to energy companies. This situation presents a major obstacle to managing multiple land resources in an integrated fashion.

In the case of forest management, the absence of clear rights has caused the government to rely on commands and controls, in the form of regeneration standards, to attempt to ensure the regeneration of harvested lands. Unfortunately, provincial wide standards do not always facilitate site-specific conditions of Agreements. That is, part of the “one size fits all” problem of Agreements, discussed above, is evident in the standardisation of regeneration requirements. Policies have recently been introduced (with the 2000 regeneration standards) that will allow Agreement holders to propose their own standards to meet site-specific needs. However, it remains to be seen whether the approval, monitoring and enforcement processes required for this option are more prohibitive than sticking with the province wide standards. Further complications will arise as FMA holders attempt to align their management activities with operations of embedded quota holders to produce one integrated and acceptable plan.

Although the Company has historically engaged in recreational management activities, the absence of clear recreation rights could be of significant importance in the future. Bordering on Jasper National Park, the potential for recreation in the Weldwood Agreement is substantial. As society becomes wealthier, as baby boomers retire, and as employees working from home have more flexibility regarding where they wish to live, scenic areas are expected to receive increased pressures. As the non-timber values for the Agreement increase, there will be increasing pressures on the Agreement harvesting activities to facilitate these concerns. However, with the rights to non-timber values not granted, there is currently no apparent mechanism to weigh the trade-offs of timber and non-timber values. In the absence of such a mechanism we can expect pressures to build.

A further challenge involves accommodating social concerns for biodiversity, which are considered to be key to concepts of sustainability. Since this Agreement is on public land, as are most Canadian forest operations, a demonstrated commitment to achievement of sustainable forest management may also become a condition of maintaining public support for the Agreement concept. Despite the advances made by forest industries such as Weldwood at Hinton, there remain concerns about perceptions and understandings as

put forward by critics. For example Elizabeth May, a leading environmental activist, wrote in 1998:<sup>244</sup>

“As we face the new millennium, a fundamental question needs to be asked: Are we capable of sustaining renewable resources?”

“The fact that nearly all the cutting is in the natural forest makes it clear that Canada is converting forest ecosystems to fibre farms, and that no tried-and-true reforestation techniques have been established. There is no track record of ecologically healthy second- and third-growth forests regenerating after heavily mechanized clear-cutting. Canada is conducting a vast, reckless experiment.”

One of the challenges facing the Agreement system will be to more effectively address these perceptions, both through on-the-ground performance and demonstration or interpretation of the results.

The difficulties with integrating the management of recreation and biodiversity with timber values represents the tip of the iceberg regarding potential integrated resource management problems. With the profound effects that fossil fuel exploration and extraction are having on the forested lands, there are concerns about the ability of Agreement holders to effectively manage their land bases for SFM. In effect, the Agreement system has granted a very narrow range of rights to the Company, yet it expects integrated resource management. With rights to different resources spread among different users, and some rights held by no one, the task of pursuing sustainable forest management seems increasingly difficult.

### **6.3 Future Prognosis?**

A review of the history of the Agreement shows that we are currently facing a number of challenges that have not been dealt with before. Not only are the issues in need of attention proliferating, but the historic processes to deal with these issues are also changing. In short, it appears as though changes in the next fifty, or even five years, could dwarf the changes experienced in the past fifty.

In its first half century, the Agreement passed the test of time by changing and adapting to new situations. The key to forest management in the future will also be to take an adaptive approach. However, as the pace of change increases, so must the pro-activeness in this approach. Information must be collected to address problems we don't even know of yet, and processes must be adopted that attempt to further the principled negotiations that have occurred in the past, albeit with a greater number and diversity of interested parties.

Although many members of the forest industry seem to be keenly aware of the potential costs of not dealing with these increasing complexities, there is a limit to how far they will be able to go on their own. As new information and policy process systems are developed, a key constraint will be the overall value of the forest resource. Each additional requirement that we place on forestry firms, as part of the requirements for

sustainable forest management, represents a tax on the value of the timber available. Whereas jurisdictions such as British Columbia have higher timber resource values that can help support complex information and policy process systems, the monetary value of timber resources in Alberta is much lower, largely because of lower site productivity. Therefore, in the face of increasingly complexity, the situation could well arise where the costs of dealing with the complexity become greater than the timber value. Although non-timber resource values could be used to justify forest harvesting and management, arguments relating to so-called “below cost timber sales” have received difficult acceptance in many areas of the United States, where harvesting on public forest lands has been severely curtailed.

The challenge, then, will be to address these new issues with efficient information and process systems, in order to prevent the dissipation of the forest resource values to costs of forest resources management and administration. If we are successful, there will be continued forest harvesting in a way that contributes to economic activity and provides for the non-commercial values and services that Canadians desire from their forests. If we are not successful, the contribution of the forest resource to the welfare of Canadians may be consumed by inefficient decision-making and stalemates among interested parties.

The historical contribution of adaptive management through the forest management agreements at Hinton is clearly evident. The prognosis is less clear. Things are much more complicated now. As Albert Einstein noted: *“The significant problems we face cannot be solved at the same level of thinking we were at when we created them.”*<sup>lxxii</sup> Continued commitment, innovation, creative thinking and adaptive management will certainly be among the key components of the journey ahead.

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<sup>lxxii</sup> Taken from Jean-Pierre Martel’s talk at the CIF/IFC AGM 2001 – reprinted in *Forestry Chronicle* 77:6 pp 991-993.

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## 7. APPENDIX

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## Appendix 7.1

### A Question of Terminology or What's in a Name?

*Juliet:* What's in a name? That which we call a rose  
By any other name would smell as sweet:  
--- Act Two, Scene II, line 43.  
*Romeo and Juliet*, William Shakespeare 1595

This Volume is a story about Alberta's first operating Forest Management Agreement, how it began and evolved. The Forest Management Agreement has two major parts. First is the Agreement itself, a legal document detailing terms and conditions, signed by agents of the two parties -- government and Company -- and confirmed by an Order-in-Council. Second is the forested area to which the Agreement applies, outlined on a map, included in the O.C. as a "Schedule" or appendix.

The question under consideration is about what names and short-forms should be used in referring to these two components. For the purpose of this document the authors have chosen to use the following convention:

Component	Short-form term
Forest Management Agreement	Agreement
Forest Management Agreement Area	FMA

However, our choice of the short-form terms is not one that is universally accepted. The difficulty arises in trying to distinguish between the two components which, unfortunately, have identical acronyms: i.e. Forest Management Agreement (FMA) and Forest Management Area (FMA). There have been two major options advocated, each defensible on the grounds of precedent and usage. There seems to be no absolutely 'right' or 'wrong' approach.

- |                                  |   |                 |
|----------------------------------|---|-----------------|
| 1. Forest Management Agreement   | = | "the Agreement" |
| forest management agreement area | = | "FMA"           |
| or                               |   |                 |
| 2. Forest Management Agreement   | = | "FMA"           |
| forest management agreement area | = | "FMA area"      |

The most important point in this document is to be consistent with whatever terms we use. Consistency is an attribute of which there has clearly been very little. This can be illustrated through review of two aspects:

- Historical evolution of the terms and current legal terminology - Acts, regulations and Agreements
- Common usage by government and Company officials and in working language

#### Evolution of the terms "Forest Management Agreement" and "forest management area"

A variety of descriptive terms has been used from the first reference in the 1949 *Forests Act* through successive agreements to 1966. That changed in the 1968 Agreement in which the term "Forest Management Agreement" was used to describe the document and "forest management area" referred to the area itself. That convention still remains in the 1999 and 2000 Agreements.

Terminology Used in Legal Documents -- Act and Agreements or Orders in Council			
Year	Terminology	Reference or Short-form	
		Document	Area
1949	<i>Forests Act</i> Section 19 - Minister may enter into an agreement, to be described as a forest management license ...	“forest management license”	
1951	Memorandum of Agreement with NWPP Government agreed to reserve ... an area of public lands ... described in Schedule “A” refers to “this agreement”, and “area reserved”	“this agreement”	“area reserved”
1952	Memorandum of Agreement Lt. Gov. in Council agrees to ‘reserve for the company’ ... a “pulpwood area” Schedule “A” referred to as “area reserved”, but map not titled Sections 19(1) and 28(2) refer to “the pulpwood area”	“this agreement”	“pulpwood area” “area reserved”
1954	Memorandum of Agreement refers to a “pulpwood lease” to be selected from the lands described in Schedule “A” of “area reserved” Also includes a “provisional reserve” area to enable expansion	“pulpwood lease” “this agreement”	“pulpwood lease” “provisional reserve” “area reserved”
1955	Amendment to “the said agreement” Schedule “A” refers to “pulpwood lease area” and “provisional reserve area”	“the said agreement”	“pulpwood lease area” “provisional reserve area”
1956	Amendment to “the said agreement” Schedule “A” refers to “pulpwood lease area” and “provisional reserve area”	“the said agreement”	“pulpwood lease area” “provisional reserve area”
1957	<i>Regulations establishing a rate of dues on pulpwood ... within the NWPP Ltd. Lease Area.</i> Preamble: “ ... refer to “the North Western pulp agreement”	“pulp agreement”	“Lease Area”
1961	Further amendment refers to the “1955 agreement” refers to “pulpwood lease” and “provisional reserve”	“agreement”	“pulpwood lease” “provisional reserve”
1966	Further amendment - refers to “said agreement” (1954)	“said agreement”	
1968	Revised Agreement. Preamble states: “Whereas the Forest		

	Management Agreement made ... pursuant to Order in Council numbered 1750/54 dated September 14, 1954 ...” (Note: this appears to be a retroactive application of the term Forest Management Agreement from 1968 to 1954. PJM) and “Whereas NWPP ... has requested that the whole of the provisional reserve ... be added to its forest management area” (Note: first use of “forest management area” PJM) Section 1 -- definitions “ ‘forest management area’ means the expanded tract of forest land over which the Company has, for a defined period of time, the right to manage the area for the purposes of growing and harvesting trees thereon on a perpetual sustained yield basis;”  Schedule “A” Agreement Area 1968 Forest Management Area	“Forest Management Agreement” (first usage - still used 2001)  “this Agreement”	“forest management area” (no short form)
1970	Amendment -m preamble refers to amending the “forest management agreement”		
1988	Revised Agreement - refers to entering into a: “forest management agreement with Weldwood of Canada Limited in accordance with the attached Appendix.” Section 1 -- definitions: “ ‘forest management area’ refers to the tract of forest land over which the Company has been given management rights for establishing, growing and harvesting trees on a perpetual sustained yield basis for a defined period of time;” Refers to “this Agreement” and “forest management area”	“this Agreement”	“forest management area” (no short form)
1992	Written Judgement of Justice McDonald on the Daishowa-Peace River challenge.	“FMA” (and Agreement)	“forest area that is within this FMA”
1998	Consolidation of amendments. Refers to: “Forest Management Agreement” and “forest management area” Section 1 -- definitions: “ ‘forest management area’ refers to the tract of forest land over which the Company has been given management rights for establishing, growing and harvesting trees on a perpetual sustained yield basis for a defined period of time;”	“this Agreement”	“forest management area” (no short form)
2001	Current <i>Forests Act</i> 15 (a) ... pursuant to a forest management agreement	“forest management	

	16 (1) ... forest management agreement 16 (2) ... forest management agreement or forest management lease* Note* R. Keller notes this is an artifact of the first NWPP reference - there is no 'forest management lease' Note: there is no reference in the Act to 'forest management area', or any area as such.	agreement"	
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The legal documents since the 1968 agreement use the term "Forest Management Agreement" and "this Agreement" when referring to it. The area in Schedule "A" is called the "forest management area" both within the text of the agreement and as the title of the map, in neither case is a short-form term used for "forest management area".

## Common or Working Usage

Legal terminology notwithstanding, individuals and groups are prone to adapt or modify language in everyday usage for whatever reasons. The following is a list of some of the working usage of which we are aware.

<b>Terminology used in Correspondence and Publications</b>			
<b>Year</b>	<b>Terminology</b>	<b>Short-form</b>	
		<b>Document</b>	<b>Area</b>
1972	Hon. A Warrack letter of cancellation on 4 February 1972 refers to “Forest Management Agreement” and “the Agreement”; and the “forest management area”	“the Agreement”	“forest management area”
1991	Weldwood Forest Management Plan -- term FMA used variously to refer to the document and area	“FMA”	“FMA”
1993	Letter from Minister B. Evans to Graham Bender 10 November re cancellation of ‘free seedlings’ refers to: “Forest Management Agreement (FMA)”	“FMA”	
1993	Bender response to Evans also refers to “FMA” as the agreement	“FMA”	
1995	Letter from Graham Bender to Ministers Lund and Smith on 9 March re proposed amendments refers to: Forest Management Agreement (FMA), Order in Council 290/88.	“FMA”	
1996	Harvest Planning and Operating Ground Rules - January 1 (signed by LFS Director of Forest management and Weldwood head of Forest Resources) refers to and defines in Glossary: Forest Management Agreement (the Agreement), and Forest Management Area (FMA).	“the Agreement:	“FMA”
1999	Forest Management Plan -- term FMA used variously to refer to the document and area	“FMA”	“FMA”
2000	Weldwood Sustainable Forest Management Plan, April, states: “For the purpose of the SFM system, the terms DFA and FMA are synonymous.” (DFA is Defined Forest Area as applied to the CSA		“FMA”

	SFM standard)		
2000	Weldwood Forest Resources web-site reference to their being: “ ... committed to managing the timber on our one million hectare Forest Management Agreement (FMA) area in a sustainable manner ...” and reference to the Foothills Model Forest: “Included in the landbase are Weldwood’s Forest Management Agreement area, ...”		“Forest Management Agreement area”
2001	Aaron Jones, Weldwood Communications Officer, states that in his usage he tries to be : “consistent about referring to the landbase as our Forest Management Agreement area or FMA. area.		“FMA area”
2001	Bob Udell comments: “In practice, most people on site refer to our landbase as the Forest Management Area ...”		Forest Management Area
2001	AFPA web-site reference: “The Alberta government has recognized these needs by creating two main forest tenure systems: Forest Management Agreement (FMA) and Quota certificate.”	“FMA”	
2001	ALFS web-site reference: “A Forest Management Agreement (FMA) is a long-term, negotiated and legislated agreement between the Province of Alberta and a company to establish, grow and harvest timber on a perpetual sustained yield basis on a defined land area. (A map of the Forest Management Agreement areas is located in the Appendix Map 2.) It is important to note that the Alberta government has committed an area to FMA holders, not a volume of timber. The volume is determined through the annual allowable cut allocation.	“FMA”	Forest Management Agreement areas
c 2001	Foothills Model Forest web-site reference: "Included in the landbase are Weldwood of Canada Limited's Forest Management Agreement area,..."		Forest Management Agreement area

It is evident that in working use the term “FMA” is used variously to describe the document and area, the precise meaning of which is usually evident in the context of the discussion in which it is used. Whether or not a common standard of usage ever emerges remains to be seen. However, for the purposes of this Volume we have chosen to use the short-form term “Agreement” to refer to the Forest Management Agreement, the legal document; and the term “FMA” to refer to the area itself.

