

# B. C. TAP WATER ALLIANCE



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## **THE GLADE CREEK WATERSHED RESERVE: NO “MISNOMER” / NOT “JUST A NAME”**



**A Preliminary Report**

**By Will Koop, Coordinator  
August 30, 2016**



Counter-clockwise, Google Earth Satellite image (2009) showing the communities and cities along the Kootenay River. The red arrow indicates the location of the community of Glade.

To the upper image section or east is the City of Nelson, and to lower image section or the west lies the City of Castlegar.

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## Report Summary: The Glade Creek Watershed Reserve

The community of Glade is located along the southern shore of the Kootenay River just below the confluence of the Slocan River, and in-between two BC Interior City centres, Castlegar and Nelson. The community of Glade is located within Area I of the official planning boundary of the Regional District of Central Kootenay (RDCK), and its water source, the north-west facing Glade Creek watershed, composed of the North Fork and South Fork tributaries, is located in planning boundary Area E.

The community of Glade was originally issued a water licence in September 1908, with a subsequent license issued in July 1975, both on Glade Creek. The Glade Irrigation District, an Improvement District incorporated under the *Water Act*, was formed in 1973.

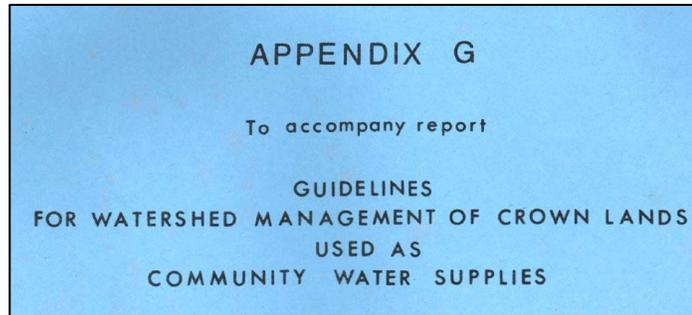
In February 2016, Glade residents contacted the BC Tap Water Alliance (BCTWA). They were concerned about renewed logging proposals in the Glade Creek Community Watershed by two forest companies with Crown timber Chart areas granted by government in the watershed.

The BCTWA soon discovered and reported to the residents that their watershed was designated as a Community Watershed Map Reserve, listed in Appendix G of an October 1980 Ministry of Environment document, *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies*.

NELSON		FOREST DISTRICT		SECTION 3.6 PAGE 1	
NELSON		WATER DISTRICT			
***** W A T E R S P E D *****		***** U S E R *****		***** D R A I N A G E *****	
***** S O U R C E *****		***** N A M E *****		***** L A N D *****	
NO.	SOURCE	NAME	POPULATION	SQ. MILES	STATUS
25A	ARROW CR	EAST CRESTON (IMP DIST)	1350	30.7	CR 96%
10E	CLEARWATER CR	NELSON (CITY)	10	19.2	CR 97.5%
10C	COTTONWOOD CR	NELSON (CITY)	10	14.9	CR 86.9%
24A	DUCK CR	WYNDEL (IMP DIST)	700	20.1	CA 96%
6	DUHAMEL CR	DUHAMEL CR (IMP DIST)	600	22.0	CR 97.8%
10B	FIVE MILE CR	NELSON (CITY)	4000	18.4	CR 100%
30	GLADE CR	GLADE (IMP DIST)	200	11.5	CA 99%
19.0	HANNA (ROCK) CR	RIVERVALE (REG WATER UTILITY)	300	8.8	CR 99%
2	HEART CR	FAUGUIER (B.C. HYDRO COMM)	100	10.2	CA 98%
23	KELLY CR	FRUITVALE (V9LL175)	2400	9.3	CR 100%
17	POUPRE (CHINA) CR	GENELLE (IMP DIST)	500	10.2	CR 99%
5B	SPRINGER CR	SLOCAN (VILLAGE)	140	19.2	CR 100%
10D	WHITEWATER CR	NELSON (CITY)	3000	9.1	CR 100%

*Above:* Excerpt from Appendix G, *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies*, showing Glade Creek, map location and identity number 30, highlighted in red.

In May 1973, an Executive Committee of Deputy Ministers, called the Environment and Land Use Technical Committee,<sup>1</sup> authorized its provincial Task Force on community watersheds (February, 1972 to October, 1980) to establish, and in many instances to re-establish, *Land Act* Watershed Map Reserves for BC's Community



Watershed Water Purveyors and Users. The October 1980 document, being the final outcome of the Task Force's eight-year mandate, included a long list of almost 300 Community Watershed Map Reserves. Also appended to the 1980 document were a series of 5 large format maps, each providing the names and locations of all the Watershed Map Reserves placed throughout the former 24 jurisdictions of BC's Water Districts.

Formal Ministry of Forests' comprehensive forest planning analysis documents, submitted to the BC Legislature in 1980 and 1984, made references to the "constraints" associated with BC's Community Watershed Reserve tenure designations:

- "these areas have all been defined and placed in Forests' records as map reserves;"<sup>2</sup>
- "watershed reserves" are part of the "withdrawals" from the Ministry of Forests' "land base."<sup>3</sup>

The BCTWA also possessed a copy of a 1980s Forest Atlas Reference Map (see below), authenticating that Glade Creek had been designated as a Community Watershed Map Reserve. Standard for government Reference Maps (Canvas, Milar and TRIM maps), the Watershed Reserve's boundaries were outlined with a thick blue line and included the Map Reserve's file reference number, a file owned and supposedly kept in order by the Ministry of Lands. As a stipulated requirement, resource administrators must refer to government Reference Maps for clearance purposes when they conduct resource permit proposal applications and assessments, such as timber sales and timber tenures, in order to confirm if the Crown land in question does not have any Land Ownership Code restrictions, encumbrances or conflicts. The map copy of the Glade Community Watershed Map Reserve was forwarded as evidence to the residents.

As understood by government administrators who had authorized their establishment, Community Watershed Order-in-Council Reserves, and Community Watershed Map Reserves, which were, and are, established under Sections 15 and 16 of the *Land Act*,<sup>4</sup> protect and "withdraw Crown land from disposition"<sup>5</sup> within described boundaries of the said Reserves.

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<sup>1</sup> The Committee was created through the mandate and powers of the 1971 *Environment and Land Use Act*.

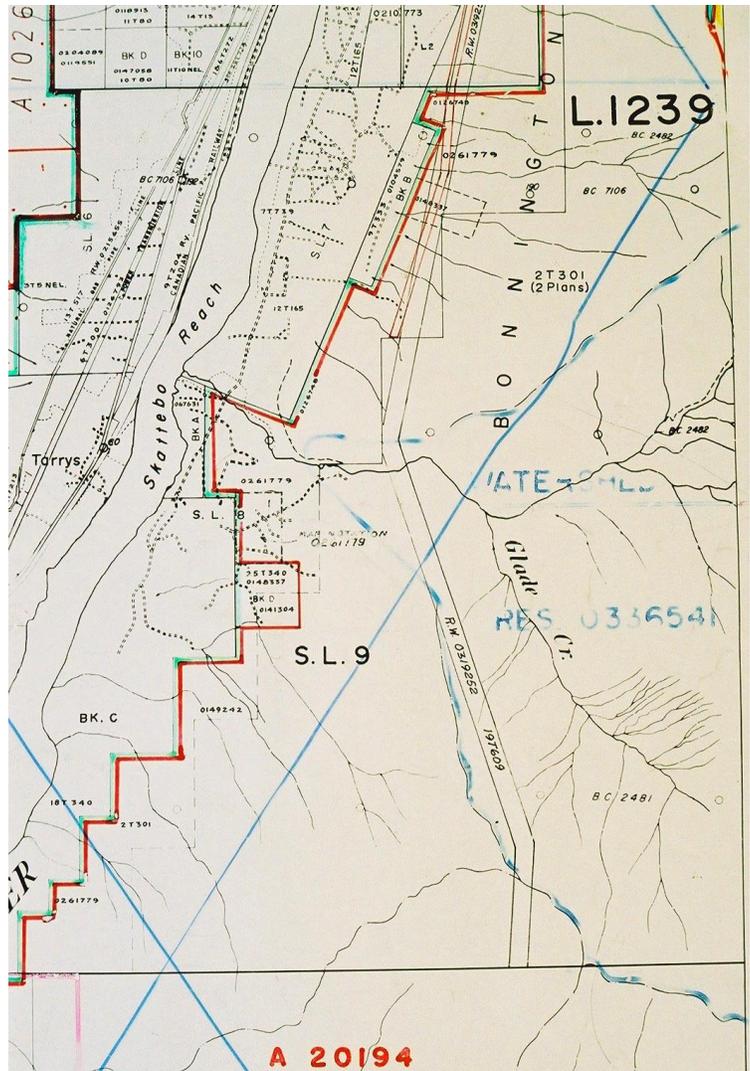
<sup>2</sup> The March 1980 *Forest and Range Resource Analysis Technical Report*, Appendix D, Contributions from Other Users.

<sup>3</sup> The 1984 *Forest and Range Resource Analysis* report, Chapter B1, *The Forest Land Base*, page B1.

<sup>4</sup> The two Reserve Sections were formerly numbered as Sections 11 and 12 of the *Land Act* (1970-1996).

<sup>5</sup> The Interpretation Section of the 1970 *Land Act* defines "disposition" as that which "includes every act of the Crown whereby Crown lands or any right, title, interest, or estate therein are granted, disposed of, or affected, or by which the Crown divests itself of, or creates a right, title, interest, or estate in land or permits the use of land; and the words "dispose of" have a corresponding meaning." The same section defines "reserved lands" as "Crown lands that have been withdrawn from disposition under this or any other Act."

**Right:** Eastern section of a 1980s Forest Atlas Reference milar map showing the lower or northwestern half of the Glade Creek Watershed Reserve outlined in blue dashed lines, with the words WATERSHED RES in blue, with the Reserve's reference file number.



The *Land Act* Reserve legislation has been and is commonly used by government to temporarily or permanently protect Crown lands for various purposes. It is powerful legislation, the very same legislation, for instance, that protected hundreds of areas first proposed, and dozens of those finally chosen, by government as Ecological Reserves. According to Community Watershed Map Reserve status records found in many Reserve files, administrators typically assigned them with a “temporary” term, expiring in the year 9,999. Though technically a “temporary” term, the Watershed Map Reserves’ expiry date was almost eternal or permanent, acknowledging the critical nature assigned by government for continuous protection of BC’s community water purveyors and users.

----- Tenure Inquiry -----		TASSA17 --	
Tenure Type:	RESERVE/NOTATION	File No	: 0326774 Status : ACTIVE
Subtype	: MAP RESERVE (SEC. 12 Dated	: 19750722 Expires	: 99990722 ←

The powers attributed to these Reserves is what seems to have deeply troubled many government, academic and private company foresters alike.

The BCTWA also informed the Glade residents about its major research publications which provide documented accounts of the lengthy administrative history of BC’s Community Watershed Reserves. I.e.:

- the 2006 book, *From Wisdom to Tyranny: A History of British Columbia’s Drinking Watershed Reserves*;
- the on-line report, [The Big Eddy: A History of the Big Eddy Waterworks District, and its Long-Standing Battles to Protect the Dolan Creek Watershed Reserve](#);

- the on-line report, [Good Servants / Bad Service: An Examination of Records and Reports Relating to Rossland City's Drinking Watershed Reserves \(1923-2002\)](#).

We asked the residents to obtain as many records as possible to check and verify whether or not the Glade community, through the lengthy administration of the Glade Creek Irrigation District, had kept or been given information by government about their Watershed Reserve.

A Freedom of Information request on the Reserve's Lands file was made. The short file revealed that the Watershed Map Reserve had been registered by the Ministry of Environment in 1976 – as part of the authorized initiative and mandate of the community watersheds Task Force, like the almost 300 Map Reserves established / re-established between 1973 and 1976. The file stated that along with the Map Reservation of Glade, ten other local community watersheds were also established as Map Reserves. <sup>6</sup>

GOVERNMENT OF BRITISH COLUMBIA			
MEMORANDUM			
TO	FROM	DATE	FILE NO.
Director of Lands Lands Service BUI IGS Attn. Assistant Director of Land Management	J.H. Doughty-Davies, Head Planning Section Water Investigations Branch	July 7, 1976	0309757-3
Southern Interior Region		VICTORIA, B. C.	1976
SUBJECT: Community Watershed Map Reserves		YOUR FILE.....	
In reference to conflicts in multiple use of community watersheds, <u>it is requested that a map reserve be placed on the following watershed areas.</u> The attached topographic maps indicate the watershed boundaries.			
<u>Watershed</u>	<u>Drainage Area</u>		
Boivin Creek	22.9		
Silver Spring Lake	2.4		
Kindersley Creek	22.0		
Bjerkness Creek	10.0		
→ Glade Creek	11.5		
Sandy Creek	4.6		
Eagle Creek	2.6		
Hendryx and Indian Creeks	3.9		
Proctor Creek	3.4		
Caribou Creek	91.8		
Heart Creek	10.2		

The Glade Creek Watershed Map Reserve file includes an undated memo (mid-October, 1976?) that the Watershed Reserve application was opposed by the Forest Service. However, subsequent government documents and Reference Maps from 1980 following, which were not part of the file, reveal that the Glade Creek Watershed Map Reserve had nevertheless been established in favour of the Glade Creek Irrigation District. These

facts / clues lend credence to the BCTWA's suspicions, as is the case with a number of other Watershed Reserve files, that the Glade Creek Reserve file may have been purged or tampered with, as documents post-1977 are missing. <sup>7</sup>

For example, as explained by way of a confidential source in *From Wisdom to Tyranny*, a party, or parties, within government shredded key incriminating documents in two Ministry of Lands' Community Watershed Map Reserve files kept for Bartlett and Mountain Chief Creeks. <sup>8</sup> The file's paper shredding was undertaken to remove revelatory records that may have authenticated

<sup>6</sup> Boivin Creek, Silver Spring Lake, Kindersley Creek, Bjerkness Creek, Sandy Creek, Eagle Creek, Hendryx and Indian Creeks, Proctor Creek, Caribou Creek, Heart Creek.

<sup>7</sup> Another possibility is that administrators may have failed their duties to properly update the Reserve file.

<sup>8</sup> Chapter 9, *The Paris Judgement and Pandora's Box*, page 144.

the establishment and ongoing tenure memos related to the two Reserves, stifling the Surveyor General's file evidence submitted for a July 1997 Supreme Court Hearing in Nelson City, where the Surveyor General provided Affidavit evidence that now favored the Respondents.<sup>9</sup> Old Forest Atlas Reference Maps clearly show that Bartlett Creek was designated a Watershed Reserve in the early 1940s. Later, Forest Atlas Reference Maps in the 1980s and early 1990s document both Bartlett and Mountain Chief Watershed Reserves.<sup>10</sup>

According to statements made in a July 17, 1997 interview with Rob McArthur, the Regional Water Planner for the Kootenay Region,<sup>11</sup> the Surveyor General's staff "had a hard time finding where the hell" their two Reserve files were kept. The Ministry of Lands' staff finally discovered the location and holder of the two files, along with other Reserve files: they had been absconded from the Ministry of Lands by the Ministry of Forests since at least 1989!

The Valhalla Wilderness Society's court action against the Ministry of Forests in 1997 correctly alleged the Ministry's unlawful issuance of logging permits to Slocan Forest Products in the two Community Watershed Map Reserves. The two Reserves, located between and above the Towns of New Denver and Silverton, is where large public protests had taken place in 1997 against the logging proposals, with



residents wrongfully arrested by the RCMP for interfering with the transport of logging equipment headed toward the two Watershed Reserves, whose old growth forests had never been logged. After the court case, with the Court dismissing Valhalla's legitimate claim, the government quickly erased the two Watershed Reserves from Ministerial Reference Maps, with the vindictive purpose of demonstrating to the Supreme Court, and to the concerned public, that the two Reserves in question had never been established by government.

A tenure inquiry was made with the Cranbrook Regional office of the Ministry of Forests, Lands and Natural Resources (FLNR) in July, 2016. The Cranbrook portfolio officers found no evidence of the Glade Creek Watershed Reserve file reference number in FLNR's digital management records database.

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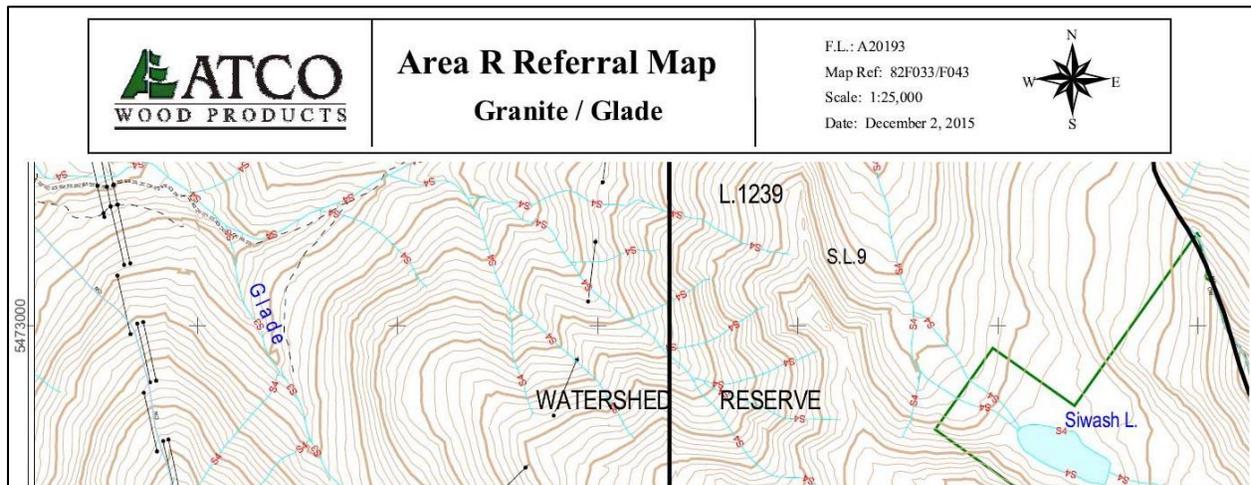
<sup>9</sup> The Valhalla Wilderness Society (Petitioners) Vs. the Ministry of Forests, the Ministry of Environment, Lands and Parks, the Attorney General, and Slocan Forest Products (Respondents), Nelson Registry 6789.

<sup>10</sup> As with Glade Creek, the two watersheds are located in the Arrow Timber Supply Area.

<sup>11</sup> Rob McArthur was the Ministry of Environment's designated alternate for the 1993-1995 Glade Creek Technical Committee (see Section 9 for a descriptive of the Committee).

As background research for its *Big Eddy* report, in 2013 the BCTWA had conducted similar tenure inquiries with the Cranbrook Regional office for Big Eddy’s Dolan Creek Watershed Reserve, and for Revelstoke City’s Greeley Creek Watershed Reserve. The Portfolio officer also found no records in the computer tenure database related to the two Reserves’ file numbers, or to any other Watershed Reserve reference numbers that may also have been established.

Though the Glade, Dolan and Greeley Creek Reserves are not referenced in the FLNR’s database system, this does not necessarily lead to the conclusion that the Reserves were cancelled or no longer exist. For instance, the BCTWA knows that the three Reserves in question continued to be recorded on government reference maps in the 1980s and 1990s with their associated file reference numbers. Regarding the Glade Reserve, it was also recorded on Atco Lumber’s forest



planning maps from 1993 through to December 2, 2015 as a “Watershed Reserve.” And, there is no paper trail in the Glade Creek Reserve file showing records after 1977, nor proof of the Reserve’s discontinuance. There may be, therefore, good reasons to assume that a party or parties may have wanted the Reserves in question to just simply disappear. It is plausible that some Reserves may have been excluded or removed from FLNR’s computer database, as that is what most likely happened to the Bartlett and Mountain Chief Creek Reserves sometime in early to mid-1997.<sup>12</sup>

Aiming to solve the mystery of the missing Reserves from the government’s tenure database, the BCTWA conducted a preliminary, comparative analysis of the Community Watershed Map Reserves recorded in Appendix G of the October 1980 Ministry of Environment document, *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies*, with the computer list of Community Watershed Reserves the BCTWA received from government in 2013.

<sup>12</sup> Administrators sent the BCTWA the computer print-out lists of all the Community Watershed Reserves in 1997 and 2013. The 1997 list did no longer included the Bartlett and Mountain Chief Watershed Map Reserves.

The October 1980 list documents a total of 95 Community Watershed Map Reserves for the Cranbrook Region.<sup>13</sup> The 2013 list, however, only records a total of 28 Community Watershed Reserves for the Cranbrook Region:

- 23 of which are Map Reserves;
- 1 of which is an Order-in-Council Reserve;
- 4 of which were demoted from Map Reserve to Notation of Interest status.<sup>14</sup>

This is a disturbing / troublesome finding for BC's Community Watershed Reserves in the Cranbrook Region alone. Some of the questions that need to be answered regarding the Cranbrook Region are:

- What happened to the data file tenure registry of the other, missing 67 Watershed Reserves, including the Glade Creek Reserve?
- Why were 4 of the remaining 28 Watershed Map and Order-in-Council Reserves demoted, when were they demoted, who demoted them, and were the Water Purveyors notified before they were demoted?

Administrators in government, through the Ministry of Forests, surreptitiously reassigned the single use purpose and critical public function of water supply, formerly (or perhaps still) protected by way of Watershed Map Reserves, to timber supply. It was accomplished through various conniving means and methods over time. Documented in the BCTWA's previous reports, and in the present report, if government administrators could:

- make unlawful decisions to allow timber sales in Community Watershed Map and Order-in-Council Reserves;
- trick Water Purveyors into thinking and believing these Reserves could not prevent timber sales;
- assign these Reserves in Tree Farm License agreements from the 1950s onward;
- assign these Reserves into Public Sustained Yield Units and Timber Supply Areas;
- include these Reserves in the Allowable Annual Cut netting down procedures from 1979 onwards;
- remove references to Watershed Map Reserves from the Ministry of Environment's October 1980 *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies*;
- hide the tenure status of these Reserves from Integrated Watershed Management Planning documents and procedures from 1984 onward;
- hide the tenure status of these Reserves from Higher Land Planning and Land Use Planning documents and their public processes from 1989 onward;

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<sup>13</sup> Reserves registered in the Cranbrook, Fernie, Golden, Grand Forks, Kaslo, Nelson, and Revelstoke Water Districts, all of which were located in the Nelson Forest Region.

<sup>14</sup> Three of these 28 Reserves were, according to the government list, established after 1980, two of which are Notations of Interest. However, early government records show that two of these Reserves were established in the 1970s as Map Reserves.

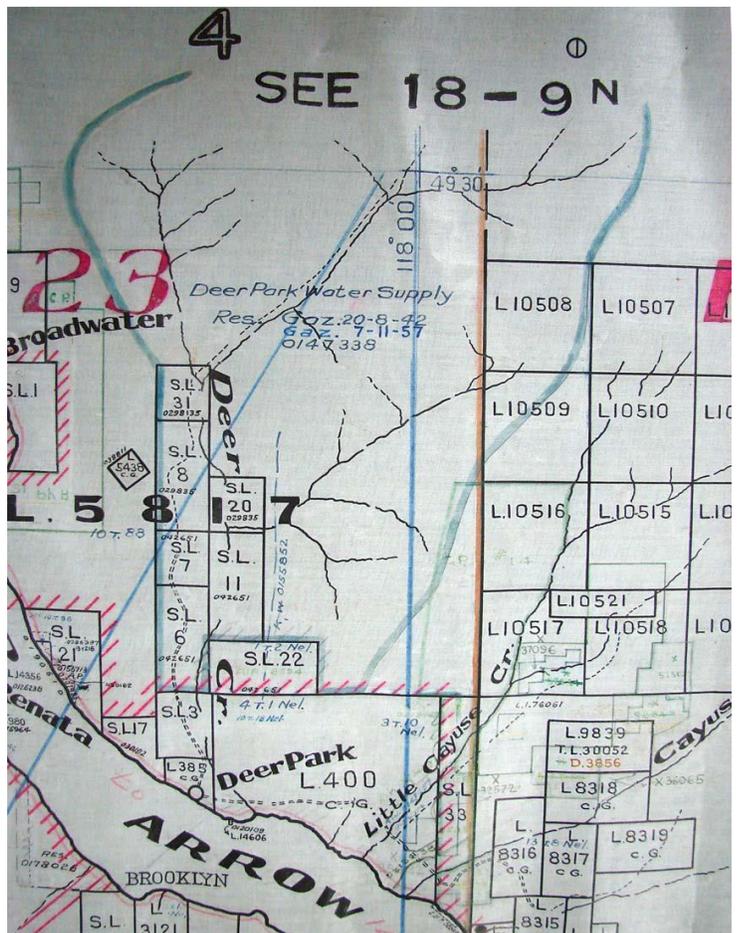
- hide these Reserves in the status list of the *Forest Practices Code Act Community Watersheds* and hide their Reserve tenure file references from official Reference Maps from 1994 onward;
- randomly demote the status of these Reserves;

couldn't government administrators also have then been able to make Community Watershed Reserve tenures vanish from the government's computer database?

The two logging companies, Atco Wood Products Ltd. (formerly, Atco Lumber) and Kalesnikoff Lumber Co. Ltd., which had somehow, and at some time, been granted forest tenure rights by government in the Glade Creek Watershed Reserve, held separate meetings in two different communities in April 2016 to review their logging proposals and to answer public questions. At the meetings, members of the public asked each forest company managerial forester to comment about the history of the Glade and Deer Creeks, whether each had been established as a Watershed Reserve, and what those designations meant. Both Professional Forester Managers claimed that community drinking watershed sources established by the BC government throughout the 1900s as "Watershed Reserves" were and may have been named as such, but the names meant nothing whatsoever, whereby those named designations had no means or powers to protect Public lands or to prevent commercial logging within them.

Atco's long-standing Professional Forester and Forestry Manager, Ron Ozanne, falsely claimed at the Glade Community Hall, and in an email sent to a member of the community the day previous, that references to "Watershed Reserve" tenures found printed or labelled on Atco's company forest planning maps over the decades, which Glade Creek residents had copies of, were meaningless, dismissing references to the Glade Creek Watershed Reserve, and to Watershed Reserves in general, as a "misnomer."

After being asked a question at the Deer Park community meeting on whether or not Deer Creek (located just northeast of Castlegar) had ever been designated as a Watershed Reserve, Kalesnikoff's Professional Forester and Woodlands Manager, Tyler Hodgkinson, was not only dismissive of Watershed Reserves, using the same "misnomer" claim, but stated, by way of a "NO" answer, that Deer Creek had never been designated as a Watershed



Reserve. Kalesnikoff Lumber has logging tenures in both the Deer Creek and Glade Creek Community Watersheds.

Contrary to Hodgkinson's "No" statement, government records reveal that Deer Creek had been designated by government as an Order-in-Council Watershed Reserve for 28 years (1942-1970), and that Kalesnikoff Lumber had known about this Watershed Reserve in the late 1960s, and had been advised by the Forest Service, and therefore known, that the Watershed Reserve protected Deer Creek from timber sales.

The Deer Creek Reserve file records also reveal that during the late 1950s and into the 1960s the Forest Service had repeatedly advised Celgar Limited, the tenure holder of Tree Farm Licence No. 23, of the very same, that Deer Creek was off limits to timber sales and logging tenure rights because of the conflicting Departmental Watershed Reserve tenure which was protected from "disposition." At the end of December 1970, two weeks after the Deer Creek Reserve had been cancelled, the Nelson Forest Region Forest Manager correctly advised the Canadian Cellulose Company in a letter that as a result of the cancellation, "disposition can now proceed." The Forest Manager's choice of legislative language confirms and bears evidence of the Teflon-coated powers of Watershed Reserves and the Forest Manager's understanding of these powers.

