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December 10, 2024

VIA EMAIL

George Edney  
Timber Sales Manager  
Kootenay Business Area, BC Timber Sales  
1907 Ridgewood Road  
Nelson, BC V1L 6K1  
Email. George.Edney@gov.bc.ca  
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Dear Mr. Edney:

**Re: Ecological values of Cai Creek and proposed Cutblock TA2185-3**

We write as legal counsel for the Save What's Left Conservation Society ("SWL") to provide BC Timber Sales ("BCTS") with the following submissions and evidence with respect to the area known as Cai Creek in the vicinity of Castlegar and proposed Cutblock TA2185-3 ("Cai Block 3").

***Ecological values of Cai Creek and Cai Block 3***

The forest within the proposed Cai Block 3 contains provincially rare and unique values, which were validated by British Columbia's Technical Advisory Panel ("TAP") Intact Watershed mapping, as well as the University of British Columbia's BC Big Tree Registry.

Specifically, Cai Creek values include:

- a. the largest documented Ponderosa pine tree in BC (known locally as "Lieutenant Dan"),
- b. four other Ponderosa pines ranked within the top 30 in size provincially,
- c. two western white pine trees ranked #8 and #9 in size provincially, and
- d. many massive Douglas fir, Western redcedar, Western larch and Grand fir.

These trees and associated plant and animal species are found in low elevation, highly productive forests exhibiting old forest characteristics, including many veteran trees that survived the most recent documented wildfire in 1934.

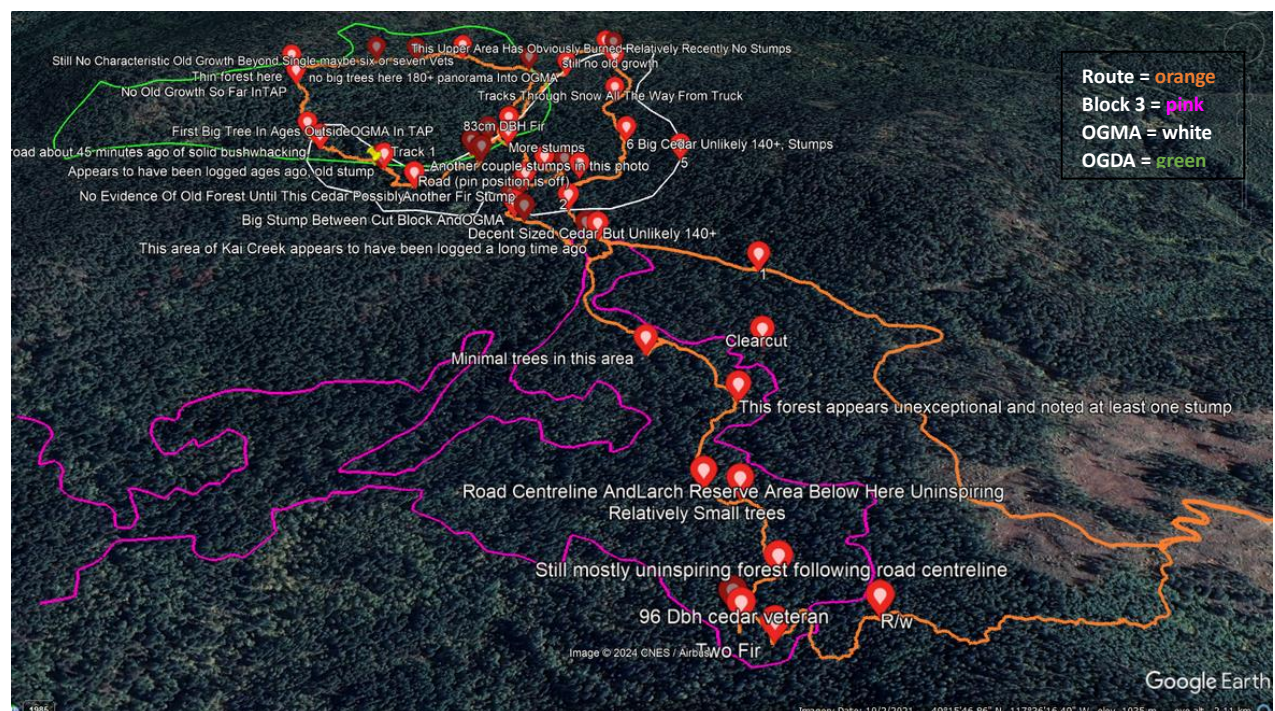
These Interior forest stands, located in close proximity to Castlegar, are within an 80% intact watershed mapped by the TAP, which has very high levels of documented wildlife use. These characteristics, when coupled with a well-designed and -built recreational trail in the area, create an accessible low elevation forest hiking experience that does not occur elsewhere in the Kootenays.