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We also chose to use the term “Forest Management Agreement” retroactively to the 1954 Agreement, applying that privilege in response to explanation in the 1968 Agreement.

## Appendix 7.2.1 Evolution of the Forest Management Agreements – 1951 to 1955<sup>245</sup>

Note: Blank spaces represent ‘no change’ from previous or ‘not applicable’

Years	1951	1952	1954	1955
<b>Agreement date</b>	8 June 1951 O.C. 836/51	12 July 1952 O.C. 1018/52, 1019/52	14 September 1954 O.C. 1250/54	13 July 1955 O.C. 882/55
<b>Term</b>	21 years from 1 Aug. 51 Renewable	21 years from 1 July 52 Renewable	21 years from 1 Sep 54 Renewable	
<b>New or amended</b>	<i>Original Agreement</i>	Revised Agreement. No partners yet.	Revised Agreement. <i>This one is signed by Frank Ruben.</i> <sup>246</sup>	Amendment. <i>FMA Area moved west to Hinton</i>
<b>Major Changes</b>		Major change in area. Revisions to Agreement.	Same area as described in 1952.  Revisions to Agreement	Major change in area.  Clarify dues rate on Provisional Reserve.
<b>Mill - Location</b>	Edson (Yates)	Edson (Yates)	Not stipulated	Hinton
<b>Forest Mgt. Area</b>				
<b>a. Location</b>	Block around Edson – metes and bounds description	Bounded by Athabasca and Pembina Rivers, Range 15 W5 on east, west to JNP - map	Bounded by Athabasca and Pembina Rivers, Range 15 W5 on east, west to JNP - map	<i>FMA and PRA moved west</i> <sup>247</sup> – <i>FMA stays essentially same to 1988.</i>
<b>b. Size</b>	1,890 sq. mi. Co. may delete and substitute lands to max 2000	2000 sq. miles. Co. may delete and substitute lands to max 2000	3000 sq. miles Co. may delete and substitute lands to max 3000 More poss. if Co. shows more yield needed.	c. 3000 sq. mi.
<b>c. Wood Vol./AAC</b>	75,000 cords/year	75,000 cords/year	Min. 100,000 cords/year	Min. 150,000 cords/year
<b>Provisional Reserve Area (PRA) &amp; Terms</b>		More area if expanded and can show need for - ref. to 100,000 cords when chem. pulp added.	Delineated Provisional Reserve to be held 14 years (to Aug. 1968) for expansion.	
<b>Withdrawals</b>			If more than ½ of 1%, land to be replaced.	
<b>Rights Over Land</b>	To cut and remove timber.	To cut and remove timber. Co. to salvage wood if water power developed.	To cut and remove timber. Co. to salvage wood if water power developed.	
<b>Crown Reservation</b>	Crown reserves listed lands i.e. licenses, lakes and rivers. Crown right to issue other licenses for mine props, fuelwood.	Crown reserves listed lands i.e. licenses, lakes and rivers. Crown reserves rights to all timber other than pulpwood. Crown right to issue other licenses.	Crown reserves listed lands i.e. licenses, lakes and rivers. No restriction on travel on area except commercial w/o agreement. Crown reserves rights to all timber other than pulpwood – present timber operators continue licenses. Crown right to issue other licenses to max 2% of mill needs at max. capacity.	

			Crown reserves sawlogs – mature <i>trees</i> 3 logs to 8" top <sup>248</sup>	
<b>Years</b>	<b>1951</b>	<b>1952</b>	<b>1954</b>	<b>1955</b>
<b>Forest Management</b>				
<b>A. General</b>	All species listed, including poplar Co. applies for annual license to cut, with working plan. Co. applies for licence to cut covering min 12% of area per year. <sup>249</sup>	All species listed, including poplar. Co. submits detailed annual working plan that “defines in the interests of forest conservation” intent of Co. Co. applies for licence to cut min 12% of area per year – not less than 200 sq. mi. <sup>250</sup>	All species listed, inc. poplar. Co. submits detailed annual working plan . Note requirement to include cut of “over- mature or diseased trees” on cutting areas.	
<b>B. Reforestation</b>	Co. agrees to have its technical Forestry officer, at request of Minister, meet Director of Forestry and staff to <i>discuss</i> a management plan of forestation of denuded and untimbered lands ... so as to guarantee a perpetual yield of the Co.’s need for timber. <sup>251</sup>	Co. agrees to have its technical Forestry officer, at request of Minister, meet Director of Forestry and staff to <i>discuss</i> a management plan of forestation of denuded and untimbered lands ... so as to guarantee a perpetual yield of the Co.’s need for timber.	Co. agrees to have its technical Forestry officer, at request of Minister, meet Director of Forestry and staff to <i>discuss</i> a management plan of forestation of denuded and untimbered lands ... so as to guarantee a perpetual yield of the Co.’s need for timber.	
<b>C. Forest Protection</b>		Co. accepts full responsibility for cost of safe-guarding from fire, pays Minister for Dept. costs, have own efficient organization. <sup>252</sup>	Minister agrees to provide and maintain an organization, pay for costs of fighting any fire except if started on a cutting operation. Co. agrees provide additional resources it deems necessary.	
<b>Records and Scaling</b>	Co. keeps correct books. Scaling on 4- or 8-foot wood. Over-length allowed, 2” on 4’, 4” on 8’ <sup>253</sup>	Co. keeps correct books. Scaling on 4- or 8-foot wood. Over-length allowed, 2” on 4’, 4” on 8’	Scaling to be done by Co. Co. keeps correct books. Scaling on 4- or 8-foot wood. Over-length allowed, 2” on 4’, 4” on 8’	
<b>Charges and Dues</b>				
<b>a. Holding/Ground</b>	\$17,500 Ground and Area rent/tax <sup>254</sup>	\$19,000 Ground and Area rent/tax. <sup>255</sup>	\$3.00/ sq. mi.	
<b>b. Forest Prot’n.</b>	\$15,000 fire guarding.	None – see responsibility clause.	2 cents /acre	
<b>c. Dues</b>	Listed per species: range 1.35/cord white spruce to .45 poplar, .30 balsam. Surcharge 15% if sap- peeled. Minimum \$12,500	Listed per species: range 1.50/cord white spruce to .45 poplar, .30 balsam. Surcharge 15% if sap- peeled. Minimum \$12,500	Listed per species: range 1.50/cord white spruce to .45 poplar, .30 balsam. Surcharge 15% if sap- peeled.	
<b>Mill</b>				
a. Start constr.	Start by 1May 1952	Start by 1 Oct. 1953 Compl. By 1 Jan 55	Start by 1 Sep. 1955 Compl. By 1 Sep 58	
b. Type of Mill	Groundwood pulp, poss. later chem. pulp, paper.	Groundwood pulp, poss. later chem. pulp, paper.	Wood pulp	

c. Mill Size	Min. 200 tpd	Min. 100 tpd	Min. 300 tpd	
d. Expansion	To chem. by May 1959, complete by May 1961	If start by 1 July 1962, compl. In 15 months	Implied – commit by Aug. 1968.	
e. Conditions	Penalty \$1.00/cord if not expanded		PRA cancelled if no expansion	
<b>Years</b>	<b>1951</b>	<b>1952</b>	<b>1954</b>	<b>1955</b>
<b>General</b>	No guarantee of wood quantity or quality. Co. agrees purchase small tops from operators and pulpwood from settlers. <sup>256</sup>  Purchased wood reduces Co. cut, but not minimum dues payment.	No guarantee of wood quantity or quality. Co. agrees purchase small tops from operators and pulpwood from settlers. <sup>257</sup>  Purchased wood reduces Co. cut, but not minimum dues payment.	No guarantee of wood quantity or quality. Co. agrees purchase small tops from operators and pulpwood from settlers. <sup>258</sup>   No restriction on travel on area except commercial w/o agreement.	

## COMMENTS

## 1951

Although the requirements of the Agreement are explicit, I believe it was understood that this was essentially an agreement to enable North Western Pulp and Power to search for partners. This is suggested in the 1952 Agreement in which the Co. must keep the Minister advised of interested partners (Section 3).

This Agreement may have been approved by Eric Huestis as a conceptual and exploratory approach. The reforestation and management requirements do not yet reflect the influence of Reg Loomis – he was probably focussed on getting his forest inventory underway. There was still a sensitivity within the Alberta Forest Service (AFS) about inter-Branch responsibilities – Loomis was in charge of Forest Surveys, but Herb Hall was Assistant Director of Forestry with responsibility for Forest Management, so perhaps Loomis had not been invited to comment, either.

The intent of the reforestation clause is not clear – is the Co. responsibility for reforestation implied, or is it just to be discussed. Note that this clause remains in effect through to 1968!

## 1952

Interesting requirement added in which the Co. accepts full responsibility for forest protection – it appears only in the 1952 Agreement. The commitment as stated would have had significant financial repercussions, as shown in 1956.

## 1954

Interesting that the FMA is still bounded by the Athabasca and Pembina Rivers, essentially centred on Edson. The decision to change mill location was apparently made in January 1955.

## 1955

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The revised area was moved west and centres more on Hinton than Edson. This represents the area recommended by Reg Loomis in his private, but approved, consultation to NWPP. It was a quickly drafted best estimate to legitimize the change in mill location.

## Appendix 7.2.2 Evolution of the Forest Management Agreements – 1956 to 1988<sup>259</sup>

Years	1956	1968	1988
<b>Agreement date</b>	26 April 1956 O.C. 543/56, 1398/56	30 August 1968 O.C. 1647/68	26 May 1988 O.C. 290/88
<b>Term</b>		1 August 1968, expires end August 1988. Renewable <b>Note: PRA rights cancelled 4 February 1972<sup>260</sup></b>	15 June 1988 to 14 June 2008 (20 years) Renewable
<b>New or amended</b>	Amendment	Major Revised Agreement	Major Revised Agreement Note changes 1995 & 1998.
<b>Major Changes</b>	Refined FMA. <i>Single dues rate 75 cents AAC 350,000 cords/year</i> Specifying conifer tree sizes reserved on PRA, adding fir and poplar. Conditions for Min. to sell timber on PRA in interim.	<i>Co. exercising option to expand – commitment.</i> Combined FMA and PRA Total area to 6300 sq. mi. Expansion to start by 1 January 1971  <i>Cancelled by Minister by letter 4 February 1972</i>	Co. expanding – negotiated expanded area and agreement. Note expansion areas delineated for sawmill and pulpmill expansion proposals, all areas confirmed upon completion of construction.
<b>Mill - Location</b>	Hinton	Hinton	Hinton
<b>Forest Mgt. Area a. Location</b>			FMA added to north, east and south.
<b>b. Size</b>	c. 3000 sq. mi.	To 6300 sq. mi. with expansion. <b>Reduced again to c 3000 sq. mi. 4 Feb 72.</b>	Not stated (1.012,000 ha)
<b>c. Wood Vol./AAC</b>	Max 350,000 cords/year. In the absence of reliable G&Y data, agree on AAC 350,000 cords/year until data available.	As per FMP calculation -- inherent	As per FMP calculation -- inherent.  Chip direction provided to address shortfall, amended 1998.
<b>Provisional Reserve Area (PRA) &amp; Terms</b>	Adds clause that PRA may be expanded if Co. can show need more, and lands available.	PRA cancelled if no expansion.	No PRA -- total area AAC only 70% of wood needs
<b>Withdrawals</b>		Crown to determine compensation – note differences over and under 1%. Over 1% replacement from R4 (365 sq. mi.).	Crown to determine compensation – note differences over and under 2% of original net. No land replacement clause. Note 1998 to return coal- mined sites in productive state.
<b>Rights Over Land</b>	Reserving to Co. on PRA spruce under 14" dbh and pine under 12" dbh.	Right to enter and use land to grow and harvest timber.	Right to "establish, grow and harvest timber". Note specified deciduous rights – AAC 57,000 m <sup>3</sup> available when facility – commitment within 5 years Note changes 1995, 1998 to full rights to deciduous with on conditions.

