Fishing for Solutions:
Drawing Lessons in the Development of British Columbia's Forest Practices Code

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ABSTRACT

When confronted with a problem, policy makers will search for solutions. Political scientist, Richard Rose describes this process as "lesson-drawing". For coastal BC, the fisheries/forestry interface is problematic and controversial. Fish habitat has often fallen victim to the province's most important industry - forestry. This has occurred despite the Coastal Fisheries/Forestry Guidelines that were in place. With the arrival of BC's Forest Practices Code (FPC), hope was renewed that fish habitat would be protected through increased enforcement and improved riparian standards. To develop the FPC, the Ministry of Forests (MOF) approached BC's forest policy community for information, or "lessons." This thesis attempts to investigate what information was gathered from the policy community by the MOF in the areas of enforcement and riparian standards. To uncover this information, an analysis of government documents as well as unstructured interviews with key representatives were employed. This thesis also examines how the information gathered was affected by the motivations and strategies of the actors in the policy community, and how the information gathered was used. While the lesson-drawing process is described as a rational practice, political scientist David Brian Robertson argues that strategy and bias are inherently involved. Lesson-drawing is shaped by the political environment in which it takes place. A polarized policy community with competing agendas resulted in a very diverse pool of information. This diverse pool of "lessons" enabled the government to choose among competing lessons in a politically profitable way.

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Pour Marcel Barrault et Heathcliff.

CHAPTER ONE: INTRODUCTION

As the largest single economic sector in British Columbia, forestry provides thousands of large and small business jobs throughout the province. The importance of this industry for hundreds of communities in BC is obvious. However, there is also no doubt of the various impacts this industry has on the environment. These "externalities" include the degradation of fish habitats, which occur despite federal and provincial legislation in place.

The protection of fish habitat has a heated history of conflict between the main actors in this policy area. The Ministry of Forests (MOF) has often disagreed with the provincial Ministry of Environment, Lands and Parks (MOELP) and the federal Department of Fisheries and Oceans (DFO). Not only were government agencies at odds over habitat protection, the policy community was, and is, polarized on the issue. A rigid policy network has kept the MOELP, DFO and environmentalists on the outside of the decision-making process. Meanwhile the MOF and the forest industry have kept non-timber values off of the policy agenda. This has meant many fish bearing streams were vulnerable to poor forest practices.

The public's dissatisfaction with forest management was clearly seen during the 1993 protests in Clayoquot Sound. The calls for changes in forest management, including the impact of poor forest practices on fish habitat, received international attention. The MOF defines a forest practice as any activity that is carried out on forest land to facilitate uses of forest resources, including but not limited to: timber harvesting, road construction, silviculture, grazing, recreation, pest control, and wildlife protection. Realizing international exposure of poor forest practices in BC could lead to boycotts, the provincial government acted quickly.

One way the MOF dealt with the dissatisfaction with forest management in BC was through the introduction of the Forest Practices Code (FPC). The provincial government began to explore the options of a forest practices code after the Forest Resources Commission released its publication, *The Future of Our Forests,* in April of 1991. At the time, the government was led by the Social Credit Party. After the New Democratic Party was elected in October of 1991, it began work on a host of initiatives to change the way forests and range lands are managed in the province. It was hoped that a coherent umbrella-like piece of legislation such as a forest practices code would demonstrate that the MOF is taking a more holistic approach to forest management.

To help protect alternative values the code places a greater emphasis on the enforcement of standards. The code consists of three parts: the *Forest Practices Act,* Regulations, and Guidebooks, which simultaneously govern forest practices. The code is a synthesis of 6 national and 20 provincial pieces of legislation, 700 federal regulations and over 3,000 field guides. To conduct such an overhaul of existing legislation, the MOF had much to learn about forest practices codes.

In developing this code, the MOF went to the policy community for ideas and information. Input on the FPC was attained through letters, workshops, stakeholder meetings and open-houses. The feedback received was abundant but also contradictory. Sifting through conflicting information is inevitable when learning from the policy community.

There are a variety of definitions that attempt to explain what is entailed in the concept of learning. Colin Bennett and Michael Howlett explain that the "all-encompassing term "policy learning" can be seen to actually embrace three highly complex processes: learning about organizations, learning about programs, and learning about

policies."[1] Peter May adds that: "learning can simply entail judgments about whether or not a given course of action or given policy tool is still preferred relative to the alternatives currently being promoted."[2] The decision to learn intentionally can stem from various reasons. Generally, it is a response to dissatisfaction with the status-quo, or to new or previously unrecognized problems.[3] In the case of BC, the public has voiced its dissatisfaction with poor forest management and practices since the 1970s.

There is a great challenge in showing that learning is responsible for policy action (or inaction) over and above more traditional economic and political factors. In a broader context, political scientists have tried to determine to what extent the process of policy learning is responsible for changes in social thinking. Two approaches which view the impact of policy learning differently are those of Peter Hall (1989) and Paul Sabatier (1988). Hall argues that learning can lead to great levels of change, even paradigm shifts, in a polity. Therefore, policy learning can lead to "better goal attainment."[4] Sabatier argues learning is constrained to achieve pre-determined goals, thus changes take place on a smaller scale. Change on a smaller scale can translate into changes in policy instruments, the means to achieve the pre-determined goals.

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[1]Colin J. Bennett and Michael Howlett, "The lessons of learning: Reconciling theories of policy learning and policy change," *Policy Sciences* 25 (1992): 289.

[2]Peter J. May, "Policy Learning and Failure," *Journal of Public Policy* 12 (1992): 333.

[3]Richard Rose, "What is Lesson-Drawing?," *Journal of Public Policy* 11 (1991): 3.

[4]Michael Howlett and M. Ramesh, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Toronto: Oxford University Press, 1995), 175.

For the goals themselves to be changed, an external force is needed.

A narrower notion of the process is found in the concept of lesson-drawing. Here the object of learning is specific to policy settings or policy instruments taken on by a small specialized policy network.[5] This concept is much more manageable to examine a case study. Lesson-drawing is the most appropriate concept for examining the FPC. For this reason it will be used here.

The process of lesson-drawing can take different forms. According to Richard Rose, a government may look abroad to see how others are coping with similar problems. In the case of the BC's FPC, information was gathered from a number of sources abroad, including Tasmania, New Zealand, and the Pacific Northwest States.[6] It is not unusual for a government to look to a similar political system that has similar values, and is culturally and geographically close. Learning across space does not, however, have to be from another country. Policy makers from different government departments also interact with each other. Space can be another city, department, or province, depending on the object of learning. When learning across space, the importer compares models of the innovator with those at home. The importer then tries to determine if the foreign program or policy can be adapted to its needs.

Rose also observes that policy makers may draw upon epistemic communities or knowledge-based communities of experts when searching for solutions. What is of interest here is the notion that learning occurs over time within the same organization or community, based on experience.

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[5]Howlett and Ramesh, 176.

[6]The Pacific Northwest States are considered to be Washington, Oregon and California.

When there is a desire for change, the government may turn to the particular policy community for ideas on which action to take. The BC forest policy community is very well-informed and is an excellent source of information for the MOF. In this case, the consultations with the policy community were extensive and drew much attention. For this reason, I used Rose's idea of the community as a source of information for lesson-drawing. Although Rose only deals briefly with this source of information, I feel it could expand on the usefulness of the concept of lesson-drawing in policy analysis.

According to Leslie Pal (1992), a policy community is "defined quite broadly to include all the relevant actors, as well as the attentive public, who have interests in and influence over policies produced or debated in the sector."[7] For Pal, the policy community includes three groups. First, there are government actors ranging from executive agencies to commissions. Second, policy communities include associational actors including peak organizations and umbrella groups. In this case, these would include the overarching organizations representing the forest companies, forest workers, environmentalists, and the First Nations. These groups hold contending interests and preferences. Finally, there is the "attentive public," which includes individuals such as academics or journalists.[8] These individuals conduct significant research on policy problems and "maintain an image of intellectual autonomy from the government or political party."[9] Academics such as Hamish Kimmins were approached by the government for their input on

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[7]Leslie A. Pal, *Public Policy Analysis: An Introduction*, 2nd ed., (Scarborough: Nelson Canada,1992), 109.

[8]Pal, 109.

[9]Howlett and Ramesh, 58.

the new FPC. The policy community does not include the general public who follow policy events through the media. The policy community consists of actors who are active in the policy making, or in influencing the process.

Purpose and intent

For this thesis, I researched the lessons regarding enforcement and RMAs gathered from the policy community in the development of the code. My intent is to examine how this information was affected by the motives and strategies of the participants in the policy community. This thesis is a case study of the learning that went on during the policy development process. The case study is organized by three research questions: What information was gathered from the policy community? How was that information utilized? What impact did the motives of the stakeholders have on the information gathered? The analysis is informed by theories of policy learning, which will be examined in Chapter 2.

Since the MOF made a deliberate search for information, the concept of lesson-drawing informs my research in this case. I intend to explore the potential of applying the concept of lesson-drawing when lessons are drawn from the policy community. The role of the policy community is increasingly important with greater public participation surrounding policy decisions. This case differs from a consensus approach to policy making for the interests within the policy community are supplying information directly to the government and not to each other.

Owing to the vast scope of the FPC, it is necessary to focus the examination. There are many parts to this legislation, such as regulations regarding clearcutting or road construction, which may affect the protection of fish habitat. This thesis focusses on enforcement and riparian

management areas (RMAs).[10] Enforcement was chosen due to the high level of dissatisfaction in this area, especially in regard to stream protection. Enforcement is key to any changes in forest practices regulation. Without proper enforcement, standards are ineffective. RMAs were chosen due to their importance to biodiversity. Riparian zones occupy only 30% of forest landscape yet hold 85% of the forest species. RMAs were of political importance as well. During the development of the FPC, the Minister of Forests at the time, Andrew Petter, made it clear RMAs were to look stringent in comparison to other jurisdictions. RMAs were to be the selling point of the FPC for environmental groups campaigning abroad.[11]

Within the forest policy community, many believe this code to be an important step towards improving forest practices in the province. There is much hope among environmental groups, both domestic and international, that this code will decrease habitat degradation. It is also feared that the code will prove to be more of the same type of regulation. In the past, with an administration sympathetic to the forest industry, forest companies were rarely visited by regulators. Guidelines were not enforced. It is critical for environmentalists within this policy community that the FPC is not symbolic. Environmentalists are aware that the BC government and the forest industry want to improve the industry's image internationally.

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[10]A riparian management area (RMA) is defined as a classified area of specified width surrounding or adjacent to streams, lakes, riparian areas, and wetlands on page 190 of the Forest Practices code Standards released by the MOF in May 1994. For the purpose of this study, I will consider only RMAs that are adjacent to streams.

[11]Kristine Weese, Research Officer, Strategic Policy Section, Forest Practices Branch, Ministry of Forests, personal communication, October 10, 1997.

Therefore, all actors hold an interest in influencing the consultation process.

This study is important in the Canadian context as well. As BC is the main timber extracting province, there is much interest in the role the FPC will play in this policy area. The increased use of consultations as part of the policy-making process is not isolated to BC forest policy. Industry, environmentalists, and other provincial governments across Canada who have a stake in the forest sector will consider how BC arrived at these changes, and the role the consultations played. The process of learning continues.

The FPC is also of international interest. International groups like Greenpeace have sought to have BC forest products boycotted due to the poor forest practices taking place in the province. Seeing how BC has become notorious for its forest management, new initiatives such as the FPC, are watched very closely. For those outside of the forest policy community the research here is a reminder of how motivations influence the exchange of information.

I feel this to be an interesting topic for the discipline of Political Science as it deals with the policy community as a source of information. Focussing on the policy community necessitates an examination of claims to knowledge. Although the learning process appears to be rational, learning can be used by the importer (or the exporter) as a medium of persuasion. In the case of the FPC, the BC government wishes to persuade others that the Ministry of Forests has learned "lessons" regarding fish habitat protection. These lessons are based in part on consultations with groups who offer "solutions" backed by scientific evidence and numbers.

BC's forest policy community is extremely knowledgeable. There are many groups and academics who have undertaken vast amounts of research in this policy area.

Although the policy community is a common source of information for policy makers, it is often overlooked in lesson-drawing literature. Examples of lesson-drawing from jurisdictions abroad are numerous and much more popular. The policy community is not often chosen as the source of information because it so political which heightens the difficulty of applying the theory to case studies. However, policy makers do consult with the policy community concerned. Forest policy is highly controversial in BC, which magnifies the importance of motivations and influence in policy making. The lesson-drawing process between the MOF and the rest of the policy community demonstrates that strategy and motives must be taken into account.

Methodology

This thesis attempts to integrate or apply lesson-drawing theory to an actual experience, the development of BC's FPC. Along with a literature review on the concept of policy learning, the research for this thesis is based on the analysis of primary government sources. Government sources provided background knowledge of legislation and key players involved in the development of the code. This has involved an analysis of previous and existing legislation to compare various aspects such as definitions, guiding principles, and rules regarding forest practices. From this research, one theme in particular emerged - the incoherency of the information gathered. Very little agreement was reached on the possible solutions to protect fish habitat.

Interviews with a representative selection of individuals within the BC government, the forest industry, and within environmental groups, were conducted in order to uncover what information was drawn from the policy community by the MOF with regards to RMAs and enforcement. The interviews helped me understand the politics that were involved in portraying various options in a positive or in a

negative light. The interviews were unstructured in order to enable the informants to bridge gaps in my knowledge of events not covered by my analysis of primary government sources. My research benefitted from the interviews in that it offered the real life perspective. This helped balance abstract theory with the experiences of people. (See Appendix C).

The media has been used as a secondary source of information. As a carrier of ideas, dissatisfactions and failures, the media offered insight on attitudes towards the code and forest practices in general. The media also helped to describe the political climate in which the code was developed.

The thesis will begin with a literature review covering the areas of diffusion, policy learning, emulation and lesson-drawing, some of the approaches associated with policy learning found within the large body of literature dealing with policy learning. Colin Bennett, Richard Rose, and Peter May are only a few of the political scientists who define policy learning, and how it occurs.
Through a review of this literature, hypotheses have been drawn to further articulate what I expected to find in my research. Since the thesis focusses on the area of lesson-drawing, the works of Richard Rose (1991, 1993), David Brian Robertson (1991), and Deborah Stone (1988) are of most interest. Rose describes lesson-drawing as a rational procedure. To Rose, the lesson-drawing process develops in a straightforward manner. Stone and Robertson, on the other hand, see the process as inherently riddled with strategy and bias. These two views were compared when examining the formulation of the FPC.

Following the review Chapter Three examines the fisheries/forestry interface of coastal BC. This chapter spans a time period from the early 1970s to June of 1995. The chapter introduces the problem and the legislation prior

to the code. The reasons for non-compliance with previous legislation follow. The groups who make up this policy community are also presented. This chapter gives the background needed to understand the dissatisfaction which has resulted from the impact of forest practices on coastal fish habitat.

Chapter Four outlines the development of the Forest Practices Code and the lesson-drawing process and describes how information was gathered by the MOF. The information put forth by the policy community will then be examined. This examination will attempt to reveal how information was employed by the actors within the policy community. The empirical record will run to 15 June 1995 when the code came into force.

The final chapter analyzes the usefulness of theories of learning and lesson-drawing from the policy community in the development of the code. A diverse policy community with competing agendas allowed the government to apply lessons in a politically profitable way. The strategy involved on the part of all actors influences information given and received, rendering the process inherently political. To apply the concept of lesson-drawing adequately, these motivations and strategies must be taken into account. To do so would necessitate a broader notion of lesson-drawing. However, a broader conception of lesson-drawing leads to new difficulties.

Hypotheses developed by political scientists are useful guides in melding a case study with the theoretical models of policy learning literature. It is to this literature on policy learning that this thesis will now turn.

CHAPTER TWO: SEARCHING FOR SOLUTIONS - A LITERATURE REVIEW

Although new policies are adopted frequently, the reasons given for how and why a particular policy was adopted is often debated within political science. Traditionally, many explanations of policy change are devoted to conflicts of power. Policies are believed to change when there is a "change in the possession and the relationships of power among conflicting groups."[1] Different bodies attempt to influence policy, be they political parties, interest groups, or even the government bureaucracy. Whoever has the resources has the most influence to change policy, or to keep it from changing. This assumption underpins different schools of thought including pluralism, elitism or Marxism to name a few.

Hugh Heclo was one of the first political scientists to explain policy adoption through the force which he refers to as "puzzling," also known as policy learning.[2] Politicians collectively look for the best possible solutions to the problem(s) they face in situations of uncertainty. Increased knowledge on the issue improves the ability of policy makers to deal with and solve the problem at hand. Accumulated knowledge of various solutions gives guidance as to what policy makers should or should not do: "In short the possession and relationships of power have not necessarily decided the substance of policy."[3] Utilization of this accumulated knowledge independent of substantial exercises of power can be a viable explanation for a change in policy. The process of "puzzling" differs from a simple shift in

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[1]Hugh Heclo, *Modern Social Politics in Britain and Sweden* (New Haven: Yale University Press, 1974), *305*.

[2]Heclo, 305.

[3]Heclo, 306.

circumstance. When "puzzling," policy makers gather information intentionally. The information gathered is a body of constantly evolving concepts, advice or data affecting policy makers knowledge on a particular issue.

The Forest Practices Code is an example of a recent change in policy believed to balance the interests of timber and non-timber users. To explain changes in policy such as these, traditional approaches in political science would argue that some sort of power shift has occurred. For instance, environmental groups may have better access to financial resources, thus increasing their power. The electorate may have increased their political leverage by voting for a political party that takes a more balanced view toward forest management. Yet, is it possible, in a policy area as controversial as forestry, that the adoption of this new code may be, in part, due to "puzzling?" My interest in choosing a learning approach, over a political based approach, is to explore learning in the development of the Forest Practices Code, taking into account the political and economic strategies of various interests.

In this chapter I will review literature on four interrelated themes: diffusion, policy learning, emulation, and lesson-drawing. Literature on each concept examines how ideas can be the cause for policy adoptions. Diffusion shows that the exchange of information is but one explanation for similar policy adoptions. The literature review on policy learning examines the extent to which this concept is responsible for policy change. The change may be as extensive as a paradigm shift. The change may also be measured through policy instruments, for example. Various works on emulation offer methods to prove similar policy adoptions are due to an exchange of information between jurisdictions. Finally, the literature on lesson-drawing enables a researcher to determine what information was gathered across both time and space prior to policy

adoption. I applied the lesson-drawing literature to the policy community as a source of information in developing the new Forest Practices Code. It is important to remember that these four categories of literature are somewhat superficial and not exclusive. The different terms are often used interchangeably by political scientists, making it difficult to disentangle one from the other. There does, however, appear to be a continuum running from a very broad focus on patterns of adoption (diffusion) to a more narrow concentration on the program itself.