Why were two Registered Professional Foresters, employed by separate logging companies, each company with lengthy logging and sawmilling histories in the lower Nelson Forest Region, each company with forest tenures and chart areas in numerous Community Watersheds and Community Watershed Reserves, making misleading or misdirecting claims about Community Watershed Reserves? Why did these foresters not provide the public with honest and informative answers at these two community meetings as they were supposed to do under their Professional Seal and abiding Code of Ethics, with similar ethical obligations for public accountability under their Professional Reliance framework? What did these foresters not want to tell the public? Were these foresters hiding something, or some things? Their dismissive answers seem to suggest as much, that something was askew.

In lieu of these concerns, Section 10 of this report poses appropriate questions for the Association of B.C. Forest Professionals' Board regarding the professional and ethical conduct of two of their members.

In summary, this preliminary report finds that there is no valid documentation as yet indicating that the government rendered the Glade Creek Watershed Map Reserve inactive, despite the fact that the Reserve file is reportedly no longer registered in the government's Crown Land tenure computer database.

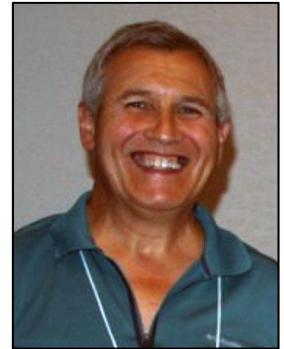
If Glade Creek has an active Map Reserve tenure status, this leads to a number of serious questions and considerations. I.e., forest tenures, cutting permits, road permits would be contrary to the purpose of the conservation Reserve and would therefore be unlawful.

## 1. Ron Ozanne, Atco's Forestry Manager

On the evening of April 21, 2016, at the Glade community hall, Glade residents met to hear Atco Wood Product's four-hour presentation on proposals to construct new road access and to log in the upper North Fork tributary of the Glade Creek Community Watershed Reserve. The community of Glade has had a registered water licence on Glade Creek since 1908, and is a Ministry of Environment designated Community Watershed.



The day before the meeting, April 20<sup>th</sup>, Atco's long-standing forestry manager, Ron Ozanne, a Registered Professional Forester (RPF), sent the following email segment in response to a question put to him on March 16, 2016 by the Glade Watershed Protection Committee concerning the meaning of a Community Watershed Reserve:



**Question #3.** *In a letter dated Feb. 4, 2016 (attached) to Andy Davidoff, Area I Director, there is a map attached showing cut block R10 (Area R Referral Map, Granite/Glade, F.L A20193). On that map are the words 'Watershed Reserve'. Can you tell us what this means, and how long it has been in effect? Also, to what area(s) does it pertain?*

**Ozanne Response.** *The term "Watershed Reserve" on the mapping is a very early mapping terminology which simply denotes Community Watershed. The word Reserve in this term can easily be mistaken for an area where there is no logging.*

At the April 21<sup>st</sup> meeting, held in the community of Glade, forester Ozanne stated the following:

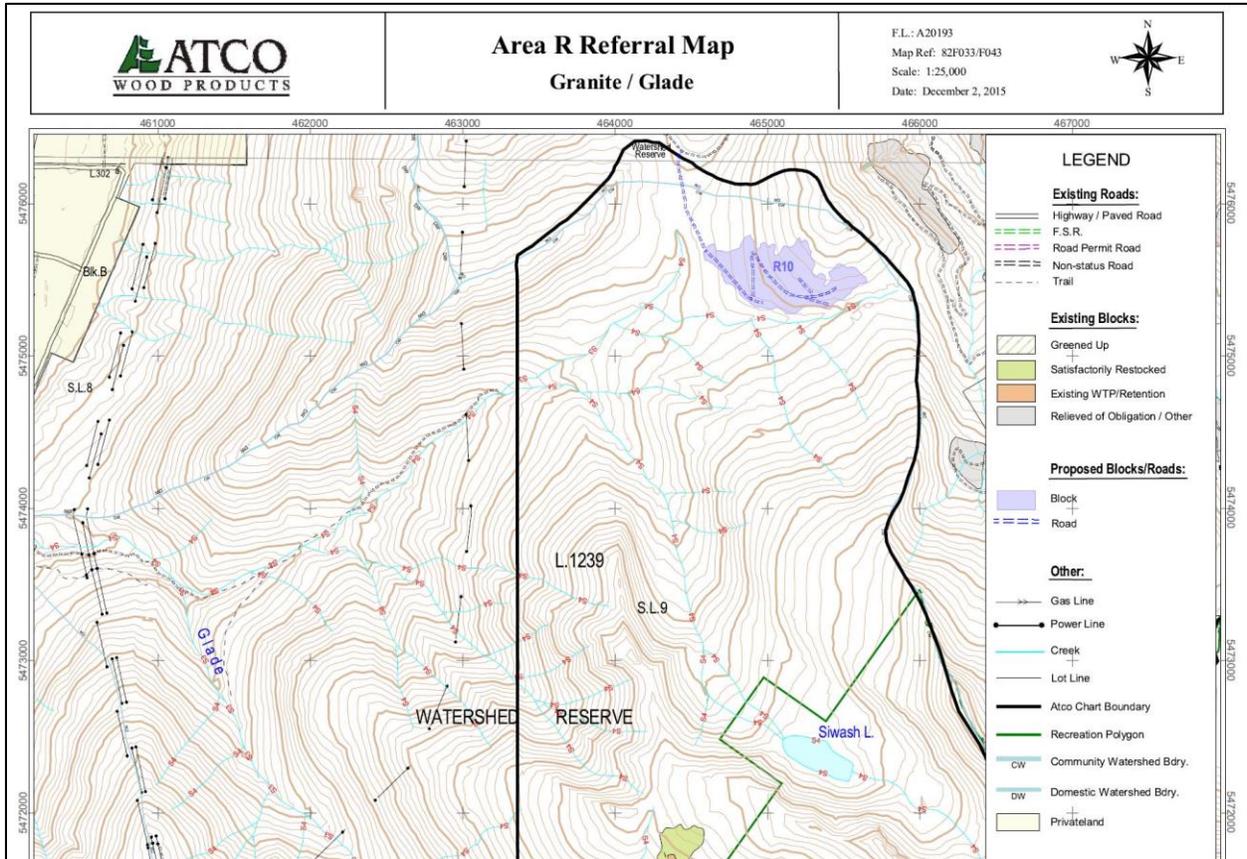
**Ozanne:** *There is a certain amount of the land base that is protected in Parks in the Province, for good reason. There is a certain amount of 'other area,' quite a large area. I just wanted to show you people what there is. See this green line here [Ozanne is pointing to an Atco company map showing the Glade watershed], in this area, all the way around Siwash Lake, and over here and here. And there is another one right here. Those are called OGMAs. What those are, are Old Growth Management Areas. In essence, simply put, they are completely reserved from logging.*

**Resident:** *Right. And so is a Watershed Reserve. But somehow that is disappeared.*

**Ozanne:** I want you to understand this. There have been maps that have come out that used to label something, Watershed Reserve. And it's a misnomer<sup>15</sup> that watershed ...

**Resident:** What's the misnomer?

**Ozanne:** It's a misnomer in that if you look at maps throughout the entire province every community watershed was called a Watershed Reserve. All it meant is there is a community watershed there, because there was harvesting all through them, has been for years, everywhere.<sup>16</sup>



**Above:** Atco Wood Products' December 2, 2015 logging plan map, showing the proposed cutblock (R10) and logging road access layout for the upper North Fork of the Glade Creek Watershed Reserve. Note Atco's map reference to "Watershed Reserve." Atco is targeting a section or nest of old growth forest lying on the south and southwest facing slopes immediately below the ridge or boundary height of land.

<sup>15</sup> "Misnomer," a late Middle-English term, literally means a "wrong name," and may also mean "a wrong use of a name." Online Wikipedia states that "a misnomer is a word or term that suggests a meaning that is known to be wrong. Misnomers often arise because the thing named received its name long before its true nature was known. A misnomer may also be simply a word that is used incorrectly or misleadingly."

<sup>16</sup> Transcript of video/audio recording.

About an hour later, forester Ozanne was again asked about his “misnomer” comments.

**Resident:** *In regards to the Watershed Reserve that was on the map, the Atco map. You said it was a bit of a misnomer.*

**Ozanne:** *Yes.*

**Resident:** *And, it was terminology that could be mistaken for an area where there is no logging.*

**Ozanne:** *Yes.*

**Resident:** *Historically, that was the case under the Land Act, [where the watershed] could be held under Reserve or be exempt from activities such as logging. And, obviously Glade watershed was once designated as a Reserve as shown on your own maps of 1993 and 2016. We checked into the records from Freedom of Information showing that Glade was established as a Community Watershed Map Reserve in 1976 by the Water Rights Branch. And, Water Rights was asked to do so under legislative mandate of a provincial task force that went from 1972 to 1980.*

**Ozanne:** *As I said. It is a misnomer. If you went to those maps, the 1993, the 2016, **all of our maps that cover community watersheds have this.** [Bold emphasis.] There is [sic, are] a lot of maps that contain it.*

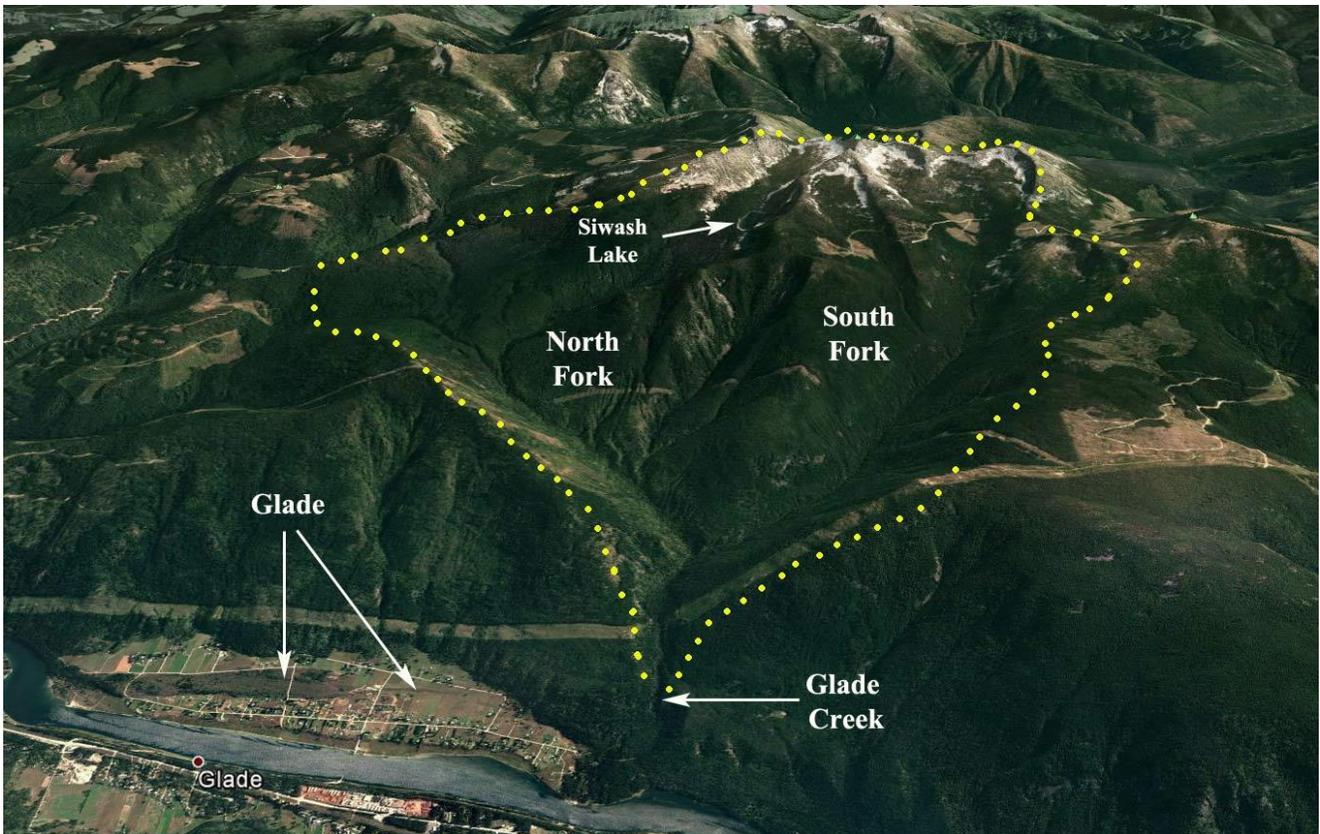
*It's on our base map. It's like getting rid of contour lines off the ... If you don't really smarten up what labels you put on a map, they just keep getting passed on from year after year. ... I can tell you that this has happened, and show you on maps, many other watersheds that say Watershed Reserve. And we've logged there ever since the 1960s, 1970s, and have never stopped logging.*

**Resident:** *In 1976, supposedly we had Watershed Reserve status, but nothing was ever told to us, or nothing was ever said about that status changing, as far as we can tell.*

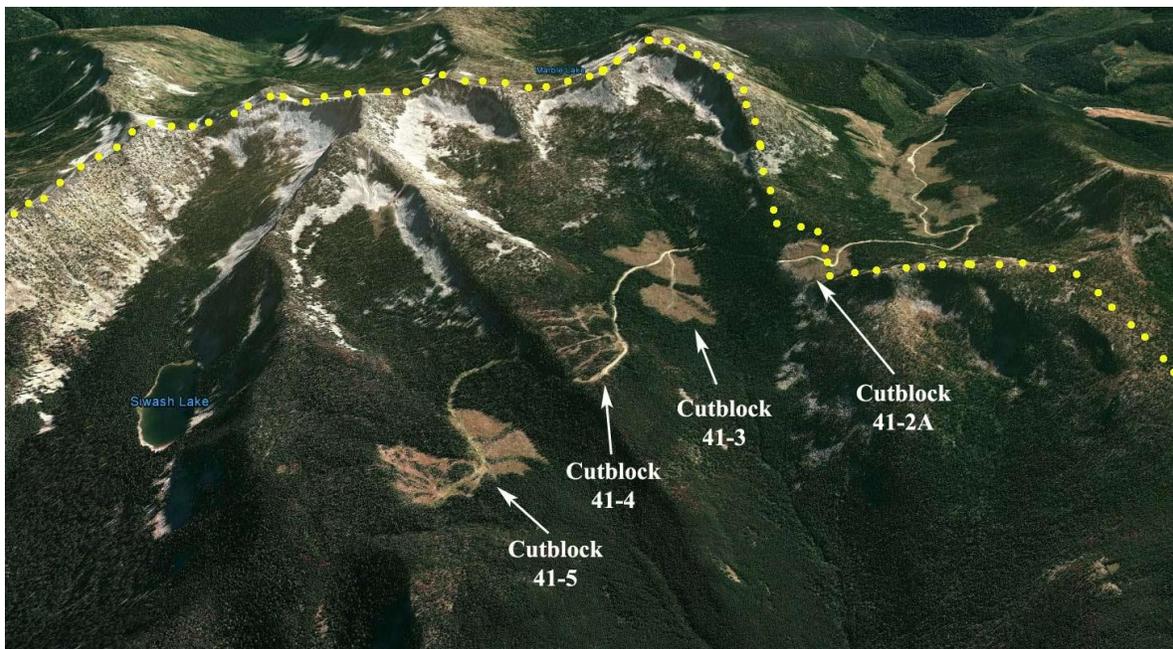
**Ozanne:** *Like I said, as far as I know, it was just a label that was put on the base maps when there was a community watershed, and it's occurring on a lot of our other community watersheds where we've harvested for years.*

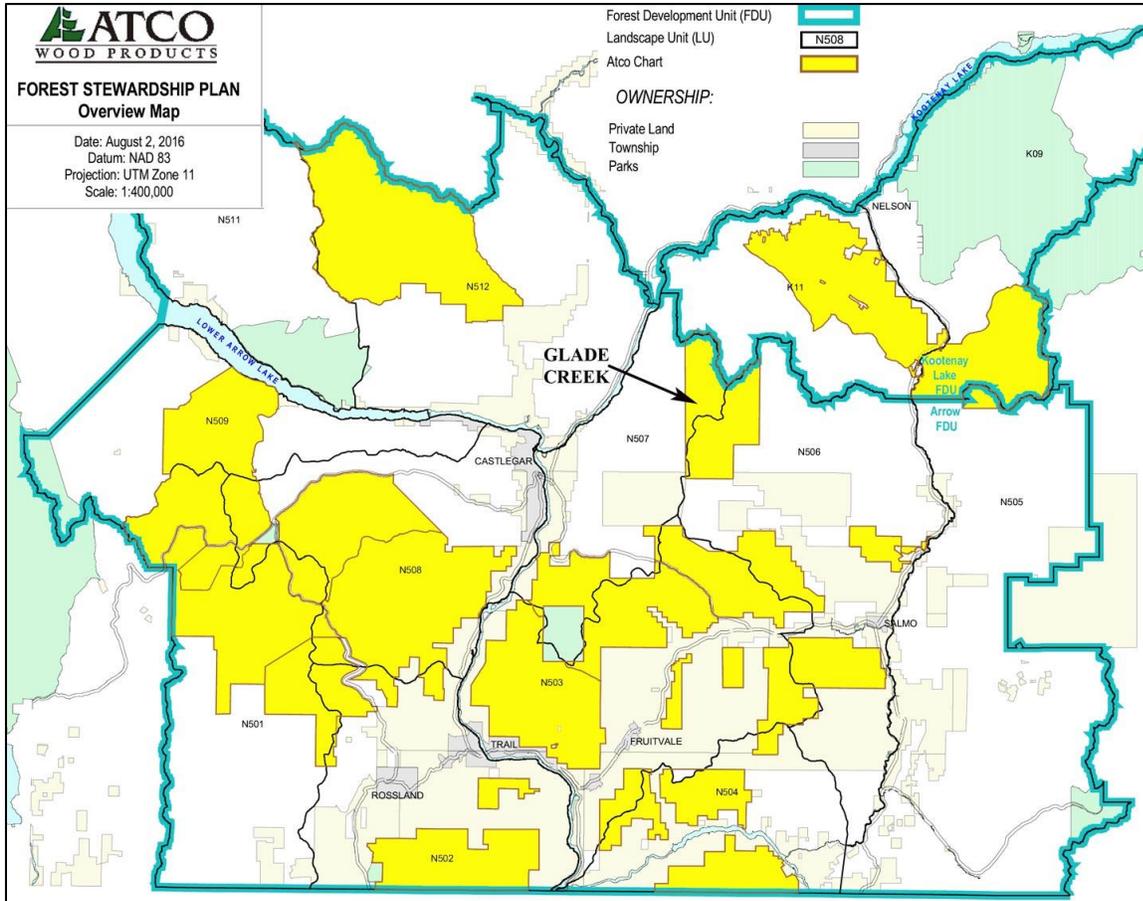
**Resident:** *So, are there any that you are aware of, a Reserve, or a community watershed, that you cannot go into, in your jurisdiction?*

**Ozanne:** *Not in our jurisdiction, not on our forest license. There is no area that we can't go into.*



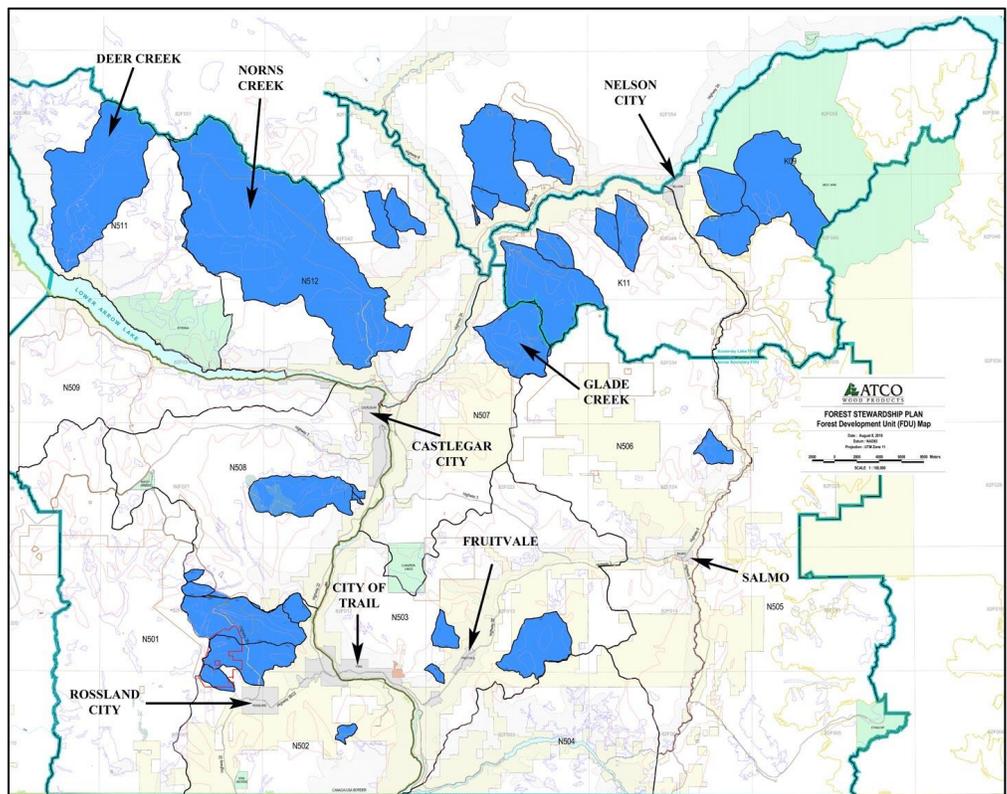
**Above:** Google Earth image (2009) of the Glade Creek Watershed Reserve (within the yellow dotted boundary), showing the North and South Fork drainages. At the very bottom of the image, left of centre, is Kalesnikoff Lumber's mill site. **Below:** In the late 1990s, Atco had permits to build logging road access into old growth forest stands, and to log four cutblocks in the former pristine headwaters of the South Fork drainage. From 1993 to 1995, the Ministries of Forests and Environment convened the Glade Creek Technical Committee (see Section 9), where government cast final decisions for Atco to log the South Fork headwater forests. Government failed to notify the Technical Committee of the tenure status of Glade Creek, designated as a Community Watershed Map Reserve.



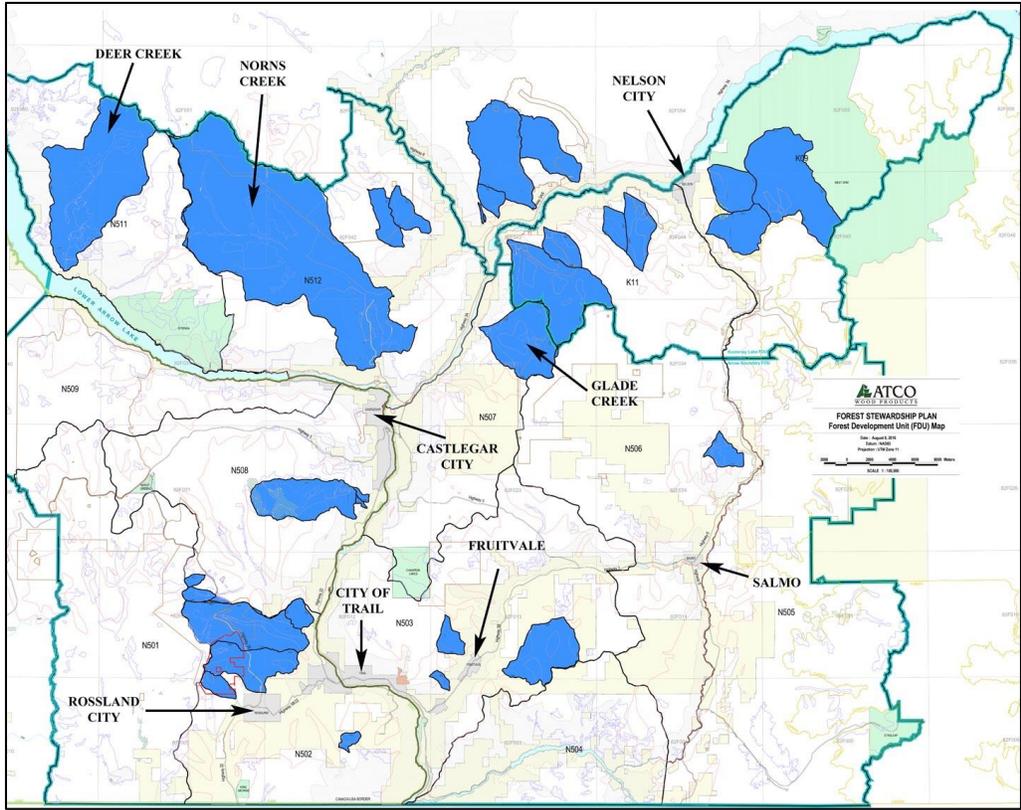


Atco's August 2016 Forest Stewardship Plan Maps, with added coloring to show Atco's forest tenure Chart areas (above, in yellow), and Atco's maps showing locations of Community Watersheds (right, in blue).

By making a careful comparison between the two maps, one can observe the number of community watersheds Atco has forest tenures within.





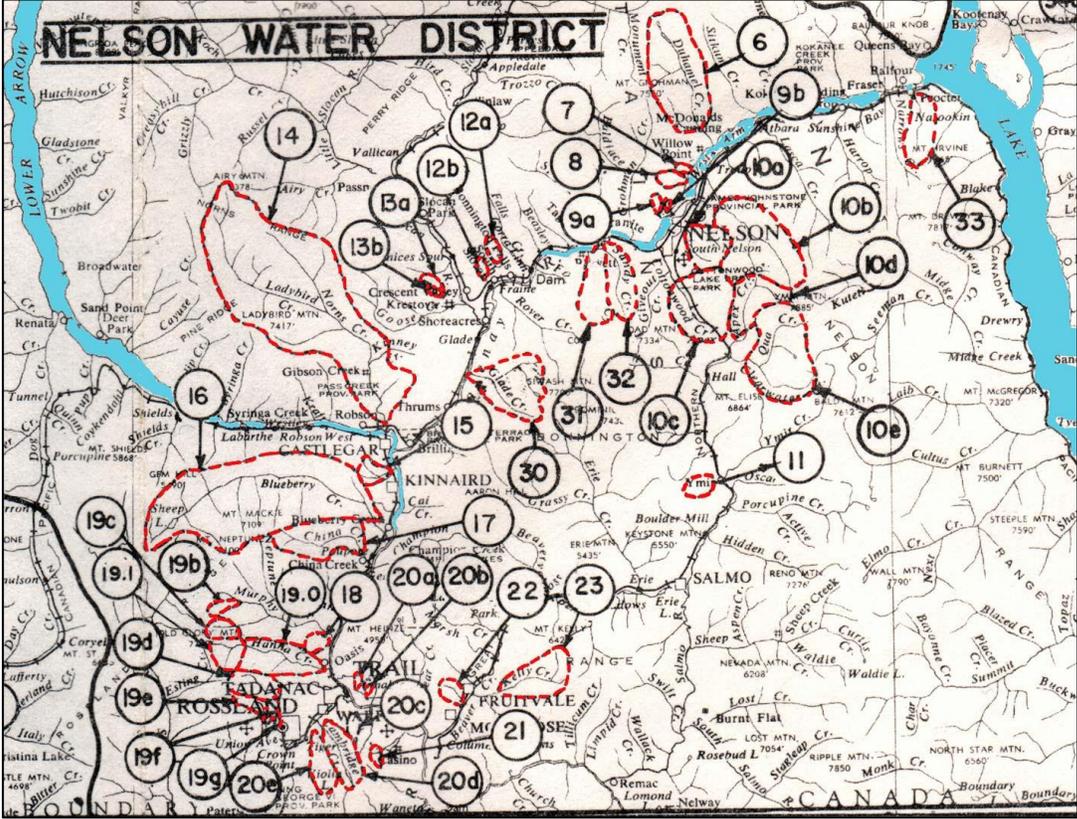


Comparing the number and locations of Community Watersheds:

Atco's August 2016 Forest Development Unit Map within the green boundaries (above);

The Community Watershed Map Reserves published in the October 1980 Community Watershed Guidelines document, with the Reserves outlined in red dashed lines (right).