SWL reconnaissance of Cai Block 3 on November 4, 2024, and the surrounding Old Growth Management Area (“OGMA”) and Old Growth Deferral Area (“OGDA”) on November 14, 2024, provided verification of the very high values in proposed Cai Block 3. SWL and its qualified professionals identified significant densities of old growth trees / structure located within Interior forest habitat showing intensive wildlife use and sign.

Relative to Cai Block 3, there is a general lack of comparable structure in the nearby non-legal OGMA and TAP-mapped OGDA. The reconnaissance makes it clear that the OGMA, which has been British Columbia’s primary tool to protect the best old forest structure, is not achieving this intended result. By redeploying the OGMA to capture the values contained within Cai Block 3, this objective would be better achieved, in addition to preserving the 80% intact drainage with Interior forest habitat conditions and the highest concentrations of wildlife use.

The following Figure 1 (looking northeast at Cai Creek) shows the route followed by SWL’s reconnaissance team on November 14, 2024 while ground-truthing the OGMA and OGDA and revisiting the southern portion of proposed Cai Block 3.

**Figure 1. Route of SWL reconnaissance, November 14, 2024**





The following photographs, taken by SWL on November 4, 2024, are representative of the northern half of the proposed Cai Block 3:



The following photographs, taken by SWL on November 14, 2024, are representative of the OGMA located north of the proposed Cai Block 3, confirming past logging activities (estimated to have occurred in 1960s or 1970s), as evidenced by numerous very decayed fir stumps:



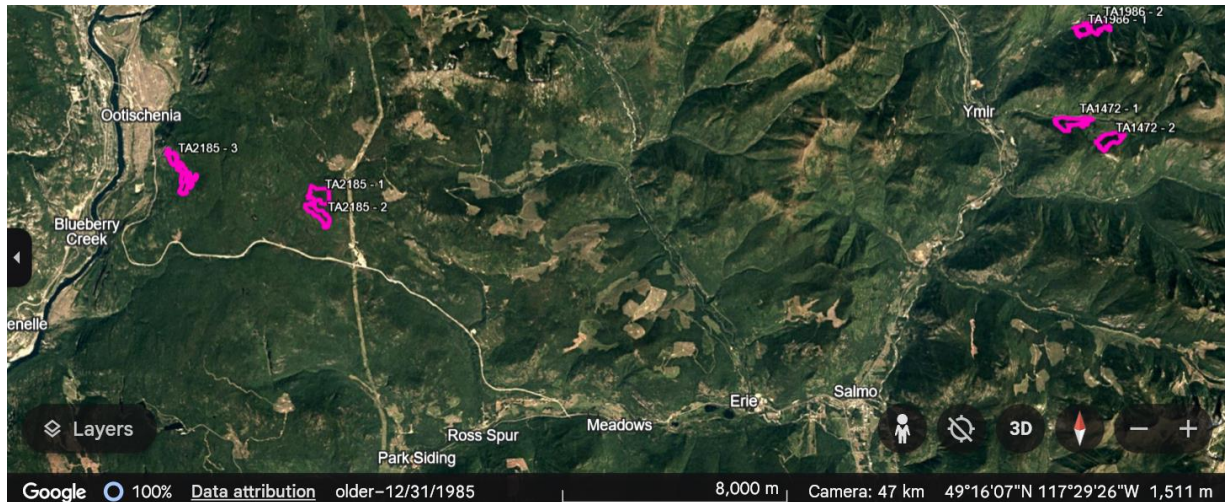
The following photographs, taken by SWL on November 14, 2024, are representative of the OGDA (upslope of the OGMA, with very minor overlap):



