APPEAL: 87/03 PES

JUDGEMENT

Appeal against Pesticide Control Act, Pesticide Use Permit No. 110-205-87/89 issued in the name of MacMillan Bloedel Ltd., Powell River, B.C., January 15, 1987, for ground foliar application of Roundup (P.C.P. No. 13644, glyphosate) to rid existing plantation - eight miles on Stillwater Mainline - of brush competition.

APPELLANTS

Michael Conway-Brown, Powell River Anti-Pollution Association, Powell River

Grant Keays, Powell River

Mrs. Denise Lawson, Powell River
DECISION

The Panel of the Environmental Appeal Board, authorized under the Pesticide Control Act and the Environmental Management Act, to hear the appeals of Michael Conway-Brown, Powell River Anti-Pollution Association, Grant Keays and Mrs. Denise Lawson, Powell River, against Pesticide Use Permit No. 110-205-87/89 issued to MacMillan Bloedel Ltd., Powell River, has considered all of the relevant evidence submitted to it at the Hearing of April 28th, 1987 and is satisfied that the implementation of the spraying program will not cause an unreasonable adverse effect to mankind and/or the environment. The Panel of the Board together with the Appellants and Witness (with the exception of Grant Keays) and the Respondent visited and inspected the permit site to be treated.

While the Panel of the Board is satisfied that, with the safeguards contained in the permit, the water supply to the Junior Forest Wardens Camp will be protected from contamination, it will, in deference to the concern expressed at the Hearing, call for monitoring of the camp's water supply before and after the treatment. Water samples, taken at the location of the intake pipe to the camp's water supply, shall be analysed for glyphosate contamination and the Permittee shall ensure that the monitoring will continue until no residues are found above the limit of detection for two subsequent rainstorms following treatment. Results of the monitoring will be provided by the Permittee to the registered appellants and officials of the Junior Forest Wardens Camp. The Panel of the Board directs that Permit No. 110-205-87/89 be amended to reflect this directive.

Representation was made at the Hearing that the Permit under section A "Public Notification" made no reference to an appeal procedure and that the public have a right to be informed of this. The Panel felt that this was not an unreasonable request and hence directs that reference to the appeal procedure be added to the list of information the permittee shall publish.

The Panel noted that item 7(a) of the Permit "Nearest Town" is incorrect and directs that it be amended to show the correct location of the Permit vis-a-vis Powell River.

With the exception of the above amendments the appeals are dismissed.
GENERAL COMMENTS OF THE PANEL OF THE BOARD:

1. During the presentation of testimony at the hearing several critical comments were made by appellants concerning the registration process for pesticides (which includes herbicides) in Canada, to wit "Agriculture Canada does not have a toxicologist on staff" and "simply follows the American E.P.A. in registering herbicides". In actual fact the registration screening process in Canada is extensive and comprehensive. While Agriculture Canada has jurisdiction over the registration of pesticides in Canada, input to the registration process is provided by Health and Welfare Canada (which it is noted has some 40 professional toxicologists on staff), Environment Canada, Fisheries and Oceans Canada, as well as Transport Canada which ensures the safe transport of dangerous materials.

At the Provincial level additional screening is provided by the Pesticide Control Branch of the Ministry of Environment and ultimately by the Environmental Appeal Board. The Province has the responsibility to ensure that when registered pesticides are used in British Columbia they are used safely and in accordance with specific rules for their application. The latter may include special conditions laid down by a committee of relevant government ministries, viz. Agriculture, Environment, Forests and Health.

2. Much time at this particular hearing was devoted to discussing alternate means of brush control by manual or mechanical means. Apart from being of general interest, however, such discussion has little relevance to the purpose of the hearing as there is no requirement whatever for a permit holder, MacMillan Bloedel Ltd. in this instance, to justify its silvicultural prescriptions and practices to the Environmental Appeal Board. The permit holder has the right by Federal and Provincial law to use a registered herbicide, provided it is applied safely and in accordance with the permit and the product label.
3. It is further noted that Provincial pesticide use permits are site-specific in the terms and conditions of the permit. A person appealing a permit, therefore, will have to prove to the Board that the permit holder will not apply, or is not capable of applying, the herbicide safely and in accordance with the permit and label, or that the specific site involved will not lend itself to a safe application of the herbicide.

4. During the course of the hearing questions were raised regarding the monitoring of spray programs in terms of their safety and efficiency. The Panel notes that the Board has requested in the past (P.V.P.'s 400-242-86/88 and 400-243-86/88) that "it would be very helpful if the Ministry of Forests set up a basic research follow-up program for herbicide applications". The Panel strongly endorses this view.

G. R. Knight
Panel Chairman
Environmental Appeal Board

Victoria, B. C.
July 15th, 1987