

# FORESTS..... FOR NEVER

## AMAZON NORTH..... or sustainable forestry?

Canadians are increasingly raising their voices against the devastation of our once-great forests. Vast clearcuts, miles of eroding roads, dwindling populations of caribou and other wildlife, ruined watersheds.... what is going on out there?

What's going on, in many cases, may be against the law.

If so, then it is governments who issue blank-cheque timber leases who are the law-breakers. That's what conservationists in Alberta discovered when they looked into a contract signed by our government that gives giant multinational Daishowa control over an area 1.5 times the size of Vancouver Island.

The devastated forests of today are the legacy of past government failures. We are determined to make today's governments deliver. We have gone to the courts to force the Alberta government to obey its own laws. We are going to make sure that sustainable forestry replaces expedience, greed and irresponsibility.

And we are inviting you to help us make history.

## A Clear-cut Challenge!

In 1989 the government of Alberta signed a Forest Management Agreement (FMA) with multinational forest giant Daishowa. An FMA turns public forest into privately-owned wood fibre. How much forest? In this case, an area 1.5 times the size of Vancouver Island. The deal was a bargain for Daishowa .... in fact, the government threw in a taxpayer-financed subsidy of close to \$75 million!

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This was the first of several vast FMAs that have resulted in more than one-quarter of Alberta being committed to pulp production, with its associated clearcutting, water pollution and road-building.

The Daishowa FMA was a sweetheart deal, designed to draw the attention of the international investment community to Alberta's forests.

Negotiated in secret, the FMA guarantees the company more than 97% of the merchantable timber on almost 41,000 square kilometres of boreal landscape. It makes no provision for parks, wilderness, old-growth, wildlife habitat needs, or much of anything other than wood chips. It specifies that the company will build two bleached kraft pulp mills whose combined demand for wood fibre will be more than can be sustained over the life of the mills, let alone in perpetuity.

The FMA is enabled under Alberta's Forests Act. However, the Forests Act specifies that an FMA must spell out how government and in-

dustry will assure "perpetual sustained yield" of the forest. The Daishowa FMA does not do this. In fact, since nobody bothered to consult with the public, it does not even begin to address what public forest values must be sustained in perpetuity.

In fact, the FMA says that the primary purpose of that whole area is to produce wood fibre. Not caribou, woodpeckers, owl or bears. Not clean water. Not public enjoyment.

### Wood fibre

There are no ecological inventories of the area given away. There is no completed land use plan. There has been no settlement of land claims with the Lubicon Cree and other natives who have a hereditary claim to the area.

Three conservation groups - the Alberta Wilderness Association, Sierra Club of Western Canada, and Peace River Environmental Society have teamed up with a local farmer, Peter Reese, to challenge the validity of the FMA in court.

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We aren't trying to stop Daishowa from operating in northern Alberta. We are, however, arguing that the government of Alberta and Daishowa - by law - must spell out exactly how the forests will be managed to ensure a perpetual sustained yield of all forest benefits. We are asking the courts to agree that the existing FMA with its emphasis on clearcutting, fiber production and lack of any significant baseline data on tree, site, wildlife or public values, cannot possibly achieve this.

