



The Professional Forester

The official publication of the Ontario Professional Foresters Association <u>www.opfa.ca</u>



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ONTARIO PROFESSIONAL FORESTERS ASSOCIATION

OFFICE	905.877.3679	
FAX	905.877.6766	
ADDRESS	5 Wesleyan Street #201	
	Georgetown, ON L7G 2E2	

<u>opfa@opfa.ca</u>

www.opfa.ca

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A municipal perspective to the use of technology in urban forestry

Andrew Puchalski, R.P.F, Project Leader – Woodlands, City of Mississauga

There are many facets of Urban Forestry and consequently many approaches that can be explored to understand and manage these natural assets. The combination of human resource constraints in finding the appropriate staff or quantity of skilled workers, poses a real problem in an organization's ability to meet service deliverable expectations. Fortunately, technology has regularly continued to advance over past decades providing opportunities for urban foresters and practitioners to adopt and deploy many of these innovations. In light of this, municipalities and organizations alike can improve efforts in business processes that allow for higher quality and accuracy without the need for more human resource input, allowing more capacity for other service efforts.

Technology is helping the City of Mississauga and many others in: accessing, collecting and sharing large amounts of data which previously would not have been even possible to comprehend. Just over a decade ago, the City forestry service was largely paper based with no formal tree inventory available. Complaints would have been reported for the most part by the public, through the city's customer service phone line, at which point a paper service request would be generated. These paper records would find their way to the appropriate Inspector or Arborist crew who would arrive and while on site, handwrite specific records pertaining to the tree at the address in question. This data would be then manually entered into the asset management system by administrative staff, possibly quite some time after fieldwork had been performed, with no spatial record aside from the direction of travel. Technology reach would consist of mostly radios to dispatch crews in emergencies such as severe weather events.

Today, the landscape is dramatically different. All field staff have at their disposition technology including computers or tablets that have access to customized GIS-based tree inventory systems. This software allows for the spatial management of where assets



Andrew Puchalski entering information from a field survey into a tablet.

are located, interfaces that allow for asset inspections, or work order management systems with the ability to in relatively real-time react to various scenarios and dispatch resources efficiently and effectively. Harnessing technologies such as ESRI's applications — Field maps, Workforce, Dashboard or many others allowed for rapid deployment of customized applications built for the specific project at hand. Having control over the project allows the specific end user to work with the project as they see appropriate, without the need for IT reliance. Options allow the user to for example, change symbology, add labels, and add or remove any layer that is available. Additionally, when paired with high accuracy GPS receivers, users are able to enter data with centimeter precision in certain circumstances.

Not only have these tools allowed field staff access to information and data-entry but they have also allowed decision makers to visualize large quantities of information and make informed decisions from real-time data, calculate eco-benefits, canopy targets and replacement values. Furthermore, such technology has fostered the distribution of data cross-departmentally (i.e., by-law officers, planning, Transportation & Works now have the ability to see information such as which trees are City-owned), but also allowed sharing of data outside the organization.



(Continued from page 3)

Sharing Mississauga's basic tree inventory information, allows the public to understand what trees on their property are either municipally maintained or a private responsibility as well as the ability to identify what types of trees are on their streets or parks. This map is publicly available and found at the following link for all those curious about their trees: https://ext.maps.mississauga.ca/Html5Viewer/index.html?viewer=Trees.HTML5



Figure 1. An example of the public inventory interface in which basic tree inventory information is available to the public through the City's website so that they can see what trees are on their streets and in their parks.

Access to free and simple tools has become increasingly available for the general public such as Avenza Maps, Google Earth/maps, QGIS and many more free applications to access data. This enables the public to use such software' for their own purposes however, when in doubt, consulting with a registered professional forester can assist in meeting the public's needs.

As time progresses, continued improvements in technologies will increase the potential for forest management applications, despite this, the task to apply the correct tools for the correct task at the right time remains with the forester. None-the-less, it is an exciting time see the application of technologies such as LiDAR being applied on the municipal scale.



The Ontario Woodlot Association receives \$1.2 million from Environment and Climate Change Canada to develop state-of-the-art private forest inventories

Promoting private land forest industry, wildlife habitat, and climate change adaptation with cutting-edge LiDAR technology

Ben Gwilliam, Private Lands Inventory Analyst, Ontario Woodlot Association

The Ontario Woodlot Association (OWA) is embarking on a 5-year project to fully modernize Ontario's private land forest resource inventory and promote biodiversity and climate change adaptation for landowners across the province. As a grassroots non-profit comprised of thousands of members across 21 different chapters, the OWA advocates for the productivity, sustainability, and ecological integrity of private land forest management in Ontario. And with the success of the Nature Smart Climate Solutions Fund \$1.2 million funding proposal under Executive Director John Pineau, the OWA will build a comprehensive private forest land inventory and strengthen its advocacy work in collaboration with forestry schools, government agencies, and community stakeholders. With these partnerships and the latest in technology and techniques, the *Enhancing Carbon Capture and Biodiversity of Ontario's Privately Owned Forests Using Best Management Practices Informed by High-Resolution Inventory* project will fulfill its three main objectives: to create an enhanced private land forest resource inventory that will take into account wildlife habitat and carbon stocks, to deliver climate change adaptation training to landowners, and to increase the area of private lands sustainably managed under Forest Stewardship Council (FSC) certification.

The last year a complete forest inventory was done over much of the private land in Ontario was 1978. Since then, technology has revolutionized the way forest data is collected on Crown land. Remote sensing techniques using multispectral satellite imagery for A.I.-assisted species detection and aerial laser scanning platforms that can precisely measure three-dimensional tree characteristics have allowed Ontario's forest industry to produce highly detailed, accurate, and exhaustive inventories. Now, the OWA is bringing the technology and techniques of these enhanced-forest resource inventories to the 170,000 private forests across 5.5 million hectares of land within the province. To do so, the OWA will leverage publicly available aerial laser scanning or LiDAR (Light Detection and Ranging) data originally flown for topographic mapping or as part of the Ministry of Natural Resources and Forestry's enhanced forest resource inventory project, and with field sampling, will create industry-standard LiDAR-derived forest inventories that provide all inventory attributes over private land. The OWA will also employ drones for the capture of new aerial LiDAR and imagery, GeoSLAM terrestrial LiDAR units for detailed measurements of forest conditions from the ground, and machine-learning algorithms to classify species from satellite imagery.



LiDAR raster image depicting the distribution of basal area values across woodlots in Southeastern Ontario.



(Continued from page 5)

Ultimately, this updated inventory will serve to connect landowners with forestry service providers through the Centre for Research & Innovation in the Bio-Economy's Forest EDGE platform. As well as to provide information to landowners and identify areas of private land with high carbon stocks and biodiversity values where best forest management practices will be most impactful.



Red pine plantation captured with terrestrial LiDAR showing individual trees and undergrowth identified and segmented.

The inventory provides landowners and policymakers with powerful decisionmaking tools to protect and enhance the biodiversity of Ontario's private land forests, and in cooperation with the OWA's carbon-offset partner and developer, Anew, will reduce the barriers to carbon-offset sales leading to increased long-term carbon sequestration. Wildlife habitat suitability and carbon storage can be determined with LiDAR by measuring the density and complexity of canopy and subcanopy structures along with the quantity of aboveground biomass. Using the outcome of the inventory project, and in collaboration with the Northern Institute for Applied Climate Science and the Climate Risk Institute, the OWA will develop and deliver forest climate adaptation training to support land managers and owners that will lead to improved management of carbon stocks and biodiversity values on private land.