Diffusion

Governments often adopt similar policies at different times. One area of policy literature which has attempted to explain patterns of adoption is the diffusion of innovations. The process of diffusion is seen as "any pattern of successive adoption of a policy innovation."[4] These studies tend to be quantitative. In order to make statistical tests viable, the studies tend to look at large numbers of cases. The purpose of mapping the times at which a particular policy was adopted is to reveal patterns between pioneers (those jurisdictions which introduce the innovative ideas) and later adopters.

The adoption of similar policy innovations may follow various patterns of diffusion. Patterns of diffusion may spread information according to geographical proximity (spatial diffusion) or from leaders to followers (hierarchical diffusion). As Richard Rose points out, diffusion studies are usually concerned with the timing and sequence of policy adoption.[5] For instance, an analysis of

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[4]Robert Eyestone, "Confusion, Diffusion and Innovation," *American Political Science Review* 71(1977): 441.

[5]Richard Rose, *Lesson-Drawing in Public Policy* (Chatham: Chatham House Publishers, 1993), 25.

the diffusion of a particular policy may reveal a pattern where more advanced industrial countries adopt before less industrialized countries. The pattern of diffusion can lead to explanations of how and why policy innovations spread. David Collier and Richard E. Messick (1975) analyzed the adoption of social security programs among 59 countries. The authors argue that the state's level of development is not an adequate explanation for the adoption of social security programs. Adoption is also due to spatial and hierarchical diffusion resulting from an international system of communication and influence.[6] Some of the causes for spatial and hierarchical diffusion can be learning, emulation, imitation or lesson-drawing.

Diffusion theory has most frequently been used to explain patterns of adoption among states in the American federal system. Analysts have sought to determine the importance of characteristics such as urban population, political ideology, or productivity.[7] Some attempts have been made to do similar studies in Canada.[8]

These studies attempt to show how and why policy innovations spread using quantitative analyses. However, by looking at patterns developed from evidence gathered from many cases, diffusion studies do not give an in-depth understanding of each unique policy adoption. Since each specific policy adoption occurs due to different motivations, the process does not occur in the same way for

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[6]David Collier and Richard E. Messick, "Prerequisites vs. Diffusion: Testing Alternative Explanations of Social Security Adoption," *American Political Science Review* 69(4): 1305.

[7]Eyestone (1977).

[8]Dale H. Poel, "The Diffusion of Legislation among the Canadian Provinces: A Statistical Analysis," *Canadian Journal of Political Science* 9(1976): 605-626.

each country. For example, these studies do not allow one to see either the actors or the type of interaction involved in each situation. Further, it is assumed that the policy under examination does not change. One is not able to check how closely the policies resemble each other.

Moreover, one cannot assume that the diffusion of a program is due to diffusion of knowledge about that program.[9] The assumption of diffusion theory is that the institutions of government are a type of "black box" into which inputs enter and outputs are produced. However, if a policy analyst were to attempt to explain the entire political process, this approach would leave unclear the actual processes at work within the political system itself. Due to the inability to reduce the system into its elements, diffusion literature is not able to prove policy learning has occurred. Diffusion of a particular policy may be due to various types of transnational communication, such as lesson-drawing.[10] To name cross-national learning as the cause of policy adoption one must first provide evidence that the policy makers were aware of the program. Second, one must show that awareness led to a particular policy adoption.[11] In addition, diffusion is restricted to the exchange of information across jurisdictions. However, learning does not only occur across space (from Country A to Country B), but also across time within the same country. Therefore, diffusion theory is of limited use in this case study. To understand why BC has adopted its Forest

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[9]Colin J. Bennett, "How States Utilize Foreign Evidence," *Journal of Public Policy* 11(1991): 32.

[10]Colin J. Bennett, "Review Article: What is Policy Convergence and What Causes It?," *British Journal of Political Science* 21 (1991): 221.

[11]Bennett (1991), 32.

Practices Code an approach that gets inside the policy process is required. Then one can determine the awareness of information, how that information was used, and to what effect.

Yet once our gaze turns to what goes on inside the process, different methodological difficulties emerge. It is difficult to separate the impact of different forces on policy change. Not only does mapping a search for solutions assume policy making is rational, it also assumes that the evidence provided by policy makers is objective and valid. To make matters more complicated, various political scientists have different meanings for the same term, which is most obvious in the literature on the concept of policy learning.

Policy Learning

Although Heclo's description of the process of policy learning appears straightforward and rational, he was aware that neither the forces of power nor knowledge operate in isolation. Both are responsible for changes in policy. This fact makes it difficult to see the direct impact of learning on policy change. This difficulty opens up a challenge for political scientists who wish to explain changes in policy due to the process of policy learning.

Peter Hall uses the term "learning" as entailing a deliberate and conscious process able to change both the means (instruments) and the ends (goals) of the policy.[12] This change is measured by three categories of learning. The first is an incremental type of learning, based primarily on past experiences. The second level of learning results in a change of policy instruments to attain the same objectives or goals. The third level leads to a change of

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[12]Peter A. Hall, ed., *The Political Power of Economic Ideas* (Princeton: Princeton University Press, 1989), 389.

the goals themselves, often referred to as a paradigm shift. A fundamental aspect of Hall's work is the stance that learning is capable of affecting the goals of a policy. Changing the goals means a shift in fundamental beliefs and values which underlie that policy; a change that could, for example, be as fundamental as the adoption of Keynesian ideas in economic policy.

For a change of this magnitude Paul Sabatier would argue that something other than learning, some sort of external shock, must be at work. Sabatier attempts to integrate factors of learning and power on policy change. For Sabatier, the most useful way to think about policy change that results from learning is through a focus on subsystems. In his framework, the focus lies on the policy subsystem[13] and on beliefs that shape policy analysis within that subsystem. Sabatier is sensitive to the different channels of learning that exist within what he calls the "advocacy coalition." The advocacy coalition is made up of a variety of people who "share a particular belief system...and who show a nontrivial degree of coordinated activity over time."[14] Policy change occurring at different degrees, is the result of competition among advocacy coalitions within the policy subsystem.

Sabatier makes a distinction between the different levels of beliefs. The highest level is that of deep core

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[13]A policy subsystem is defined by Sabatier as "those actors from a variety of public and private organizations who are actively concerned with a policy problem or issue such as air pollution control, mental health, or surface transportation" in his article "An advocacy coalition framework of policy change and the role of policy oriented learning therein," *Policy Sciences* 21(1988): 131.

[14]Paul Sabatier, "Knowledge, Policy Oriented Learning and Policy Change," *Knowledge: Creation, Diffusion and Utilization* 8 (1987): 660.

beliefs, made up of the fundamental beliefs held by a society. The second level encompasses (policy) core beliefs, those pertaining to basic strategies and policy positions for achieving the deep core beliefs. On the lowest level are secondary beliefs, those that guide the instrumental decisions and information searches required to implement the policy core.[15] Sabatier argues that although learning plays an important role in meeting the deep core beliefs, these beliefs are not changed due to learning. Sabatier's view rests on the assumption that learning is found within subsystems. Learning is constrained by deep core beliefs, and thus could not lead to paradigm shifts. What is learned then "is how to better achieve one's ends or how to better implement public policies."[16] Advocacy coalitions learn to improve policy effectively to meet core values.

These two opposing views would be helpful if one wished to test whether the impact of learning leads to changes in the dominant belief system. However, the different categories of beliefs are somewhat vague. In reality these beliefs are unlikely to fall within three distinct categories. Therefore, it would be difficult to gauge changes in deep core beliefs. A further problem with applying Sabatier's framework is the reliance on subsystems as the channels of learning. Since the subsystems consist of a large range of actors from journalists to policy analysts, one must first determine who actually makes up these subsystems.

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[15]Paul A. Sabatier, "An advocacy coalition framework of policy change and the role of policy oriented learning therin," *Policy Sciences* 21(1988): 145.

[16]Colin J. Bennett and Michael Howlett, "The lessons of learning: Reconciling theories of policy learning and policy change," *Policy Sciences* 25(1992): 284.

In the advocacy framework offered by Sabatier, the competition between advocacy coalitions leads to changes in policy that are constrained by core beliefs. This has led Hank Jenkins-Smith (1988) to test how variations in conflict affect learning. Jenkins-Smith notes that debates over core beliefs to be very conflictual. Conflict deters learning: information gathered by groups will be used mainly to legitimate or "buttress" positions. If the contention revolves around a particular issue related to the core beliefs, but is not over the core beliefs themselves, conflict is high but not so high as to hinder learning. Learning may be responsible for changes in policy if those changes remain within the parameters of the core beliefs. That is, paradigm shifts will not occur due to learning processes. Finally, if the issue of contention is insignificant to the core beliefs, conflict is low. Little learning occurs in this scenario, for there is little to defend. The changes will not be threatening to the core beliefs.[17] Conforming with Sabatier, Jenkins-Smith shows that competition among advocacy coalitions is required for learning to occur. Yet learning is constrained within a pre-set belief system. Learning affects the means to achieve already set policy goals, not the goals themselves. As BC forest policy is considered to be highly contentious, it would be interesting to see if the dissension within this policy community will hinder learning in the case of the Forest Practices Code.

Peter May (1992) gives helpful guidance as to what evidence to look for in trying to distinguish between different types of learning. For instrumental learning, one would look at changes in policy instruments or design.

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[17]Hank C. Jenkins-Smith, "Analytical Debates and Policy Learning: Analysis and Change in the Federal Bureaucracy," *Policy Sciences* 21(1988): 204.

Social learning, on the other hand, would be marked by policy redefinition, such as a change in target groups, a change in rights, or a change in belief systems. Policy learning requires evidence of policy elites' understanding of the instruments and beliefs about problems. Political learning, on the other hand, would lead to a change in political strategy for advocating a solution to a problem or an idea. This requires evidence that policy elites are aware of past political strategy and its impact.[18] Like Sabatier, May argues that social learning is constrained by interest groups' specialization and a reluctance to change core beliefs.[19]

A difficulty with this literature is the lack of consistency in how the terms are used by political scientists. As Bennett and Howlett note, this lack of clarity is problematic when applying these concepts in research. The first step towards the successful use of learning approaches in public policy analysis would be to disaggregate these concepts. Bennett and Howlett identify three facets at work in policy learning approaches: who is learning; what is being learned; and the results of that learning. These three facets are generally not well defined. First, the subject of learning is ambiguous. "Who" learns is found to be a range of social or state actors. The second process, the object of learning, is also ambiguous - the object of learning may range from policy instruments to policy goals. What the subjects learn is as wide-ranging as the subjects themselves. Finally, learning can result in incremental, organizational, or instrumental and programmatic change.[20] In addition, as argued by Hall,

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[18]Peter J. May, "Policy Learning and Failure," *Journal of Public Policy* 12(1992): 351.

[19]May, 352.

[20]Bennett and Howlett, 289.

learning can result in more fundamental changes of goals, or paradigm shifts. On the other hand, the information gathered may lead to inaction where otherwise action would have taken place. For example, the BC government may have rejected certain aspects of foreign forest practices codes due to financial costs.

The disaggregation of the concept of learning is only the beginning. According to Bennett and Howlett, once these processes have been clarified, "significant conceptual, methodological, and theoretical aspects on the subject remain to be resolved before this approach can be integrated into the mainstream of policy studies."[21] Researchers also face problems of proving empirically that changes in policy result from learning. It may be impossible to observe the learning activity in isolation from the change requiring explanation. Unless one can show that change occurred due to learning and not another factor, learning is not an alternative hypothesis but a "partial corrective" to traditional theories based on power conflicts.[22] Knowledge claims have to be seen in the context of political interests and political power. While the literature has continued to expand theoretically, it is still difficult to understand the role learning plays in policy change.

The literature dealing with policy learning focuses on how to determine if changes result from knowledge-based factors, rather than power and politics. Not only do application problems follow an attempt to attribute change to learning, but this concept is of more use when looking at a policy area as a whole, and not one specific piece of legislation such as the code. This requires using a more specific concept than policy learning. How to map changes

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[21]Bennett and Howlett, 278.

[22]Bennett and Howlett, 290.

in a particular piece of legislation is considered within the concept of emulation. This exercise gives insight into how knowledge is utilized in the policy making process.

Emulation

In the emulation of public policy, the policy of another country is employed as an exemplar or model which is then adapted according to the importing state's situation.[23] Emulation takes place in an insecure and tentative policy-making climate, and rarely occurs as exact copying. Partial emulation is also possible. For example, one nation may borrow the policy without the process, as Canada did with the adoption of the Environmental Impact Assessment (EIA) program.[24] To prove emulation has occurred, Bennett calls for empirical evidence over more subjective evaluations. The search for policies to deal with similar problems or situations must be done consciously by policy makers in order for it to be called emulation. Otherwise, changes in policy may simply be fine tuning of former policy. Emulation occurs between groups with similar beliefs and training who find similar solutions to similar problems. Bennett makes the distinction between awareness of knowledge, utilization of that knowledge, and its adoption. The information gathered can be utilized in various ways: as a triggering mechanism, a ready-made solution, an exemplar, an alternative, or as a reinforcement of values, depending on the interests of the importer.[25]

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[23]Bennett (1991), 221.

[24]George Hoberg, "Sleeping with an Elephant: The American Influence on Canadian Environmental Regulation," *Journal of Public Policy* 11(1991): 125.

[25]Bennett (1991), 50.

But the importer is not the only one with interests. Giandomenico Majone makes the distinction between two types of forces exerted by a foreign model on domestic policy: push (from the exporter), or pull (from the importer).[26] Majone points out that the exporter (e.g. the state, jurisdiction and/or policy elites from whom information is taken) may also have motivations in having this policy emulated by others. This can be seen through the American influence on the development of competition policy in Europe since the end of World War II.[27] Majone also states that usually in practice, a mix of both push and pull forces are at work.[28] Yet, how can one be sure emulation is responsible for similar policy adoptions?

In order to show that the policy-making process was affected by emulation processes, one has to give evidence that information from another nation's policies were transferred into the system, according to Jerald L. Waltman. To do so, Waltman uses a three-step process. First, the researcher must analyze the decision-making process without prejudgment that copying has taken place. Second, the person(s) or group(s) who actually made the critical decision on substantive alternatives must be located. Finally, the source which was ultimately selected must be traced. If this final stage ends up pointing to the policy of another nation or nations, one can feel confident that

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[26]Giandomenico Majone, "Cross National Sources of Regulatory Policymaking in Europe and the U.S.," *Journal of Public Policy* 11 (1991): 104.

[27]Competition policy after World War II was seen as the regulation of the competitive behaviour of industries. This changed the role of the state from that of a producer of goods and services to that of a regulator as described by Majone, 83-84.

[28]Majone, 104.

copying has occurred.[29] When moving forward chronologically through the decision-making process, the researcher can map who did what to get where. When moving backwards chronologically, the source of information is revealed.[30] Waltman offers a straightforward plan that would be helpful in determining if emulation has taken place. However, one can expect the research to be more complicated than this orderly scheme. For instance, policy makers may wish to take credit for the new Forest Practices Code and may hold back evidence that a search abroad was useful to its development. Can one be certain that decision-makers will be candid about the use of information?

To determine the role of policy borrowing in the development of race-related legislation, Donley T. Studlar looks at debates in the House of Commons, visits by bureaucrats, and the origins of the legislation. Little evidence could be found that knowledge-based reasons for policy emulation were more important than other political factors in the agenda-setting process. Nevertheless, evidence was found to support the argument that acquired knowledge shaped the content of the policy.[31] Studlar examined the effects of policy emulation as a search abroad to acquire suitable instruments to realize already determined goals. When the goals are similar, and constant, the task of examining the effects of emulation are eased. This narrower focus of the concept of emulation, however, is limited to the borrowing of ideas across space.

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[29]Jerald L. Waltman, *Copying Other Nations' Policies: Two American Case Studies* (Cambridge: Schenkman, 1980), 6.

[30]Waltman, 6.

[31]Donley T. Studlar, "Ethnic Minority Groups, Agenda Setting, and Policy Borrowing in Britain" in Paula D. McClain ed., *Minority Group Influence* (Westport: Greenwood Press, 1993), 32.

Lesson-Drawing

Whereas emulation is concerned with the borrowing of ideas across space, lesson-drawing also takes into account the use of knowledge across time. Richard Rose defines a lesson as "a program for action based on a program or programs undertaken in another city, state or nation, or by the same organization in its past."[32] The point of lesson-drawing is to address whether a program that is effective in one place can transfer to another. The process begins with scanning programs first from the organization's own past experiences and then from abroad, and ends with the consideration of what would happen if one of these programs were transformed here in the future. Rose views policy makers as the ones who gather information to make future decisions about a particular policy. Lesson-drawing offers a focussed way to check how and if learning shaped policy:

> Lesson-Drawing is a more specific concept than "learning" or "emulation". It denotes a more conscious and deliberate search for possible solutions across time and space by policy makers acting either individually or collectively.[33]

Ideas are seen as tools for improving means to attain political ends. Therefore, as Rose notes, it is important to not only question how to learn, but to question what is learned.[34] Mapping the extent of the search can reveal the extent of awareness about the information gathered. However, not all the information gathered leads to the

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[32]Richard Rose (1993), 21.

[33]Colin J. Bennett, "The formation of a Canadian privacy policy: the art and craft of lesson drawing," *Canadian Public Administration* 33(1990): 553.

[34]Rose (1993), 12.

application of that information in future policy. Negative lessons may also be drawn. For example: "When the past is a record of mistakes, negative lessons can be drawn by policy makers averse to repeating past mistakes".[35]

Bennett gives helpful examples of how needed evidence can be gathered to decide if, and how, lesson-drawing took place. Through both comparative and historical perspectives, an analysis of policy debates, policy content, and the interaction between policy makers brings to light the extent of awareness of information. That is the first step in determining how lessons drawn were used. The next step, according to Bennett, is to evaluate under what conditions lesson-drawing took place.[36]

Often lesson-drawing is associated with learning from jurisdictions abroad. However, when making decisions regarding changes in legislation, policy makers may also turn to informal communities of experts. The epistemic community, defined in Chapter One, is a logical source of information for solutions to end dissatisfaction with the status-quo. These communities are formed of a "knowledge-based network of individuals with a claim to policy relevant knowledge based upon common professional beliefs and standards of judgement, and common policy concerns".[37] Rose further explains that these communities can be regional, national, or even international in scope.[38] As these communities draw lessons of their own from other jurisdictions or from past experiences, they prove to be a valuable source of information. Without the power to enact

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[35]Rose (1993), 88.

[36]Bennett (1990), 570.

[37]Richard Rose, "What is Lesson-Drawing?," *Journal of Public Policy* 11(1991): 16.

[38]Rose (1991), 16.

legislation, the community is eager to share information with policy makers.