<b>Crown Reservation</b>	Adds conditions under which Crown may sell timber from PRA in interim.	Crown reserves listed lands i.e. licenses, lakes and rivers. Minister notes "multiple uses" – reserves other land rights – private access, exploration, timber permits up to 0.5% of AAC. No restriction on travel on area except commercial w/o agreement – more detailed list. Right to honour existing quota holders. To April 1973 dispose of 80% of sawlogs on new areas Dispose of up to 80% of AAC on R4 still not assigned to Co.	Crown reserves listed lands i.e. licenses, lakes and rivers, parks. Minister notes "integrated resource plans" – reserves other land rights –private access, exploration, timber permits up to 0.5% of AAC. Right to honour existing quota holders. Right to enhance fish and wildlife, domestic stock.  Note limited livestock (horses) grazing permitted in 1995 Stewardship agreement 1995 enables multi-use agreements
<b>Years</b>	<b>1956</b>	<b>1968</b>	<b>1988</b>
<b>Forest Management</b>			
<b>A. General</b>		Follow sound forest practices – achieve and maintain perpetual sustained yield. Harvest AAC in equal annual or periodic cuts. Prepare forest management plans. Mutual agreement on ground rules – 5-year review. Not need to cut deciduous. Integrated plan for cutting all forest products. Co. may need to "salvage" dead, damaged, diseased or decadent timber in plan area. Co. makes such surveys as necessary. Highest degree of economical utilization of timber.  Ground rent option added, rescinded in 1988	Manage on perpetual sustained yield basis, while not diminishing the productivity of the land. Harvest AAC – note latitude for rate of cut within four 5-year periods. Prepare forest management plan with "sound reforestation and multiple use management practices" Yield projections for one full rotation. Revised plan in 10 years (1998). Mutual agreement on ground rules – possible 5-year review. Co. may need to "salvage" dead, damaged, diseased or decadent timber in plan area. Co. makes such surveys as necessary. Highest degree of economical utilization of timber.
<b>B. Reforestation</b>		Co. submits annual plan for reforestation. Co. sole responsibility to meet regeneration standards. Minister provides seedlings from Co. seeds. Co. may grow own at Min. cost reimbursement.  Supplemental reforestation, cost shared Co. and Min. on new areas or natural disturbance – 50% shares.	Co. submits annual plan for reforestation. Co. obliged to progressively reforest at own expense per T/M Regulations. Minister provides seedlings from Co. seeds. Co. may grow own at Min. cost reimbursement, not to exceed 9.5 cents/seedling. Note rescinded 1995. <sup>261</sup> , but with compensatory clauses.  Supplemental reforestation,

			cost shared Co. and Min. on new areas or natural disturbance – 50% shares.  Intensive silviculture clause – extra growth <i>may</i> be free of dues. Change 1995: <i>shall</i> be dues-free.
<b>C. Forest Protection</b>		Co. submits annual plan for forest protection, maintains organization. Min. attempts 1/10 of 1% area burned – 20-year avg. from Jan. 1957. Co. pays costs of fires of its cause, but Formula to limit costs. Cooperate on insect epidemics.	Co. submits annual plan for forest protection, maintains organization. Min agrees provide and maintain organization. Co. pays costs of fires of its cause, but separate Fire Control Agreement to limit costs. Co. responsible to regenerate fires of own cause. Cooperate on insect epidemics.
<b>Years</b>	<b>1956</b>	<b>1968</b>	<b>1988</b>
<b>Records and Scaling</b>		<i>Scaling, weighing, measuring</i> Co. responsibility. Still 1-inch overlength for 2-feet of log allowed.	<i>Scaling, weighing, measuring</i> Co. responsibility.
<b>Charges and Dues</b>			
<b>a. Holding/Ground</b>		\$3.00 per sq. mi.	\$1.16 per km <sup>2</sup> CPI adjustment
<b>b. Forest Prot'n.</b>		\$12.80 per sq. mi.	\$26.06 per km <sup>2</sup> Add CPI adjustment
<b>c. Dues</b>	<i>Agree to change Dues rate to \$0.75 per cord for all coniferous species.</i> <sup>262</sup> Rate firm for 21 years (to April 1977), but dues on PRA may differ.	Merged dues rate for pulpwood increased to \$1.00 for conifer, deciduous \$0.45 per cord. After 10 years (1978) dues to be adjusted per Paper Trade Journal figures. Sawlogs at regular Alberta dues.	Coniferous \$1.44 per m <sup>3</sup>  Deciduous \$.065 per m <sup>3</sup>  Add CPI adjustment.  Wood products other than pulp at regular Alberta dues.
<b>Mill</b>			
<b>a. Start constr.</b>		Start expansion by 1 January 1971 to wood-pulp and other timber products to min. 1,000 tpd.	Start expansion of pulp mill by 1 January 1988 to 424,000 tons pulp per year. Complete by 1 April 1990 By 26 Aug 1988 commit to sawmill complex expansion to 150 million fbm/year. Compl. by 1 Nov. 1993.
<b>b. Type of Mill</b>		Wood pulp and other timber products	
<b>c. Mill Size</b>		Min. 1000 tpd	424,000 tons per year
<b>d. Expansion</b>			
<b>e. Conditions</b>		PRA cancelled if no expansion	Respective PRAs cancelled if no expansion of pulp or sawmill.
<b>General</b>		No guarantee of wood quantity or quality.	No guarantee of wood quantity or quality.
		Co. agrees purchase logs and other forest materials from	Co. agrees use every reasonable effort to accept

		operators and pulpwood from settlers – if needed and price and quality reasonable..	roundwood if required by Co. and if price and quality reasonable. Co. <i>shall</i> purchase chips from specified Quota areas, Minister may direct specified chips. <b>Amended 1998</b> <sup>263</sup> with compensatory clauses.
		No restriction on travel on area except commercial w/o agreement – more detailed list.	
<b>Years</b>	<b>1956</b>	<b>1968</b>	<b>1988</b>

## COMMENTS

### 1956

- The FMA boundary had been fine-tuned as a result of the Crossley-Wright reconnaissance surveys of the FMA from 1955.
- The Single dues rate for all coniferous species was determined by weighting the average rate for each species by estimated proportional volume within the FMA. My impression is that this was done early in the operation, given the obvious impracticability of delineating species during pile scales. I have the impression that the average had been agreed upon and adopted in practice well before the 1956 amendment.

### 1968

- This was a major commitment to expand the mill, expansion to start within 3 years. The option and the PRA was cancelled by the Minister (Warrack) by letter 4 February 1972. It is interesting that the Company negotiators got agreement to hold a further reserve area in case of withdrawals, as well as restrictions on timber use in the reserve area.

### 1988

- This was a major achievement for Ken Hall, representing a sustained effort to expand the mill for economic viability after losing out on the Berland TDA application. Success tempered by constrained FMA that could supply only 70% of wood needs.

## Post 1988 Amendments to the Agreement

Two amendments to the Agreement followed in 1995 and 1998 as described in the text. A summary of these follows:

### 1995

- Clause providing ‘free seedlings’ rescinded by government request.

Other, at least partially compensatory changes negotiated:

- Company acquired right to deciduous timber without regard to manufacturing capability.

- Limited livestock grazing (horses) permitted with consultation, possible constraints.
- Company to be consulted about issuance of ‘small timber permits’; maximum amounts 8,500 m<sup>3</sup> conifer, 1000 m<sup>3</sup> deciduous.
- Stewardship Agreement enables Company to assume responsibility for certain multiple use activities (i.e. camping sites) through negotiation.
- Minimum harvest levels set at 80% of AAC within any cut control period, enabling more flexibility.
- Company retains responsibility for timber-related inventories, enables negotiation for cost-sharing of other inventories.
- Supplemental reforestation on NSR lands as a result of non-Company disturbance enabled by shared-cost agreement.
- Intensive silviculture -- additional AAC *shall* be offered free of dues (not *may*).

## 1998

- Chip direction clauses essentially rescinded by government, although a few remained in place.

Other, at least partially compensatory changes negotiated:

- Restoration of Grande Cache chips should the sawmill cease production.
- Return of coal-mined lands in a productive state from sites surrounding FMA.
- Utilization of timber from specified Edson forest management units, with chip purchase possibilities for Company.
- Time period to utilize previous transitional undercut extended to 2008.

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### **Appendix 7.3**

#### **Significant Events, Decisions and Turning Points in the Weldwood - Hinton History**

Compiled by Peter J. Murphy, Robert Udell and Martin Luckert

Note: This following Table of points lists events and decisions in a summary form. Details may be found in the papers describing the Weldwood History, Evolution of the Forest Management Agreements, Historical Timeline and the various reference documents cited.

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
1949	Huestis starts forest inventory - sets Alberta or road to forest management	Huestis adds a project for a forest inventory for the southern half of Alberta as an add-on to a major project for photography and mapping of the entire province. This sets the stage for forest cover mapping, calculation of forest volumes and AACs for the first time.
1949	Agreement Clause in <i>Forests Act</i>	Enables negotiations for Agreements - inserted by Blefgen and Huestis in response to their perception that large areas of smaller timber would be more suited to pulpwood.
1949	Reg Loomis hired by AFS to take charge of the forest inventory	Skills in forest inventory and convictions about sustained yield forest management lead to prominent role in negotiating terms and conditions
1949	Frank Ruben visits newly-purchased coal mine near Robb, envisages combining coal with timber to support pulpmill at Coal Branch junction.	His idea leads to study of pulpmills, processes, markets and possible partners.
1951	Frank Ruben incorporates NWPP	Confirms Ruben's vision.
1951	Frank Runes signs first Agreement proposal	Search begins for partners to develop a pulpmill
1952	Ruben meets Reg Loomis, arranges to re-draft proposed area.	The original area surrounding Edson would have had little appeal to a prospective investor. Loomis defines a new area further west to the mountains, bounded by Athabasca and Pembina Rivers, containing mostly coniferous timber.
1952	Agreement Amended	Area based on Loomis' suggested move to the west.
1954	Ruben meets St. Regis president Ferguson in New York - shared interest and vision.	Leads to field survey in Edson area under direction of George Abel - identifies volume of timber to support a mill for over a century. Joint NWPP-St. Regis Agreement 17 June, Forest Management Agreement with Alberta 14 September.
1954	Agreement stipulates 'sustained yield' and 'perpetual yield' - commitment to forest renewal.	Precedent-setting agreement for Company responsibility for sustained yield forest management.
1954	Tests prove Edson site unsuitable, Hinton located as more -than- suitable alternative January 1955.	Reflection of determination to proceed, search for new site, relocated to Hinton; Company and government faith with verbal agreement to new area. Loomis designs a new FMA centred on Hinton, approved by O.C. amendment to Agreement in 1955.
1955	Desmond I. Crossley hired as Chief Forester	A leading Canadian forester with research background, insisted on Company commitment to supporting sustained yield forestry. Crossley also resolved in hiring new staff to recruit from among the top graduates. Crossley became prominent for his achievements and those of the Company.
1955	Agreement (tentative, at least) on clearcutting as a basic silvicultural/harvesting technique.	Despite Loomis' reservations about clearcutting, he agreed that this approach starting with narrow strips or smaller blocks would be acceptable providing they were monitored -- see later note about

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
		Ground Rules.
1955	Company does aerial photography of FMA in August.	Commitment to do own mapping and inventory to meet planning needs under the Agreement.
1956	Crossley negotiates his "10 per cent" based on argument that these are agreed-upon costs, not capital investment.	To facilitate Crossley's personal commitment to forest renewal he negotiated a precedent-setting (in Canada, at least) Internal agreement with the Company to provide him with an annual discretionary budget equivalent to 10% of the cost of wood delivered to the mill. He drew on this to effect his forest management planning and silviculture. (Year estimated - negotiated from 1955, likely early 1956 PJM)
1956	Scarification trials begin	Early emphasis on natural regeneration. Scarification trials lead to successful drag-chain scarifier (Crossley Scarifier) with widespread Alberta and western application.
1956	Continuous Forest Inventory begins	CFI based on grid of permanent sample plots led in 1970 to Permanent Growth Sample plots and laid foundation for major growth and yield analyses in 1985 and ongoing thereafter.
1956	Three large forest fires burning on and into the FMA led to major reassessment of AFS fire control and increased support.	In early discussions on the Agreement, the AFS had said these were "Asbestos Forests" with no major fires since 1941, and the last major calamity 65 years ago. (JCW) Knowing what we do now about fire cycles, this was a rather naïve view, and I'm surprised the Company "bought" it. (RU)
1956	Flat rate stumpage set for all species	1954 and earlier Agreements listed individual rates for each species. Recording of species in bush scale immediately found impracticable so a weighted average was authorized instead for all coniferous species. Wright commented on the seemingly-low rate: Because a study done for the Government at that time showed that, given the Company's responsibility for access, layout, reforestation, management, etc. - the dues charged were in fact as high or higher than comparable government net revenues in other provinces including BC.
1958	Age-classing program started.	Three-year program to determine age classes on FMA to understand fire history and effects, age classes for forest management planning.
1958	Ground Rules - first reference	First documented record dated 1958 -- preamble emphasizes experimental nature of management, need for trials and observation - description of 'adaptive management'. Ground rules to be based on professional judgement, modified with knowledge and experience.
1958/59	Company operation-based fires in Camp 2 area 1958 and 1959 led to Forest Protection Agreement	Company billed by AFS for fire suppression costs on these fires per Agreement. Heavy charges led to negotiations and development of Forest Protection Agreements with ceiling on charges in return for more Company initial attack investment.
1960	Company planted its first tree and hired its first silviculturist.	Tree planting began experimentally, mostly to fill in NSR areas. Growing attention to silviculture to meet Agreement conditions led to first dedicated position.
1963	Experiments in mechanical logging lead to mechanization	First skidders (Tree Farmer C4) under powered and poor flotation with narrow tires available. Roads and trucks were not designed for tree length logging nor did the Company have slashing facilities

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
		available at the millsite - (JCW) - see 1967.
1965	First Company greenhouse and nursery in Alberta	Availability of seedlings - timing, quality and cost - led to Company investment in first industry greenhouse and nursery to meet increasing needs.
1966/7	Start of removal of residual stands in Camp 1	Start of second pass of two-pass harvest creates appearance of larger cleared areas, despite satisfactory regeneration which was too small to be casually seen. Led to start of public criticism of clearcutting, affected government response, too. Zimmer/STOP issue in 1971.
1967	Company purchases 55 Timberjack skidders	Too hard to find 1000 men experienced in handling horses plus the cost of running camps for that many men. Cost was \$25/day +/- - Employees paid \$2.70/ day (JCW) Mechanization of the operation started in 1967, and was completed in 1968 (RU)
1968	Company commits to expansion of the pulpmill. New 'Model' Agreement negotiated. FMA area increased in size from 780,000 ha to 1,550,000 ha.	Company commits to expansion, picks up on option in Agreement to take over the Provisional Reserve to support an expanded pulpmill. Interest from other industries in other regions prompted negotiations for new Agreement as a 'model' for other possible Agreements. Among interesting clauses: Minister to provide seedlings at no cost if Company provides seed Supplemental reforestation option - too soon to warrant major effort Land rent option Company given status as "occupant" of land - conveyed some authority over other users.
1968	Loomis developed Timber Development Area concept -- leads, in part, to Procter & Gamble Agreement, others.	Inquiries about FMAs led Loomis to define other possible FMA boundaries - became known as Timber Development Areas (TDAs) - became a policy focus in late 1980s, early 1990s.
1968	Company and union negotiations result in a strike of IWA woods workers.	One of few labour disputes for which strike action was called.
1970	Crossley submits report advocating program of intensive forest management	In a visionary report, Crossley outlined several options for increasing wood yields from FMA. It was not acted upon, one reason was that AAC was still not being utilized.
1970	Shtabsky and Land Use - Timber Damage Assessment studies and challenge to rationalize land use disturbances and pay compensation to Company.	Increased impact from oil and gas exploration led Company to press for a means to assess for damage to timber and young growth. Shtabsky legal firm employed to develop and argue the case - successfully carried. A Land Use section was created to track activities and assess charges, later to work with oil companies to mitigate impacts cooperatively.
1970	Emerson Lakes project first start of Company investment in camping.	Joint development begins on Emerson Lakes Campground -- cooperative project with Company, Forest Technology School and AFS - initiated by Jim Clark with Peter Murphy. Recognized opportunity for managed site for camping with interpretive trail.
1971	STOP releases 'Zimmer' report alleging serious environmental damage as a result of Company	Report illustrated by copious photographs alleges serious problems. . Kare Hellum, head of Silviculture for the AFS relocated all of Zimmer's photo points, staked all the regeneration and re-took the