The OWA and Eastern Ontario Model Forest (EOMF) recently came together under common management. The EOMF has held an FSC® Group Forest Management Certificate (FSC-C018800) for almost two decades. With this project, the OWA/EOMF

Certification Program Coordinator, Glen Prevost, R.P.F, will have increased resources to grow the Certification Program. This includes expanding the area certified under the EOMF FSC Certificate, as well as implementing the new FSC Ecosystem Services Procedure for the first time on private land in Canada. The Ecosystem Services Procedure incentivizes the preservation of forest ecosystem services by providing an assessment of value and facilitating access to ecosystem services markets. These initiatives will significantly reduce the barriers to FSC certification on private land and complement the project objective to enhance biodiversity and carbon capture through certified sustainable forest management.

This project would not have been possible without the support of the Centre for Research & Innovation in the Bio-Economy and the Forestry Futures Trust who have sponsored preliminary private land enhanced inventory projects and have championed the OWA to lead this initiative across the province. Over the next five years, these and other partnerships will be key to the project's success as over 100 students from local colleges and universities will take part annually to validate LiDAR data on the ground and gain valuable real-world experience to take with them in the industry. And with this project, the OWA and its partners are intent on not only enhancing the biodiversity and carbon capture within our forests but to re-establish private-land forestry as an important sector of Ontario's forest industry.

For more information on forest inventory on private land, please contact Ben Gwilliam at 647-206-2007 or b.gwilliam@ontariowoodlot.com. For more information on FSC Certification please contact Glen Prevost at 705-358-7913 or glen.prevost@ontariowoodlot.com



R.P.F.s and the restoration of Sudbury's forests

Michael Rosen, R.P.F.

The restoration of Sudbury's forests is one of the planet's great environmental stories. An industrially ravaged landscape returned to forest with community help, within a generation - and it all started with the work of RPFs. The OPFA profiled this story at its AGM in Sudbury in April of this year and in July, dignitaries gathered in Sudbury to celebrate the planting of the City's 10 millionth tree as part of its restoration efforts which first officially started in 1978. Prime Minister Justin Trudeau and British primatologist/anthropologist Jane Goodall were there. Celebrated members of the Sudbury community were also there. But what about professional foresters, were they part of this forest restoration story?



Greater Sudbury - https://www.greatersudbury.ca

As it turns out, RPFs made a huge contribution, especially at the very beginning. While logging (or "timbering" as it was called) began in a small way in the 1850s, it was the completion of the CPR line in 1884 that accelerated the timber harvest. The existing forest was principally pine – white, jack and red, logged for various markets, which contributed to numerous wildfires from the residual slash. Soon after, significant finds of copper and nickel opened various mines in the Sudbury area - Sudbury soon became the "Nickel Capital of the World". Whatever trees were not used for lumber or pulp were clearcut for the infamous "roasting yards" – 2-metre-deep piles of trees, football fields in size, in which the newly-mined rocks were roasted to burn off the sulfur before refining. The roasting yards soon gave way to enclosed factories all of which produced sulphur dioxide (SO₂) and sulphuric acid (H₂SO₄). This combination of timbering, burning, mining, roasting and smelting gave Sudbury its acidified "moonscape" that it was famous for, complete with bare, black rocks. Sudbury politicians were (at first) delighted that NASA astronauts chose Sudbury in the early 1960s to practice their manoeuvres because it so closely resembled the moon. However, this recognition backfired as Sudbury gained a negative reputation for its ugliness. A new Official Plan in the early 1970s affirmed that restoring forests around the City would be a priority for environmental and recreational reasons.

Foresters, academics and others were already looking at solutions in the 1960s to the highly acidic/heavy metal "soils" unable to support plant, animal, or fish life - of the 330 lakes in Greater Sudbury, only one supported fish, the others all rendered lifeless. Research was encouraged and financed by the provincial ministries in cooperation with the City, the universities and others working together to refine: species choice, liming/ fertilizing concentrations, and planting techniques. This included the planting of grasses to lower pH, take up some of the heavy metals and lower the temperature of the bare, black rock.

The Ontario Ministries of Natural Resources (OMNR) and Environment (MOE) played a large role, and it was OMNR foresters in the late 1960s who first began the field trials to look at how to get trees to grow in the "moonscape". **Ed Kraker, R.P.F.** was one of the first to implement field trials as a Management Forester for OMNR. When he was deployed to southern Ontario, **Jim McCready, R.P.F.** just beginning his career in Sudbury, took over these projects. Jim began a trend of having an RPF on Sudbury's VETAC (Vegetation Enhancement Technical Advisory Committee) an influential technical committee that recommended proposed actions to Sudbury Council. Eventually other RPFs became involved including **Jukka Heikurinen, R.P.F.** who introduced paper pots from the nursery at Thessalon and who was responsible for much of the seedling allocation to Sudbury in the early days. The containers could be planted deeper than bare root - the heavy metals concentrated in the top centimetres of the soil proved to be a real detriment to regeneration (the earliest plantings were with jack pine because of their resistance to air pollution and heavy metals).



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Eventually other species of trees were planted as air quality improved due to the construction of the famous Inco "Superstack" in 1972 to disperse the acidic pollution over a much larger area, diluting its effect (sulphuric acid is now recovered and the Superstack is slated for removal). Eventually, John Negusanti (a forester previously affiliated with OPFA who worked for OMNR and MOE) completed a number of early trials and participated on the VETAC committee at its earliest iteration in 1975 (until present!). Negusanti remembers experimenting with Japanese paper pots, and bare root stock in the 1975 era in the Skeed area. He insisted on seeding the areas with grass in addition to lime fertilizer, prior to tree plant. Ray Franklin, R.P.F. and Harry Struik, **R.P.F.**, OMNR foresters, continued these trials and programs and representation on VETAC. Struik was very innovative in his use of photogrammetry and wrote a paper still used today, Photo Interpretive Study to Assess and Evaluate Vegetational Changes in the Sudbury Area (Struik 1974).

David Balsillie, R.P.F. a researcher for the Ministry of the Environment went to the Sudbury area in 1971 as an assistant plant pathologist looking at the impacts of air pollutants on trees and soils in northern Ontario. He produced a number of papers including his presentation, Problems of Regeneration of Stressed Ecosystems at



Area in Greater Sudbury in 1981 compared to 2008.

the 71st meeting of the Air Pollution Control Association (Balsillie 1978).

Prof. Keith Winterhalter of Laurentian University became the lead academic on the site and began formal research trials beginning in the 1970s. Although many trees were planted both by OMNR as well as the mining companies before that, the Regional Municipality of Sudbury chose 1978 as its baseline year by which its serious regreening efforts began under the Sudbury Environmental Enhancement Program (SEEP). Today, the Sudbury area is a model of forest restoration. Ten million trees have been planted by the municipality, with many other trees planted by the mining companies (now Vale and Glencore). Approximately 3,400 hectares of land have been limed and grassed since 1978. Liming, fertilizing, grass seeding, and tree planting are all done on an operational level, with the participation of citizen groups and the private sector. Fish raised and released were re -introduced into Sudbury lakes including brook trout, not seen there for 50 years. Other species-at-risk such as peregrine falcons and Trumpeter swans were released in the area as well.

The famous VETAC committee is still very active under the leadership of Prof. Peter Beckett (involved since the 1970s) and includes foresters. The retirement of John Vining, R.P.F. saw the appointment of Tim Lehman, R.P.F. who eventually became a part of the committee. At present, Marc Hébert, R.P.F. and Marc Nellis, R.P.F., professors at Sudbury's Collège Boréal also are part of VETAC, involving their students in trials and plantings including growing trees in the College nursery and working with the Glencore company on restoring mine tailings and gravel pits.



