
METIS SETTLEMENT GENERAL COUNCIL

TIMBER POLICY

Adopted September 24, 1998

PART 1 - CONTEXT

1.1 Background

The Metis Settlements General Council holds the fee simple title to land in the Metis settlement areas. The Metis Settlements Act provides that the General Council can, by a Policy, create interests in land and regulate timber cutting and sale. The Act also provides for a settlement council to make bylaws governing the cutting and sale of timber in the settlement area¹ in accordance with General Council Policy. By a Land Policy General Council created a system of Metis titles and transferred these titles to settlements and members while retaining ownership of timber. By a Timber Policy passed in 1990, General Council provided for the settlements to exercise ownership rights related to the harvesting and sale of timber.

1.2 Purpose

The purpose of this Policy is to transfer ownership of timber to the settlements and to provide for the stewardship of settlement area forest lands so that settlement councils can regulate the cutting and sale of timber in a way that balances the need for individual and settlement economic benefits with the need to preserve the forest lands as part of a Metis way of life.

1.3 Definitions

In this Policy

- (a) *Act* means the *Metis Settlements Act*;
- (b) *forest improvement* means any activity on an area of land aimed at creating, restoring, or improving the forest land the area;²
- (c) *forest land* means a connected area of land of at least 10 hectares in which the dominant plants are trees;
- (d) *landholder*, when used in reference to a parcel of land, means the person holding the Metis title, provisional Metis title, or allotment in the parcel;³
- (e) *Land Policy* means the Metis Settlements General Council Land Policy in place at the time of interpreting this Policy;
- (f) *personal timber use* means cutting timber on a parcel with the landholder's consent for direct use within the settlement area
 - (i) for firewood or other household purposes, or
 - (ii) for materials to build things for use on the landholder's land;⁴
- (g) *timber* means all trees living or dead, of any size or species and whether standing, fallen, cut or extracted and, where the context requires, includes anything made from them;
- (h) *timber dues* means any fees, dues, charges or levies payable in respect of timber, timber operations, timber permits, or forest improvement;
- (i) *timber lands* means any land designated by the settlement council under section 2.3 of this Policy;
- (j) *Timber Management Guidelines* means any system of guidelines for timber management established under section 2.4;
- (k) *timber operation* means any activity, other than personal timber use, involved in cutting, removing, processing, manufacturing or marketing timber, including burning or otherwise destroying or damaging timber;
- (l) *timber permit* means a permit to authorize timber operations on a settlement area that is issued by the settlement council in accordance with a settlement timber bylaw;
- (m) *wood lot plan* means a plan for managing a specified area of forest land so that it will produce removable timber on a sustainable basis; and terms defined in the *Metis Settlements Act*, or regulations made under it, have the same meaning when used in this Policy, unless the context makes such an interpretation unreasonable.

1.4 Footnotes

The footnotes in this Policy are part of the Policy and are included to help with interpretation.

PART 2 - TIMBER OWNERSHIP AND MANAGEMENT

2.1 Timber Title

- (1) For each settlement area there is a "timber title" created in the name of the settlement.
- (2) The timber title represents ownership of all timber within the settlement area.

- (3) Timber title may only be held by the settlement, but the settlement council may enter into long or short term agreements consistent with this Policy for the sale of timber.
- (4) On acquiring the timber title, each settlement assumes responsibility for any claims that may be made against another settlement or the General Council as a result of the settlement's action or inaction on timber resource matters in its own settlement area.

2.2 Council Authority and Responsibility

- (1) Subject to the terms of this Policy, the settlement council has sole authority and responsibility for managing the forest lands and timber resources of the settlement area and the benefits from their development, including
 - (a) the authority to issue permits, designate timber lands, manage funds, and do anything else required to manage the timber resource and regulate the harvesting and disposition of timber in the settlement area; and
 - (b) the responsibility for long term forest management planning to ensure sustainability, including the identification of timber lands, the specification of harvesting and reforestation practices, and the setting of annual cutting limits.
- (2) In managing the forest lands and timber resources of the settlement area the settlement council must do its best to
 - (a) benefit the community while adequately compensating landholders,
 - (b) minimize damage to wildlife resources and the environment,
 - (c) provide a fair and orderly process for the issuing of timber permits, and
 - (d) subject to settlement land use bylaws, retain sufficient forest lands in the settlement area to provide a sustainable source of timber for future generations.
- (3) General Council or any affected party may, within one year of the event but not later, ask the Appeals Tribunal to review a decision or action that is contrary to subsections (1) or (2).

2.3 Timber Lands

- (1) To better manage forest lands and timber, a settlement council may determine that certain parts of the settlement area are best used for long term timber production and designate these parts as timber lands.
- (2) The settlement council may from time to time designate specific parts of the Settlement Area as unsuitable for long term timber production.
- (3) The settlement council is responsible for long term forest management planning for all lands except those declared unsuitable for long term timber production.

2.4 Timber Management Bylaws

- (1) A settlement may, by bylaw, establish Timber Management Guidelines to regulate land use and development and to govern timber operations on timber lands and other parts of the settlement area.
- (2) The bylaw may give the settlement council the authority to, from time to time,
 - (a) designate parts of the settlement area to which only certain sections of the Guidelines apply, and
 - (b) make changes to the Guidelines as required to better meet the timber management needs of the settlement

2.5 Timber Permits

- (1) No timber operation can take place in a settlement area unless authorized by a timber permit.⁵

- (2) A settlement council can create any type of timber permit it considers necessary as long as the permit is consistent with this Policy.
- (3) Subject to settlement bylaws, a settlement council may by resolution specify the timber dues payable to the settlement for each type of timber permit.
- (4) The settlement council can refuse to issue a timber permit or to renew or grant an extension of a permit.
- (5) No timber permit can be issued for a specified area of land unless
 - (a) the permit is consistent with a settlement council approved timber management plan or wood lot plan in place for the specified area, or
 - (b) the settlement council has determined that the specified area is better suited for some other use and declared it unsuitable for long term timber production.

