



Province of  
British Columbia

# Forest Appeals Commission

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## APPEAL NO. 2004-FOR-004(a)

In the matter of an appeal under section 84 of the *Forest and Range Practices Act*, S.B.C., c. 64.

<b>BETWEEN:</b>	Weyerhaeuser Company Limited	<b>APPELLANT</b>
<b>AND:</b>	Government of British Columbia	<b>RESPONDENT</b>
<b>AND:</b>	Forest Practices Board	<b>THIRD PARTY</b>

### CONSENT ORDER

On March 15, 2004, a notice of determination was issued to Weyerhaeuser Company Limited ("Weyerhaeuser") by Maxwell Tanner, District Manager, Headwaters Forest District, Ministry of Forests, that Weyerhaeuser had contravened sections 67(1), 67(2)(d), 96(1) and 96(2) of the *Forest Practices Code of British Columbia Act* (the "*Code*").

On November 8, 2004, prior to the matter being heard, the parties forwarded the attached Joint Submission to the Forest Appeals Commission.

NOW THEREFORE, and in accordance with the Joint Submission, the Forest Appeals Commission hereby rescinds the District Manager's determination that Weyerhaeuser contravened sections 67(1), 96(1) and 96(2) of the *Code* and varies the penalty for the contravention of section 67(2)(d) of the *Code* to \$30,000.

Alan Andison, Chair  
Forest Appeals Commission

November 10, 2004

**APPEAL NO. 2004.FOR-004(a)**

**FOREST APPEALS COMMISSION**

IN THE MATTER OF THE FOREST PRACTICES CODE OF BRITISH COLUMBIA ACT,  
R.S.B.C. 1996, C. 159

AND IN THE MATTER OF THE FOREST AND RANGE PRACTICES ACT,  
S.B.C. 2002, C. 69

<b>BETWEEN:</b>	WEYERHAEUSER COMPANY LIMITED	<b>APPELLANT</b>
<b>AND:</b>	GOVERNMENT OF BRITISH COLUMBIA	<b>RESPONDENT</b>
<b>AND:</b>	FOREST PRACTICES BOARD	<b>THIRD PARTY</b>

**JOINT SUBMISSION OF THE PARTIES**

1. Following a review and discussion of the facts of this case, the Parties agree that there is sufficient evidence to support the determination that the Appellant contravened section 67(2)(d) of the *Forest Practices Code of British Columbia Act*.
2. The Parties acknowledge that the contravention was in relation to the harvesting of reserve trees from an area identified in the Silviculture Prescription as being Critical Deer Winter Range.
3. The Parties agree that an appropriate penalty for the contravention is \$30,000, being comprised of a penalty of \$20,000 to remove any economic benefit that the Appellant may have received as a result of the contravention and an administrative penalty in the amount of \$10,000 as a deterrent against similar contraventions in the future.
4. The Parties agree that stumpage will not be charged on the unauthorized harvest in this case.
5. The Parties agree that the Respondent will credit the Appellant's stumpage account in the amount of \$14,643.80, being the stumpage that the Appellant has previously paid for the harvested reserve trees, and that the Appellant does not have to pay \$14,643.80 of the penalty until the Respondent has provided notice that the Appellant's stumpage account as been so credited.
6. The Parties agree that District Manager's determination that the Appellant also contravened sections 67(1), 96(1) and 96(2) of the *Forest Practices Code of British Columbia Act* should be rescinded.
7. Therefore, the Parties request that the Forest Appeals Commission rescind the District Manager's determination that the Appellant contravened sections 67(1), 96(1) and 96(2) of the *Forest Practices Code of British Columbia Act*

and vary the penalty for the contravention of section 67(2)(d) of the *Forest Practices Code of British Columbia Act* to \$30,000.

"Daniel R. Bennett

Daniel R Bennett

Counsel for the Appellant

"Diane Roberts

Diane Roberts

Counsel for the Respondent

"Ben van Drimmelen

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Counsel for the Third Party