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
	logging operations.	picture from the same perspective, providing a much different view of the reforestation situation and effectively discrediting the STOP report. But public concerns led to Shulco study -- see 1972.
1971	Construction starts on Studmill	Staff and government urge construction of a sawmill to utilize the quality larger material for lumber. Company responded with a studmill, completion fortuitously coincided with a strong demand for studs. Construction also considered by the Company as a 'good-faith' commitment in support of expansion under the 1968 Agreement. This was not accepted by the new government - see 1972.
1972	Expansion cancelled	Company was required to start construction of an expanded pulpmill by 1 January 1971. New Conservative government in 1971 re-assessed Agreements, Minister Warrack wrote 4 February 1972 to declare the Company in default, Provisional Reserve taken back.
1972	Fox Creek Development Association started.	Woodlands staff help set up first venture with Aboriginal community group to do contract logging, later leading to other successful business ventures. Association was incorporated in 1982.
1972-73	Shulco study on impacts of forestry operations initiated 1972, report printed 1973.	Investigation prompted by public concerns about the impact of forestry operations. C. D. Shultz & Company (consulting foresters) began study in 1972 after public concerns highlighted by STOP (Zimmer) report of 1971. Their report issued in 1973 was both supportive and critical, and led to some positive changes -- recommendations to intensify and refine timber management and integrated management for all forest resources.
1973	First Trail, start of extended IRM/recreation trails and other facilities.	Company constructs a hiking trail along the Hoodoos above Sundance Lake - start of several trails and other recreational facilities in public interest - initiated by Jack Wright with Des Crossley.
1974	Warrack - Sutherland Accord	Mill manager Ivan Sutherland and Minister Allan Warrack negotiate an Accord to resolve an issue which the Company viewed as a threat by government to make unilateral changes to Ground Rules. The Accord stipulated that if agreement was not achieved, government must make its changes by Order-in-Council, ensuring principled negotiations.
1974	Deciduous timber raised as an issue.	Government expressed concern about utilization of the deciduous timber -- issue resolved finally in 1998.
1975	Jack Wright becomes Chief Forester	Des Crossley retires, Jack Wright who started in 1957 provides continuity of commitment to forest management.
1977	Ken Hall becomes Vice-president and General Manager November 1977	Develops vision for expanded pulpmill and FMA; inquiries contributed to Berland TDA call for proposals in 1978. Company submits strong proposal for expanded pulpmill and light-weight-coated paper mill.
1978	NWPP becomes St. Regis (Alberta) Ltd.	NWPP becomes St. Regis (Alberta) Ltd. following earlier (1969) purchase of 47% share held by North Canadian Oils. Now 100% owned by St. Regis Corporation.
1979	Berland TDA awarded to BC	Berland TDA awarded to BCFP in 1979 decision. A complex story,

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
	Forest Products	net result was loss of light-weight coated paper mill in Alberta. Very disappointed, Hall and Company reassess options.
1979	Environment Conservation Authority report on impact of forestry.	Crossley was a member of the 4-man panel set up by the ECA to hear public concerns about the impact of forest operations on the forest. Recommendations reflected changes underway in government policy. Key recommendation on making FMAs smaller than projected fibre needs of plants led to improved utilization and set the stage for major expansions in the next decade.
1981	New Company greenhouse and nursery opened, 3 million seedlings produced to meet increased planting needs.	Company only planted areas that failed to meet the reforestation standards for natural regeneration. (Mostly fill-in planting until 1988 that is) (JCW)
1982	Amendments to Agreement	Major disagreement with government about cost sharing of pollution abatement as provided in Agreement - resolution after lawsuit by Company.
1982	Company offers to provide FMA area as a case study in wildlife.	Woodlands Manager Jim Clark offers FMA as experimental area for wildlife studies after presentation by Jack Ward Thomas. Leads to Company/government task force.
1985	Company/government task force on Wildlife reports	Wildlife task force report in 1985, sets stage for Company wildlife program in 1988 with hire of Rick Bonar.
1985	Hinton success-story written in Donald Mackay's <i>Heritage Lost</i>	Canadian Institute of Forestry supports Donald Mackay to write <i>Heritage Lost - the crisis in Canada's forests</i> , describing the history of development of Canada's forests. Chapter 8 <i>Des Crossley's Obsession</i> highlights the NWPP forestry operations as a notable success story.
1986	Forest Resources Department set up under Don Laishley	Task force of Wright and Clark led to recommendation to amalgamate Forestry and Woodlands to provide more opportunities for a dedicated group of experienced woodlands/forestry staff - also to integrate the operation into what it is today - what better time to do it than when both the Chief Forester and Woodlands Manager were retiring? (JCW) Start of closer collaboration, end of 'Crossley's 10%' with committed budget for forestry and IRM in Department. Don Laishley starts January 1986.
1986	Champion, now owners of Company, approve Strategic Plan for expansion developed by Hall.	Approval of Strategic Plan leads to intensive negotiations with government for a new Agreement and expanded area in support of expanded pulpmill and sawmill.
1986	"Herbicide Wars" (RU)	Adverse publicity surrounding attempts to install some herbicide trials on the FMA came to a head when Premier Getty, campaigning in Edson, was asked what he planned to do about Company plans to broadcast herbicides on its FMA (a far cry from the trials proposed). Getty replied as long as the public was not happy with the use of herbicides in forestry, he would not allow them.  Hinton at the time was the hotbed of the anti-herbicide movement. The Company observed that other companies attempting trials were

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
		experiencing no such resistance, and decided rather than scuttle the opportunity for the whole industry it would take a back seat for the time and allow the use to advance in a more logical fashion elsewhere. Interestingly, in 1997 Blue Ridge Lumber treated 4000 ha with this tool with no adverse public reaction. (RU)
1988	New Forest Management Agreement	New Agreement enables construction of new pulp and saw mills -- but in a break with precedent new FMA provides for only 70 per cent of required coniferous AAC -- reflecting recommendations of 1979 ECA report. Interesting clauses include: <ul style="list-style-type: none"> <li>• return of withdrawn lands to FMA</li> <li>• forestry prime use</li> <li>• chip direction to help make up for AAC deficiency</li> <li>• intensive silviculture authorized -- picking up essence of Crossley 1970 proposal.</li> </ul>
1988	Company Wildlife program started	Rick Bonar hired as first Company biologist; IRM Steering Committee set up; increased focus on IRM.
1989	Public Participation program begins	Forest Management Liaison Committee January 1989 leads to Forest Resource Advisory Group (FRAG) in 1993 -- ongoing public consultation on forest management planning.
1990	Expanded pulpmill opens	Expanded pulpmill has 385,000 tonnes per year capacity.
1991	Expert Forestry Review Panel reports.	The Expert Panel, consisting of a distinguished wildlife researcher, a respected CFS researcher, and the chair of the former panel lacked a strong forest industry perspective. The AFPA approached the Company about appointing Bob Udel to the panel. Des Crossley, former Chief Forester, had served on the 1979 Panel after his retirement with good results for the industry and the Company. As the most senior Agreement holder with a strong track record in policy development Udel was seconded. Among the many recommendations was that well-considered Ground Rules developed with public participation could substitute for EIAs on FMAs. Recommendations also included development of a Forest Conservation Strategy through public participation.
1991	New Forest Management Plan	First FMP under the 1988 Agreement, incorporates IRM, transition to Sustainable Forest Management.
1992	Foothills Model Forest Agreement signed.	We were approached by Dennis Quintilio and Ross Risvold who saw an opportunity for the school. At the same time, our own wildlife/ forestry program was gaining national attention, and we were already being touted as a "de facto" model forest. We knew we needed more knowledge in sustainable forest management through work leading up to our pending forest management plan, and saw this as an opportunity to leverage our own effort. (RU)
1992	National Forest Strategy and Canada Forest Accord approved	National consultations in which Company staff participated led to NFS approval. NFS essentially defined Sustainable Forest Management for Canada. Company endorses Accord through AFPA. Sets direction to achieve SFM. Followed in 1995 by Canadian Council of Forest Ministers consultations and publication

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

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Year	Event or Decision	Significance
		of Criteria and Indicators for SFM.
1992	Kimmins-Brace report on silviculture.	In the late 80's and particularly in the early 90's it became apparent that reforestation success and growth was not meeting the expectations of the forest management plan. A review by Hamish Kimmins and Lorne Brace in 1992 pointed the need for a dramatic uplift in silvicultural performance. This led to the internal "Crossroads Report" - see 1993.
1993	Hi-Atha Sawmill opens	State-of-the-art sawmill has 200 million fbm annual capacity. Mill requirements for quality and volume become the primary driver for wood supply to Hinton.
1993	Crossroads Report and commitment.	The Crossroads report arising from the Kimmins/ Brace Report shifted the focus to a strong silviculture program. As part of this, we recognized that it was no longer appropriate to view silviculture as a "mop up" after harvest, as was the case with the Management Opportunity Survey system in place until then. (RU) Led to Pre-harvest Planning for silviculture, increased investment in silviculture. Silviculturists pulled out of the districts under silviculture planner. The focus shifted from achieving stocking to ensuring early establishment and rapid growth of trees on harvested areas, resulting among other things in an increase in the proportion of area planted. New Tree Improvement Forester, Diane Renaud appointed from staff in 1994, Company joins Huallen seed orchard cooperative.
1994	Linked Planning Process introduced.	<p>To implement sustainable forest management, we needed a strong link between the forest management plan and what was happening on the ground. We were already planning for the next forest management plan, and knew this link would be critical if the AAC were to be sustained. In the past, weak linkages between AAC assumptions and field implementation were no problem because we were nowhere near to using the AAC. We used Baskerville's principles of "good forest management" as our guide and worked with AFS representatives to design the process - which is now the foundation for the new draft Forest management planning guidelines for Alberta.</p> <p>Ken Higginbotham, ADM at the time, said this process could be the key which would give him the comfort level to allow industry so self manage its activities on the authority of an RPF. The explicit linkages, sensitivity analysis and Stewardship Report monitoring, feedback and control mechanism was the key. The process is also consistent with the Foothills Model DSS framework which was in part adapted from the LPP. (RU)</p>

## Significant Events and Decisions in the Weldwood - Hinton History

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Year	Event or Decision	Significance
1995	Agreement Amendments	<p>Triggered by a letter from Minister Evans in 1993 declaring an end to the seedling supply agreement, series of industry representations led to negotiated settlement through 1995 Amendments to Agreement. Also addressed deciduous timber issue raised by ADM Forestry in 1992 letter. Seven pending issues resolved:</p> <ul style="list-style-type: none"> <li>• Deciduous timber rights fully granted to Company</li> <li>• Limited livestock grazing enabled, with caveats</li> <li>• Small timber permits limited</li> <li>• Stewardship Agreements enabled for cooperative IRM agreements</li> <li>• Minimum harvest levels added</li> <li>• Defined responsibilities for additional IRM/SFM inventory needs</li> <li>• Seedling supply agreement cancelled.</li> </ul>
1995	Tree Improvement Report	<b>Tree Improvement</b> report – New Tree Improvement Division established at Weldwood Hinton in January 1995 – major step forward. (RU) Diane Renaud appointed Tree Improvement Coordinator.
1995	Intensive Management Report	Enhanced Silviculture Project proposal in January 1996. Comprehensive Enhanced Forest Management (EFM) program started this same year - includes both forestry and utilization aspects. Dr. Stan Navratil hired to lead the program. (RU)
1996	Ecological land classification put into place	With the addition of ecological classification in 1996 and the integration of silviculture and harvest planning, we are much better able to pinpoint those areas needing planting and they are planted up front rather than waiting for a regeneration survey in the 7 <sup>th</sup> year. (RU)
1996	Forest Harvesting and Operational Ground Rules - revised edition	Revised FH&OGR printed - developed over three years of consultation with FRAG and negotiation with government. Embraces principles of SFM and adaptive management. FH&OGR also set up as “evergreen” with changes as necessary through Company/government (LFS & NRS) Ground Rules Standing Committee.
1996	Forest Certification systems developed	Forest Stewardship Council, sponsored by WWF develops global Principles for Certification with regional standards. Canadian Standards Association develops system based on CCFM Criteria with public participation, closed loop feedback management system, monitoring and adaptive management, third-party audits. Alberta Forest Products Association develops ForestCare system for Alberta with second-party audits.
1996	Jacques Report, Standing Committee on Natural Resources and Sustainable Development.	Government Standing Committee chaired by Wayne Jacques, MLA from Grande Prairie, recommends new principles for renewal of Agreements, introduces element of uncertainty to the process. Renewal of Agreements based solely on Forest management Performance no longer certain - likely to require additional “value-added” aspects.

