

2018 Nahmint Valley complaint and Ministry of Forests investigation - Background and timeline

Prepared by the Ancient Forest Alliance, October 2019

- Ancient Forest Alliance (AFA) campaigners went on two expeditions into the Nahmint Valley “Special Management Zone” (SMZ 13) in May 2018 and observed the logging of high conservation-value old-growth forest and exceptionally large and old trees including Canada’s 9th widest Douglas-fir tree (according to the [BC Big Tree Registry](#)).
- Significant news media coverage was generated following two AFA press releases in May 2018.¹
- The AFA filed a complaint in June 2018 to the Ministry of Forests’ Compliance and Enforcement (C&E) Branch.
- Nature of the complaint:
 - We suspected BC Timber Sales (BCTS) was not complying with Vancouver Island Land Use Plan (VILUP) Higher Level Plan Order Objective B4² regarding the retention of old-growth forest.
 - We noted BCTS’ Legacy Tree Policy was not being implemented, since some of the felled trees we came across exceeded the policy’s size thresholds for protection, and
 - We suspected BCTS was also not complying with the VILUP objective for SMZ 13 to “maintain high proportion of old forest including large, Douglas-fir.”
- An investigation was launched by C&E Branch in June 2018.
- BCTS sent a formal response to C&E Branch regarding its initial findings on August 9, 2018.
- C&E Branch engaged an independent consultant to conduct a third-party blind review of the ministry’s investigation and BCTS’ response.
- AFA submitted FOIs in late June and again in late August for the investigation details (the first FOI was lost/there was no record of it).
- In August 2018, the Hupacasath First Nation in Port Alberni sent an open letter to Minister of Indigenous Relations and Reconciliation and MLA for Mid Island-Pacific Rim, Scott Fraser, calling on the Province to “pull” the old-growth cutblocks and to work collaboratively with the band to ensure the protection of the area’s old-growth forests, biggest trees, and monumental cedars. (See the AFA’s press release about it [here](#)).
- The C&E Branch’s investigation was completed in Oct 2018.
- A Forest Practices Board (FPB) investigation was launched in fall 2018, is ongoing, and is expected to be completed around the end of the calendar year.

¹ May 2018 AFA media release: [Massive Cutting of Canada’s Grandest Old-Growth Forests Coordinated by BC Government’s Logging Agency – Near Record-Sized Douglas-firs Found in Nahmint Valley on Vancouver Island](#)

May 2018 AFA media release: [Canada’s Ninth-Widest Douglas-fir Cut Down in Old-Growth Forest Auctioned Off by BC Government’s Logging Agency](#)

National Observer: [People are furious about the destruction of these old growth giants. And you won’t believe who’s approving it.](#)

CBC News: [NDP blamed for failing to save Vancouver Island old-growth giants from logging](#)

Victoria News: [B.C. ‘legacy tree’ policy under review after ancient fir logged](#)

Radio Canada International: [The fall of giants: irreplaceable trees logged](#)

² Objective B4: “Maintain late-successional habitat elements and attributes of biodiversity in forested ecosystems with emphasis on regionally rare and underrepresented ecosystems, by retaining old seral forest at the site series/surrogate level of representation”

- In December 2018, AFA publicly called for a halt to old-growth logging in the Nahmint Valley until the investigation was complete.³ No action was taken at that time (or any time since) by the Province to halt timber harvesting in the Nahmint.
- In January 2019, AFA received a letter from Information Access Operations, stating that the records that we requested through the FOI were withheld in their entirety and that the FOI file was closed.
- Investigation files were recently released to the AFA under the AFA's FOI request.

HIGH-LEVEL summary of investigation findings and other relevant details:

- Historic and recent logging in the Nahmint Valley has failed to comply with the Vancouver Island Land Use Plan (VILUP)'s objectives regarding the retention of old-growth forests.
- BCTS misinterpreted VILUP Higher Level Plan Order (LHPO) Objective B4 (a Ministerial Order to protect old-growth biodiversity) as well as the *Biodiversity Guidebook's* retention targets for mature and old forest in the Nahmint Valley.
- According to the investigation report, the current Forest Stewardship Plan for the Nahmint Valley is in non-compliance with Section 5 of the *Forest and Range Practices Act* (FRPA) and timber harvesting in the Nahmint is in non-compliance with Section 21 of FRPA.
- VILUP clearly intends that biodiversity is valued more highly than timber in the Nahmint "Special Management Zone" by noting old-growth biodiversity as primary and timber as secondary.
- Even though BCTS planners had ecosystem data available to them (for 90% of the Nahmint Valley), they did not use it when deciding what areas should and shouldn't be logged to ensure all forest ecosystem types were retained and represented across the landscape.
- BCTS' non-compliance has resulted in too much old-growth forest being logged in the Nahmint Valley with insufficient amounts retained to adequately represent the range of ecosystems found across the landscape and to avoid loss of biodiversity.
- Although out of scope of the investigation, C&E Branch looked at Forest Stewardship Plans for the Nahmint Valley going back 18 years and found that there appears to be "legacy compliance issues" with timber harvesting in the Nahmint Valley SMZ 13. The report states "there are therefore reasonable grounds to believe that serious cumulative impacts may occur on the land base over time should this matter remain unaddressed."
- This also has broader geographic implications, as other areas managed by BC Timber Sales may have been and continue to be similarly mismanaged.
- According to a third-party blind review, undertaken as part of the Ministry's investigation, the Nahmint demonstrates the failure of professional reliance at maintaining publicly-agreed-upon values and priorities.
- Old-growth logging in the Nahmint Valley has continued throughout this entire process. In fact, >400,000m³ was planned to go to public tender for harvesting when C&E Branch concluded its investigation in October 2018.
- While slight changes were made to the Nahmint Valley Operating Plan (i.e. locations and boundaries of planned BCTS cutblocks) following the AFA's complaint, the C&E Branch investigator's recommendations that logging cease, that an amended Forest Stewardship Plan be prepared for the Nahmint demonstrating how planning would adhere to VILUP in future, and that future harvesting plans be placed on hold, were all ignored by the ministry.

³ Dec 2018 AFA media release: [Conservationists call for halt on old-growth logging in Vancouver Island's spectacular Nahmint Valley in light of forestry watchdog investigation](#)

Times Colonist article: [Eco-group files complaint over old-growth cuts](#)

Global News: [Conservationists call for halt on old-growth logging in Nahmint Valley near Port Alberni](#)

- The ministry is working on legalizing draft Old Growth Management Areas (OGMAs) by spring 2020, despite the fact that the Forest Ministry's investigation revealed that the draft OGMAs are in violation of VILUP and do not adequately address the retention targets needed to maintain landscape biodiversity.
- Since this investigation, C&E Branch has reportedly been directed not to investigate BCTS.

DETAILED summary:

C&E's initial investigation findings:

- FLNRORD Compliance and Enforcement (C&E) Branch investigated the AFA's complaint and found reasonable grounds to believe that there is a high likelihood of a government non-compliance pertaining to BCTS' operations in the Nahmint Valley.
- Specifically, BCTS failed to comply with the *Vancouver Island Land Use Plan – Higher Level Plan Order* (VILUP) Objective B4:
 - VILUP Objective # B4 – “Maintain ... elements of biodiversity in forested ecosystems ..., by retaining old seral forests at the site series / surrogate level of representation”. Special consideration is also to be given to rare and underrepresented ecosystems.
 - VILUP Objective # B4 – Biodiversity retention, “This includes, but is not limited to: large diameter (>60cm) live, decaying and dead standing trees (providing nest and cavity sites); downed wood, including large diameter pieces (>50-150sm); deciduous broad-level trees, both in riparian and upland areas”.
 - VILUP Objective # B4 – “The level of representation of old seral forest (at the site series / surrogate level) will be applied through landscape unit planning”.
- In reviewing BCTS landscape planning documents from 2007-2012, C&E Branch found that site series/surrogate level of representation in landscape planning was never implemented, even though site series mapping was available.
- C&E Branch found that site series mapping was not used to select Old-Growth Management Area (OGMA) delineation and final selection.
- Due to misinterpretation of VILUP Objective B4, the FSP only applied this government objective (B4) to rare and underrepresented ecosystems within the landscape when, in actuality, VILUP requires this objective to be applied to the entirety of the landscape.