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Hébert is a co-author on a recent article, <u>Tree restoration and ecosystem carbon storage in an acid and</u> <u>metal impacted landscape: Chronosequence and resampling approaches</u>, (Preston et al, 2020). He is also conducting trials in the use of pulp sludge and wood ash in acidified soil treatment. The entire Sudbury program is now like a well-oiled machine with great participation by public and private sectors, yet RPFs were there at the beginning — seeing the challenge and seeking solutions and continue to be part of the current and future advancements. Today, projects are geared towards increasing the biodiversity of many of the sites. This includes trying to introduce southern/hardwood trees, planting more shrubs and actually transferring sections of forest floor from off site development projects to create an understory. One has only to look at the before and after photos to realize the staggering progress - no one thought such a difference could occur in such a short period of time.

And most of those efforts were led by and managed by RPFs.

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Ontario's interactive reports and data: Example case study — exploring the impact of the pandemic on forestry in Ontario

Betty van Kerkhof, R.P.F.

The Ontario Ministry of Natural Resources and Forestry (MNRF) has made its reports and data interactive and accessible. Users can more easily access information to do their own research and analysis.

In 2021, Ontario released its **State of Ontario's Natural Resources – Forests** (MNRF, 2021). This is Ontario's fifth report that continues the practice of reporting on a set of indicators that measure and detect change in forest sustainability and its three pillars, environment, social, and economic. The indicators cover a range of topics including forest composition, wildlife habitat, forest harvest and Indigenous involvement. The report provides a series of links through which users can access more information. A current topic of interest in the media appears to be afforestation and deforestation. Readers may wish to read about the indicator that estimates the amount of afforestation and deforestation in Ontario. This indicator reports on both public and private lands in Ontario using a variety of data sources including national satellite imagery. You may be interested to learn that while afforestation levels remained relatively stable between 2008 and 2018 at an average of 1,276 hectares (ha) per year, deforestation was higher at an average of 4,731 ha/year with rates approximating 6,000 ha in the latter four years of the data period. This increase in the loss of forest is driven largely by agriculture (MNRF, 2021)¹.

Ontario's Forest Facts is a visualization of data making it more accessible to users that is available on a public tableau site (Watkins, 2022). It is interactive and allows users to explore maps, charts and data on topics of interest to them. For example, users may wish to explore the topic of natural disturbances where they will discover that on average over the last five years, insects such as forest tent caterpillar, jack pine budworm, spongy moth and spruce budworm disturbed the largest area while on average fire caused the greatest volume losses. The data used on this site is available via https://data.ontario.ca/dataset/report-on-forest-management-activities. It is updated periodically. This dataset includes annual data on forest management activities, e.g., trees planted and facts such as management unit names, inventories, compliance inspections, forest renewal trust expenditures and natural disturbances. The dataset on natural disturbance areas spans the greatest period at 40 years (Ontario Data Catalogue, 2022).

Plans and Reports

Ontario's forest management plans, annual work schedules and annual reports are also available online via the Natural Resources Information Portal and are available for viewing and downloading (MNRF, 2022).

Case Study

We were interested in learning how Covid and the ensuing pandemic affected forest management in Ontario. This will be used as an example and case study of how one could use these data and reports to explore a topic of interest. It should be noted that in March 2020, Ontario declared the forest industry to be an "essential business" and therefore it was permitted to operate throughout the periods of shutdown in the province.

The question — how did the first year of the pandemic affect forest management and associated activities in Ontario? Table 1 shows totals from the first year of the pandemic, 2020-21 compared to an annual average of the previous 5-year period using these data sources.

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¹ Deforestation is the permanent conversion of forest to other land uses such as agriculture and mining. Afforestation is the establishment of forest on land that has not been forested for at least 50 years. Forest harvesting and renewal are not considered deforestation or afforestation because there is no change in land use. As part of sustainable forest management, the trees are re-established.

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Table 1. First year of the pandemic (2020-21) compared to an annual average of the pre	vious 5-year
period (2015-2019).	

Activity	Annual Average (2015-2019) Reporting Years	Total 2020 Reporting Year	2020 Proportion of Previous Annual Average
Area artificially renewed (ha)	56,944.82	47,729.02	84%
Trees planted (thousands)	71,202.79	62,638.00	88%
Area naturally renewed (ha)	56,263.77	63,342.41	111%
Area site prepared (ha)	40,082.91	35,891.76	90%
Area tended (ha)	53,436.75	44,648.88	84%
Area declared free to grow (ha)	127,754.54	114,648.98	90%
Area harvested (ha)	133,250.47	126,127.49	95%
Volume harvested (m ³)	14,262,106.31	13,374,304.00	94%
Volume harvested - undersize (m ³)	739,601.38	636,118.65	86%

Source: Ontario Data Catalogue, 2022.

Seven of the eight activities reported for 2020 (reporting year 2020-21) were less than the annual average for the previous five-year period. The only exception was natural renewal which is less labour intensive than the other activities. From these results there appears to be a factor that is causing a lower level of activity. It is understood that the same level of intensity is not expected annually. The conditions encountered in the area harvested in the previous years will determine whether a site will be naturally or artificially renewed, whether it will require site preparation or tending and when it will be declared free to grow.

To better understand whether the pandemic played a role in this lower level of activity, a sample of the 2020-21 Annual Reports on Forest Management was examined. This sample included six annual reports with two from each of the three MNRF administrative regions, reporting on the Algonquin Park, Bancroft-Minden, Hearst, Nipissing, Boundary Waters and Kenogami Forests (MNRF, 2022). These reports indicate that the pandemic negatively impacted the level of operational activity in the spring and summer of 2020, due to the overall uncertainty, challenges with supply chains and in some cases a shortage of workers. The high demand for softwood (construction/renovation, personal hygiene, packaging, etc.,) did push the level of harvest activity in the winter of 2020/21. In southern areas of the province the pandemic created a higher demand for fuelwood as some people left urban areas when the opportunity existed. Anecdotally, people spending more time at home also burned more firewood as based on personal experience. As further evidence of the pandemic's impact on forest management, refer to the excerpts from the Algonquin Forestry Authority's (AFA) two annual reports that are included below. As Gord Cumming, R.P.F. with the AFA notes, on a continuing basis, "contractor availability seems to be the biggest issue we are now facing – and this decline seems to be linked to the Covid slowdown that never really recovered back to normal. Inflation is also playing a role here as the cost of doing business (especially fuel) has increased significantly" (G. Cumming, personal communication, August 12, 2022).

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2020/21 Algonquin Park Management Unit Annual Report (available at MNRF 2022):

"Harvest levels were below 2019-2020 in area (2% decrease) with a 12% decrease in volume. The 2020 season was unprecedented as the COVID-19 global pandemic swept across the nation during the beginning of March. Widespread market uncertainty and major disruptions to all supply chains had a major impact on operations particularly during the spring and early summer of 2020. Contractors got back to work later than usual and had difficulty finding and retaining employees, when markets did eventually open up again and allow for a return to work. Mill demand was highly variable in 2020-21, largely due to COVID-19 related effects."

2020/21 AFA General Annual Report (AFA 2022):

"Costs increased as contractor availability decreased, and workplace requirements increased to protect workers from COVID -19. AFA experienced these new costs indirectly through contracting, as well as directly through management of its own worksites, staff, and field crews."



(Continued from page 11)

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Exploring opportunities to improve utilization in Ontario

Glenn Prevost, P.Eng., R.P.F., Betty van Kerkhof, R.P.F., Jennifer Dacosta, R.P.F. in Training

Ontario has numerous species and qualities of wood that can be used in many ways. <u>Sustainable Growth: Ontario's Forest Sector Strategy</u> and the <u>Forest</u> <u>Biomass Action Plan</u> identify actions that can be taken to improve utilization. Here are a selection of ideas and references to delve into this topic.