As explained by Rose, governments will often look to several epistemic communities. Many times the advice given is contradictory. In that case "policy makers make a choice between conflicting expert opinions as well as between conflicting program options."[39] This is advantageous to politicians when part of that epistemic community shares the government's own view.[40]

According to Rose, whether or not a program should be adopted depends on logical and reasoned problem-solving. The fungibility of a program can be tested based on the contingencies of the program itself, the governments involved, and the expected impact of adoption. By testing the fungibility of a program one can explain why the information gathered has been utilized the way it has. Rose offers five alternative ways through which a lesson is drawn: copying, emulation, hybridization, synthesis, and inspiration.[41]

Other ways that knowledge can be utilized are not examined by Rose. For example, Rose does not examine how lessons can also be used strategically as tools of persuasion to legitimize action that will be taken by the government. This is due to the fact that strategy is not addressed by Rose as a variable in the lesson-drawing equation. However, Deborah Stone (1988) makes it clear that the policy making process is anything but rational. Stone argues that what she calls the "rationality project," the

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[39]Rose (1993), 15.

[40]Rose (1991), 16-17.

[41]Rose (1993), 30.

hope of conducting politics with rational, analytical and scientific methods, is impossible.[42]

Although Stone does not examine lesson-drawing per se, she offers an excellent inquiry into the dichotomy between reason and power. Stone argues that reasoned analysis is always political. "It always involves choices to include some things and exclude others and to view the world in a particular way when other visions are possible."[43] Defining problems, Stone argues, is not about defining goals and how far the polity is from achieving them. Instead, problem definition is based on strategy "because groups, individuals, and government agencies deliberately and consciously design portrayals so as to promote their favored course of action."[44] Problem definition is manipulated through symbols, numbers, or causal stories, for example. Even the solutions chosen to deal with problems are inherently political. Rules, for instance, allow people to portray their actions as "behaved" or not.[45] An interesting aspect of Stone's examination is the notion that knowledge equals power. Ideas are tools that are often "fought" with.[46] Ideas are useful tools of persuasion that support one's position. Knowledge can have a profound effect on one's political capacity, therefore knowledge is empowering. Hence, isolating decision making processes from politics is not possible, Stone argues.

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[42]Deborah Stone, *Policy Paradox and Political Reason* (Harper Collins, 1988), 4.

[43]Stone, 306.

[44]Stone, 106.

[45]Stone, 234.

[46]Stone, 25.

The politics surrounding the adoption of new legislation are undoubtedly questioned when examining an area as controversial as forest policy. Like Stone, David Brian Robertson challenges models based on rational analysis. Robertson sees the lesson-drawing process as taking place within a context shaped by pressures of economic feasibility and political conflict. Robertson argues: "If the struggle for political advantage shapes the lesson-drawing process, political constraints and opportunities largely determine the outcomes of lesson-drawing."[47] If lesson-drawing is to be successful then it depends on political support. For this reason, Robertson argues, controversial and expensive policy lessons are less often enacted than costless, symbolic ones.[48]

Rose describes lessons as tools. Robertson adds that these tools are potential weapons useful in political conflicts to manipulate contested ideas. Lessons are used to maximize credibility: "The use of lessons as leverage in political conflicts pervades policy areas where facts are contested, values are complex, and partisan differences sharp."[49] Robertson points out that lessons are used selectively by advocates to associate a certain program with admirable or blameworthy characteristics such as economic performance.[50] Therefore, the less participants agree on the outcome of the policy change, the more likely lessons will be used as tools of manipulation.[51] This argument is

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[47]David Brian Robertson, "Political Conflict and Lesson-Drawing," *Journal of Public Policy* 11(1991): 68.

[48]Robertson, 56.

[49]Robertson, 55.

[50]Robertson, 59.

[51]Robertson, 57.

similar to that of Jenkins-Smith who sees situations of high political conflict leading to legitimation rather than learning.

Lesson-drawing is a manageable concept for it focusses on the program. Because lesson-drawing requires policy makers actively search for possible solutions, the researcher is able to determine from where information was drawn. Lesson-drawing opens the possibility of looking at the policy community as a source of information for policy makers.

Approaches used

As seen in the above review, not all of the literature in this area can be used to unravel the questions at the centre of this study. What lessons regarding enforcement and RMAs were gathered from the policy community in the development of the FPC? How was that information utilized? How was that information affected by the motivations of the various actors in the policy community? Particular works offer useful and testable hypotheses. Others help to gather evidence to show that learning has occurred.

Evident opposing hypotheses appear from the arguments set forth by Hall and Sabatier. While Hall regards learning as a powerful force able to lead to paradigm shifts, Sabatier sees learning as bounded and constrained by deep core beliefs. Analysis of this sort falls beyond the scope of this case study, although the findings here could be used by someone wishing to take on this larger project. I will, however, look at Jenkins-Smith's hypothesis that suggests that if there is much conflict between advocacy coalitions, legitimation rather than learning occurs. Considering the controversial nature of forest policy in BC where there is very little middle ground between opposing views, it would be interesting to test Jenkins-Smith's hypothesis.

As I will be looking at a specific piece of legislation, I will focus on the lesson-drawing literature. My analysis uses an elite-focussed approach similar to that employed by Rose. In this case the MOF will be the drawer of information while the policy community will be the source of information. Through the various consultations between the MOF and the policy community much information was elicited. I will explore how the motivations of the actors influenced the lesson-drawing process and the information gathered. I will compare Rose's rational approach to the approach taken by Robertson. In comparison to Rose, Robertson sees the process as inherently political. Stone's work is also very helpful in showing how information is manipulated and may alter the rational approach model. Claims to knowledge are claims to power, Stone explains. Her work recognizes the need to question continually the motivations of the actors involved. Examining the motivations and strategies of the actors is relevant throughout the entire lesson-drawing process.

The deliberate search taken by policy makers will be examined in Chapter Four. Bennett's examples of how lesson-drawing takes place will guide this examination. If lesson-drawing from the policy community has indeed taken place, one would expect to see evidence of it through policy debates and through policy content. There should be evidence of the interactions between policy makers and the rest of the policy community. Examples of interactions may be written responses or open houses.

This literature review was used as a guide to determine how "puzzling" is relevant to the development of the Forest Practices Code:

> A realization that has taken somewhat longer to permeate the consciousness and research techniques of policy analysts is that governments not only respond to differing

> structures and relations of power, they may also learn, draw lessons and emulate.[52]

Nevertheless, as Stone and Robertson point out, this process cannot be examined without taking into consideration the interests of the participants. Both forces work simultaneously. How useful is the concept of lesson-drawing to analyze the consultative process which took place. Before this literature can be applied, however, some background information on the coastal fisheries/forestry interface and the development of British Columbia's Forest Practices Code is needed. Very few policy areas in BC are as conflictual as that dealing with the coastal fisheries/forestry interface.

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[52]Bennett (1990), 552.

CHAPTER THREE: THE COASTAL FISHERIES/FORESTRY INTERFACE

Legislation ranging from the Federal *Fisheries Act* to the province's *Forest Act* should protect salmon and their habitat. Despite the legislation in place, the following examination will show forest companies have not complied satisfactorily with regulations pertaining to stream protection. Relations between fisheries officials and the forest industry were strained and often conflictual. This chapter will begin with a short examination of the impact forest harvesting can have on fish and their habitats. It will then describe the historical background of the federal and provincial legislation, focussing on its inability to achieve compliance. A review of the policy community and its opposing goals will follow. The chapter will conclude with the government's proposed solution to the fisheries/forestry interface - a forest practices code. Although research regarding the effects of timber harvesting on fish habitat started in the early 1970s for both the coast and the interior of BC, this analysis will examine only the coastal fisheries/forestry interface. Studies in one region do not apply to the other due to the different climate, hydrology and geology of the two areas. While heavy and frequent rainfall on the coast makes flash floods a common occurrence in streams, this is very rare in the interior.

The impacts of forest harvesting on fish habitat

The impacts of forest harvesting on fish habitats along BC's coast have received considerable attention in the last decade. The physical geography of the BC coastline makes it convenient for the transportation, dumping, storing, sorting, and booming of timber in or near river mouths, estuaries and shallow nearshore tidal waters. These

areas also prove to be where the most sensitive fishery resources are found.[1] It is in these waters that salmon, trout, char, gaspereau, striped bass, smelt, shad, oysters, clams, shrimp, crab, and fish food organisms live.

Pacific salmonids are anadromous fish. That is, these fish spawn in freshwater but spend between one to seven years of their adult lives in the ocean. They then return to freshwater streams to spawn. This journey may entail travelling hundreds of kilometres up rivers to reach spawning grounds. Fish habitat is defined by the *Fisheries Act* under Section 34(1) as: "Spawning grounds and nursery, rearing and migration areas on which fish depend directly or indirectly in order to carry out their life processes." There are six species of salmon: chum, coho, chinook, sockeye, masu and pink, which all have similar life cycles. In addition, two species of trout (steelhead and cutthroat) are considered "sea-run" and hold similar migration patterns to salmon. By 1981, an average of ten million salmon spawned annually in BC's 2,500 recorded nursery streams. However, since the turn of the century "British Columbia lost two-thirds of its natural salmonid stocks through habitat destruction and overfishing."[2] Salmonids are highly sensitive, environmentally "fussy" fish, particularly in the stream "nursing" stage. Each salmon returns (or attempts to return) to its own stream of origin to spawn. They require very special conditions for successful spawning, for the development and hatching of eggs, and for the growth and survival of their young. Spawning is contingent on successful migration.

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[1]Canada, Department of Fisheries and Oceans, "Fish Habitat and Forestry," (Ottawa: 1985), 1.

[2]Canada, Department of Fisheries and Oceans, "Salmon - Your Resource," Ottawa.

Forests provide many benefits for fish habitat. The physical requirements of fish affected by forest harvesting include access to spawning and nursery areas, a relatively stable streamflow, and suitable cover. The main benefit of trees to these requirements is soil stability. The water must be around 12-14 degrees Celsius in temperature. It must also be clear and hold high levels of dissolved oxygen. Removal of streamside vegetation can lead to soil mass movements, such as landslides. Logging roads can cause a change in drainage patterns. If constructed improperly, the roads will wash out. Large amounts of eroded material can overtax a stream's ability to transport sediment. If this leads to a "drying up" of the stream, the fish are not able to migrate. Removal of streamside vegetation also eliminates cover needed to regulate water temperature.

For many coastal communities fish are a vital resource. "We worry about fisheries because they serve our self-interests, for excitement, good eating, profit and employment."[3] The wholesale value from commercial fisheries in 1992 was approximately 900 million dollars. The total value received by the fishers was close to 411 million dollars. Many Aboriginal communities use fish resources for food, social, and ceremonial purposes, as well as for commercial purposes. In 1992, 20% of the total privately-owned salmon fleet in BC was aboriginal owned.[4] Aboriginal communities such as the Sto:lo from the Lower Fraser River area have been economically and socially dependent on fishing throughout their histories. Now with 60-90% of the residents of Sto:lo villages unemployed and with serious

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[3]Carl Walters, *Fish on the Line* (Vancouver: David Suzuki Foundation, 1995.), 6.

[4]Canada, Department of Fisheries and Oceans, "Fisheries Facts," (Vancouver:1994), A2.

reductions in stock availability, the resource is more significant than ever.[5] In addition, the loss of biodiversity is of concern to conservationists. They regard the loss of a particular stock of salmon as inexcusable, especially given the thousands of years it takes to evolve.

The fish and forest industries share a dependence on forest lands, the river systems that drain them, and the marine and estuarine areas of the coast. For example, communities such as Tofino and Ucluelet rely on both logging and commercial fishing. Needless to say, this has led to management difficulties at both the planning and the site-specific operations levels. The difficulties arise from differences of opinion about appropriate land uses and the level of resource development. Therefore, legislation has been pivotal to deal with the fisheries/forestry interface.

Legislation

In 1978, the Department of Fisheries and Oceans (DFO), which was part of the Department of Environment, became a Department in its own right. Its mandate directs the DFO to work at improving the condition of Canada's fisheries resources for the benefit of present and future generations. The *Fisheries Act* gives the DFO the authority to manage and protect all fish and related aquatic habitat in Canada through enforcement, regulation, inspection, and research. In terms of fisheries/forestry interactions, the key provision is Section 35(1) which makes it an offence for any person to "carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat." With the 1991 amendments, new maximum fines were put in place. Under the Act, the Minister is responsible to

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[5]BC Wild, "Forest Practices In BC: Not a World Class Act," (Vancouver: September 1994), 1.

Parliament to ensure that activities which disrupt or degrade fish habitat are regulated.

Under the *Constitution Act of 1867*, the federal government has jurisdiction over both coastal and inland fisheries. While the province of British Columbia is responsible for the management and protection of resident sport fish, steelhead and coastal cutthroat trout, the Department of Fisheries and Oceans is responsible for marine and other anadromous fish. The six species of Pacific salmon, along with herring and shellfish are the most valuable and vulnerable with respect to forestry activities. To manage the salmon resource, Fisheries and Oceans has a broad set of management objectives including the protection and preservation of salmon habitat. To meet these objectives the federal department must work with the province.

Forest land is predominantly under provincial responsibility. According to section 92A (1.b) of the *Constitution Act* of 1982, the province is responsible for the "development, conservation and management of non-renewable natural resources and forestry resources in the province including laws in relation to primary production therefrom." Management of these lands is primarily conducted by the BC Ministry of Forests. To ensure protection of fish habitats there is also the provincial Environment Ministry. Cooperation between these agencies is critical. While the *Forests Act* (1978) provides for multiple-use planning and development through its integrated resource management clause, the *Ministry of Forests Act* provides opportunities for cooperative planning with Fisheries under section 4(b). This section states that the purpose and function of the Ministry is to coordinate and integrate timber resource values with other natural resource values. This is to be accomplished in consultation and

cooperation with other ministries and agencies of the Crown, along with the private sector. The 1978 *Ministry of Forests Act* also gave the MOF virtual absolute authority in both the planning and the managing of all lands designated as provincial forests.

Despite the different actors with different interests in the forest, hypothetically both timber and non-timber objectives should be met through the referral process. What is known as the referral process has long been at the core of the relationship between different bureaucracies. The referral process is defined as: "the process by which applications for permits, licenses, leases etc., made to one government agency by an individual or industry are given to another agency for review and comment."[6]

For example, between the MOF and the DFO, the process should work as follows: a forest company's timber-cutting application is referred to the MOELP and to the DFO for its assessment before the MOF approves it. The DFO and MOELP suggest modifications considered necessary to protect fish habitat; if accepted by the MOF, these are incorporated into the current permits issued to the forest company. The consideration of fisheries interests should be found in forest planning although the final approval after review remains with the MOF. If a problem arises, such as soil erosion resulting from the felling of trees on a steep slope leading to the silt up of a salmon stream, coordination and consultation are key. The provincial Forests Ministry discusses the problems that arise with the industry, and bargains with the provincial fisheries officials, and/or the DFO on possible solutions. This system was problematic,

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[6]BC, Ministry of Forests, *British Columbia Forest Practices Code: Standards with Revised Rules and Field Guide References* (Victoria: 1994), 189.

especially when the provincial MOF found itself in conflict with the DFO and the provincial Environment Ministry.

Differences of opinion were exacerbated by low staffing levels. Both the federal fisheries and provincial environment officials were overwhelmed with more than 2,000 referrals per year in the 1970s.[7] In the 1980s, government reduced field staff to monitor forest company activities for the MOF and MOELP by 2,000. "Periodic inspections of logging sites declined before, during and after harvesting and were replaced with a goal of monitoring 5% of cutblocks after harvesting."[8] Field staff were deluged with an average of 11,000 kilometres of road and 7,000 cutblocks to approve each year. There are 6,000 salmon streams alone to monitor.[9] The lack of resources often put the government agencies in a position of "crisis management." This is a situation where the field staff are forced to look at very specific sites (the crises), ignoring the broader picture.[10] An excellent case in point which illustrates the tensions between the MOF and the DFO is the Riley Creek Affair which began in the late 1970s.

Riley Creek is a prime salmon watershed that flows into Rennell Sound on the west coast of Graham Island. An application to log in this area was approved hesitantly by the DFO in November of 1977, because of the likelihood of landslides damaging the stream. By August of 1978, logging

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[7]A.B. Robinson, *Witch Hunt in the BC Woods* (Kamloops: Sagebrush, 1995), 69.

[8]BC, Ministry of Forests, *Discussion Paper Draft* (Victoria: October 1993), 10.

[9]*Discussion Paper Draft* (October 1993), 10.

[10]Ken Balaski, Director, Forest Practices Code Implementation Team, Ministry of Forests, personal communication, June 28, 1995.

was in full swing in this sensitive area. In October of the same year, dozens of slides occurred following severe storms. This led the local fisheries officer Jim Hart, and a Fish and Wildlife technician, Keith Moore, to examine the logging operations in the area. They found high levels of soil erosion caused by logging activities, and therefore recommended a moratorium on further logging around the Sound. The Forest Service did not respond. For that reason, a restraining order was put in place by the DFO in January of 1979 to stop logging activities. In February, the restraining order was withdrawn with the agreement that forty acres would not be logged. However, by March, logging was re-authorized within the entire area of cutting permit 144. By March 23, sixteen men were arrested under the *Fisheries Act* forcing the two sides to come to some sort of agreement. The Agreement reached between the parties thereafter was seen as a victory for the Forest Service, and logging resumed. More storms hit the area in November, causing more slides to occur with detrimental consequences on streams. It was not until February of the following year that the Minister of Forests, Tom Waterland, called for a moratorium on steep slope logging on the West coast of the Islands.[11]

Despite the legislation in place, the principle of multiple use has not been exercised. After this controversy, it was evident that the forest industry could not be left to comply with the set guidelines without consistent regulation. Further, the provincial government regulated the forest industry operations poorly. Even if

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[11]Raymond L. Bryant, "Federal-Provincial Relations in the Management of British Columbia's Fishery and Forestry Resources: Conflict and Cooperation in a Context of Growing Scarcity," Unpublished Honours B.A. Essay, University of Victoria, 1983, 71.

the DFO used the *Fisheries Act* to demand compliance, there was no guarantee that enforcement would be followed through. In this situation, despite recommendations from the DFO and the Fish and Wildlife Branch, the MOF consistently put timber values ahead of non-timber values, ensuring the interests of the forest industry were met. With regards to fish and habitat protection, reactive rather than preventative measures were taken. Evidently, the referral process was not working as intended.