Note the differences.



## 2. Tyler Hodgkinson, Kalesnikoff's Woodlands Manager

A week later, on the evening of April 29, 2016, at a meeting place in the community of Deer Park (located just north-west of Castlegar), residents met to hear Kalesnikoff Lumber's community presentation proposal for more logging in the Deer Creek Community Watershed. Tyler Hodgkinson, Kalesnikoff's Woodlands Manager and a Registered Professional Forester, presented information to the public. A resident commented and asked Hodgkinson the following:

**Resident:** *Yeah, I mean I think you can understand, you know, our concern, or at least mine being a resident here and being that's my water source and all the things that can happen both with logging and with climate change and with wildfire, because you are right, it is a bit of a wild card, those are conflicting concerns and how do you really juggle those priorities and apply the ecological values that I know your company has always had, and likes to have. But frankly to clear cut a water drainage that's a water source for people...not just us, but you know...*

**Hodgkinson:** *That we have been doing it for years, right?*

**Resident:** *Yes, I know, I know, but that makes a good question because at one time, you tell me, were we not a Watershed Reserve at one time?*

**Hodgkinson:** *No, that's a, that's a misnomer. They put Watershed Reserves on maps, and they called all community watersheds Watershed Reserves, but they, it was just a name.*

**Resident:** *Yeah but it, but, it was Gazetted.*

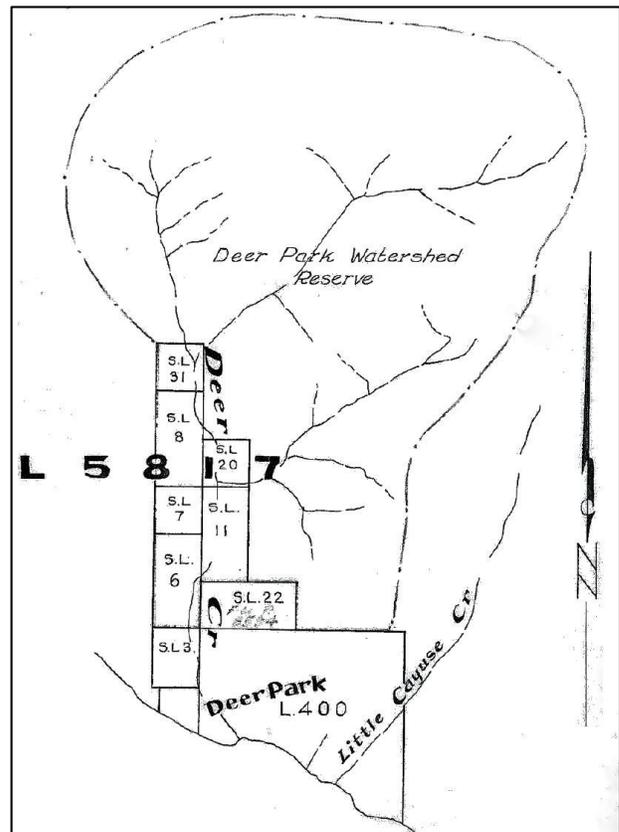
**Hodgkinson:** *No, no, it's a Working Forest, it's all designated a Working Forest. So somebody put that on a name, and now people are saying, 'oh you can't log in there,' but you know what, it doesn't mean that.*

**Resident:** *But I think for quite a while it was excluded from logging.*

**Hodgkinson:** *I don't think so.*

**Resident:** *And what would it mean if it was declared a Watershed Reserve?*

**Hodgkinson:** *It's not though.*



**Resident:** Under the Land Act? What would it mean? For logging, if it was?

**Hodgkinson:** Nothing. ... It's Integrated Management. We have multiple resource users and we all have the same amount of rights. So we have rights to timber, you have rights to a certain amount of potable water. Other people, have, you know, hunters for example have the right to go hike in there or take the horses and go hunting, people have the right to go up there walking, hiking, dirt biking, whatever, right? We all have equal rights, and its Integrated Resource Management, that's all. That's what society has deemed it: in society we all live in wood homes and use paper products, and it's a renewable resource, and I don't know what more to say.<sup>17</sup>

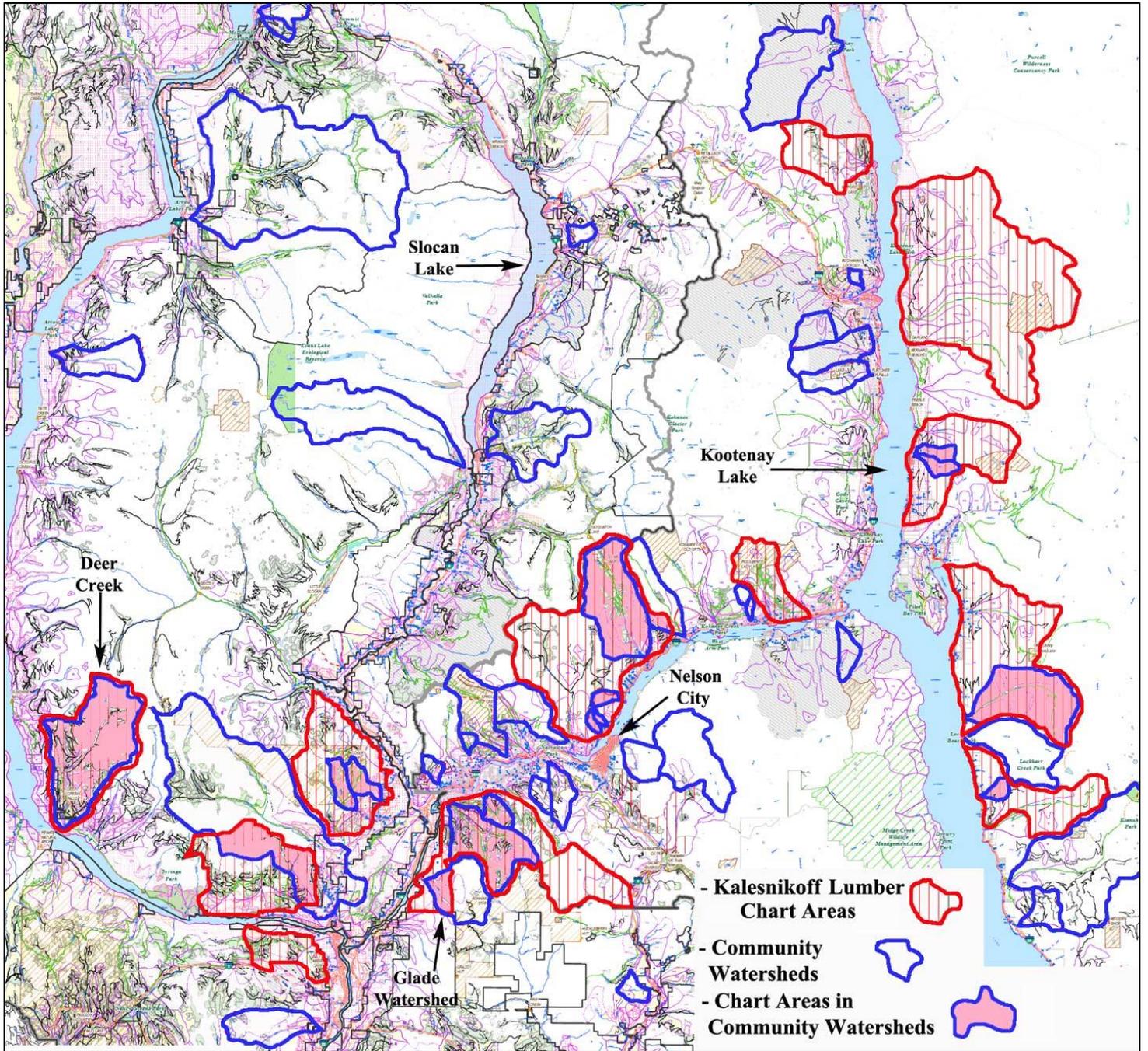
According to witnesses, forester Hodgkinson had also attended Atco's presentation at the Glade Community Hall on April 21<sup>st</sup>, where he heard questions posed to forester Ozanne, and heard Ozanne's response comments about Watershed Reserves. That is most likely why forester Hodgkinson also happened to restate, exactly, Ozanne's "misnomer" dismissive answer at the Deer Park meeting. Documented below in Section 5, government had designated Deer Creek a Watershed Reserve for about 28 years, during which time logging was disallowed.



**Above:** Google Earth image (2009) showing the Community of Deer Park and the Deer Creek Community Watershed. Deer Park is located on the northern shore of the Lower Arrow Lakes Reservoir, and about 30 kilometres northwest of Castlegar City. Kalesnikoff Lumber has a commercial logging tenure in Deer Creek, a former Order-in-Council Watershed Reserve (1942-1970).

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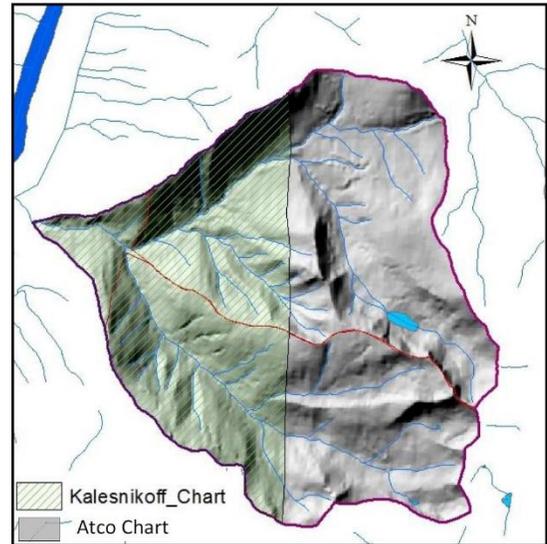
<sup>17</sup> Transcript of audio recording.



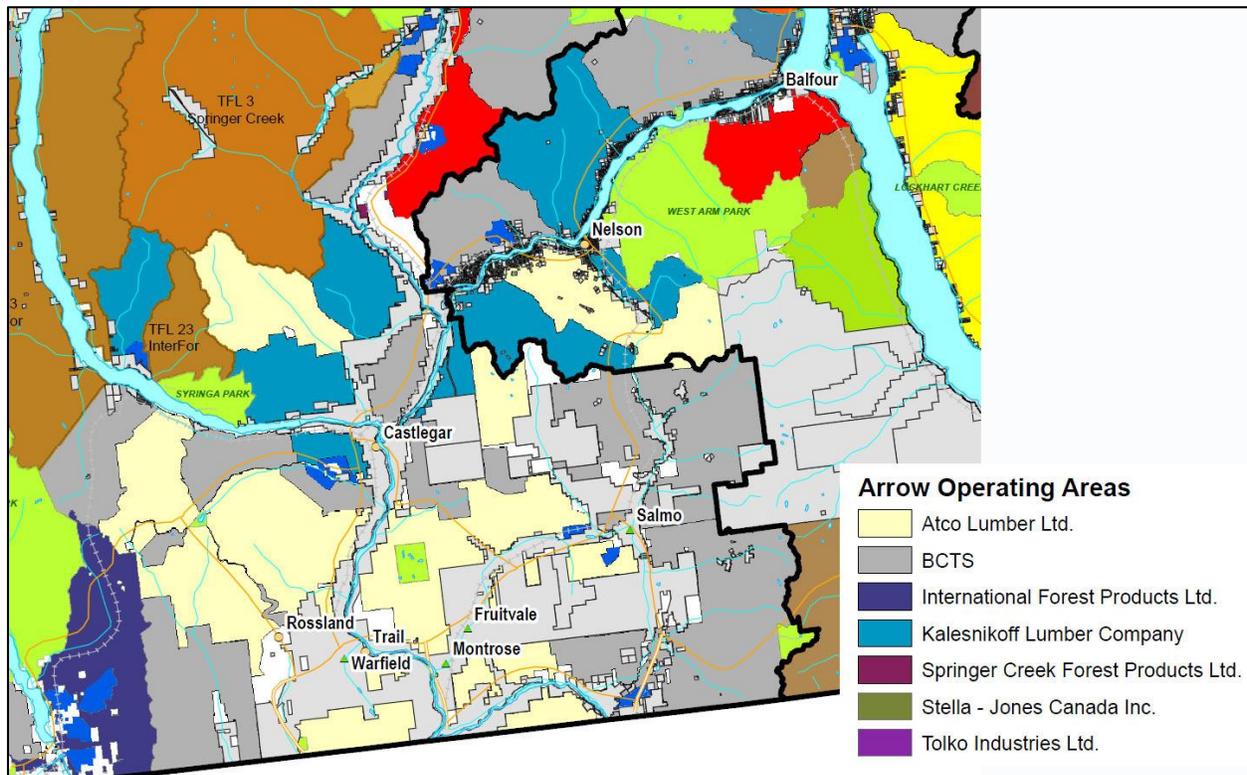
Map above is a copy of Kalesnikoff Lumber’s Arrow Forest Stewardship Plan, 2015, Detail Wall Map, retrieved from the company’s website. Color highlight details from the map were removed, and thick blue and red colored lines were introduced to feature the locations of Kalesnikoff Lumber’s Chart Areas (in red) and Community Watershed locations (in blue), as found and outlined on the 2015 map. The Chart tenures are located in the Arrow and Kootenay Lakes Timber Supply Areas. The pink filled areas show 16 Community Watersheds Kalesnikoff has logging tenures within. Of the 16 Community Watersheds, 13 comprise the entire watershed boundaries. Most of these Community Watersheds are, and were, Watershed Reserves.

### 3. Kalesnikoff & Atco: Logging Partners in the Glade Reserve

Kalesnikoff Lumber and Atco Wood Products share a few things common when it comes to commercial logging in BC's Interior Community Watersheds, and the public controversies associated with logging in them. For instance, they both share logging rights in the Glade Creek Community Watershed Map Reserve, where Kalesnikoff was somehow twice granted forest tenure on the lower elevation forests, and where Atco was also somehow granted forest tenure on the upper elevation forests. Along with Atco, Kalesnikoff is currently developing logging proposals for its tenure in the lower Glade Creek Watershed Reserve's two sub-drainages.



Forester Hodgkinson's "misnomer" brush-off comment which he gave at Deer Park not only relates in part to Kalesnikoff Lumber's logging rights in the Glade Community Watershed Reserve, as it does with Atco's logging rights in the same Reserve, but it also relates to Kalesnikoff's and Atco's forest tenures granted by government in many other designated Community Watershed Reserves in BC's Interior forest lands. This is what Atco Forester Ozanne makes reference to in his April 21<sup>st</sup> comments to Glade residents, "all of our maps that cover community watersheds have this."



2010 forest tenure map showing Atco's and Kalesnikoff's operating areas in the Arrow Kootenay Lakes Timber Supply Areas.

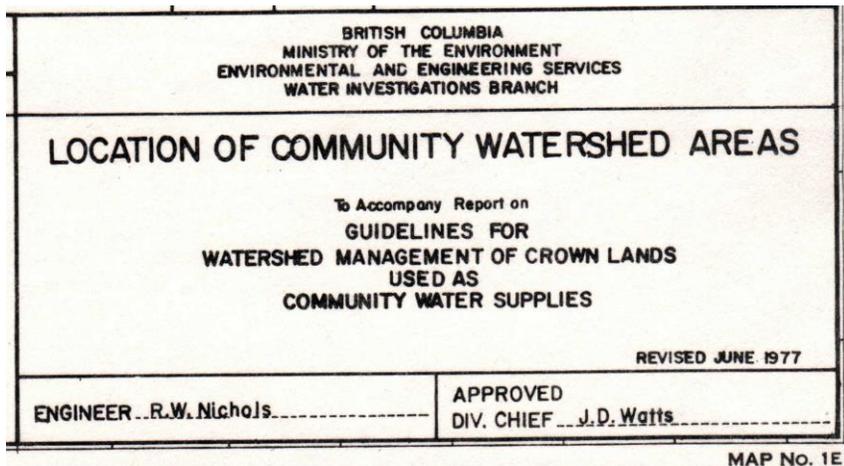
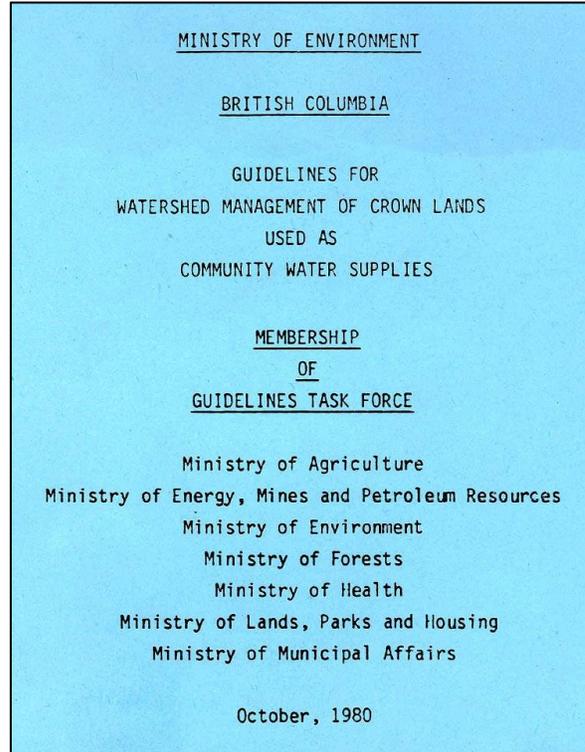
#### 4. NO “Misnomers”: Origins of Community Watershed Reserves

*Lot 1656, Kootenay District, about which you have received an enquiry for a timber sale, is situated adjacent to the area withdrawn from any disposition under the “Land Act”, which has been set aside for the use of the Corporation of Rossland for watershed purposes.*<sup>18</sup>

Professional Forester Ozanne recounts at the April 21<sup>st</sup> public meeting in Glade Atco’s lengthy history of logging in BC’s Community Watershed Reserves – a remarkable confession. However, in his written April 20<sup>th</sup> email response, and in his April 21<sup>st</sup> oral presentation, he fails to correctly state or summarize the meaning and nature of provincial law under the *Land Act* that fully protects Crown forest lands through the establishment of Community Watershed Map Reserves and Community Watershed Order-in-Council Reserves.

The locations and identities for most of BC’s Interior Community Watershed Reserves were last formally registered and listed in Appendix G of an October 1980 Ministry of Environment Community Watersheds document, *Guidelines for Watershed Management of Crown Lands used as Community Water Supplies*. Appendix G included the Glade Creek Watershed Map Reserve. Five provincial map-sheets were also appended to the main document, showing the locations and identities of all the Community Watershed Map Reserves in British Columbia.<sup>19</sup> Additional Community Watershed Map Reserves were also established in BC after 1980, which, of course, were not listed in the 1980 document.

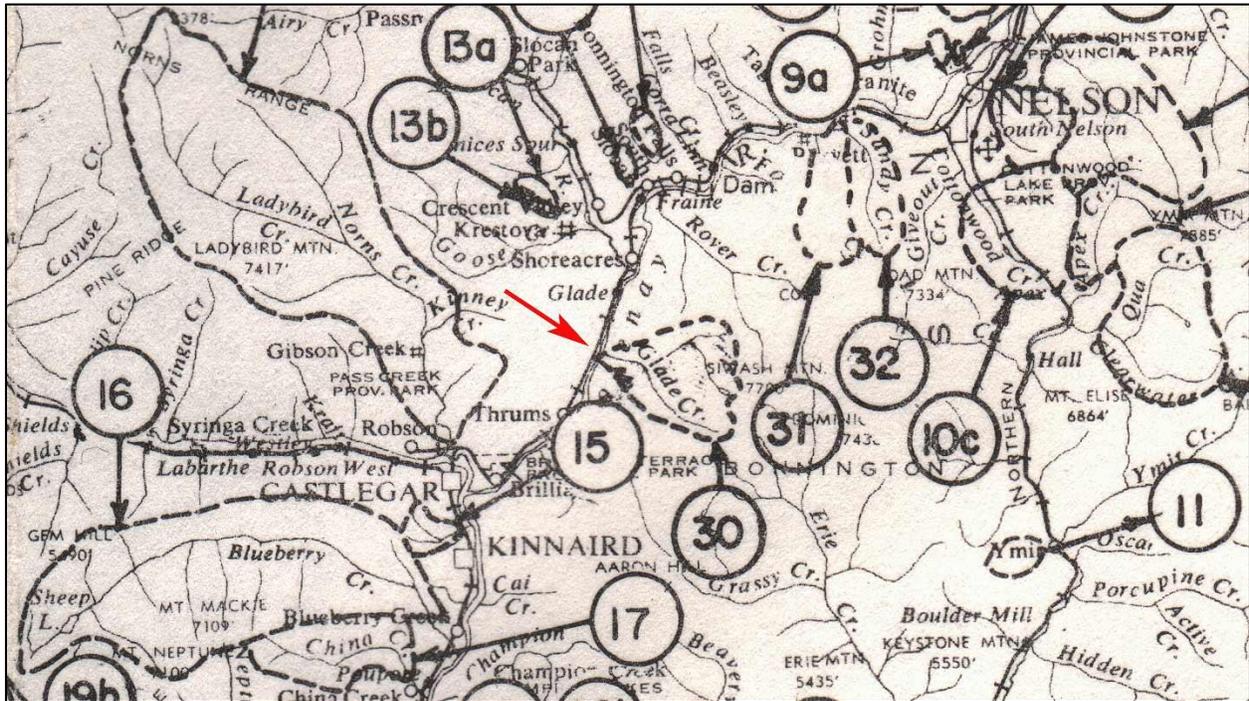
The 1980 document, and the inclusion of almost three hundred Community Watershed Map Reserves, was the outcome of a special government Task Force on Community Watersheds



<sup>18</sup> S.E. Marling, Assistant Forester, Nelson District, July 17, 1941.

<sup>19</sup> South Western, South Eastern, West Central, East Central, and North Eastern B.C.

(1972-1980), established by a former Environment and Land Use Committee (ELUC) of Deputy Ministers. Under legislative powers of the 1971 *Environment and Land Use Act*, the Task Force Minutes state that in 1973 the ELUC authorized the Task Force to establish, and in a number of cases to re-establish, Community Watershed Map Reserves by way of former Section 12 of the *Land Act*.<sup>20</sup>



WATER DISTRICT	WATERSHED		Name	Population	DRAINAGE AREA (Sq. Miles)
	No.	Source			
NELSON	12a	Smoky Creek	South Slocan (Imp. Dist.)	150	1.9
	12b	Walts Creek	"		0.3
	13a	Langill Creek	Krestova	320	1.3
	13b	McDermid Creek	"		0.9
	14	Norns Creek	Raspberry	280	62.9
	14	"	Robson	1,000	
	15	Merry Creek	Kinnaird (Town)	2,846	2.1
	16	Blueberry Creek	Blueberry Creek (Imp. Dist.)	700	56.6
	→ 30	Glade Creek	Glade (Imp. Dist.)	200	11.5
	31	Eagle Creek	Eagle Creek (W.U.C.)	75	2.6
	32	Sandy Creek	Sandy Creek (W.U.C.)	300	4.6
	33	Proctor Creek	Proctor Creek (W.U.C.)	100	3.4
	34a	Hendryx Creek	Riendel (Reg. Dist.)	550	1.9
	34b	Indian Creek	Riendel		2.0
	36	Russell Creek	Kitchner	75	9.1

**Above:** Cut-out sections of Map No. 1E, South Eastern British Columbia, from *Guidelines for Watershed Management of Crown Lands used as Community Water Supplies*, showing the Glade Creek Watershed Map Reserve, and other neighbouring Watershed Map Reserves, in the former Nelson Water District.

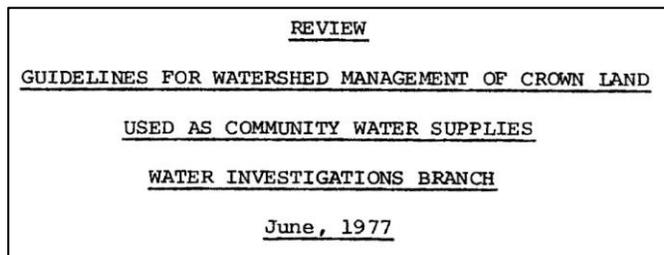
<sup>20</sup> The *Land Act* Section 12 for Map Reserves was revised as Section 16 in the 1996 BC Statutes.

The March 1980 *Forest and Range Resource Analysis Report*, which had been presented to the BC Legislature, described the *Environment and Land Use Act* as “the major provincial statute.”

*It establishes a committee of cabinet known as the Environment and Land Use Committee (ELUC) which was wide-ranging powers to: ... ensure that all the aspects of preservation and maintenance of the natural environment are fully considered in the administration of land use and resource development commensurate with a maximum beneficial land use, and minimize and prevent waste of the environment occasioned thereby. ... Any and all power granted under any other act or regulation must conform with any order set out under this act.*<sup>21</sup>

Partly explained in the BC Tap Water Alliance’s [recent on-line Bulletin No. 1](#), and explained at length in another publication by the Alliance, [The Big Eddy](#),<sup>22</sup> at least five references to

watershed “map reserves” were scattered throughout the text of the Task Force’s June 1977 Draft *Guidelines* document. However, all the references to “map reserves” were later stricken by administrators from the final edited 1980 document version of the *Guidelines for Watershed Management of Crown Lands*



*used as Community Water Supplies*. This mischievous act by unknown parties to conceal the legal nature of Watershed Reserve tenures in the 1980 document, which was distributed to hundreds of BC’s Water Purveyors and to Regional Districts, became a primary means to fool the trusting public into believing the Ministry of Forests’ and the forest industry’s rhetoric that Community Watersheds were all on the chopping block.

The BC Tap Water Alliance investigated how these Community Watershed Map Reserves are legal Crown tenures (see Appendix A). The legislation states that they are powerful legislative instruments that freeze or protect Crown lands from any and all “dispositions,” which includes timber licensing.

The Interpretation Section of the 1970 *Land Act* defines “*disposition*” as that which “*includes every act of the Crown whereby Crown lands or any right, title, interest, or estate therein are granted, disposed of, or affected, or by which the Crown divests itself of, or creates a right, title, interest, or estate in land or permits the use of land; and the words “dispose of” have a corresponding meaning.*” The same section defines “*reserved lands*” as “*Crown lands that have been withdrawn from disposition under this or any other Act.*”<sup>23</sup>

For instance, it is the same legal instrument that government used to protect hundreds of BC’s Ecological Reserves that were initially proposed and designated as Map Reserves in Provincial Forests from 1968 onwards. The Ecological Map Reserves were later baptized as Ecological Order-in-Council Reserves.