2.6 Access to Land

- (1) The settlement council cannot grant a timber permit allowing timber operations on a parcel of land without the consent of the landholder, unless a settlement bylaw allows a timber permit to be granted without the landholder's consent in such circumstances.
- (2) Any settlement bylaw allowing access to land without the landholder's consent must state the criteria and process for gaining access, and provide a reasonable means of appealing the landholder's compensation to the Metis Settlements Appeal Tribunal.
- (3) Requiring a landholder to consent to timber operations does not imply in any way that they have a right or interest in the timber.
- (4) The right to conduct timber operations under a timber permit does not imply in any way that the permit holder has an interest in the land on which the operations are carried out.

2.7 Land and Timber Rights

- (1) The only rights or interests in timber that a person gets from a timber permit are the ones stated in the permit.
- (2) A timber permit only conveys a privilege, it does not create an interest in land.

2.8 Timber Permit Provisions

- (1) All timber permits must specify
 - (a) the area of land on which the timber may be cut and removed,
 - (b) the period of time within which the timber may be cut and removed,
 - (c) the volume and type of timber to be cut and removed,
 - (d) the purpose of the permit, including the proposed personal timber use, if any,
 - (e) the timber dues payable,
 - (f) the expiry date of the permit, and
 - (g) the sections of the Timber Management Guidelines, if any, that apply to operations under the permit.
- (2) Subject to settlement bylaws, the settlement council may specify other provisions to be included in timber permits, such as:⁶
 - (a) how any benefit⁷ from timber operations under the permit should be shared;
 - (b) what rights the permit holder acquires in the timber under the permit;
 - (c) the posting of security deposits or other forms of assurance to ensure permit holders meet their obligations;
 - (d) how timber will be appraised, what timber dues must be paid, how and when they must be paid, and what happens if payment conditions are not met;
 - (e) forest improvement requirements in the area of the timber operations or elsewhere in the settlement area;

- (f) requirements for approval of the permit holder's operating plan;
- (g) what records the permit holder will have to keep and produce;
- (h) circumstances under which the settlement council may cancel the permit, and conditions for renewing the permit or extending its term;
- (i) any other provision required to carry out timber operations in a manner consistent with the purpose of this Policy.

2.9 Personal Timber Use

- (1) A settlement may state in a bylaw that some activities otherwise considered as personal timber use should be considered as timber operations requiring a timber permit.⁸
- (2) Timber cut without a permit cannot be sold, traded, or used for anything except personal timber use.

2.10 Tree Farms

- (1) The settlement may issue tree farming permits to encourage the development of tree farming in the settlement area.
- (2) For the purposes of this section "tree farming" means planting or caring for trees for the purpose of selling them as live plants or for use in timber operations.
- (3) Tree farming permits may include any provisions established by settlement bylaw, such as
 - (a) the area of land on which the tree farm will be operated,
 - (b) annual cutting limits to ensure sustainability, and how those limits will be determined,
 - (c) timber dues payable, if any,
 - (d) the sections of the Timber Management Guidelines, if any, that apply to the tree farming operation under the permit, and
 - (e) any other provision required to encourage tree farming and protect community interests.

PART 3 - GENERAL MATTERS

3.1 Use of Timber Money

Money received by a settlement from timber operations must be used to sustain, improve, and manage forest resources unless a settlement bylaw specifically allows it to be used for other purposes.

3.2 Registration of Interest

A settlement council can register a security interest based on a timber permit under the *Personal Property Security Act*.

3.3 Emergencies

Timber Management Guidelines and subsections 2.5 and 2.6 of this Policy do not apply to timber operations or entry on land in an emergency to prevent or fight a forest fire or to protect people or property from a fire.

3.4 Appeals Tribunal Review

- (1) Any person affected by an action contrary to this Policy may, within 90 days of the action and no later, refer the matter to the Metis Settlements Appeal Tribunal and if the Tribunal determines that the action contravenes this Policy it may direct remedial action as provided for in the Act.
- (2) The rights granted by this section do not detract from those provided for in section 2.2(3).

3.5 Nature of Policy

As a consensus of all Settlements, this Policy is intended to operate both as legislation of the General Council under the *Metis Settlements Act* and as an agreement among all of the Settlements and the General Council.

3.6 Model Bylaw

The model bylaw attached to this Policy applies to all settlement areas.

3.7 Replacement of Previous Policy

This Policy rescinds and replaces General Council Policy GC 90002, but does not change any rights or obligations created by a timber permit or agreement made under that Policy.

¹ For reference see s.99, s.222, and Sch.1 s.19(e), of the *Metis Settlements Act*.

² Examples of such activity include seedling management, seedling production, site preparation, tree planting, seeding, site surveying, stand clearing, stand thinning, tree improvement, fertilization, drainage, pruning, and site analysis.

³ These interests are defined in the *General Council Land Policy*. Note that "person" includes the settlement and any other legal corporation.

⁴ Direct use means the timber cannot be used off the settlement, or in the case of building materials, off the landholder's land. For example, the timber cut on a landholder's parcel can be used for fence posts to fence any of the landholder's land within the settlement area, or made into lumber for building a house or barn on such land.

⁵ Note that the definition of "timber operations" does not include personal timber use, although a local bylaw may require a permit for some kinds of personal timber use.

⁶ The types of provisions listed are intended as examples only. A council may include other types.