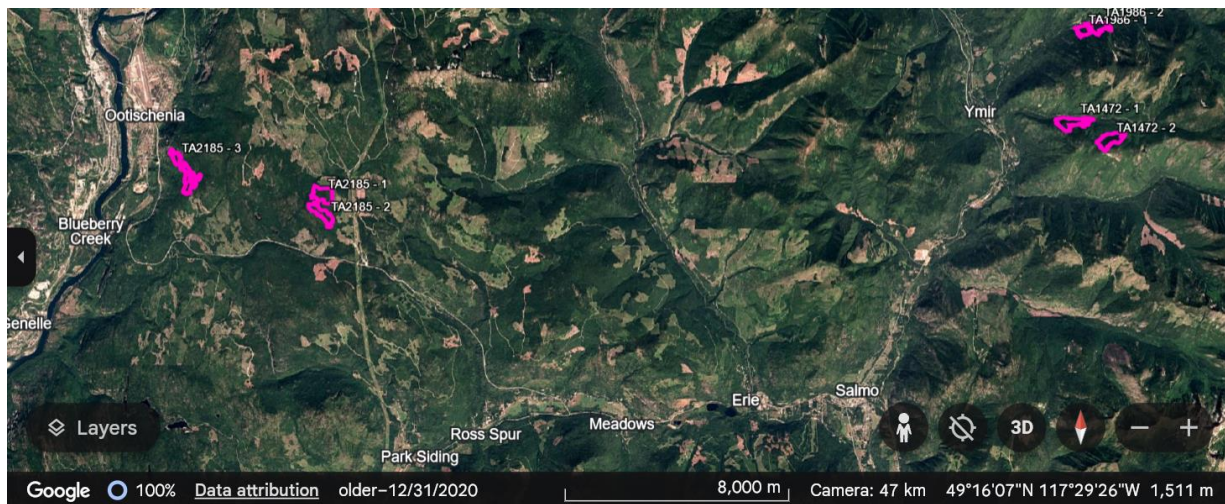


Figures 2 and 3 below provide a comparison of mature forest cover at Cai Creek in 1985 (when the watershed was almost entirely intact) and in 2020 (while not accounting for clearcut harvesting in the period since 2020), confirming the extent of deforestation in the vicinity of the Cai Creek watershed over past four decades:

**Figure 2. Satellite image of Cai Creek and environs, 1985**



**Figure 3. Satellite image of Cai Creek and environs, 2020**



SWL notes that the Cai Creek watershed was mapped as an 80% intact watershed by the TAP in 2022 and recommended for preservation.

SWL notes with concern that the Cai Creek watershed values and apparent BCTS management discrepancies relative to the Old Growth Strategic Review (“OGSR”) and TAP recommendations have not been clearly communicated to the public, First Nations, government representatives and other stakeholders.

SWL submits that omitting this information from BCTS's public engagement on Cai Block 3 (via the Forest Operations Map portal) is contrary to the public interest and deprives the public and specific stakeholders of necessary information to properly review, and provide informed comment on, the proposed development of Cai Block 3.

Based on this omission, and the information presented above, SWL submits that a transparent re-evaluation of the planning and proposed development of Cai Block 3 is essential to safeguard the public interest and ensure appropriate forest stewardship of these rare environmental values.