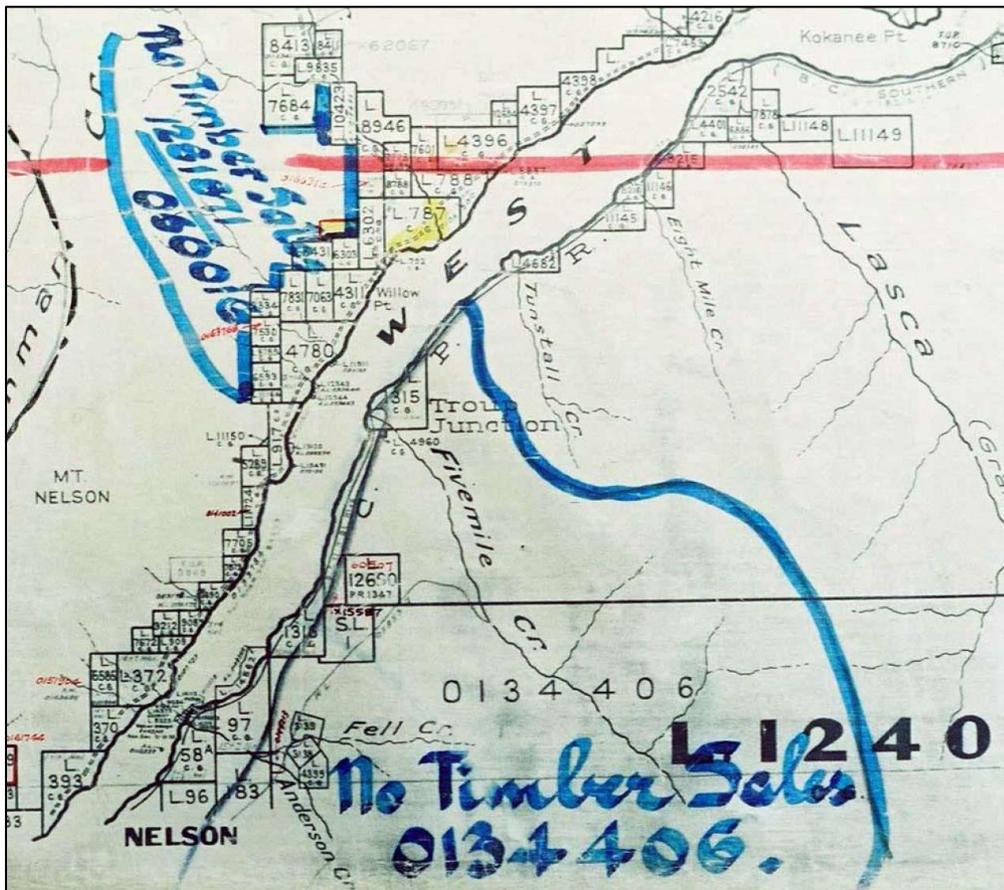
<sup>21</sup> Section 5.5.2., *General Land-Use and Environmental Legislation*.

<sup>22</sup> See Chapter 4.

<sup>23</sup> Quote from Appendix A of the BCTWA’s Big Eddy report.

Some of the earliest Community Watershed Reserves established under the *Land Act* in southeast BC were created in the 1920s, situated near, and including one for Nelson City. For instance, a list of 14 *Departmental Reserves for Watershed Protection* was presented as evidence (as Exhibit #392) during the first Sloan Royal Commission on Forestry in 1944, although many other Community Watershed Reserves scattered through other Water District and Forest District jurisdictions were not presented as evidence before the Commission.

Forest Atlas Reference Maps, the central forest planning reference tool for government foresters, clearly warned resource administrators how Community Watershed Reserves were off-limits to forest harvesting, and often had the words “**No Timber Sales**” boldly printed ovetop of said watersheds. Later, from the 1970s to the 1990s, formal government planning reference maps – Forest Atlas Reference Maps, Water Rights Reference Maps, and Lands Reference Maps – included the words “Watershed Reserves.” Ovetop of these, were references to each Reserve file number and a thick blue line denoting the watershed. There were dozens of Community Watershed Reserves on these maps by the late 1970s.



*Left:* Old canvas Forest Atlas Map showing one of many of the designated Community Watershed Reserves in the Nelson City area, with the standard proviso, No Timber Sales.

These are the historic and legislative origins of why the words “Watershed Reserve” are also found on Atco’s forest planning maps, which company Professional Foresters are wrongly claiming to be a “misnomer.”



## 5. The Deer Creek Watershed Reserve: 1942 to 1970

*This area was once held in what appeared to a tight watershed reserve for the residents of Deer Park.*<sup>24</sup>

*The original reserve was approved August 14, 1942 for the purposes of protecting the domestic and irrigation water-supply of the settlement known as Deer Park. It has been amended several times, but is still in good standing.*<sup>25</sup>

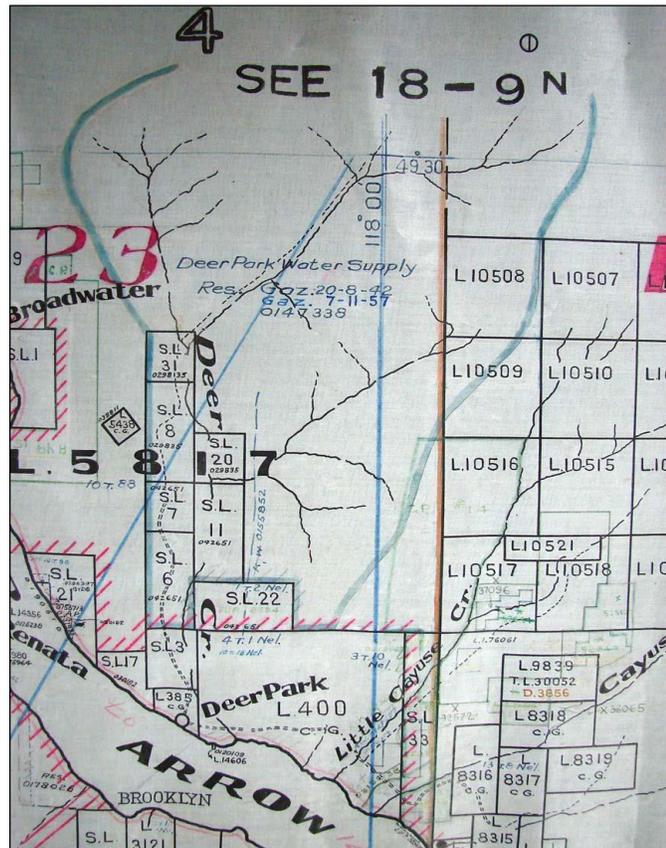
*... so much attention has been focussed on this watershed ....*<sup>26</sup>

During the April 29, 2016 Deer Park community meeting, a question was put to Kalesnikoff's Woodlands Manager Tyler Hodgkinson by a Deer Park resident about whether or not Deer Creek had been a Community Watershed Reserve "at one time." Hodgkinson's answer was an unequivocal "No," along which he quickly tagged the resident's (or perhaps anyone else's) Reserve inquiry as a "misnomer."

An old government file, however, contrarily and descriptively documents that from 1942 through to December 1970 Deer Creek's official status was in fact a Community Watershed Reserve, established through an Order-in-Council, and proclaimed in the BC Gazette.

In the summer of 1942, the Deer Park Farmer Institute petitioned Minister of Lands Wells Gray to protect Deer Creek from logging. In August 1942, under "provisions of Section 93 of the *Land Act*, Chapter 144, Revised Statutes, 1936,"<sup>27</sup> the meted watershed boundaries were reserved through Order-in-Council No. 1108:

*Notice is hereby given that the following described parcel of land is reserved for the purpose of protecting the domestic and irrigation water-supply of the settlement know as Deer Park, situated on Lower Arrow Lake, Kootenay District.*<sup>28</sup>



<sup>24</sup> W.G. Hughes, Forester, memo to BC Chief Forester, L.F. Swannell, May 25, 1970.

<sup>25</sup> I.T. Burrows, Forester, to H.M. Pogue, Forester, B.C. Forest Service, February 14, 1961.

<sup>26</sup> C.E. Bennett, Forester, Management Division, August 10, 1970.

<sup>27</sup> This is the same section as the 1960 Revised Statutes of BC (RSBC), being Section 88, Chapter 206.

<sup>28</sup> Notice by H. Cathcart, Deputy Minister of Lands, August 14, 1942, as written in the BC Gazette.

Government records also reveal that Lands Minister Wells Gray had authorized the establishment of numerous Watershed Reserves for BC's Water Users during his administration. Before his term in public office as Lands Minister, Wells Gray once held public office as Mayor of New Westminster, when and where he vigilantly fought to prevent logging in the City's protected drinking water source, the Coquitlam River watershed. The Coquitlam had originally been protected by federal law as a Watershed Reserve in 1910. The federal law was explicitly clear on the Reserve's intent which forbade the cutting and removal of timber. The government later named a provincial park in honour of the Lands Minister.

1970 government correspondence records reveal that, despite what forester Hodgkinson stated on April 29, 1970, the Kalesnikoff Lumbering Co. Ltd. had been informed about, and had known about, the tenure status of Deer Creek as a Watershed Reserve:

*We will not be in a position to proceed with the application by Kalesnikoff Lumbering Co. Ltd. without a current check of the status of lands at Deer Park and of the water licenses in the reserve, as correspondence on the reserve file indicates that there could be problems with the reserve while the water licenses are in good standing. This might be overcome by some agreement with Water Rights, but if it should be necessary to preserve watershed values, the plan of logging and logging costs will be affected. Kalesnikoff Lumbering Co. Ltd. should therefore be advised that this area cannot immediately be made available and a memo to this effect is attached.*<sup>29</sup>

According to correspondence records, Kalesnikoff Lumbering initially planned to access the headwaters of the untouched / un-roded Deer Creek Watershed Reserve through an existing

# PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Government of Canada has reserved, for special purposes, the lands surrounding and in the neighborhood of Coquitlam Lake as shown within the heavy lines on map below.

Any UNAUTHORIZED person in any manner occupying or taking possession of any portion of these lands, or cutting down or injuring any trees, saplings, shrubs, or any underwood, or otherwise trespassing thereon, will be prosecuted with the utmost vigour of the law.

By Order, **ROBERT ROGERS,**  
Minister of the Interior of Canada.

<sup>29</sup> C.E. Bennett, Forester, Management Division, March 25, 1970.

TELEPHONE 399-4211

**KALESNIKOFF LUMBERING Co. LTD.**  
"MANUFACTURERS OF FOREST PRODUCTS"

RECEIVED

FEB 15 1972

MINISTER OF LANDS, FORESTS,  
AND WATER RESOURCES OFFICE

DEPT. OF LANDS FORESTS AND WATER RESOURCES FOREST SERVICE P. O. BOX 10, THRU MS, B. C. .

February 8, 1972

FEB 15 1972

MAIL ROOM VICTORIA, B. C.

6147328

Comment	Reply Direct In Minister's Absence	
Discuss	Attention & File	
Report	Information & File	
Draft Reply		✓ April 10/72

The Honorable R.G. Williston,  
Minister of Lands, Forests,  
And Water Resources,  
Parliament Buildings,  
Victoria, B.C.

Re: Deer Park Timber Sale

Dear Mr. Williston,

Regarding my first letter to the District Forester at Nelson, B.C. on October 21, 1969, and my formal application on March 23, 1970, I have not, till today, received an answer as to if our application was accepted or not.

I have followed the application up by a few more letters in 1970 and 1971, and had verbally asked the District Forester if a decision was made. The only answer I get is that there has been no final word from Victoria and that it will be followed up again.

Forest Service logging road located in the Norns Creek Watershed, another old Community Watershed Reserve, because access to Deer Creek's upper mature forest limits were restrictive, surrounded by other watershed forest lands licensed to and located within Tree Farm Licence tenure No. 23.<sup>30</sup> Kalesnikoff's application for timber rights in Deer Creek started by way of introductory letter dated October 21, 1969, and by way of a "formal application on March 23, 1970."<sup>31</sup>

The records also show that despite ongoing pressure by Celgar Limited from 1955 to the early 1960s to include logging rights for the Deer

Creek Watershed Reserve in its Tree Farm License, professional foresters with the BC Forest Service had to continually remind Celgar's president, C.B. Dunham, at his headquarters office in Vancouver City, that the Deer Park Watershed was not, and could not legally be, part of Tree Farm Licence No. 23:

*Because of this prior reserve the area cannot be considered as part of Forest Management Licence No. 23.*<sup>32</sup>

*The description of Schedule B [of Tree Farm Licence agreement No. 23] applies only to lands not otherwise alienated at that time and therefore we do not consider this watershed reserve as being part of T.F.L. 23. This has been explained to Mr. Dunham on more than one occasion but he still tenaciously pursues the possibility of Celgar obtaining timber from this area as a part of T.F.L. 23.*<sup>33</sup>

On August 25, 1962, because of Mr. Dunham's constant nagging, the Forest Service went so far as to specifically advise the Department of Lands Chief Geographer, W.R. Young (in charge of

<sup>30</sup> "The watershed is isolated from the rest of the Salmo P.S.Y.U., being surrounded by the T.F.L." (Forest Service memo, June 14, 1971.)

<sup>31</sup> Peter P. Kalesnikoff, Manager, letter to Minister of Lands, Forests and Water Resources, R.G. Williston, February 8, 1972.

<sup>32</sup> W.G. Hughes, Forester, to C.B. Dunham, August 2, 1957.

<sup>33</sup> W.G. Hughes, Forester, Forest Service memo, June 14, 1962.

map registering land ownership status) in a descriptive memo that the Deer Creek Watershed Reserve “cannot be construed” as “part of Crown lands of T.F.L. 23.”

Celgar was a large forest corporation, and had acquired extensive forest area tenure rights granted in 1955 for its Tree Farm License No. 23 (formerly referred to as a Forest Management Licence). Celgar operated and owned a pulp mill in the town of Castlegar, located about 30 kilometers south-east of the Deer Park community.<sup>34</sup>

The Forest Service responded to C. B. Dunham, that if Celgar nevertheless wished to apply for a timber sale in the Deer Creek Watershed Reserve, the corporation would have to submit a logging proposal to the Water Rights Branch (a Branch under the Lands Department), as was the case for any other company or individual seeking to do so for lands reserved for water supply purposes. On August 2, 1957, Nelson District forester W.G. Hughes wrote to C.B. Dunham stating:

*An application for such a licence would have to be cleared through the Water Rights Branch of the Lands Department, and if there were any objections from the water users, it is not likely that timber within the reserve would be sold.*

However, correspondence records reveal that the Nelson Forest District considered Celgar unreliable when it came to logging in community or domestic watersheds.

*We do not consider that we have enough control on T.F.L. operations – most particularly where Celgar are the licensees – to insure against damage to the watershed.*<sup>35</sup>

Despite Celgar’s ongoing and failed lobbying attempts to obtain cutting rights in the Deer Creek Reserve tenure, the corporation nevertheless understood the public maxim for the resource protection of BC’s community watersheds. In a February 9, 1960 letter to BC’s Chief Forester, C.B. Dunham wrote the following:

*During discussion with the Forest Service when drawing up the final meets and bounds for the Tree Farm Licence contract, we asked about the Greely Creek Watershed near Revelstoke. We were told we could keep the area in the Tree Farm Licence but it was unlikely we would ever be able to cut in it as it was a municipal water supply. We then asked to have this area taken out.*

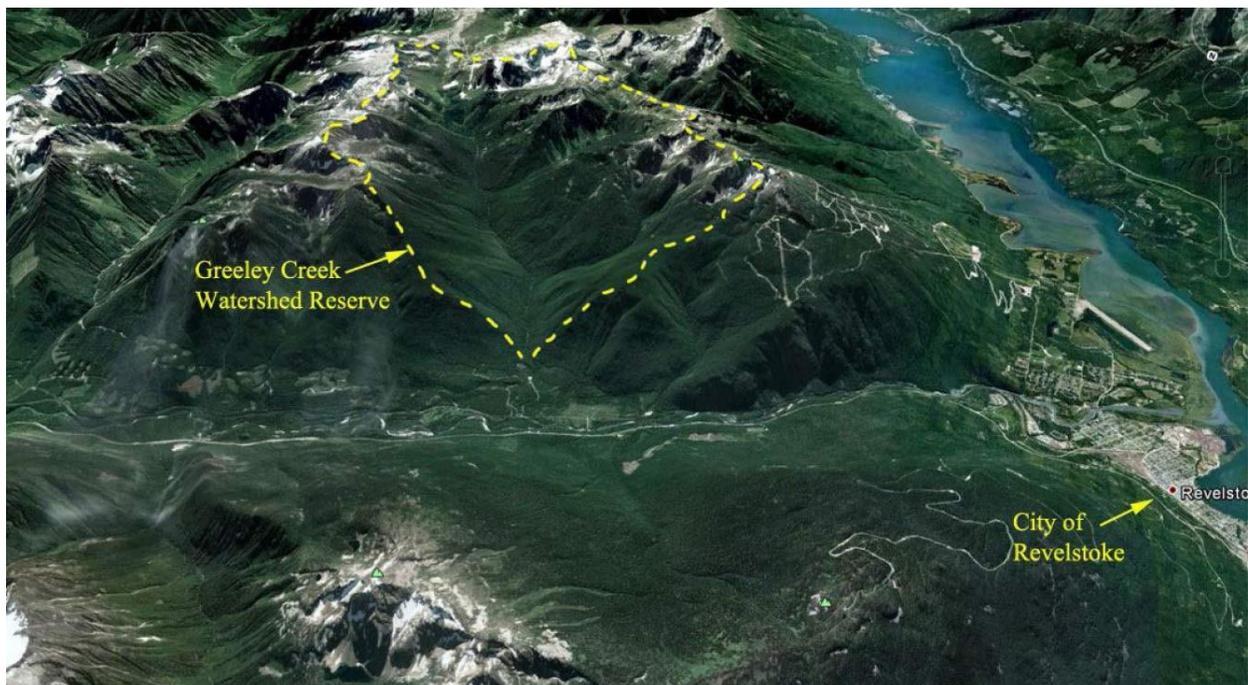
The BC Tap Water Alliance wrote a history of the Greely (alternatively, Greeley) Community Watershed Reserve in its 2013 major report, [The Big Eddy](#). It had been established by the federal government in 1917 specifically to protect the watershed from logging for the City of

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<sup>34</sup> “In 1970, ownership of the TFL was assigned to Skeena Kraft Ltd. and in 1991, it was assigned to Westshore Terminals Ltd., an affiliate of Westar Timber Ltd. During the period of Management Plan No. 7, the TFL was divided into two new licences. The southern portion of the original TFL was assigned to Pope and Talbot on April 15, 1992.” (Source: *Tree Farm Licence 23, Rationale for Allowable Annual Cut (AAC) Determination*, by Larry Pedersen, Chief Forester, 1999)

<sup>35</sup> R.V. Corregan, Forester, to B.C. Chief Forester, June 20, 1962. A December 6, 1972 letter to the Deputy Minister of Forests by a local resident Mr. Romaine described how TFL 23 logging in nearby Little Cayuse and Big Cayuse Creeks had been “ruthlessly raped by logging contractors within the past fifteen years.”

Revelstoke's water supply interests. These lands were formerly owned by the federal government within the former Railway Belt, a 500-mile belt of lands, by 40 miles in width. In 1930, the Railway Belt lands, and with it the ownership of the Greeley Watershed Reserve, soon to be Revelstoke City's primary source of protected water supply, was transferred to the BC government by way of a lengthy agreement. As part of the special conditions of transfer, the Greeley remained a protected *Land Act* Watershed Reserve, which was never logged. As with the federal government, BC also abided by similar legislation and means to protect public drinking water sources by way of formal, legal reserve tenures. In 1955, the Forest Service nevertheless unlawfully included the Greeley Reserve within the new tenure boundary of Forest Management License (TFL) No. 23.



With B.C. Hydro's proposal in the early 1960s to flood the Arrow Lakes drainage south of Revelstoke, with the construction of a large dam located just northwest of Castlegar, the new and immense reservoir would flood out many of the structures of the Deer Park community, with high flood waters being raised by almost 50 feet. This outcome became a golden opportunity by the Forest Service to "lift" the Deer Creek Watershed Reserve, as the Deer Park community, Forest Service foresters argued and presumed, would have to move away, and therefore abandon its water licenses and dependence on Deer Creek.

*If High Arrow is projected it is quite likely that the community of Deer Park will move away and the reserve can be lifted. Prior to lifting this reserve final plans could be approved in principle as to whether or not this forest would be added to T.F.L. No. 23 or added to the Salmo S.Y.U. [Sustained Yield Unit].*

*In the meantime it would be unwise to establish any priority of claims against the productive capacity of the area. Under present circumstances, any attempt to plan timber sales would involve the complications of dealing with the wishes of the community,*

*probably through the District Water Engineer, and even if it was possible to design a method of cutting which would receive the blessing of the community, operations might lead to problems in public relations.*<sup>36</sup>

*At present the maximum high water at Deer Park is 1,402 feet. Clearing for the dam will be to 1,448 feet. This extra 46 feet will flood the lower half of Deer Park but not the upper half. Before taking any further action we should wait and see if the whole settlement is to be abandoned or not.*<sup>37</sup>

*Re yours of June 14, 1962 and ours of June 2, 1962. Is Deer Creek Water Shed now considered to be included in the Salmo P.S.Y.U. for purposes of Timber Sale administration?*<sup>38</sup>

*Re your 240, Deer Creek watershed not in Salmo P.S.Y.U. STOP Understand residents in area relocating to higher ground. STOP Therefore final decision re status of reserve area should be delayed until settlement picture clarifies.*<sup>39</sup>

In the first quote above, the Salmo S.Y.U., or Sustained Yield Unit, was officially called the P.S.Y.U., or Public Sustained Yield Unit. Its planning boundaries extended from its western limits just west of the City of Rossland, the southern boundary being the U.S. Border, or 49<sup>th</sup> Parallel, the northern boundaries at the headwaters of Deer Creek eastward to just south of Nelson City, and its eastern boundaries on the headwaters of the mountain ranges located just east of the Township of Salmo. Within the boundaries of the Salmo PSYU were dozens of community watersheds, domestic watersheds, and Community Watershed Reserves, wherein top government foresters schemed to invade these protected sources.

On December 1, 1970, an Order in Council Distribution Form No. 1 was filled out, and under *Subject Matter* was the following: *Cancellation of Deer Creek Watershed Reserve*. Copies of Form No. 1 were sent to Deputy Minister of Lands D. Borthwick, Surveyor of Taxes J.O. Moore, Nelson Land Commissioner G.L. Brodie, Nelson Land Inspector H.K. Boas, Lands Administration C.W. House (in charge of Reserves), and W.G. Hughes with Management Division of the BC Forest Service. The Reserve was cancelled on December 4<sup>th</sup>, and on December 9, 1970, Deputy Lands Minister Borthwick declared the cancellation of the Reserve for notice in the BC Gazette.

Two weeks after the Deer Creek Reserve was cancelled, on December 17, 1970, Nelson District Forester J.R. Johnston wrote the following to the Canadian Cellulose Company Limited's Nakusp office:

*We have been advised that the Order-in-Council establishing this watershed has been cancelled and disposition of the area can now proceed.*

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<sup>36</sup> H.M. Pogue, Forester, Working Plans Division, to Assistant Chief Forester J.S. Stokes, November 5, 1962.

<sup>37</sup> J.R. Burrows, June 17, 1965.

<sup>38</sup> J.F. Munro, Nelson District Forester, to Victoria, Forest Service Management, Radiogram, July 25, 1966.

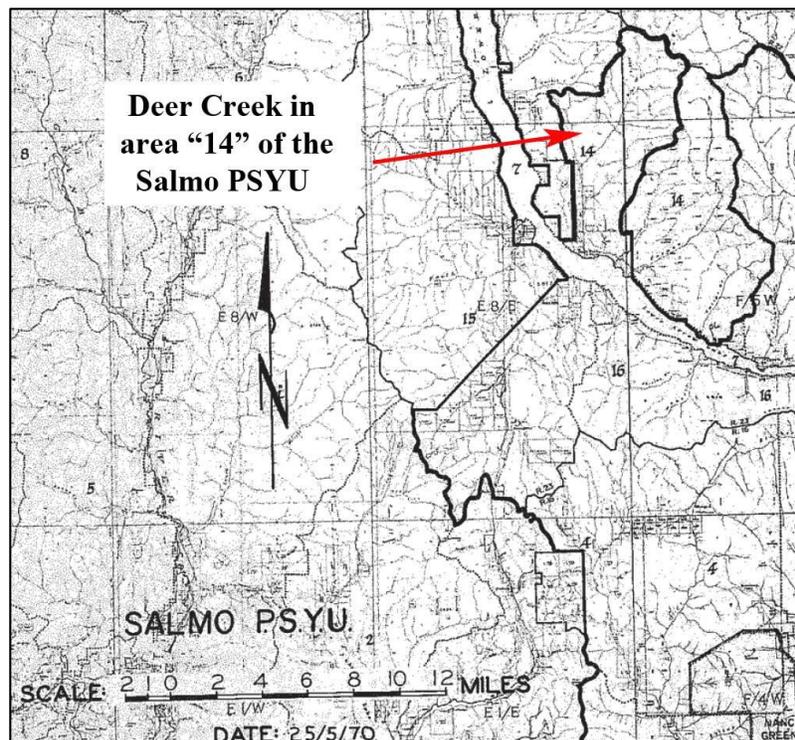
<sup>39</sup> W.G. Hughes, Victoria, Forest Management, Radiogram, July 26, 1966.

When Nelson District’s top forester states that “disposition of the area,” that is of Crown lands, “can now proceed,” it is significant because therein Johnston admits that dispositions or licensing of Crown land could not have legally occurred beforehand, because of the Reserve designation. It’s also significant, because seven years previous BC’s Chief Forester, F.S. McKinnon, refuted the very legislation. McKinnon stated in an internal memo in 1963 that the same Watershed Reserve legislation under the *Land Act* for Rossland City’s three watersheds, which prevented and protected those Crown lands from “disposition,” was “open to misunderstanding” (see Section 8 below). J.R. Johnston simply confirmed that the Chief Forester’s “misunderstanding” of the Reserve legislation was unfounded and unwarranted.

Though the Deer Creek Watershed Reserve had not been officially cancelled until December 4, 1970, a June 14, 1971 Forest Service memo states that the Nelson Forest District had already quietly included the Watershed Reserve in the Salmo PSYU (within the Salmo Provincial Forest), six months previous, through an amendment made on May 25, 1970. The order to “amend the description of the P.S.Y.U. to include the Deer Creek watershed” by Chief Forester L.F. Swannell<sup>40</sup> before the Reserve was formally cancelled, was unlawful, as *Land Act* Order-in-Council Reserves and Map Reserves are Crown Lands frozen from disposition. Both Reserve categories are formally identified as such through provincial Land Ownership Code designations for provincial Crown Land planners under a restriction category, which automatically excludes the reserved Crown Lands from the timber harvesting land base or any other permit licensing.

To counter this legal problem / difficulty, records indicate that top administrative foresters in the BC Forest Service nevertheless quietly began including Community Watershed Reserves into the Province’s PSYUs (later renamed as Timber Supply Areas, TSAs),<sup>41</sup> ignoring their restrictive Land Ownership Code status. This was the evidently the case for the Glade Creek Watershed Reserve.

**Right:** Forest Service map amendment, May 25, 1970, shows Deer Creek Reserve now in Salmo PSYU.



<sup>40</sup> L.F. Swannell memo, to Inventory Division, May 25, 1970.

<sup>41</sup> 85 PSYUs were converted into 33 Timber Supply Areas (TSAs): “The new management units were mapped out so that timber harvested within a TSA could logically be used to supply processing plants located within the same TSA.” Source: 1983 *Report of the Ministry of Forests*. By 1993, there were a total of 36 TSAs.

