

NATURAL RESOURCE SECTOR ROADS: LEARNING TO SHARE THE COSTS

By Ian McNeill



Photo: TLA Staff

It seems hard to imagine, but estimates on the extent of “resource” roads in British Columbia range from 450 to 600 thousand kilometres. That’s enough to get to the moon and at least halfway back!

They come in all shapes and sizes, ranging from well-used and diligently maintained two-lane semi-highways serving both industrial and recreational users to brushed-in tracks you’d need a machete to get through even on foot. Often they come and go, getting laid down to access timber, mineral and petroleum resources, and then getting “deactivated” for environmental and safety reasons.

As different as the landscape they often meander through, these roads share one thing in common, they are expensive to build and they are expensive to maintain. But of course if they’re going to be used productively and safely somebody has to do it, and pay for it, and while industrial road users and licence holders in the interior have managed to cobble together a workable system for sharing costs and responsibilities—see part two of the article—the situation on the coast

remains chaotic and contentious at best, with both capital and maintenance costs getting unevenly distributed between licensees and other industrial users, particularly market loggers. According to one contractor interviewed by Truck LoggerBC who asked to remain anonymous, some licensees are implementing road-use charges—\$2.40 a cubic metre in some cases—but not conducting adequate or in some cases any maintenance, leaving contractors in the position of having to pay for both road use and repair. Fighting for fairness has proven to be difficult.

“There used to be measures to repeal these charges but the district managers won’t get involved in these kinds of discussions anymore, so you’re at the whim of these companies. If you don’t sign on for the road-use charges you can’t haul your logs on their roads,” reports the contractor, who describes the charges as little more than a “cash grab.” Keep in mind these roads are built on public land and are simply under a road-use permit to the licensee, as such the TLA believes the licensee should not be mak-

ing money off the use of the road.

Sometimes the arm twisting gets painful. “I’ve seen companies arbitrarily break contracts,” he adds. “Then their lawyers hand you a new contract with higher road-use charges and say ‘sign it and log or stay off our roads.’ They’re using bullying tactics.” Even the language of the contracts has changed. The fees used to be defined as “road-maintenance charges.” Now they’re simply called “road-use charges.”

Appeals to reason with the companies involved typically fall on deaf ears. “It is what it is, they tell you.” Court action remains an option. However, as anybody who has gone that route can testify, legal action costs time, money and a significant amount of energy. Also even getting a judgement in your favor does not guarantee payment and can result in consequences elsewhere such as increases in log dump and sorting fees.

“We need a shared maintenance program where costs are actually shared the way we do it in places where roads are not controlled by majors,” our source suggested. “And if companies want to

charge road-use fees then they should have to show costs on that stretch of road to justify it. Also, district managers should be involved in mediation talks.”

As it happens, a remedy may be on the way. According to Wayne Hagel, a resource road policy specialist with the Ministry of Forests, Lands and Natural Resource Operations, the government is currently working on legislation to address these problems, which it hopes to have in place by the fall of 2016. He says the government is well aware of the inequities and conflicts over road use, many of which were outlined a decade ago in a report released by the Forest Practices Board in 2005. Part of the problem, he said, is that there are no fewer than a dozen regimes in BC that apply to resource road administration, including the *Forest and Range Practices Act*, the *Oil and Gas Activities Act*, the *Water Act*, and the *Land Act*. “All touch on the administration of resource roads,” he said. *The Natural Resource Road Act* (NRRA) would bring consistency to all industrial users and have within it a process for resolving conflicts and disputes between

“landowners and tenants.” In fact, the legislation is modeled on the *Residential Tenancy Act*, which itself was designed to resolve conflicts between landowners and tenants.

In simplest terms, the legislation would require the identification of one road maintainer, “that’s one person with a permit per road,” says Hagel—who would be responsible for maintenance. Anyone who met the threshold for industrial use would be obligated to notify the maintainer five days prior to use, and then “the maintainer will get back to you as to what should be your contribution to maintenance.”

As to how much they’ll pay, that’s still an open question, but Hagel says it’s likely to take the form of a rate per kilometre per ton.

It’s worth noting that the act will only apply to public lands—private lands will be exempt. However, says Hagel, the legislation will serve as a “benchmark” for costs. “The costs for maintenance will be known, so road users will be able to say if it’s two dollars here why are we being charged five dollars over there?”

It’s also important to point out that the legislation will apply to commercial users only—non-commercial users on natural resource roads will not have to worry about getting handed a bill on the way to their favorite fishing hole or campsite.

According to Dwight Yochim, a past Executive Director of the Truck Loggers Association, the proposed legislation has the full support of the membership. “TLA members and others logging contractors from around the province support the implementation of the NRRA simply because it would level the playing field for everyone and clarify the rules around multiple users of resource roads,” he says.

For more information on the *Natural Resource Road Act*, including discussion papers, news releases and FAQs, go to www.for.gov.bc.ca/mof/nrra.

See Part 2 on page 32:
Natural Resource Road Act:
Interior Users Show the Way

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Part Two: Natural Resource Road Act: Interior Users Show the Way

Although operating on a smaller scale, we currently have working examples of road use agreements operating between licensees and contractors in the Interior. According to Flemming Einfeldt of Industrial Forestry Service, groups like the Prince George Forest Road Maintenance Committee have a management group that's made up of representatives from industry, WorkSafeBC, the BC Forest Safety Council and pretty much anyone else with an interest in using resource roads. The committee meets twice a year to "set the rules," and oversees subcommittees, including a safety and maintenance committee and a road user committee that handles the financial matters.

"We have an agreement between all licensees that they will share all road maintenance costs, and that's done on a pro-rata basis, and divided up section by section," he says. "Road user agreements are issued to other [industrial] users who want to operate on the shared road, and there may be a cost depending on what they are doing, and that cost will be measured by tonnage and distance."

Einfeldt says he runs a program that runs all the weight and assessment data and generates answers as to who owes how much, and for what. "If somebody spent \$500,000 fixing up a road, doing grading and maintenance for example, that cost will get submitted and then whoever ran on the road will pick up a pro rata piece of the cost."

The beauty of it all is that with the overall structure in place it easily accommodates new users, which these days increasingly includes companies in the gas and oil sector. "They can simply be added to the roster," he says, and by and large they're welcomed with open arms because they have deep pockets and are not reluctant to spend on infrastructure. Other road user groups with similar mandates exist in Quesnel, Fort St. James, McKenzie and Vanderhoof, and the message is spreading. "We've been talking to people in the Lytton/Merrit area lately, and when they call we give them all the information because we want it all to be standardized."

Andre Stauble, Harvesting Supervisor at Sinclair Group Forest Products, says

overall the system is working well for licensees. "It's been good value for the money," he says. "Maintenance has been good and safety is at a higher level. The meetings have proven to be good forums for industry, drivers and even members of the general public to express concerns about safety and high-traffic issues."

There are occasional problems, he says. Some users—the railways being a prime example—refuse to chip in. There are also woodlot owners and small business operators that come and go. But even when that happens no one company takes a bit hit for the loss because all costs are shared.

Marty Hiemstra of Lo-Bar Log Transport in Prince George says his company has no complaints about the system whatsoever. "We are paid to harvest and deliver volume; road maintenance is covered by the licensee that owns the road permit or road-use permit on that road. The "users" (i.e. licensees) sort out the cost sharing when multiple users are involved. This is simpler than us paying to use the road and then recouping that through higher logging/hauling rates."▲



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