

August 7, 2015

TimberWest Forest Corporation  
#201 - 648 Terminal Ave.  
Nanaimo BC V9R 5E2  
Attn: Chris Cole, RPF, PEng

Dear TimberWest Forest Corporation:

**Re: Hazard Abatement or Prevention Order**

This letter constitutes an Order under section 25 of the *Drinking Water Protection Act* (the "Act"). For your ease of reference, I have provided the link to access a copy of the Act, [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_01009\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_01009_01).

I am also hereby advising you that I am issuing a similar and related Order to the Village of Cumberland (copy attached) and the Comox Valley Regional District (copy attached), given the interrelatedness of the spillway overflow and Perseverance Creek erosion. I encourage you to consider cooperating with the Village of Cumberland and the Comox Valley Regional District to complete the actions set out below. I believe that would be a constructive approach and could help minimize costs, but in any case that decision is yours and your obligations are as set out in the Order below.

I also wish to note that I may, upon consideration of the report(s) described below, be required to issue further orders respecting drinking water health hazard abatement. I will also be in further discussions with you and other interested parties regarding longer term drinking water safety, assessment and planning matters. Nothing in this order is intended to limit any such exercise of powers, and nothing in it determines your responsibility (if any) in respect of any future potential orders, assessments or planning exercises.

**Action Required**

The action that I am ordering you to take is as follows:

Obtain and provide to me a report from an independent engineering firm to:

- (a) Identify the feasible options, costs, and likely effectiveness of means to control, minimize or prevent bank collapse and otherwise mitigate introduction of sediment into Perseverance Creek. These options may include but are not limited to streamflow diversion, storage of storm water, or stream bank stabilization (all having regard to the bank collapse of December 2014).

- (b) Identify feasible options, costs, and likely effectiveness of means to control, minimize and manage the effects of overflow from Lake No.2 spillway into Perseverance Creek, all having regard to the bank collapse that occurred in Perseverance Creek in Dec 2014, the related boil water notification and the present state of banks in Perseverance Creek downstream of the spillway overflow.

This is to be completed by September 16, 2015.

### **Reasons for this Order**

I am issuing this Order because I have reason to believe that there is a significant risk of an imminent drinking water health hazard. I have formed this belief in the circumstances of this case for reasons that are summarized as follows:

- Lake No. 2 spillway overflowed and bank collapse/erosion of Perseverance Creek occurred in December 2014.
- In my view, based on information available to me and my own visits to the area, I believe the bank collapse materially contributed to elevated turbidity in Perseverance Creek. I believe this in turn materially increased the turbidity levels in Comox Lake.
- While I accept there were likely also other sources contributing *some* degree of sedimentation, no sources other than the bank collapse have been identified to explain such a substantial turbidity increase during late 2014/early 2015, and I note that turbidity levels during that period were elevated (above 1 ntu) and remained sustained substantially longer than previously experienced during rain events that were not associated with a known material bank collapse.
- Given high turbidity levels, a Boil Water Notice was issued to the Comox Valley Regional District (CVRD) drinking water supply system from December 11, 2014 to January 27, 2015. This water supply system draws water that is sourced from Comox Lake and has only one form of disinfection (chlorination), with no filtration.
- The CVRD supplies water to approximately 41,000 residents.
- I believe there is a significant and imminent risk of further bank collapse in the near future (and related turbidity risks), particularly (but not only) in the event of significant rainfall, as some banks are now undercut and overhanging and there still remains a related risk of overflow from Lake No.2 spillway under significant rainfall events.

I note that I have provided each of TimberWest Forest Corp, the Village of Cumberland and the Comox Valley Regional District an opportunity to review and comment on a draft order and I have considered comments received before issuing orders to these parties. I am aware of the fact that the Village of Cumberland notes that the spillway and related infrastructure was approved by provincial officials. I am also aware that that TimberWest Forest Corp has expressed concerns about the Village of Cumberland infrastructure and alteration of historic drainage patterns. But in my view none of this obviates the need for an order under section 25 of the DWPA at this time and as outlined herein.

I have also considered comments from the CVRD and the Village of Cumberland expressing concerns about the time frame for completion of the report. I am of the view that the present timeframe is reasonable in all circumstances, particularly in light of the approaching Fall/Winter season.

### **Authority to issue this Order**

I have issued this Order under my authority as a Drinking Water Officer under sections 3 and 25 of the Act.

### **Authority to enter on or into property**

I (pursuant to section 25(5) of the Act) hereby authorizing TimberWest Forest Corp and the engineer you retain to enter on Village of Cumberland property in the area of the Lake No. 2 spillway, and on lands adjacent to Perseverance Creek owned by the Comox Timber Ltd., for the purposes of complying with this order. By copy of this letter I am providing notice to this to you, the Village of Cumberland, Comox Valley Regional District and Comox Timber Ltd. I encourage all parties to familiarize themselves with section 25(6) of the Act.

### **Duration of this Order**

This Order remains in effect unless and until you are notified in writing by me or another Drinking Water Officer that the Order is satisfied, amended or rescinded.

### **Right of review or reconsideration**

You may request that I reconsider this decision if you believe that there is sufficient new evidence for this purpose. You may also request that this decision be reviewed by the Provincial Health Officer or a Medical Health Officer nominated by him.

If you wish to make a request for reconsideration or review, please review section 39.1 of the *Drinking Water Protection Act*. I can also provide you with forms if you wish, but there is no requirement to use a specific form.

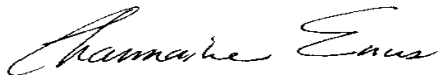
Please note however that a request for reconsideration or review does not put the Order into abeyance while any such request is considered. If you believe that the Order should be deferred while a review or reconsideration is requested, please advise me accordingly and I will consider whether to amend the Order accordingly. Unless I do so, the Order remains in force during any period of review or reconsideration.

### Consequences of failure to comply

It is an offence under the *Drinking Water Protection Act* to fail to comply with an Order under section 25. Penalties upon conviction for an offence may be up to \$200,000 per day and up to 12 months imprisonment. In addition, if you fail to comply with the Order, a Drinking Water Officer may take or authorize actions to be taken as necessary, at your expense (see sections 27 and 28).

Please do not hesitate to contact me if you have any questions respecting this Order.

Yours truly,



Charmaine Enns, MD, MHSc, FRCPC  
Medical Health Officer

Enclosure

cc: Sundance Topham, CAO, Village of Cumberland  
Domenico Iannidinardo, TimberWest Forest Corporation  
Rob Crisfield, Village of Cumberland  
Marc Rutten, Comox Valley Regional District  
Ian DeLisle, Comox Timber Ltd.  
Bob Wells, City of Courtenay  
Debra Oakman, CAO, Comox Valley Regional District  
Dr. Perry Kendall, Provincial Health Officer  
Dr. Bonnie Henry, Deputy Provincial Health Officer  
Dr. Richard Stanwick, Chief Medical Health Officer  
Dr. Murray Fyfe, MHO, Island Health  
Lynne Magee, Provincial Drinking Water Officer  
Ann Thomas, Island Health  
Charlene MacKinnon, Island Health  
Dave Cherry, Island Health  
Gary Anderson, Island Health  
Don McRae, MLA