Small-scale bioheat and bioenergy

Over the past six years the Ontario government has revamped regulations related to bioheat systems that use solid wood biofuels. These changes help facilitate the implementation of bioheat systems that can use lowgrade, unmerchantable, and sawmill by-products as fuels. Modern bioheat systems such as wood stoves, furnaces, and boilers, that burn cordwood, wood chips, briquettes, and pellets are clean and efficient heating systems. These systems come equipped with emission reduction technologies and in the case of furnaces and boilers, low emissions on par with natural gas systems. In recognition of these facts, the Ontario government has made it easier to permit and operate these systems. Key changes include environmental permit exemptions for boiler systems smaller than 50 kW for cordwood, briquettes and chips and 150 kW for pellets, regardless of the number of boilers installed. Ontario's streamlined Environmental and Activity Sector Registry (EASR) regulation is now used for permitting most European certified boiler systems that are less than 3 MW, significantly reducing consultant costs and permitting time. Larger systems must obtain an Environmental Compliance Approval (ECA), but most large sawmills and wood processing facilities already hold an ECA and the bioheat system can be added with modest effort. One of the major hurdles to permitting electrical generation systems powered by solid wood biofuels, such as combined heat and power systems (CHP), was the need to obtain a Renewable Energy Approval. This requirement has now been removed for electrical generation systems powered by solid wood biofuels. There are still economic hurdles to wider implementation of both bioheat and CHP systems and uptake in Ontario has been slow. Natural gas, electricity, and carbon prices need to rise to help make these systems more competitive. However, the forest industry could be an early adopter of these technologies because many wood processing facilities are off the natural gas grid and could produce biofuels as a by-product. More information about bioheat systems can be found in <u>A Solid Wood Bioheat Guide for Ontario</u> for Rural and Remote Communities in Ontario published by FPInnovations and available at https://cribe.ca/ resources/bioheat-guide-brochure-en-fr/.

Resources on biomass, biofuel and bioheat

The Centre for Research and Innovation in the Bio-Economy (CRIBE) has been working with other partners on developing and promoting a sustainable and profitable Ontario bio-economy. Their website includes resources and projects that are complete or ongoing on this subject. <u>https://cribe.ca</u>

Readers interested in this subject are also encouraged to consult *A Solid Wood Bioheat Guide for Ontario for Rural and Remote Communities in Ontario* for an explanation of the differences between biomass, biofuel and the resulting bioheat (FPInnovations 2020).

To further promote the use of bioheat in Ontario, in 2021 the Ministry of Natural Resources and Forestry hosted a Solid Wood Bioheat Webinar Series, in partnership with FPInnovations, Natural Resources Canada, and CRIBE. This series is available for viewing (CRIBE 2021).

CRIBE has a number of complete and ongoing projects in this area. For example, Conversion of Ontario forest biomass to advanced second generation biofuel, (CRIBE 2022a).

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Thick OSB

Oriented Strand Board (OSB) is an important wood product for the building industry and the forest industry. In Ontario, OSB mills use species and qualities of wood that are undesirable to sawmills and also use sawmill residues. Their importance to the forest bioeconomy is significant. The most common format of OSB products are sheet goods and to a lesser extend I-Joists, both used in low-rise and mid-rise construction in Ontario and North America. Research is ongoing at FPInnovations into thick OSB. These large sheets would be large, loadbearing sheets, like Cross-Laminated Timber (CLT), but could avoid the use of dimensional lumber.

This research project has just begun but there is anticipation it will yield positive outcomes. Laminated Strand Lumber (LSL) is a beam-type product manufactured with a similar process and wood-quality to OSB. LSL can replace solid wood studs, joists, and other framing members in construction. Although not widely used, it is permitted for use in Canada and the United States, subject to building code requirements. Given the importance of current OSB mills, there is an opportunity and a need to push the development and deployment of these products in Ontario, hopefully with the construction of manufacturing facilities in strategic locations in Northern Ontario.

Incorporating the use of lignin in manufacturing

CRIBE is supporting research into the use of lignin as an adhesive in engineered wood products or composite structural products, or as a replacement for petroleum-based products in automotive production. For example, *Moving toward carbon-negative automobiles: incorporating lignin in automotive parts on commercial scale*, (CRIBE 2022b).

Potential for solid wood poplar and tamarack products

Stands with large components of non-veneer poplar or tamarack and small components of SPF or more economical species are often by-passed for harvest in Ontario or, if they are harvested, face challenges related to residual tree requirements in Ontario's Site and Stand Guide and Silvicultural Guide.

Poplar has similar strength properties to white spruce. Dimensional poplar lumber could be used as a structural product, including in engineered wood products, particularly CLT. Current barriers to this uptake are generally centred around the ingrained and dominant use of SPF as the primary structural dimensional lumber in North America and the high costs related to ongoing testing required for all structural woods. Poplar is also an underrated furniture-grade wood, often seen as cheap and junky, when in fact it can be easily worked, has pretty but subdued grain, including birds-eye and curly grain, and when processed property, is coveted by niche wood manufacturers.

Tamarack is almost completely excluded from lumber markets in Ontario due to concerns around warpage during drying, ring-shake, pitch pockets, and general historical disuse. While these are legitimate concerns, when properly processed, tamarack lumber is very strong, durable, has an attractive colouration and grain, and is moderately rot resistant. Niche wood manufacturers such as Larch Wood (larchwoodcanada.com) and small flooring manufacturers, mostly in the United States, have proven that with the right processing tamarack can be a viable wood product.

It seems that a coordinated effort between industry and governments in Ontario and Quebec, where much of the underutilized material is found could improve markets, utilization, and economic and environmental outcomes for poplar and tamarack. In a wood market where most of the SPF is spoken for, it seems logical to look for complimentary products to increase output and meet market demands.

Using current tools to highlight poplar and tamarack availability and growth

There are several resources available to determine the volume and area of poplar, tamarack and other species in Ontario. A BETA version of a portal called Forest EDGE was developed by Ontario's CRIBE to promote economic development and investment opportunities in Ontario, and to provide investors with decision-support tools and information related to the province's forest resources, <u>https://www.nextfor-forestedge.ca/</u>.



(Continued from page 14)



Figure 1. Volumetric distribution of tamarack from Forest Edge Forest Information Reference. <u>https://www.nextfor-forestedge.ca/tools-2/forestedgetools</u>

The Forest Information tool summarizes information on available wood supply, volumetric distribution of species and other information using Ontario's government open sources. For example, the distribution of tamarack volume illustrated in Figure 1, is more dominant in the northeast (Forest Edge, 2022).

As described in the article Ontario's interactive reports and data: example case study — exploring the impact of the pandemic on forestry in Ontario (this issue page 10), the Ontario Ministry of Natural Resources and Forestry has made its reports and data interactive and accessible. The growing stock volumes bubble chart available on the Forest Resources of Ontario 2021 data visualization site (Figure 2) shows poplar species growing stock as a primary component of Ontario's growing stock making up 18.5% of the gross total volume in Ontario with tamarack (larch) as a secondary component comprising 3.0% (Watkins, 2022).

In addition to the distribution and volume of these underutilized species a key aspect for their future consideration is their growth rate and contribution to species diversity. Poplar species are fast growing trees and with abundant light, tamarack is one of the fastest growing conifers on uplands in the boreal and northern forest regions; on peatlands it outgrows any other native conifer (Burns et al., 1990). We found several historical references indicating tamarack's superior growth and potential favourable contribution to wood supply (e.g., Mead, 1978; NDDLF, 1989; Schmidt and McDonald, 1992). Both species have the potential for future development.



Figure 2. Data visualization of Growing Stock Volumes - Gross Total Volume - All Ontario (Watkins, 2022)



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Conclusion

The uncertainty of environmental change and constantly evolving societal preferences paired with continuing innovation in the forest products sector implore us to think critically about the utilization of our forest resources. Many interesting and promising initiatives are underway. In addition, we can look to ideas from the past, while there may have been previous barriers to implementation perhaps now the time is right to pursue these.