## Significant Events and Decisions in the Weldwood - Hinton History

### Including Possible 'Turning Points'

PJM 2001-03-13

Year	Event or Decision	Significance
1997	Enhanced Forest Management Task Force Report, commitment to EFM.	This task force was co-chaired by Bob Udell and Trevor Wakelin (Millar Western) with much of the technical input by Hugh Lougheed and Paul Hostin of Weldwood, along with Daryl Price (Alberta LFS), Stevens (Weyco), Kryger (M/W). The Forest Conservation Strategy (FCS) suggested a zone of Intensive management as being appropriate, yet there was no guidance as to what this meant or how it could be applied. Nor was there a supportive policy framework for IFM outside the FCS. We saw this as a golden opportunity, it was consistent with where we needed to go with our own program, and we could strongly influence a framework of policy and practice to make it happen. (RU).
1997	Company certified by Alberta ForestCare.	ForestCare certification program of Alberta Forest Products Association designed to encourage progress towards SFM -- Certification awarded after AFPA audit.
1998	Amendment to Agreement and Memorandum-of-Agreement.	Triggered by 1996 government letter to cancel chip direction agreement with Quota holders and Agreement holders, series of negotiations over almost two years led to amendment qualifying chip direction to 2008 and beyond if Agreement extended, and a Memorandum-of-Agreement offering offsets to compensate for some of the chip loss and other commitments, Including: <ul style="list-style-type: none"> <li>• wood supply assurance from Grande Cache area</li> <li>• return of reclaimed coal mine leases</li> <li>• caveats on timber permits in E-4 and Cache Percotte Forest</li> <li>• Company undertaking to balance harvest with AAC by 2008.</li> </ul>
1999	Forest Management Plan 1999	First FMP clearly structured to achieve Sustainable Forest Management - closed loop feedback system, public participation, adaptive management. Explicit wildlife and hydrological analysis (fine filter) along with coarse filter framework -- all scheduled harvest within the historic range of natural disturbance.
2000	International Paper Company -- purchases Champion -- Weldwood Hinton retains same name.	International Paper Co. outbids Finnish forest products firm to purchase Champion, parent Company of Weldwood of Canada.  Company FMA certified by ISO 14001 Company FMA certified by Canadian Standards Association SFM
2001	Negotiations underway to renew Agreement under conditions resulting from the Jacques Report.	An Agreement would extend the term for 20 years under an 'Evergreen' provision, but conditions negotiated in 1988 all need to be on the table for the negotiations.

## APPENDIX 7.4

### CHRONOLOGY OF COMPANY NAMES AND OWNERS

- 1951 North Western Pulp and Power Ltd. incorporated 23 May 1951 by Robert Ruben of Calgary.
- 1954 Joint venture announced 17 June 1954 by St. Regis Paper Co. Ltd. and North Canadian Oils Co. Ltd. to support North Western Pulp and Power Ltd. At that time they stated that plans were finalized for the financing and construction of a bleached sulphate mill in Alberta. North Western Pulp and Power Ltd. shares owned 51% by St. Regis, 49% by North Canadian Oils.
- 1954 Frank Ruben signs revised Pulpwood Lease Agreement and Provisional Reserve Agreement with Alberta on behalf of North Western Pulp and Power Ltd., approved by O.C. 1250/54 dated 14 September 1954. Company commits to construction of first pulpmill in Alberta. (Note: the Agreement was not formally termed a Forest Management Agreement until 1968)
- 1969 St. Regis Paper Co. Ltd. purchases the 49% shares from North Canadian Oils Co. Ltd. in January, becomes sole owner of North Western Pulp and Power Co. Ltd. Company name remains the same, managed as a wholly-owned subsidiary of St. Regis Paper Co. Ltd.
- 1978 Company was renamed St. Regis (Alberta) Co. Ltd. The new name was not officially registered in Alberta until 6 October 1982 by O.C. 1046/82.
- 1984 St. Regis Paper Co. Ltd. was purchased by Champion International in November 1994 in a 'friendly takeover' in response to 'greenmail' attempts. Hinton operation renamed Champion Forest Products (Alberta) Ltd. in 1985.
- 1988 Weldwood of Canada, the majority owner of which was Champion International, was asked by Champion to purchase the Hinton Company shares to consolidate Champion's holdings in Canada under the Weldwood name. Hinton Operation became Weldwood of Canada, Hinton Division.
- 2000 International Paper Co. Ltd. purchased Champion International and Weldwood of Canada effective 19 June 2000. International Paper Co. Ltd. stated their intent was to continue operating the companies as separate entities. Company name of Weldwood of Canada, Hinton Division not changed.

## APPENDIX 7.5

### Crossley's 1985 Vision of the Future

In 1985, ten years after his retirement, Des Crossley published a paper *Toward a vitalization of Canadian forests*<sup>264</sup>. He intended this as a summary of his experiences with the Agreement at Hinton. As a personal legacy he also wanted leave for the record what, in his considered judgement, were the conditions that should prevail in order for Agreements to function effectively.

He emphasized that the success of the Hinton Agreement could be credited to the determination to develop effective management regulations that would permit both public and private sectors to work effectively and amicably together on Crown timber allocations. In a concluding section of the publication he presented his *Scenario for effective dual management on public lands*. This comprised a list of fifteen points which he felt were essential to make this kind of cooperative approach work. By way of reiterating the importance of security of tenure, he added the comment:

“It is recognized that it would be difficult for those forest management operations already established on Crown lands to accommodate such an approach as presented here, but it should not be too difficult to switch to renewable tenure, to ensure that the immediate goal is the initial sustaining of yield, and to assume all forest management costs.”

To put Crossley's scenario points into perspective, it should be noted that 1985 marked the start of a rapid transition in the philosophy of forest management from one of sustained yield to what has now become sustainable forest management. Crossley's crowning achievement was to make sustained yield forestry a reality by ensuring forest regeneration and soundly-based forest management planning. Multiple uses of the forest were accommodated to the extent possible -- in fact planned for in many circumstances. Biological diversity was assumed to be inherent in sustained yield forest management, but the term was not yet in common usage.

There were two significant events in 1987 that influenced Canadian forest management and forestry practices. Perhaps most significant was publication of the Brundtland Report *Our Common Future*. This was the international report which highlighted the need to achieve “sustainable development” through which a sustainable balance could be achieved in both the environment and economy. From that report quickly evolved the concept of sustainable forest management for a wider range of values that has become the present working philosophy.

The second was the first *Forest Sector Strategy for Canada*, developed by the Canadian Council of Forest Ministers in consultation with representatives from within the broader forestry community, including some wildlife interests. This was the first comprehensive national strategy since the National Forestry Convention of 1906. It was significant both for the fact that it was

developed nationally through consultation, and for the fact that it represented an explicit commitment to sustained yield forest management by governments and industry. As well, two of the thirty-two recommendations dealt specifically with wildlife. That Strategy was both a culmination of efforts to achieve sustained yield forest management and a beginning of more broadly-based national consultations leading subsequently to sustainable forest management.

Another important consideration for perspective is that although pressures on the land base were increasing, these had not yet become critical in 1985. It was in 1985 that Ken Hall prepared a Strategic Plan for expansion if additional FMA could be obtained. His plan was approved by Champion in October 1985, initiating the negotiations which culminated in the 1988 agreement. That agreement, in contrast to the previous ones at Hinton, provided only about 70 per cent of the Company wood needs from the FMA. Before that agreement was signed, Alberta had launched a major promotion to encourage investment in the forestry sector which resulted in a preponderance of the AAC in Alberta being allocated by 1999. The limits imposed by this more complete allocation are made more compelling by such factors as disturbances resulting from continuing industrial exploration and development, pressures to withdraw lands for both industry and protected areas, and constraints on forestry activities as a consequence of sustainable forest management requirements -- all of which have resulted in diminished land base availability. Added to these constraints is the recurrence of severe fires seasons.

These were events which followed Crossley's 1985 paper, so represent points which he did not specifically address. A review of his points illustrates how some of the Agreement philosophies have remained fundamentally important, while others have become unworkable due to social, economic and environmental changes. Above all, it illustrates the importance of Adaptive Management at the level of the FMA as well as in the forest. In this discussion Crossley's points are highlighted.

- 1. Term tenure will have periodic renewal dependent upon effective performance. Failure to perform would invite rigidly enforced and discouraging punitive penalties which could include discontinuance of operations, or loss of license.***

It is significant that tenure, again, is listed first in prominence. This concept has been followed in Alberta through to the present. Tenure gave an opportunity for periodic renewal but was dependant on effective performance as defined in individual agreements. The Jacques Report of 1996 raised uncertainties about the renewal process, recommending that although effective performance in the forest would still be required, other expectations for greater corporate contributions to economic, environmental and social values have been added.

- 2. The tenant will initiate a management program to sustain the natural timber yield, and to utilize the periodic AAC. It would have no obligation to proceed beyond this point.***

The points in the first sentence have largely been honoured. The first challenge in forest management had been to sustain the natural yields, and the government has insisted on utilization of the periodic AAC to prevent hoarding and speculation in timber. However, the obligation to proceed beyond the point of "natural timber yield" has become academic as a

consequence of commitment of the provincial AAC to various agreements, increasing restraints on management practices, and the fact that the more recent agreements, including the 1988 Weldwood agreement, provide for less than the full mill wood requirements from the lease areas. It has been imperative for companies to seriously consider increasing yields as well as for fuller utilization and means by which wood could be obtained from outside the lease. The Jacques Report also expresses the expectation that wood yields will be increased through a variety of means.

- 3. In the interest of forest sanitation the tenant will initiate into forest management planning the identification of decadent and badly over-mature timber stands, and will schedule them for early removal. This will result in a planned primary road system that will minimize average hauling distances over the whole rotation period, and in getting static acres back into production at an early date and increasing the AAC.***

This was a bold and well-intentioned step in 1955 which has resulted in a planned primary road system that has sustained a uniform average hauling distance that has also assisted in keeping the Company cost-competitive. On the Weldwood lease there seem not to have been large areas of “static acres” which were not producing, and logged areas have been successfully regenerated. However, the policy of identifying older stands for early removal is now being tempered by the requirements for sustainable forest management both as a means to provide habitat for species which require the characteristics of old growth forests and, more specifically, as part of a strategy to sustain woodland caribou.

- 4. The government will assume the responsibility at its own expense for the protection against undue losses to fire, insects and disease. It will be obligated to select a realistic but inevitable maximum annual average area or volume loss, and to maintain it at or below that level. Translated into wood volume, this can be accommodated in the tenant's calculated AAC.***

The objective for forest protection, particularly from fire, was well intended at the time of the 1954 agreement, however it was severely tested as early as 1956. The result has been a series of forest protection agreements in which the Company has increased its pre-fire capabilities, including prevention and training, in return for a limited liability for fires originating as a result of its operations. However, experience in fire seasons during the 1980s and 1990s has reaffirmed the pervasive influence of fire and its potential for rapid spread and difficulty of control. Forest fire management now clearly requires a cooperative approach among government and industries both in protection and in fuels management. Further reduction of fire spread potential may be possible through design of harvesting areas and post-harvest treatments.

Fire allowances in calculation of AAC are no longer built in since larger areas of unharvested forest may increase the risk of catastrophic loss. At present, salvage of fire-damaged timber usually ensues, and the AAC is recalculated after a burn.

- 5. The tenant will absorb all active forest management costs, including roading, forest renewal and subsequent silvicultural programs. The landlord will accommodate by suitably negotiated levels of royalty payments.***

This has remained an inherent part of the Agreement process. As outlined, the package of rights and responsibilities is negotiated. The spirit of negotiation seems largely to have been honoured.

- 6. Rules and regulations will be formulated in consultation with the tenant, with final decrees resting with the landlord.***

This has also been an inherent component of the Agreement process. Successive forest management agreements have been negotiated. Forest Harvesting and Operating Ground rules have been developed through negotiation. A “final decree”, if necessary, rests with the landlord -- but is now subject to confirmation by Order-in-Council in case of irreconcilable disputes. With respect to overall forest management regulations, the policy of the government has been to consult with industry, but also retains the power of final decree. However, as R. Udell observed<sup>265</sup>, the uncertainty and potential consequences of an Order-in Council solution to disputes has encouraged principled negotiation rather than leaving one party with unilateral “command and control” powers.

- 7. Protection of the tenant's land base will be the responsibility of the landlord, but the intensification of yield will not be considered as an alternative source of wood.***

As discussed previously, Crossley felt keenly about the sanctity of the land base. However, with outside forces and changes in public sentiment, it seems virtually impossible to “protect” the land base absolutely. Crossley’s point about intensification of the yield not to be considered as an alternative source of wood was a cautionary comment intended to make the point that if a Company invested in practices that would increase yields the government should not reduce the land base as a result. However, if the land base must be reduced for cause, intensification of yield would have to be considered by the Company as one of its options. There is virtually no other land now available for substitution.

Crossley was prophetic on this last point. Negotiations for the 1988 Agreement were influenced by the 1979 ECA report which recommended less area than required to sustain the facilities. Negotiations were also influenced by strong competition for the available forested land. The result was a FMA which could provide only about 70 per cent of wood requirements. As a result, as Crossley stated: “Intensification of yield would have to be considered by the Company as one of its options” -- and the Company put an enhanced forest management plan into effect in 1996.

- 8. Research will be a public sector responsibility with pertinent, on the ground support provided by the tenant. This would not preclude voluntary supporting grants from the private sector.***

This is an interesting comment from Crossley, considering his research background. However, having negotiated his “Ten per cent” within the Company, which he dedicated to forest

management and regeneration, it is understandable that he would seek support for research from outside agencies. At the time (1985) the Canadian Forestry Service still seemed to have sufficient resources to respond to research opportunities on the FMA. However, more recently, the Company has voluntarily supported research in areas in which it had a particular need or interest. Further, with the reduced levels of support to the Canadian Forest Service, it has been necessary to seek opportunities for shared cost research. More recently, the FRIAA in Alberta encourages industry contributions to a research fund to which it may also apply for operating grants. In the case of Weldwood, research expenditures have increased considerably during the 1990s through direct funding of projects, participation and leadership in the Foothills Model Forest and support of an NSERC Chair and Centre for enhanced forest management at the University of Alberta.

