

ABC FP Code of Ethics and Standards of Professional Practice Study Hypotheticals

Updated May 2008

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HYPOTHETICAL #1

Scenario:

A member was engaged to complete a site plan (SP) and cutting permit (CP) for a small licensee for a particular cut block as soon as possible. The company had experienced hard economic times due to depressed log prices during the past year. Log prices have now rebounded and if the client can obtain a cutting permit within the next 3 to 4 months, the subsequent sale of logs would significantly improve the company's financial picture.

During the SP field work, the member discovered culturally modified trees (CMTs). If concerns were raised about the CMTs logging would be delayed. In favour of serving his employer's interests the member decided not to disclose the presence of CMTs.

Interpretation:

Failure to identify the CMTs is a clear contravention of Bylaw 11.3.1, because it does not recognize all the values assigned by society. In addition, the member has misrepresented facts (Bylaw 11.4.4). The member must raise this concern even if it is not in the short-term interest of the client. A solution to accommodate the client's desire for logging without compromising the cultural values on the cut block should be developed.

Other possible Bylaw contraventions are: 11.3.2 (Uphold professional principles above the demands of employment, 11.4.1 (maintain high standards in conduct and daily work), 11.5.1 (act conscientiously and diligently in providing professional services), 12.3.1 (members hold paramount, public interest and professional principles) and 12.4.1 (integrity).

HYPOTHETICAL #2

Scenario:

A RPF/RFT, who is a consultant, produced a timber feasibility report on a forest area for client A for \$12,000. Six months later, client B requested an identical report on the same area of forest. The member amended the original report to eliminate all reference to client A and tailored it to refer to client B. Without mentioning anything to client A, the member then delivered the report to client B with an invoice for \$12,000.

Interpretation:

In dealing with such issues, it is important to distinguish between who owns the data and who owns the process. The report and database are the confidential property of the client.

The process and experience derived from the report remains the property of the RPF/RFT or consultant. Thus, the RPF/RFT may utilize the knowledge of the timber area in the above example subject to the responsibility not to divulge confidential information and not to act if there is a conflict of interest. If the circumstances indicate that it would be contrary to client A's interest to produce the report for client B, the RPF/RFT should obtain client A's consent to do so. If client A's consent is not given, the member should decline to produce the report for client "B". If it is appropriate to produce the report for client "B", the member may charge client "B" fees which would be fair for such a report. In this case, the fact that the member did not develop the report from scratch for client B should not in itself decrease the value of this report.

It is a good practise to clarify, in writing, the ownership of a report's contents before the report is produced. This is often spelled out in contracts.

Refer to Bylaws 11.5.2 (not to disclose confidential information without the consent of the client or employer), 11.5.6 (avoid conflict of interest), 11.5.7 (levy charges for services rendered that are fair and due and 11.5.8 (not to accept compensation from more than one employer or client for the same work, without the consent of all.

Refer to the similar Hypothetical #23

HYPOTHETICAL #3

Scenario:

A RPF employed by the Forest Service to review operational plans submitted by licensees and recommend their approval or rejection to a statutory decision-maker (SDM) is doing a routine review of a Forest Stewardship Plan (FSP). The RPF, in her opinion, decides that the FSP complies with the approval tests outlined in the legislation but does not agree with a specific result or strategy in the FSP so wants the licensee to make a change before she recommends that the FSP be approved.

Interpretation:

The reviewing RPF must separate professional responsibility, professional opinion and legislative process. It is the licensee RPF's professional responsibility to prepare and defend the FSP.

It is quite possible for members to prepare differing results or strategies based upon their own opinion, knowledge of the area, and management objectives. In this case the FSP met all requirements for the legislative process, and should be recommended for approval.

This scenario and interpretation is not applicable to a specific Bylaw but embodies the principles of respectful regard and avoidance of imposing one's professional opinion onto another.

HYPOTHETICAL #4**Scenario:**

An RPF employed as a Forest Service District Manager is attending a public meeting. During the meeting she is asked to comment on a statement made by a licensee member who is a RFT. The licensee RFT earlier stated that "The performance of the company is better than most in the industry, including BC Timber Sales (BCTS), and that the numerous 'Notices to Comply' the company has received were really just an administrative issue." The District Manager considers the licensee's track record to be unsatisfactory.