Increased emphasis was placed on research in the Pacific fisheries after this time of conflict. An important contribution towards research on the Pacific Fisheries was the final report of the Pearse Commission entitled: *Turning the Tide - A New Policy for Canada's Pacific Fisheries*, released in September of 1982. The aim of the Commission was to find ways to improve the conditions of Canada's Pacific fisheries. In this report Pearse notes: "Logging and related activities are now widely agreed to have had a greater overall impact on salmon stocks than any other single source of habitat damage."[12]

Various investigations proved that the current arrangement was not protecting fish habitats. One explanation lay in the lack of enforcement. The Commission noted that the strong habitat provisions were not rigorously enforced. The *Fisheries Act* was a sort of "paper tiger."[13] The Commission found that in the four years prior to its appointment, 90 percent of the convictions resulted in fines

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[12]Commission on Pacific Fisheries Policy, *Turning the Tide - A New Policy for Canada's Pacific Fisheries, Final Report* (Vancouver: Ministry of Supply and Services, September 1982), 20.

[13]Commission on Pacific Fisheries Policy, 98.

less than 500 dollars.[14] Fines such as these are not a serious deterrence to the violation of regulations. Pearse also felt there was a need for improved information of both the stocks and the habitat of the fisheries resource. If further knowledge of the impact of timber harvesting on fish and their habitats is attained, Fisheries officers would then be properly equipped better to protect fish habitat.[15] Again, the need for integrated management was stressed by the Commission. The Commission recommended the continuance of the referral process with more involvement by the DFO at earlier stages in the planning process.

Research on fish/forestry interactions has a longer history than this Commission. Research on this issue began in the late 1950s. It was at this time the referral system was established. The Coastal Forest Planning Guidelines, Protection Clauses, and guidelines for forest haul road construction followed. To understand better the effects of forest harvesting on streams, research began in 1970 on a small watershed (approximately 10km^2 in area) situated on a tree farm of MacMillan Bloedel on the west coast of Vancouver Island known as Carnation Creek. The federal government, provincial government, and the forest industry participated in the research at Carnation Creek. Much of this research examines the effect of harvesting on fish populations, as well as stream channel and flow characteristics. Between 1970 and 1975, a pre-logging analysis took place along the creek to attain baseline data. Between 1975 and 1981, MacMillan Bloedel logged approximately 40% of the watershed using a variety of

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[14]Doug Macdonald, *The Politics of Pollution* (Toronto: McClelland and Stewart, 1991), 181.

[15]Commission on Pacific Fisheries Policy, 259.

harvesting methods.[16] The impacts of the various harvesting methods on the watershed are studied to this day. A Carnation Creek workshop was held at Malaspina College in Nanaimo of 1982 to present a ten year review of the results of the various studies from Carnation Creek. The Carnation Creek workshop reviewed forest practices in coastal watersheds based on research under the Fish/Forestry Interaction Program on the Queen Charlotte Islands.[17] More than 200 papers based on the results from Carnation Creek have been published. The research findings presented at the Carnation Creek Workshop proved an immediate need to develop the coastal fisheries/forestry guidelines. From the scientific results of these reports, the *Coastal Fisheries/Forestry Guidelines* (CFFG) emerged in the mid 1980s.

The CFFG were formulated jointly by the forest industry, the provincial government, and the DFO. The CFFG are seen as a consolidation of an array of guidelines and policies for the provincial, regional or district area. The Guidelines were developed as a common means to meet the objectives of each agency's mandate. The first Coastal

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[16]Glenn Bohn, "Impact on fish studied after logging stopped," *The Vancouver Sun*, 5 June 1987, B1.

[17]In May of 1980, the provincial and federal governments in a joint program placed 800,000 dollars towards the investigation and rehabilitation of forest sites and fish habitats on the Queen Charlotte Islands. This initiative is known as the Queen Charlotte Islands Fish/Forestry Interaction Program (FFIP), and was developed as part of the compromise worked out to defuse the Riley Creek controversy. Research began in 1981 with the first five years devoted to understanding the cause of landslides and their impact on fish habitat. Assessments of the impact of mass wasting on fish habitat and forest land, and the best methods to log steep slopes, and rehabilitate damaged streams along with forest sites began in 1987.

Fisheries/Forestry Guidelines (CFFG) were published in 1987. The first draft issued in 1985 was shelved temporarily due to industry protests.[18] Industry opposition to province-wide formal requirements allowed field requirements to prevail.[19] The second edition followed in 1988 and the third in 1992. These Guidelines do not override or nullify the existing legislative mandates of the various management agencies. Rather, they are meant to guide established management processes. Therefore, violation of these mandates continued to be dealt with through existing legal procedures, namely the *Forest Act* and the *Ministry of Forests Act*.

The Guidelines consist of a Statement of Principles, the stream classifications, and a summary of forestry operation guidelines for protecting fish habitats that follow stream class objectives. Debate over the protection of fish habitat from forest harvesting has centred around the width of land left predominantly untouched on either side of the stream in question. Under the CFFG this area was termed buffer and leave strips.[20] These strips are found within Streamside Management Zones (SMZs). SMZs are comprised of the land together with the vegetation it supports, which is immediately in contact with the stream

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[18]Christopher K. Leman, "A Forest of Institutions: Patterns of Choice on North American Timberlands," in Elliot J. Feldman and Michael A. Goldberg, eds., *Land Rites and Wrongs* (Cambridge: Lincoln Institute of Land Policy, 1987), 180.

[19]Leman, 180.

[20]Buffer strips are defined in the CFFG (1993, 3rd ed.) as: the vegetative fringe left intact along a stream, river or lake after logging, which can be a deciduous or a mix of deciduous and coniferous species, including a complete assemblage of natural forest.

and sufficiently close to have a major influence on the total ecological character and functional processes of the stream.[21] The width of the SMZ ranged from ten to thirty metres depending on the stream classification. This system specified four classes of streams and the precautions that companies should take in planning timber operations. These guidelines were never legal on their own. To have legal status, they had to be put into permits or other legal documents. Once incorporated into legal documents the MOF would enforce the guideline under section 10(1) of the Forest Act. If, however, there was no reference made to the CFFG in a legal document, they could not be enforced. At the same time, the DFO enforced the Fisheries Act if the agency could show the cause and effect of harvesting on the stream in question. Part of the development process for the Guidelines included an evaluation of their effectiveness after a trial period of use throughout coastal BC.

History of non-compliance

The revisions found in the third edition result primarily from a review by the CFFG Technical Committee and by independent contractor K. Moore and Associates regarding the application of the guidelines. In addition, refinements to the third edition were made following the results of a field audit conducted on Vancouver Island by D. Tripp and Associates in 1992.[22] The number of classes for streams were reduced from four to three. (Refer to Appendix A).

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[21]BC Ministry of Forests; BC Ministry of Environment, Lands and Parks; Federal Department of Fisheries and Oceans; and the Council of Forest Industries *British Columbia Coastal Fisheries/Forestry Guidelines* 3rd ed. (Victoria: Queen's Printer, July 1993), 37.

[22]BC, Ministry of Forests, B*ritish Columbia Coastal Fisheries/Forestry Guidelines* (Victoria: July 1993), iv.

Although it was concluded that the guidelines were effective when applied, the results of this audit were quite disappointing. Tripp and Associates found complete habitat loss in eleven out of the fifty-three streams surveyed. An additional thirty-four were also affected to some degree.[23]

Despite the modifications made since the first edition of the Guidelines, continued studies show compliance levels still have much room for improvement. In another study by Tripp and Associates in January 1994, similar conclusions were made to those of two years earlier - the CFFG and site specific prescriptions are very effective.[24] These independent spot checks throughout the West Coast indicated that companies failed to respect the Guidelines although they helped to draft them. Overall, block compliance was the best on the Queen Charlotte Islands at 78.9 percent, with 67.4 percent on Vancouver Island, and 53.2 percent on the North Coast District.[25] The Clayoquot Sound Scientific Panel's Progress Report 2 also concludes that the CFFG achieved its objective of maintaining salmonid habitat when properly applied.[26] Therefore, the problem is not with the standards but with non-compliance by the forest industry. The study conducted by Tripp also revealed that compliance was unrelated to the year harvesting took place. Therefore,

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[23]Dave Cunningham, "Up a stream without a paddle," *BC Report*, 14 September 1992, 21.

[24]D. Tripp, *The Use and Effectiveness of the Coastal Fisheries/Forestry Guidelines in Selected Forest Districts of Coastal British Columbia* (Victoria: BC Ministry of Forests, 1994), vii.

[25]Tripp (1994), 79.

[26]BC, Ministry of Forests, *Progress Report 2: Review of Current Forest Practice Standards in Clayoquot Sound* (Victoria: May 1994), 37.

there was no sign that compliance was improving within the examined time frame.

Even with the *Fisheries Act*, the *Forest Act*, the *Ministry of Forests Act*, and the CFFG, history shows salmon habitats continue to need protection. Timber values have consistently been given preferential treatment at the expense of non-timber values. According to the 1994 Tripp Report, BC's largest logging company, MacMillan Bloedel, was found to have caused major or moderate impact to 105 streams with fisheries concerns. Yet by the end of 1994 this company was convicted of destroying fish habitat through negligent forest practices fewer than ten times between November 1969 and May 1994. The majority of these convictions occurred in the 1970s.[27] The actual number of violations far exceeds the number of prosecutions. Why, despite these numerous studies and amendments, is non-compliance still so prevalent?

One reason given for the low compliance and weak enforcement of regulations is the division of provincial and federal powers. "The existence of a federal system significantly affects the capacity of state officials to deal with pressing issues in a timely and consistent fashion because public policies are made and implemented by the national/central as well as the state/provincial governments."[28] The split between both federal and provincial jurisdictions is not clear. The responsibility for dealing with externalities of forest practices falls under both levels of government when fish habitats are at

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[27]Clayoquot Rainforest Coalition, "MacMillan Bloedel's Criminal Record," (San Francisco: 1995).

[28]Michael Howlett and M. Ramesh, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Toronto: Oxford University Press, 1995), 61.

risk. Duplication and lack of coordination of policies can result. At times, neither the provincial nor the federal government want the responsibility of the issues at hand, and try to pass them off to the other level of government. At other times, coordination is complicated when the federal government begins to regulate an area of provincial jurisdiction, causing the province to be on the defensive.

The province is protective of its traditional areas of jurisdiction and sensitive to federal intrusion into them. "Federal concerns for protection of the environment have the potential to jeopardize provincial priorities for resource development - for the harvesting of forests, the production of pulp and paper, oil and gas exploration and development, and the development of hydroelectric power."[29] If the province is unwilling to cooperate, "turf wars" may be the result. This is especially true if the conflict occurs during a provincial election. The provincial government may try to appeal to the public through "fed-bashing." If the federal government is wary of causing tensions with the province over habitat protection, the federal government may exercise self-restraint.[30] This results in the DFO taking a more passive role. If initiatives on the federal agenda require the cooperation of the provincial governments, such as the Meech Lake Accord, the federal government may be more lenient with enforcement. "Federal and provincial decisions about the exercise of jurisdictions have been more a matter of balancing political powers than proper legal

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[29]Grace Skogstad and Paul Kopas, "Environmental Policy in a Federal System: Ottawa and the Provinces," in Robert Boardman, ed., *Canadian Environmental Policy: Ecosystems, Politics and Process* (Toronto: Oxford University Press, 1992), 47.

[30]Skogstad and Kopas, 50.

interpretation."[31] Therefore, the pressure from the federal government to enforce the *Fisheries Act* may not be present. The lack of a consistently strong federal role in fish/forestry tensions can also be attributed to the low numbers of BC Members of Parliament in the House of Commons.[32] The weak representation of BC in cabinet in the 1970s and 1980s added to the lack of federal legitimacy in the province.[33]

The federal bureaucracy is another obstacle to the full protection of salmon habitat. When power is diffused among various levels and agencies of government, the state's capacity to act unilaterally when enforcing regulations is hindered.[34] For forest practices regulation, prior to administrative action, the agency field personnel must prove non-compliance. This can prove cumbersome if there is more than one level or agency of government to deal with. When and if proof of non-compliance is shown and authorization to shut down operations has been given, it is usually too late to act.[35] There is no formal mechanism that coordinates the monitoring between provincial and federal agencies. In general, both attempted to monitor all the sites where there

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[31]David Vanderzwaag and Linda Duncan, "Canada and Environmental Protection: Confident Political Faces, Uncertain Legal Hands," in Robert Boardman, ed. (1992), 8.

[32]Bryant, 106.

[33]In 1978, fewer than ten of the 134 Liberal seats were held by BC constituencies.

[34]Howlett and Ramesh, 64.

[35]Leman, 182.

was a potential for stream damage, and thus neither agency was very effective.[36]

In addition there exists an internal "pecking order" of the bureaucracy. Usually the bigger, revenue generating departments have more clout. Within the bureaucracy lie gatekeepers such as Treasury and Finance, which can keep the DFO from receiving the necessary resources to follow through with the enforcement of regulations. This has led to a fluctuating assertiveness of federal fisheries enforcement. Although MOELP is also given the mandate of protecting these habitats, its enforcement has been no more forceful than that of the federal fisheries officers. For BC, the MOF is very influential and important. Without the MOF's cooperation, regulations are not very effective.

Although federal and provincial legislation to protect fish habitat is in place, it is disjointed. The incoherence among the different pieces of legislation makes the protection of salmon habitats more vulnerable to the aforementioned factors. This ad hoc approach is typical of MOF forest practices regulation:

> The problems with this approach, however, are that it can result in inconsistent practices, it rests on faith in the expertise and judgment of professional foresters, and it raises problems of enforcement and government accountability to the public.[37]

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[36]Greg McKinnon, Forestry Specialist, Habitat Protection Branch, Ministry of Environment, Lands and Parks, personal communication, November 30, 1995.

[37]George Hoberg, "The Politics of Sustainability: Forest Policy in British Columbia," in R.K. Carty, ed., *Politics, Policy and Government in British Columbia* (Vancouver: UBC Press, 1996), 280.

Without a type of consistent and forward-looking policy, coherent government regulation is hampered. For example, one operator, at the request of the MOF, left snags and high stumps for bird habitat and soil productivity in a logged area. Shortly thereafter, the operator was confronted by Workers' Compensation and was told to remove the snags which were a hazard for loggers working in the area. After the contract was completed, the Forest Service intended to fine the operator for leaving high stumps, which was considered a wastage of wood (an unacceptable volume of unrecovered usable timer left on an area after harvesting is completed).[38]

A final explanation for the forest industry's lack of compliance with regulations is its significance to the BC economy. Any impact changes in legislation may have on the forest industry is of utmost importance to the provincial government. The forest sector has always held the government's full attention in a province founded on a "frontier culture"; a culture that regards the forests as a perpetual resource, and measures success by economic output. In 1989, provincial dependence on the forest industry was extensive. The provincial annual cut was 74.6 million cubic metres and in excess of 75,000 people were directly employed by the industry. For each of these employees, there are at least two others whose jobs can be indirectly linked to the forest industry. In 1993, the total contribution to the province's GDP was 14.2 billion dollars.[39] The economic power of the industry puts it in a privileged position where

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[38]John Hatalcik, Road Superintendent, Crestbrook Forest Industries, Canal Flats Division. Formerly Area Engineer, MacMillan Bloedel, Port Alberni, personal communication, August 16, 1996.

[39]BC, Forest Renewal British Columbia, *Our Forest Future: Working in Partnerships* (Victoria: 1994), 6.

it can affect the formation of the political agendas at the electoral level. For the federal government, hindering timber harvesting is unlikely to be a popular move despite concerns raised by voters about the environment. At the provincial level, it is believed votes are associated with job creation rather than environmental protection.[40] Protection of the environment is widely supported until it means economic losses for one's community or family.

The Policy Community

Different opinions on forest practices regulation are encompassed within BC's forest policy community. The make-up of the community and the differing aspirations of the actors involved will be examined in this section. A policy community is defined in Chapter One as "all the relevant actors, as well as the attentive public, who have interest in and influence over policies produced or debated in the sector."[41] To better understand the patterns of the relationships and interactions within the community, we need to look at the autonomy and power of the state versus the concentration or coordination of societal interests, the policy networks.[42] According to Coleman and Skogstad, there are three categories of policy networks: pluralist, closed and state-directed.[43]

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[40]G. Cornelius Van Kooten and Anthony Scott, "Constitutional Crisis, the Economics of Environment, and Resource Development in Western Canada," in *Canadian Public Policy* 21(2): 245.

[41]Leslie A. Pal, *Public Policy Analysis: An Introduction*, 2nd ed., (Scarborough: Nelson Canada, 1992), 109.

[42]Pal, 111.

[43]William D. Coleman and Grace Skogstad, "Policy Communities and Policy Networks: A Structural Approach," in William D. Coleman and Grace Skogstad, eds., *Policy Communities and*

The historical alliance between the industry and the MOF is a concertation type of the closed policy network. Concertation occurs when "a single association represents a sector and participates with a corresponding state agency in the formulation and implementation of policy."[44] In the actual making and implementing of forest policy, there is much consultation and cooperation between the industry and the government. Here in BC, we have had a situation where the government (Social Credit) and industry had nearly thirty years of tight association uninterrupted. The relationship was based on the belief that "the province's forests ought to be developed to produce economic benefits for its citizens."[45] Following a "sustained yield theory,"[46] the Social Credit government and industry actively liquidated the forests to replace mature timber with even-aged productive forests.[47]

This relationship developed into a "sympathetic administration." An often cited example of this practice is the "Velvet Glove Letter" sent by the Deputy Minister of Forests, T.M. Apsey, to all regional managers, branch directors, and the Ministry comptroller on October 1, 1981.

Public Policy in Canada (Mississauga: Copp Clark Pitman, 1990), 27.

[44]Coleman and Skogstad, 28.

[45]Ken Lertzman, Jeremy Rayner and Jeremy Wilson, "Learning and Change in the British Columbia Forest Policy Sector: A Canadian Consideration of Sabatier's Advocacy Coalition Framework," *Canadian Journal of Political Science* 29(1996): 116.

[46]A theory transported from the U.S. where the idea is to not cut a larger number of trees than growing.

[47]Paul Senez, The Sierra Club of British Columbia, personal communication, June 27, 1995.

The letter called for a more sympathetic administration towards the industry for it was felt the industry was undergoing hard economic times. However, this practice extended well into the economic boom of the middle and late 80's.[48] In 1981, the MOF bureaucrats were notified to turn a blind eye to non-compliance by industry. "This in turn resulted in a greater consumption of high grade logs, an expanded pace of logging and increased federal and provincial subsidies for reforestation."[49]

The industry's primary argument for failing to comply with regulations is a loss of profits in meeting the set standards. This argument has left the timber bias in forest policy virtually unchallenged. The only forest activity that has had strong legal definition and legal protection in BC is timber extraction.[50] There has been little distinction made by the government between the terms "forest" and "timber." In this policy environment, there are no incentives for companies to cooperate and comply with regulations as prosecutions have been minimal.