***9. Once the tenant has proven satisfactory management performance, e.g. at the time of tenure renewal, the landlord will encourage the tenant's demonstrated professional competence by confining its subsequent involvement to the periodic performance checks as laid down in the regulations.***

This refers generally to the “spirit” discussed previously in which the preference of the Company has been to manage by objectives with a focus on results. At the time this was written (1985) the government felt it best to be seen to be exerting more “control” over the forest industry. However, more recently the so-called deregulation philosophy of the Land and Forest Service has again enabled more of a results-oriented approach. However, this approach is not shared by all government regulatory agencies.

***10. Multiple use of wildland renewable resources will be initiated by the landlord in co-operation with the tenant. The prime use for wood will be recognized, with the objective being optimum use for all. It should not be ignored that forest renewal ensures a perpetual yield of non-timber benefits.***

Events have conspired to make multiple use a more pro-active Company policy. However, the concept of effecting multiple use by the government in cooperation with the Company remains important. Sustainable forest management for a broader range of values gives the multiple use aspect a much higher priority in planning and management. The 1999 *Handbook of Forest Stewardship* is a reflection of the importance of incorporating these considerations in both the planning and operational aspects. And for the first time in Alberta, explicit analysis of wildlife and watershed aspects are incorporated onto the technical timber supply analysis of the 1999 Forest management Plan -- as promised in the 1991 FMP. The Company's Special Places in the Forest program, announced in 1999, provides the framework within which integrated and sustainable forest management will be practised on the FMA.

Crossley's point about forest renewal ensuring a perpetual yield of non-timber benefits was correct up to a point, but there are many values, including for example those associated with old growth characteristics, which depend on more than renewal alone. The prime use of the lease for wood has been maintained, but this has come under increasing scrutiny as public values and perceptions change. This will probably be a topic in which ongoing negotiations will be necessary.

***11. The integration of non-renewable resource extraction into the renewable resource program will be avoided by the landlord, unless it can be demonstrated that the provincial economy demands it. If it can be proven imperative, and if extraction methods can be adapted to the rights of other users on the same principle of optimum use rather than single use, and that its ravages can be completely rectified within an acceptable time, only then will it be allowed to proceed, and it must proceed cautiously.***

Extraction of the so-called “wasting resources”. as Crossley called them, or non-renewable resource extraction have been of great economic importance to the province. On this FMA development of coal, oil, and natural gas are of particular concern. Despite Crossley’s laudable point, experience has suggested that government gives these a higher priority. Effective integration of these “wasting resources” remains a major challenge for both the Company and government. Of particular concern to considerations of biodiversity is the additional unplanned fragmentation of habitats that may occur. On the other hand, the resource disturbance compensation negotiated through Shtabsky has helped to offset the costs and losses to the Company as a result of exploration. As mentioned, the 1998 agreement with the government to return reclaimed lands to the lease is positive in concept, although it remains to be shown to what level of productivity the reclaimed lands can be brought.

***12. Once the sustained yield level of forest management has been reached the tenant, at his own volition, will consider moving to an increasingly intensive program.***

The spirit of this one has been maintained. In the 1988 agreement it is reflected in the enabling clause which rewards intensive silviculture with an allowable cut effect free of dues on the incremental earned portion. The Company has since embarked on a project to increase its AAC through Enhanced Forest Management.

***13. Intensification of yield, once initiated by the tenant, will be encouraged by the landlord with the replacement of royalty payments for wood with a nominal annual rent for forest land. Greater wood volumes will not only result in increases in Woodlands' staffing to undertake the additional harvest, but in mill expansion and staffing to process it, and to the supporting infra-structure, all of which will result in increased tax revenues to federal, provincial and municipal governments.***

The so-called land-rent proposal initiated in the 1968 agreement by Crossley and Loomis was a bold and imaginative proposal. The 1968 clause was not acted upon for a variety of reasons, including apparently adequate levels of AAC at the time along with technical and financial reasons. This clause did not appear in the 1988 agreement. The current requirements for sustainable forest management for a broader range of values would add to the complexity of applying this concept, although it should not necessarily preclude it.

***14. The landlord will not exert pressure on the tenant to purchase wood furnish from outside sources, thus avoiding the necessity for the latter to reduce its own woodland's work force and subjecting it to the uncertainties of wood supply over***

***which it has no control, for example, wild fires and strikes, and to default on its commitment to harvest the AAC.***

This one was suggested at a time when the AAC seemed adequate and the lease was capable of providing the full mill requirements. In 1985, Crossley's view was that purchased wood reduced the amount of harvesting on the lease and therefore delayed the transition to sustained yield forest management through balancing of age classes. Since then, the Company negotiated a new lease in 1988 which, although it increased the lease area and AAC, would provide only about 70 per cent of the anticipated wood needs for the new facilities. Under these conditions, the Company was required to actively seek wood from outside sources as well as contemplate more intensive silviculture to increase yields. Again, the 1979 ECA report, Jacques report and current government policies encourage aggressive programs to purchase additional wood from outside the lease. The Company has since negotiated an array of strategic alliances through which to exchange wood for highest-value uses and to ensure adequate volumes to the mill.

***15. If the proposed dichotomy of stewardship is to be successful, the sanctity of contracts must not be violated.***

This final condition has prevailed. It has been tested at times by both the government and Company, but the sanctity of the agreement has largely been honoured.

As a final comment, Crossley added:

“Finally, those more aware readers will recognize that this presentation contains little in the way of management approaches that have not been attempted in various combinations elsewhere. It does however, propose a comprehensive and logical approach which has, in St. Regis case, withstood the early test of time, is responding to its entrance into the field of intensive management with an encouraging increase in the AAC, and whose success has depended and will continue to depend upon the catalyst of men's imagination and co-operative activity.”

## APPENDIX 7.6

### Perpetual Sustained Yield and the Daishowa Judgement by Justice McDonald<sup>266</sup>

The terms “perpetually” and “sustained yield” first appeared in Alberta legislation in the new *Forests Act* of 1949. It included a new clause enabling long-term leases that stated, in Section 96, that the government may (emphasis added):

“enter into an agreement, to be described as a forest management license ... for the management of public lands ... reserved for the sole use of the licensee for the purpose of growing continuously and **perpetually successive crops** of forest products to be harvested in approximately equal annual or periodic cuts adjusted to the **sustained yield** capacity of the lands ...”

The terms were probably written by E.S. Huestis, then Director of Forestry, who would have been introduced to the concepts while a forestry student at the University of British Columbia and who may also have been influenced by the Sloan Commission report of 1945 in BC. Huestis’ intent, as he explained later<sup>lxxiii</sup>, was to try to ensure that sustained yield was ensured through rational forest management, reforestation and protection.

The phrase “guarantee of perpetual yield” appeared in both the first proposal by R.O. Swezey of 1949 and the first NWPP application of 1951. The term “perpetual sustained yield” appeared twice in the “model” Agreement of 1968 and has been a part of every Agreement since. The term was not seriously questioned until the Agreement with Daishowa in 1989 authorized construction of a pulpmill near Peace River. A local farmer and three environmental organizations objected to the development and collaborated in bringing court action to have the Agreement declared *ultra vires*. The action was taken by Peter Reese, Alberta Wilderness Association, Peace River Environmental Society and Sierra Club of Western Canada. Respondents were Her Majesty through the Minister of Forestry, Lands and Wildlife and Daishowa Canada Co, Ltd.

As explained in the judgement, these steps were taken under the purported authority of s. 6(1) of the *Forests Act*, R.S.A. 1980 c. F-16. Section 16(1) which reads as follows:

16(1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into a forest management agreement with any person to enable that person to enter on forest land for the purpose of establishing, growing and harvesting timber in a manner designed to provide a perpetual sustained yield.

The trial was presided over by Hon. Mr. Justice D.C. McDonald. His ruling, signed in 1992 noted that there were five grounds relied upon by the Applicants and set forth in the Originating Notice of Motion. However, only the first two were relied upon at the hearing of the motion. They were as follows:

1. The said agreement is not pursuant to, Within the contemplation or meaning of, or enabled by the *Forests Act*, s. 16 in that: (a) its terms do not address the manner by which timber will be established, grown and harvested so as to provide a perpetual sustained

<sup>lxxiii</sup> Personal communication. PJM

yield, as required by s. 16; and (b) it is not of sufficient certainty to be an enforceable agreement within the meaning of the *Forests Act* at all:

2. In fact the agreement is not designed to provide a perpetual sustained yield, and no perpetual sustained yield is possible or achievable under the terms of the said agreement, and having regard to the forest exploitation practices actually used by the Company, all as follows: no ecological inventory and study has been carried out and therefore it is in fact impossible to create any forestry plan ensuring a perpetual sustained yield; the Company is logging the lands by clear-cutting techniques, thereby preventing in fact operations which would achieve a perpetual sustained yield; and the reforestation provisions of the agreement do not and can not achieve any meaningful reforestation, which reforestation is a necessary element in achieving a perpetual sustained yield. In result, the agreement is not within the meaning or contemplation of s. 16 of the *Forests Act*.

The following excerpts from the Reasons for Judgement highlight Justice McDonald's points about the meaning of the term (definitions), importance of wisdom, obligations and technical competence, requirements of the Agreement, uncertainty about the future, perpetuity, and diligence and future outcomes. These subheadings have been added by the writer; they reflect his interpretation of the judgement.

### **Definitions**

After reviewing various definitions of sustained yield, he posed and addressed the question:

Are these definitions helpful to this court when it interprets the meaning of the phrase "sustained yield" as used in s. 16(1) I think that they are of limited help. They are of help in so far as they draw my attention to possible specific characteristics which may or may not be attributes of "sustained yield" as the phrase is used in s. 16 (1). Beyond that, the definitions learned by authors, even if adopted by one or other of the witnesses who testified, cannot be of assistance. Those witnesses could not, and did not, testify as to what the meaning the Legislature attached to the phrase. No legislative history was presented, in evidence or in argument, which might shed light on what the Legislature meant. So the Court must interpret the entire phrase "perpetual sustained yield:", as used in s. 16(1), by an analysis of the purpose of the statute, the language of the section, and the context in which the phrase is used in the statute. In this process the definitions already referred to, and the insights gained from the evidence as to the nature of the problems encountered in forest management, will be illuminating. So will dictionary definitions, which are proper sources of meaning of statutory language. Thus the Senior Canadian Dictionary (1973) defines "sustained yield", as the phrase is used "in the management of forests, fisheries, etc.", as "the principle of maintaining a steady yield by keeping annual growth or increase at least as high as annual output." The word "perpetual" is defined as "lasting forever... continuous, never ceasing... SYN. permanent, everlasting, enduring."

The purpose of s. 16(1), unlike the provisions of the statute for timber quotas, clearly is to permit the Minister to enter into an agreement with any person (which includes a corporation: Interpretation Act, R.S.A. 1980 c. I-7 s. 25(2)(p) in regard to a designated area of forest land. The purpose of the agreement is to permit that person to harvest timber and to grow it (i.e. to reforest the land) in such a way that, whether by natural or artificial reforestation, the entire area covered by the forest management agreement will forever be capable of producing a yield of at least the same quantity and quality of timber during the same period (e.g. one year) as that timber which has been harvested.

It is understood by the use of the phrase “perpetual sustained yield” that not only over the term of the agreement but beyond that term and beyond any conceivable extension of the term the harvesting and regeneration activities in each period will not adversely affect the capacity of that area of land to produce, in all future periods of the same length, at least the same new volume and quality of timber as has been harvested during that period. Moreover, as the yield must be “sustained” in perpetuity, the forest must be managed in such a way that the yield is a steady, or regular, yield. From that it follows that only a small part of the forest on the area of land in question may be harvested each year. Otherwise sustainability could not be achieved, for it takes a number of decades for both deciduous trees and coniferous trees, or stands of such trees, to grow to harvestable maturity.

### **Importance of wisdom, obligations and technical competence**

Following further discussion he stated:

I have now discussed the two arguments advanced by the Applicants in support of the proposition that the FMA fails to ensure that there will be a “perpetual sustained yield.” I have concluded that s. 16(1) does not require that the FMA in its terms provide such assurance. I have concluded that it need not contain details as to what inventories are required, or as to harvesting and reforestation methods that will be required. I have also concluded that the evidence has not established that clear-cutting is a harvesting method which cannot produce a permanent sustained yield.

However, a number of expert witnesses were called by the Respondents. From their affidavits and testimony might possibly have emerged some additional evidence to support the Applicants’ position. That has not occurred. On the contrary, their affidavits and testimony satisfy me that there is a reasonable probability that there will be a perpetual sustained yield of timber in the Daishowa forest management area. That probability will exist if the present and future Ministers of Forestry exercise the powers given to them by the Act and by the FMA with wisdom and in as informed a manner as the state of technical knowledge about relevant factors allows from time to time, if Daishowa carries out the obligations imposed upon it by the FMA and the Ground Rules, and if the Minister takes such steps as are necessary to require Daishowa to carry out those obligations if Daishowa does not do so voluntarily. Whether those things in fact will happen depends ultimately upon the actions of the present Minister and of his successors in future decades, bearing in mind that in a system of responsible government the Minister is accountable to the Legislature, and that in a democratic parliamentary system the government of which the Minister is a member is ultimately accountable to the electorate. Whether the Minister acts wisely and in an informed manner is a political question; it is a matter which lies in the realm of politics, not law. Generally speaking, therefore, the prospect of the Minister doing so should not be the subject of judicial comment.

### **Requirements of the FMA**

A clear understanding emerges from a reading of the Daishowa Forestry Management Agreement, as illuminated by the testimony of the Crown witnesses. Their evidence is of

assistance, not for the purpose of interpreting its contents, but to enable the meaning of the FMA to become more pellucid. The Agreement creates a systematic structure to enable the Minister to obtain information needed for his or her decision-making, and to enable decisions to be taken on a continuing and predictable basis as to the ways in which timber harvesting and reforestation will occur.