Interpretation:

Any opinions presented by either member must be stated to be based upon a given set of facts and assumptions, and members must not misrepresent the facts or provide only those facts that bolster their opinion. The licensee RFT failed to qualify the statements made, and may have misrepresented the facts. The statement may also impugn the integrity and performance of other ABCFP members and licensee employees.

The District Manager must provide an honest answer supported by facts, without unfairly criticizing the licensee RFT.

Refer to Bylaws 11.3.6 (promote truthful and accurate statements on forestry matters), 11.3.9; (express a professional opinion only when it is founded on adequate knowledge and experience), 11.4.1 (maintain high standards in conduct and daily work), 11.4.4 (not to misrepresent facts), 11.6.1 (abstain from undignified public communication with other members), 11.6.2 (not to unfairly criticize the work of other members or injure their reputation), and 11.6.5 (share knowledge and experience with other members).

HYPOTHETICAL #5

Scenario:

Member A becomes aware through reliable confidential sources that Member B is not dealing in good faith in a business deal outside the practice of forestry.

Interpretation:

If Member A believes Member B is guilty of infamous or unprofessional conduct, the matter should be raised with Member B, drawing attention to Bylaws 11.4.1 and 11.4.3.1. If this is inappropriate due to the sensitivity of the relationship, Bylaw 11.4.3.2 must be carried out by informing the ABCFP (contacting the registrar or submitting a complaint in writing to the registrar). It would be advisable for Member A to discuss this matter in confidence with a trusted colleague before proceeding and verify facts related to the circumstance. Note that infamous or unprofessional conduct does not have to be related to the practice of forestry.

Refer to Bylaw 12.4.1 (in private live or professional practice conduct oneself honourably and with integrity).

HYPOTHETICAL #6

Scenario:

A licensee RFT tendered a package of silviculture surveys to another RFT who is a consultant. The consultant RFT subsequently delivered results, including detailed recommendations, to the licensee RFT. Because the consultant was new, the licensee RFT checked 10 percent of the survey plots and the ensuing paper work. Having found no significant problems with the survey data, the licensee RFT signed/stamped the surveyor's recommendations after only a cursory review. These recommendations were implemented by the licensee and it was found that subsequent operations resulted in conflicts with range values.

Interpretation:

The licensee RFT probably took adequate steps to ensure that the field work was prepared to an acceptable standard. However, only passing consideration was given to the recommendations prepared by the consultant. By signing/stamping the recommendations, the licensee RFT shares accountability and responsibility for any errors or omissions, such as the subsequent conflict over range values, with the consulting RFT. Both RFTs should have carefully considered the implications the recommendations had on other values, especially range. For example, field visits and discussions of intended operations with range permit holders would have brought all

pertinent facts to light so the recommendations could have been amended to avoid conflicts.

Refer to Bylaws 11.3.3 (have regard for laws and policy and seek to balance the health and sustainability of forests with various values), 11.4.1 (maintain high standards in conduct and daily work), 11.4.5 (sign and seal professional documents in accordance with Bylaw 10), 11.5.1 (act conscientiously and diligently in providing professional services), 12.2.3 (exercise due care) and 12.5.1 (exercise due diligence).

HYPOTHETICAL #7

Scenario:

An RPF/RFT who operated a small consulting firm was contacted by a woodlot licensee to discuss some forestry work needing completion. At their meeting, the woodlot licensee and the consultant discussed the details of the work needing completion including: a cruise, a regeneration survey, and tree planting supervision. After a couple of hours of discussion, the woodlot licensee offered to engage the consultant's services for the work required. The consultant agreed, and suggested that they draw up a formal contract before starting the work. The woodlot licensee responded that he could trust the consultant and that as long as the consultant could do the work, a hand shake was as good as any piece of paper. The consultant agreed with the woodlot licensee that a hand shake would be sufficient and began the required work.

Interpretation:

To obtain a clear understanding of the client's or employer's objectives (Bylaw 11.5.3), members should confirm the same in writing. A written contract reduces the possibilities of misunderstanding and should clarify important aspects of the project, including price. In the absence of a contract, members should clearly state such objectives in an email or letter.

Refer to Bylaw 11.5.1 (act conscientiously and diligently in providing professional services).

HYPOTHETICAL #8

Scenario:

A member was contacted by the media to explain the toxicity of a certain herbicide. The herbicide in question has a high toxicity for fish but a low toxicity for humans. In response to the reporter's question on the level of toxicity of this herbicide, the member said that the herbicide had a high toxicity.