However, Jeremy Wilson notes this association between the industry and the MOF has not gone unchallenged. The environmental movement has, since the 1970s, attempted to influence forest policy with its beliefs in wilderness preservation and wildlife protection. Thus, the network during the 1980s would be more properly termed contested

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[48]Herb Hammond, *Seeing the Forest Among the Trees* (Vancouver: Polestar Press, 1991), 147.

[49]Ian Mahood and Ken Drushka, *Three Men and a Forester* (Madeira Park: Harbour Publishing, 1990), 212.

[50]Herb Hammond, "Putting Wholistic Forest Use into Practice," in Ken Drushka et al., eds., *Touch Wood* (Madeira Park: Harbour Publishing, 1993), 99.

concertation.[51] A contested concertation network does not translate into more access to the policy making process, however. A lack of openness and public accountability on the part of regulators were the norm. There were few ways the public could obtain information about, and participate in, the regulatory decision-making process. One method used to hold the industry accountable is through the judicial system where interest groups, such as the Sierra Club, take a company to court for violations. The third party prosecutions are taken over by the Attorney-General who can continue with the prosecution or stay it. Because the standards set in the CFFG were not legal unless set in the licensee's contract there was little the public could take issue with. The legal system is also a very costly route. Due to these difficulties, environmentalists in BC are inclined to protest for the preservation of key areas, such as South Moresby, rather than go to court. However, before the courts can be involved, the damage must be done, resulting in reactive rather than preventative measures. Frustrated environmental groups considered themselves on the "outside" of the policy making process.

In the early 1990s environmental groups further challenged their "outsider" status. At this time a complete erosion of public confidence in BC forest management took place. There was not only building uncertainty regarding the sustainability of timber harvest levels, but there were also several land-use conflicts. Some of the more high profile conflicts involved South Moresby, the Stein Valley, the Walbran Valley, and the Clayoquot Sound. The protests at Clayoquot Sound resulted in the arrest of 800 people. This protest was the result of the NDP decision regarding

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[51]Jeremy Wilson, "Wilderness Politics in BC," in William D. Coleman and Grace Skogstad, eds. (1990), 145.

land use in Clayoquot Sound. The NDP decided that 37% of the Sound would be protected, and 17% was subject to a mixture of logging and protection. The substantial remainder was open to forest harvesting. An international environmental campaign for the boycott of BC forest products began. The Friends of Clayoquot Sound asked European environmental groups to help support a boycott. International activist groups like Greenpeace called for the boycott of "clearcut" timber and wood products. In June 1993, Green party MPs in Europe declared their support for a boycott.[52]

Public opinion in BC is extremely polarized on the issue of forest practices with both environmental and logging companies exerting much pressure on the government. Government agencies developing guidelines with industry behind closed doors is part of the past. Gathering input from the broader community is now a component of forest policy making in BC. With possible boycotts impending, the government realized it must attempt to reach some sort of agreement/understanding between the forest industry and environmental interests. The goal was to balance environmental protection and sustainability with the demand for productive forests. The FPC, it was hoped, would be part of the solution.

A forest practices code, the solution?

The CFFG were subsumed under the Regulations of the FPC. The code is a further consolidation of existing guidelines and policies, including the CFFG. However, up until the FPC, these Guidelines were not legal but simply

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[52]Carol Anne Mackenzie, "The German Environmental Movement and BC Forestry Practices: An Analysis of Strategy Choices," Unpublished M.A. Thesis, University of Victoria, 1996, 12.

standards to which the District Manager should be referring. The Forest Practices Code is a gargantuan piece of legislation aimed at improving forest practices in the province, including practices that impact fish habitat. For this reason, many environmentalists hope fish habitats are protected. Why should this piece of legislation be any different from the past? The BC government argues that until the Forest Practices Code, there was no comprehensive law regulating commercial operations on forest and range lands. Instead, there were 6 federal, 20 provincial statutes, 700 sets of regulations, and over 3,000 sets of guidelines. Many of these overlapped and contradicted each other, which made it difficult to enforce sustainable practices.

The proclaimed changes brought about through the adoption of the code are noteworthy. The promise of increased penalties up to one million dollars per day caught the attention of both industry and environmentalists. Regulations were tightened, and the MOELP was included in the formation of the FPC. The MOELP also plays a role in monitoring the new code.

Consultations with the policy community during the development of the FPC were extensive in the areas of enforcement and riparian management. Much information was gathered from the policy community by the MOF, which helped shape the legislation adopted. The information gathered and the strategy of the actors involved will be examined in the next chapter. This examination will follow a summary of the development of the code.

Table I

Forest Practices Code Chronology

1991	
April	Forest Resources Commission recommends single all encompassing code of forest practices
July	MOF releases first FPC Discussion Paper, with public feedback to the FRC
1992	
April	FRC submits options paper based on feedback from Discussion Paper and consultation with public/stakeholders
July	FRC submits principles/objectives for code and 34 recommendations on framework for a code
Sept	Multi-agency Steering Committee and 8 working groups formed to develop technical content
1993	
Nov	FPC Discussion Paper and Rules released for public review
	Drafting of the *Forest Practices Code Act* begins
Dec	3 month consultation period begins: -reader responses, phone lines, written submissions -30 open houses
1994	
Jan	First set of stakeholder workshops conducted by Baskerville begin
	Compliance and Enforcement Teams formed in all forest districts
Feb	Implementation teams formed in MOF and MOELP
	First Nations Information Sessions take place

May	Summary of Public Input, First Nations Information Sessions, and Summary of Presentations by Stakeholder Groups released by MOF
	FPC Standards and Draft Regulations released for public/stakeholder review
June	3 months of consultation on standards and regulations begin (Second set of stakeholder workshops conducted by Baskerville)
July	Bill 40 - *Forest Practices Code Act* passed in Legislature
Sept	Agency training on legislation begins -529 sessions around the province

1995

Jan	MOU signed by MOF, MOELP and MEMPR
Feb	18 Regulations passed by Cabinet
April	18 Regulations and 16 guidebooks released
	34 training sessions held around the province
June	Forest Practices Board and Forest Appeals Commission established
	Act and Regulations come into effect

CHAPTER FOUR: DEVELOPING BC'S FOREST PRACTICES CODE

The debate regarding British Columbia's forests occurs on two fronts. First, there is the question of land allocation, and what priority uses such as recreation, timber, or harvesting should have on Crown lands. Second, there is the issue of forest practices and the requirements that should govern forest activities on these lands.[1] The Forest Practices Code deals with debates regarding the second. Although foresters and industry have requested a forest practices code for decades, the origins of the FPC lie in most part with the Forest Resources Commission set up in June of 1989.[2]

Developing the code

Dissatisfaction with forest management performance by the state and by the industry intensified and broadened after 1970: "...a diverse assortment of groups concerned with wilderness preservation and environmentally sensitive forest practices have coalesced to challenge everything from clearcut logging to the stumpage system."[3] The forests were no longer viewed as an endless resource. The notion that forest management meant balancing different resources and demands (integrated resource management) emerged and caused changes to forest legislation namely the *Forest Act* of 1978.

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[1]BC, Ministry of Forests, *British Columbia Forest Practices Code: Discussion Paper*, (Victoria: November 1993), 2.

[2]Kristine Weese, Research Officer, Strategic Policy Section, Forest Practices Branch, Ministry of Forests, personal communication, October 10, 1997.

[3]Duncan Taylor and Jeremy Wilson, "Environmental Health - Democratic Health: An Examination of Proposals for Decentralization of Forest Management in British Columbia," *Forest Planning Canada* 9:2, 35.

Yet, the forests have been managed primarily for timber values, not recognizing other values such as wildlife, fish habitat, biodiversity, or recreation. To compensate for these other values, a change in forest practices is necessary. While reforestation in BC has not kept pace with harvesting, new forest industries have opened up in Asia, Africa, and Latin America. The forest industry is no longer reserved to the North as plantations open up in these southern regions.[4] By the late 1980s, dissatisfaction with forest management and practices could no longer be ignored. On account of mounting public frustration, there were repeated calls for a Royal Commission on forest practices.[5] In June of 1989, the Forest Resources Commission (FRC) was appointed by Dave Parker, the Minister of Forests. The mandate of the FRC was to provide the MOF with a comprehensive view of what the forests of BC represent. It was to examine how the forests might be managed to protect and enhance the full range of forest values. The Commission was also to advise on ways to improve forest harvesting practices.[6] In April of 1991, the Forest Resources Commission recommended a forest practices code in its final report: *The Future of Our Forests*. The FRC explained that a forest practices code is "generally viewed as a means of setting a base level of acceptable standards to be followed during forest operations."[7] A code provides assurance that

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[4]Patricia Marchak, "A Global Context for British Columbia," in Ken Drushka et al., ed., Touch Wood (Madeira Park: Harbour Publishing, 1993), 67.

[5]Joan E. Vance, *Tree Planning* (Vancouver: Public Interest Advocacy, 1990), 15.

[6]BC, British Columbia Forest Resources Commission, *Options Paper*, (Victoria: September 1990), 29.

[7]BC, Ministry of Forests, *A Forest Practices Code - A Public Discussion Paper*, (Victoria: July 1991), 2.

forest operations are conducted in a way that is environmentally sound, while maintaining reasonable harvesting costs. It would consolidate practice standards that exist in statutes, regulations, policies and field manuals. A code clarifies issues of forest management ranging from public values, to visible impacts of forest practices, or operational compliance.

In July 1991, the MOF issued: "A Forest Practices Code: A Public Discussion Paper." Various implementation options were described. First, a code could be voluntarily implemented so that industry and resource users would be expected to comply with the regulations. Although this allows for flexibility, there is no way to enforce such a set up. Second, a code could follow a self-administered type of implementation, where compliance would be enabled by legislation. Occasionally field practices would be audited with penalties for non-compliance. Third, a code could be contractual through inclusion in tenure documents. Audits would take place to ensure contractual obligations are followed. Fourth, the government could enact legislation which sets minimum standards to be followed in all cases, and provide for more specific standards to be set out in supporting documents. A code could be set in a distinct statute, or become part of an existing piece of legislation. In this scenario, one standard would apply to all.[8] Examples of how a code works can be found abroad in California, Oregon, New Zealand, Tasmania, and Ontario. Government has the choice of several means to improve practices, including a regulatory system or market incentives. At this time, the Social Credit government was unsure of the type of code it would pursue, or of the role it would play in future forest policy, if any at all.

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[8]*A Forest Practices Code - A Public Discussion Paper* (July 1991), 4-6.

In October of 1991, the NDP government was elected, committed to the development of a forest practices code. In a convention policy entitled "Toward a Sustainable Future and a Better Way," the NDP pledged to develop a forest practices act.[9] As the opposition prior to the election, the NDP saw an opportunity to gain public support through the promise of a forest practices code. In January of 1992, the new Minister of Forests, Dan Miller, assigned the Forest Resources Commission the task of making detailed recommendations regarding the development of a forest practices code. Much of the leg work was carried out under the Social Credit government. The NDP continued the work on the code and brought it into force. The adoption of a code was consistent with the NDP's larger vision of natural resource management in BC. It is part of a wider strategy of the NDP government to build consensus between two opposing sides (environmental and industry) on forest practices and land use in BC. Coming into office, the new NDP government was pressured to settle First Nations land claims, and to increase protected lands from 6% to 12%. This called for intense land use planning. The government responded by establishing the Commission on Resources and Environment (CORE) in November 1991. Other initiatives include: the Forest Renewal Plan; the Protected Areas Strategy; the Timber Supply Review; as well as the British Columbia Treaty Commission. These changes have required the input of the policy community.

The FRC held regional workshops regarding a forest practices code in May of 1992 in Kelowna, Victoria, Cranbrook, Vancouver, 108 Mile House, and Prince George. These workshops were based on 208 written submissions from the public that were analyzed and used as input. The Commission released a "Summary of Six Public Workshops"

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[9]*The Vancouver Sun*, 8 October 1991, A11.

later that month. The following July, the Commission gave detailed advice on the development of a forest practices code in *Providing the Framework*, which included the legislative and administrative processes required for its implementation. In the same month, the Commission dissolved with the release of its *Concluding Comments.* At this point the Minister of Forests notified the Legislature of the government's commitment to developing a forest practices code.

In September, technical work began on the FPC. A joint ministry (MOF, MOELP, MEMPR) Forest Practices Code Steering Committee was formed to oversee the technical development of the code. The Steering Committee began with a review of existing guidelines and regulations. It was clear from the outset that this code would be legislative. It was felt that a self-administered type of regulation had been unsuccessful under the CFFG.[10]

Seven months later, on April 13, 1993, the BC government made its land-use decision with regard to Clayoquot Sound. This would spur the greatest case of civil disobedience in Canadian history. BC soon became the centre of international attention. Within months, demonstrations of sympathy for BC's environmental movement began in countries abroad including Germany, Austria, Australia, the United Kingdom and the United States. Possible boycotts were a serious concern to the forest industry as well as the provincial government. Work on the FPC quickened. In September of 1993, new ministers were assigned to both the MOF and the Ministry of Environment, Lands and Parks (MOELP). Andrew Petter was the new Minister of Forests while Moe Sihota would head the MOELP.

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[10]Mike Brownlee, Acting Director of the Integrated Resources Branch, Ministry of Forests, May 30, 1995.

The code was developed by the Steering Committee, a technical sub-committee and eight working groups with some involvement by the Attorney General's legal experts. The Forest Practices Steering Committee included high ranking people from the three main ministries whose influence was directed by political pressures. The technical sub-committee consisted of competent senior civil servants who represented the various regions of the Ministry, the various programs in the MOF, as well as the Department of Fisheries and Oceans (DFO). Technical revisions of any kind went past this sub-committee.[11] The working groups made up of the DFO, MOF, and MOELP technical staff were charged with the job of writing the Regulations. The DFO sat on the Harvesting Working Group. (Refer to Table II). MEMPR's involvement was primarily with the special permits for resource development roads.[12] Looking at it from a hierarchical point of view from the bottom up, those involved in the development of the code were: individuals and interest groups; eight working groups; a technical sub-committee; an interministry steering committee; and various cabinet committees with the Attorney General alongside.[13]

Unlike during the development of the Coastal Fisheries/Forestry Guidelines (CFFG), the DFO was involved in the technical committees (where it was very active), but not the Steering Committees.[14] The DFO helped develop the Regulations affecting fish habitat to ensure their protection.

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[11]Trevor Swan, Director, Enforcement Branch, Ministry of Forests, personal communication, September 14, 1995.

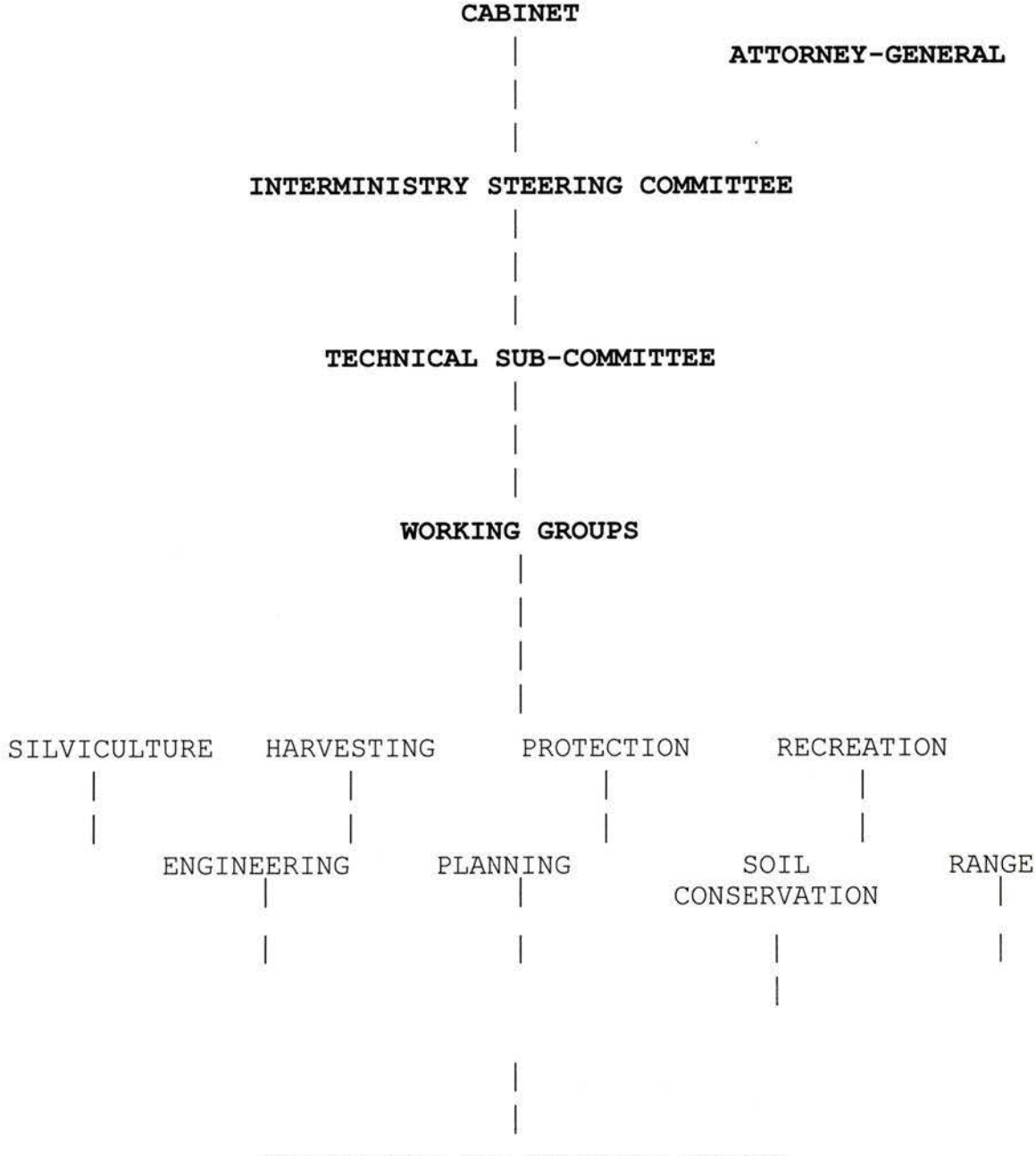
[12]BC Legislative Assembly, *Hansard,* 4 July 1994, 12612.

[13]Ken Balaski, Director of the Forests Practices Code Implementation Team, June 28, 1995.

[14]Mike Brownlee, personal communication, May 30, 1995.