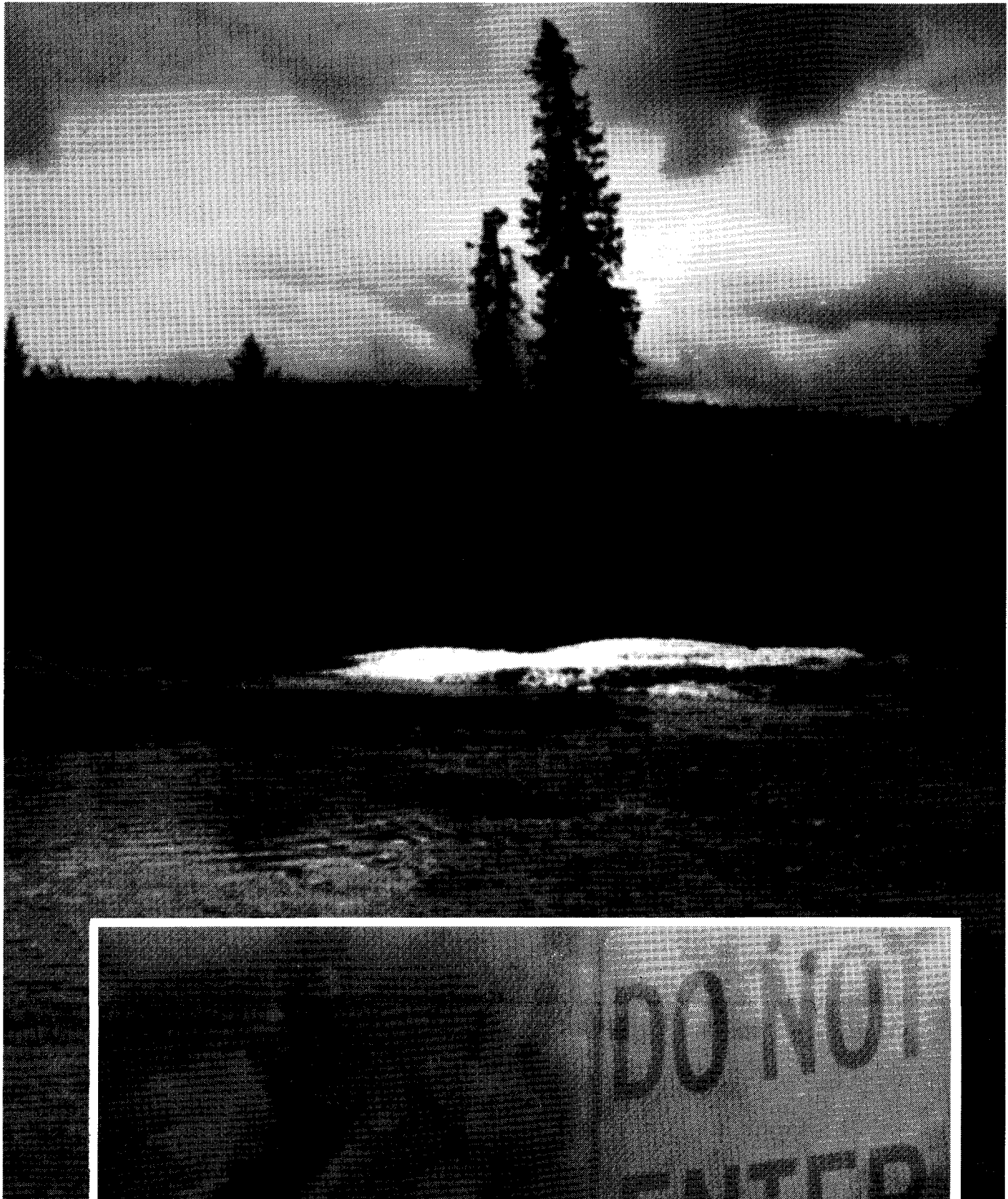
We want a proper FMA, and forestry that will sustain biodiversity, wilderness, watersheds, traditional human uses and old-growth in addition to wood fibre yield. The people and forests of Alberta are entitled to no less.

This is a potentially the most important court case involving forestry in Canada - possibly the world - since no other forestry agreement has ever been legally challenged on the basis of perpetual sustained yield. Even a partial victory will set a valuable precedent because we are challenging basic timber management assumptions that have given Canada its sad legacy of eroding clearcuts and depleted forests. Since laws in most provinces require perpetual sustained yield, a favourable ruling will set a national precedent in favour of ethical forestry.

Working on our behalf in this case is lawyer Eric Groody of the respected Calgary law firm Code, Hunter. Two renowned professional foresters have done extensive work as expert witnesses on our behalf: Herb Hammond, a Registered Professional Forester from B.C. and Dr. Terry Carleton, a leading forest ecologist from Ontario.

A coalition of individual members of the A.W.A. and Sierra Club has been formed to raise funds and promote public awareness of this important case. Calling itself the Clearcut Challenge, the coalition has initiated a series of fund-raising activities. This case will be costly.... but it is also critical to the future of Canada's forest ecosystems. If you wish to support the Clearcut Challenge, please forward your tax-deductible contribution to one of the addresses listed below, and mark it clearly: "for Clearcut Challenge".