Interpretation:

The member's failure to qualify the toxicity with respect to humans and fish is a misrepresentation. Members should not provide incomplete information that can mislead the audience for which it is intended.

Refer to Bylaws 11.3.6 (work to extend public knowledge of forestry, and to promote truthful and accurate statements on forestry matters), 11.3.9 (express a professional opinion only when it is founded on adequate knowledge and experience), 11.4.1 (maintain high standards in conduct and daily work), 11.4.4 (not to misrepresent facts) and 11.4.6 (to keep informed in the member's field of practice).

HYPOTHETICAL #9**Scenario:**

An RPF employed by BCTS is reviewing several implemented SPs in a similar area where she is about to do an SP. She discovers that the previous SPs did not fully comply with present legislative requirements which were in effect at the time the SPs were completed. However, she does not consider the SPs to be detrimental to good stewardship of forest land.

Interpretation:

To act professionally in this situation, the RPF must demonstrate an understanding of both good stewardship (professional obligations) and legal requirements. Further, the RPF will have to consider the responsibility to the profession under Bylaw 11.4 and the responsibility to the employer under Bylaw 11.5.

The RPF(s) signing/sealing the past SPs failed to act professionally by preparing SPs which contravened legislative requirements. The BCTS RPF, upon finding these errors, should arrange to amend the old SPs and must bring this to the attention of the RPF(s), if possible, who prepared the flawed SPs (Bylaw 11.4.3.1), or check other SPs, to ensure the error was not continued. If necessary, she must fix, or arrange to fix the SP process so they are done in a correct manner.

Refer to Bylaws 11.3.3 (have regard for existing legislation), 11.5.1 (act conscientiously and diligently in providing professional services), 12.2.2 (ensure work is complete, correct and clear), 12.2.3 (exercise due care) and 12.5.1 (exercise due diligence).

HYPOTHETICAL #10

Scenario:

A recently hired member who will be supervising crews for a brushing contractor notices that his employer is not following proper safety procedures, even though the employer is “safety certified.” The member brought up his concerns before his supervisor, who is not a member of a professional association and is the owner of the contracting company. His employer dismissed the member’s concerns saying that there have been no lost time accidents so far and he doesn’t see the need for spending money to make any changes.

Interpretation:

The member is bound by Bylaw 11.3.10 (to have proper regard in all work for the safety of others) and must indicate this to his employer. In order for him to do his job in a professional manner, the company has to follow proper safety procedures. These are his professional obligations. He must also state that according to the law (safety regulations) the company must follow procedures as outlined by their safety certification process.

To satisfy the due diligence requirement as outlined in Bylaw 12.5.1, the member needs to document his advocacy (including a rationale) to his employer as well as his employer’s response and accompanying rationale.

If the employer still refuses to follow proper safety procedures and forbids the member to follow them in order to save money, the member will have to forsake professional obligations in order to continue working (refer to Bylaws 11.3.2 (uphold professional principles above the demands of employment) and 12.3.1 (members hold paramount, public interest and professional obligations). At this point, the member should contact the ABCFP for support who would speak to the employer and indicate that the member cannot be placed in a situation that compromises professional obligations. Hopefully an agreement can be reached.

If the employer takes punitive action against the member (i.e.: a demotion or firing) because he exercised his professional obligations, that is an offense under section 32 (4) of the *Foresters Act* and the ABCFP would take appropriate action.

In summary, the member’s actions, in order, would be to advocate for change, ask the ABCFP for support and/or advice (e.g.: use the Practice Advisory Service or contact staff) or, as a last resort, withdraw services.

HYPOTHETICAL #11

Scenario:

A manager, who is not a member, makes a decision which is controversial and receives much public attention. The manager consulted with a staff registered member several times before making the decision. In the end, the decision was very different from what the staff registered member recommended. A few days later, the staff registered member is asked by a member of the public how she advised the manager. How should she respond?

Interpretation:

The member should refer to Bylaw 11.5.2. Advice given to your employer would normally be considered confidential, not to be disclosed without the permission of the employer. The appropriate response would be to advise the member of the public that advice given to the manager is given in confidence and cannot therefore be divulged without their permission. The member should explain that if the rationale used by the manager is sought, then the person should talk to the manager directly. If applicable, the member might also inform the member of the public of the process for obtaining further information (freedom of information and protection of privacy policies).

The Manager exercises management prerogative in making the decision (makes decisions for the well-being of the organization) and is obliged to seek the advice of staff, but not necessarily to follow it. The Manager may have received advice from several staff, some of which may have been contradictory.