### ***Expert opinion evidence and public concern regarding Cai Block 3***

As Registered Professional Biologist Matthew Casselman has noted:

"Cai Creek should be protected. It is a biodiverse forest full of old growth trees, and BC Timber Sale's logging plans would irreversibly disrupt this forest. I think it would be a big loss for our local ecology, the residents of Castlegar and all British Columbians."<sup>1</sup>

Registered Professional Biologist Dr. Rachel Holt, former Vice-Chair of British Columbia's Forest Practices Board and a member of the TAP, has further noted with respect to Cai Block 3 that:

"The provincial government wrote its own report in 2018 that said of the old growth management areas out there, only 18 percent of them are actually old growth. They have set aside these areas that are supposed to be old growth management areas, but in order to reduce the timber supply impact, they didn't put the lines around old growth. If we were meeting all the broader landscape-level targets then I might have less concern about that block, but because in general we are not doing that, and in general the dry Interior Cedar Hemlock [zone], which is the zone that block is in, has very little old growth and little old growth structure remaining on the land base, then I'm concerned."<sup>2</sup>

Dr. Holt made this observation before SWL ground-truthing of the nearby OGMA and TAP polygon confirmed the lack of old growth forest characteristics, validating these concerns.

In addition to this expert opinion regarding the environmental values of the forest within Cai Block 3, and the ill-advisability of advertising this forest for harvesting, SWL notes that 14,000 individuals have signed an online petition calling for preservation of Cai Creek and Cai Block 3 and 500 individuals have signed a hard-copy petition that was submitted to the local MLA and tabled in the Legislature. There is a high degree of public interest and outcry with respect to the proposed auction and harvesting of this intact watershed with old forest attributes of provincial significance.

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<sup>1</sup> "BCTS accepting comments on logging in Cai Creek watershed," *Castlegar News*, June 24, 2024 < <https://www.castlegarnews.com/local-news/bcts-accepting-comments-on-logging-in-cai-creek-watershed-7404316> >.

<sup>2</sup> "BCTS accepting comments on logging in Cai Creek watershed," *Castlegar News*, June 24, 2024.

***BCTS has a duty to adhere to high standards of forest stewardship and appropriately balance the public interest***

When rare cases with obvious unique values at stake are brought repeatedly to the attention of a BCTS forest manager (who is also the statutory decision maker responsible for approving roadbuilding and harvesting), SWL submits it is their professional duty and statutory duty to make informed decisions that adhere to high standards of forest stewardship and appropriately balance the public interest.

SWL submits that Cai Block 3 is a rare case that warrants targeted stewardship to conserve the multiple values described above.

BCTS's most recent 2024 Harvest Plan Map for Cai Block 3 shows the block has a ground-based harvest area of 33.4 ha, in addition to 0.7 ha at 50% merchantable retention. The stated cruise block volume of 14,434 m<sup>3</sup> is the highest proposed harvest volume that SWL is aware of within the current Sales Schedule for the BCTS Kootenay Business Area. This reflects the uniqueness and exceptional productivity of Cai Block 3.

SWL notes that BCTS has been developing Cai Block 3 since at least 2019, a period of at least 5 years, which SWL submits can be interpreted as demonstrating the complications and difficulties arising from proposed harvesting of old and mature forest in a fragile and rare 80% intact watershed.

While the Ministry of Forests' *Guidance on BCTS Implementation of Technical Advisory Panel (TAP) Old Growth Deferral Polygon Recommendations* (issued in May 2023) may be viewed by BCTS foresters, forest technologists and sale managers as providing a *carte blanche* for harvesting of old forest located outside OGDAs, SWL submits this approach would fall far below the standard of forest stewardship mandated by the *Professional Governance Act*, SBC 2018, c 47 and the *Code of Ethical and Professional Conduct* of the Association of British Columbia Forest Professionals. SWL also notes that such an approach is inconsistent with Resolution No. 2022-32 ("Implementation of OGSF Recommendations for Old Growth Forests, including Deferrals and Resilience Planning") adopted by the Union of British Columbia Indian Chiefs on June 2, 2022.

SWL further notes that harvesting of Cai Block 3 would provide meagre economic benefits to the people of the West Kootenay region and British Columbia. Based on SWL's careful review of BCTS revenues in recent years (and consultations with forest industry leaders in the local area), the gross profit to BCTS of harvesting Cai Block 3 would be approximately \$500,000. Net revenues to BCTS would be approximately \$70,000 (based on data in BCTS's most recent Business Plan, showing net revenue at 13.7% of gross profit).<sup>3</sup> These revenue calculations are shown in Figure 4 below.