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Opinion from a recent Algonquin College Forestry grad: Labour shortage and inflation concerns

Brittany Mackenzie, Forestry Technician, Lavern Heideman & Sons Limited

Working as a Forest Technician at Lavern Heideman's and Sons Limited, I have relied on the connections fostered throughout my time at the Forest Technician program at Algonquin College. Not only did these connections help me find an incredible position in a forward-thinking company, but also offer continued support and opportunities for me to grow and learn since graduating. Fellow graduates have gone on to work as Algonquin Forestry Authority treemarkers, research and data techs, arborists, and even into parks. Success of all of us relied on the foundation of education provided, and also the relationships with organizations that allowed us to be exposed to many different parts of the industry. This exposure was crucial for us to understand how they connect, what they do, and how we would fit within them. Bridging those gaps helped many of us successfully join the industry.

Being a recent grad offers a unique perspective on the issue of a labour shortage, and I don't see it as a simple net-positive for those looking for work. Part of my hesitation is the nature of forestry; it is geographically widespread and exists within numerous sub-sectors. This can lead to confusion and frustration for job hunters, and there can be hesitation if applicants feel there are not sufficient resources and guidance available once they take a position. From my own experience, it was the internal support and guidance from within my company that allowed a successful transition. The reassurance that that mentorship would be there helped solidify my career choice.

A significant potential tool to address labour shortage obstacles is the expansion of networking connections within industry organizations. Again, speaking from experience, organizations such as the Ontario Woodlot Association (OWA) and their role in supporting students and recent grads cannot be downplayed. Forestry exists in so many sectors and within so many facets of the economy that trying to navigate it without references and relationships can be daunting. Mentorship and networking with professionals within groups like the OWA or the Canadian Institute of Forestry / Institut forestier du Canada (CIF-IFC), can offer a bridge between job seekers and prospective employers. This is crucial for employers who are looking to fill more positions with younger staff or new graduates. Young people and recent grads often lack industry connections but industry leaders with these connections can step in to reinforce candidate's abilities and prospects.

(Continued on page 18)





(Continued from page 17)

These organizations and relationships with school programs and the public can also aid to dispel potential negative bias or stereotypes. Programs like the OWA can offer outreach and opportunity to connect private landowners to industry, and highlight the sustainability, responsibility, and care that goes into managing forests. Challenging the notion that forestry is not aligned with the growing concerns of climate change, environmental and wildlife protections, is key to persuading newer generations to look to forestry to seek future employment.

The other major issue of concern within many industries, including forestry, is inflation. While prices are rising for production, transportation, and materials, a potential positive side-effect is a reinvigoration of forestry as an attractive career. My own move from the hospitality sector in the Golden Horseshoe to the forest industry in the Ottawa Valley was motivated by both the instability of the hospitality sector and rising costs of living in urban settings. Forestry offers an alternative to these growing concerns; housing in cities that is more unfeasible, and job markets in sectors like hospitality that are vulnerable. Offering employment stability and accessibility doesn't always have to resemble the far north and remote operations that many may link to working in the industry.

The severe May 22, 2022 windstorm that struck Ottawa and the surrounding area was able to starkly demonstrate both issues; the shortage of labour in the industry, as well as its continued existence outside of the Boreal. It helped to highlight that the industry does not always fit the stereotype of those Northern Boreal operations, and that it can be a viable option for people who have families, who don't want to relocate or who want to be close to amenities. All considerations that are more important for those seeking work. The aftermath of the blowdown, where private landowners and counties were turned away from selling timber and were unable to hire contractors to work salvage operations, demonstrated the continued need for this industry closer to 'home'.



Professional reliance

Betty van Kerkhof, R.P.F. ON, R.P.F. (Ret) BC

The OPFA is one of many regulators of professions in Ontario. The object of all regulators of professions in Ontario are to protect the public interest. How well we protect the public interest is under constant scrutiny by the regulators themselves, governments, the media, courts and oversight agencies such as the Office of the Auditor General. The OPFA can learn from the actions undertaken by other regulators as well as from the decisions and findings of external parties that evaluate the operations of regulators. All health, finance and engineering professionals in Canada operate through some form of professional reliance. The OPFA can learn from them as well as forest regulators that have some experience with professional reliance.

As the OPFA's Executive Director and Regulator, Fred Pinto R.P.F. notes: "professional reliance does not mean you can do what you want to serve the self-interest of your employer or yourself. Institutionalizing professional reliance in the OPFA will mean the OPFA needs to develop the mechanisms to ensure registrants are providing services that meet the laws of Ontario, treaty and Aboriginal rights, ecological evidence and norms of society."

The Ontario government has initiated a greater role for professional reliance with the publication of its 2020 Forest Management Planning and Forest Information Manuals. The OPFA is interested in creating a greater awareness among its registrants about professional reliance.

As part of continuing our professional learning, we are including material developed by the <u>Association of BC</u> <u>Forest Professionals (ABCFP)</u> on "professional reliance". This is an area about which the ABCFP has prepared considerable materials to date. On January 2018, the ABCFP submitted a report to the Professional Reliance Review that the BC government was undertaking at that time. The Introduction from this report (ABCFP 2018) is included below with permission from the ABCFP. I hope that members will find this excerpt informative and of assistance as OPFA works to further develop its "professional reliance" materials.

Excerpt from **Professional Reliance Review Submission from the Association of BC Forest Professionals** (ABCFP 2018)

INTRODUCTION

What is the professional reliance system?

Since 1947 with the introduction of the *Foresters Act*, the management of BC's forests has relied on forest professionals. Professional reliance took on greater significance in 2004 with the introduction of the *Forest & Range Practices Act* when professional reliance became a quality assurance strategy in the regulatory model. From that perspective, the simple meaning of professional reliance is "to rely upon the actions, judgment, or advice of a professional."

Today, the professional reliance **system** takes different forms across the natural resources sector. In general terms, it is a 'results-based' (professional reliance) regulatory model where, rather than reviewing and approving all plans or project designs, government instead:

- 1) sets the rules, objectives or results to be achieved;
- 2) relies on the professionalism of professionals hired by resource users to advise how those objectives or results will best be met; and
- 3) government monitors the results and environment, and enforces compliance among resource users through laws it has passed.

Professional reliance is **a dynamic system** where each component of the system needs to work for the entire system to function effectively. In forest management, the professional reliance system is often depicted using some iteration of the diagram¹ shown in Figure 1.

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¹ Figure adapted from the Office of the Auditor General of BC report title: An Audit of the Ministry of Forests, Lands and Natural Resource Operations' Management of Timber. February 2012.



BC'S FOREST MANAGEMENT OVERSIGHT FRAMEWORK



Figure 1. BC Forest Management Oversight Framework.

In this figure, the white boxes correspond to government roles and responsibilities:

The three upper white boxes (Forest & Range Practices Act, Objectives, Plan & Practice Requirements) are how the government "sets the rules, objectives, or results to be achieved" in forest management.

The other two white boxes correspond to government responsibilities for Compliance & Enforcement (to ensures resource users are complying with the laws), and monitoring and evaluation (activities to monitor the environment and results on the land).

The shaded "Professional Reliance" box relates to the practice of relying on the professionalism of professionals. In order to rely on professional work, two fundamental underlying aspects must be met: (1) professionals must be regulated, and (2) their professional services must be used.

In **regulating the professional**, the professional association (regulator):

- establishes the standard of education and experience required to practice;
- sets standards of professional practice, and ethical codes of conduct which professionals are mandated to follow; and,
- implements a complaint and discipline process for the public and others to use so professionals can be held accountable if they do not meet their obligations.

The other critical aspect of professional reliance is that the **services of professionals are used**.

The *Forest & Range Practices Act* does not contain specific provisions directing resource users to use forest professionals, however should a resource user be found to have contravened environmental laws, a consideration in the assessment of the resource user's diligence includes whether they relied upon the work or advice of a qualified professional.