The issue here is obligation to the employer. This does not override other professional obligations. If, for example, the registered member felt the manager's decision would be detrimental to good stewardship of forest land, then the member should act according to Bylaw 11.5.5 where she would advocate for change to the manager. The member must make an objective judgment as to whether the matter is simply one of differing but equally valid opinion or poor stewardship. If advocating for change was not effective, the member could receive support and/or advice from the ABCFP (e.g.: use the Practice Advisory Service or contact staff).

Refer to Bylaws 11.3.2 and 12.3.1 (professional independence), 11.3.5 (work towards improving practices affecting stewardship of forest land) and 11.5.3 (obtain a clear understanding of the employer's objectives).

HYPOTHETICAL #12

Scenario:

Member A is attending a local meeting to discuss several important forestry issues. During a coffee break, he is talking with member B from another area. Member B mentions that she is aware of several cut blocks which were harvested in contravention of some sections of forest practices legislation. What should member A do? What should member B do?

Interpretation:

Member A should not jump to conclusions based on “hearsay.” This member should consider Bylaw 11.3.9 (express an opinion only when it is founded on adequate knowledge). On the other hand, having now been made aware of the situation, member A must consider the obligations under Bylaws 11.3.4 (must deal with poor stewardship practices), 11.4.3 (must deal with poor member conduct if the incident involves a member), and 11.5.5 (inform employer of poor stewardship practices). If, in fact, member A is satisfied that the actions occurred as alleged, the member cannot ignore the situation. Member A should also point out to member B who informed him that they both have professional obligations in this circumstance. An appropriate action would be to contact the responsible party in the area where the problem is alleged to exist and advise them that this information has come to their attention and ask for clarification or information about remedial action.

Member B unless she has first hand involvement, is under the same obligations as member A. If, on the other hand, she has first hand involvement, she must assess whether she, or other members, might already be in contravention of various Bylaws such as 11.3.1 (practice good stewardship of forest land), 11.3.3 (have regard for legislation), 11.4.1 (maintain high standards in conduct and daily work), 11.5.1 (act conscientiously and diligently in providing professional services) and 12.6.1 (stewardship Standards of Professional Practice), or, if they have acted in an appropriate professional manner. Even if member B failed to fulfill obligations under Bylaw 11.5.5 earlier, she should do so now and recommend measures to rectify the situation.

When acting under Bylaws 11.3.4 and 11.4.3, all reasonable options must be explored before contacting the association. When informal contact between the involved parties does not result in resolution of the issue in reasonable time, the concern should be put in writing to the ABCFP.

HYPOTHETICAL #13

Scenario:

Member A, who was not directly responsible for road construction, finds that soil degradation on some cut blocks due to road density is higher than allowed in forest practices legislation. When member A raises the issue with the logging manager, (member B), he is told to “keep his nose out of it”. Member A is a recent enrolled member and member B has been a RPF for 30 years. What should Member A do?

Interpretation:

Member A should refer to Bylaws 11.3.1, 11.3.2, 11.3.3, 11.3.4, and 11.5.5. Member A must raise the concern with the logging manager verbally and subsequently in writing if the matter is not properly addressed. Member A has an obligation to inform his employer about the situation and the consequences/ penalties which will happen if soil degradation legislation is not followed and if necessary, or not resolved, inform the association about the particulars.

If Member B is contributing to the legislative contraventions, he may be in violation of Bylaws 11.3.1 (practice good stewardship), 11.3.2 (independence from employer), 11.3.3 (regard for legislation), 11.4.1 (high standards in conduct and daily work) 11.5.1 (act conscientiously and diligently in providing professional services), 12.2.3 (due care) 12.3.1 (independence from employer) and 12.4.1 (integrity). Member A should point these out to member B.

If member B told member A to “keep his nose out of it,” member B may also be in contravention of Bylaw 11.6.2 (not to unfairly criticize the work of other members).

In this situation, the association can provide support to member A, if needed.

HYPOTHETICAL #14

Scenario:

An RPF/RFT working for a licensee employs a contractor to conduct silviculture surveys. Upon field review of the surveys, the RPF/RFT has a concern about the quality of the survey. Although the contractor assures the member that the crew who completed the surveys were accredited silviculture surveyors, the member remains concerned about the quality of the work. The contractor suggests that he could send a couple of their university summer students to check/redo some of the work. What should the RPF/RFT do?