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<sup>3</sup> BCTS, *Business Plan 2023/24 to 2025/26* < [https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/bc-timber-sales/business-plans-performance-reports/bcts\\_business\\_plan\\_2023-2024\\_to\\_2025-2026\\_final.pdf](https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/bc-timber-sales/business-plans-performance-reports/bcts_business_plan_2023-2024_to_2025-2026_final.pdf) >.

**Figure 4. BCTS gross profit and net revenue (province-wide and for Cai Block 3)**

	Gross profit	Net revenue	%
Entire province (2023/24)	\$274,000,000	\$37,500,000	13.7%
Cai Creek TA-2185-3	\$500,000	\$68,500	13.7%

With respect to employment, SWL notes that the wood volume generated by logging Cai Block 3 would create minimal jobs and associated economic benefits. While BCTS claims to be pursuing a goal of increasing the value-added market, SWL notes with concern that BCTS did not meet its meagre 2022-2023 Category 2 sales targets of 10% of rationalized apportionment; based on past performance, it is unlikely that BCTS will reach its current goal of 10% of its sales going to Category 4 value-added companies.<sup>4</sup>

SWL further understands that controversial wood-pellet processing makes up a portion of BCTS's purported value-added production. SWL further notes that exports account for approximately 85% of BC's total softwood lumber production according to the BC Lumber Trade Council.<sup>5</sup> Based on the above, SWL submits that it is very likely that the forest in Cai Creek will be exported as dimensional lumber, with very limited economic and social benefits to workers and communities in the West Kootenays.

### ***Constraints on development of Cai Block 3***

SWL notes that Cai Creek is not an average block and that it is encumbered by substantial constraints on development, which further undermines the economic viability of harvesting and further supports conservation of the stand.

Amendments to the Harvest Plan for Cai Block 3 in recent years have removed some veteran trees from the proposed harvest, eroding the profit margins for this block. Indeed, BCTS committed on August 14, 2024 to "strive to reserve as many old growth trees from harvest [in Cai Block 3]..., except if the old growth tree is within the right of way of a road or trail, if it is a forest health concern, or a safety risk to workers."

However, despite this commitment and proposed deletions, SWL notes that significant numbers of old-growth trees would still be lost through roadbuilding and harvesting. SWL further notes that BCTS's admission that old-growth trees would be removed at Cai Block 3 is inconsistent with its original public notification in connection with development of the block, which stated that: "None of the 3 cut blocks contain trees that meet old growth age criteria, within the area scheduled for harvesting."

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<sup>4</sup> See BCTS, *Annual Performance Report, April 1, 2022 – March 31, 2023*, p. 6 < [https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/bc-timber-sales/business-plans-performance-reports/bcts\\_annual\\_performance\\_report\\_2023.pdf](https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/bc-timber-sales/business-plans-performance-reports/bcts_annual_performance_report_2023.pdf) >; BCTS, "BC Timber Sales - Category 4 - Value-added Program" (August 8, 2024) < <https://www2.gov.bc.ca/gov/content/industry/forestry/bc-timber-sales/category-4-value-added> >.

<sup>5</sup> BC Lumber Trade Council, "Industry Facts" (n.d.) < <https://bclumbertrade.com/facts> >.

In these circumstances, SWL submits it would be unreasonable and contrary to appropriate standards of forest stewardship for BCTS to proceed with advertising Cai Block 3 for auction and harvest, which would trigger the substantial adverse ecological impacts of fragmentating the rare forest in this intact watershed.