Table II

Management Structure for Forest Practices Code Development



In the fall of 1993, the government agencies were also working on a Memorandum of Understanding (MOU) between the three provincial ministries (MOF, MOELP, and MEMPR) to ensure smooth transition and integration of the code's standards. A MOU would contribute to a smoother transition and integration of the FPC by clarifying the responsibilities of the Ministries and by coordinating their monitoring and enforcement activities. The initial work conducted by these committees enabled the government to release the *British Columbia Forest Practices Code - Discussion Paper* and *British Columbia Forest Practices Code - Rules* by November 1993. These publications were open for public comment until 31 December 1993. Consultations regarding the Discussion Paper and Rules took place over the next three months consisting of open houses, workshops, information sessions. Individuals were also invited to provide feedback on the FPC by sending letters or response sheets to the MOF or calling the Ministry via a toll-free number.

On May 10 the Ministry released three publications: the *Summary of Public Input*, the *First Nations Information Sessions*, and the *Summary of Presentations by Stakeholder Groups*. All three are examples of how the public was able to comment on the FPC. The *Summary of Public Input* reviews without analysis the public's comments on the Discussion Paper and Rules. Comments were gathered from November 1993 to May 1994.

The *First Nations Information Sessions* focus specifically on the First Nations' submissions to these sessions held in February and March. The First Nations Information Sessions were held in February and March. The sessions took place in Williams Lake, Kamloops, Fort St. John, Prince George, Smithers, Terrace, Cranbrook, Richmond, Nanaimo, and Campbell River.

The comments gathered from the stakeholders' presentations from December 1993 to February 1994 were summarized by Dr. Gordon Baskerville. Sixteen interest groups provided Dr. Baskerville with their comments on the code. Stakeholders included environmental groups, forest industry associations, the petroleum and natural gas industry, mining associations, professional associations, unions as well as ranchers, tourism, and recreation. This report offers a more technical examination of the concerns held by stakeholders. Dr. Baskerville repeated the exercise over the summer of 1994 with a variety of interest groups. After nineteen meetings, another summary was published in September 1994.

Changes were beginning to take place in the field. In 1994, the MOELP and the MOF placed at least 240 people to work on the code, and formed 62 compliance and enforcement teams in 43 districts.[15] 146 more conservation enforcement officers were made available.[16] This represented a huge increase, doubling the number of field staff for some forest districts.[17] Also, an administrative law course was developed for senior managers within the MOF, MELP, and MEMPR. In addition, staff of the Forest Service took part in the Forest Practices Code knowledge training, the largest training initiative undertaken in the history of the Forest Service. Approximately twenty million dollars was provided in new monitoring and enforcement funding in March 1994.[18] By January 1995, the three main Ministries signed a MOU

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[15]*The Globe and Mail*, March 24 1994, B4.

[16]*The Times-Colonist*, October 13 1994, C20.

[17]Kristine Weese, personal communication, October 10, 1997.

[18]BC, Ministry of Forests, "BC's New Forest Practices Code: A Living Process," (Victoria: 1995).

enabling MOELP and MEMPR involvement in strategic plans, operational plans and enforcement of the FPC.

By this time the Legislature was engrossed with the FPC. On May 16, 1994 Petter introduced the *Forest Practices Code Act* (Bill 40) into the Legislature. By July 4, after 80 amendments, Bill 40 entered the committee stage of debate and was passed on July 7. The Regulations were debated in January 1995, and were approved the following month. The Regulations and high priority Guidebooks were released in April 1995. Two key Guidebooks, riparian management and biodiversity, were still under review at the time the FPC came into effect.

Expected to come into force that fall, Bill 40, along with its supporting regulations, was effective June 15, 1995. The code consists of three parts. First, the *Forest Practices Code Act*, is the legal umbrella to make the code effective. The Act provides for mandatory provincial regional requirements. It also sets the enforcement and penalty provisions, and specifies the administrative arrangements. It consists of twelve parts and 323 sections. These sections are dependent on the Regulations that make up the second part of the code. The Regulations state the universal (across the board) forest practices that apply throughout the province. The eighteen Regulations that were released cover a wide range of practices from strategic and operational planning to range practices. Finally, the field guides are the ground level support for the Regulations. The guidebooks become enforceable by law when inserted in plans, prescriptions and contracts. Sixty-six guidebooks were expected in total.

Previously approved plans and permits were "grandparented" over a two year period from 15 June 1995. For the first six months, the grandparented plans and permits were reviewed by reports submitted to the District Manager who determined if amendments were necessary. The

plans were amended if they did not, for example, meet certain identified risks to fish streams with high value. For the following eighteen months, operations were "stepped up" to full compliance. This transition ensured all operational planning requirements eventually met the full requirements of the code without halting operations. Despite this transition period, the enforcement requirements and penalties are always in effect. Violators of approved plans can be shut-down, fined or charged whether the plan is old, new or modified.

The code works with provincial forestry legislation to ensure coherency in enforcement. Many requirements are still in place because the code builds on existing groundwork. Part 12 of the *Forest Practices Code Act* consists of the consequential amendments to ensure coherency with the following Acts: the *Environmental Assessment Act;* the *Forest Act;* the *Forest Amendment Act* 1988; *Forest Amendment Act* (No. 3) 1990; *Forest Amendment Act* (No. 2) 1993; *Freedom of Information and Protection of Privacy Act; Ministry of Forests Act;* and the *Range Act.* Therefore, the *Forest Act* and the *Ministry of Forests Act* still stand, amended according to the *Forest Practices Code Act.*

"Compliance and Enforcement" make up Part 6 of the *Forest Practices Code Act.* Within this part are fifty-two sections found in five Divisions: Inspecting, Stopping and Seizing; Forfeiture; Administrative Remedies; Administrative Review and Appeals; Offences and Court Orders. For enforcement, not only has a reorganization of existing legislation taken place, but a broader range of regulations are now law. This has widened the scope for the enforcement of forest practices. Pre-code enforcement options consisted of contractual remedies plus statutory tools including administrative remedies, a reduction in the AAC, license suspension or prosecution. Under the FPC, many of these options still exist with enhanced statutory enforcement

tools including administrative penalties. Section 143 of the *Forest Practices Act* lays out the maximum fine for various offences. A forest company not in accordance with its operational plan and who carries out forest practices that result in damage to the environment could be fined a maximum of one million dollars.

Rather than going through the Ombudsman office with formal complaints, the public is encouraged to approach the Forest Practices Board who will deal specifically with forestry issues. Informal complaints will continue to be dealt with by the regional/district offices. In addition to the Forest Practices Board, an independent Forest Appeals Commission hears appeals of administrative enforcement decisions. Enforcement has also changed through the expanded powers give the MOELP and MEMPR.

While the Forest Practices Act defines **how** enforcement is to be carried out, the Regulations state **what** is to be enforced. For streamside protection within the FPC we see a shift in focus from buffer strips and Streamside Management Zones (SMZs) to Riparian Management Areas (RMAs) made up of a reserve zone[19] and a management zone.[20] The SMZs are specific to fish habitat whereas RMAs hold a wider focus. RMAs not only protect water quality, vegetation, and soil adjacent to the stream, but they also exist to maintain

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[19]A reserve zone (RRZ) is the inner portion of a riparian management area situated adjacent to a stream, lake, or wetland area established to conserve and maintain the productivity of aquatic and riparian ecosystems when harvesting is not permitted (*Forest Practices Code Standards*, May 1994, 189).

[20]A management zone (RMZ) is the outer portion of a riparian management area situated adjacent to a stream, lake or wetland and established to conserve and maintain the productivity of aquatic and riparian ecosystems when harvesting is permitted (Forest Practices Code Standards, May 1994, 184).

wildlife habitat. While the reserve zone is established to protect the stream, the management zone is established to protect the reserve zone as well as to manage the ecosystem in and around the stream.[21] Under the proposed standards, streams were allotted RMAs ranging from fifteen to fifty metres. (Refer to Appendix B).

The primary aim of the code is to improve on past stewardship of the forest. Until the Forest Practices Code, there has been no comprehensive law regulating commercial operations on forest and range lands. Instead, there were various statutes, regulations, and guidelines. Many of these overlapped and contradicted each other making it difficult to enforce sustainable practices.

Information gathered and how it was used

The policy community is a very special source of information in this case study because it does not represent one coherent interest. Leslie Pal defines the policy community as "all the relevant actors, as well as the attentive public, who have an interest in and influence over policies produced or debated in the sector."[22] Apart from the government, the forest policy community includes scientists, stakeholder groups, native groups, educational institutions as well as consultants. The policy community's input is sought not only for technical advice, but also to represent the different views held within society. This section describes the information gathered from the policy community by the MOF. The focus is on the recommendations made to enforcement and riparian management.

From the experts:

[21]Trevor Swan, personal communication, September 14, 1995.

[22]Leslie Pal, *Public Policy Analysis: An Introduction*, 2nd ed. (Scarborough: Nelson Canada, 1992), 109.

The collection of information from the policy community takes place in various forms. For specific technical advice, policy makers will look to key experts. Consulting with experts over the fisheries/forestry interface has taken place for the last two decades, as seen through the Carnation Creek studies discussed in Chapter 3. The findings at Carnation Creek continue to influence how to best protect fish habitat. Research from Carnation Creek shows forest management has focussed too heavily at the site level under the philosophy that good management on the parts will take care of the whole.[23] The move from SMZs to RMAs shows this move towards holistic protection. The BC forest policy community has placed much importance on the studies conducted by Tripp Biological Consultants who, in their January 1994 report, found compliance with the guidelines to be low. Regardless of the changes in the CFFG since 1988, there was little change in compliance. Thus, a change in the enforcement of these guidelines was recognized to be of primary importance.[24]

Before the FPC could be implemented, the MOF required additional information. To acquire this additional information, several studies were commissioned by the MOF.[25] To estimate the costs of the FPC, the MOF commissioned the Saunders Report in 1993. This was published with a critique by Kelly R. McCloskey. The paper "Doing Things Differently: The Environmental Benefits of Better Forest Management in British Columbia" by Dr. Julian A. Dunster was released at the same time as the Saunders report. This paper demonstrates the importance of sustainable practices for

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[23]BC, Ministry of Forests, *Fisheries and Oceans Forest Practices Code Workshop*, (Richmond, May 29-30, 1995).

[24]Mike Brownlee, personal communication, May 30, 1995.

[25]Kristine Weese, personal communication, October 10, 1997.

society. Dunster explains the importance of riparian areas to the larger landscape and the need to protect them. To do so would require changes in forest management. "Many of our practices are not only unsustainable in the short-term, but they are also ecologically harmful in the longer-term."[26] Kimmins, who critiques Dunster's paper, cautions the reader not to make generalizations and opt for blanket-type regulations that apply to the entire province. Due to the ecological diversity of the province it is important that site and region specificity are retained within the new code, argued Kimmins. Both the Saunders and Dunster reports were published with a critique to show opinions differed on these issues, and that the government was aware of this.[27]

The MOF commissioned several other reports for particular information. The Meyer Resources Report of 1994 was another cost-benefit analysis. The Wild Stone Report, examined the reductions in the coastal forest land base due to RMAs, which was released in November 1994. Murray Rankin and Arvay Finlay also released a report in 1994 entitled "The Forest Practices Code - A Preliminary Legal Analysis." These are a few examples of the information the MOF sought from experts. These commissioned reports were meant to examine particular concerns with the FPC. With this research in hand, the government was able to say it had addressed concerns the public had with its proposals and justify changes made.

From the attentive public:

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[26]Dr. Julian A. Dunster, "Doing Things Differently: The Environmental Benefits of Better Forest Management," in BC, Ministry of Forests, *A Proposed Forest Practices Code for British Columbia - Background Papers*, (Victoria: December 1993), 38.

[27]Kristine Weese, personal communication, October 10, 1997.

The BC government collected more general information from the public through open-houses, written responses, and through the toll-free number. Policy makers also released proposals for review by the public. Information gathered from the public can be used to alter the original proposal. Rather than drawing technical information, the government was looking for political approval from the electorate. In this situation, it soon becomes apparent that not only is the MOF "pulling" for information, but the members of the policy community are "pushing" the adoption of particular information as well. Although the case I describe is a different context than the model described by Majone, it is still helpful to explain that both a "pulling" and "pushing" force may be present simultaneously between exporters and importers of information.

Public consultations began with six regional workshops held by the Forest Resources Commission. Public input collected under the Forest Resources Commission in 1992 resulted in the establishment of the principles and objectives which were then presented in the November 1993 Discussion Paper issued by the MOF.[28] After the release of the November 1993 Discussion Paper and a proposed set of forest practice rules, public comments were once again solicited. From the Discussion Paper and the Rules released in November 1993, the MOF received an incredible amount of feedback in response. 4,500 respondents phoned the MOF via a toll-free number, while 2,000 attended openhouses in thirty communities. Moreover, 600 response sheets were mailed to the MOF. At this time, the public responded to the structure or set-up of the FPC. The public had not yet had the opportunity to review the proposed RMA standards before the *Summary of Public Input* was released.

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[28]BC, Ministry of Forests, internet homepage, www.for.gov.bc.ca/pab/publctns/fpliv/process.htm

Support for a FPC was evident from the public's review of the Discussion Paper and Rules.[29] One positive lesson drawn from the public input was the "whistle-blower system." The whistle-blower clause protects the individual or group who has alerted authorities of a possible infringement of the regulations. For the most part, however, the government did not make changes to its draft based on the information gathered here. As expected from such an extensive feedback, the responses were diverse. Since participants were supplying information to the government and not each other, it can be expected that groups will inflate their demands and exaggerate their claims.[30] As Rose suggests, due to the divergent information received from the policy community, the government was able to ensure values consistent with its own were gathered.[31] This could be seen in the adoption of penalties, joint enforcement, and the Forest Practices Board. While some members of the public did not support the proposed changes in these areas, others did.

From the stakeholders' meetings:

Input from stakeholders and interest groups was attained and summarized by G.L. Baskerville for the MOF. With both rounds of stakeholder meetings, Baskerville found stakeholder expectations towards the accomplishments of the code to be unrealistic. "Each interest group sees application of the code in its own way and there are

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[29]BC, Ministry of Forests, *Summary of Public Input*, (Victoria: May 1994), 7.

[30]Dominic Turley, "At the Core of Consensus: The Vancouver Island and East Kootenay Land Use Processes," Unpublished M.A. Thesis, University of Victoria, 1996, 15.

[31]Richard Rose, "What is Lesson-Drawing?," Journal of Public Policy 11(1991): 17.

significant differences."[32] This is not surprising when one considers the various interests of the stakeholders involved, ranging from the Western Canada Wilderness Committee of Vancouver to the Council of Forest Industries.

Opposing views over enforcement and riparian management is most clear between two groups: that of environmentalists pushing for better protection of fish habitat; and that of the forest industry concerned with the costs of the code. This split in the policy community is described by Lertzman, Rayner and Wilson (1996). They use Sabatier's advocacy coalition to depict the two competing groups within the policy community. One is the "Development AC" whose interest lies in "seeing the liquidation-conversion project carried to its culmination."[33] This group includes the forest industry, the MOF's bureaucracy and the forestry profession. The other group is dubbed the "Environmental AC" which is made up of "a variety of groups that has articulated environmental opposition to continued, 'business as usual' pursuit of the project."[34]

The split in responses could also be observed within the First Nations Information Sessions. Sixty-three different bands attended the First Nations Information Sessions which aimed at hearing the unique perspective of the province's aboriginal people. Generally, the majority of the bands wanted province-wide regulations backed with consistent enforcement. As there are fisheries and forestry

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[32]G.L. Baskerville, *Forest Practices Code: Summary of Presentations by Stakeholder Groups* (Victoria: BC Ministry of Forests, May 1994), 4.

[33]Ken Lertzman, Jeremy Rayner and Jeremy Wilson, "Learning and Change in the British Columbia Forest Policy Sector: A Consideration of Sabatier's Advocacy Coalition Framework," *Canadian Journal of Political Science* 29(1996): 114.

[34]Lertzman, Rayner and Wilson, 114.

interests among the different bands, however, the First Nations also tended to divide between habitat protection and forest development. For example, little consensus was reached on the level of penalties or on the stringency of riparian management areas. The issues specific to enforcement and RMAs brought up at these information sessions were also raised at the stakeholder meetings.

Concerns regarding changes in enforcement and compliance were raised at both sets of stakeholder meetings. Three broad areas of contention were discretionary powers of the District Manager, citizen initiated charges, and penalties. Environmental groups claimed the District Manager held too much discretion. This discretion can translate into weaker enforcement by undermining standards. Despite damage occurred, a company will not be found guilty if in accordance with its development plan approved by the District Manager. This flexibility could mean companies would not be obligated to meet the regulations. Development interests, however, argued against a blanket-coverage of standards. The need for flexibility was seen as essential. The Interior Logging Association felt it was unreasonable to think that every regulation can be applied to every site specific area. The government felt flexibility of standards was necessary to ensure forest practices are feasible within the specific conditions and circumstances of each site. A change in the standard may even lead to a more environmentally acceptable solution.[35] Therefore, the government did not take away the discretionary power of the District Manager as he or she is the main authority at the field level.

Another issue addressed by both environmental and development interests was citizen initiated charges. While environmental groups felt they should be able to lay charges

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[35]*Fisheries and Oceans Forest Practices Code Workshop*, 34.

directly against a company, others argued against the public's involvement in enforcement. COFI argued that a legalistic approach to public involvement can be misused as a sword against legitimate operations. The government kept the Forest Practices Board as the channel for public complaints. The Forest Practices Board would not, however, play a part in enforcement as proposed in the November 1993 Discussion Paper. It would act as an ombudsman for the MOF. If a citizen's concerns were not dealt with sufficiently, the citizen could then approach the provincial ombudsman. This two-step ombudsman model proposed by COFI was adopted by the government.

Penalties was the third concern addressed. Environmental groups appeared encouraged by the high penalties. The Alberni Environmental Coalition proposed a suspension of license for non-complying companies but this proposal was rejected by the government. A point raised by Tolko Industries during the stakeholder meetings and considered by the government when drafting the Act was the application of penalties on non-resource users. Incentives for companies were also considered in the Act. Andrew Petter pointed out during the committee stage that the audit process would provide a form of incentive and certification.[36] The lessons regarding discretionary powers, citizen initiated charges, and penalties were not drawn "pure" but were compromised between development and environmental interests.

Input on RMAs was gathered from the second set of meetings held by Baskerville. During the first set of stakeholder meetings the proposed RMA standards were not yet released and therefore were not addressed at that time. There was a large amount of feedback during the second set of consultations, however. Three main contentious issues

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[36]BC Legislative Debates, *Hansard*, 4 July 1994, 12691.

surrounding RMAs were the widths, the classifications, and the activities allowed in these areas.