Interpretation:

The RPF/RFT has probably practiced adequate due diligence as per Bylaw 12.5.1 by field checking the work of the contractor. Before awarding the contract, the member should check the qualifications of the contractor (including accreditation) to her satisfaction. When she reviews the final survey report, the recommendations need to make sense to her according to her personal knowledge of the site (field checking). The more personal knowledge she has, the less risk she takes when she incorporates the recommendations of the contractor into her recommendations to the licensee.

The contractor has offered to check and redo the work (he probably would not get paid unless this happened). The RPF/RFT should ensure the crew members redoing the work are accredited and it would be prudent if she checked a portion of the re-work so she will be confident with the final work product from the contractor.

Refer to Bylaw 11.4.5 (to sign and seal professional documents only in accordance with the provisions of Bylaw 10...)

HYPOTHETICAL #15

Scenario:

A licensee operates in a sensitive watershed where slopes are steep, rainfall is high and a river has a significant salmon run. The licensee Operations Forester (an RPF) is in charge of supervising all harvesting and silviculture operations in this watershed and based on her personal knowledge of the area based on a lot of field work, she has concerns about the slope stability in some parts of this watershed. Because of these concerns she hires a professional geoscientist (P Geo) to carry out a terrain stability assessment.

The P Geo has done extensive work for the licensee and is held in high regard. His report to the licensee RPF provides a terrain stability analysis of a particular road location within a proposed cut block. The analysis supported the road and cut block development. Based on the P Geo's report and her personal knowledge of the area (the report made sense to her), the licensee RPF proceeded with cut block layout and harvesting.

After harvesting, there was a significant storm event and a slope failure occurred from the road in the cut block, which deposited material into the salmon stream.

Who is professionally accountable for this incident? Who should be held professionally liable?

Interpretation:

Accountability is acknowledgement and assumption of obligations under professional legislation and accompanying Bylaws, including the potential for investigations and discipline to be imposed by the profession.

Both the RPF and P Geo share professional accountability for this work. The P Geo is professionally accountable for the content of his report and the RPF is professionally accountable for her recommendations which incorporate the P Geo's work.

Since they share professional accountability, they could potentially be held professionally liable. Liability is a consequence of accountability. In order to avoid, minimize or transfer professional liability, both professionals must prove that they practiced due diligence (Bylaw 12.5.1).

The RPF appeared to have practiced due diligence because she was confident of the P Geo's qualifications and had personal knowledge of the field site. She would also need to prove that she ensured proper implementation of the logging plan, based on recommendations from the P. Geo (refer to Bylaw 11.4.1).

In order to prove due diligence, the P Geo would have to prove that he followed proper procedures for the terrain conditions and he had appropriate qualifications.

The licensee can also be held liable for this incident where provincial and federal fisheries penalties/fines may occur.

HYPOTHETICAL #16

Scenario:

An RPF has been hired to carry out an investigation by the Forest Practices Board. Before starting work, he signs a confidentiality agreement with the Board. During his investigation he finds that a Woodlot Licence holder, who is not a resource professional, has skidded timber through a salmon bearing stream which is in non-compliance with provincial forest practices legislation. In speaking with the woodlot owner, the auditor learns that the woodlot owner is not aware of any of the applicable requirements set out in the forest practices legislation.

The RPF auditor notifies the Forest Practices Board of his findings. The Board, in turn, prepares a report setting out their recommendations.

Is there a requirement on the auditor to involve the association? If there is a requirement, when and to what extent should the association be involved?

Interpretation:

The RPF auditor has professional obligations to deal with the circumstances of poor stewardship of forest land as per Bylaw 11.3.4 and 11.3.5. The easiest solution is for the auditor to speak to the woodlot owner about the matter and if he is satisfied that the woodlot owner will correct his actions (fines/penalties from the federal and provincial governments may result if he doesn't) then the matter does not have to be reported to the association and the issue is finished. If the woodlot owner refuses to correct his actions, then the auditor must, according to Bylaw 11.3.4 report the matter to the association.

However, Bylaws 11.5.3 (to obtain a clear understanding of the client's objectives) and 11.5.2 (not to disclose confidential information without the consent of the client) also apply. Since the auditor has signed a confidentiality agreement, he cannot report the incident to the association without permission of the Forest Practices Board. The Board may dictate what type of non-confidential information can be provided or may require the auditor to wait until the audit results and report is in the public domain.