You can take pride in your decision to become a part of this vital action on behalf of Canada's native forest ecosystems.



#### WHAT DOES THE FORESTS ACT SAY?

16 (1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into a forest management agreement with any person to enable that person to **enter upon forest lands for the purpose of establishing, growing and harvesting timber in a manner designed to provide a perpetual sustained yield.**

(2) Except as against the Crown and subject to any agreement to the contrary, ownership of all Crown timber on lands subject to a forest management agreement or forest management lease is, during the term thereof, vested in the holder of the agreement or lease who is entitled to reasonable compensation from any person who causes loss of or damage to any of the timber or any of the improvements created by the holder....

## WHAT DOES THE DAISHOWA FMA SAY?

### MEMORANDUM OF AGREEMENT

#### BETWEEN:

**HER MAJESTY THE QUEEN** in the right of the Province of Alberta, as represented by the Minister of Forestry, Lands and Wildlife...

and

#### DAISHOWA CANADA CO. LTD.....

... 4. Out of the forest management area, the following are excepted:  
 (a) areas which are subject to any timber dispositions issued pursuant to the Forests Act, prior to the date of this agreement;  
 b) lands which are the subject to a disposition issued pursuant to the Public Lands Act...;  
 (c) lands heretofore sold, patented, licensed, leased or applied for in respect of which any disposition is pending;  
 (d) lands which were reforested... under the "Maintaining Our Forests" program....;  
 (e) the beds and shores of all permanent and naturally occurring bodies of water and all naturally occurring rivers, streams, watercourses and lakes; and  
 (f) lands contained within any Provincial Park or Forest Recreation area prior to the date of this Agreement.

... 6. The Minister may, at any time in his discretion, after consultation with the Company, either permanently or for a specified term, withdraw from the forest management area:  
 (a) any land which cannot be logged without causing substantial harm to the water table or to lakes, rivers, streams or other bodies of water, to the margins of water courses or to roads;  
 (b) any lands required for rights of way, water resource and other agricultural development or for any other purposes deemed by the Minister to be required for the human or physical resource development of the Province;

(c) any lands required for commercial and industrial facilities; and  
 (d) any lands which are not capable of producing merchantable coniferous or deciduous timber.

... 8. In the event... of any withdrawal of land from the forest management area by the Minister:  
 (a) for disposition to users other than the Crown... the Company shall be entitled to reasonable compensation from the users....  
 (b) for use by the Crown... wherein the [withdrawn area] does not exceed 3% of the net forest management area, the Minister shall determine the compensation and arrange for reimbursement to the Company for the actual loss or damage... to any improvements created by the Company's efforts....  
 (c) for use by the Crown... wherein the [withdrawn area] does exceed 3%... the Minister shall determine the compensation in respect of such excess and arrange for reimbursement to the Company, including damage to timber, improvements, regeneration, forest growth, or to its operations on the forest management area.  
 (d) if the administration or control of any of the lands... is transferred to the Crown in right of Canada, the Company shall be entitled to compensation under subparagraphs (b) and (c).

... 8 **(1) It is recognized by the Minister that the Company's use of the forest management area for growing and harvesting timber is to be the primary use thereof and that it is to be protected therein....**

[in summary: the FMA guarantees Daishowa up to 97% of the merchantable wood in an area bigger than the combined size of all the Rocky Mountain National Parks. Logging is to be the primary purpose for this whole huge area. There is no legal provision for recovering any of this land for parks, ecological reserves or other conservation purposes. Besides, if more than 3% of the FMA is taken back from the company, we taxpayers will have to pay Daishowa for the loss of trees it never grew!]

### WHAT DO OTHERS SAY?

#### .... the World Bank:

Robert Goodland and others at the World Bank believe that truly sustainable logging in natural forests can only be achieved at an extremely low level of cutting, to the point where plantation forestry, even of slow-growing hardwoods, is likely to become financially competitive.

Goodland and his colleagues argue that the World Bank should halt its financing of logging in natural forests and switch to promoting plantation forestry as the only truly sustainable alternative.