For clarity, the constraints which will lead to removal of old-growth trees in and around Cai Block 3 include but are not limited to:

- a. removal of trees for road building and clearing of landings (including the very long road connecting to Cai Block 1 and associated potential future development);
- b. removal of all wildlife/danger trees potentially posing a hazard to workers (along and adjacent to all roads/trails, recreational trails, and to workers in and around the block);
- c. removal of all trees with a forest health concern (in a two-tiered stand with many trees cored over >250 and >300 years of age, most trees are likely to have one or more forest health concerns, including Douglas-fir beetle, other damaging insects, Armillaria root disease, mistletoes, other root, stem rots/diseases, as well as mechanical damage or other tree defects (hollows, cavities), etc., which make them a safety risk to workers);
- d. operating constraints of the harvest prescription (involving multiple designated reserves and dispersed leave-trees to accommodate the many large old trees; however, many of these reserved trees may be subject to mechanical damage or post-harvest blowdown resulting from fragmentation of the Interior forest stands, which would then provide BCTS and its licensees and contractors with the rationale to salvage to address blowdown in this two-tiered stand); and
- e. inability of BCTS to prevent further spread of fir beetle in the reserve areas, with breeding populations boosted by the increased Douglas-fir residue on the forest floor for egg-laying, as a direct outcome of road building and logging. (These increased beetle populations will continue to infect and spread through the watershed and provide further rationale for BCTS to log more in the future. A better strategy than logging would simply be to treat infected and susceptible Douglas fir with MCH pheromone before beetle flight in early spring to deter any additional egg laying and spread through the watershed. Such measures are warranted in cases of exceptional values such as those found at Cai Creek.)

### ***Concerns regarding conflicts of interest of BCTS officials***

Authorizations issued by BCTS's Kootenay Business Area will result in clearcutting of approximately 3,000 hectares of forest in approximately 150 clearcuts other than Cai Creek TA2185-3 in the 2024-2025 fiscal year, with a harvested volume approaching 1-million m<sup>3</sup>.



Our understanding is that the same MOF / BCTS officials responsible for the development and advertising of prospective BCTS cutblocks are also the Statutory Decision Makers (“SDMs”) responsible for reviewing and issuing associated Cutting Permits and Road Permits.

This lack of independence of the SDMs is of serious concern to SWL.

SWL submits that this lack of independence appears to be inconsistent with the duty of FPBC registrants to avoid situations and circumstances in which there is a real or perceived conflict of interest (FPBC *Code of Ethical and Professional Conduct*, Standard 3). The interpretation guidelines issued by FPBC indicate that “the responsibility to resolve or mitigate a COI [conflict of interest] rests with the registrant”.

SWL further notes that a primary role of BCTS officials is to implement five-year business plans and meet BCTS sales targets, which the Kootenay Business Area has apparently excelled at during the previous five-year cycle in comparison with other BCTS divisions in the province. SWL has reason to believe that BCTS officials in some business areas may be eligible for performance bonuses tied to attainment of sales targets.

SWL submits that the revenue-generating role of BCTS officials creates a disqualifying conflict of interest with the statutory responsibilities of an SDM to independently, objectively and properly evaluate implications and impacts of BCTS-authorized road building and harvesting on the broader public interest (including Indigenous, environmental, recreational and economic values). The current dual decision-making arrangement for BCTS (1) development/advertising and (2) permitting/regulation is fraught with conflicts of interest, in contrast to the greater degree of independence in other areas of MOF operations (for example, where a District Manager serves as the SDM for road permits and cutting permits sought by TFL and Forest License holders).

### ***Inconsistency with BCTS Sustainable Forest Management Standard***

Cai Creek is a rare example of a “forest with exceptional conservation value” and an “ecologically important site”. BCTS’s intended advertising of Cai Block 3 is therefore inconsistent with BCTS’s *Provincial Sustainable Forest Management Plan SFI 2022 Forest Management Standard* (the “2022 Forest Management Standard”), specifically Objective 4 (Conservation of Biological Diversity):

“To maintain or advance the conservation of biological diversity at the stand and landscape level and across a diversity of forest and vegetation cover types and successional stages including the conservation of forest plants and animals, aquatic species, threatened and endangered species, Forest with Exceptional Conservation Value, old-growth forests, and ecologically important sites.”

SWL asserts that the TAP-mapped intact watershed at Cai Creek with extremely productive low-elevation Interior forest with high levels of wildlife use and a recreational trail through record-size old trees is of very high public interest and meets the criteria for enhanced forest stewardship.