HYPOTHETICAL #17

Scenario:

A forest professional works for a forest company. Economic times are tough and the company is struggling. The forest professional is asked to do something (a poor stewardship practice) which is clearly wrong. The forest professional has just bought a new house, has a large mortgage and a young family to support. The owner of the company has told the forest professional that if she does not do what is asked, many jobs could be lost and if she is not willing to be a team player, she will be the first to lose her job in the downsizing that is about to come.

As an independent forest professional, what should she do? How should she handle the situation? What options/remedies are available?

How would the answer change if she were told that the thing being asked may not be "clearly wrong" but is something the forest professional is not professionally comfortable with?

Interpretation:

This is an unpleasant situation for the forest professional. In this case, Bylaws 11.3.1 (practice good stewardship of forest land), 11.3.2 and 12.3.1 (professional independence) and 11.5.5 (inform her employer of any action planned or undertaken that she believes is detrimental to good stewardship of forest land) apply.

She needs to have a discussion with her employer and say that she cannot be asked to impugn her professional principles and would have to refuse the request. She should also point out the consequences of the poor stewardship practices which may result in fines, penalties or future costs which could further erode the financial picture of the company.

If the employer is not responsive, she can ask the association for support and if the employer takes punitive action against her, the association will take appropriate action under section 32 (4) of the *Foresters Act* because an offense would be committed. Her last resort would be to find another job.

If she was asked to do something which was not clearly wrong, but she was uncomfortable with it, she should have a discussion with her employer to seek clarity and see if they can come to a mutual agreement.

HYPOTHETICAL #18

Scenario:

Forest professional “Mike” works for a consulting company and is drafting an independent assessment on an important forestry matter for a client. Mike asks a colleague “Dwight”, also a forest professional, to review the assessment. Dwight reviews the document and, while admitting that the assessment represents excellent quality work and is a professional quality document, demands changes before he will recommend the assessment be released to the client. Dwight goes so far as to give Mike specific wording and commitments that he feels are necessary. The issues are ones of professional opinion only but the assessment cannot be released to the client until it is approved by the colleague.

The consulting company is relying heavily on the fee anticipated for the assessment. It would be a lot easier for Mike to just do what Dwight demands. As an independent professional, what should Mike do?

Interpretation

As an independent professional, Mike should not blindly accept Dwight’s demands. Dwight is not being an independent professional either – he is allowing his professional judgment to be clouded by a difference of opinion. Dwight may not have the right, in these circumstances, to demand that the changes be made. Ultimately Mike, as the forest professional who prepares the assessment and signs his name to it, is accountable for it. He should be entitled to professional latitude.

As independent professionals, Mike and Dwight should enter into a respectful dialogue to resolve any differences of opinion. Debate and differences of opinion are not

something to be feared within a profession. The key to professionalism is in how professionals conduct themselves in the dialogue.

Another twist is that Dwight may be exercising management prerogative in asking for the changes. Respectful regard should still be exercised in this type of situation but there may be some valid reasons why Dwight requires the changes. These should be explained clearly to Mike. The matter here is probably no longer just a difference of professional opinion. If the changes requested under management prerogative are reasonable and do not adversely affect the quality of the assessment, Mike should consider making the changes. The key here is not to compromise professional quality or integrity.

Refer to Bylaws 11.3.2 and 12.3.1 (independence) and 11.5.3 (obtain a clear understanding of the employer's objectives)

HYPOTHETICAL #19

Scenario:

J. Juniper is a forest professional who opposes any form of herbicide use based on personal beliefs. Despite these personal beliefs, Juniper's job functions required her to be involved in herbicide approval/proposals. As projects got larger, Juniper grew increasingly more concerned over issues of long term toxicity and environmental impacts despite the fact that the pesticides being used were:

- Approved under the relevant legislation,
- Were being applied by certified applicators, and
- Were being applied in the appropriate manner.

The scientific research at the time did not indicate long term toxicity or detrimental environmental impact.

Juniper had initially voiced concerns to her immediate supervisor which resulted in her reassignment to another staff role unrelated to herbicides.

Juniper, unhappy with being sidelined and the fact that her opinions were being ignored, first spoke with senior management with no results. Juniper then decided to take further action and provided local interest groups opposed to herbicide use with sensitive proprietary information. Juniper was privy to this information only because of her employment position. Juniper was given verbal warnings to stop such activities after the employer found out about the first instance. Juniper ignored this warning and subsequent written warnings. The employer eventually fired Juniper for insubordination.