⁷ Here "benefit" means money or anything else of value received.

⁸ Note that under section 2.5 anything considered a timber operation requires a permit, and that under this section the settlement may decide that some personal timber use activities also require a permit.

MODEL TIMBER BYLAW

PART 1 - CONTEXT

1.1 Background

The Metis Settlements General Council *Timber Policy* creates rights and interests in land and timber and regulates what can be done with them. The settlement council can make bylaws consistent with the Policy governing the cutting and sale of timber in the settlement area.¹

1.2 Purpose

The purpose of this bylaw is to provide a system for the stewardship of settlement area forest lands so that the settlement council can manage forest lands and regulate the cutting and sale of timber in a way that balances the need for individual and settlement economic benefits with the need to preserve the forest lands as part of a Metis way of life.

1.3 Definitions

In this bylaw

- (a) *Act* means the *Metis Settlements Act*;
- (b) *forest improvement* means any activity on an area of land aimed at creating, restoring, or improving the forest land in the area;²
- (c) *forest land* means a connected area of land of at least 10 hectares in which the dominant plants are trees;
- (d) *landholder*, when used in reference to a parcel of land, means the person holding the Metis title, provisional Metis title, allotment, or allocation interest in the parcel;³

- (e) *Land Policy* means the Metis Settlements General Council Land Policy in place at the time of interpreting this Policy;
- (f) *personal timber* use means cutting trees on a parcel with the landholder's consent for direct use within the settlement area
 - (i) for firewood or other household purpose, or
 - (ii) for materials to build things for use on the landholder's land.⁴
- (g) *timber* means all trees living or dead, of any size or species and whether standing, fallen, cut or extracted and, where the context requires, includes anything made from them;
- (h) *timber dues* includes any fees, dues, charges or levies payable in respect of timber, timber operations, timber permits, or forest improvement;
- (i) *timber lands* means any land designated by the settlement council under section 2.1 of this bylaw;
- (j) *Timber Management Guidelines* means the Timber Management Guidelines attached as a Appendix A to this bylaw, including any amendments made to them;
- (k) *timber officer* means a timber officer appointed under this bylaw;
- (l) *timber operation* means any activity, other than personal timber use, involved in cutting, removing, processing, manufacturing or marketing timber, including burning or otherwise destroying or damaging timber;
- (m) *timber permit* means a permit to authorize timber operations in the settlement area that is issued by the settlement council in accordance with this bylaw;
- (n) *wood lot plan* means a plan for managing a specified area of forest land so that it will produce removable timber on a sustainable basis;

and terms defined in the *Metis Settlements Act*, or regulations made under it, have the same meaning when used in this bylaw, unless the context makes such an interpretation unreasonable.

1.4 Footnotes

The footnotes in this bylaw are part of the bylaw and are included to help interpretation.

1.5 Delegation

Words in this bylaw that direct or empower the settlement council to do something apply to anyone the council has appointed to act for it on the matter.

PART 2 - TIMBER MANAGEMENT

2.1 Timber Lands

- (1) To better manage forest lands and timber, a settlement council may determine that certain parts of the settlement area are best used for long term timber production and designate these parts as timber lands.
- (2) The settlement council is responsible for long term forest management planning for all lands except those declared unsuitable for long term timber production.

2.2 Timber Management Guidelines

- (1) Timber operations on timber lands must comply with all provisions of the Timber Management Guidelines attached as a Appendix A to this bylaw.
- (2) In addition to timber lands, the settlement council can create other categories of land for timber management purposes and specify which parts of the Timber Management Guidelines apply to each category.
- (3) Subject to subsection (2), Part 1 and Part 2 of the Timber Management Guidelines apply to all land in the settlement area.

- (4) The settlement council can make any changes to the Timber Management Guidelines it considers necessary to better meet the timber management needs of the settlement.
- 2.3 Timber Permits
- (1) No timber operation may take place in the settlement area unless authorized by a timber permit.⁵
 - (2) The settlement council can create any type of timber permit it considers necessary to achieve the purposes of this bylaw, and may for each type of permit specify the timber dues payable to the settlement.
 - (3) Until settlement council adopts a different form the timber permit form in Schedule A to this bylaw applies.
 - (4) The settlement council can refuse to issue a timber permit or to renew or grant an extension of a permit.
 - (5) No timber permit can be issued for a specified area of land unless
 - (a) there is a timber management plan or wood lot plan in place for the specified area, or
 - (b) the settlement council has determined that the specified area is better suited for some other use and declared it unsuitable for long term timber production.
- 2.4 Access to Land
- The settlement council cannot grant a timber permit allowing timber operations on a parcel of land without the consent of the landholder.
- 2.5 Rights in Timber
- (1) The only rights or interests in timber that a person gets from a timber permit are the ones stated in the permit.
 - (2) Unless the permit states otherwise, any timber still in the cutting area one year after the permit was issued belongs to the settlement, but the permit holder still has to pay what they owe under the permit.
- 2.6 Personal Timber Use
- Timber cut for personal timber use cannot be sold, traded, or used for any other purpose.
- 2.7 Issuing Permits
- (1) The settlement council can set the forms and procedures to be used in applying for a timber permit.
 - (2) No timber permit is valid unless the person getting it signs a commitment to comply with the terms of the permit and this bylaw.
- 2.8 Timber Permit Provisions
- (1) All timber permits must specify
 - (a) the area of land on which the timber may be cut and removed,
 - (b) the period of time within which the timber may be cut and removed,
 - (c) the volume and type of timber to be cut and removed,
 - (d) the purpose of the permit, including the proposed personal timber use, if any,
 - (e) the timber dues, if any, payable,
 - (f) the expiry date of the permit, and
 - (g) the sections of the Timber Management Guidelines, if any, that apply to operations under the permit.
 - (2) Subject to any limitations in this or other settlement bylaws, the settlement council may require other provisions to be included in timber permits, such as:⁶
 - (a) how any benefit⁷ from timber operations under the permit should be shared;
 - (b) what rights the permit holder acquires in the timber under the permit;
 - (c) the posting of security deposits or other forms of assurance to ensure permit holders meet their obligations;