#### .... Marcus Colchester, writing in THE ECOLOGIST, May/June 1990:

"... Logging today is dominated by "the logger who passes through the forest once and buys hotels in Hong Kong on the sale of raw logs."

#### .... Herb Hammond, RPF, in an affidavit filed in support of this legal challenge:

"... The boreal forest covered by Daishowa's FMA is a poorly understood and poorly inventoried region in Canada.... In order to ensure sustainability, be it an even flow of timber or a variable flow of timber meshed with other uses, the structure and function of a specific forest must be understood to adequately plan and carry out perpetual sustained yield....

" Important concerns for long term timber productivity, and therefore for perpetual sustained yield, associated with clearcutting include loss of timber productivity and degradation of the rhizosphere (i.e. the functioning soil community of plants, animals, minerals, and water). Loss of productivity resulting largely from soil degradation occurs through continuous removal of trees....

" Dr. Terry Carleton pointed out two characteristics of boreal forests which impact, or should impact, the way in which sustained forest management activities are planned and implemented:

"a) Dr. Carleton compared boreal forests to tropical forests by explaining that the ratio between tree species and mycorrhizal fungi in these two forest ecosystems are reversed. For example, the diversity and functioning of a tropical

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## WHAT DO CONSERVATIONISTS SAY?

..... A LEGAL CHALLENGE TO BUSINESS AS USUAL:

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
 JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF The FORESTS ACT, R.S.A. 1980, c. F-16, s. 16;

AND IN THE MATTER OF The Alberta Rules of Court, Part 56.1.....

... TAKE NOTICE that an application will be made on behalf of Peter Reese of Deadwood, in the Province of Alberta, farmer and the Alberta Wilderness Association, the Peace River Environmental Society and the Sierra Club of Western Canada.... for the following Order:

Declaring the agreement (or part or parts of it) between the Province of Alberta, as represented by the Minister of Forestry, Lands and Wildlife, and Daishowa Canada Co. Ltd., dated September 14, 1989 and appended to Order in Council 424/89 to be ultra vires and void, upon the following grounds:

1. The said agreement is not pursuant to, within the contemplation or meaning of, or enabled by the Forests Act, s. 16 in that:

- its terms do not address the manner by which timber will be established, grown and harvested so as to provide a perpetual sustained yield, as required by s. 16; and
- it is not of sufficient certainty to be an enforceable agreement within the meaning of the Forests Act at all;

2. In fact the agreement is not designed to provide a perpetual sustained yield, and no perpetual sustained yield is possible or achievable under the terms of the said agreement, and having regard to the forest exploitation practices actually used by the company, all as follows:

- no ecological inventory and study has been carried out and therefore it is in fact impossible to create any forestry plan ensuring a perpetual sustained yield;
- the company is logging the lands by clear-cutting techniques, thereby preventing in fact operations which would achieve a perpetual sustained yield; and
- the reforestation provisions of the agreement do not and can not achieve any meaningful reforestation, which reforestation is a necessary element in achieving a perpetual sustained yield.

In result, the agreement is not within the meaning or contemplation of s. 16 of the Forests Act....

[...note: there are three other grounds involving technical points of law that are also raised in our case.]

... DATED AND ISSUED at the City of Calgary in the Province of Alberta this 13th day of March, 1990.

rainforest depends upon in the order of 500 different tree species and less than 10 mycorrhizal fungi. In contrast, the boreal forest contains less than 10 tree species and may depend upon as many as 5,000 species of mycorrhizal fungi to sustain the integrity of these forests. We know that each one of these mycorrhizal fungi has a specific role in the growth and development of boreal forests...."

"...Dr. Carleton has observed in his work in Ontario boreal forests, that following natural disturbances such as fire a forest very similar to the forest prior to the fire is established. In contrast, particularly in clearcut and machine-logged forest areas, boreal forest often returns to a degraded shrubtree community, particularly on medium and low quality of forest sites. This may illustrate the loss of important mycorrhizal fungi necessary to maintain forest diversity...."

"...Extensive clearcutting likely will result in degradation of wildlife habitat, loss of long term timber productivity, and may result in elevated water tables which flood productive forest land... In these ways, clearcutting is certainly not an effective biological timber extraction technique."