## 6. Pre-eminence and Doctrine of Consent: Government Assigned Conditional Rights to BC's Water Users to Refuse Logging Proposals Et. Al. in their Community Watershed Reserves

*... the Department [of Lands] would not entertain any alienation with the Reserve without the consent of the City of Rossland ....*<sup>42</sup>

The Deer Creek Watershed Reserve file includes memos about a standard government referral process. The Forest Service was required to notify the Water Rights Department about a timber sale application in the Deer Creek Community Watershed Reserve before any approvals on the timber sale could be made. In turn, the Water Rights Department's Water Engineers, who were put in charge of Community Watershed Reserves decades previous, had to seek official consent from the Deer Creek Water Purveyors for the timber sale application, or any other resource application, in the Purveyors' assigned Watershed Reserve. Without the Water Purveyor's consent, no Crown land "dispositions" were processed.

MEMORANDUM	
TO: Chief Forester	DEPT. OF LANDS FORESTS AND WATER RESOURCES FOREST SERVICE
Parliament Buildings	DISTRICT FORESTER
Victoria, B.C.	Nelson, B.C.
	AUG 24 1970
	MAIL ROOM
	VICTORIA, B.C.
REFER TO YOURS OF	MY FILE: M. P.S.Y.U., Salmo
	FILE: 0147338, 0272566
	M. Watershed - Deer Creek
August 18th, 1970	
Attention: Mr. C.E. Bennett, Management Division	
Reference your memorandum August 10th, 1970 concerning the Deer Creek Watershed.	
We have contacted Mr. Tom Oxland, District Water Rights Engineer in Nelson on this matter and he feels that the water users still in the area that called for the reserve in the first place should be consulted. In this regard he plans a field trip to the area around the first of September, following which he will give us a letter expressing his views on the advisability of a sale in the watershed.	
As a result of the above you can expect to be advised on this matter about September 15th.	

For instance, a memo from Section 5 of this report refers to the "blessing" and "wishes of the community":

*Under present circumstances, any attempt to plan timber sales would involve the complications of dealing with the wishes of the community, probably through the District Water Engineer, and even if it was possible to design a method of cutting which would*

<sup>42</sup> D. Borthwick, Superintendent of Lands, January 15, 1965.

*receive the blessing of the community, operations might lead to problems in public relations.*

Another memo of August 18, 1970, sent to the Chief Forester concerning Deer Creek:

*We have contacted Mr. Tom Oxland, District Water Rights Engineer in Nelson on this matter and he feels that the water users still in the area that called for the reserve in the first place should be consulted. In this regard he plans a field trip to the area around the first of September, following which he will give us a letter expressing his views on the advisability of a sale in the watershed.*

In 1946, the Kamloops District Forest Service bypassed sending a referral memo to the Water Rights Department, sending instead a letter directly to the City of Revelstoke regarding a timber sale application in the Greeley Creek Watershed Reserve. Both the City and the Medical Health Officer rejected the application:

*The Council urgently request you to refuse sale of Sections 22 and 27 which is within two sections of Greeley Water Shed. Such action would impair, if not destroy, Revelstoke's water supply if sold for logging purposes.*

*Your safeguarding of this utility is essential to the health of the community and the Council would appreciate telegraphic assurance of your refusal to sell or dispose of the rights on this water shed.*<sup>43</sup>

*The Revelstoke City Council have informed me that an application has been made to purchase certain lands for logging purposes in the Greeley Creek watershed.*

*Greeley Creek, as you know, serves as the main source of Revelstoke's water supply.*

*As City Health Officer and in the interest of the health of this community I would strongly recommend that no action be taken with regard to the sale of these lands for logging purposes.*<sup>44</sup>

On July 13, 1946, Kamloops District Forester A.E. Parlow dispatched a telegram to the applicant, John Berducci, stating that:

*Your application to purchase cedar poles on portions of Sections twenty two and twenty seven in Township twenty three Range One disallowed as these areas within Revelstoke Watershed Reserve.*

From 1952 through to 1965, the Forest Service had repeatedly badgered the Big Eddy Water Purveyor Trustees with numerous timber sale applications in the Dolan Creek Watershed Reserve, located just west of the City of Revelstoke. The Big Eddy Trustees were vigilant,

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<sup>43</sup> City of Revelstoke City Clerk, July 12, 1946.

<sup>44</sup> Medical Health Officer A.L. Jones, July 12, 1946.

continuously rejecting and refusing the applications.<sup>45</sup> Because of the Trustees repeated refusals, District Forester Hesketh finally ended the matter in an August 6, 1965 response letter, stating to the Trustees that “there will be no conflict with the Dolan Creek Watershed Reserve.”

Similar rejections were made in 1941 and 1947 by the City of Rossland for timber sale applications forwarded to the City by the Forest Service.

*Lot 1656, Kootenay District, about which you have received an enquiry for a timber sale, is situated adjacent to the area withdrawn from any disposition under the “Land Act”, which has been set aside for the use of the Corporation of Rossland for watershed purposes.*<sup>46</sup>

*In reference to application of the above named for a timber sale for dead material on an area within the Rossland City Watershed, instructed to advise that the City Council at its last regular meeting passed a resolution protesting the sale in question.*<sup>47</sup>

*Attached copy of application and City Council’s objection. May we have your authority to notify applicant of disallowance. For our information. May we turn down or discourage an application under circumstances like these without further reference to your office?*<sup>48</sup>

This doctrine of consent concerning Watershed Reserves had been in place for decades, much to the chagrin of some top administrative foresters in government who had other plans in mind.<sup>49</sup> Numerous government documents reveal that some Forest Service foresters often attempted to circumvent or even ignore this doctrine and the policy that governed over the Watershed Reserves.

Though Watershed Reserves were implemented to legally protect the forests under a recent definition of “conservation lands,”<sup>50</sup> foresters nevertheless sent timber sale proposals to the Reserves’ Water Purveyors hoping that by tempting or refining the doctrine and the Reserve policy one or two proposals might nevertheless slip through. Some foresters became dishonest, shifty and sometimes ruthless about both the doctrine and the law. Many of the large and small forest companies were of the same mind.

Government records indicate that by 1967 the Forest Service gained influence over the Water Rights Department, with the Department’s Director now a willing political partner in colluding to revise the doctrine of consent. The Director would now inform his Water Rights Engineers to include new instructions to Watershed Reserve Water Purveyors that they would have to consent to forest management.

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<sup>45</sup> See Chapter 3, 1952-1965: *The Early, Successful Vigilance of Big Eddy Against the Forest Service’s Intention to Log the Dolan Reserve*, in [The Big Eddy](#) report.

<sup>46</sup> S.E. Marling, Assistant Forester, July 17, 1941.

<sup>47</sup> Rossland City Clerk, August 27, 1947.

<sup>48</sup> Nelson Forest District memo to Victoria Forest Service headquarters, August 29, 1947.

<sup>49</sup> Refer to Section 8 of this report for a brief discussion.

<sup>50</sup> “Non-administered conservation lands under the Land Act: Order-in-Council (OIC) reserves, Map Reserves (MR).” Source: *Northeast BC Conservation Lands Review Project*, January 2015.

Small wonder BC's Water Purveyors and Water Users were complaining to government, the skyrocketing complaints of which led the Environment and Land Use Technical Committee to eventually establish the first provincial Task Force on community watersheds in February 1972, a Task Force it authorized in 1973 to establish, and or re-establish, dozens of Community Watershed Map Reserves.

By the 1980s onward, the Ministry of Forests / Forest Service no longer sought the referral advice from Water Purveyors about timber sales or timber tenures in Community Watershed Reserves. By the mid-1980s, the Ministry of Forests no longer even made reference to "Community Watershed Reserves" in formal planning documents, nor in correspondence files to, or information sessions with, BC's Water Purveyors and Water Users. Unmistakably corrupt, in the 1990s the Ministry of Forests sought to conceal the Watershed Reserve tenures from the public, because the Ministry was now routinely breaking the Map Reserves' tenure law, allowing indiscriminate timber harvesting licensing within them. As described below in Sections 8 and 9, by 1993 this was the unwitting predicament facing the Glade Creek Irrigation District.

Government later redefined or altered the Doctrine of Consent assigned to BC's Water Purveyors concerning Community Watershed Reserves. These Community Watershed Reserves, and other similar Reserves, now referred to as "non-administered conservation lands," are assigned to the Ministry of Environment as "the interest holder."

*All industrial activities proposed within a non-administered conservation land require referral to the interest holder for review and comment resulting in a significant work load for both the Land Act administrators and the interest holders. It is therefore essential to ensure that conservation and files remain pertinent to the current values and priorities of the interest holder.*<sup>51</sup>

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<sup>51</sup> *Northeast BC Conservation Lands Review Project, Executive Summary, January 2015.*

## 7. 1963 – BC’s Chief Professional Forester Calls Community Watershed Reserves into Question, Taking Matters one Step Further: He Breaks the Law by Authorizing Timber Sales

Atco’s and Kalesnikoff’s foresters are not the only Registered Professional Foresters to have publically denied or called into question the lengthy tenure history of BC’s Community Watershed Reserves. Patterns of disavowal, repudiation, refutation and denial stem back more than fifty years.

In December 2008, the BC Tap Water Alliance published [\*Good Servants / Bad Service: An Examination of Records and Reports Relating to Rossland City’s Drinking Watershed Reserves \(1923-2002\)\*](#). The report included statements of denial made in April 1963 by BC’s Chief Forester, F.S. McKinnon.

In an April 23, 1963 memo, Forester McKinnon called into question the Lands Department’s lengthy administrative history “of **these so-called watershed reserves.**” Making reference to a document in the Lands Department’s Rossland Community Watershed Reserve file, which stated “that the area [Rossland City’s three adjoining watersheds] has been withdrawn from any disposition under the Land Act”, McKinnon wrote that legislative protection of a community Watershed Reserve, which forbade timber sales, was “**open to misunderstanding.**” Rather than admitting the simple plain truth about the Reserve’s rights and powers granted by government to the City of Rossland that protected its three watersheds from logging, forester McKinnon, under a corrupted Department of Forests, urged his underling foresters to bully-talk the City of Rossland officials down: it “will require education of their officials as to what to expect from well conducted logging operations.” McKinnon also daringly and openly stated in the same memo that “there is no doubt such timber must be included in the capital growing stock of the S.Y.U.”, the Salmo Public Sustained Yield Unit.

Contrary to the legislative powers that protected Rossland City’s collective Reserve tenure from logging, sometime after April 1963 Chief Forester McKinnon authorized the Nelson Forest District to issue a series of Timber Sales within Rossland City’s Watershed Reserve.

*Logging within the watershed reserve has been a very controversial issue, hence the inspection to determine what could be done to solve some of the problems experienced by the operator and the City.*

*Ranger Wood has been constantly bombarded with complaints from various officials from the City of Rossland, and the City Engineer, Mr. Evans, appears to be ready to jump at the least sign of muddying of the streams caused by road construction or logging. Mr. Hebert, the District Health Inspector, has also apparently stated that he will shut the operation down if there is the least muddying of the water systems. There would appear to be a definite lack of communication between all parties concerned, and therefore it is suggested that every effort be made to bring both parties, especially the licensee and the City Engineer, together to discuss and agree on mutual problems.*<sup>52</sup>

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<sup>52</sup> Inspection report by R.F. Bryant, Victoria headquarters forester, August 25, 1965.

Two and half years previous, during the December 1960 Christmas holidays, Assistant Chief Forester L.F. Swannell was busy constructing a memo to all his top foresters in the Province's Forest Regions (formerly called "Districts"). After the W.A.C. Bennett Social Credit administration gifted Tree Farm Licensees means to log in community watersheds included within the boundaries of their 25-year renewable tenures, Swannell manufactured a bold and shameful deception to mislead BC's trusting Water Purveyors and Users, under what appears to have been a Departmental invasion or coup against BC's Watershed Reserves. A Section of the strategic memo included the following sleazy instructions:

*The existing practice of consulting the District Water Engineer, Municipal Clerk or Irrigation District Manager regarding such [timber] sales should be maintained but the letters should be worded to suit the individual cases according to the legal status of the area, and **care should be taken not to imply** that the party concerned has any timber disposal rights or priorities which do not legally exist. **In the case of a timber sale in a municipal watershed reserve**, for instance, rather than asking if the municipality has any objection to the proposed sale, **it is preferable to state** that the sale is proposed and ask if there are any special conditions they wish us to consider for insertion in the contract.*  
[Bold emphases]

In June 1962, one and a half years later, Nelson District Management forester R.V. Corregan wrote the following in a memo to the Chief Forester, regarding the discussion about the fate of the unlogged Deer Creek Watershed Reserve:

*At the outset we would point out that we strongly favor logging under strict control **within these reserves** unless there are reasons for assuming that such logging would have serious effects on the watershed. **We are actively promoting the harvesting of mature timber in these areas, and with considerable success.** [Bold emphases] By the same token we are quite sensitive about granting cutting rights where we suspect that this may have unfortunate results since such action might destroy public confidence in our program and undo all our good work to date.*

*We do not consider that we have enough direct control on T.F.L. operations ... to insure against damage to the watershed.*

*Assuming there are no reasons to the contrary (silvicultural or involving soil stability) we would favor granting a timber sale within the [Deer Creek] reserve. It follows that the reserve should be included in the Salmo S.Y.U. which is short of mature timber anyway.<sup>53</sup>*

Similar patterns of corruption on the invasion of protected Community Watersheds were also ongoing in the United States. Documents obtained from Washington State County archives in 1994 describe that this assault was organized by the timber industry, using a logging program in Seattle City's Cedar Creek watershed as an international public relations platform.

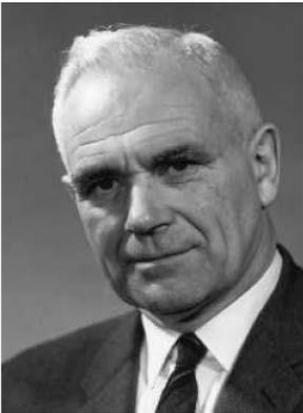
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<sup>53</sup> June 20, 1962. The comment about including the Deer Creek Watershed Reserve in the SYU is evidence of what the Forest Service was unlawfully doing, including *Land Act* Reserves into the timber harvesting land base.

Other records obtained from Portland City concerned citizens document that by 1958, the U.S. Forest Service began authorizing illegal road and logging permits in Portland City's Bull Run Watershed Reserve. U.S. Federal legislation enacted since 1892, had protected the Bull Run watershed's forest lands from logging, human trespass and cattle grazing. After a lawsuit was filed in 1973 against the U.S. Forest Service, by 1976 the Oregon Court Judge found the U.S. Forest Service guilty of breaking the U.S. Federal law that protected the Bull Run watershed.

Despite the initiatives from the BC's Chief Forester's office to misdirect other government foresters and civil servants over the administration of Watershed Reserves, some foresters in BC's Forest Service weren't always towing the line. Nelson Forest District forester H.D. Bancroft wrote the following in August 1966 concerning the Genelle Improvement District's protests against logging in the China Creek watershed, located southwest of Castlegar, then included in the Salmo PSYU:

*Your Improvement District has no Map Reserve on the China Creek Watershed. This means that apart from the use of water granted under your water licence you have no control over the activities of other people or interests within the said watershed.*

	<p style="text-align: center;"><b>TOP MEN OF BC's TIMBER BUREAUCRACY 1958-1972</b></p> <p><i>Top left:</i> Ray Williston, Social Credit Party Minister of Lands and Forests (1958-1962), and then Minister of Lands, Forests and Water Resources (1962-1972), on whose watch the provincial Watershed Reserves were wrongfully under attack.</p> <p><i>Bottom Left:</i> R.G. McKee. When the position of Deputy Forests Minister was established in 1958, he was the Chief Forester. From 1958-1959, he held both positions. From 1959-1964 he was Deputy Forests Minister.</p> <p><i>Top Right:</i> F.S. McKinnon. Chief Forester, 1959-1965; and Deputy Forest Service Minister, 1965-1968.</p> <p><i>Bottom Right:</i> L.F. Swannell. Kamloops District (Regional) manager, 1952-1958. Assistant Chief Forester, 1958-1965. Chief Forester from 1965-1972.</p>	
		

**Above:** Excerpt photos from Chapter 2.5, *The Chief Forester Signals the Invasion of Community Watershed Reserves*, in *The Big Eddy* report, page 76.

## 7.1. The Ministry of Forests' Demonstration Forest Initiative Next Door to the Glade Creek Watershed Reserve

*The MoF Nelson Regional office had a principal public deception objective in mind during the 1980s regarding drinking watersheds within its operational boundaries. During this period, the MoF placed considerable pressure on the City of Nelson beginning in 1982 to log its pristine water source, Five Mile Creek, one in a cluster of adjacent Watershed Reserves created since the 1930s for the City. The aim of the MoF was to render the City's drinking watershed area into a "demonstration forest" in order to influence communities throughout the Ministry's regional boundaries to, in turn, log in their community and domestic watersheds.*<sup>54</sup>

In Chapter 8 of the 2013 [The Big Eddy](#) report, the BC Tap Water Alliance published an account from government records about how the Ministry of Forests became involved in suckering the public through a public relations or propaganda program called Demonstration Forests. Under the tutelage of Deputy Forest Minister Mike Apsey (1978-1984), a former executive of the Council of Forest Industries, in the early 1980s the new Ministry of Forests linked arms with the Council of Forest Industries in the creation of Demonstration Forests.

*Throughout BC, the MoF's Regional offices were experiencing significant public opposition to logging in community watersheds. In particular, the Nelson MoF Regional office was acutely aware of this issue through many ongoing experiences with local communities over the previous twenty-odd years. The proposals for and introduction of logging in formerly protected community and domestic water sources was highly sensitive, controversial, and politically explosive. It was part of what many civil servants understood as being 'on the front lines', what an MoF employee recently stated in a power-point history presentation on public relations in the Kootenays – "like being tossed into a boiling pot and told to make it stop."*

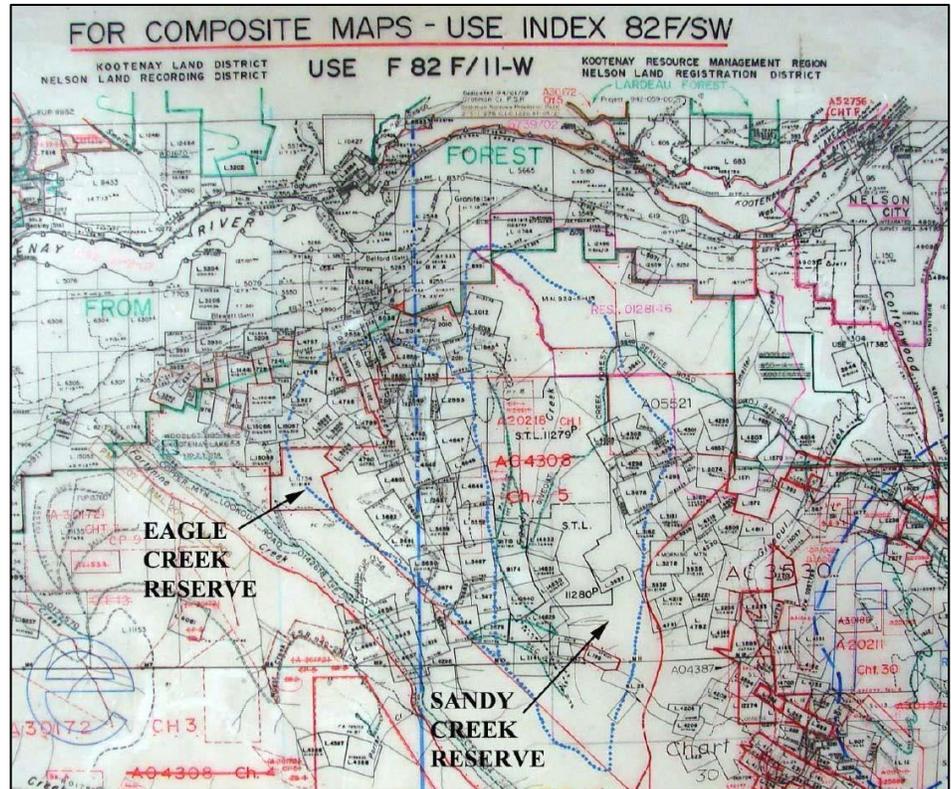
*In order to bring about some measure of public acceptance, professional foresters in the MoF forged an alliance with local forest companies – vis-à-vis the Council of Forest Industries – to devise public relations strategies to do so. The principal public relations method chosen was to establish "show me" or demonstration forums in a targeted drinking watershed, where, hopefully, representatives from that candidate water users' or purveyor's community would first approve or consent to a logging rate and program, and would then cooperate with the government and private industry to sucker and synergize other water users. As explained below, it had been done before on two separate occasions in the Pacific Northwest, and was simply resurrected and reapplied.*

Because the Ministry of Forests was unable to influence the City of Nelson by logging its protected Community Watershed Reserves, and therefore was unable initiate a Demonstration Forest, the Ministry opted for doing so in the neighbouring community of Blewett, located just east of the Community of Glade. The community of Blewett had two Community Watershed

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<sup>54</sup> From Section 8.2, *Too Much at Stake*, in *The Big Eddy: A History of the Big Eddy Waterworks District and its Long-Standing Battles to Protect the Dolan Creek Watershed Reserve*, September 30, 2013.

Map Reserves over Sandy and Eagle Creeks, wherein Atco has a forest tenure. Kalesnikoff has a forest tenure to the west of Atco's tenure, on the west side of Fortynine Creek extending over to the Glade watershed. The Ministry of Forests was successful in luring the Blewett community into accepting a logging and Demonstration Forest program in its drinking water sources.



*The new demonstration forest location proposal in the small community of*

*Blewett's drinking watershed sources was introduced as a special case study at a February 9, 1982 Seminar on Protection on Community Watersheds, held in the former Robson Square Media Centre in Vancouver City's downtown core. Carl Highstead, MoF Headquarters Director of Planning, was the chairman of the 'in-house' one-day session that was attended by fifteen other MoF and Ministry of Environment delegates, including the provincial commander, Chief Forester Bill Young.<sup>55</sup>*

On October 31, 1985, both recently retired Chief Forester Bill Young, and Mike Apsey recently retired from government and now CEO of the Council of Forest Industries, attended the inaugural and unauthorized<sup>56</sup> meeting of the Seymour Advisory Committee, regarding the formation of the Seymour Demonstration Forest. The Demonstration Forest was meant to launch an international propaganda logging program in Metro Vancouver's three drinking watershed sources, the Capilano, Seymour and Coquitlam. From 1989 to 1995, the Ministry of Forests, a major funding partner, contributed \$530,000 of taxpayer funds into the operational activities of the Seymour Demonstration Forest. In February 1999, after the BC Tap Water Alliance presented a critical report called *Seymourgate*, the Greater Vancouver Water District disbanded the Seymour Advisory Committee, stopped the logging program, and reassigned the Demonstration Forest lands as the Lower Seymour Conservation Reserve. On November 10, 1999, after another special two-hour meeting, the Greater Vancouver Water District Board Mayors voted to end the logging in its drinking watersheds.

<sup>55</sup> Ibid.

<sup>56</sup> As explained on page 31 in the December 1997 *Seymourgate* report, the Seymour Advisory Committee was created through the approval of Water District Commissioner Doug MacKay, but without the approval of the Greater Vancouver Water District Board, a big no-no.

## 8. The West Kootenay-Boundary Land Use Plan: the Exclusion of the Glade Creek Community Watershed Map Reserve and other Community Watershed Reserves

*The proposed West Kootenay-Boundary and East Kootenay land use plans are being published simultaneously after a year and a half of intensive public participation, supported by detailed information from a variety of government agencies working together. ... This linking of provincial, regional and local objectives is key both to the effectiveness of the developing provincial land use strategy and to bringing an end to the conflict that has divided communities in the region.*<sup>57</sup>

The New Democratic Party (NDP) administration ushered in a series of Regional, Sub-Regional, and Local Land Use Planning initiatives in the 1990s. Two of those Higher Level Plans included the *East Kootenay Land Use Plan* and the *West Kootenay-Boundary Land Use Plan (WKBLUP)*, regional planning processes in southeastern British Columbia which officially began in early 1992 and ended by late 1994.

The two Regional Plans would set out to establish new “Special Management” logging criteria in Community and Consumptive-Use watersheds,<sup>58</sup> under the looming shadow of new Community Watershed Guidelines associated with the proposed *Forest Practices Code Act* that became law in June 1995. The WKBLUP promised that:

*The new Forest Practices Code and community watershed guidelines should result in more consistent protection of consumptive-use watersheds.*<sup>59</sup>



The Commission on Resources and Environment recommended to the government that:

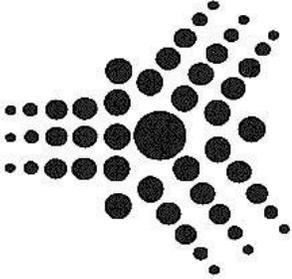
*Progress on domestic watershed planning in the region be reinforced and enhanced by various means, consistent with the requirements of the Forest Practices Code and community watershed guidelines, including: .... (b) strengthened legislation, regulations*

<sup>57</sup> Commission on Resources and Environment, *West Kootenay-Boundary Land Use Plan*, Overview, October 1994.

<sup>58</sup> As stated in the Overview section, the Land Use Plan “recommends that Special Management Areas, Integrated Use Areas and Dedicated Use Areas be designated as Resource Management Zones under the Forest Practices Code.”

<sup>59</sup> *West Kootenay-Boundary Land Use Plan*, page 84.

and policies measuring, maintaining and protecting water quality, quantity and timing of flow, as well as quality and sustainability of groundwater.<sup>60</sup>



**COMMISSION ON  
Resources and  
Environment**

**OVERVIEW** October 1994

The West Kootenay–Boundary and East Kootenay land use plans are the third and fourth regional plans (after Vancouver Island and Cariboo-Chilcotin) developed and recommended for government and public consideration by the Commission on Resources and Environment (CORE) in 1994.

The B.C. legislature created CORE by statute (the Commissioner on Resources and Environment Act) in July 1992 for three primary reasons:

- to ensure the sustainability of a natural resource–based economy after a century of increasingly intense resource extraction, and sustainability of the ecosystems that support all economic and non-economic activities in the province
- to increase the level of meaningful public participation in land use and resource management decisions.
- to address aboriginal concerns about land and resource use on the traditional territories of First Nations.

To address these concerns, the *Commissioner on Resources and Environment Act* provided for the creation of a sustainable provincial land use strategy, at the heart of which would be the development of comprehensive land use and resource management plans throughout the province, at the regional and community levels. The Act provided for regional plans to deal with land allocation issues, and community-based plans to address land use and related resource and environmental issues.

When CORE was created, the provincial government asked that priority be given to regional plans for the Kootenays, Vancouver Island and the Cariboo-Chilcotin, which had a history of conflict over land and resource use. The Kootenays have boundaries identical to the Nelson Forest Region, in the southeastern corner of B.C.