- (d) how timber will be appraised, what timber dues must be paid, how and when they must be paid, and what happens if payment conditions are not met;
 - (e) forest improvement requirements in the area of the timber operations or elsewhere in the settlement area;
 - (f) requirements for approval of the permit holder's operating plan;
 - (g) what records the permit holder will have to keep and produce;
 - (h) circumstances under which the settlement council may cancel the permit, and conditions for renewing the permit or extending its term;
 - (i) any other provision required to carry out timber operations in a manner consistent with the purpose of this bylaw.
- 2.9 Tree Farms
- (1) The settlement council can issue tree farming permits to encourage the development of tree farming in the settlement area.
 - (2) In this section "tree farming" means planting or caring for trees for the purpose of selling them as live plants or for use in timber operations.
 - (3) Tree farming permits may include any provisions considered by settlement council to be required for the purposes of this bylaw, such as
 - (a) the area of land on which the tree farm will be operated,
 - (b) the ownership rights of the tree farmer in timber created under the permit,
 - (c) annual cutting limits to ensure sustainability, and how those limits will be determined,
 - (d) timber dues payable, if any,
 - (e) the sections of the Timber Management Guidelines, if any, that apply to the tree farming operation under the permit, and
 - (f) any other provision required to encourage tree farming and protect community interests.
- 2.10 Payment of Timber Dues
- If a timber permit requires timber dues to be paid, they are due the day operations under the timber permit begin on the site, unless the permit says otherwise.
- 2.11 Use of Timber Money
- Money received by the settlement from timber operations must be used to sustain, improve, and manage forest resources.
- 2.12 Permit Defaults
- (1) The holder of a timber permit defaults on the permit if they
 - (a) fail to begin timber operations by the date specified in the permit,
 - (b) fail to harvest the authorized volume of timber,
 - (c) harvest more timber than is authorized,
 - (d) fail to pay any timber dues that are over 30 days past due,
 - (e) fail to comply with any term or condition of the permit or any other provision or requirement prescribed for permit holders,
 - (f) fail to carry on timber operations in accordance with the approved operating plan, if any,
 - (g) contravene this bylaw, or
 - (h) fail to comply with an order of the settlement council made under this bylaw.
 - (2) If the holder of a timber permit defaults on the permit, the settlement council may
 - (a) suspend the permit indefinitely or for a fixed period,
 - (b) cancel the permit or arrange for another person to complete the harvesting under the permit,
 - (c) shorten the term of the permit, or
 - (d) realize on the security or other assurance, if any, deposited by the holder.

PART 3 - ENFORCEMENT

3.1 Appointment of a Timber Officer

- (1) The settlement council can appoint a timber officer to act for it to implement and enforce this bylaw and the Timber Management Guidelines.
- (2) In determining the powers and duties of the timber officer, the settlement council can assign the officer any powers and duties under this bylaw that it considers appropriate.

3.2 Search Powers

A person authorized by the settlement council may, at any reasonable time, enter any land, building, or structure in the settlement area, other than a person's home, to inspect for compliance with a timber permit or this bylaw.

3.3 Registration of Interest

The settlement council can register under the *Personal Property Security Act* any security interest based on a timber permit.

3.4 Enforcement Notices

- (1) If a timber permit holder or other person acting under authority of the permit fails to comply with the terms or conditions of the permit or the provisions or requirements of this bylaw, the settlement council may issue a notice
 - (a) requiring the permit holder to remedy any unsatisfactory condition resulting from the non-compliance in a specified manner and within a specified period;
 - (b) providing that if the permit holder does not perform the required remedial work the settlement council may have the remedial work done;
 - (c) warning the permit holder that if the settlement council has the remedial work done, the cost of the work will be charged to the permit holder and, in default of payment,
 - (i) any part of any available security deposits will be applied as a payment toward the cost,
 - (ii) the balance of the cost, if any, will be recoverable as a debt due to the settlement,
 - (iii) a notification of the balance of the cost, if any, may be registered against the parcel of land which is the subject of the permit in the Metis Settlements Land Registry; and
 - (iv) the settlement council may order the suspension of some or all of the timber operations that are carried out under any timber permit held by the permit holder, or, if any such operations have not commenced, order that they not commence;
 - (d) making any other direction that the settlement council considers necessary.
- (2) A person who receives a notice under subsection (1) may appeal the notice to the Appeal Tribunal by sending a notice of appeal in writing to the Tribunal within 21 days after the date the notice is received.

3.5 Penalties

Any person who contravenes this bylaw is guilty of an offence and liable to a fine of not more than \$2,500 and in default of payment to imprisonment for a period of not more than 6 months.

¹ For reference see s.99, s.222, and Sched.1 s.19(e), of the *Metis Settlements Act*..

² Examples of such activity include seedling management, seedling production, site preparation, tree planting, seeding, site surveying, stand clearing, stand thinning, tree improvement, fertilization, drainage, pruning, and site analysis.

³ These interests, except for "allocation interest", are defined in the General Council *Land Policy*. The "allocation interest" refers to an interest acquired before the Act came into force and not yet converted to an interest provided for in the Land Policy.