Moreover, as a result on recent amendments to the *Forest and Range Practices Act*, SDMs must consider impacts of government objectives more broadly than narrow “timber supply” considerations (including on ecology, Indigenous values and the public interest). There is no evidence this broader scope of consideration has occurred with respect to Cai Block 3. If such consideration has occurred, no reasons demonstrating this balancing of interests have been transparently disclosed to the public.

SWL submits that the lack of transparency regarding BCTS deliberations with respect to Cai Block 3 is eroding the public trust in MOF’s management of Crown lands.

***BCTS is not meaningfully implementing OGSR and TAP recommendations***

Finally, SWL is concerned that BCTS is failing to meaningful implement OGSR and TAP recommendations by providing inadequate protection for mapped intact watersheds, OGDAs and old growth stands.

The mapped intact watershed status providing rare Interior forest habitat conditions at Cai Block 3 does not appear to have been factored into BCTS decision-making with respect to development of the stand.

As well, SWL notes that BCTS declines to voluntarily reserve mapped “candidate” OGDAs where they are not verified to meet OGDA criteria, and also fails to designate OGDAs or alter existing mapped OGDA boundaries in cases where the TAP mapping missed polygons or portions thereof. This approach undermines the intent of the OGDAs. Missed old forest meeting old criteria should be delineated as OGDAs or OGDA replacements to meet the intent of the OGSR and TAP recommendations.

SWL understands there is a backlog of OGDA replacements awaiting identification by MOF and submits that Cai Block 3 is an obvious choice for replacement, or as an OGMA, since existing OGMAs in the area are not old. SWL submits these considerations warrant evaluation to ensure the public interest is properly upheld.

Inconsistency between BCTS development activities and TAP / OGDA mapping is clearly demonstrated in a cluster of stands approximately 12 kilometres west of Cai Block 3 (described as Cutblocks TA2374-1, TA2374-2 and TA2374-3 in BCTS’s 2024-25 Sale Schedule), as shown in Figures 5 and 6 below.

