

## NOTICE OF CLASS ACTION REGARDING CLOSURE OF THE YOUNG MILL

*Kenneth David James v. Her Majesty the Queen in Right of the Province of British Columbia,*  
Supreme Court of British Columbia (Victoria Registry No. 03 2951)

### Introduction

The Court has certified the above action as a class proceeding. You are receiving this notice because it has been determined that you may be a member of the class. The class includes the following persons:

Persons employed at TFL Forest Ltd.'s Cowichan Sawmill, located at Youbou, British Columbia, at any time between April 10, 2000 and January 26, 2001.

### What do I Need to do?

**If you are not resident in British Columbia**, you need to contact Arvay Finlay at 440 – 355 Burrard St., Vancouver, British Columbia, Canada, V6C 2G8, Telephone: (604) 689-4438, Fax: (604) 687-1941, e-mail: pramsay@arvayfinlay.com by December 30, 2005, if you want to participate in the class action. If you do not contact them, you will not be able to recover any money in this class action.

**If you are resident in British Columbia**, you do not need to do anything if you want to participate in the class action. If you DO NOT want to participate, then you need to complete the form attached to this notice by December 30, 2005, and mail or fax it to Arvay Finlay, Attention: Joseph J. Arvay, at 440 – 355 Burrard St, Vancouver, B.C., V6C 2G8. The fax number is (604) 687-1941.

Judgement on the common issues, set out below, will bind all members of the class who do not opt out of the proceeding.

## **What is the Case About?**

The lawsuit alleges that the Province of British Columbia negligently removed Clause 7 from TFL 46, and that this resulted in the closure of the Youbou Mill. The lawsuit alleges that as a result of the Province's negligence, the employees of the Youbou Mill suffered loss of jobs and income.

## **How will the Case Proceed?**

The class action has two stages. The first stage is the resolution of the common issues. The common issues to be resolved are:

- (a) Did the Defendant Province owe a Duty of Care to the Class Members?
- (b) If so:
  - (i) what were the parameters of the duty of care?
  - (ii) did the Defendant Province exercise reasonable care within those parameters?
- (c) If the Defendant Province owed a duty of care to the Class Members and failed to exercise reasonable care within the parameters of that duty, was there a causal connection between that failure and the closure of the Youbou Sawmill?
- (d) Is the Plaintiff's claim barred by the doctrines of abuse of process, *res judicata* and/or issue estoppel, arising from a consent judgment of the B.C. Supreme Court entered in action #S012533 (Vancouver Registry) on May 29, 2003?
- (e) Is the Claim barred by the *Limitation Act*?

A date for the trial of these common issues will be set shortly. This Judgment will apply to all class members resident in British Columbia who do not "opt out" and all class members not resident in British Columbia who choose to "opt in" to the action.

If these common issues are resolved in favour of the class, at the second stage the Court will determine what further steps class members need to take in order to determine if each class member is entitled to recover any money, and in what amount.

## **Who are the lawyers for the class?**

The lawyers for the class are:

Arvay Finlay  
440 - 355 Burrard St  
Vancouver, British Columbia, Canada V6C 2G8  
E-mail: [pramsay@arvayfinlay.com](mailto:pramsay@arvayfinlay.com)  
Contact : Joseph J. Arvay

## **How do I Find Out More?**

Class members who wish to know the status of the class action should monitor Arvay Finlay's website at <http://www.arvayfinlay.com/> or contact the lawyers for the class at the above address.

The representative Plaintiff, Kenneth James, will instruct the class counsel during the common issues stage. Mr. James can be contacted through the class lawyers, whose address is set out above. The lawyers must act in the interests of all class members. Class members wishing to participate on their own behalf at the common issues stage of the proceeding must make an application to the Supreme Court of British Columbia.

## **Do I Need To Pay Anything?**

You do not need to pay anything out of your own pocket. If the case is successful, the fees payable to class counsel will be paid out of any Judgment, and will not be paid directly by the class members. Any fees are subject to approval of the Court.

The representative Plaintiffs have entered into an agreement with the lawyers that provides for the lawyers to be paid a fee at a percentage of the amounts recovered, which amounts may include a favourable settlement, Judgment, voluntary payment or execution and any other benefit derived from the class proceeding for which a value may be attributed by the Court. The percentage is dependant on when the matter is resolved. If resolved at trial in the British Columbia Supreme Court, the

lawyers will receive 30% of any settlement or award. When and if such a settlement, Judgment, voluntary payment or execution or other benefit is obtained, the lawyers will apply to Court for approval of a fee that is consistent with the terms of this agreement, or some lesser amount. The Court will decide what is fair.

This arrangement compensates the lawyers for the risk they have assumed in advancing the case and the legal work performed. The lawyers do not receive any money to pay them for their work on the case unless the case is successful. Even if the class loses the case on the common issues, class members are not responsible for fees of any of the lawyers involved in the case.

**If you have any questions regarding this notice, please contact Arvay Finlay at 440 - 355 Burrard St, Vancouver, B.C., Telephone: (604) 689-4438, Fax: (604) 687-1941, e-mail: [pramsav@arvayfinlay.com](mailto:pramsav@arvayfinlay.com).**

No. 032951  
Victoria Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**KENNETH DAVID JAMES**

**PLAINTIFF**

**AND:**

**HER MAJESTY THE QUEEN  
IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**

**DEFENDANT**

**BROUGHT UNDER THE *CLASS PROCEEDINGS ACT***

**NOTICE OF OPTING OUT**

I, \_\_\_\_\_, of \_\_\_\_\_, hereby advise the Court that:  
(name) (address)

1. I was an employee of TFL Forest Ltd., working at the Youbou Sawmill, at any time between April 10, 2000 and January 26, 2001.
2. I have read and understood the order of this Court dated August 26, 2005.
3. I do not wish to participate in this class action, and choose to opt out.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Class member