The **government has also established the forest profession as a 'right to practice' profession**. This means the government made it illegal for anyone but a registered member of the forest profession to engage in the practice of professional forestry. This ensures that people practicing professional forestry are competent and can be held to account for their work and conduct by the public, the profession, and others.



(Continued from page 20)

Who is involved in the Professional Reliance Model?

Four participants play key roles in the professional reliance system:

- 1) government
- 2) resource users
- professionals (qualified persons) and
- professional associations (qualified person governing body)

The 'resource user' refers to the entity that is going to extract or use the resource and has been granted some form

of tenure contract by the provincial government that allows

them to have access to the land and resource. In the forest sector this is often a forest company (industry), but may also include government (BC Timber Sales), a woodlot owner, a municipality, a First Nation, or others.

End of excerpt

The reader will note that under the "professional reliance" model, the regulator (the professional association) must establish standards for education and experience, professional practice and ethical codes of conduct. The regulator must also implement a compliance and discipline procedure for the public and others to use so that professionals can be held accountable

Under Section 22 (2) of BC's *Professional Governance Act* (PGA) (Province of British Columbia, 2018), the regulator, as part of its duties, must:

- establish, monitor and enforce standards of practice to enhance the quality of practice so that registrants avoid:
 - (i) professional misconduct,
 - (ii) conduct unbecoming a registrant, and
 - (iii) incompetent performance of duties undertaken while engaged in the regulated practice;
- establish and maintain a continuing competency program to promote high practice standards;
- establish, monitor and enforce standards of professional ethics amongst registrants.

Under Section 57 of the PGA, councils of regulatory bodies are required to make bylaws that establish standards of professional and ethical conduct and standards of competence. Among other requirements, these bylaws will have regard for applicable standards, policies, plans and practices established by the government or the regulatory body.

Registrants for their part must comply with the standards and competence guidelines.

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² BC Provincial Government. Framework for the use of Qualified Persons in the Natural Resource Sector. Nov 2014.



Council corner

Neil McLean, R.P.F., Councillor Central West

Council Corner is to provide membership with insight into what happens at OPFA Council meetings.

They started not knowing that "they" would become a singular pronoun. I am not a they, rather a he/him. To say that nothing much has changed in the four years since I was asked to serve on council, well that would be wrong. Pronouns were certainly not on my radar four years ago. Now, I simply pronounce my preference. If this practice gives hope to those who've been marginalized and feel somehow less relevant, then this is a good thing.

I have one more executive committee meeting and one more council meeting before my term as Councillor expires, and this, a moment to share some thoughts. I wonder how much of the membership will read this. I would like to think that I would be pleasantly surprised. Yet, the past couple years have really strained us. Priorities have changed. So, questions arise. How relevant is Council? How relevant is our Association. How relevant is our profession to the

public? The answer to all three questions is "very". The OPFA Council is relevant. Its job is limited, which is a good thing - focus on good governance and the public good. It's not very sexy, but it is relevant. As a licenced profession our single overarching goal is to ensure that its members practise forestry for the public good. Council's job is to ensure that we enforce our standards

towards the public good. This has guided the development and implementation of our recently adopted strategic plan, the development and soon to be implemented Indigenous Standards, and the development of our diversity and equity standards.

My long time friend and fellow RPF Brian Callaghan observed to me once that as much as Forestry is about the forest it is equally if not more about the people who derive benefit from the forest. It is a noble practice in which we are but practitioners, a benefit to be sure. The extrinsic benefits from the forest are livelihood and recreation, individual pursuits. The intrinsic benefits of the forest are for every person. There is pride in membership, in being part of a professional society, in abiding by our standards and ethics. We are members because we want to be. Our Association is relevant to us as individuals because of our relationships to one another.

One of the elements of our strategic plan is to improve awareness of the profession among all stakeholders. We as members understand the importance and relevance of what we do. The public will benefit when it has greater knowledge of what we do. Our challenge as an organization is to determine how to inform the public, cost effectively. We have to tread carefully as we are not allowed to advocate for ourselves or much of anything for that matter. This will be our biggest challenge over the next while.

I joined Council with an open mind and a willingness to serve. I say unequivocally that all the Council members with whom I have had the fortune to serve share that attitude. Council gets fantastic support from the staff, namely Priscilla, Louise and Fred. I do not recall any meeting that lacked focus and organization. I don't ever recall thinking after a meeting of council, "gee there's two hours I will never get back..". From that perspective it has been a pleasure. Too many online meetings in one's life can be tedious. Council meetings have never added to that tedium. I am grateful to the staff and to all with whom I have served. Finally, I encourage any member who has not served on Council to consider the opportunity seriously. If not Council then consider providing your time, perspective and talent to serve on one of the committees. Our work is relevant, not just to ourselves but for the greater good.





Awards report survey results

All OPFA registrants were provided with the <u>Awards and Recognition Working</u> <u>Group report</u> on the review of the awards and recognition program by email on August 17th, 2022, and were informed of the opportunity to provide feedback using the Awards Report Survey. Registrants were given 2 weeks, until August 31st, to complete the survey if they chose to do so. The results were collected for this report on September 1st, 2022. The results of the survey were shared with OPFA's Council.

Who completed the survey?

41 registrants chose to complete the survey. This represents only 4.3% of registrants.



■ No ■ Yes, more than once ■ Yes, once

Figure 1. Have you nominated anyone for an award in the past? (number of respondents, % of respondents)

Registrant Preferences

Which of the options outlined in the report would you prefer to see implemented, if feasible?

The most popular option from those provided was to find another relevant organization to take on providing awards to professional foresters (see Figure 3).

Interested professional foresters should organize, register and fund a new foresters advocacy and award association (the name to be determined later) separate from the OPFA to give out awards to professional foresters Develop scholarships, grants and/or fellowships instead of awards

> None; an alternative to the discontinued awards is not necessary

Find another relevant organization to take on providing awards to professional foresters



Membership category	Number of respondents
Full Member	31
Life Member	4
Inactive Member	3
Provisional Member	1
Associate Member	1
Honourary Member	1
Grand Total	41

Have you nominated anyone for an award in the past?

General Questions

Only 9 respondents (22%) had nominated anyone for an OPFA award (see Figure 1).

After reading the report, how do you feel regarding an alternative to the awards?

17 respondents (42%) felt that an alternative to the awards should be pursued. 24 respondents (58%) either did not feel that it was necessary or did not feel strongly either way (see Figure 2).



- I feel that an alternative to the awards should be pursued.
- I do not feel that it is necessary to create an alternative to the awards; certificates of appreciation for volunteers and the 25- and 50-Year pins are sufficient.
- I do not feel strongly either way.

Figure 2. After reading the report, how do you feel regarding an alternative to the awards? (number of respondents, % of respondents)

(Continued on page 24)

Figure 3. Implementation



(Continued from page 23)

Would you personally support (either financially and/or in volunteer time) any of the following for the development of an alternative to the awards?

The majority of respondents would not be willing to provide support (either financially or in volunteer time) for the development of an alternative to the awards.



How likely would you be to nominate a professional forester for an award in the future, if an alternative organization or association was to provide them?

An equal number of respondents (10 or approximately 35%) indicated that they would definitely, very likely or likely nominate a professional forester for an award in the future if an alternative organization or association was to provide them, as those who indicated that they would either not be likely to do so or would not participate. 9 respondents (31%) indicated that they may or may not participate (see Figure 5).



Figure 5. How likely would you be to nominate a professional forester for an award in the future, if an alternative organization or association was to provide them (number of respondents, % of respondents)

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

Regulators Breathe a Sigh of Relief

by Julie Maciura July 2022 – Special Edition

The Supreme Court of Canada has just released its most significant decision for professional regulators since *Green v. Law Society of Manitoba*, 2017 SCC 20 (CanLII), [2017] 1 SCR 360, <u>https://canlii.ca/t/h2wx1</u>.