BCTS' response to C&E Branch's investigative findings:

- Old Growth Management Areas were selected in consultation with First Nations.
- Established OGMAs have been delineated in accordance with applicable legislation and best practice outlined within the land planning guidebook.
- Rare and underrepresented ecosystems within SMZ13 are managed at the site series level.
- A surrogate (in place of site series data) was used for the remainder of landscape planning.
- Objective B4 is not prescriptive in nature (i.e. there are no specific retention targets for site series/surrogate distribution) and this is intended to provide flexibility in the OGMA selection process.
- There is an overall lack of site series data and lack of clear government targets for site series.
- The planning approach taken is “generally” consistent with best practices.
- GIS analysis using TEM (terrestrial ecosystem mapping) site series data was used to verify current planning approaches and confirmed that BCTS landscape management is compliant.
- As the holder of an approved Forest Stewardship Plan (FSP), BCTS could be found in non-compliance with results and strategies within the FSP, but not in non-compliance with VILUP (i.e.

objectives set by government) due to the legal application and workings of an FSP once approved. *Note: C&E Branch did not support this position (see pg. 5 of the Oct 22nd 2018 Advisory Letter)*

Key findings from third party blind review:

- A consultants' report confirmed C&E Branch's findings that planning in the Nahmint seems inconsistent with the intent of the VILUP and with the legal objectives in the VILUP Higher Level Plan Order (HLPO)
- The report found no evidence that planning in the Nahmint SMZ considered ecosystem representation by the site series/surrogate as required by the HLPO.
- Although BCTS states that representation was assessed using a surrogate, they did not provide a systematic surrogate classification or provide evidence that analysis was completed as part of planning, even though information exists to create surrogates from tree species and productivity as well as from landform and site series.
- Current draft Old-Growth Management Areas do not represent site series or surrogates equally.
- Productive Douglas-fir ecosystems are poorly represented in the Nahmint Valley, despite the specific notation for retention in VILUP.
- The 2017 FSP only includes the HLPO old forest objective (Objective B4) under rare ecosystems (and does not apply the objective to all ecosystems across the landscape).
- Planning documents do not use best-available information.
- Terrestrial Ecosystem Mapping (TEM) site series data, representing best-available information, exist for 99% of the Nahmint, but were not assessed until the BCTS prepared its response to C&E Branch's investigative findings.
- The natural disturbance return interval estimate is too low, so that the amount of old forest expected to occur naturally – the basis for assessing risk to biodiversity and old forest values – is severely underestimated.
- Parks have been removed from the estimate of the amount of old forest needed, yet there are no parks in the Nahmint.
- Landscape and stand-level retention is sometimes double-counted (e.g. riparian reserve zones).
- Planning for OGMA's seems to have been ad-hoc, based on existing constrained areas and aiming to achieve the bare minimum required legally rather than following good conservation design.
- The Nahmint demonstrates failure of professional reliance at maintaining publicly-agreed-upon values and priorities.

Additional information resulting from C&E Branch's secondary analysis of BCTS site series data and BCTS' response (excerpts from Oct 2018 Advisory Letter)

- There is a discrepancy between the plain and ordinary wording of VILUP regarding retention targets for mature seral forest and old forests, and the manner in which government has been interpreting VILUP retention targets in land use planning. The plain and ordinary wording of VILUP appears to direct a 25%-33% retention of mature seral forest across the landscape plus a minimum 19% old forest retention. In practice, however, this has been interpreted as 25%-33% overall retention of which 19% must be old and 6% may be old or mature seral forest. The retention difference between these two interpretations is significant.
- The FSP contains no clearly established retention values for mature or old forests, nor are depletion values over time explained for the FSP decision maker.
- While C&E Branch's investigation focused solely on the current FSP (#638) and current and planned timber harvesting operations within SMZ 13, the inspection did briefly review historical FSPs for general compliance over the last 18 years. Although out of scope for this investigation,

at first glance, there appears to be legacy compliance issues with timber harvesting in the Nahmint Valley SMZ 13. There are therefore reasonable grounds to believe that serious cumulative impacts may occur on the land base over time should this matter remain unaddressed.

C&E Branch's recommendations to BCTS

- C&E Branch recommended that logging in the Nahmint Valley cease, that a new FSP be submitted, and that a hold be placed on OGMA legalization and future timber harvesting tenures.
- None of the C&E Branch's recommendations were acted upon and no changes were made to the current Nahmint Forest Stewardship Plan.