⁴ Direct use means the timber cannot be used off the settlement, or in the case of building materials, off the landholder's land. For example, the timber cut on a landholder's parcel can be used for fence posts to fence any of the landholder's land within the settlement area, or made into lumber for building a house or barn on such land.

⁵ Note that the definition of "timber operations" does not include personal timber use, although a local bylaw may require a permit for some kinds of personal timber use.

⁶ The types of provisions listed are intended as examples only. The settlement council may include other types

⁷ Here "benefit" means money or anything else of value received.

METIS SETTLEMENT TIMBER PERMIT # _____

ISSUED TO: _____ on _____, 199_. Permit expiry date _____. This permit allows you to cut and remove timber on land described legally as _____ and in the "cutting area" described as _____ for the purpose of _____ and in the amount and at the rates shown in the following table.

QUANTITY	@ RATE	TOTAL TIMBER DUES
TOTAL TIMBER DUES		
AMOUNT PAID		
BALANCE OWING		

This permit is issued to you, the permittee, on the following terms and conditions:

- 1 You cannot transfer this permit to any person.
- 2 You do not have the exclusive right to any timber on the land described above.
- 3 You can only cut and remove the amount shown, in the cutting area described, and for the stated purpose.
- 4 Any timber you cut or remove beyond what is allowed in this permit belongs to the settlement and you are not entitled to be paid for cutting, processing or hauling it.
- 5 You have no right or interest in timber under this permit until all timber dues have been paid as required in the Bylaw and you have done the other things required by this permit.
- 6 To avoid penalties, your operations under this permit must satisfy the Timber Bylaw and the terms of the permit. You must also satisfy the following sections of the Timber Management Guidelines: [Write "All" if all apply]
- 7 You agree the Settlement has a purchase-money security interest in the timber under this permit and in the proceeds of any dealing with the timber, and if it registers the interest you don't require confirmation of the registration.
- 8 If you pay the timber dues and meet the other obligations under this permit, you own any timber cut or removed under this permit.
- 9 The cutting and removing of timber under this permit must begin by _____ 19 ____ and be completed by _____ 19 ____.
- 10 You must fill out and sign the statutory declaration on the back of this permit when your timber operation is complete and return the declaration to the settlement office by the expiry date of this permit.
- 11 The following additional terms or conditions apply to this permit: (A Schedule may be attached if space is insufficient).

Signed for the Settlement Council by:
(Signature)
(Signature)

I, the Permittee, agree to the terms of this permit and will ensure that timber operations under it satisfy the terms of the Permit, the Timber Bylaw, and the sections of the Timber Management Guidelines listed above.
(Print name)
(Signature)

**STATUTORY DECLARATION
IN THE MATTER OF TIMBER PERMIT #__**

I, _____ of _____ solemnly declare that:

- 1 I am the person named in permit #__ and all of the timber I have cut and removed or caused to be cut and removed under this permit from the settlement area since this permit was issued is as follows:

Amount	Description	@ Unit Price	Total Dues
TOTAL			

- 2 All of the timber cut and removed or caused to be cut and removed under this permit is from the cutting area described in the permit.
 3 Good use has been made of all the timber that was fit for use or processing.
 4 The timber was cut and removed and used for the purpose stated in the permit.
 5 To the best of my knowledge operations were according to the provisions of the Timber Management Guidelines that the permit said applied.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at _____

this ____ day of _____, 199__ .

(A Commissioner for Oaths)

(Signature)

(Print name)

(Signature)

(Print Name)

My commission expires on _____.

It is a serious offence to make a false statutory declaration and is punishable by fine or imprisonment.

By-law Appendix A

Timber Management Guidelines

These Guidelines are intended to help the settlement protect the forests and environment of the settlement area and ensure timber operations are carried out properly. They are based on the *1994 Alberta Timber Harvest Planning and Operating Ground Rules*. As much as possible, the language of those ground rules has been kept so that people involved in timber operations inside or outside the settlement area will find the rules similar. These are minimum standards for timber operations. The settlement may choose to impose higher standards to provide greater protection of local forest lands.

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TIMBER MANAGEMENT GUIDELINES

Part 1: Timber Harvesting and the Forest Environment

1.1 Maintaining the Forest Environment

To ensure that forests continue to produce high-quality timber and yield other benefits, it is important to keep the land intact and protected from damage. The watershed (i.e., soils and water) is the primary component of the forest environment that can be protected during timber operations.

1.2 Watershed Protection and Harvest Planning

Objective:

To design harvest layouts that minimize the impacts of harvest operations on water yield, regime and quality, watercourse structure, soils, cover and riparian habitat for fish and wildlife.

Standards:

1. Watercourses shall be evaluated and classified according to Table 1, Appendix A (Watercourse Classification).
2. Streamside protection buffers shall be incorporated according to the standards prescribed in Table 2, in Appendix A (Standards and Guidelines for Operating Beside Watercourses).
3. Where water-source areas coincide with highly productive fish and wildlife habitat, timber harvest operations shall be approved only if the impacts can be avoided or mitigated.
4. On sensitive or complex sites, detailed cutblock plans shall be required for road construction, harvest, reforestation and reclamation. The intensity of planning required is determined by the complexity and sensitivity of the site and the degree of disturbance expected.
5. Where watersheds are managed for water regulation, or to support important aquatic resources, watershed assessments must meet identified water management objectives.
6. Water-source areas shall be identified using procedures described in the *Predisturbance Watershed Assessment Manual* (ENR Pub. T100).