There was an overwhelming response to the inadequate widths of RMAs as proposed. This was argued by environmental groups, biologists and the Pulp, Paper and Woodworkers of Canada. The BC government claimed it would be imposing world class standards. Yet, the superior RMAs held by US federal jurisdictions were pointed out numerous times throughout the stakeholder meetings. The forest industry representatives did not object to the widths of the RMAs since the proposed standards were similar to the CFFG. However, the forest industry representatives did reemphasize their objections to blanket-coverage regulations. The RMA standards adopted for streamside protection were a compromise. The regulations are wider than the proposed standards. (Refer to Appendix B). The government felt the increase was necessary for stream channel and streambank stability. The regulations, however, also allow for the reserve to be modified to site specific conditions.

The classification of streams were also compromised between the different stakeholder interests. Environmental advocates felt no distinction was made between streams. The BC Environmental Network suggested more classes of streams be adopted, but with no distinction in the protection between fish-bearing and non fish-bearing streams. The development camp on the other hand, found the FPC to be already cumbersome. The different riparian zones were viewed as confusing and complicated to follow, especially in light of higher level plans. The standards were too far-reaching. As Tolko Industries pointed out: "Not every gully needs 'riparian management'." The government did amend the stream classification from four to six. Yet, only classes S1, S2, and S3 require a reserve zone. Based on the findings of the Tripp report, the problem of stream protection lay with non-compliance more than the CFFG

standards. Therefore, the adoption of the US Forest Region 6 standards was not deemed necessary.[37]

Stakeholder input regarding activities permitted within the Riparian Reserve Zone was also divergent. The Canadian Parks and Wilderness Society was adamantly opposed to any logging, roading or extractive activities in reserve zones. Forest industry representatives argued the need to access riparian zones in times of windthrow hazard or insect infestation, for example. Interests other than forestry, namely range and mining, also resisted the adoption of reserve zones. The Mining Association of BC explained placer mining is typically conducted in riparian zones. A loss of access would destroy the entire placer mining industry.

A reserve zone was adopted for streams S1, S2 and S3. Activities to manage windthrow, insect infestation or fisheries were permitted in the reserve zone with the permission of a designated environment official as outlined in section 44 of the Operational Planning Regulations. Section 73(5) states that if a stream requires a RRZ in an area under the boundary permit of the *Mineral Tenure Act*, then the agreement of a designated energy, mines and petroleum resources official is also required. Public review of the FPC led to many small changes and some significant changes to the Regulations and the Act despite the assorted and conflicting information received.[38] Lessons drawn from the Environment AC and the Development AC were altered to reach some sort of compromise.

Despite the government's efforts to draw information from the policy community, many interest groups were not satisfied. They felt the process restricted their input.

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[37]Mike Brownlee, personal communication, May 30, 1995.

[38]*Fisheries and Oceans Forest Practices Code Workshop*, 2.

This restriction was felt in two ways. First, the time allotted (the following month) to respond to the Discussion Paper and the Rules released in November 1993 was felt to be insufficient. Groups from both the environmental movement and the forest industry felt the short time period for consultation indicated the government wanted to appear it had consulted with the policy community rather than actually partake in meaningful consultations.[39] Further, the public's input had been requested on key issues. The stakeholders felt the MOF had made conclusions beforehand and was only looking to interest groups for approval. Interest groups looked outside of the consultation process to share their knowledge on forest practices and further their cause.

From the stakeholders' publications:

Due to the restrictions placed on the shareholders by the government, interest groups published their own research. Although this information was not derived from the consultation process it did add to the government's awareness of issues. The government made a point to keep abreast of the information produced by interest groups.[40] The research published by interest groups is part of the constantly evolving body of knowledge that influences public opinion.

The Sierra Legal Defence Fund (SLDF) published a report entitled: "The Forest Practices Code of British Columbia Act - A Critical Analysis of its Provisions" in which it analyzed how the code fell short of "world class

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[39]Les Kiss, General Manager, Forestry, Coast Forest and Lumber Association, personal communication, August 23, 1995.

[40]Kristine Weese, personal communication, October 10, 1997.

standards."[41] The report examined the areas of enforcement and riparian standards. The report condemned riparian zones for not being wide enough. The standards released in May 1994 were not significantly different in size from the CFFG, and were subject to the discretion of the District Manager. Exemptions from no-harvest in reserve zones, for reasons such as managing windthrow or insect infestation, were felt to be potential excuses to continue logging in reserve zones. Managing windthrow or insect infestation were used in the past to justify the elimination of leave strips under the CFFG.[42] This publication was made available to the general public and contained extensive analysis of legislation from the jurisdictions of the PNW. Reiterating the above-noted concerns about the widths of riparian zones, the SLDF report also invited British Columbians to compare BC's proposed code with that of the US Forest Service (Region 6). The report drew attention to the fact that BC's proposed riparian management areas were less than a third of the width of those in the USFS Region 6. Appeals to the public to make comparisons with US standards were also found in publications by BC Wild.[43]

Literature published by the forest industry also examined US standards.[44] The forest industry had different concerns which it laid out in its December 1993 report.

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[41]Sierra Legal Defence Fund, "The Forest Practices Code of British Columbia Act - A Critical Analysis of its Provisions," Vancouver: 1994, 1.

[42]Paul Senez, The Sierra Club of British Columbia, personal communication, June 27, 1995.

[43]BC Wild, "Forest Practices in BC: Not a World Class Act," Vancouver: 1994.

[44]One example is an information sheet released by COFI entitled: "Forest Practices Code: Issues", which was sent to all forest based communities by COFI to raise awareness of the legislation that may be forthcoming.

Most of its recommendations emphasized a need for the MOF to streamline the code by placing it within the current *Forests Act*, and by combining the proposed Regulations and Standards.[45] COFI also called for incentives to comply, feeling the code placed too much emphasis on penalties. For instance, incentives could be used to reward a company which complied for a set period of time (one to three years). An incentive could be a decrease in the time it takes to obtain a new cutting permit, for example. Another incentive for complying companies could be decreased monitoring.[46]

The forest industry's concerns with enforcement revolved primarily around potential costs. It expressed concerns with the costs of a growing bureaucracy and increasing "red tape," noting the possibility of future backlogs in paperwork. Many hundreds of plans would be impacted. Amendments in management plans, for example, would affect 700 tenures Gordon Wilson argued in the legislative debates.[47] COFI contends that the length of The *Forest Practices Code Act* (164 pages), and that it amends eight existing Acts, veers the code away from being workable.[48] In addition, there are direct costs to companies in the form of fines, which have increased substantially. The fact that junior MOF and MOELP officials can enforce the code with stop-work orders was very worrisome. In addition, the doubling up of MELP and MOF

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[45]Council of Forest Industries, *Responding to the Forest Practices Code*, Vancouver: December 1993, 14.

[46]Council of Forest Industries (December 1993), xxii.

[47]BC Legislative Assembly, *Hansard*, 4 July, 1994, 12636.

[48]Council of Forest Industries, *Recommendations for Improving Bill 40*, Vancouver: June 1994, 12.

monitors would lead to an overlap of monitoring and increase enforcement costs unnecessarily.[49]

While environmentalists were uneasy that the discretion given District Managers could result in smaller riparian reserve zones, industry feared it would result in increased zones. Industry was concerned with how riparian management areas would affect costs to the industry. Despite the difficulties in assessing how much available timber exists, a timber supply was not guaranteed in the code. Wider riparian zones alongside streams equal a decrease in access to timber, therefore a decrease in profits. Due to the overcapacity of the forest industry to produce, unlogged forests are extremely valuable. This overcapacity has resulted in BC importing wood from out-of-province to feed its mills. The industry is dependent on a scarce but renewable resource; thus a decrease in supply is met with resistance. According to COFI: "Since riparian areas are often the most productive forest land, the impact on the allowable annual cut will be even greater than the indicated impacts on the land base."[50] This impact would be heightened if the standards were applied with blanket coverage rather than on a site specific basis. Further, industry argued that widening the riparian zones was unnecessary for the Tripp Biological Consultants found the existing CFFG to be effective in protecting streams. Industry argued that the USFS standards cited by environmentalists are applied on a limited proportion of the PNW land base and are in effect for an interim period only. If BC were to apply the same standards as these, its economy would stand to lose close to 1.5 billion dollars in one year

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[49]Council of Forest Industries (December 1993), 21.

[50]Council of Forest Industries, "Forest Practices Code: Issues," Vancouver: 1994.

for the coastal region alone.[51] Many of the industry's findings were based on the research and experimentation of the application of PNW standards which were conducted by large companies such as MacMillan Bloedel. The publications released by the Environmental AC and the Development AC reiterated for the government the diversity of opinions and concerns regarding the FPC.

The MOF undoubtedly consulted with and gathered information from BC's forest policy community on the development of the new Forest Practices Code. The reports from experts were commissioned for specific technical information and to address public concerns with the FPC. The diversity of information gathered from the public and the stakeholders allowed the MOF to choose, reject or compromise lessons prior to the adoption of the FPC. How did the policy community's competing agendas influence the consultation process? How was the information provided affected? The lesson-drawing process involves more than the simple giving and taking of information.

Strategies and agendas

The stakeholders:

The forest industry's desire for a forest practices code was fueled by the need to change the image of BC's forest industry. Environmental groups wanted a code that strived for increased environmental sensitivity in forest management. Environmentalists' interest lay with non-timber values in forest management; increased involvement of the public in planning and management; the protection of fish habitats and biodiversity.[52] The Development AC and the

[51]Council of Forest Industries, "Forest Practices Code: Issues".

[52]Mike Brownlee, personal communication, May 30, 1995.

Environmental AC held opposing interests. This was sure to impact the information given to the government. This section examines how the motivations and strategies of the actors within the policy community affects the lesson-drawing process.

The literature published by interest groups is biased towards a particular point of view. These biases became evident when different results were drawn from the same information. How environmental groups and the forest industry used the Tripp reports illustrates this point. Environmentalists have taken these reports to state that harvesting is indeed damaging streams across Vancouver Island. Industry also used the Tripp reports in its own publications to back its claim that the CFFG are effective in protecting streams.[53] These statements are both half-truths; the Tripp reports found the CFFG are effective when complied with, which was not taking place. This supports Stone's claim that facts do not exist independent of "interpretive lenses."[54] How one interprets the findings of the Tripp reports is dependent on one's position on streamside protection.

Scientific findings are considered objective and impartial truths. "What is excluded from science, in other words, is the kinds of moral evaluation that we normally apply to human actions."[55] By avoiding moral valuations, scientific findings are considered legitimate and factual.

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[53]Council of Forest Industries, "Forest Practices Code Issues".

[54]Deborah Stone, *Policy Paradox and Political Reason* (HarperCollins, 1988), 253.

[55]Eugene Meehan, "Science: Minotaur or Messiah," in Howard Ball and Thomas P. Lauth Jr., eds., *Changing Perspectives in Contemporary Political Analysis* (Englewood Cliffs: Prentice-Hall, 1971), 25.

For this reason, objective findings are sought by decision-makers so they can make informed choices. This was, and is, the case with the Forest Practices Code. In the legislative debates MLA Cliff Serwa emphasized it was important "that the elements in the code be based on scientific principles, not simply on academic whim, biases, rumours or hearsay."[56]

Scientific findings do not always draw the same conclusions, however. In BC's forest policy community for example, professional foresters can hold different views although their findings are based on the objectivity of science. For instance, two forest experts, Hamish Kimmins and Herb Hammond, both educated in forest science, do not view the impact of forest harvesting on fish habitats similarly. Kimmins contends that forest harvesting does not usually result in long-term changes to small streams. While significant changes may occur to larger streams, the impact is usually temporary. In essence, "unless there is unrestricted, exploitative logging, or deliberate and permanent large-scale deforestation, changes to larger streams and rivers caused by timber harvesting are usually unmeasurable."[57] Hammond disagrees, claiming that logging increases the high water periods of streams that results in landslides clogging spawning beds. Harvesting also causes the removal of old fallen trees that diversify fish habitats. The result is dramatic population losses, which are measurable.[58] Even with the best intentions to find the truth, science may not be able to provide precise answers.

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[56]BC Legislative Assembly, *Hansard*, 30 May, 1994, 11182.

[57]Hamish Kimmins, *Balancing Act* (Vancouver: UBC Press, 1992), 223.

[58]Herb Hammond, *Seeing the Forest Among the Trees* (Vancouver: Polestar, 1991), 123.

It can be difficult to ascertain what impact forest harvesting has on fish habitats and stocks when weather conditions and overfishing also need to be taken into account. It is difficult to untangle the various factors involved, even in an "experiment" situation.[59] For example, in Carnation Creek, the objective was to monitor the watershed before and after logging has occurred. Fisheries scientists were sure logging would only cause harm to the fish populations. "Our main arguments were not about whether salmon would decline, but only how fast this would happen."[60] After harvesting took place, the survival rate of coho juveniles and the number of juveniles going to sea increased. Debates continue on how to interpret these results, particularly when the number of adults returning to spawn have not increased.[61] Due to so many "unknowns," scientific evidence can be shaped to support a particular position which clearly affects the information supplied and in turn the lesson-drawing process.

Numbers are also used strategically to substantiate one's position. Stone explains how numbers are used strategically by groups to back their convictions, often not giving the whole story.[62] In this case, environmentalists urge the comparison of BC's standards to those of USFS Region 6. USFS standards require a 91.5 metre no-harvest zone while BC (after the release of the initial proposed standards) were only 50 metres at most. However, this comparison does not take into account the economic impact of adopting these standards for BC. Meanwhile, industry raises alarm by indicating the large amount of money that would be

[59]Carl Walters, *Fish on the Line* (Vancouver: UBC, 1995), 7.

[60]Walters, 7.

[61]Walters, 7.

[62]Stone, 129.

lost if USFS standards were adopted. For coastal BC, the forest industry claims the loss of land base to RMAs would be approximately 43%, which would result in a loss of 585 million dollars in government revenue. Around 45,000 jobs would be lost, plus there would be a 1,440 million dollar loss in employment income over a one year period.[63] Here again, the full picture is not given. The gains made by adopting wider riparian zones are omitted. "For years, industry financed Share groups and other organizations such as the Forest Alliance of BC have cultivated support in resource-dependent communities around BC, by keeping the debate over the future of the forest industry narrowly focussed and polarized along these lines."[64] As Stone argues, claims to knowledge are powerful, having a profound effect on one's position. Ideas and choices are formed through education and persuasion.[65] If this is the case, it can be inferred that the government's role in influencing the lesson-drawing process is significant.

The government:

Assessing competing views, the government is expected to make rational decisions based on the information presented to it. "The rational ideal not only overstates the purity of information, it also exaggerates the rationality of people in using information."[66] As depicted by Rose, the lesson-drawing process assumes a rational search for solutions in policy making. This process is not

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[63]Council of Forest Industries, "Forest Practices Code: Issues."

[64]Michael M'Gonigle and Ben Parfitt, *Forestopia* (Madeira Park: Harbour Publishing, 1994), 107.

[65]Stone, 17.

[66]Stone, 256.

that simple, however. Information presented to the government is inconclusive or inadequate. Further, government itself is no stranger to strategy in the policy-making process.

The adoption of the FPC helped counter Greenpeace campaigns in Europe, the US, Japan, and Australia. Where popularity is sought, strategy is involved. Following the Clayoquot Sound protests, the NDP government quickly realized that the code could be an invaluable part of its anti-boycott campaign to bolster the legitimacy of the industry and the government's regulation of it. The ability to distinguish poor operators from good ones through a FPC helped BC to improve the image of its forest industry. A rule creates incentives for people (or for companies) to portray their behaviour as falling within or outside the rule.[67] Through the implementation of these rules, companies appear "well-behaved."

As a result of the Clayoquot protests, environmentalists were successful in mobilizing international pressure on the forest industry and the government of BC to reform current forest policies. Government reacted with a counter campaign. Shortly after the appointments of Petter and Sihota it was announced that the code would be more comprehensive and rigorous (delaying the initial expected release date). This gave Premier Mike Harcourt time to visit Washington in November 1993, and later to Germany in February 1994, to promote BC's new code. Harcourt met with government, industry and environmental groups abroad, and held press conferences.

For the regulations to have legitimacy with the domestic and international publics, the government needed to distance itself from the forest industry. Industry could not be a partner in the development of the code if the

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[67]Stone, 234.

standards were to be politically defensible.[68] Further, to release the standards as soon as possible, the government could not work with the forest industry without inviting all other stakeholders to participate.

In the Legislature, this complex and important bill was debated until 4:43 a.m. on 4 July 1994 despite objections from the opposition. In the Legislature, the NDP gave the impression that the code would result in moderate changes. Throughout the committee stage of the legislative debates, Andrew Petter on several occasions argued various sections under Compliance and Enforcement of the Act were not different from the *Forests Act*. He argued that much of the FPC is the codifying of current practices that were not put into legislative form. Meanwhile, through the media, the government portrayed the code as a monumental break from forest management of the past. The government would gloss over or play up the changes that would result from the FPC depending on the audience.[69]

The MOF also used the learning process to gain the confidence of the public. The lesson-drawing process can be used as an art of persuasion. Commissioning a public relations document can fall under the guise of learning. The Westland Report released by the Integrated Resources Branch of the MOF in September 1995 is an excellent example. Here, the BC government had an outside team of consultants (Westland Resource Group) compare its code with those of

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[68]Greg McKinnon, Forestry Specialist, Habitat Protection Branch, Ministry of Environment, Lands and Parks, personal communication, November 30, 1995.

[69]Paul Senez, personal communication, June 27, 1995.

fourteen other jurisdictions.[70] The report took approximately one year to complete. The initial release was stalled by the government, because the report was not comprehensive enough. The BC government wanted the report to be backed with enough factual evidence to counter environmentalists' publications that argued BC's standards were inferior to those of the Pacific Northwest states.[71]

The topics of comparison ranged from Legal and Planning Framework to Culture and Heritage. The study showed BC has very comprehensive regulations towards its forests. BC was shown to be in the lead for environmental protection in most areas covered. If not in the lead, BC maintained its position among the best. This holds true even with the controversial topic of streamside protection. Although BC ranks third for widths of the no-harvest portion of streamside management areas, the two surpassing jurisdictions have much smaller forest land areas (BC - 82.5ha x 10^6; US Forest Service Region 6 - 10ha x 10^6; Western Australia - 2.9ha x 10^6).[72] The purpose of comparing forest land areas is to demonstrate how BC would be impacted greater economically by standards that decrease the amount of available timber. The inference is US Federal standards are not feasible for BC. The government wanted to reassure the public that change for the better is on the way. The MOF's interest in gathering information through the commissioning of reports was not only to collect technical information but also to respond to public concerns.

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[70]Westland Resource Group, *A Comparative Review of the Forest Practices Code of British Columbia with 14 other Jurisdictions - Summary Report* (Victoria: BC Ministry of Forests, September 1995).

[71]Kristine Weese, personal communication, October 10, 1997.

[72]Westland Resource Group, 8-14.