Was Juniper exercising appropriate professional independence? Did the employer act appropriately? Would your answer change if you were told that Juniper has found a recent scientific paper that indicates potential toxicity?

Interpretation

Juniper has to distinguish between professional and employment obligations. She is breaching employee obligations based on opinion rather than fact. The evidence at the time does not indicate long term toxicity or detrimental environmental impact.

Professional independence (Bylaws 11.3.2 and 12.3.1) does not prevent members from being advocates for certain positions. When voicing an opinion, members must declare the interest for whom they are speaking, state the negative and positive aspects or outcomes of their opinion, and must not engage in discreditation, suppress information or misrepresent facts to bolster their opinion. Failing to do the above, while advocating a cause or voicing an opinion can impugn the profession's independence.

In this situation Juniper should ask herself if she is free of influence from her own personal biases or those of interest groups. There is nothing wrong with being an advocate and opposing pesticide use – even in the absence of evidence that it is detrimental – the key is in how she conducts herself.

Juniper released proprietary information to the public, contrary to Bylaw 11.5.2 and did not exercise appropriate professional independence. The employer may have acted appropriately because the forest professional did not exercise proper professional conduct.

If there was a credible, scientific paper that indicated potential toxicity, this would provide more credit to her opinion and associated advocacy. However, this would still not excuse her inappropriate behaviour of disclosing proprietary information.

HYPOTHETICAL #20

Scenario:

While Stumped, an RFT, was completing the layout of a cut block, he was asked by his supervisor to adjust block boundaries and wildlife tree patches to add or delete cruise plots. It was explained to Stumped that by doing so the average volume or piece size would be decreased and the appraisal allowance increased so less stumpage is paid for the cutting permit.

What are his professional obligations? What Bylaws should he consider?

Interpretation:

Adjusting block boundaries and wildlife tree patches and hence, adding or deleting cruise plots is an accepted practice, but if these actions misrepresent the actual average volume or piece size in the cutting permit then the practice is improper and unacceptable because the facts are clearly being misrepresented. In this circumstance Stumped needs to tell his supervisor that he cannot carry out the dishonest practice because of his professional obligations.

To support his position, Stumped can point out Bylaws 11.3.2 and 12.3.1 (maintain professional independence), 11.4.1 (maintain high standards in daily conduct and daily work), 11.4.4 (not to misrepresent facts), 11.5.1 (act conscientiously and diligently in providing professional services) and 12.4.1 (maintain professional integrity).

HYPOTHETICAL #21

Scenario:

An RPF signs, stamps and submits an FSP for review and approval listing all public comments and how they were addressed or considered. The delegated decision maker approved the FSP because it was consistent with all required legislative approval tests (all appropriate resource objectives were adequately addressed). The proposed FDU is in a controversial area. Someone from the local public is opposed to any harvesting in the area and accuses the forester of being unethical because she is not practicing good stewardship of forest land based on sound ecological principles (Bylaw 11.3.1) because the proposed harvesting will include some clearcutting in a controversial area.

Is the forester unethical? How do you determine if she is unethical?

Interpretation:

If a member has a difference of opinion or different values from another person, or another member, either party cannot necessarily accuse the other party of professional misconduct based on these opinion or value differences. In this circumstance professional and legal obligations were followed so there is no unethical behaviour. Allegations of infamous or unprofessional conduct, conduct unbecoming a member, negligence, or a breach of the *Foresters Act* or Bylaws must be accompanied by valid evidence.

HYPOTHETICAL #22

Scenario:

A member, who is a consultant, specializes in providing woodlot services to clients. This includes helping clients develop woodlot proposals and advising them if woodlots are financially viable. The member decides to obtain a woodlot for himself.

Should he continue to offer woodlot services to clients?

Interpretation:

He should not take on work for a client interested in the same geographical area in which he is applying for a woodlot (Bylaw 11.5.6 – to refuse any assignment that creates a conflict of interest). Could this conflict be cleared if the client gave permission to continue?

There is a potential for conflict even if the consultant and client are going after different woodlots in the same geographical area because part of the consultant's service is to recommend woodlots for clients. The consultant may covet the best woodlot for himself and may not work in the best interests of his client.

Refer to Bylaws 11.4.1 (high work standards) and 12.4.1 (professional integrity).