Local forest company Atco Wood Products, headquartered in Fruitvaile, located east of the City of Trail, would later advertise the *WKBLUP* in its forest license management literature. I.e.:

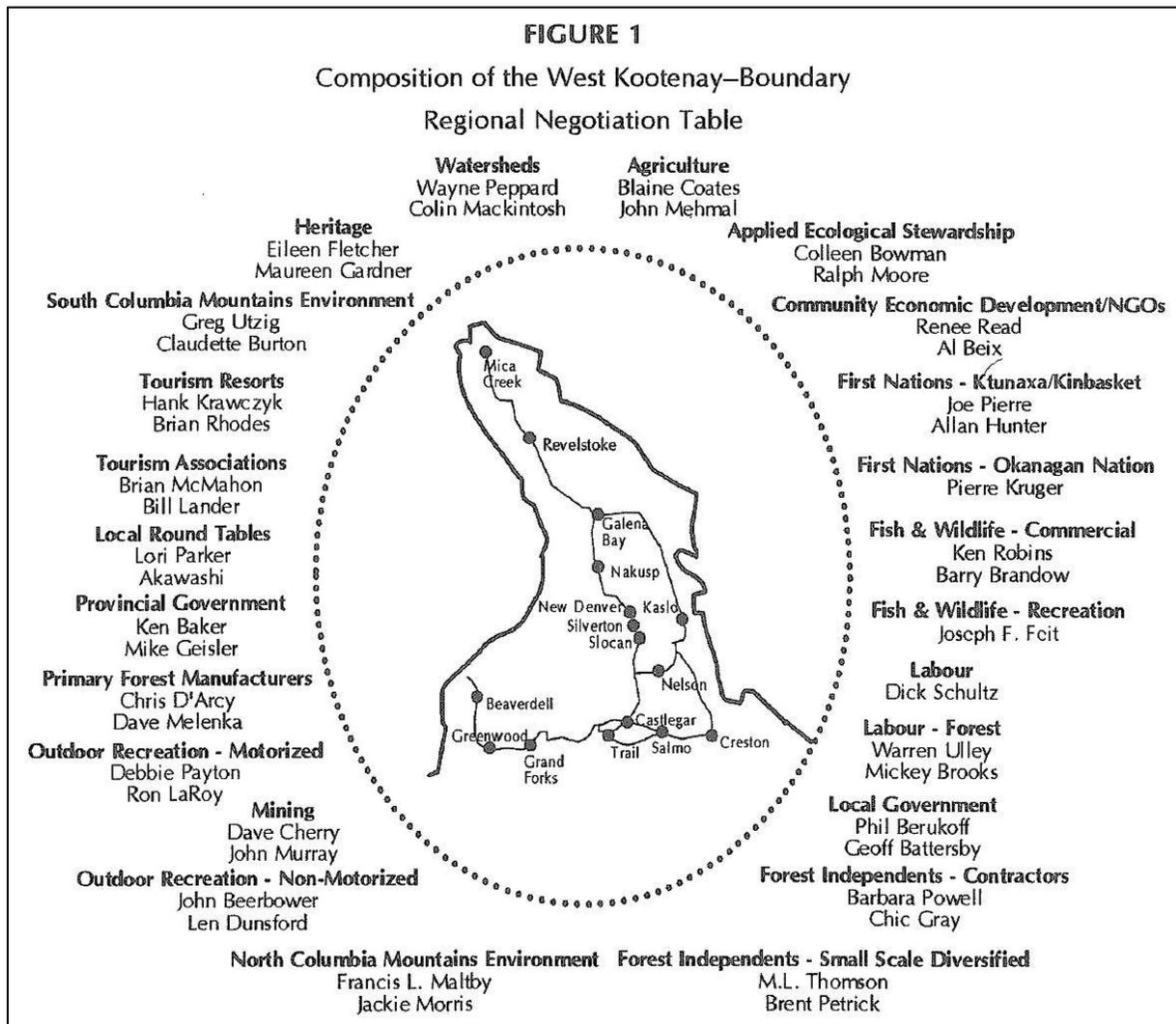
*Atco has developed a Sustainable Forest Management Plan (SFMP) which describes how the company will achieve the objectives of higher level plans developed under public involvement processes such as the Kootenay Boundary Land Use Planning Process. It also guides the development and content of other planning documents including the Forest Stewardship Plan.*<sup>61</sup>

<sup>60</sup> Page 84.

<sup>61</sup> *KPMG: Forest Certification Report*, Atco Wood Products Ltd. – June 2011.

The October 1994 *WKBLUP* stated that throughout Nelson Forest Region's four western Forest Districts – Revelstoke, Boundary, Kootenay Lake and Arrow – “there are about 620 regional watersheds that are utilized by legally organized groups (community watersheds) or that have three or more licences for domestic use,”<sup>62</sup> with “89 identified community watersheds in the Kootenay Lake forest district” alone.<sup>63</sup> The Land Use Plan failed to provide an identification and status list of all of these community and domestic watersheds, and which watersheds were within each of the four western Forest Districts.

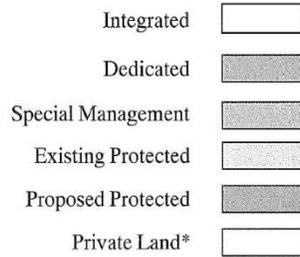
Due to the prevalence of water licenses located throughout the four western Forest Districts of the Nelson Forest Region, the *WKBLUP* planning processes included the participation of some community watershed licensee Water User representatives at a special committee Table called “Watersheds,” which was convened by Wayne Peppard and Colin Mackintosh. However, the *WKBLUP* failed to include an identification list of Water User representatives who participated in the Community Watershed planning Table.



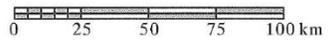
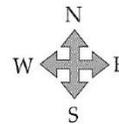
<sup>62</sup> Page 83.

<sup>63</sup> Page 120.

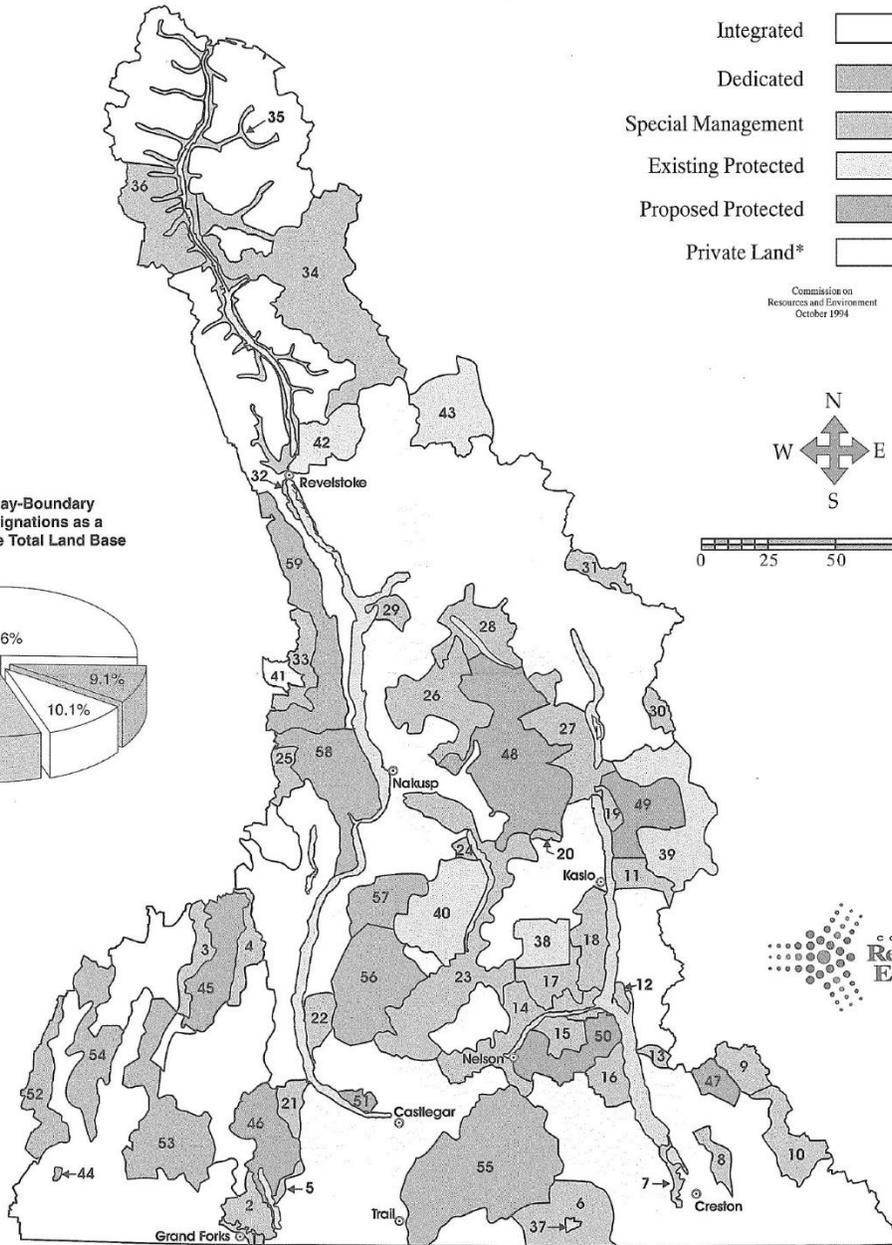
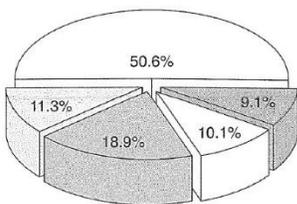
# WEST KOOTENAY - BOUNDARY REGION LAND USE DESIGNATIONS



Commission on  
Resources and Environment  
October 1994



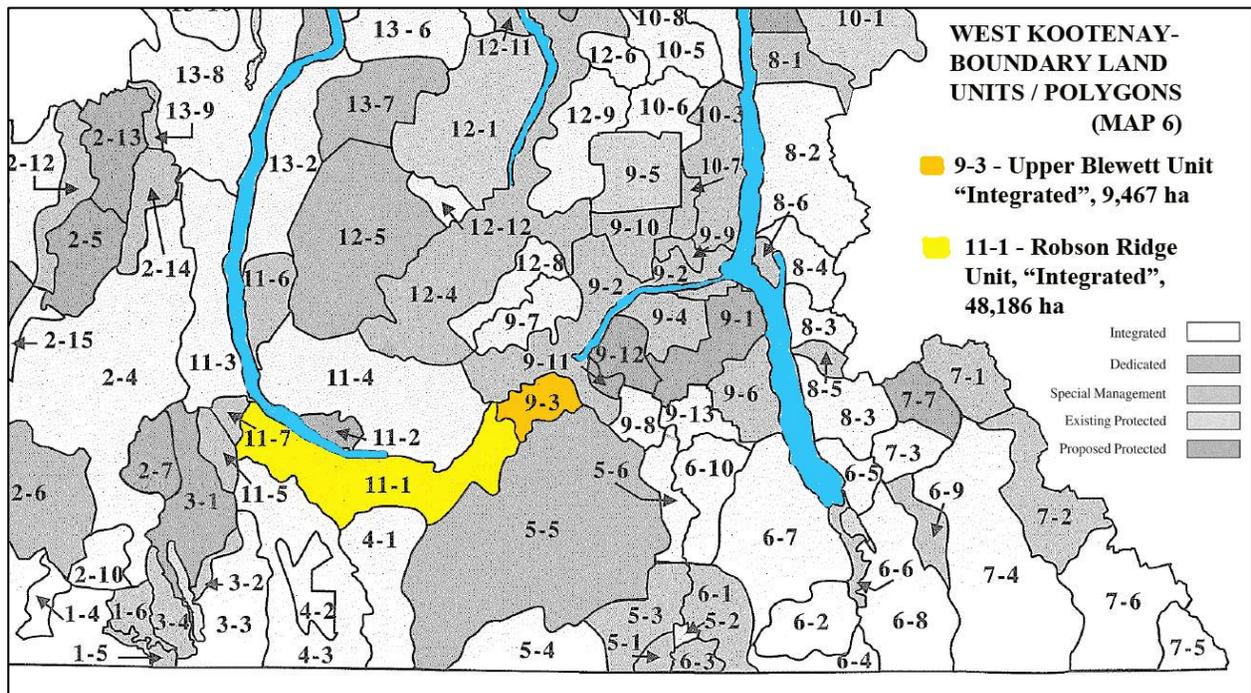
**West Kootenay-Boundary  
Land Use Designations as a  
Percentage of the Total Land Base**



Special Management Areas		Existing Protected Areas		Proposed Protected Areas		Dedicated Use Areas		Integrated Use Areas	
1 Gilpin Grasslands	13 Lockhart Creek	37 Stag Leap Provincial Park	41 Monashee Provincial Park	44 Conkle Lake	52 Okanagan Highlands	The remaining unnumbered areas on the map have been designated as an Integrated Use Area.			
2 Snowball Creek and West Side of Christina Lake	14 West Arm Kootenay Lake	38 Kokanee Glacier Provincial Park	42 Revelstoke National Park	45 Upper Granby	53 Upper Boundary Creek				
3 Goatskin Creek	15 Lasca / Hamop creeks	39 Purcell Wilderness Conservancy	43 Glacier National Park	46 Gladstone	54 Beaverdell Uplands				
4 Galloping Mountain and Headwaters of Burrell Creek	16 Midge Creek	40 Valhalla Provincial Park		47 Upper Kianuko	55 Salmo River and Erie Creek				
5 Texas Creek (south side)	17 Kokanee, Coffee and Lendrum creeks			48 White Grizzly Wilderness Area	56 Koch and Hoder creeks				
6 Upper Priest, Sheep and Stag Leap creeks	18 West Side Kootenay Lake			49 Carney / Fry Creek	57 Snow and Burton creeks				
7 Creston Wildlife Management Area	19 Argenta Falls			50 Kootenay Lake / West Arm Wilderness Area	58 Mosquito Creek				
8 Arrow Creek	20 Whitewater Grizzly Trail			51 Syringa Creek	59 Fosthall Creek				
9 Malandine Creek	21 Dog Creek								
10 Upper Kamma and Kid creeks	22 Hutchinson Creek								
11 Campbell Creek	23 Soican Valley Corridor								
12 Pilot Peninsula	24 Soican Lake (northwest shore)								
	25 Pinnacles								
	26 South Asher, St. Leon and upper Kuskanax creeks								
	27 Lardeau River and Hope Creek								
	28 Trout Lake								

It appears as though some Community Watersheds were not ‘on the Table’ during the *WKBLUP* planning process. This apparently excluded the participation of the Glade Creek Irrigation District representatives, who, at the time, happened to be attending a separate government planning process, the Glade Creek Technical Committee, meant to log their watershed, Glade Creek (see Section 9).

Two maps published in the *Overview* section and in Appendix 5 of the *WKBLUP* show all of the Commission on Resources and Environment’s “Special Management Areas,” within which community watershed areas (which the document refers to as “consumptive-use watersheds”) were assigned. However, both maps failed to include the Glade Creek community watershed, including a number of other community watersheds, in this Special Management Area category.



**Above:** Lower section cut-out from Map 6 in Appendix 5 of the *WKBLUP*, showing the “land use designations by polygon.” The Glade Creek Watershed Reserve is located in the “Integrated” category of Robson Ridge Unit 11-1, highlighted in yellow. Two other Watershed Reserves, Sandy Creek and Eagle Creek, are in the neighbouring “Integrated” Upper Blewett Unit 9-3, highlighted in a tan color. Both Kalesnikoff Lumber and Atco Wood Products have forest tenure licences in Unit 9-3 and Unit 11-1. For more information and history about the Upper Blewett Unit, see Chapter 8, *The Failed Public Relations Tour of the Blewett Watershed, Etcetera*, in *The Big Eddy* report.

This important map clue designating Special Management Areas infers that the Glade Creek Community Watershed was not identified or registered with the *WKBLUP* planning process as a Community Watershed / Consumptive-Use Watershed. The maps also show that the Glade Creek oversight was also the case for a number of other Community Watersheds, such as Rossland City’s watershed sources. The maps show that the areas which were not committed to Special Management were dedicated to another lesser category, called Integrated Use Areas.

Of importance, Land Use planners with the provincial government's CORE and LUCO (Land Use Coordinating Office) failed to uphold their public duty – duties stated and published in land use planning guidance documents in the early 1990s – to comprehensively inform the Land Use Committees and Tables about ALL Crown Land tenure designations. They specifically failed to identify and report on the dozens of Community Watershed Reserve tenures located in both the East Kootenay and West Kootenay-Boundary areas.

*Established in January 1992, the Commission on Resources and Environment (CORE) is a government initiative in which the Ministry of Forests has a significant interest.*

*CORE's mandate is to develop a comprehensive provincial strategy for land use planning and management, to help develop and implement regional land use planning processes, and to monitor the operation of those processes. Through extensive stakeholder consultation, CORE identifies and makes recommendations to Cabinet on strategies and land use plans.*

*The commission met in four regions that have a history of land use controversy: Vancouver Island, the Cariboo-Chilcotin, East Kootenay, and West-Kootenay Boundary areas. Recommendations on these areas are expected in 1993 or 1994.*<sup>64</sup>

As a result, these Community Watershed Order-in-Council and Map Reserves were never identified within the final *WKBLUP* and *East Kootenay Land Use Plan* documents, nor were definitions of these legal tenures provided within each of the attached report Glossaries. These omissions in the *WKBLUP* included the *Land Act* tenure status of the Glade Creek Community Watershed Map Reserve.

In the 2006 book, *From Wisdom to Tyranny: A History of BC's Watershed Reserves*, the BC Tap Water Alliance summarized the following in its sub-chapter on Land Use Plans and the *Forest Practices Code Act*:

*Land Act Community Watershed Reserves are legal and statutory entities. Because their status was not formally recognized and considered during the regional and sub-regional planning processes (and was, in fact, neglected and ignored), it can be argued that those processes were illegitimate.*<sup>65</sup>

The government, through the Commission on Resources and Environment (CORE), failed to provide the East and West Kootenay Higher Level planning processes with existing Crown land tenure data about the Community Watershed Reserves. This leads to the serious consideration that some of the report recommendation sections in these Land Use Plans, which relate to management proposals of these Reserve tenures, were unlawful, because Community Watershed Map Reserves and Order-in-Council Reserves are protected areas and are not subject to forest harvest licensing or to other Crown land dispositions, under Land Ownership Code 69-N.

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<sup>64</sup> Ministry of Forests Annual Report 1992/93, page 13.

<sup>65</sup> Chapter 8.4, *The 1990s: The Forest Resources Commission, Land Use Plans, Land and Resource Management Plans and the Forest Practices Code Act*.

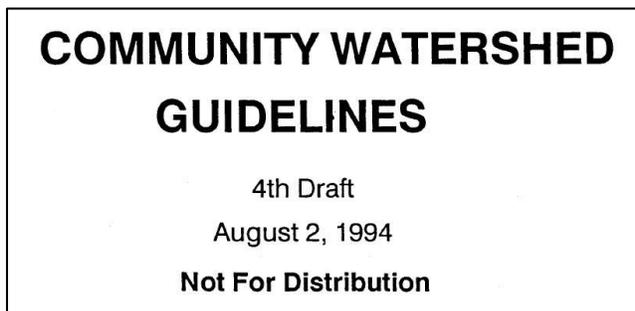
This failure, to formally table the Watershed Reserve tenures, was linked to another process underway at that time, namely the lengthy legislative drafting of the *Forest Practices Code Act*, which included new directives for managing BC’s community watersheds. Much was described about this controversial process in the BCTWA’s book, *From Wisdom to Tyranny*. For instance, a member of “an internal committee that helped develop the *Forest Practices Code’s Community Watersheds Guidebook*” stated that the Ministry of Forests wanted “the Watershed Reserves removed because it causes them an administrative headache for everyone involved.”<sup>66</sup>

***Community Watershed Guidelines***

*In late 1992, the ministry [of Forests] recognized the need to develop new guidelines to safeguard the purity of community watersheds. An inter-agency technical advisory committee was struck. With public and stakeholder input, draft guidelines were scheduled to be completed late in 1993, and released for public review. The final version will likely be submitted to Cabinet for approval sometime in 1994.*<sup>67</sup>

From the early 1990s to 1995, plans were underfoot by the Ministry of Forests to further conceal the identities of the Community Watershed Reserves from all planning documents. As part of this overarching strategy, an August 4, 1994 Ministry of Environment fourth and final draft

document, *Community Watershed Guidelines*, the precursor of the October 1996 *Community Watershed Guidebook*, provided a list of 676 Community Watersheds, all of which were assigned new code numbers. There was no differentiation made for which Community Watersheds had Watershed Reserve designations (with their own Lands file reference numbers) with those which had none. Thereby both government administrators and the general public could no longer differentiate between the two, as both category watersheds were herded into one *Forest Practices Code* forest management pen. And, of the seven legislative “Authorities” mentioned at the beginning of the *Community Watershed Guidebook*, no reference was made to the *Land Act*.



***Protected Areas:*** Areas such as provincial parks, federal parks, wilderness areas, ecological reserves, and recreation areas that have protected designations according to federal and provincial statutes. Protected areas are land and freshwater or marine areas set aside to protect the province’s diverse natural and cultural heritage.

*Above:* Segment from the *Glossary* section of the *Community Watershed Guidelines*, 4<sup>th</sup> Draft, August 2, 1994, the definition of “Protected Areas.” Note that the definition fails to include Community Watershed Map and Order-in-Council Reserves! The “recreation areas that have protected designations,” by way of BC provincial statutes, are the UREP (Use, Recreation and Enjoyment of the Public) Reserves, protected for decades as Map or Order-in-Council Reserves under the *Land Act*, featured under Land Ownership Code 61-N.

<sup>66</sup> Chapter 11.1., *Calls to the Minister of Lands and her Train*.

<sup>67</sup> Ministry of Forests Annual Report 1992/93, page 12.



**Above:** Segment from Map 4 (of 6), *British Columbia Community Watersheds South East*, dated March 1994. The 1994 maps were prepared by the Ministry of Environment's Hydrology Branch for the Ministry of Forests' Integrated Resource Section, in lieu of the *Forest Practices Code Act's* Community Watersheds, with new reference code numbers. In red, is Glade Creek, with its new number, **340.058**. Prefix '340' represents the *Lower Kootenay River Area* division. The Watershed Reserve tenure reference file numbers do not appear alongside the new reference code numbers, because Ministry of Forests' administrators ignored them. The 6 Community Watersheds maps were prepared during the Land Use Plan processes.

**Right:** A segment from Map 4 list of community watershed data, highlighting Glade Creek in red.

340.046	Five Mile	Creek	082F.054	47.87	NELSON CITY OF	KOOTENAY LAKE	NELSON
340.047	Fletcher	Creek	082F.086	13.23	FLETCHER CREEK IMPROVEMENT	KOOTENAY LAKE	KASLO
340.051	Foster	Creek	082F.054	1.15	Foster Creek WUC	KOOTENAY LAKE	NELSON
340.052	Four Mile	Creek	082F.054	3.50	NASOOKIN IMPROVEMENT DISTR	KOOTENAY LAKE	NELSON
340.053	Foursome	Lake	082F.066	0.18	Foursome Lake WUC	KOOTENAY LAKE	NELSON
340.054	Gander	Creek	082F.042	9.93	Gander Creek WUC	ARROW	NELSON
340.058	Glade	Creek	082F.033	29.98	GLADE IRRIGATION DISTRICT	ARROW	NELSON
340.059	Glencairn	Creek	082G.021	5.93	MOYIE IMPROVEMENT DISTRICT	CRANBROOK	CRANBROOK
340.062	Guillim	Creek	082F.073	79.76	SLOCAN VILLAGE OF	ARROW	NELSON
340.063	Hansen	Brook	082F.076	0.10	Hansen Brook WUC	KOOTENAY LAKE	NELSON
340.065	Hendryx	Creek	082F.078	5.77	CENTRAL KOOTENAY REGIONAL	KOOTENAY LAKE	NELSON
340.066	Huggard	Creek	082F.028	2.95	WYNDEL IRRIGATION DISTRIC	KOOTENAY LAKE	NELSON
340.067	Humphries	Creek	082K.063	7.88	TROUT LAKE IMPROVEMENT DIS	ARROW	KASLO
340.068	Indian	Creek	082F.076	6.06	CENTRAL KOOTENAY REGIONAL	KOOTENAY LAKE	NELSON
340.069	Jarvis	Creek	082F.054	0.03	Jarvis Creek WUC	KOOTENAY LAKE	NELSON
340.070	Jean	Spring	082F.018	0.00	CRESTON TOWN OF	KOOTENAY LAKE	NELSON
340.072	Kaslo	River	082F.085	441.38	Village of Kaslo	KOOTENAY LAKE	KASLO

## 9. The Glade Creek (Watershed) Technical Committee (1993-1995)

*From a BC Forest Service perspective it would be beneficial to have a list of community expectations with respect to the Glade watershed: what would the residents like to see out of this process (besides no logging)?*

*Glade residents would like to know why the watershed is considered for logging and how that decision was made. ... Atco explained that the reason the company is considering logging in this watershed is that the area is part of the forest land that contributes timber to the company Allowable Annual Cut (AAC); the company has operating areas that provide it with timber supply and this is one of them.<sup>68</sup>*

*Glade residents intended to tape the meeting. Discussion ensued regarding audio taping of the meeting. Decision: discussions will not be tape recorded.<sup>69</sup>*

During the proceedings of the West Kootenay-Boundary Land Use (WKBLU) planning processes (January 1992 to October 1994), the Ministry of Forests established a special Glade Creek Technical Committee (GCTC) in March 1993, which ended in 1995. The GCTC was apparently isolated from the West Kootenay-Boundary Land Use Plan proceedings, as nothing was stated in the Minutes about the WKBLU, nor any hint of harmonization issues between the two lower and higher official planning processes. By the late 1990s, Atco began building road access into and logging the pristine high elevation, old growth forests in the South Fork watershed of the Glade Creek Community Watershed Reserve.<sup>70</sup>

According to the GCTC Minutes, the Ministry of Forests had also established “other Technical Committees” for community watershed planning in the Arrow and Nelson Forest Districts, including one for Nelson City.

Formal participants of the GCTC included the Ministry of Forests, the Ministry of Environment, the Ministry of Health, and Atco Lumber. The Minutes also document that Glade Creek Irrigation District representatives and citizens made a wise decision at a separate Irrigation District public meeting to sit in as “observers,” not as GCTC participants.

GLADE CREEK TECHNICAL COMMITTEE MEETING March 30, 1993 Arrow Forest District Boardroom	
Summary of discussion at the convening meeting:	
Present:	
Richard White	Glade, observer
Ian Hamann	BCFS, Arrow F.D.
Ron Ozanne	Atco Lumber Co. Ltd.
Hans Louwe	Atco Lumber Co. Ltd.
Carrie Morita	MOE-Water Management, Nelson Region
Louella Bartlett	Glade, observer
Leona Pereversoff	Glade, observer
Lionel Simpson	Glade, observer
Reiner Augustin	BCFS, Arrow F.D.
<b>INTRODUCTION</b>	
<ul style="list-style-type: none"> <li>• Individuals from Glade advised they are present at the meeting only as observers.</li> <li>• There was a brief discussion with respect to the operation of other <i>Technical Committees</i> in the Arrow Forest District. Glade residents were provided with names of contact people on these committees.</li> <li>• Representation: The BCFS designate will be Ian Hamann with the alternate being Reiner Augustin.</li> </ul>	

<sup>68</sup> Minutes, Glade Creek Technical Committee Meeting, March 30, 1993.

<sup>69</sup> Minutes, Glade Creek Technical Committee Meeting, April 19, 1993.

<sup>70</sup> The GCTC minutes elaborate on the many discussions and arguments on logging the old growth forests in the upper reaches of the Glade Creek tributaries, and interpretations over the government’s Old Growth Strategy.

Kalesnikoff Lumber, which presently has a forest tenure in the lower Glade watershed, did not participate in the GCTC. However, a reference to Kalesnikoff Lumber Co. Ltd. was included in the Meeting Minutes for June 15, 1993. It provides the following explanation:

*The lower portion of the watershed is a SBFEP operating area, was originally part of Kalesnikoff Lumber Co. Ltd. area but was taken over by the FS SBFEP program.*

The May 18, 1993 Meeting Minutes state that “the lower elevations of the Glade Creek watershed are not part of Atco’s operating area (part of the FS SBFEP program).” SBFEP is the acronym for the Ministry of Forests’ Small Business Forest Enterprise Program. The Minutes fail to state, or to provide information on, why Kalesnikoff’s original forest tenure in the lower Glade watershed “was taken over” by the SBFEP program.

