

**Crown Lands: Public Trust - Not Private Wood Supply
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**By
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The Crown land and its resources are a public trust to be managed for public benefit for today and in perpetuity without diminishing their inherent value. The Government of New Brunswick is the trustee for these lands, waters and resources, not the owner. This is the law.

Aboriginal title for large watershed areas of Crown land will likely be affirmed in the not too distant future, as have treaty rights to harvest resources. Crown lands are thus also held in trust for First Nations with the responsibility on the Crown to negotiate access and management arrangements which accommodate these rights. This is also the law.

This places Crown land and the public forests they contain in a very different category than woodlands found on private property.

As elected members of our Legislative Assembly, you are trustees of our Crown lands and have the weighty responsibility to make sure that they are managed in ways that benefit the public and honour aboriginal rights and treaties. Yet your mandate as a select committee is not primarily to seek direction from New Brunswickers on what public benefits are important to us and for our grandchildren.

Rather you have been charged with the mandate to consider the demands from private wood processors for what they want from Crown lands, without any frame of reference as to what the public wants. There has been no Royal Commission into the future of Crown lands, no white paper from government presenting options to its citizens, just a set of demands made to government by the big forestry companies two years ago and then the Jaakko Poyry Report which took those demands and put them between the covers of a consultant's report.

As trustees, there are a number of questions that should be in front of you, such as:

Are we managing our Crown lands in ways that provide the greatest public benefit in terms of employment on the land base? Are there options to consider which could increase employment in the public forest? Would we foreclose on these options if the Jaakko Poyry recommendations were adopted?

What is the structure of the wood processing industry likely to be 50 years from now? What competitive advantage will our public forest resources provide in the global marketplace of 2050? Will we foreclose on that competitive advantage if we accept the Jaakko Poyry recommendations to narrow our focus to the intensive production of low value fibre from our Crown lands?

Are we managing our Crown lands in ways that provide the greatest public benefit in terms of creating and retaining economic wealth for our forest-dependent communities, native and non-native, on which they can base their long-term economic development?

Are we managing our Crown lands in ways that maximize the income to the public purse from selling timber to the private sector?

Are we managing our Crown lands in ways that maintain the ecological integrity and biodiversity of their forest, aquatic and wetland ecosystems? Put another way, are we managing our Crown lands to maintain the environmental services their ecosystems provide?

Are we managing our Crown lands in ways that restore the inherent value that has been lost over the years - to restore the natural abundance and distribution of wildlife, for example?

Are we managing our Crown lands in ways that uphold the honour of the Crown and by extension all of us, in respecting aboriginal and treaty rights?

The Conservation Council has been working diligently to bring such a public examination of these public issues for more than 12 years now. This is in keeping with our mandate to have the best possible use made of our renewable and non-renewable resource in order that this and future generations may continue to live on this Earth and enjoy the fruits of their labour.

Instead we are here to consider the demands of private business for our government to guarantee that we will sell them twice as much spruce and fir 60 years from now as we do now. According to the Jaakko Poyry report if this were adopted as a goal, not one additional truck load of logs would be delivered to a mill anywhere in this province for 35 to 40 years.

In other words, the doubling of the annual allowable cut sixty years out would do nothing to address the problems the mill owners are bringing before you in 2003.

Let us not forget why we are here today. A little more than 2 years ago the big forestry companies wrote to the Minister of Natural Resources (September 14, 2001) saying the government "must" revise its public policies regarding Crown land to allow the companies to double their annual cut of spruce and fir by 2050 and must develop mechanisms that would hold government financially accountable to the companies for delivering this future wood supply.

The New Brunswick Forest Products Association then commissioned Jaakko Poyry to look at how these demands might be achieved.

Jaakko Poyry concluded that the annual cut could be doubled by 2065 if there was a prohibition on any further measures to protect our water, wildlife, habitat, or biodiversity over that period or achieve other economic or social objectives for that matter. Further, for this scheme to succeed, 40 percent of the public forest could be replaced by plantations.

Jaakko Poyry did not conclude that this could be achieved without damaging the environment, as has been so frequently suggested by proponents of the study. In fact, they said there would be environmental risks with such an intensification of forest management. What they did say was this feat could be accomplished and meet current environmental objectives.

So if a dramatic escalation in the conversion of our public forests to plantations makes no difference to the problems faced by the wood processors of this generation, and may not be relevant to the needs of whatever form the wood processing sector takes a generation from now, what is really at stake here.

If we go back to the original letter the big wood processors wrote to government in 2001, they asked for a commitment to maintain their annual allowable cut above the levels they were permitted between 1997 and 2001 and that government should be held financially accountable to achieve this objective. Further they wanted

government to give up its current role in evaluating the companies' performance as per their Forest Management Agreements and turn it over to third party auditors, while streamlining Crown land management procedures.

These demands are preserved in the Jaakko Poyry report recommendations as 1) establishing timber supply objectives that would be binding on Government, 2) where possible allow additional harvesting in the stream side buffers and wildlife habitat conservation zones, 3) DNR should reduce overlap in management and oversight of Crown lands, using Ontario as a model for eliminating much of government's direct oversight of the use of Crown lands.

Now we are getting closer to what the big forestry companies are seeking.