The issue of when inordinate delay constitutes an abuse of process in the professional disciplinary context has been uncertain since some very restrictive rules were imposed in criminal proceedings. There was concern that the Supreme Court would impose fixed deadlines (e.g., 30 months) rather than continuing to apply the "consider all of the circumstances" approach adopted more than two decades ago in *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 (CanLII), [2000] 2 SCR 307, https://canlii.ca/t/525t.

However, in Law Society of Saskatchewan v. Abrametz. 2022 SCC 29 (CanLII), https://canlii.ca/t/jqbs7, Supreme the Court maintained the *Blencoe* approach with some minor modifications. In the Abrametz case the lawyer had been the subject of an extensive, and hotly contested, investigation into his trust accounts. While there had been no misappropriation of funds, the lawyer was found to have disregarded the rules in a dishonest way, possibly to conceal income from the tax authorities. He also was found to have made loans to clients without full disclosure and charged excessive fees for the loans.

The primary issue was whether there was inordinate delay on the part of the regulator. The Saskatchewan Court of Appeal thought so, calculating the delay as follows: "... of the 53-month period in issue, only 18 months were inherent to the process, and only 2 $\frac{1}{2}$ months were attributable to Mr. Abrametz. The

remainder, totaling 32 ½ months, the Court of Appeal concluded, was undue delay."

The majority of the Supreme Court disagreed with the Court of Appeal's analysis. Abuse of process in discipline matters can occur in two ways: where the hearing becomes unfair (e.g., because a key witness is no longer available) or where the delay directly causes significant prejudice to one of the parties. On the second type of abuse of process, the majority held that the *Blencoe* test continued to apply:

> Blencoe sets out a three-step test to determine whether delay that does not affect hearing fairness nonetheless amounts to an abuse of process. First, the delay must be inordinate. Second, the delay must have directly caused significant prejudice. When these two requirements are met, courts or tribunals will proceed to a final assessment of whether the delay amounts to an abuse of process. Delay will amount to an abuse of process if it is manifestly unfair to a party or in some other way brings the administration of justice into disrepute

In evaluating whether a delay is inordinate, one has to look at all of the circumstances including the nature and purpose of the proceedings, the length and causes of the delay, and the complexity of the facts and issues in the case.

The majority of the Court explicitly chose not to apply the criminal law principles. They stated that administrative law proceedings (especially professional disciplinary proceedings) are designed to protect the public and raised different considerations. "The purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve public confidence in the profession.... Disciplinary proceedings are neither civil nor criminal, but rather [are in a category of their own]."

FOR MORE INFORMATION

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A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

In terms of significant prejudice, that had to result directly from the delay itself and not from the fact that the registrant was facing serious allegations. "Examples include significant psychological harm, stigma attached to the individual's reputation, disruption to family life, loss of work or business opportunities, as well as extended and intrusive media attention...." The registrant has an obligation to raise the issue of delay within the process and seek an expedited process.

In terms of the final assessment of abuse of process, the majority of the Court said: "When these two requirements are met, the court or tribunal should conduct a final assessment as to whether abuse of process is established. This will be so when the delay is manifestly unfair to a party to the litigation or in some other way brings the administration of justice into disrepute."

Perhaps the most significant development from *Blencoe* is the Court's discussion of the remedy of a stay of proceedings for inordinate delay:

When faced with a proceeding that has resulted in abuse, the court or tribunal must ask itself: would going ahead with the proceeding result in more harm to the public interest than if the proceedings were permanently halted? If the answer is yes, then a stay of proceeding should be ordered. Otherwise, the application for a stay should be dismissed. In conducting this inquiry, the court or tribunal may have regard to whether other available remedies for abuse of process, short of a stay, would adequately protect the public's interest in the proper administration of justice.

A stay will be more difficult to obtain where the charges are more serious.

The majority of the Court indicated that regulatory tribunals should actively consider remedies short of staying (or halting) the proceedings, such as a reduced sanction (to compensate for the harm caused by the delay) or a reduction in costs payable by the registrant to the regulator.

Steinecke

In applying the above principles to the particular case, facts of the *Abrametz* case the majority of the Court found that the Court of Appeal had not shown sufficient deference to the tribunal's findings of fact about the complexity of the investigation, in attributing portions of the delay to the registrant's failure to cooperate with the investigation, in assessing the significance of the prejudice suffered by the registrant directly because of the delay itself, and in the impact of the restrictions on the registrant's practice during the entire process.

The majority of the Court held that there was no abuse of process.

Regulators should not become complacent as a result of this decision. The Court said that: "... insufficient agency resources cannot excuse inordinate delay in any case Administrative tribunals have a duty to devote adequate resources to ensure the integrity of the process...."

There are a number of other noteworthy points in the decision that will keep regulatory lawyers busy for years. For example, the Court touched, in passing, on the argument that the absence of complaints by members of the public against the registrant was a mitigating factor for the registrant. The Court said:

The absence of a complainant is a neutral factor. The public at large expects a professional who is guilty of misconduct to be effectively regulated and properly sanctioned. A professional misconduct hearing involves more than the interests of those affected; rather one needs to consider "the effect of the individual's misconduct on both the individual client and generally on the profession in question. This public dimension is of critical significance to the mandate of professional disciplinary bodies"

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Lawyers for regulators will also be analyzing the comments of the Court on the standard of review for procedural unfairness when there is a statutory ground of appeal. The Court seemed to suggest that the palpable and overriding error test should apply to the factual findings while the correctness test should be applied to the issue of whether those facts demonstrated an abuse of process.

In any event, even though the argument was unsuccessful in this case, regulators should prepare for more frequent instances where registrants place the regulator on notice that they are concerned about delay (in order to preserve their rights later in the process). In addition, delay arguments will likely be frequently raised in the sanction and costs portions of discipline hearings where findings are made against the registrant. Steinecke M

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Applied Governance

by Natasha Danson September 2022 - No. 270

While there is a lot of talk about governance principles and governance reform, there are precious few resources on how governance principles should be applied to a specific regulator. Last spring two experienced regulatory experts, Harry Cayton from the UK and Deanna Williams from Ontario, conducted a review of the governance approach taken at the Ontario College of Social Workers and Social Service Workers. The report includes the application of some recurring governance challenges to the current practices of that particular regulator.

Definition of "Governance"

For a word that is used frequently these days, there is no established definition of "governance". The report offers the following definition of "good governance":

> In this report we consider that good governance is the effective, efficient, transparent and accountable delivery of an organization's objectives thus creating confidence and trust in its members, clients and the public. Good governance is as much about behaviours and their outcomes as structures.

This definition has the advantage of identifying the goals of good governance. However, those with little prior experience with governance discussions may find that definition theoretical.

A more descriptive definition of "governance" that we have used is:

Governance is an organization's choice as to how it will perform its functions including:

Setting its missions, goals and strategies

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- Selecting its Board, committee and staff members
- Ensuring compliance with fiduciary duties and
- Assigning and enforcing roles within the organization.

That definition, however, does not distinguish between good and bad governance choices.

Election of Professional Board Members

Not surprisingly in light of broader discussions in the regulatory space, the report questions the election of registrants to the Board. However, specific observations were made in addition to the usual arguments about ensuring that Board members have demonstrated the necessary competencies and skills. The report notes that the electoral system is also a major barrier to turnover of registrant Directors. Eleven of the 14 registrant Directors were in a second or later term of office and had served 101 years amongst them.

The report further argued that the election method of selection actually prevents diversity:

Elected boards are only representative of those who are willing to stand and those who vote for them. They are often likely to be drawn from a narrow socio-economic group and from older members of a profession.