It is germane to the issue before the Court, as raised by the Applicants, to observe this: I accept that the expert witnesses called by the Respondents are impressive as to the extent of their knowledge of the forest area that is within this FMA. I accept that those of them who are public servants of the government of Alberta are dedicated and keen in their desire to see not only that the goal of a perpetual sustained yield of timber will be achieved but also that the goal of healthy maintenance of other plants, wildlife, water resources, trapping and recreational uses will be attained. Nevertheless, the likelihood of either or both goals being achieved will depend not only upon their dedication, keenness, expertise and sound judgement, but also upon the possession of the same qualities by their successors in the public service, and upon the conduct of the present and future Ministers and governments in terms of their approach to the administration of this FMA and their policies as they may affect forests generally and this forest management area in particular.

### **Uncertainty About the Future**

To some extent the opinions of the Crown's witnesses, that this FMA will provide a permanent sustained yield, are premised on their confidence that ministers, governments, public servants and Daishowa will do what is wise and what is based on informed judgement. But those witnesses are not soothsayers, and their expertise either as foresters or as persons experienced in the making of public policy does not enable them to offer an opinion about what the future holds in regard to such matters with any greater likelihood of accuracy than would be found if the same opinions were expressed by someone else who lacks such expertise. In any event, it is not the function of the Court to predict whether their optimism will be justified by the course of events.

### **Perpetuity**

I have already discussed the significance of the word "perpetual" in regard to the meaning of the statutory phrase "perpetual sustained yield". However, there is another point relating to the implications of the concept of perpetuity, which was touched upon in the submissions of counsel.

The statutory requirement that the agreement provide a perpetual sustained yield means that the agreement must have as its goal that timber harvesting will be conducted in such a way as to result in a forest that can produce a sustained yield in perpetuity. It is the phrase just underlined that I now wish to address. The Daishowa Agreement is unlikely to last for hundreds of years, until the next ice age or some other immense natural climatic change frustrates the use of the area in question for the purpose of harvesting timber. Yet perpetuity does last that long. In my opinion, even though the Daishowa Agreement may last (let us say) only 100 years, and by that time Daishowa may have decided, for whatever reason, to close its plant or plants, the statute required that the Agreement be such as to provide a sustained yield beyond the time when Daishowa needs the timber.

### **Diligence and Future Outcomes**

Nevertheless, there is a more satisfactory answer to the question posed. If the Minister in the decades that lie ahead conducts continuing surveys and enforces Daishowa's obligation to establish a "poplar growth and yield program" and "a system of permanent sample plots...to monitor the results of different harvesting systems...so as to provide accurate information for the preparation of reliable poplar yield tables" (c1. 29(1) and (2)), there is a reasonable probability that as the years progress the hypothetical situation that was put to Mr. Branter<sup>lxxiv</sup> will not arise. That probability depends upon the Minister's diligent policing of the Agreement. Such diligence may falter or cease. With the rise and fall of governments and with the evolution of the political process, the resolve of the government to march steadfastly toward the goal of perpetual sustained yield may weaken. But, as I said earlier, the statute does not require the Agreement to be one which guarantees in all circumstances that there will be a perpetual sustained yield. In any case, no Agreement could ever provide such a guarantee, even if in all respects it were acceptable to the Applicants. Only the democratic process and ministerial responsibility to the legislature can give reassurance that the Minister will insist upon performance of Daishowa's obligations. Yet the democratic process and ministerial responsibility, in different circumstances from those existing at present – indeed in circumstances that may now be unforeseeable and which may prove to be beyond the control of Daishowa and beyond the ability of even a willing Minister to police the Agreement – may be insufficient to justify present prediction that the contractual terms will produce the result contemplated by s. 16. No one, not least this Court, can predict whether future circumstances of a global, national, or local nature may frustrate the execution Daishowa's obligations. No one, not least this Court, can predict whether circumstances may occur in the future which will impede the ability of the Minister to police and enforce those obligations, even if the Minister is willing and eager to do so.

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<sup>lxxiv</sup> Keith Branter, then Director of Reforestation for the AFS.

## 8. ENDNOTES

### 2. FOREST POLICIES - a brief review 1930-51

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- <sup>2</sup> Rau, A.E. 1908. From Edmonton to the Yellowhead Pass. Canadian Forestry Journal. Vol. 4, No. 4. December 1908.
- <sup>3</sup> Murphy, P.J. 1985. Forest and prairie fire control policies in Alberta. ENR Report T/77. Alberta Energy and Natural Resources.
- <sup>4</sup> Knechtel, Abraham. 1910. The Dominion Forest Reserves. Bulletin Number 3. Department of the Interior, Ottawa.
- <sup>5</sup> Alberta 1947 Annual report of the Department of Lands and Mines for the fiscal year ended March 31st, 1946. Edmonton.
- <sup>6</sup> Huestis, E.S. 1946. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines.
- <sup>7</sup> Huestis, E.S. 1945. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines 1944-45.
- <sup>8</sup> Huestis, E.S. 1946. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines 1945-46.
- <sup>9</sup> Huestis, E.S. 1947. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines 1946-47.
- <sup>10</sup> Canada 1885. Annual Report of the Department of the Interior for the year 1884, Sessional paper 13. A. 1885. Ottawa.
- <sup>11</sup> Sloan, Chief Justice G. McD. 1945. The forest resources of British Columbia. Report of the Commission.
- <sup>12</sup> This is the first reference in Alberta legislation to sustained yield. It was probably written by Huestis who had studied forestry at UBC. Also an interesting reference to harvesting approximately equal annual or periodic cuts – at that time, and for about 17 more years the bidding system for timber enabled operators to stockpile timber harvesting rights in anticipation of higher future markets. This phrase would require harvesting to take place.
- <sup>13</sup> Huestis, E.S. 1948. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines 1947-48.
- <sup>14</sup> Personal communication. I have heard him state this on several occasions and believe it is also in print, but do not have a reference. PJM.
- <sup>15</sup> Huestis, E.S. 1947. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines 1946-47.
- <sup>16</sup> Annual Report of the Department of the Interior for the fiscal year ending March 31, 1919. Sessional paper 25. A. 1920. Ottawa PJM note: Given the high costs of fire control combined with costs inherent in planning for and administering many non-revenue-generating activities on forested lands, it was to be many years in the future before forest revenues matched expenditure. Part of the rationale, as I understand it, was that expenditures on the forest were to be considered an investment to ensure that there would be forests to support industry activities, and that those forest-related sources as corporate and personal income taxes. PJM
- <sup>17</sup> Loomis, R.D. 1953. Management Plans. Memorandum to E.S. Huestis, Director of Forestry outlining what is involved in setting up forest management plans. 3 December 1953. Alberta Forest Service.

- <sup>18</sup> Huestis, E.S. 1963. Interview 26 September 1963 by Peter J. Murphy. University of Alberta.
- <sup>19</sup> Huestis, E.S. 1950. Annual Report of the Director of Forestry, Alberta Department of Lands and Mines 1949-50.
- <sup>20</sup> Loomis, R.D. 1957. Alberta's forest resources and forest management. Pulp & Paper Magazine of Canada. May 1957.

### **3. EVOLUTION OF THE LEASE**

#### **3.1 Evolution of the Lease 1949 - 1954**

- <sup>21</sup> Edmonton Pulp and Paper Mills Limited. Agreement O.C. 19 December 1949.
- <sup>22</sup> Certificate of Incorporation 13060, Edmonton Pulp and Paper Mills Limited. The Companies Act, Alberta, Annual Report 1950.
- <sup>23</sup> The Canadian Who's who. Vol. VII, 1955-1957. Trans Canada Press, Toronto. p 1049
- <sup>24</sup> Cancelled by Ministerial Order 19 November 1951.
- <sup>25</sup> Pulp and Paper Magazine of Canada July 1957. The Hinton trail – the story of North Western Pulp and Power Ltd. 58 (7):125-188
- <sup>26</sup> Hart, Hazel 1980 History of Hinton. Hazel Hart, Hinton AB.
- <sup>27</sup> Pulp and Paper Magazine of Canada July 1957. The Hinton trail – the story of North Western Pulp and Power Ltd. 58 (7):125-188
- <sup>28</sup> Robert Ruben – personal communication
- <sup>29</sup> Loomis, R.D. 1990. Natural management of the forest – the pursuit of Nature's way. Interviews with R.D. Loomis by P.J. Murphy 1987-89.
- <sup>30</sup> Loomis, R.D. 1990. Natural management of the forest – the pursuit of Nature's way. Interviews with R.D. Loomis by P.J. Murphy 1987-89
- <sup>31</sup> Robert Ruben – personal communication
- <sup>32</sup> Pulp and Paper Magazine of Canada July 1957. The Hinton trail – the story of North Western Pulp and Power Ltd. 58 (7):125-188
- <sup>33</sup> S.G.V. Hart – Personal communication.
- <sup>34</sup> S.G.V. Hart – Personal communication
- <sup>35</sup> Abel, George. 1954. Report on a reconnaissance of the timberland reserve held by North Western Pulp and Power Limited, in the vicinity of Edson Alberta. June 1954.
- <sup>36</sup> Pulp and Paper Magazine of Canada July 1957. The Hinton trail – the story of North Western Pulp and Power Ltd. 58 (7):125-188
- <sup>37</sup> Annual Report to the Registrar of Companies 31 December 1954.
- <sup>38</sup> Hart, Hazel 1980 History of Hinton. Hazel Hart, Hinton AB.
- <sup>39</sup> S.G.V. Hart Personal communication
- <sup>40</sup> Loomis, R.D. 1990. Natural management of the forest – the pursuit of Nature's way. Interviews with R.D. Loomis by P.J. Murphy 1987-89.
- <sup>41</sup> S.G.V. Hart Personal communication
- <sup>42</sup> S.G.V. Hart – letter to Sandra Robson, Forest Resource Department, Hinton, 8 September 1997.

#### **3.2 Evolution of the Lease 1954 - 1968**

- <sup>43</sup> Loomis, R.D. 1990. Natural management of the forest - the pursuit of Nature's way. Interviews with R.D. Loomis by P.J. Murphy 1987-89.
- <sup>44</sup> S.G.V. Hart Personal communication
- <sup>45</sup> Hart, H.V. 1976. Interview with Elwood Maunder. Forest History Society, Durham NC.

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- <sup>46</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
- <sup>47</sup> McDougall, F.W. 2000. Personal communication. Telephone comments on a draft copy of Evolution of the FMA to Peter Murphy. 10 April 2000.
- <sup>48</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.
- <sup>49</sup> R. Udell. Personal communication
- <sup>50</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
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- <sup>52</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.
- <sup>53</sup> Crossley, D.I. 1984. We did it our way. Interview with D.I. Crossley by Peter J. Murphy and James M. Parker, The University of Alberta, Edmonton, Alberta. 1983-84.
- <sup>54</sup> NWPP Forestry Department. 1958. Guiding principles and Ground Rules for Cutting Practices on the Pulpwood Lease Area. March 11<sup>th</sup>, 1958. Forest Resources files, Hinton.
- <sup>55</sup> NWPP Forestry Department. 1958. Guiding principles and Ground Rules for Cutting Practices on the Pulpwood Lease Area. (Revised) August 1958. Forest Resources files, Hinton.
- <sup>56</sup> Canadian Standards Association. 1996. A sustainable forest management system: guidance document. CAN/CSA -Z808-96. CSA, Etibicoke ON.
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- <sup>61</sup> R. Udell. Personal communication.
- <sup>62</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
- <sup>63</sup> Blefgen, T.F. 1931. Director of Forestry, Annual Report of the Alberta Department of Lands and Mines 1930-31.
- <sup>64</sup> Crossley, D.I. 1984. We did it our way. Interview with D.I. Crossley by Peter J. Murphy and James M. Parker, The University of Alberta, Edmonton, Alberta. 1983-84
- <sup>65</sup> Clark, J.D. c. 1990. Personal memoirs. James D. Clark, Hinton AB.
- <sup>66</sup> CIF 1954. Summary of "Forest fire protection in Alberta: a review and recommendations." Prepared by Rocky Mountain Section, Canadian Institute of Forestry. Edmonton AB. January 1954.
- <sup>67</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
- <sup>68</sup> J.C. Wright – Personal communication.
- <sup>69</sup> Clark, J.D. c. 1990. Personal memoirs. James D. Clark, Hinton AB.
- <sup>70</sup> Udell, R. 2000. Personal communication. Note on an earlier draft 17 April 2000.
- <sup>71</sup> Spanach, Amelia. 1998. Interview with P.J. Murphy and R.E. Stevenson.
- <sup>72</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
- <sup>73</sup> Crossley, D.I. 1984. We did it our way. Interview with D.I. Crossley by Peter J. Murphy and James M. Parker, The University of Alberta, Edmonton, Alberta. 1983-84
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- <sup>76</sup> Crossley, D.I. 1985. Toward a vitalization of Canadian forests. Alberta Forestry Association
- <sup>77</sup> Wright, J.C. 1998. Interview with P.J. Murphy.

- <sup>78</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.
- <sup>79</sup> Loomis, R.D. 1990. Natural management of the forest - the pursuit of Nature's way. Interviews with R.D. Loomis by P.J. Murphy 1987-89.
- <sup>80</sup> Jack Wright (Personal Communication) added this note: "After Gordon McNab left NWPP in 1957 he promoted a pulp mill development in the Rocky Mountain House area and, receiving "no bites", he began promoting the Whitecourt area. I think he called his company Albertawest Forest Products. He succeeded an interesting MacMillan-Bloedel who spent at least a year doing extensive field reconnaissance and inventories before dropping the proposal."
- <sup>81</sup> Alberta 1979 Location of future forest industry. Timber Management Branch, Alberta Forest Service. July 1979.
- <sup>82</sup> Wright, J. C. c.1989. Forest management - a shared responsibility between Alberta's Forest Industry and the Provincial government. Paper by J. C. Wright.
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### **3.3 Evolution of the Lease 1968 - 1977**

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- <sup>87</sup> D.I. Crossley 1970. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for June 10<sup>th</sup> & 11<sup>th</sup>.
- <sup>88</sup> Wright, J.C. Personal communication. Notes on a 99-08-15 draft of this paper.
- <sup>89</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998
- <sup>90</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.
- <sup>91</sup> McDougall, F.W. 2000. Personal communication. Telephone comments on a draft copy of Evolution of the FMA to Peter Murphy. 10 April 2000.
- <sup>92</sup> Hinton & District Chamber of Commerce. Gateway to the Rockies. Cited in Hazel Hart 1980. History of Hinton.
- <sup>93</sup> Crump, N.R., T.H. Patching and D. Graham 1973. Grande Cache Commission: final report. (Crump Report). Alberta Grande Cache Commission, Government of Alberta. 30 November 1973. Edmonton.
- <sup>94</sup> Thiessen, H.W. 1974. Grande cache Report. Letter to Hon. A.E. Hohol, minister of Manpower and Labour, 21 March 1974 conveying a summary of Grande cache recommendations and review of Conservation and Utilization Committee. Alberta Environment.
- <sup>95</sup> Hinton & District Chamber of Commerce. Gateway to the Rockies. Cited in Hazel Hart 1980. History of Hinton.
- <sup>96</sup> Crossley, D.I. 1984. We did it our way. Interview with D.I. Crossley by Peter J. Murphy and James M. Parker, The University of Alberta, Edmonton, Alberta. 1983-84
- <sup>97</sup> Hall, K. 1997. Interview 25 May 1997 by Peter J. Murphy. p. 4.
- <sup>98</sup> D.I. Crossley 1971. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for March 6<sup>th</sup>.
- <sup>99</sup> D.I. Crossley 1971. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for March 8<sup>th</sup>.