Timber Supply Objectives that Would be Binding on Government

At the news conference where the big forestry companies released the Jaakko Poyry report, they made it clear that the report's recommendations would, if adopted, free them from being at the mercy of public policy that had the power to reduce their annual allowable cut. In other words, the management of Crown lands for private benefits would take precedence over public benefits if Jaakko Poyry were implemented.

According to DNR, 72 percent of the Crown land is available to the six big forestry companies for the exclusive purpose of cutting and growing more wood. There are no requirements within this 72 percent of the public land based to conserve wildlife habitat or protect streams and rivers. Protecting our water and providing wildlife habitat are requirements on the remaining 28 percent of the Crown lands.

About 12 percent of the public forest falls within stream-side buffers, so the companies are only permitted to cut 30 percent of wood from those riparian forests every 10 years. Another 12 percent of the Crown land is managed for both wildlife and logging. And then of course, 4 percent have been established as protected areas where no logging is permitted past 2012.

The purpose of the binding wood supply targets is to ensure none of the 72 percent of Crown lands that are available exclusively for logging and wood production be used to meet multiple objectives, be they social, economic, or ecological. And if this happened, then they want to be compensated

This objective has been carried forward in the big wood processors' latest proposal to government, "Implementing a New Forest Resource Policy for New Brunswick" (Sept. 19, 2003) which recommends the establishment of provincial timber objectives and timber guarantees to the companies.

The companies are looking for a level of certainty in terms of the supply of raw materials that we will sell them from Crown land that just isn't possible. It would be like government asking the companies to establish long-term job creation objectives and employment guarantees in return for the public investment in increasing the wood supply for the mills from public land. The wood processors argue that wood supply objectives and guarantees from public lands would preserve jobs, but they can no more provide certainty around employment levels into the future than government can provide certainty around the volume of softwood it can sell them in the future.

It is impossible for the private sector to guarantee such public benefits as meeting job quotas when they have shareholders to answer to, and need the flexibility to improve efficiencies, enhance competitiveness and increase

their profitability.

Equally, it is impossible for the government to guarantee the private benefits sought by the companies when they have their own shareholders (the public and First Nations) to answer to, and need the flexibility to manage the Crown lands to maintain or even increase the public benefits that flow from them.

New Brunswick already has one of the lowest levels of employment in the forestry sector in Canada per unit of wood cut, and this has been decreasing for years and years. This decline in employment will not reverse itself under the Jaakko Poyry regime.

Just as it is in business, the guiding principle for the management of Crown lands must be flexibility. We must manage our Crown lands so that we maintain the greatest variety of economic options for their use into the future. As we can't know what the future holds, this means managing for the diversity of high-value products that our public forests can provide.

No New Special Management Zones and Additional Cutting in Those That Currently Exist

Jaakko Poyry calls for additional cutting in our special management zones and a prohibition on the creation of new ones.

Over the past 30 years the science of ecosystem-based forest management has matured, drawing on conservation biology and landscape conservation to apply that science to management.

As a recent text on the science of ecosystem management points out in its introduction, “ If 20th -century forestry was about simplifying systems, producing wood, and managing at the stand level, 21st-century forestry will be defined by understanding and managing complexity, providing a wide range of ecological goods and services, and managing across broad landscapes.”

Jaakko Poyry's idea of scientific management is forest simplification and conversion with the use of plantations and herbicides, an approach firmly rooted in the last century, and just as firmly out of step with the science of ecosystem management.

And it is this science that has the big forestry companies worried. Our understanding of ecosystem function and ecological processes has advanced to the point where the Department of Natural Resources has begun to set objectives for biodiversity conservation and habitat conservation that were not envisioned when the Crown Lands and Forests Act was passed. The establishment of special management zones to provide wildlife habitat reduced their annual allowable cut. If such measures were adopted to reflect the state of the science, their annual allowable cut for hardwood might decline as well.

The only special management zones that have been established to meet socio-economic objectives are the sugar maple leases. There clearly is concern that the growing demand for new land tenure arrangements to provide for woodlot and community forest licences would create new categories of special management zones. In these cases, the objective would not be environmental protection or conservation but to increase local employment opportunities and contribute to local economic development based on the use of public forest resources.

Overlap in Management and Oversight of Crown Lands

The recommendations to reduce the role of government, the trustee of the Crown lands, in management and oversight runs contrary to its fiduciary obligations to the people of this Province.

DNR has already lost nearly 20 percent of its enforcement staff in the last 10 years. Jaakko Poyry repeats the original recommendation of the big forestry companies that third party auditors take over government's role in evaluating the companies' performance on Crown lands. This would amount to an abandonment of government's responsibilities as trustee of the resource, and cannot happen.

In the latest industry proposal to government, "Implementing a New Forest Resource Policy for New Brunswick" (Sept. 19, 2003) the companies also call for a dispute resolution process that removes government as the decision-maker and inserts an outside adjudicator for minor disputes and an administrative tribunal for major disputes. This tribunal would consist of an industry representative, non-industry representative and neutral chair person.

Conclusion

The responsibility of government to safeguard the public trust that is Crown land, to manage its public trust resources for long-term public benefit while maintaining their inherent value for future generations makes the adoption of the Jaakko Poyry recommendations untenable.

There is a pressing need for formal process by which our provincial government can seek the views of the public on the goals and objectives for the management of Crown lands. These have been revised every five years since 1982 in the absence of any public process. I would urge the Select Committee to recommend the establishment of a permanent Legislative Committee on Crown Lands to provide that formal process.