

BC Supreme Court DECISION August 23rd, 2007

Following the past two days of hearings, Justice Butler delivered his decision regarding WFP's request for a **TOTAL** stay of the LBH order.

I was not personally present when Justice Butler handed down his decision in the matter, but I did receive a voice mail from Dan Bouman who described very briefly the "essence" of the Justice's decision.

Decision Handed Down

1. That essentially all of the clauses contained in the Order were stayed by Justice Butler with the exception of the clause pertaining to any slopes greater than 60 degrees.
2. The main reason I understand from Dan's brief message, was that because the LBH found after the five days of hearings, that was not sufficient evidence of a health hazard on the more gentle slopes of cut blocks WC-021 and WC-023, that the LBH did not have the jurisdiction to issue constraints against the Forest Act, which regulates the forest activities.

While at first glance, this decision seems to give WFP a total victory; I wish to make the following points.

1. WFP it seems deliberately logged the steep slopes while the LBH held its initial two days of hearings back in July, when they could have logged in WC-021 and WC-023 and respected the LBH process.
2. When the initial LBH hearings were completed, the LBH requested WFP to voluntarily cease logging until the LBH reconvened in August.
3. WFP replied that they had the greatest respect for the LBH process but **NO** they went back and logged (WC-021) during the intervening days before the LBH hearings started back up again.

When the LBH reconvened and eventually issued a "order" against WFP, the company promptly said that they would respect the order, however the order as written did not permit WFP to perform any forest activities, due to the language of the order. Of course this was blatantly not true, so **WHY** was WFP taking this position?

I suggest the answer lies in the larger battle that our tight little community has dragged both the MOF and WFP into. What is this battle you may ask? It is that never before as any other legally formed body, been able to interfere with the MOF and their Forest Act.

So why did WFP adopt the position it did, probably because WFP did not want to acknowledge the fact, that if they went back into the wood, they would be the 1st Forest Company ever, to allow some other legislation to dictate their forest activities and establish some form of direct control over their operations. As we know if they submitted to this, then, for the first time in the history of forestry in the Province of British Columbia, forest activities would be carried out under some other form of legislation.

So, if WFP simply said they could not function under the order, they escaped having to operate under it, and they hoped that then the Judge would grant them a **COMPLETE** stay of the order. By refusing to work under the order, WFP was not validating the order, simply ignoring it and telling the public the LBH had "hog tied" them with the LBH order.

This was a “creature” of their own making, for the purpose of escaping the inevitable if they went back to work and removed even only one tree under the terms of the order, and establishing the precedent described above.

But what has now happened is that Justice Butler has upheld a small portion of the order, which we all know that cut blocks WC-043 and WC-043P are the steep slopes section of the order. Because WFP logged these cut blocks back in July, we already knew that this portion of the order, however well intentioned, would not save many old growth trees, because WFP had “in your face” already either cut them down or prepared for helicopter lift out many of these trees.

So what does WFP face now? Well the Justice has ordered them back into the woods and they **MUST** now work with a small but a **SIGNIFICANT** piece of legislation, namely a LBH order that restricts logging on steep slopes greater than 60 degrees. Now WFP are in a position that unless they can win the appeal starting on September 10th, 2007 and remove this last remnant of the LBH order, they stand to **CREATE** the very precedent that they had hoped to avoid in the first place, by **NOT** going back into the woods.

Now WFP is obliged to operate for the next two weeks under the constraints of the LBH order until it is removed on appeal. Even this two-week window is a severe blow to WFP and the MOF and the industry as a whole. **BUT** if we concerned citizens win the appeal in September, then WFP will have established once and for all, that another piece of legislation can be used to protect watersheds all around the Province.

So we will just have to wait and see what happens during the appeal process, and on that note, we are going to have a booth during the Roberts Creek “Creek Daze” event for this coming Saturday in Roberts Creek. Mr. Dale Peterson will be manning the booth along with other volunteers to continue to “collect signatures” to add to our growing petition of residents opposed to logging in their drinking watershed, (over 800 names collected so far). In addition, Dale will be taking donations towards the costs of the appeal in September.

As many of you know, the Community responded with great generosity and donated to the “legal defense fund” for the Watershed 5 and while there are still some excess funds available in this account at the Sunshine Coast Credit Union, we know that we are going to require additional funds (on a very short time frame basis) if we are going to be able to mount a strong defense during the appeal process, to preserve what we have established so far.

So keeping this goal in mind, please encourage your friends and neighbors to come out to the Creek Daze this weekend in Roberts Creek, we are presently trying to organize a “presence” in the actual parade, in addition to our booth.

The other request we wish to make of you, is that if any of you have contacts with other friends or family living in other Municipalities across BC, facing the same problems trying to protect their drinking water, now is the time to have these people contact their locally elected representatives, and strongly suggest they consider “joining” in our struggle and make a financial contribution to support a strong appeal process.

The eyes of many municipalities in the Province have been watching what we have started, and many have expressed their support because they face the same issues. While it is very comforting to know that we have friends out there, unfortunately, we are going to need some financial support in addition to their moral support.

So, in summary, we have achieved something that no other community has ever achieved and we now have one of the largest forest companies on the Coast of BC, working in our Public forests under an order issued by our LBH preventing them from harvesting trees on 60-degree slopes. I am sure that WFP would rather not be in the forest under this scenario, but Justice Butler today, ordered WFP to conduct their forestry activities with this restriction in place.

We want to thank each of you for all what you have done to reach this milestone and lets just say, we have rounded the corner, the finish line is clearly before us, we still have a good horse under us, a capable jockey on top, so Hey! Lets get that last little spurt of energy and bloody well win the race!!!

Thanks everyone and please come out on Saturday and support your favorite jockey, the one that stands for truth and integrity and is concerned about the well fare of our children and grandchildren. This horse must win the race, good is on our side.

John Bebbington