# WHAT IS A FOREST?



If a forest is just a bunch of trees, then perpetual sustained yield simply requires that there always be a bunch of trees available. However, even with this simplistic definition, perpetual sustained yield isn't possible under the guidelines used in Alberta. Government surveys have shown that more than a third of all logged-off areas in Alberta are not sufficiently restocked (NSR); in other words, they are not regenerating to as productive a forest as that which got cut down in the first place.

But a forest is more than a bunch of trees. A forest is an ecosystem. The trees are only one part of that ecosystem -- the largest, more obvious and in some ways most important parts. Important, because they help to sustain the other parts -- the caribou that eat lichens that grow on tree branches, the woodpeckers that eat bugs in trees and nest in tree cavities, the elk, trout streams, trout, orchids, bats, shrubs and myriad other living things.

Plants, animals, soil, water, even weather are all intricately linked together in a web of life whose elegance is both breathtaking, and fragile. To manage such an ecosystem for perpetual sustained yield of all those various things should be an exercise in humility, caution, care and subtlety.

Instead, we do it with draglines, ploughs, chemical fertilizers and heavy equipment.... and government foresters proudly assert that this is good. We beat up on forests to make them give. Even if a forest were simply trees in the ground, like hairs on a scalp, this would be a stupid way to give it a haircut. Little wonder that Alberta's woodland caribou face likely extinction, and Albertans helplessly watch the continued loss of biodiversity and healthy forests.



# HOW CAN I HELP????

We believe that the one most valuable thing anyone can do at this point, is to help finance this vitally important case.

Letters have flooded into Edmonton for the past two years but have made little noticeable impact. The reports of the ALPAC Environmental Assessment Panel and the provincial government's Expert Panel on Forestry both told the government to change its approach to forest exploitation, but to no avail. The current Alberta government is bull-headedly determined to proceed with its liquidation of northern Alberta's forests.

At this point, we have an excellent lawyer and highly-credible professional witnesses working on our behalf to set a legal precedent in favour of our forest ecosystems. We believe that this is the best hope, at this point, for sustaining the future of our forests. Nobody -- not even the government -- is exempt from the force of law.

You can help, by contributing whatever you can afford to the costs of this legal action.

Your donation to the CLEARCUT CHALLENGE is eligible for a tax deduction if sent to one of these registered charities:

Alberta Wilderness Association  
Box 6398, Station D  
Calgary, Alberta  
T2P 2E1

## YES!!

I care too much about Canada's irreplaceable forest heritage to stand back and watch it being stripmined for short-term profits. Let me help make history and create a sustainable future for our forests!

Here is my donation of

- \$150.00
- \$ 75.00
- \$ 25.00
- other (specify) \_\_\_\_\_
- I enclose my personal cheque
- Please bill my credit card

VISA account # \_\_\_\_\_  
expiry: \_\_\_\_\_

MasterCard account # \_\_\_\_\_  
expiry: \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

POSTAL CODE \_\_\_\_\_

P.S. Please send me more information about:

- Alberta Wilderness Association
- Sierra Club of Western Canada

**Another option:** the Green Party of Canada has agreed to adopt the Daishowa action as one of its priorities. Donations sent to the Green Party of Canada are eligible for a substantial tax savings since it is a registered Canadian political party. For example, a donation of \$100.00 results in \$75.00 off your income tax, so your donation actually costs you only \$25.00. If you donate \$200.00, your tax savings is \$125.00 so you're actually only spending \$75.00.

Make your cheque out to the Green Party of Canada, mark it "Save our Forests" and send it to:

Save our Forests Campaign  
455 - 12th Street N.W.  
Calgary, Alberta T2N 1Y9

(note: tax receipt will be issued at the end of the year)

Sierra Club of Western Canada  
Box 61107  
Kensington Postal Outlet  
Calgary, Alberta  
T2N 4S6

You can become a part of the Clearcut Challenge and help to restore sanity to the way in which Canada's forests are managed.

**PLEASE..... ACT NOW!**  
**Canada's forest ecosystems are counting on you!**