Of importance, the GCTC meeting Agendas and Minutes indicate that government representatives never informed meeting members of the legal tenure status of Glade Creek as a Community Watershed Map Reserve. This failure, or neglect, by government representatives to impart critical Crown Land

**Audio Taping of Meeting**

- Glade residents intended to tape the meeting. Discussion ensued regarding audio taping of the meeting:
  - concern expressed by Atco at having meeting tape recorded, of the opinion that taping indicated a lack of trust, not prepared to agree to having discussion recorded,
  - BCFS representatives advised taping of proceedings is not new from a FS experience, has occurred in other situations, prefer not to have discussions taped, were of the opinion that reviewing main discussion points at the end of each meeting should suffice,
  - Glade residents expressed surprise at objection to taping, were of the understanding that tape recording was acceptable,
  - MOE representative has no objection to taping,
  - **Decision:** discussions will not be tape recorded.

tenure information concerning another of BC’s Community Watershed Reserves was also the case or approach for all other meeting and planning processes for Community Watersheds, such as the Integrated Watershed Management Planning (IWMP) processes underway since 1984. Government representatives had access to Forest Atlas Reference Maps and Water Rights Reference Maps in the Nelson Regional office where many of the GCTC meetings were held, maps which would have shown the status of Glade Creek as a Watershed Reserve.



Above: Excerpt from an Atco forest planning map provided in the April 19, 1993 GCTC Minutes. The map includes the words “Watershed Reseve,” with “Reserve” misspelled. Forester Ron Ozanne also attached a one-page chronological history of Atco’s logging proposals and related activities in the Glade Reserve (1981 to 1993).



Part of the GCTC Agenda Minutes provided to Glade Irrigation District and Glade community observers included copies of forest planning maps. **The maps showed the words “Watershed Reserve” overtop of the Glade Creek watershed, something that went unexplained to participants.** As noted above, despite this written identification on official planning maps, nothing was stated, nor explanations provided, about the Glade Watershed Reserve tenure in the Minutes.

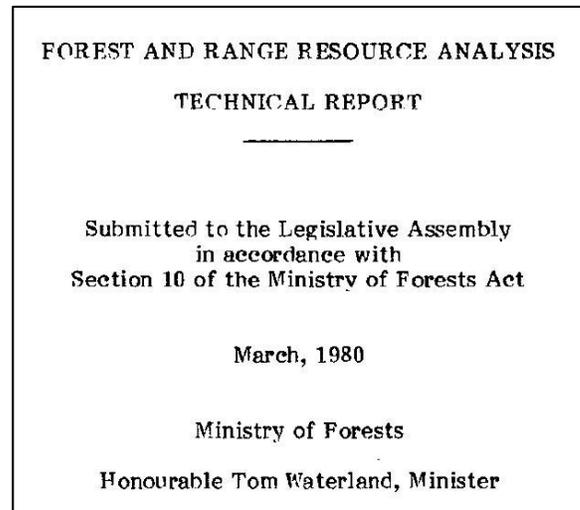
## 9.1. GCTC: The Ministry of Forests’ Planning Hierarchy

*The purpose of the Glade Creek Watershed Technical Committee is to provide direction for “integrated resource use” within the plan area recognizing that the number one priority is the protection of water quality, quantity and timing of flow.*<sup>71</sup>

*Request that for the next meeting the BCFS [BC Forest Service] present an overview of the need for watershed logging in the Arrow Forest District (re. AAC impacts).*<sup>72</sup>

At the April 19, 1993 GCTC meeting, Ministry of Forests’ Nelson Region foresters Ian Hamann, Jim Whissell and Reiner Augustin provided meeting participants with a “review of planning hierarchy.” They made a “brief presentation” on the Ministry’s “planning levels.” This included a “provincial planning hierarchy,” making “reference to the Five Year Forest and Range Resource Program tabled in the Provincial Legislature” and “how this document drives goals at the district level.”

The three government foresters overlooked something of importance when informing the GCTC about their Ministry’s planning strategies “at the district level,” implemented following the establishment of the new *Forest Act* in 1978. Included in the March 1980 *Forest and Range Resource Analysis Technical Report* – a one thousand page long document submitted to the BC Legislative Assembly by Minister of Forests Tom Waterland – was a February 2, 1979 written submission by the Ministry of Environment’s Water Investigations Branch, in charge of the government’s community watersheds Task Force. The submission included the following precaution:



### ***Protection of Watersheds***

*In the management of forest and range lands, the Ministry of Forests should be fully aware of the constraints set out for “community” watersheds. These areas have all been defined and placed in Forests’ records as map reserves.*<sup>73</sup>

<sup>71</sup> Glade Creek Watershed Technical Committee Terms of Reference, April 19, 1993.

<sup>72</sup> Glade Creek Technical Committee meeting, March 30, 1993.

<sup>73</sup> Appendix D, Contributions from Other Users.

The Water Investigations Branch's precaution was reproduced on page 238 of the final 1980 *Technical Report*, albeit with a few words edited out of the original:

*In the management of forest and rangelands, the Ministry of Forests is fully aware of the constraints set out for community watersheds. These areas have all been defined as map reserves. The Ministry of Forests is also aware of the constraints of the guidelines prepared by the Task Force on Multiple Use of Community Water Supplies.*

The Ministry of Environment forewarned the Social Credit administration and the Ministry of Forests about the stated "constraints" in a formal document, just when the Chief Forester began re-determining and re-setting the provincial AAC (Allowable Annual Cut) from 1979 following for BC's Forest Regions' numerous District Timber Supply Areas. Accordingly, Community Watershed Map Reserve tenures were to be excluded from the timber harvesting land base, and were to be excluded from the Ministry's AAC determinations, no exceptions.

Four years later, in the second or subsequent mandated publication of the September 28, 1984 *Forest and Range Resource Analysis* report, which was also submitted to the Legislature in "accordance with Section 7 of the *Ministry of Forests Act*," it provided a comprehensive provincial accounting for Ownership categories to be excluded from the timber harvesting land base / integrated resource use:

*An estimate of the anticipated withdrawals from the land base over the next 20 years for such purposes of farm lands, **watershed reserves**, wildlife preserves, ecological reserves and recreational reserves.*<sup>74</sup>

By making these Crown Reserve tenure "withdrawals," the next sentence in the report stated:

***This information** [bold emphasis] will allow us to realistically predict the land area that will be available for forest management in the future.*

The little that was fortunately stated about Community Watershed Reserves in these lengthy and formal planning documents for BC's forest land base were not necessarily repeated in the smaller, individual Forest District planning reports for BC's Timber Supply Areas. Where inter-Ministerial recommendations and oversight guided the construct, wording and perspective in the 1980 and 1984 *Forest and Range Analysis Reports*, such would not be the case for the individual Timber Supply Area Analysis reports from 1979 following. That difference perhaps accounts for the reason as to why no references were included in these smaller Timber Supply Analysis reports about BC's numerous Community Watershed Map Reserves, reports which were primarily written and supervised by Ministry of Forests' Region / District personnel without the careful oversight and partnership of other resource Ministry personnel.

On April 19, 1993, the three GCTC government foresters had a "brief discussion" on the "Arrow Timber Supply Area," stating how "each management unit" within it "has a strategic plan (Management and Working Plan) and a specific Allowable Annual Cut (AAC)." The government foresters specifically made reference to "the 1981 Arrow TSA Yield Analysis report,"

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<sup>74</sup> Chapter B1, *The Forest Land Base*, page B1.

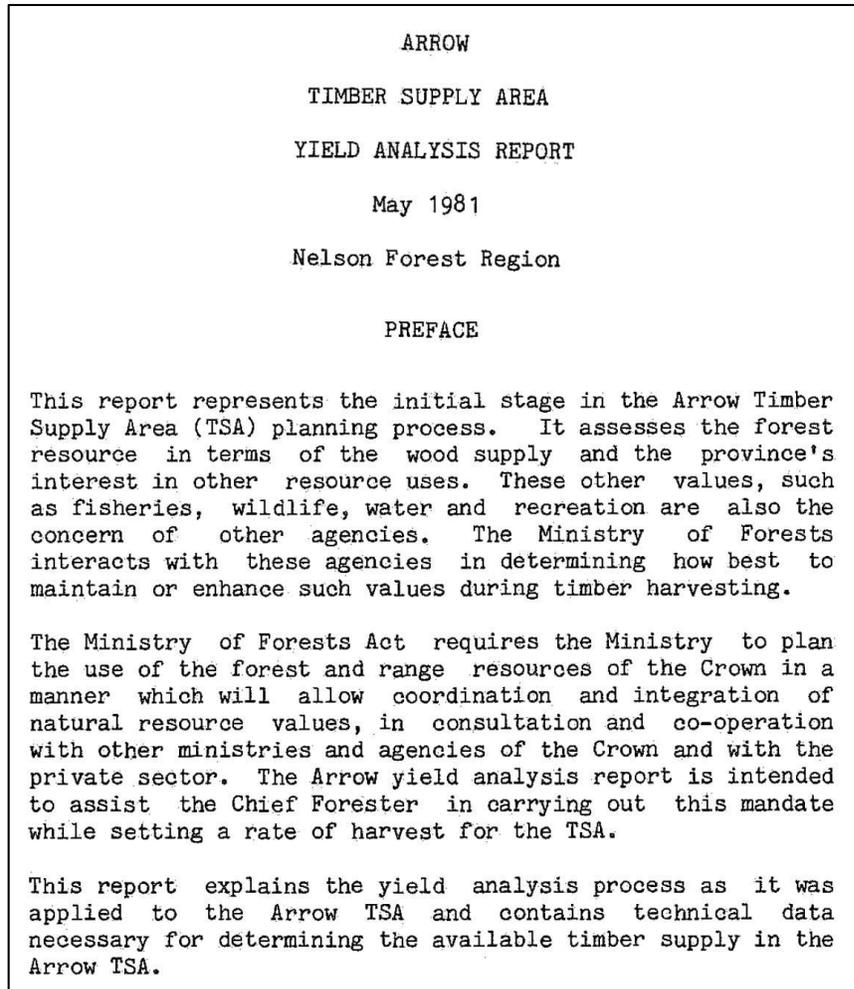
stating how “the subsequent AAC was set by the Chief Forester.” They stated how “the achievement of the AAC assumed a number of management strategies,” as they referred to them, “which included the harvesting of timber in [Community and Domestic] watersheds.”

They went on to elaborate that “the planned harvest (based on the 1981 Yield Analysis) was forecasted for the period 1980 – 2000 by Inventory Regions and Compartments.” They also “briefly reviewed the Supply Block “M” (south-east portion of the Arrow TSA) harvest forecast and achievement to September 1992.” They also “discussed the harvest distribution and the difficulty of moving harvest from one area (i.e. Glade Creek) to another unit.”

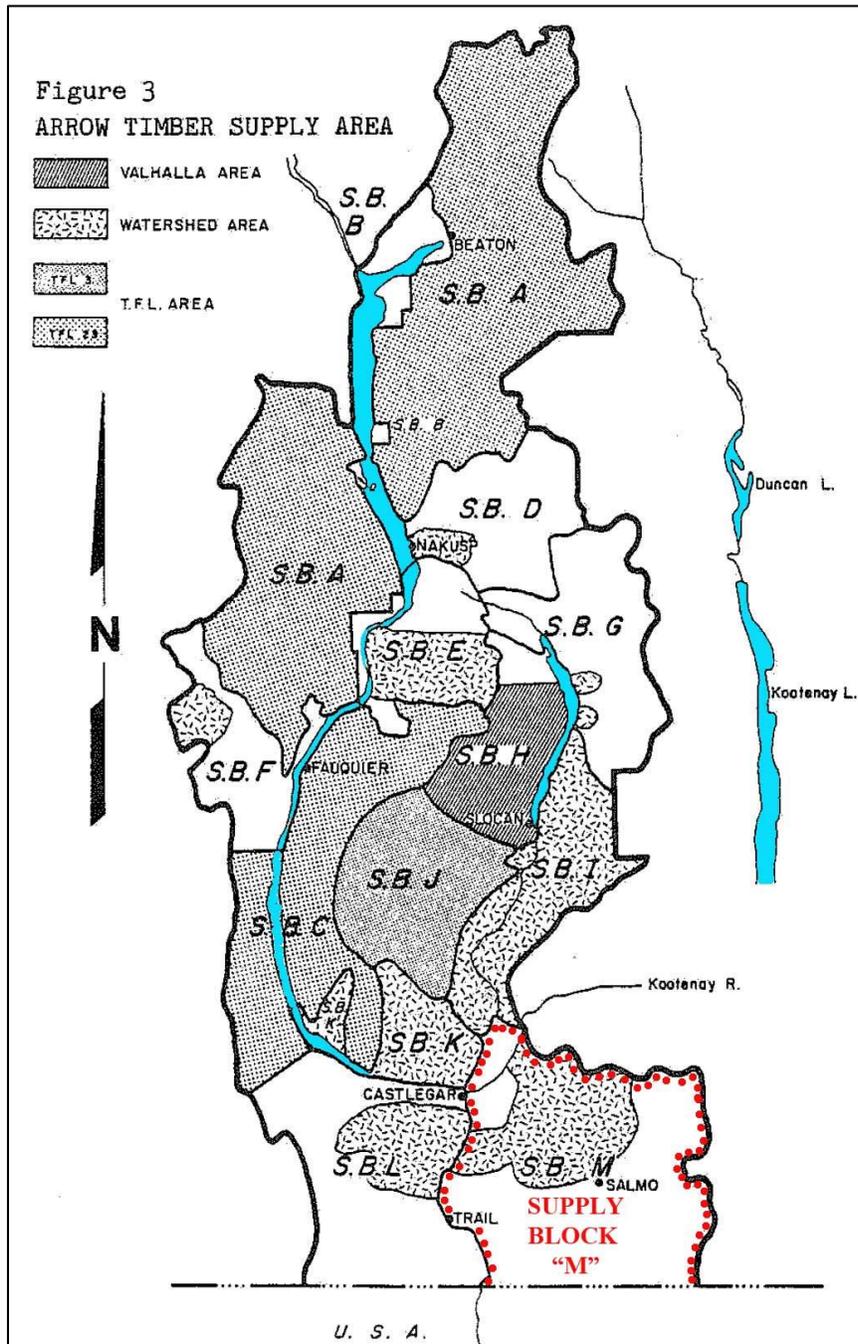
Having made reference to the *1981 Arrow TSA Yield Analysis* report and the concurrent decision to set the AAC for the Arrow Timber Supply Area by Chief Forester Bill Young, the foresters failed to impart to the GCTC members how Community Watershed Map Reserve tenures had been unlawfully included in the Arrow District’s AAC calculations.

According to a map published on page five of the *1981 Arrow TSA Yield Analysis* report, it failed to include the Glade watershed as a “Watershed Area” (meaning a Community/Domestic Watershed Area), which was located in Supply Block “M” (see the 1981 map below).

*The Arrow TSA, as a whole, has an abundance of water. Despite this, with the ever-growing population and with more intensive forest management, it is anticipated that increasing demands will be made on the water resource and the potential for conflicts may increase. In order to minimize water use conflicts careful planning and close liaison with the public and the forest industry is essential when reviewing timber harvesting proposals involving domestic watersheds in particular.*



Response to harvesting is difficult to predict for any given watershed, due to variations in climatic and topographical conditions. It must not be assumed that timber harvesting will produce only a negative response in watersheds. Timber harvesting can have a favourable impact on total annual water yield and timing of runoff, depending upon the type and extent of harvesting practised.<sup>75</sup>



Not all of the timber on the forested area is available for harvesting. ... There are also areas with high values for recreation, water, fisheries or wildlife, where harvesting will be reduced or precluded.<sup>76</sup>

*Left:* Figure 3 map, Arrow Timber Supply Area, from the 1981 Arrow TSA Yield Analysis report. The map legend shows the locations of “watershed areas,” namely community and domestic watersheds.

The Glade Creek Watershed Reserve is located in Supply Block (SB) “M”, the boundary of which is highlighted in red dots, but is not part of the “watershed areas.” Rather, Glade Creek is mapped in the ‘white’ area in Provincial Forest land that is theoretically dedicated to timber harvesting according to this map.

<sup>75</sup> Pages 7-8.

<sup>76</sup> Page 11.

The 1981 Arrow TSA Yield Analysis report never made reference to Community Watershed Map Reserves, only to Environmental Protection Areas (EPA's), defined as:

*Areas that are environmentally sensitive or have high values for other uses as well as timber production (e.g. recreation, wildlife, water, etc.). These areas are identified during the forest inventory process.*<sup>77</sup>

The 1981 Arrow TSA Yield Analysis report included a sub-chapter 5.3, called *Increased Watershed Constraints*, which stated that “careful planning of harvesting operations in co-operation with other agencies and through discussions with water users may permit securing timber volumes to the level of the benchmark.” These unidentified “Increased Watershed Constraints” were included in short-term and long-term timber harvesting scenarios developed throughout the report.

However, the “Watershed Constraints” described in the 1981 Arrow TSA Yield Analysis report were dissimilar to the “constraints” set forth and stated in the 1980 *Forest and Range Resource Analysis Technical Report* which had been presented to BC's Legislature, namely the Community Watershed Map Reserves' “constraints.” Small wonder the Nelson Region foresters failed to brief the GCTC members and its meeting observers on the tenure status of the Glade Creek Watershed Map Reserve, even though the words “Watershed Reserve” appeared in plain view on Atco's forest planning maps for Glade Creek.

A subsequent Arrow Forest District report, the February 1986 *Arrow Forest District Timber Supply Area Plan, Nelson Forest Region*, included the Glade Creek Watershed Reserve, and three or more other Watershed Reserves, in the District's Subunit Plans. It states that:

- “integrated subunit development plans are being developed for many contentious areas;”
- “Forest Service staff in the Arrow District have begun and will continue an intensive program of subunit planning to address issues such as harvesting in domestic watersheds ... Appendix 3 lists the areas which are currently the subject of subunit plans and the areas for which plans should be initiated over the next two to five years.”<sup>78</sup>

<u>Appendix 3</u>	
<u>ARROW DISTRICT SUBUNIT PLANS</u>	
<b>Areas Currently Being Planned</b>	
	Perry Ridge
	Ringrose Creek
	Elliott-Christian Unit
	Supply Block F (Edgewood)
	Deer Creek
	Wensley Creek
	Erie Creek
→	Glade Creek
	Blueberry Creek
	Winlaw Creek
	Dayton Creek
	Pend D'Oreille (CRMP)*
	Johnston-Renata (CRMP)*
	Galloping Creek-Lightning Peak (CRMP)*
<b>Areas to be Planned Within Two to Five Years</b>	
	Silverton-New Denver Watersheds
	City of Rossland Watershed
	Champion Creek
	Hills Watershed
	Dumont Creek
	Pass Creek
* Coordinated Resource Management Plan	

<sup>77</sup> Pages 11-12.

<sup>78</sup> Pages 41 and 42.

The Subunit Plans list, which included **Glade Creek**, the **Silverton-New Denver watersheds**, **Blueberry Creek**, and **City of Rossland Watershed**, were designated Community Watershed Map Reserves.

### 9.1.1. Land Ownership Code 69 Revelation in the Arrow Forest District

At some point in the late 1980s, Ministry of Forests’ administrators began to secretly alter the Land Ownership Sub-Code for Community Watershed Map Reserves. The Reserves fell under Land Ownership code number 69, a category of “Miscellaneous” Provincial, Crown or Government Reserves. Ministry of Forests administrators broke the law by shifting Community Watershed Map Reserves from sub-category 69-N to sub-category 69-C:

- An “N” signified lands **Not Contributing to** / not available to Integrated Forest Management;
- A “C” signified lands **Contributing to** / available to Integrated Resource Management.

69-N Crown Reserve lands were for **single use** purposes, no dispositions, while 69-C Crown Reserve lands were provided a new category for **multiple use**, a conditional, or unprotected Reserve tenure category. For instance, as single use / protected entities, as those with 69-N status, Ecological Reserves were given their own Ownership Code, 60-N. If an Ownership Code number and Sub-code indicates exemption status from dispositions, a government resource planner would then automatically deny resource applications.

As part of initial investigations into the tenure status of the Chapman Creek Watershed Map Reserve made during the Chapman/Gray

CODE	OWNERSHIP	DESCRIPTION
40-N	Private	Crown grant. See 81-N.
50-N	Federal	Federal reserve
51-N	Federal	National park
52-N	Federal	Indian reserve
53-N	Federal	Military reserve
54-N	Federal	Dominion government block
60-N	Provincial	Ecological reserve
61-C	Provincial	UREP (use, recreation, enjoyment of the public)
62-C	Provincial	Forest management unit (TSA, PSYU), Crown land
62-N	Provincial	Timber agreement land (Crown land less timber rights)
63-N	Provincial	Park, Class A
64-N	Provincial	Park, Class B
65-N	Provincial	Park, Class C, park board
66-N	Provincial	Park, Class C, no board
67-N	Provincial	Park, park reserve or equivalent (regional parks, Purcell Wilderness Conservancy, recreation areas, provincial heritage sites, wildlife management reserves)
68-N	Provincial	Wilderness areas within provincial forests
<b>69-C/N</b>	Provincial	Miscellaneous reserves (B.C.F.S. recreation reserve or corridor, B.C. Hydro reserve, B.C. Railway reserve, <b>watershed reserve</b> , industrial reserve, islands reserve, <b>map reserve</b> , greenbelt land, multiple-use fish and wildlife reserve)
70-N	Provincial	Timber license in a TSA
70-C	Provincial	Timber license in a TFL
71-C	Provincial	Timber license in a TFL
72-B	Provincial	Schedule ‘B’ land in a TFL
<b>74-N</b>	Private & Provincial	<b>Timber alienated in a watershed (Greater Vancouver Regional District, Greater Victoria Water District)</b>
75-N	Provincial	Christmas Tree permit
76-N	Private & Provincial	Ownership status unreported in a TFL
77-N	Provincial	Woodlot license, Crown land portion. Private portion is 40-N.
78-N	Provincial	Community pasture in the Prince George Special Sale Area (SSA)
79-N	Provincial	Provincial forest exclusions in the Prince George SSA
81-N	Private & Provincial	Lands under municipal administration. See 40. Not in use.
90-C	Provincial	Grazing lease
91-C	Provincial	Hay lease
92-N	Provincial	Foreshore lease
93-C	Provincial	Coal lease and placer lease
95-C	Provincial	Hay cutting permit
96-C	Provincial	Special purpose lease
99-C/N	Provincial	Misc. leases (fairgrounds, rod and gun club sites, recreational cottage site leases, and community organizational leases)

Creeks' Integrated Watershed Management Plan process, residents from the Sunshine Coast Regional District began making inquiries with government in 1992 into Land Ownership Code 69. On October 20, 1992, Andrea Lang, the Timber Supply Analyst with the Vancouver Forest Region, replied in a letter that someone in the Ministry of Forests had "changed" the "ownership code for the Chapman Creek Watershed" Reserve from 69-N "to 69-C" sometime in 1990.

The September 1994 Ministry of Forests publication, *Arrow TSA Timber Supply Analysis*, provided Table information on Land Ownership Code data for the Arrow Timber Supply Area, the TSA in which the Glade Creek Watershed Reserve is located. The information was provided in Appendix A.3, called *Definition of the Timber Harvesting Land Base*.

### A.3 Definition of the Timber Harvesting Land Base

Tree farm licence (TFL) areas are managed — and have their AAC determined — separately for TSAs. Their area is not normally included in the TSA inventory. However, sometimes when the ownership of land is unreported, it is included in the TSA inventory. This land is managed as part of the TFL, and does not form part of the TSA harvesting land base.

All areas with ownership codes (OWNER,OWNRCHAR) other than 62C or 69C are excluded from the timber harvesting land base for this analysis. Table A-4. outlines the total area in each ownership category for the Arrow TSA.

Table A-4. Total area in each ownership category, Arrow TSA

Description	Ownership code	Area	
		Hectares	Per cent of Total
Private Crown grant	40-N <sup>1</sup>	116 577.9	15.5
Federal, federal reserve	50-N	35.7	0.0
Provincial, UREP <sup>3</sup>	61-C <sup>2</sup>	886.3	0.1
Provincial, UREP	61-N	1 352.5	0.2
Provincial, forest management unit (Crown)	62-C	528 322.2	70.0
Provincial, timber agreement land (C -rights)	62-N	63.9	0.0
Provincial, provincial park - class A	63-N	1 187.1	0.2
Provincial, provincial park - class C	65-N	10.7	0.0
Provincial, provincial park - special or reserve	67-N	34.8	0.0
Provincial, Crown or government reserve	69-C	102 244.9	13.5
Provincial, Crown or government reserve	69-N	1 925.2	0.2
Provincial, timber licence in a TFL	70-N	1 125.8	0.1
Provincial, TFL unreported ownership	76-C	143.2	0.0
Provincial, TFL unreported ownership	76-N	20.4	0.0
Provincial, woodlot licence, Crown land portion	77-N	2 148.0	0.3
<b>Total</b>		<b>754 078.6</b>	<b>100.0</b>

<sup>1</sup>N= Land not available for long-term integrated resource management.

<sup>2</sup>C = Land available for long-term integrated resource management.

<sup>3</sup>UREP = Use for recreation and enjoyment of the public.

The 1994 document stated (see above) that there were 102,245 hectares (13.5% of the Arrow TSA) of unidentified, Miscellaneous Reserve lands under the Ownership Code of 69-C which were "available for long-term integrated resource management." Only a tiny fraction of these unidentified Miscellaneous Reserves, 1,925 hectares of which, were assigned to 69-N.

A six volume set of Ministry of Forests' documents, *Summary of British Columbia Forest Inventory Statistics by Land Administration Class*, published in October 1995 by the Ministry's Inventory Branch, with contributions by the Ministry's Research Branch, also included numerous Land Ownership Code Tables for all of BC's Forest Regions and Timber Supply Areas, including the Arrow TSA. Some of that data, found in Volume 3, *Nelson Forest Region*, provided status information regarding Ownership Code 69 for the Arrow Timber Supply Area. **The data contradicted** the Ownership Code status information published in the September 1994 *Arrow TSA Timber Supply Analysis*. What is also interesting, is that both reports were written about the same time, and both relied on the same 1994 Crown land Reserve tenure data.<sup>79</sup>

In Volume 3, *Nelson Forest Region*, in a Table called *Arrow Timber Supply Area: Administration of Land Base*, it states that all of the Miscellaneous Reserves, **102,095 hectares**, were of the **69-N** category, Reserves not available for the timber harvesting land base. **There was no 69-C category referenced, only 69-N!**

Another difference between the two documents is that there is slightly more hectares of the combined 69-N and 69-C categories in the September 1994 *Analysis* report, than the Volume 3, *Nelson Forest Region* report.

The stark contrast between the two documents, written by the same Ministry, provides a critical revelation on how some administrators were unlawfully manipulating the tenure data to include the Community Watershed Reserves into the Working Forest, while others were not manipulating the *Land Act* Order-in-Council and Map Reserve tenure data.

