



PO Box 31059
314-3980 Shelbourne Street
Victoria, BC V8N 6J1

File: MF 366
December 31, 2008

Pope & Talbot Ltd.
Box 70
Midway, BC V0H 1M0

PricewaterhouseCoopers Inc., Attention Chris Stocco
Receiver, Pope & Talbot Ltd.
250 Howe Street Suite 700
Vancouver, BC V6C 3S7

Dear Pope & Talbot Ltd.;

Re: Notice of determination regarding alleged contraventions

1.0 Introduction

1.1 Authority

It has been alleged by the Executive Director of the Private Managed Forest Land Council (Council) that Pope & Talbot Ltd., as owner of District Lots 1579S, 1274S, 1207S, 1206S, and 128S within Managed Forest #366, has contravened sections 9(2) and 20 of the *Private Managed Forest Land Act* (the Act) by failing to pay the annual administration fee and submit the annual declaration as required.

The Council, after giving a person who is alleged to have contravened a provision of the Act or the regulations an opportunity to be heard, is authorized under sections 26 and 27 of the Act to determine whether the person has, in fact, contravened the provision. If the Council determines that a contravention has occurred, the Council may levy an administrative penalty and may issue a remediation order. The Council may also notify the BC Assessment Authority of a contravention. This notification may result in removal from managed forest land property assessment class and the levying of an exit fee under the Act.

1.2 Opportunity to be heard

On June 26, 2008 the Council notified Pope & Talbot that, as payment of an annual administration fee and annual declaration had not been received, the Council would convene a hearing on July 23, 2008 to determine whether or not one or more contraventions had occurred. Council considered the matter at a hearing on July 23, 2008.

This is the determination resulting from that hearing. It is based on information and evidence provided to the Council by the Executive Director in a memo summarizing the evidence relating to whether or not Pope & Talbot had contravened the Act by failing to pay the annual administration fee and submit the annual declaration as required. Pope & Talbot did not to present any oral or written evidence with respect to the alleged contraventions.

1.3 Issues

1. Did Pope & Talbot contravene section 9 (2) of the Act in respect of non payment of the annual administration fee for 2008?
2. Did Pope & Talbot contravene section 20 of the Act in respect of failure to file an annual declaration for 2007?

3. If Pope & Talbot contravened section 9 (2) and 20 of the Act,
 - (a) what administrative penalty, if any, is warranted?
 - (b) what remediation order, if any, is warranted?

2.0 Did Pope & Talbot contravene section 9(2) and 20 of the Act?

2.1 Council staff evidence

In part the Council staff evidence indicated:

1. MF 366 is owned by Pope & Talbot and is private managed forest land. MF 366 comprises five parcels and 562 ha in the Beaverdell and Rock Creek area. The properties have been MF since 2005.
2. The 2008 annual administration fee invoice for MF 366 in the amount of \$198.87 was mailed February 8, 2008 and was payable by March 31, 2008. There has been no response to any of the invoice reminders.
3. As payment was not received by March 31, 2008 reminders of the overdue invoice were sent on three occasions: on April 8, April 24, and May 22, 2008
4. A letter was sent to Pope & Talbot on June 26 advising of the Council hearing to occur on July 23 in respect of the failing to pay the required annual administration fee and submit the required annual declaration and offering an opportunity to be heard in respect of the matters. This was mailed to Pope & Talbot Grand Forks address, and to PricewaterhouseCoopers (the Receiver) in Vancouver. The letter provided that if the payment is received before July 23, 2008, the hearing will be waived. No response was received from Pope & Talbot.
5. On July 29 2008 a letter was sent to the Receiver asking if there was any intention to pay the invoice and a copy of the June 26th letter was attached. No response was received.

2.2 Pope & Talbot evidence

No evidence was received from Pope & Talbot or the Receiver.

2.3 Applicable legislation

Section 9 of the Act provides in part

(2) An owner must pay an annual administration fee to the council on or before the date established by regulation of the council for each year during which the owner's land is private managed forest land.

Section 20 of the Act provides that

20. An owner must submit to the council on or before May 1 of each year, a declaration in the prescribed form that contains all of the following information with respect to the private managed forest land of the owner for the preceding operating season

2.4 Analysis

From the evidence, there is no dispute in respect of any of the following:

Pope & Talbot was the owner of MF 366 on March 31, 2008 and May 1, 2008.

Despite three reminders, Pope & Talbot has not paid the 2008 annual administration fee that was due on March 31, 2008.

Despite two reminders, Pope & Talbot had not filed the annual declaration that was due on May 1, 2008.

The Council finds that

- Pope & Talbot contravened section 9(2) of the Act by failing to pay the 2008 annual administration fee invoice as required
- Pope & Talbot contravened section 20 of the Act by failing to file an annual declaration for 2007 by May 1, 2008

3.0 What administrative penalty, if any, is warranted?

3.1 Authority

Under section 26 (2) of the Act, if the Council determines that a person has contravened a provision of the Act or the regulations, the Council may

- (a) levy an administrative penalty against the person in an amount that does not exceed \$25 000, or
- (b) refrain from levying an administrative penalty against the person if the person considers that the contravention is trifling.

The Council does not consider that the contravention of sections 9 or 20 of the Act, is trifling. An owner's obligation to pay an annual administration fee and to file an annual declaration is essential to the Council's administration of the Act and fundamental to the operation of the Managed Forest program. Council notes that Pope & Talbot is bankrupt and the Receiver has not indicated that they will pay the invoice or file the outstanding annual declaration.

Council has decided to not impose any administrative penalty. Under section 31(1) of the Act, Council will be notifying BC Assessment that Pope & Talbot has contravened that Act and will recommend that the properties comprising MF 366 be removed from managed forest land property class. Upon acknowledgement from BC Assessment, Council will determine any exit fee associated with the declassification of these properties as managed forest land.

4.0 Reconsideration and Appeal

Under section 32 of the Act, Pope & Talbot may request that the Council reconsider some or all of this determination.

Under section 33 of the Act, Pope & Talbot may appeal this determination to the Forest Appeals Commission.

If you need clarification of any aspect of this determination, please contact the undersigned at the Private Manage Forest Land Council Office, at (250) 386-5737.

Yours truly,



Trevor Swan,
Chair, Private Managed Forest Land Council

cc: Stuart Macpherson, Executive Director
BC Assessment, Gregg Paton