Perhaps even more blunt is the following comment:

Arguing that elections create diversity, while allowing individuals to be re-elected multiple times, is merely one way of maintaining the influence of those already in position.

FOR MORE INFORMATION

WANT TO REPRINT AN ARTICLE

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The report says that the selection process should emphasize obtaining credible candidates rather than candidates that represent the profession.

The report also thought it remarkable that "not one of the current public appointees identified themselves as service users."

Executive Committee

While noting that the use of an Executive Committee was required by the legislation, the report questions its utility. The report suggested that the role of the Executive Committee, beyond making urgent decisions between Board meetings, was unclear; according to the report, the Executive Committee tended to duplicate the work of other committees and of the Board. The report recommended limiting the Executive Committee's role to addressing Board matters if they could not wait until the next Board meeting.

Governance Policies and Procedures

Many regulators are criticized for having inadequate policies and procedures. However, in this case, the report observed that this College had more than 270 pages of governance polices contained in 31 separate documents. Board members indicated that they were unfamiliar with them and that they had to rely on staff to identify them.

The report recommended that a unified policy would "provide a framework within which decisions can be made in line with its statutory responsibilities and in the interests of clients and the public."

The report de-emphasized the significance of rules of order used by Boards, suggesting that a team approach to the conduct of Board meetings was more critical.

Risk Management

The report commended the corporate risk management approach of the College, including the existence of a risk register, and commended that risk management was a significant part of the work of a number of the regulator's committees.

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However, the report observed that risk of harm to the public, including clients of registrants, was not as prominent. A number of the recommendations and suggestions related to incorporating risk-based regulation as a major focus of the organization, including the Board.

Roles

There are many descriptions of the roles of various entities within an organization, particularly that of the Board and staff. Perhaps one of the oldest metaphors is that the Board steers and staff row. The report has a helpful description: the Board provides strategy and oversight; staff offer delivery and management. The report indicates that this distinction is also essential for the Board Chair and CEO relationship to succeed. The report suggests that the title "Chair" was more descriptive of the office's role than that of "President".

The report was not supportive of anonymized feedback surveys. Rather, Board members:

should review their own practice annually in an identifiable and accountable survey and should discuss the results together and be prepared individually to be responsible for what they have said and for what improvements should be made. Anonymity is not transparency.

The report emphasized the need for the Chair to focus on facilitating Board meetings and providing

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leadership to the Board. The Chair should not make decisions on their own.

In terms of the CEO, the report challenged the view of some Board members that the CEO was there to "do their bidding". The report indicated that Board members should respect the CEO's ability to decline to respond to inappropriate requests for information.

Code of Conduct

The report only briefly touched on the fiduciary duties of Board members. It commented that, while rules were necessary, personal values and behaviour are more important. Board members, particularly the Chair, need to "politely challenge colleagues who behave inappropriately". The report described an incident of disrespect demonstrated during an observed Board meeting that ought to have been addressed immediately.

The report concluded with:

Our final recommendation is the simplest of all: treat each other with respect and courtesy and put common sense and the benefit of service users and the public at the centre of your decision-making.

The report can be found at: <u>https://www.ocswssw.org/wp-</u> content/uploads/OCSWSSW-governance-report.pdf. Steinecke



Member News

New Full (R.P.F.) Members:

Samantha O'Donnell

New Associate (Associate R.P.F.) Members:

Ian Jean

Please welcome and support the following people who have been admitted into the OPFA but are not yet entitled to practice professional forestry in Ontario:

New Provisional Members (R.P.F. in Training):

(may practice if under the direct supervision of a qualified member)

- Gerard Arsenault
- **Tristan Flood**
- Julia Gellert
- Matthew Guenther
- Jordan Killing
- Autumn Lachine
- Prashant Kanwar
- Tim Schaafsma
- Cameron Svec
- Dahai (Andy) Wang

New Provisional Member (R.P.F. in Training with Scope):

(may practice within their prescribed scope of practice or under the direct supervision of a qualified member)

Alastair Biscaia

New Student Members:

Enoch Ofosu

Sandeep Kumar

Deceased Members:

John C. Biggar Alexander Dalrymple (Dal) Hall Edward Ray Townsend

Resigned, Provisional Member:

Anisa Ishak David O'Drowsky Sarah Quann Scott Seaman

●PFA

Continuing Education

Webinars and Other Resources

Websites that offer free webinars to earn CEUs for your membership maintenance.

- Canadian Institute of Forestry (CIF-IFC) Offers considerable resources and ongoing lecture series <u>https://www.cif-ifc.org/e-lectures/</u>
- Ontario Ministry of Natural Resources and Forestry. MNRF Science Insights, contact Kristy Mckay, Science Transfer Specialist at <u>Kristy.McKay@ontario.ca</u>
- Forestry and Natural Resources Webinars <u>http://www.forestrywebinars.net/</u>
- Conservation Webinars
 <u>http://www.conservationwebinars.net/</u>
- Urban Forestry Today
 <u>http://www.urbanforestrytoday.org/</u>
- Climate Webinars
 <u>http://www.climatewebinars.net/</u>
- Cornell University <u>http://blogs.cornell.edu/cceforestconnect/</u> <u>subscribe/</u>
- Forestry Chronicle <u>http://pubs.cif-ifc.org/journal/tfc</u>
- Canadian Journal of Forest Research <u>http://www.nrcresearchpress.com/journal/cjfr</u>
- FPInnovations
 <u>https://web.fpinnovations.ca/blog/</u>
 <u>https://wildfire.fpinnovations.ca/index.aspx</u>
- Tree Research and Education Endowment Fund (TREE Fund) <u>https://treefund.org/webinars</u>
- Eastern Ontario Model Forest LDD Moth Webinar Link to the recording on YouTube Channel: <u>https://youtu.be/U4BZOM8GtyU</u>
- Ontario Woodlot Association Oak Wilt Webinar Link and passcode to the recording: <u>https://us06web.zoom.us/rec/share/1xAH8qHGgwVV9ki-78A83oQMbcIIZKbH5uHqHtP7xLfEJ8I8mNJE7U4iGx2nZuFp.3LYLtY_SIGeCzRor</u> Passcode: 8Mnwb+@J

 Ontario's Centre for Research & Innovation in the Bio-economy (CRIBE) - Forest EDGE.
 Decision support tools, projects and case studies.
 https://www.nextfor-forestedge.ca/

https://www.nextfor-forestedge.ca/

- Canadian Partnership for Wildland Fire Science (Canada Wildfire). Partnership members include: the Canadian Forest Service, Alberta, BC, Northwest Territories, Saskatchewan and the University of Alberta. Originally focused on western Canada, it has expanded and includes information and research of interest to forest managers elsewhere in Canada. https://www.canadawildfire.org/
- Invasive Species Centre webinar series
 <u>https://www.invasivespeciescentre.ca/learn/</u>
 webinar-series/
- PlaniIt Geo Urban Forestry Webinars
 - https://planitgeo.com/urban-forestrywebinars/

Coming Events

Bridging the Gap Workshops September 2022 <u>https://forestsontario.ca/en/event/bridging-the-gap</u> -workshop

2022 Canadian Urban Forest Conference October 3rd to 5th, 2022 Charlottetown, PEI https://venuewest.eventsair.com/cufc-2022/

Community Forest Managers and Tree-Bylaw Officers Annual General Meeting October 12th to 13th, 2022 Coburg, ON https://forestsontario.ca/en/product/ prod MQRee7T8CKvyiu

2022 Forest Health Review October 26th Virtual - <u>https://forestsontario.ca/en/event/forest-health-review</u>

Forests Ontario's 2023 Annual Conference -Growing a Healthy Tomorrow – For Communities, For Earth, For Life February 16th to 17th, 2023 Alliston, ON https://forestsontario.ca/en/event/annualconference

Please send any upcoming events to opfanewsletter@gmail.com