<b>Arrow Timber Supply Area</b>		
In the Nelson Forest Region (TSA 1) Physical Land Base and Administration Area (ha)		
<b>Administration of Land Base</b>	<b>Area Totals</b>	
<b>Land under Private Administration</b>		
<b>Crown Granted</b>		116,443
<b>Land under Provincial Administration</b>		
<b>Area in a Timber Supply Area (62C)</b>		
In a Provincial Forest	465,027	
Not in a Provincial Forest	63,623	528,650
<b>Miscellaneous reserves (69N)</b>		
In a Provincial Forest	101,921	
Not in a Provincial Forest	175	102,095
<b>Woodlots</b>		
Private land	192	
Provincial Crown land	2,148	2,340
UREP Reserves: Use, Recreation, and Enjoyment of the Public		2,230
Active Timber Licence in a Timber Supply Area		1,274
<b>Regional Parks</b>		
582 Appiedale Regional Park		4
672 Pass Creek Regional Park		18
<b>class A Provincial Parks</b>		
1057 McDonald Creek Provincial Park		270
708 Syringa Creek Provincial Park		223
707 Nancy Greene Provincial Park		208
575 King George VI Provincial Park		167
705 Beaver Creek Provincial Park		56
709 Arrow Lakes Provincial Park (Sites B;Burton,C;Fauquier)		40
614 Rosebery Provincial Park		22
706 Erie Creek Provincial Park		11
718 Inonoklin Provincial Park		6
<b>class C provincial park with a park board</b>		
1113 Summit Lake Provincial Park		7 637,621
<b>Land under Federal Administration</b>		
Federal Reserves		36
<b>Total for the Arrow Timber Supply Area</b>		<u><u>754,100</u></u>

<sup>79</sup> The *Nelson Forest Region* Volume 3 data for the Arrow Timber Supply Area was dated "March 1994."

## 10. BC's Professional Foresters and the Implementation of ... Professional Reliance

*Forest Professionals therefore: ... actively engage in dialogue with interested parties to build trust and understanding.* (Definition of Professional Reliance, Association of BC Forest Professionals, Council, September 2004)

*Due to the implementation of professional reliance, the ABCFP is seeing more complaints than ever before. In the past, the majority of complaints were not serious and didn't require an investigation. Today, the complaints are serious concerns about the practice of forestry and many require detailed investigations.* (Source: BC Forest Professional Magazine, May – June, 2010)

Registered Professional Foresters (RPFs) belong to the Association of BC Forest Professionals (ABCFP), formerly called the Association of BC Professional Foresters (ABCPF). The ABCFP operates under BC legislation, the *BC Foresters Act* (revised in 2003).

All ABCFP members are bound by a developed Code of Ethics, which guides how ABCFP members must be professionally diligent and upright in their conduct with their employers, with government, and in their dealings with the general public. I.e.,

*Professionals apply good judgement and act in the interest of the public and the environment. Professional regulatory bodies hold their member accountable for matters of conduct and competency and serve to protect the public interest.* (BC Forest Professional Magazine, July-August, 2010)

Atco's Forestry Manager, and Registered Professional Forester Ron K. Ozanne, along with Alex Saumure, a Registered Forest Technologist, summarized their professional roles and duties in a February 4, 2016 letter addressed to the Regional District of Central Kootenay elected Area Representative Andy Davidoff. The letter was stamped with their professional seals:

*Forest professionals such as ourselves are part of the Association of B.C. Forest Professionals, are bounded by the Foresters Act of B.C. and by a Code of Ethics which clearly states the responsibility of a member to the public. A Forest Professional is professionally responsible and accountable for their work. The professional association demands practicing due diligence and good stewardship of forest land. Finally, Atco is committed to follow all due processes (legislated and approved procedures).*

Linked with the release of the *Forest and Range Practices Act* (FRPA) in 2004, the ABCFP's foresters now operate under a new deregulatory "Professional Reliance" framework and mandate. Since that time, the topic and transition applications of Professional Reliance for BC's foresters has often been featured, highlighted and debated in the Association's bi-monthly magazine, *BC Forest Professional*, formerly called *The Forum* (see Appendix B for the magazine references).

The BC Forest Practices Board published a critical assessment of this Professional Reliance framework in 2013, *Professional Reliance in BC Forests: Is it really the issue?* As summarized in that publication, BC's registered professional foresters, particularly those under contract by the private sector, are assumed to operate under additional or more weighted fiduciary responsibilities to the public.

*FRPA shifted professional reliance considerably from professionals employed by government to those employed by licensees. In the process, the regulatory and planning support structures were pared down, reducing costs to both government and the industry. This shift in reliance was mainly through the significant reduction in plans that previously had to be submitted to government for review and approval. The Board often sees that the public has not recognized or accepted this shift, initially bringing their stewardship concerns to local government professionals, who now actually have limited ability to address them.*

*Government and the professional associations agree that the definition of professional reliance, in the context of forest management in BC, is "the practice of accepting and relying upon the decisions and advice of resource professionals who accept responsibility and can be held accountable for the decisions they make and the advice they give."*

*Confusion arises when discussing professional reliance because codes of ethics, developed by professional associations, require that professionals act in the public's interest, regardless of who their employer is.*

In addition to understanding the complexities associated with forest management practices, Professional Foresters have also been trained to understand and be competent in all relevant provincial laws and legislation pertaining to forest land use practices in British Columbia. This applies to knowledge and applications of the *Land Act*, including how the prevalent establishment of various Reserve tenures, such as Community Watershed Map Reserves and Community Watershed Order-in-Council Reserves, protect Crown lands from dispositions.

### **10.1. Questions for the Association of BC Forest Professionals**

Regarding the recorded statements made by Professional Foresters presented in this report, that is, in response to questions posed to each of them by residents in the communities of Glade and Deer Park in April 2016, are the following questions for the Association of BC Forest Professionals:

- How have Professional Foresters R. Ozanne and T. Hodgkinson complied with their Association's Code of Ethics, and their Association's Professional Reliance model, in making questionable public comments about BC's Community Watershed Reserves, both claiming before public audiences that the establishment, function and identities of these Map and Order-in-Council Reserves by government as legitimate Crown land tenures were a "misnomer?"

- How, thereby, are Professional Foresters Ozanne and Hodgkinson to be held accountable to the public through their professional organization for misdirecting the public? Why were they faking it?

These questions become very important when one considers that the former responsibilities of government foresters to hold or facilitate public meetings, especially those designed for logging proposal forums in Community and Domestic Watersheds, have now been wholly transferred to the private sector.

*Forest Act tenure applications and the forest management obligations in these [community watershed] areas are administered through the Forest and Range Practices Act (FRPA) and the associated Regulations (most specifically the Forest Planning and Practices Regulation). Under this law the most appropriate way to ensure new forest management applications consider issues associated with the watershed is to build the relationship with the Forest licensee operating in the watershed. In this case it is both Atco and Kalesnikoff.*

80

Who becomes accountable for bringing all of the correct information to the community table? In this respect, how have the Registered Professional Foresters been serving “the public’s interest?”

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<sup>80</sup> July 4, 2016 email from Rob McRory, Registered Professional Forester, Tenures Officer / Senior Lands Officer with the Selkirk Natural Resource District, Re: Tenure Inquiry for Glade Watershed.

# APPENDIX A: LAND ACT RESERVES LEGISLATION

(From Appendix A, [The Big Eddy](#) Report)

## 1. Land Act Reserve Legislation and Policy Manuals

Since 1888, the *Land Act* has defined the ability of government to Reserve (set apart) Crown (Public) lands in rather simple, overarching terms, as follows:

*The Lieutenant-Governor in Council may, from time to time, by notice in the British Columbia Gazette, reserve and set apart for the recreation and enjoyment of the public, for municipal purposes, or agricultural societies, or for cemetery purposes, or for the site of a church or place for divine worship, so much of the Crown lands as may be deemed necessary.*<sup>81</sup>

After 82 years in the Provincial Statutes, the BC Legislature amended/revised the *Land Act* on April 3, 1970, whereby Crown Land Reserve administrative instruments were elaborated upon. The Reserves were divided into three categories: Section 11 Order-In-Council Reserves; Section 12 Map Reserves; and Section 13 *Land Act* Designations. Previous to 1970, the *Land Act* provided only simple statements about the functions of the Reserve legislation, while definitions and descriptions of Reserve powers were documented in Land policy manuals and regulations.

Section 11 and Section 12 statutory Reserves provided the instrument, whereby the Lieutenant-Government and the Lands Minister were authorized to “*withdraw Crown land from disposition.*”

The Interpretation Section of the 1970 *Land Act* defined “*disposition*” as

that which “*includes every act of the Crown whereby Crown lands or any right, title, interest, or estate therein are granted, disposed of, or affected, or by which the Crown divests itself of, or creates a right, title, interest, or estate in land or permits the use of land; and the words “dispose of” have a corresponding meaning.*” The same section defined “*reserved lands*” as “*Crown lands that have been withdrawn from disposition under this or any other Act.*”

Reserves.	<p><b>11.</b> (1) The Lieutenant-Governor in Council may, for any purpose that he considers advisable in the public interest, by notice signed by the minister and published in the Gazette, reserve Crown land from disposition under the provisions of this Act.</p> <p>(2) The Lieutenant-Governor in Council may, by notice signed by the minister and published in the Gazette, amend or cancel in whole or in part any reserve of Crown land established under this Act or any former Act.</p>
Power of minister to withdraw Crown land from disposition.	<p><b>12.</b> The minister may, for any purpose that he considers advisable in the public interest, temporarily withdraw Crown land from disposition under this Act, and he may amend or cancel such withdrawal.</p>
Power of minister to withdraw Crown land from disposition, except for designated use.	<p><b>13.</b> The minister may, if he considers it advisable in the public interest, designate the most desirable use of any area or portion of Crown land, and he may withdraw such area or portion of Crown land from disposition under this Act for any purpose other than the use so designated, and he may amend or cancel the withdrawal.</p>

The following year government passed the *Environment and Land Use Act* on April 2, 1971, which was hailed as the “*Magna Carta of the Ecology*” (Hansard, March 23, 1971). The Act established authority through an **Environment and Land Use Committee** “*consisting of a chairman and such other members of the Executive Council,*” which had the following duties:

<sup>81</sup> I.e., Chapter 113, *An Act to Amend and Consolidate the Law affecting Crown Lands*, Revised Statutes, 1897.

1. *Establish and recommend programmes designed to foster increased public concern and awareness of the environment;*
2. *Ensure that all the aspects of preservation and maintenance of the natural environment are fully considered in the administration of land use and resource development commensurate with a maximum beneficial land use, and minimize and prevent waste of such resources, and despoliation of the environment occasioned thereby;*
3. *If advisable, make recommendations to the Lieutenant-Governor in Council respecting any matter relating to the environment and the development and use of the land and other natural resources;*
4. *Inquire into and study any matter pertaining to the environment and, and or land use; and*
5. *Prepare reports, and, if advisable, make recommendations for submission to the Lieutenant-Governor in Council.*

Due to mounting public concerns about commercial and industrial incursions into Community and Irrigation District Watershed Reserves, the Environment and Land Use Committee Executive consisting of Deputy Ministers established a provincial inter-departmental Task Force on community watersheds in February 1972, which was active until late 1980. As a result of written recommendations from Task Force Chairman Ben Marr, in May 1973, the Environment and Land Use Committee Executive authorized the Task Force to establish statutory Community Watershed Map Reserves under Section 12 of the *Land Act* over all candidate community watersheds determined to be so by the Task Force. Task Force correspondence indicates that almost 300 Watershed Reserves were ordered to be established by the end of 1973. As stipulated in the *Land Act* legislation above, the Crown lands within these Reserves were withdrawn “*from disposition under this or any other Act.*” The statutory Watershed Reserves were formal Crown land tenures.

Following the enactment of the 1970 *Land Act*, the Lands Department / Ministry created policy manuals and drafted regulations on the administration of Crown Lands, which included a policy section on the interpretation and definition of Crown Land Reserves. Later, the new *Ministry of Lands and Housing* produced a Land Administration Manual (LAM), and later a Land Management Manual (LMM), which provided comprehensive policy interpretations for all the *Land Act* instruments and designations, including numerous Memorandums of Understanding and administrative protocols with other Ministries concerning land and resource use. The LAM and LMM went through numerous revisions, but continued to abide by the same definitions for Crown Reserves.

Following upon the final proceedings and subsequent findings of the Community Watersheds Task Force (1972-1980),<sup>82</sup> the Ministry of Lands, Parks and Housing created a separate policy on September 1, 1980, published in the Lands, Parks and Housing Manual, under subsection 4.490, called *Watersheds Used for Community Water Supplies*. That policy states that the Ministry of Environment had charge over BC’s community watersheds, specifically referring to the administration of all the *Land Act* Section 11 Order-in-Council Reserves and Section 12 Map Reserves that were officially registered with/under the October 1980 document, *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies*. The September

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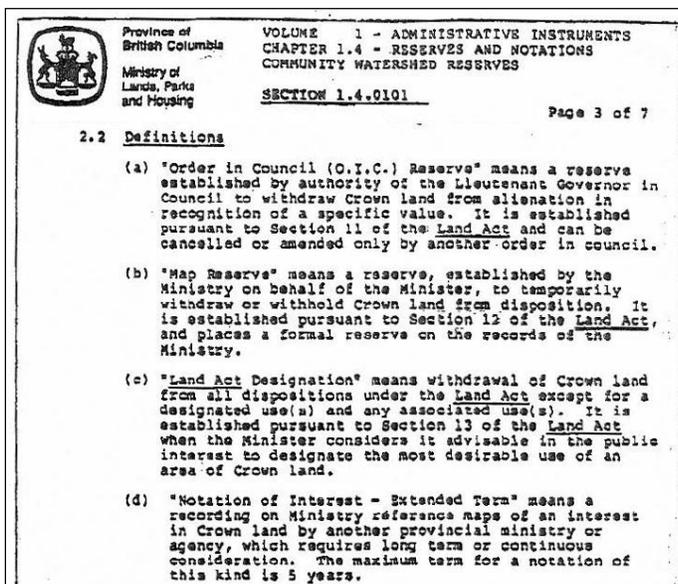
<sup>82</sup> Refer to Chapter 4 for the narrative.

1980 policy document states that “**new dispositions,**” i.e., a Timber Sale, “*may be made where the activity is compatible with the intent of the Guidelines and not detrimental to the community water supplies and where the land is not affected by an Order-in-Council or Map Reserve* [bold/underline emphasis].”

As reported by the BC Tap Water Alliance in its 2006 book, *From Wisdom to Tyranny: A History of British Columbia’s Drinking Watershed Reserves*, somehow “new dispositions” were being approved in established Section 12 Community Watershed Map Reserves, and even perhaps in Section 11 Order-in-Council Watershed Reserves, despite the provincial government’s strict and straight-forward policy governing the statutory Reserves.

In the amended May 1, 1983 Reserve policy document, the Ministry of Lands, Parks and Housing “reformatted” the September 1, 1980 policy and renamed the policy as **Community Watershed Reserves**. The amended policy document set forth definitions for Sections 11 through

13 of the *Land Act*, including a separate weaker instrument, a “*Notation of Interest,*” not classified as a Reserve under the *Land Act*:



(a) “*Order in Council (O.I.C.) Reserve*” means a reserve established by authority of the Lieutenant Governor in Council to withdraw Crown land from alienation in recognition of a specific value. It is established pursuant to Section 11 of the *Land Act* and can be cancelled or amended by another order in council.

(b) “*Map Reserve*” means a reserve, established by the Ministry on behalf of the Minister, to temporarily withdraw or

withhold Crown land from disposition. It is established pursuant to Section 12 of the *Land Act*, and places a formal reserve on the records of the Ministry.

(c) “*Land Act Designation*” means withdrawal of Crown land from all dispositions under the *Land Act* except for a designated use(s) and any associated use(s). It is established pursuant to Section 13 of the *Land Act* when the Minister considers it advisable in the public interest to designate the most desirable use of an area of Crown land.

(d) “*Notation of Interest – Extended Term*” means a recording on Ministry reference maps of an interest in Crown land by another provincial Ministry or agency, which requires long term or continuous consideration. The maximum term for a notation of this kind is 5 years.<sup>83</sup>

<sup>83</sup> A February 16, 1987 LAM *Crown Land Policy Summary* policy document stated that a Notation of Interest “is not a reserve, withdrawal or designation under the *Land Act*.”

In conformity with the 1970 *Land Act* and the September 1980 Reserve policy about “*new dispositions*”, the May 1983 amended policy document states in section 3.3, under *Land Application Activities*, that “**applications are not accepted in watersheds which have been reserved from alienation under Section 11 or 12 of the Land Act.**”

According to an updated June 16, 1993 *Protocol on Crown Land Administration and Forestry Activity Between BC Forest Service and BC Lands*, both the terms “*applications*” and “*dispositions*” were defined as follows, including a definition of “*tenure*” as an alternate for the term “*disposition*”:

- **Application** – “*means a request received by BC Lands of the Ministry of Forests for a disposition or use of Crown land*”;
- **Disposition** – “*means the issuance of a tenure such as a permit, licence, lease, right-of-way or easement for the use of Crown land. It also includes sale of Crown land in fee simple (pursuant to the Land Act or the Ministry of Lands, Parks and Housing Act). It also includes cooperative arrangements between the Ministry of Forests and a public group or individual for the management of the recreational resource.*”
- **Tenure** – “*means a disposition granting permission under the Land Act, the Lands, Parks and Housing Act, the Forest Act, the Range Act, or the Ministry of Forests Act to enter upon the land for a given use and under certain conditions. Tenure contracts contain obligations on both parties.*”

On October 12, 1990, the BC government produced a Land Policy Branch agreement, *Crown Land for Environmental Management*. It was published in Volume One of *Administrative Instruments*, under Chapter 1.3, *Interagency Agreement*. As set out in the document, “*this agreement conforms with the Protocol between the Ministry of Environment and the Ministry of Crown Lands, respecting matters of mutual concern.*” Under the *Definitions Section 2.0*, both Section 11 and Section 12 *Land Act* Reserves were defined as lands “*withdrawn from disposition for a specified purpose.*” Under Appendix 1, *Options Under the Land Act for Securing Crown Land for Environmental Management*, it identified that for Map Reserves, “*This designation may be used as a temporary method to reserve land while preparing the appropriate documentation for Section 11 Reserve or Section 101 Transfer.*”

The May 1, 1983 Community Watershed Reserves policy document was amended on March 1, 1994 “*to reflect changes in manual format and recent Ministry reorganization.*” The 1994 policy continued to abide by the October 1980 Ministry of Environment document, *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies*, which was predicated upon and contained a long list of Section 11 and Section 12 *Land Act* Watershed Reserves. In Section 3.3 of the amended policy, it stated once again that “**Applications are not accepted in watersheds which have been reserved from alienation under section 11 or 12 of the Land Act.**” In Section 2.1 the policy document states that “*this policy applies to vacant Crown land and Crown land within Provincial Forests identified as being required for uses as community water supply areas.*”

In 1996, government revised the *Land Act (Revised Statutes, Chapter 245)*, whereby the Reserves Sections were numerically reordered and advanced by four digits. This reordering

divided references about *Land Act* Reserves in government records into two separate time frames, pre-1996 and post-1996: i.e., the former Section 11 is now a Section 15 Order-in Council Reserve, etc.;

### **Reserves**

- 15 (1) The Lieutenant Governor in Council may by order
- (a) for any purpose that the Lieutenant Governor in Council considers advisable in the public interest, reserve Crown land from disposition under this Act, and
  - (b) amend or cancel all or part of a reserve established under this or a former Act.

### **Withdrawal from Disposition**

- 16 The minister may, for any purpose the minister considers advisable in the public interest
- (a) temporarily withdraw Crown land from disposition under this Act, and
  - (b) amend or cancel the withdrawal under paragraph (a).

### **Conditional Withdrawal**

- 17 (1) The minister may, if the minister considers it advisable in the public interest, designate a portion of Crown land for a particular use or for the conservation of natural or heritage resources.
- (2) A portion of Crown land designated under subsection (1) is withdrawn from disposition under this Act for any purpose that is not, in the opinion of the minister, compatible with the purpose for which the land has been designated.
  - (3) The minister may amend or cancel a designation made under subsection (1).

## **APPENDIX B: REFERENCES TO AND FEATURED ARTICLES ON PROFESSIONAL RELIANCE: BC FOREST PROFESSIONAL MAGAZINE**

(Note: the 2008 magazine issues were not reviewed)

### **March – April, 2003:**

*Are We Really Ready for Professional Reliance?* (By Judy Thomas)

### **July – August, 2003:**

*A Bad News, Good News Story* (By Van Scoffield); *Professional Reliance Under a Results-Based Code* (By Candace Parsons); *One Step Closer to True Professional Reliance* (By Barry Dobbin); *Write Clear and Measurable Results* (By John Pennington); *Greater Professional Reliance Challenges Foresters' Credibility* (By George Hoberg)

### **September – October, 2003:**

*The Changing Face of the Association* (By Jerome Marburg); *Professional Independence: An Essential Component of Forestry Practice* (By Peter Marshall)

### **November – December, 2003:**

*The Practice of Professional Forestry: How the Definition Has Changed* (By Jerome Marburg); *New Continuing Competency Program Benefits the Public, the Profession and Members* (By Jean Sorensen); *Forestry Profession's Social Contract*

### **March – April, 2004:**

*Professionals in the Public Eye* (By Kevin Hanson); *The Challenge for Professional Associations* (By Wayne Gibson)

### **May – June, 2004:**

*Looking to the Year Ahead* (By Rick Sommer)

### **July – August, 2004:**

*Four Major Initiatives in the Works* (By Rick Sommer); *The Forestry Team in a Results-Based World*; *Resolving Professional Differences of Opinion to Improve Professional Reliance* (By Brian Robinson); *It Comes Down to Trust* (By Guy Fried); *Stronger Forestry Team Benefits Public Trust* (By Will Sloan); *Interaction Between Professional Biologists and Forest Professionals* (By Warren Warttig)

### **September – October, 2004:**

*Pride in Our Profession and Our Professionalism* (By Rick Sommer)

### **November – December, 2004:**

*Diverse Activities Help Association Fulfill Mandate* (By Rick Sommer); *Voluntary Certification: Consultation Continues* (By Van Scoffield); *Code of Ethics: Time for a Review*

### **January – February, 2005:**

*Creating the Tools and Resources to Provide Professional Guidance* (By Rick Sommer); *Business Fundamentals: Architecture for Good Forest Stewardship* (By Rick Slaco); *Good Stewardship Makes Business Sense* (By John Drew); *A Forest Professional's Role in Global Corporate Strategy* (By Rob Wood)

### **March – April, 2005:**

*The Tip of the Professional Reliance Iceberg* (By Van Scoffield)

### **July – August, 2005:**

*Enhancing and Supporting Professionalism* (By Randy Trerise)

**November – December, 2005:** *Forest Stewardship Plans – The Professionals' Perspective*; *Getting Your FSP Approved – Perspective of a Delegated Decision Maker* (By Rory Arnett)

**January – February 2006:**

*Implementing an FSP: Where the Professional Reliance Rubber Hits the Road; The Implementer's Guide to the FSP* (By Rick Brouwer); *FSP Implementation: Apollo's Approach* (By Darwyn Koch); *Implementing an FSP: Where do We Go from Here?* (By Bernie Banovic); *Professional Guidance to Help Implement FSPs* (By Brian Robinson); *Small-Scale Salvage and Professional Reliance*

**March – April, 2006:**

*Adding Depth to the MOFR* (By Bruce Markstrom); *RFTs Must Take Professional Reliance to Heart* (By Ian Emery)

**May – June, 2006:**

*Targeting BC's Most Elusive Creature – Public Views; Assessing Public Views: Take Nothing for Granted* (By Kim Menounos); *Changing Public Views* (By Shannon Janzen); *Public Views Creature Not Elusive* (By Mike Nash); *ABC FP Leadership Needs to Make Major Changes* (By W.E. Dumont); *Council Response to: ABC FP Leadership Needs to Make Major Changes* (By Bob Craven)

**July – August, 2006:**

*Incorporating Professional Reliance into the Integrated Pest Management Act* (By Colin Buss)

**November – December, 2006. Magazine Feature: Unlocking Professional Reliance.**

*Trust Me! (Or, Why Should I Trust You, Bob?)* (By Bob Craven); *Unlocking Professional Reliance; Professional Reliance: Consistently Good Decision-Making* (By Paul M. Wood); *Daily Practices You Can Develop to Be a Better Professional* (By Brian Robinson); *Professional Reliance – It's About the People!* (By Al Gorley); *Professional Reliance – APEGBC's Perspective* (By Peter Mitchell); *Professional Reliance Guidance Papers*

**January – February, 2007:**

*Due Diligence Under the FPRA: Keeping it Real* (By Jeff Waatainen)

**March – April, 2007:**

*The Challenge of Expectations* (By Ian Miller); *Professional Reliance and the Enforcement of Forest Practices* (By Jeff Waatainen)

**July – August, 2007. Magazine Feature: Engaging the Public.**

*Trust, Risk and Professional Reliance* (By Paul Knowles); *Engaging the Public; Public Engagement: Lessons from a BC Forest Capital Community; Engaging the Public: Reversing the Trend on the Ground* (By Frances Vyse); *Engaging the Public on a Larger Scale* (By Sharon L. Glover); *Forest Education in the Okanagan-Columbia* (By Debbie Sluggett)

**January – February, 2009**

**March – April, 2009**

**January – February, 2010:**

*Are You Side-Stepping Professional Reliance?* (By Michael Larock)

**March – April, 2010**

**May – June, 2010**

**July – August, 2010:**

*Professional Reliance Isn't Free* (By Brenda Martin)

**September – October, 2010**

**November – December, 2010**

**January – February, 2011:**

*Planning 2011: Budget, Strategic Plan and Advancing Professional Reliance* (By Sharon Glover)

**March – April, 2011:**

*Making Professional Reliance a Priority* (By Sharon Glover)

**May – June 2011:**

*Promoting Professional Reliance* (By Ian Emery)

**November – December, 2012:**

*Failure is Not an Option when it Comes to Professional Reliance* (By Steve Lorimer);  
*Perspectives on Professional Reliance* (By Brenda Martin); *Cooperation and Common Sense: Professional Reliance in Mackenzie* (By Dave Francis); *What Forest Professionals Think: 2012 Professional Reliance Survey*.

**January – February, 2013:**

*Learning Leadership: The Role of a Forest Professional in the Industry* (By Greg Yeomans)

**March – April, 2014:**

*New Professional Reliance Evaluation Tool for Members*

**May – June, 2014**

**July – August, 2014**

**July – August, 2015:**

*Professional Reliance Advice* (By Sharon Glover)

**January – February, 2016:**

*Professional Reliance* (By Sharon Glover); *Forest Development Planning and Water in the Okanagan* (By Don Dobson); *How Does the ABCFP Achieve the Public's Trust?* (By Mark Larock and Megan Hanacek).

Documents Published by the ABCFP on Professional Reliance evolved following the establishment of a Professional Reliance Task Force, the establishment of Professional Reliance Regional and District Workshops, a Professional Reliance Steering Committee, and an online workshop: Advancing Professional Reliance in the Natural Resource Sector. According to the March-April 2010 magazine issue, Brian Robinson, RPF, was “the staff lead on all professional development and member relations activities.” The May-June 2010 issue: “Mike Larock, rpf, does all our professional practice and forest stewardship work. He and his committees deal with a huge number or practice issues brought about by the move to professional reliance.”

A number of the documents generated by the ABCFP:

- *Guideline: Definition of Professional Reliance*, September 2004
- *Professional Reliance: From Concept to Practice*, July 2006
- *Applying Professional Reliance Under FRPA*, April 2008
- *Standards of Professional Practice: Guidelines for Interpretation*, January 2010
- *Strategic Direction for Advancing Professional Reliance*, 2010
- *Applying the Principles of Forest Stewardship to FRPA & Professional Reliance*, 2012