Guidelines:

1. Conditions in water-source areas may differ between sites and buffers may be altered from the above standards according to the potential of the source area within the buffer to produce surface water.
2. Normally, harvesting on sustained slopes steeper than 45 percent should not be approved. In special circumstances where harvesting is approved, it should be done during the time of year and in a manner that will minimize the potential for soil erosion. Detailed cutblock plans are required for these areas.
3. Timber operators should cooperate to plan and coordinate their reclamation activities when separate harvest operations are conducted on the same cutblocks.¹

1.3 Watershed Protection During Operations

Objective:

To conduct timber harvest, reforestation and reclamation operations in a way that will:

- (a) minimize the potential for soil erosion;
- (b) prevent soil, logging debris and deleterious materials from entering watercourses;
- (c) ensure that the capability of the site to support healthy forest tree growth is maintained; and
- (d) minimize the impact of logging on other resources

Standards:

1. Watercourse protection buffers are required beside permanent streams, rivers and lakes, and can be required for intermittent watercourses where fisheries values are present, in accordance with Table 2 in Appendix A. Logging will not normally be permitted

within protection buffers. Where a proposal to harvest is submitted, the operator must demonstrate that fish and wildlife habitat will be maintained or enhanced and watershed values protected. All operations proposed in watercourse protection buffers are to be described in the ACP.

2. Care is to be taken to minimize damage to the soil's structure, density, fertility, drainage or porosity, especially during periods when it is water saturated.
3. Where the capability of the soil to grow trees is reduced, reclamation techniques shall be applied with the objective of restoring site productivity.
4. Soil, logging debris or deleterious materials shall not be deposited into the water or onto the ice of any watercourse or waterbody during road construction, harvest, reclamation or reforestation operations. Such material unavoidably deposited onto the ice surface must be removed immediately.
5. Any previously unknown and unmapped creek(s) encountered during any operations shall be given the protection prescribed in Table 2 in Appendix A for its class.
6. Site preparation equipment shall be permitted to cross permanent and intermittent watercourses only at approved crossings.
7. Every timber operator is responsible for completing reclamation work required as a direct result of his operations.

Guidelines:

1. During harvest, reforestation or reclamation operations, activities that cause wheel or track ruts should be avoided or stopped.
2. Logs should not be decked in a manner that causes damages to soils, watercourses or water-source areas. Decks placed on water-source areas during frozen periods should be removed before the ground thaws.²

1.4 Watershed Protection During Road, Landing and Campsite Construction and Maintenance

1.4.1 Planning of Roads, Landings and Campsites

Objective:

1. To plan and design roads, landings and campsites that minimize the area disturbed and to construct them to the minimum standards necessary in ways that:
 - (a) achieve the objectives of the harvest, timber haul, reforestation and reclamation;
 - (b) meet the expected tenure and season of use; and
 - (c) allows for safe use.

Standards:

1. All roads shall be planned and constructed to the standards and guidelines described in Table 3 in Appendix A. [See also *Resource Road Planning Guidelines* (ENR Pub. T25)].
2. Road ROWs shall be no wider than the standards shown in Table 3, in Appendix A for a specified class of road. Exceptions may be considered in the following situations:
 - (a) in cutblocks;
 - (b) for areas requiring significant cut-and-fill;
 - (c) where a variable width ROW is aesthetically desirable;
 - (d) where extra width is required for safe road use; or
 - (e) where reasonable increases in clearing widths are required on sloping terrain to promote rapid drying of the road surface.
3. Existing roads, trails and campsites shall be used wherever possible.
4. Roads, skid trails, landings and campsites should be located where they will:
 - (a) avoid identified unstable areas, water-source areas, springs and seepages;
 - (b) follow natural benches, moderate slopes and ridges;

- (c) avoid steep or sustained slopes/grades; and
- (d) minimize the amount of mineral soil disturbed, compacted or exposed during construction.

1.4.2 Construction of Roads, Landings and Campsites

Objective:

- .1 To build and maintain roads, landings and campsites in ways that:
 - (a) minimize the potential for soil erosion;
 - (b) prevent soil, debris or deleterious materials from entering watercourses; and
 - (c) protect the banks and channel of any watercourse.

Standards:

- .1 Roads, skid trails, landings and campsites shall be placed in locations and constructed so that soil erosion, damage to streambeds and sedimentation of watercourses are minimized and constructed according to the standards in Table 3 in Appendix A.
- .2 On those parts of the ROW not used for grade construction, disturbance to the duff and organic soil shall be minimized to reduce damage to the roots of bordering trees and to provide a protective soil cover.
- .3 Ditches shall be constructed to the same gradient as the road and be deep enough to drain the subgrade, unless limited by topography. Ditch backslopes shall have a regular profile from the top of the cut to the bottom with no hanging banks or sharply cut ditches.
- .4 Trees with root systems damaged by road construction activities shall be removed from the edge of a road cut.
- .5 Erosion control is part of all road, landing or campsite construction. The roads, landings and campsites require proper drainage to disperse water. They also require erosion control devices and/or revegetation to stabilize disturbed soils, cut-and-fill slopes and ditches.
- .6 Water from roads, ditches and bared soil surfaces shall not be permitted to drain directly into watercourses. Vegetated buffers shall be left or a system of obstructions (e.g., logs, rocks, mounds, etc.) installed to dissipate the force of water; where buffers alone do not retard water and soil movement effectively.
- .7 Cross-drainage culverts and other drainage devices shall be installed as road subgrade construction progresses. Cross-drainage structures shall:
 - (a) reduce water movement along ditches;
 - (b) divert water from the ROW into the surrounding vegetation as directly as possible;
 - (c) provide cross movement for water from seeps and springs; and
 - (d) be installed with adequate spillways or downspouts where they drain onto unstable or bare soil.
- .8 Where conditions do not permit cross drains, structures such as ditch blocks may be used.
- .9 All roads, ditches and otherwise bared areas with the potential to drain into a water-source area or watercourses shall have erosion controls installed concurrently with grade construction.
- .10 All erosion control and revegetation establishment shall be completed, where required to stabilize soils, during the growing season, either concurrently with or in the same year as the construction. If construction takes place in the autumn or winter, revegetation shall be completed, as soon as soil conditions permit, during the following growing period.