Public concerns over costs incurred with the adoption of the FPC was also dealt with this way. Much money and resources were committed to this code prior to implementation. Approximately $20 million was budgeted towards the code for 1994, $35 million for the following year. It was estimated that in excess of 200 people would spend 75% of their time in the field, monitoring logging operations as well as ceasing operations of those that fail to comply with the rules. In order to assist with the implementation of the code, $6.74 million was distributed to regions by May of 1994.[73] By the spring of 1996, total costs were estimated to be over $1 billion. Much effort and resources were put into raising public awareness about the code. The Ministry distributed 75,000 copies of the Discussion Paper, and 35,000 copies of the proposed Rules. Thirty open houses and fifty stakeholder workshops were held. Not only were the publications available to the residents of BC, but the Canadian and BC governments also published material in both English and German to distribute in Germany. This material outlined new regulations such as the size of clearcuts. The resulting costs were of concern to the residents of BC. The costs associated with the code were examined by H&W Saunders Associates.[74] This report pointed out that many of the costs referenced were living up to current standards that were not being enforced. In addition, Dr. Julian A. Dunster's paper "Doing Things Differently" reaffirms the benefits to be gained by better forest stewardship. Although many of these benefits may not be measurable, they exist. The government can say it has

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[73]*The Globe and Mail*, 24 March 1994, B4.

[74]H. Saunders, "The Costs of Implementing 'A Proposed Forest Practices Code for British Columbia'," in BC, Ministry of Forests, *A Proposed Forest Practices Code for British Columbia - Background Papers* (Victoria: December 1993).

moved in the direction that these experts advise. This is rather simple to proclaim considering the diversity of opinion within this policy community.

The lesson-drawing process is a worthwhile exercise for the government. It gives the government the opportunity to develop an idea of the public's attitude on the problem and proposed solutions. It also gives the policy community a sense of involvement in the policy making process. It is in the best interest of the MOF to develop regulations that have the support of the stakeholders if the regulations are to have any legitimacy.[75] This is consistent with Robertson who argued that for lesson-drawing to be successful it must depend on political support.[76] To draw lessons from such a diverse policy community is an advantageous position to be in, acknowledged by Rose:

> For policy makers, there is the positive advantage in the existence of divergent opinions within an epistemic community. As long as there is a diversity of political outlooks this ensures that there will always be some experts sharing values consistent with the elected government of the day.[77]

This position allows policy makers to find support for its own position and adopt policies as they see fit. This can be accomplished through commissioning reports, or adopting compromised or noncontentious lessons. Drawing lessons from a diverse policy community enables the government to claim it has drawn lessons positively, and that the policy community had an impact on the policies adopted.

If the information the forest policy community provided is biased and objective lessons cannot be drawn, it can be

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[75]Trevor Swan, personal communication, September 14, 1995.

[76]David Brian Robertson, "Political Conflict and Lesson-Drawing," *Journal of Public Policy* 11(1991): 56.

[77]Richard Rose (1991), 16-17.

argued that the government consulted with the policy community to seek approval of its proposed changes. The usefulness of theories of lesson-drawing in the development of the FPC will be analyzed in the next and concluding chapter.

CHAPTER FIVE: CONCLUSIONS

When the Forest Resources Commission suggested the adoption of a forest practices code in April 1991, the idea was met with enthusiasm from the public. The November 1993 *Discussion Paper* and *Rules* gave the policy community a proposal on which it could comment.

As examined in Chapter 4, much information was gathered by the MOF regarding enforcement and RMAs. Experts in the field contributed information through commissioned reports. These reports offered specific lessons to address very particular concerns with the FPC, such as the costs involved. Interested individuals responding to calls from the government for input made good use of the toll-free number, completed response sheets, and attended open-houses. The input was as diverse as the individuals who replied. There was very little consensus among the lessons drawn from the interested individuals and few themes resulted. The stakeholders' input was drawn from the meetings conducted by Baskerville. In addition, the stakeholders produced a number of brochures and reports regarding the FPC. The stakeholders consisted of mainly two very distinct advocacy coalitions with often opposing interests. The lessons on enforcement and riparian standards drawn from the stakeholders were polarized.

The motives and strategies of the actors meant the information drawn was not coherent and often contradictory. This collection of possible solutions is reflective of the diversity of opinion within the policy community, and how those biases shape claims to knowledge. The policy community used numbers and scientific evidence to support positions and to influence which lessons are not only drawn but applied. If the information gathered is not only incoherent but also manipulated to support positions, what

use would the lesson-drawing exercise have for the government and its policy makers?

The government was meeting an agenda of its own, namely to ward off an anti-boycott campaign overseas. The advantage of drawing lessons from a diverse community is the flexibility this gives policy makers. Policy makers found lessons to support actions taken by the government, such as the adoption of stiff penalties. Polarized lessons were also compromised to appease competing demands, as was seen with the adoption of the RMA widths. The government also adopted non-contentious solutions, the whistle-blower protection clause for example. The adoption of non-contentious lessons allowed the government to reinforce the idea that the policy community impacted the development of the FPC. In summary, the diversity of information enabled the government to carry out the lesson-drawing process as a public relations exercise and to use lessons in a politically profitable way. The government was able to meet its agenda - to implement a FPC - and do so in a relatively short time frame.

The role of lesson-drawing

The policy community's initial impact on the adoption of a code was through its dissatisfaction with the status-quo. The search for alternatives was spurred by this dissatisfaction with forest practices regulation. As noted by Rose, dissatisfaction with the status-quo initiates the search for possible solutions. Several conditions put pressure on BC's politicians to improve forest practices in the province. The most salient change in the forest policy environment of the time was the public support of environmental protection within and outside BC. This in turn affected the purchasers of BC forest products. Purchasers of MacMillan Bloedel materials received threats

that their products would be labelled "environmentally incorrect". Battling a public image problem overseas undoubtedly influenced how the government and the MOF approached the issue of forest practices. Both the BC government and its forest industry were "saddled with a reputation as poor stewards of [BC's] resources, and that in turn is hurting [BC's] economic prospects both at home and abroad".[1] Although BC has become notorious for poor forest practices for many years, the bad publicity has escalated since the Clayoquot Sound protests of 1993.

At the same time, the forest industry is undergoing severe transformations. A history of "overcutting, the failure to reforest, and over-investment in mill capacities and lack of investment in secondary institutions..."[2] has weakened the BC forest industry economically. In addition, there is a surplus of labour. Since 1981, MacMillan Bloedel had cut its workforce from 25,000 to 15,000 and has shifted its investment emphasis out of BC, with several large new plants recently built in South America.[3] Although there has been an increase in productivity, there has also been a decrease in the demand for labour owing to mechanization, automation, and more specialized mills.[4] This has made for a very unhappy portion of the electorate. The government

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[1]BC Legislative Assembly, *Hansard*, 30 May, 1994, 11171.

[2]Patricia Marchak, "Public Policy, Capital and Labour in the Forest Industry," in Rennie Warburton and David Coburn, eds., *Workers, Capital and the State in British Columbia* (Vancouver: UBC Press, 1988), 180.

[3]*The Times-Colonist*, 8 October 1993, A4.

[4]Patricia Marchak, "For whom the Tree Falls: Restructuring of the Global Forest Industry," Paper for presentation at the Canadian Political Science/Anthropology and Sociology Joint Meetings, Victoria (May 1990), 16.

has to win the approval of both environmental and labour groups to feel electorally secure.

The decrease in salmon populations is further reason to address forest practices. Fear of diminishing fish stocks was heightened in the early 1990s on the West Coast after collapse of the Cod fishery of Atlantic Canada and the shutdown of sport and commercial salmon fisheries off the Oregon and Washington coasts in 1994.[5] Due to the different genetic coding of salmon from different streams, fish from one stream cannot be used to stock another. "The number of stocks that have gone extinct, or are on the verge of vanishing, is deeply disturbing because once a run of salmon is gone, it is probably gone forever".[6]

The FPC was seen as the solution to deal with these pressures. It was also seen as an option to acquire industry's compliance.[7] However, the regulations required political support to have any legitimacy. The MOF needed to consult with the broader policy community. Drawing information from the policy community gives the participants a sense of involvement. Rose acknowledges that policy makers may have an agenda and that drawing lessons from the policy community can be used to legitimize that agenda.[8]

Since lessons can influence policy choice, stakeholders actively use lessons as leverage to support a particular program, Robertson explains. The problem was defined differently by the environmental and by the development

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[5]*BC Business*, May 1996, 49.

[6]*The Vancouver Sun*, 1 November 1996, E2.

[7]Kristine Weese, Research Officer, Strategic Policy Section, Forest Practices Branch, personal communication, October 10, 1997.

[8]Richard Rose (1991), 16-17.

advocacy coalitions through numbers and scientific findings as Stone hypothesizes. As examined in Chapter Four, the Tripp reports could be used to support increased monitoring and enforcement of forest practices, or to support the status-quo. Robertson also predicts lessons are used as tools of manipulation. Robertson argues this is especially true in policy areas such as forestry where facts are contested, values complex, and where differences in opinion are polarized. Robertson argues that lessons are used selectively to associate a program with admirable or blameworthy characteristics such as economic performance.[9] The forest industry, for example, claimed the FPC could cost as much as 2 billion dollars to implement, leading to increased taxes of 1,200 dollars per household.[10]

The information given by the policy community supports or legitimizes particular interests as predicted by Jenkins-Smith (1988). The dispute over increased regulations and enforcement of forest practices is indicative of a deeper conflict over land-use principles. Due to the dissension over forest management, it is not surprising that legitimation is taking place. Therefore, the lessons drawn were manipulated to defend a particular belief system. "Far from being a mere technical exercise, lesson-drawing is intensely political".[11] As Robertson noted, political constraints and opportunities largely determine the outcome of lesson-drawing.

The lesson-drawing exercise was worthwhile for BC's MOF. The divergent information gathered from the policy community allowed the MOF to choose among a range of

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[9]Robertson, 62.

[10]*The Vancouver Sun*, 3 March 1994, D1.

[11]Robertson, 75.

lessons. The MOF was able to justify its proposals, because support for its initiatives was always present among the variety of values held. The lesson-drawing exercise also gave the MOF the opportunity to guage the community's reaction to the proposals. This allowed the MOF to appease competing demands. Lesson-drawing, in this case, was a public relations exercise for the MOF was able to report it had consulted with the public. The advantage to lesson-drawing over round-table negotiations was the element of time. Lesson-drawing enabled the government to consult with the policy community without indeterminate delays. Lesson-drawing was an effective tool for the MOF.

While Rose would agree that lesson-drawing is not about changes in "big ideas", or paradigm shifts, he would argue the process does lead to changes in programs which includes laws and regulations authorizing action.[12] To Rose, whatever the changes in program or in instruments, they resulted from the policy makers' search for solutions, and deciphering their fungibility. However, as discussed in Chapter Four, information can be manipulated by the various actors in the policy community. This case shows lesson-drawing is not a simple calculation of fungibility.

Lesson-drawing would occur this way if the actors were rational themselves: "Purely rational policy makers would integrate and rank all goals, consider all alternatives and consequences, and select an optimum alternative based on a self-executing calculus of goals, means and consequences".[13] While Rose believes lesson-drawing is not about what

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[12]Richard Rose, *Lesson-Drawing in Public Policy* (Chatham: Chatham House Publishers, 1993), 25.

[13]David Brian Robertson, "Political Conflict and Lesson-Drawing," *Journal of Public Policy* 11(1991): 57.

politicians think ought to be done[14], Robertson and Stone emphasize that political strategy and bias on the part of policy makers are inevitable.

If lesson-drawing is inherently political, does it hold any value for policy studies? Due to its narrow scope, this case study does not establish that learning processes are absent. Lesson-drawing is not a force over and above political factors - learning is still present. To portray accurately the lesson-drawing process, a broader conception of lesson-drawing is needed. As May (1992) explains, there are various types of learning in policy studies. Policy learning involves lessons regarding policy instruments or implementation designs. Through political learning, on the other hand, policy advocates become better equipped in advancing problems or ideas.

Further, social learning encompasses the social construction of policy problems or policy goals.[15] Forest policy has changed in BC. "There is no doubt that the policies have resulted in bringing environmental values into much greater balance with developmental ones".[16] What caused the political and economic factors to shift demanding such a change? Perhaps these changes in political and economic conditions are the result of social learning, a broader type of learning by society. Society is learning about environmental issues thus changing the belief system, in turn sparking pressures to change. To test this inquiry would require more research beyond the scope of this thesis.

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[14]Richard Rose, "What is Lesson-Drawing?," *Journal of Public Policy* 11(1991): 5.

[15]Peter May, "Policy Learning and Failure," *Journal of Public Policy* 12(1992): 331.

[16]Hoberg in Carty, 283.

However, it does raise an important point that learning processes are present.

Learning also takes place within the advocacy coalitions. Coalitions, such as the development and environmental in this case, do not have the political authority to enact their desired policies. Therefore, the advocacy coalition will "seek to realize its objectives over time through increasing its political resources and through policy-oriented learning".[17] The environmental and development advocacy coalitions within BC's forest policy community have researched and studied forest practices either to legitimize the belief system, or to counter their opponents' claim.[18] The SLDF used legislation from the US for examples of jurisdictions with tough streamside protection regulations. COFI countered these findings by comparing the different land sizes of the US and BC to show these regulations lack fungibility. There is no shortage of examples to show policy-oriented learning has taken place in this case.

Further, different sources of information can be accessed for lessons. Lessons may be drawn from another jurisdiction or policy makers may find past experiences within their own jurisdiction offer rewarding lessons. The policy community is but one source of information for policy makers.

When examining how this case study unfolds, we see it does not fall neatly within the lesson-drawing model. As indicated by Heclo (1974), forces of power and forces of knowledge are present simultaneously, and do not work in

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[17]Paul A. Sabatier, "Knowledge, Policy-Oriented Learning and Policy Change," *Knowledge: Creation, Diffusion and Utilization* 8(1987): 670.

[18]Sabatier (1987), 672.

isolation. Forest policy in BC does not exist in a vacuum, and its forest policy community is large and active. Many from both within and outside BC hold interests in what happens to these forests. Politicking is profuse, especially when dealing with one of the longest and most complex bills presented to the BC Legislature. A broader conception of lesson-drawing is required to reflect the roles that both learning and power forces are playing.

Problems with the analysis

A broader conception of lesson-drawing would fit better with the realities of policy making. A new difficulty arises, however. If a broader conception is adopted, lesson-drawing could encompass everything to do with governments and groups as they struggle for political advantage. The difficulty lies in deciphering between learning and responses to the political environment. This thesis calls for further research to reconcile the use of a broader concept of lesson-drawing, and yet be able to decipher it from the political environment. The ultimate obstacle of social science research is that real life does not occur in a glass bubble, unaffected by outside factors. This case study is not different. A case in point is trying to isolate riparian streamside protection and enforcement when tied to so many other aspects of the FPC. While it is difficult to apply theoretical models that assume policy making is rational, it is then also difficult to assume evidence provided by policy makers and the policy community is objective or valid. This is part of the challenge, to see if one can determine the causes and effects of certain outcomes knowing the variables cannot be isolated.

While it may not be possible to separate the impact of learning from power forces, the role of knowledge and "puzzling" should be recognized and analyzed. Effects of

learning and political processes occur in conjunction with one another. This case shows the importance of knowledge and information to political interests: "Knowledge and information should be seen as one more 'resource' that identifies the powerful from the non-powerful".[19] Therefore, it is essential to consider the motivations and strategies of all actors involved in the lesson-drawing process. For even with unlimited knowledge and information, progress can still be blocked by the moral values and expectations held by society.

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[19]Colin J. Bennett and Michael Howlett, "The lessons of learning: Reconciling theories of policy learning and policy change," *Policy Sciences* 25(1992): 291.

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APPENDIX A

Streamside Protection Under
The Coastal Fisheries/Forestry Guidelines, 3rd ed.
(July 1993)

Class A stream - populated by anadromous salmonids, moderate to high levels of resident sport fish, stream gradient of less than 12%

Class B stream - populated by resident fish not designated as sport fish or regionally significant fish, stream gradient between 8-20%

Class C stream - streams not frequented by fish, with stream gradient greater than 20%

For Class A (Clause 2.5.4):

stream width (m)	SMZ (m)
< 10	10
> 30	30

*In all other cases, the SMZ should equal the channel width on each side of the stream.

*SMZs should be established on major Class B and C streams to protect downstream Class A streams, or where tree networks or large organic debris play a significant role in stabilizing the streambank or channel, or where mature streamside trees may be required as a future source of large organic debris in downstream Class A reaches. (Clause 2.5.6)

APPENDIX B

Streamside Protection Under the Forest Practices Code Proposed Standards and Operational Planning Regulations

Proposed Forest Practices Code Standards (May 1994)

stream width (m)	RRZ (m)	RMZ (m)	RMA (m)
> 3	0 - 30	15 - 40	15 - 50
1.5 - 3.0	0 - 10	15 - 20	15 - 30
< 1.5	0 - 10	15 - 20	15 - 30

Forest Practices Code of British Columbia Regulations Part 10

Riparian Class	stream width (m)	RRZ (m)	RMZ (m)	RMA (m)
S1	> 20	50	20	70
S2	> 5 $\leq$ 20	30	20	50
S3	1.5 $\leq$ 5	20	20	40
S4	< 1.5	0	30	30
S5	> 3	0	30	30
S6	$\geq$ 3	0	20	20

Riparian classes 1 through 4 are fish-bearing, classes 5 and 6 are not. Streams with channel widths of 100 m or more have no riparian reserve zone, but have a management zone of 100 m, or the width of the active flood plain, whichever is greater.

APPENDIX C

Persons Interviewed and Position at Time of Interview

1. Brownlee, Mike. Acting Director of the Integrated Resources Branch, Ministry of Forests, May 30, 1995.

2. Senez, Paul. The Sierra Club of British Columbia, June 27, 1995.

3. Balaski, Ken. Director, Forest Practices Code Implementation Team, Ministry of Forests, June 28, 1995.

4. Kiss, Les. General Manager, Forestry, Coast Forest and Lumber Association. August 23, 1995.

5. Swan, Trevor. Director, Enforcement Branch, Ministry of Forests, September 14, 1995.

6. Lamb, John. Habitat Protection - Forest Harvesting, Department of Fisheries and Oceans, telephone interview, November 17, 1995.

7. McKinnon, Greg. Forestry Specialist, Habitat Protection Branch, Ministry of Environment, Lands and Parks, November 30, 1995.

8. Hatalcik, John. Road Superintendent, Crestbrook Forest Industries (Canal Flats Division), formerly Area Engineer, MacMillan Bloedel (Port Alberni), August 16, 1996.

9. Weese, Kristine. Research Officer, Strategic Policy Section, Forest Practices Branch, Ministry of Forests, October 10, 1997.

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July, 1998