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TimberWest Initiates Court Action to Right An Injustice

Vancouver, B.C. – TimberWest filed a Statement of Claim in the Federal Court of Canada July 31, 2001, calling on the Federal Government to repeal its discriminatory private land log export restriction that imposes, only in BC, a “surplus test” on private forest land owners. By filing this Statement of Claim, TimberWest is seeking fair treatment for BC’s private forest land owners and the implementation of a uniform nation-wide treatment for private forest land owners based on sound public policy.

“We believe BC’s private landowners are entitled to the same rights and freedoms as all other Canadian private landowners, including First Nations. As the largest owner of private forestland in BC, TimberWest is taking the lead in overturning this inequity,” says Paul McElligott, President and CEO, TimberWest. He adds: “In order to protect the private property rights of our investors, which requires being able to get the best value for our renewable natural resource, we are compelled to challenge this inequitable restriction in the courts.”

The “surplus test,” administered under Notice to Exporters Serial No. 102 (“Notice 102”), requires owners of BC exportable private lands that were granted prior to March 12, 1906, to make logs available to domestic buyers at domestic prices prior to export. During WW II, for defence purposes, the Federal Government required land owners, who acquired the right to export logs at the time the land was granted, to first offer their logs to local sawmillers at domestic prices. This requirement subsequently lapsed but was reinstated in 1969 in BC only. Notice 102 positions BC’s log export rules differently from those applied to the rest of Canada and the US Pacific Northwest.

Notice 102 is applied to land that makes up less than two percent of provincial forest lands. It is applied to exportable private lands even when the provincial AAC is undercut. Notice 102 is not applicable to Indian Reserve lands or to private lands elsewhere in Canada.

McElligott says: “Having Notice 102 removed will restore equity and have significant benefits. By being able to get the right log to the right mill to be manufactured into the highest-value product, we can be more competitive. This improves our profitability, which then allows us to reinvest in our forests – which, over the long term, enables more volume to be grown, improved levels of environmental protection and increased investment in new equipment. And we are able to enter stands that would otherwise be too costly to harvest. Because only about 10-30 percent of most stands contain export

quality logs, the additional logging activity that occurs means that more logs are made available to BC's coastal mills, and more people are kept working.

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“In TimberWest’s own experience, our ability to export some private land logs has played a key role in maintaining high employment levels at operations on our private lands. Several hundred TimberWest employees would otherwise not have worked this year, at a time when thousands of BC forest workers are already out of work due to weak markets and structural problems in the coastal industry,” says McElligott.

Removal of Notice 102 would also provide a strong argument for Canada in the ongoing softwood lumber dispute. “With Notice 102 gone, Canada’s log export rules would be the same as those in the US Pacific Northwest, where public land log exports are restricted but private land logs may be exported,” says McElligott. “This would help pave the way to a settlement with the US that would support free trade and protect thousands of forest sector jobs in BC and the rest of Canada.”