Guidelines:

- .1 Roads should be constructed during dry weather using mineral soil and/or gravel materials and approved techniques.
- .2 A portion of the clearing debris and shippings from construction of roads, landings and campsites should be retained and used for revegetation and erosion control on disturbed areas.
- .3 Erosion control structures should be in place before decking timber on bared surface areas along road ROWs.
- .4 Preferably, no more than 2 km of bared surface area should be developed between the time the subgrade is constructed to when erosion control activities are completed.

1.4.3 Locating, Designing, and Constructing Watercourse Crossings

Objective:

- .1 To locate, design and build stream crossing structures in ways that:
 - (a) minimize the potential for soil erosion;
 - (b) prevent soil, debris or deleterious materials from entering watercourses;
 - (c) protect the banks and channel of any watercourse;
 - (d) meet the intended needs of the operator safely; and
 - (e) meet the requirements for maintaining upstream fish passage.

Standards:

- .1 Watercourse crossings shall be constructed according to standards and guidelines described in Table 3 and the publication *Stream Crossing Guidelines, Operational Guidelines for Industry* (ENR Pub. T/80).
- .2 Culverts for all classes of streams must be designed and installed to prevent erosion at both the inflow and outflow ends of the structure. Culverts shall be of sufficient length beyond the fill, the overburden properly backfilled and stabilized to prevent sediment from entering the watercourse, and the ends of the culvert kept open at all times.
- .3 Where extended use of a seasonal or temporary road is required for activities such as reforestation treatment or future logging operations, stream crossings shall be adequate to meet peak streamflows for the expected life of the road.
- .4 Properly constructed logfills (See guideline 1.4.3.5 of this subsection) on temporary roads may be used to cross ephemeral watercourses during dry periods, and cross intermittent watercourses (with developed channels) during frozen periods. As soon as the temporary road is abandoned, logfill shall be properly installed so that no soil is allowed into the water channel. Logfills installed during frozen periods shall be removed before the spring thaw.
- .5 On approaches to watercourse crossings, the organic soil layer and lesser vegetation shall not be stripped from portions of the ROW not actually needed for the road grade.

Guidelines:

- .1 To minimize the risk of erosion and the deposit of sediment into a watercourse, crossings should:
 - (a) have stable approaches;
 - (b) be at right angles to the watercourse;
 - (c) be located where channels are well defined, unobstructed and straight;
 - (d) be at a narrow point along the watercourse;
 - (e) allow room for direct, gentle approaches; and
 - (f) accommodate peak streamflows.
- .2 Bridge abutments should not constrict the normal stream channel. Where streambanks must be built up to construct a bridge abutment, soil shall be brought in and deposited from the end of the grade; no equipment shall enter the stream channel. Bridge spans must extend beyond streambanks and abutment walls.
- .3 The use of bridges is preferred on fish-bearing streams; however, steel culverts may be permitted where they will not restrict upstream passage of fish. Bridges over one span or culverts larger than 1.8 m in diameter require a permit from the Water Resources Services of Alberta Environmental Protection.
- .4 The number of crossings on intermittent or ephemeral watercourses should be limited and constructed at specified locations using appropriate watercourse crossing structures, particularly for work occurring on cutbanks during unfrozen ground conditions.
- .5 A properly constructed logfill has the following:
 - (a) enough logs to adequately fill an ephemeral draw or watercourse channel so that when the logs are removed there is little or no damage to the banks or channel bottom;
 - (b) logs delimbed and bucked to at least 1.5 m longer than the grade fill at each end;
 - (c) logs covered by a layer of suitable material that separates the soil from the logs, which will permit total removal of the soil cap;
 - (d) a soil cap not exceeding 30 cm;

(e) logs may be cabled or strapped where the bottom logs will not be frozen into the ground; and

(f) a bottom layer of logs may be left in place when removing the logpile to provide for summer crossing of ephemeral watercourses.

1.4.4 Maintaining Roads and Watercourse Crossing Structures

Objective:

- .1 To maintain all roads and watercourse crossing structures to:
 - (a) ensure that erosion and road surface degradation is minimized;
 - (b) ensure there is no deposition of soil, debris or deleterious material into a watercourse;
 - (c) maintain upstream fish passage; and
 - (d) ensure the road and crossing structures can continue to be used safely during their lifetime.

Standards:

- .1 The timber operator shall conduct an annual inventory of roads and watercourse crossing structures until they are satisfactorily reclaimed and abandoned.
- .2 Stream crossings shall be kept free of accumulated debris. Culverts plugged with ice shall be reopened to prevent flooding during the spring thaw.
- .3 Prompt action shall be taken to re-establish vegetation or erosion control structures where initial work has failed.
- .4 Stream crossings that fail shall be reclaimed or replaced (if necessary) with more appropriate crossing structures as soon as possible.
- .5 Stream crossings shall be maintained in a manner that upstream fish passage is retained.

Guidelines:

- .1 All-weather roads should be properly maintained to reduce wheel or track ruts, and to minimize watercourse sedimentation from erosion and traffic during adverse weather.
- .2 Permanent roads constructed by logging operators may be temporarily closed to vehicles.

1.4.5 Borrow and Gravel Pits

Objective:

To minimize the number of borrow and gravel pits, the area disturbed and their impact on other resources.