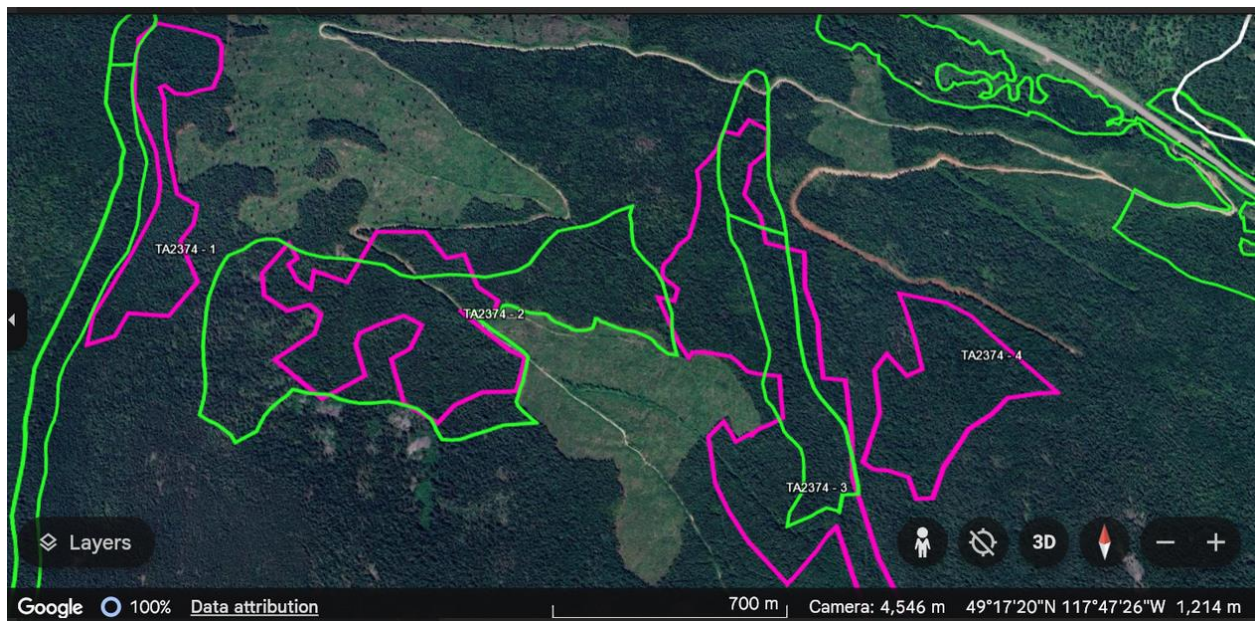
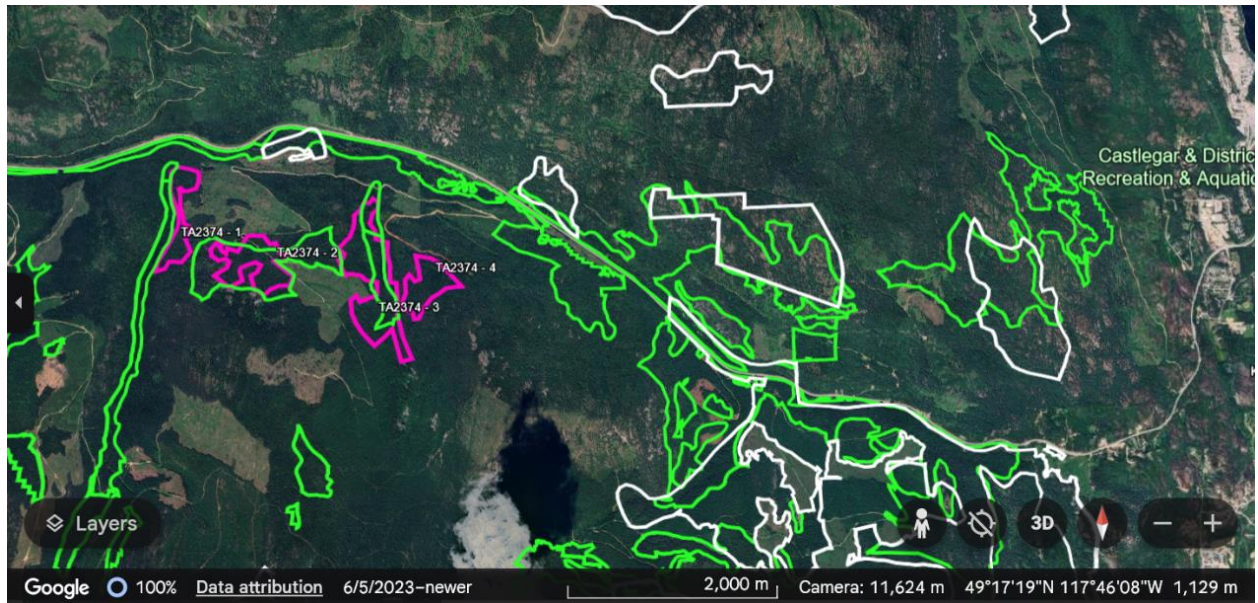
Figures 5 and 6. Overlap of BCTS proposed cutblocks and OGDAs  
(Blocks TA2374-1, TA2374-2 and TA2374-3, from 2024-25 Sales Schedule)

LEGEND:

Green – OGDAs

White – OGMA

Purple – BCTS cutblocks





### **Conclusion**

In conclusion, SWL submits that the above evidence of exceptional ecological values strongly supports permanent deferral of development of proposed Cutblock TA2185-3 in the vicinity of Cai Creek.

Cai Creek is a rare example of a forest with exceptional conservation value and an ecologically important site.

SWL therefore requests that BCTS immediately remove Cutblock TA2185-3 from its Sales Schedule and cease and desist from any further actions toward the development or advertising for auction of Cai Block 3.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ben Isitt', is written over a horizontal line.

Benjamin Isitt, BA (Hons.), MA, LLB, PhD (Law), PhD (Hist.)  
Counsel for the Save What's Left Conservation Society

cc. Russ Laroche, Regional Executive Director, Kootenay-Boundary Natural  
Resource Region < russ.laroche@gov.bc.ca >