- <sup>100</sup> McDougall, F.W. 2000. Personal communication. Telephone comments on a draft copy of Evolution of the FMA to Peter Murphy. 10 April 2000.
- <sup>101</sup> D.I. Crossley 1971. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entries for July 23 and 24, 1971.
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- <sup>103</sup> Wright, J.C. Personal communication on a 99-08-15 draft of this paper.
- <sup>104</sup> D.I. Crossley 1971. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for September 7<sup>th</sup>.
- <sup>105</sup> Warrack, A.A. 1971. Letter to I.K. Sutherland dated 6 October 1971. Forest resources file.
- <sup>106</sup> D.I. Crossley 1971. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for October 18<sup>th</sup>.
- <sup>107</sup> Warrack, A.A. From his e-mail response to the 17 October 1997 letter from Murphy.
- <sup>108</sup> D.I. Crossley 1971. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for October 18<sup>th</sup>.
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- <sup>111</sup> Warrack, A.A. 1972. Letter to I.K. Sutherland advising of the cancellation of the provisional reserve. 4 February 1972.
- <sup>112</sup> D.I. Crossley 1972. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for February 8<sup>th</sup>.
- <sup>113</sup> Warrack, A.A. From his e-mail response to the 17 October 1997 letter from Murphy.
- <sup>114</sup> D.I. Crossley 1972. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for February 21<sup>st</sup>.
- <sup>115</sup> D.I. Crossley 1972. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry March 6<sup>th</sup>.
- <sup>116</sup> D.I. Crossley 1972. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for July 4<sup>th</sup>.
- <sup>117</sup> Alberta 1972. Annual Report of the Department of Lands and Forests for the year ending 31 March 1972.
- <sup>118</sup> D.I. Crossley 1972. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for July 18<sup>th</sup>.
- <sup>119</sup> D.I. Crossley 1973. Company Journal for NWPP. Microfilm, Department of Forest Resources, Weldwood Hinton. Entry for February 1<sup>st</sup>.
- <sup>120</sup> Alberta 1973. Annual Report of the Department of Lands and Forests for the year ending 31 March 1973.
- <sup>121</sup> Warrack, A.A. From his e-mail response to the 17 October 1997 letter from Murphy
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- <sup>123</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998
- <sup>124</sup> McDougall, F.W. 2000. Personal communication. Telephone comments on a draft copy of Evolution of the FMA to Peter Murphy. 10 April 2000.
- <sup>125</sup> Hall, K. 1997. Interview conducted by Peter J. Murphy, 25 May 1997.
- <sup>126</sup> Kussman, J.E. 1975. Interview by J.R. Ross and E.R. Maunder, 17 and 18 October 1975. In Evolution of a paper company: the Carlisle-Ferguson years at St. Regis. Forest History Society, Santa Cruz, CA. 1977.
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- <sup>129</sup> Crossley, D.I. 1970 Wood potential from the pulpwood lease through the intensification of management. D.I. Crossley, Chief Forester. NWPP. Forest Resources file, Hinton.
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### 3.4 Evolution of the Lease 1977 - 1988

- <sup>132</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998.
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- <sup>134</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998.
- <sup>135</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998.
- <sup>136</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998.
- <sup>137</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998.
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- <sup>145</sup> Hall, K. 1997. Interview conducted by Peter J. Murphy, 25 May 1997.
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- <sup>151</sup> Hall, K. 1979. Government Berland Decision. St. Regis (Alberta) Employee Information Bulletin No. 1069, November 16, 1979.
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- <sup>153</sup> Hall, K. 1997. Interview conducted by Peter J. Murphy, 25 May 1997.
- <sup>154</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
- <sup>155</sup> Reid, Ian C. 1999 Interview with P.J. Murphy on 21 April 1999.
- <sup>156</sup> Bowersock, J.W. 1999 Interview with P.J. Murphy on 29 June 1999.
- <sup>157</sup> Reid, Ian C. 1999 Interview with P.J. Murphy on 21 April 1999.
- <sup>158</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.
- <sup>159</sup> Reid, Ian C. 1999 Interview with P.J. Murphy on 21 April 1999.
- <sup>160</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.
- <sup>161</sup> Hall, K. 2000. Comments on an earlier draft copy of Evolution of the FMA. 21 May 2000

- <sup>162</sup> Hall, K. 1997. Interview conducted by Peter J. Murphy, 25 May 1997.
- <sup>163</sup> Crossley, D.I. 1984. We did it our way. Interview with D.I. Crossley by Peter J. Murphy and James M. Parker, The University of Alberta, Edmonton, Alberta. 1983-84.
- <sup>164</sup> Crossley, D.I. 1984. We did it our way. Interview with D.I. Crossley by Peter J. Murphy and James M. Parker, The University of Alberta, Edmonton, Alberta. 1983-84.
- <sup>165</sup> Hall, K. 1997. Interview conducted by Peter J. Murphy, 25 May 1997.
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- <sup>175</sup> Fjordbotten, L. 1988 Letter to Ken Hall, President Champion Forest products (Alberta) Ltd. dated 2 February 1988. Weldwood Hinton file.
- <sup>176</sup> Letter on file in Weldwood Hinton archives.
- <sup>177</sup> Udell, R. 1998 Second interview with Peter J. Murphy on 15 May 1998
- <sup>178</sup> ECA 1979 The Environmental Effects of Forestry Operations in Alberta. Environment Council of Alberta, Edmonton.
- <sup>179</sup> Udell, R. 1998 Second interview with Peter J. Murphy on 15 May 1998. Page 19.
- <sup>180</sup> Udell, R. 1998 Second interview with Peter J. Murphy on 15 May 1998.
- <sup>181</sup> McDougall, F.W. 1998. Interview with P.J. Murphy on 9 November 1998.
- <sup>182</sup> Udell, R. 1998 Second interview with Peter J. Murphy on 15 May 1998.
- <sup>183</sup> Ranger, R. 1998 Interview with Peter J. Murphy and R.E. Stevenson on 20 May 1998.
- <sup>184</sup> Ranger, R. 1998 Interview with Peter J. Murphy and R.E. Stevenson on 20 May 1998.
- <sup>185</sup> Udell, R. 1998 Second interview with Peter J. Murphy on 15 May 1998.
- <sup>186</sup> Laishley, D.W. 1998 Interview - check which PJM
- <sup>187</sup> Udell, R. Personal communication.
- <sup>188</sup> Laishley, D.W. 1998 Interview - check which PJM

### 3.5 Evolution of the Lease 1988 - 2000

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- <sup>190</sup> Higginbotham, K.O. 1992 Letter to Don Laishley, Forest Resource Manager, Hinton re review of utilization of deciduous timber. 10 December 1992.
- <sup>191</sup> Higginbotham, K.O. 1992 Letter to Don Laishley, Forest Resource Manager, Hinton re cancellation of coniferous quotas and chip direction. 11 December 1992.
- <sup>192</sup> Udell, R. Personal communication.
- <sup>193</sup> Evans, B. 1993 Letter to Graham Bender, President and CEO, Weldwood of Canada, Vancouver from Brian Evans, Minister of Forestry, Lands and Wildlife, dated December 1993. Weldwood Hinton file.
- <sup>194</sup> Higginbotham, K. 1994 Statement in Minutes of Meeting: Weldwood Hinton file.
- <sup>195</sup> Bender, G. 1994 Letter to Brian Evans, Minister of Forestry Lands and Wildlife from Graham Bender, President and CEO, Weldwood of Canada, dated 1994. Weldwood Hinton file.

- <sup>196</sup> Minutes of Meeting of 11 January 1994 - Weldwood Hinton archives.  
<sup>197</sup> Bender, G. 1994 Letter to Ministers - Weldwood Hinton archives  
<sup>198</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.  
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#### 4.0 SUMMARY - REPRISE

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<sup>209</sup> CSA 1996 A sustainable forest management system: guidance document. CAN/CSA-Z808-96. Canadian Standards Association. Etibicoke ON.  
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<sup>214</sup> Wright, J.C. 2001. Comments in response to a review of the 28 November 2000 draft of Evolution of the Forest Management Agreements.  
<sup>215</sup> Crossley, D.I. 1985. Toward a vitalization of Canadian forests. Alberta Forestry Association  
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#### 5. Review and Analysis of the Evolution of the Weldwood Forest Management Agreement

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- <sup>241</sup> Udell, R. 1998 Second interview with Peter J. Murphy on 15 May 1998.
- <sup>242</sup> McDougall, F.W. 1998 Interview with P.J. Murphy on 9 November 1998
- <sup>243</sup> Weldwood 1999. 1999 Forest Management Plan -- Management Strategy 1999-2008. Weldwood of Canada Ltd. August 1999.
- <sup>244</sup> May, E. 1998. At the cutting edge: the crisis in Canada's forests. Key Porter Books. Toronto.
- <sup>245</sup> All Agreements are included but only the more significant amending OCs selected.
- <sup>246</sup> This 1954 Agreement is generally accepted as the commitment that led to construction. St. Regis is not mentioned, but it must have committed itself.
- <sup>247</sup> This change in area moved the FMA west, more centred on Hinton than Edson. This may be the area recommended by Reg Loomis in his private (but approved) consultation to NWPP. It turned out to be the core area from 1955 to the present.
- <sup>248</sup> Reserving individual trees was not a practicable solution – logistically impossible to handle.
- <sup>249</sup> Sect. 9(2) Not clear -- Co. agrees to apply for a license and take in a cutting area of not less than twelve per cent of reserved area per year – perhaps this was intended to be a running 12% on which area-based fees were to be paid, or a cutting area for a stipulated number of years – see next.
- <sup>250</sup> Similar wording to 1951 -- minimum 200 square miles 'license/cutting area' is the area on which area-based fees are charged -- not clear, but perhaps intended to represent a 10-year cutting area on a 100-year rotation over 2000 square miles.
- <sup>251</sup> The intent of this clause is not clear – is the Co. responsibility for reforestation implied, or is it just to be discussed. Note that this clause remains in effect through to 1968!
- <sup>252</sup> A major change, appears only in this one Agreement – it would have entailed a significant cost for a fire control organization, as well as a risk for payment of suppression costs and damages.
- <sup>253</sup> The overlength was an eastern Canadian tradition to compensate for "brooming" of the ends in river driving. I understand that it was argued the Co. might drive the Athabasca and McLeod.
- <sup>254</sup> The initial area charges were assigned to the entire area. At 1890 mi. sq. area, charge per mi./sq. was \$9.25 area and \$7.95 fire or 1.2 cents per acre.
- <sup>255</sup> This charge, based on 2000 sq. mi. is \$9.50 per sq. mi.
- <sup>256</sup> Wood purchase required if offered at prices "reasonably competitive" with Co. costs.
- <sup>257</sup> Wood purchase required if offered at prices "reasonably competitive" with Co. costs.
- <sup>258</sup> Wood purchase required if offered at prices "reasonably competitive" with Co. costs.
- <sup>259</sup> All Agreements are included but only the more significant amending OCs selected.
- <sup>260</sup> The PRA was cancelled by letter from the Minister dated 4 February 1972 for failure to expand the pulp mill by 1 January 1971 as stipulated in the Agreement. The FMA reverted back to the pre-1968 boundaries.
- <sup>261</sup> The "free seedlings" clause was rescinded by the Minister. His action led to negotiations which, by way of compensation, led to the Company acquiring deciduous timber rights on the FMA and several other aspects were resolved related to livestock grazing, small timber permits, stewardship agreement, minimum harvest levels, responsibility for inventories, intensive silviculture and supplemental reforestation.
- <sup>262</sup> The original requirement to distinguish stumpage by species was impracticable – very difficult to do in stacked piles, and not cost-effective given the relatively low stumpage rates. My impression is that a single rate was used in practice almost from the start of operations – that it must have been agreed upon and applied before this 1956 amendment.
- <sup>263</sup> Chip direction was rescinded but the Company retained assurance of chips from Grande Cache in the event of a closure, was promised reclaimed coal mining lands in a productive state,

opportunity to purchase wood from Crown FMUs and time considerations for balancing harvest to the sustainable AAC.

<sup>264</sup> Crossley, D.I. 1985. Towards a vitalization of Canadian forests. Alberta Forestry Association

<sup>265</sup> Udell, R. 2000. Comments on a 25 February 2000 draft of Evolution of the FMA.

<sup>266</sup> McDonald, Hon. Mr. Justice D.C. 1992 In the court of Queen's Bench of Alberta, Judicial District of Edmonton. In the matter of the *Forests Act*, R.S.A. 1980, C.f-16, s. 16; And in the matter of Alberta rules of court, Part 56.1; Action No. 9003-23400. Between: Peter Reese, Alberta Wilderness Association, Peace River Environmental Society and Sierra Club of Western Canada, Applicants, And Her Majesty the Queen in right of Alberta, the Minister of Forestry, Lands and Wildlife and Daishowa Canada Co. Ltd. Respondents. Reasons for judgement of the Honourable Mr. Justice D.C. McDonald.