HYPOTHETICAL #23

Scenario:

Licencee ABC gives a contract to consultant XYZ to produce a report that assesses the value of timber put up for bid on a Forest Service timber sale. Licencee ABC forgets to include a clause in the contract transferring the intellectual property and copyright in that contract report to themselves.

Can company XYZ legally sell the report to an additional client?

Company XYZ could legally sell the report to an additional client since they retain ownership of the report. However, it would not be professionally appropriate to sell the report to an additional client, without the consent of Licencee ABC, since the work was done under contract for Licencee ABC (Bylaw 11.5.7 - To levy only those charges for services rendered that are fair and due and Bylaw 11.5.8 – not to accept compensation from more than one client for the same work, without the consent of all).

If, on their own initiative, consultant XYZ produces a report assessing the value of timber on a timber sale put up for bid by the Forest Service and offers the report for sale to interested parties, it would be professionally appropriate to sell the report to more than one client. However, consultant XYZ should provide all recipients of that report with the names of all individuals/companies that have received or will be receiving a copy of that report.

Refer to the similar Hypothetical #2.

HYPOTHETICAL #24

Scenario:

A forest professional working for a large licensee is requested to approve a Small Scale Salvage proposal in the company's operating area. The proponent is a forest professional and wants to salvage trees infested with Douglas-fir beetle. The licensee forest professional is not familiar with the site, but the proposal is for a small volume of beetle killed trees selected over a large area, and her employer is a strong supporter of the SSS program and does not want her to put up road blocks to effective salvage.

Approval is given. Later that month, the licensee forest professional happens to be in a few of the areas, takes a look and finds very minimal beetle activity, but lots of root rot evidence.

What should she do?

Interpretation:

The licensee forest professional has an obligation to her employer (Bylaw 11.5), the public (Bylaw 11.3) and as a professional to look into the matter further. Her next step would be to investigate the specifics of the case to confirm the facts (being careful of Bylaw 11.6.2 - not to unfairly criticize the work of other members). She should then assess areas within the *Forester's Act* and/or Bylaws for potential contraventions. [For example, Bylaws 11.3.1 (practice good forest stewardship), 11.3.2 and 12.3.1 (professional independence), 11.4.1 (To inspire confidence in the profession through high standards, 11.4.4 (not to misrepresent facts), 11.5.1 (act conscientiously and diligently in providing professional services), 12.2.3 (exercise due care) and 12.4.1 (integrity)].

The next step would be to discuss the matter with the prescribing forest professional in a professional manner to resolve the issue. If the issue is not resolved, she needs to contact the ABCFP directly in writing (Bylaws 11.3.4 and 11.4.3).

HYPOTHETICAL #25

Scenario:

A CP is submitted under a FSP and a day later, the Forest Service district forest professional who is reviewing the application, receives a call from a member of the public who has a complaint about the CP.

The member of the public states that the area includes unstable ground and he is concerned about adjacent property damage and public safety if the CP is approved.

The district forest professional has experience in the area (although he has no terrain stability qualifications), and he agrees with the member of the public – stating to him that they believe it would be dangerous to build a road or harvest a cutblock in the area. The district forest professional informs the District Manager (DM) of the concern and suggests he not issue the CP due to terrain hazard.

The DM has no choice but to approve the CP as all approval tests have been met. The proponent RPF finds out about the advice to the DM from the district forest professional and discussion with the member of the public.

What should everyone do?

Interpretation:

The proponent RPF should work through the CP application process with the reviewing district professional and the DM prior to addressing the professional aspect of the situation. Once the process is complete, the proponent RPF should have a respectful dialogue with the reviewing district professional outlining her concerns with his conduct, supported by the following Bylaws:

- 11.3.3 - have regard for existing legislation...
- 11.3.6 - work to extend public knowledge...truthful & accurate statements..
- 11.3.7 - practice only in those fields where...competent
- 11.3.9 - express opinion only when founded on adequate knowledge...
- 11.4.1 - inspire confidence through high standard in conduct...
- 11.6.2 - not to unfairly criticize the work of another member...
- 12.6.1 - exercise due diligence...

If the proponent RPF is satisfied after the dialogue that the issue has been adequately addressed, with recognition of Bylaw contraventions and perhaps with an apology to the proponent RPF, the DM and an explanation to the member of the public, the proponent RPF could consider the issue resolved.

If there is no recognition of wrongdoing from the reviewing district professional, or if there is a track record of similar situations involving this member, the proponent RPF

has an obligation under 11.4.3.2 to advise the ABCFP immediately in writing of the situation.