Standards:

- .1 Removal of sand and gravel from within the unvegetated channel of any watercourse is prohibited.
- .2 All borrow and gravel pits no longer required must be reclaimed (recontoured to stable slopes and revegetated).

Guidelines:

- .1 The fill required for road construction should be taken from the ROW.
- .2 Access to borrow pits located off the ROW should be constructed so that the pit is not readily visible from the road.

1.4.6 Abandoning and Reclaiming Roads, Landings and Watercourse Crossings

Objective:

To reclaim roads, landings and watercourse crossings upon abandonment to:

- (a) return the site to the original or near original landform, drainage and productivity; and
- (b) to stabilize disturbed soil and minimize the risk of erosion.

Standards:

- .1 Reclamation procedures shall be according to guidelines provided in *The Resource Handbook* (ENR Technical Report No. T175), and standards and guidelines provided in the *Resource Road Planning Guidelines* (ENR Technical Report No. T125).
- .2 Watercourse crossings, roads, skid trails and landings that are no longer required, and which have a high risk of soil erosion, shall be reclaimed and abandoned, and their condition monitored annually

until they are satisfactorily stabilized.

- .3 Roads required as access for successive harvest passes shall be temporarily reclaimed to the following standards:

- (a) remove all watercourse crossing and drainage structures, and reclaim streambanks and approaches;
- (b) stabilize all potentially erodible slopes through rollock, seed to approved vegetation species, and cross-ditch to disperse runoff and suspended sediment into undisturbed areas; and
- (c) install access closure structures where required.

- .4 Where streamflow may be potentially constricted by a temporary winter snow or ice crossing on any watercourse, the crossing shall be notched or completely removed before the spring thaw.

Guidelines:

- .1 Road reclamation may occur in a manner that permits ATV access, depending on:
 - (a) reforestation plans and/or further management requirements;
 - (b) wildlife concerns;
 - (c) fire control requirements;
 - (d) erosion potential;
 - (e) trapper or other user needs;
 - (f) aesthetic concerns; or
 - (g) recreation and tourism requirements.
- .2 Skid trails, landings and roads that are no longer required should be permanently reclaimed by:
 - (a) scarifying and returning them to an acceptable land form;
 - (b) removing all watercourse crossing and drainage structures and reclaiming streambanks and approaches;
 - (c) cross-ditching;
 - (d) rolling back topsoil (including slash and logging debris) and revegetating erodible bared surface areas;
 - (e) reforesting disturbed areas inside cutbacks; and
 - (f) establishing access closures where required.

1.5 Campsites and Miscellaneous Facilities

Objective:

To establish, maintain and reclaim campsites and miscellaneous facilities to:

- (a) meet health and safety requirements required by provincial legislation;
- (b) minimize the risk of fire escaping into surrounding timber;
- (c) minimize impacts on other resources; and
- (d) prevent erosion or pollution of soils on the site and in the surrounding watershed.

Standards:

- .1 Sites developed for facilities such as mills, permanent campsites, fuel storage areas or waste disposal require an appropriate land use disposition.
- .2 All combustible refuse and garbage shall be progressively burned in an incinerator when burning conditions are safe, or disposed at an approved waste disposal site.
- .3 Waste petroleum products, toxic chemicals or prohibited debris shall be collected and disposed at a waste disposal site approved for such substances.
- .4 All sumps containing sewage from a kitchen or washroom facility shall be properly treated daily and disposed in accordance with the Public Health Act.
- .5 A temporary storage site for petroleum and chemical products shall be located a minimum of 100 m from any watercourse and in an area that does not allow a direct flow into a watercourse.
- .6 Permanent petroleum and chemical storage facilities shall be located a minimum of 300 m from any watercourse and surrounded by an impermeable berm of sufficient height to contain the contents of the storage tank(s). Before the site is abandoned, it shall be reclaimed and the berm leveled.

Guidelines:

- .1 Campsites should be located no less than:

- (a) 300 m from the high-water mark of any permanent watercourse;
- (b) 300 m from or out of sight of a numbered highway, where possible;
- (c) 100 m from a public secondary road;
- (d) 1 km from identified mineral licks and other identified key wildlife areas; or
- (e) 1 km from a recreational or improved tourist facility.

Part 2: Timber Harvesting And Integrated Resource Management

2.1 Fish and Wildlife Habitat in Timber Operations

2.1.1 General Fish and Wildlife Habitat Maintenance Zone

Objective:

To develop harvest designs and conduct harvest operations in ways that will:

- (a) encourage richness of wildlife species by maintaining or enhancing habitat diversity;
- (b) manage for a well-distributed habitat capable of providing long-term population viability for all seasonal and year-round resident wildlife species;
- (c) ensure that forest management activities maintain the capability for wildlife use of habitat; and
- (d) protect fish habitat.

Standards:

- 1. Instream activities in fish-bearing watercourses shall be scheduled to avoid migration, spawning and incubation periods of resident fish species. Instream work must be carried out in a manner that avoids stream sedimentation.
- 2. The capability for upstream fish passage must be maintained when any road crossing is built over a fish-bearing watercourse.
- 3. In fish-bearing watercourses, any negative impacts on the stability and fish habitat values of streambanks must be minimized. Where streambanks are damaged, they must be reclaimed.⁴

Guidelines:

- 1. Mature/overmature forest provides habitat for numerous species of wildlife and contributes to the biodiversity of the forest. A minimum of 10 percent of the gross productive forest land base of each forest management unit (FMU) should be managed as mature/overmature forest that is representative of stand types in the area. Unmerchantable stands, watercourse protection buffers and other areas not scheduled for harvest may contribute to the 10 percent. Where special wildlife management objectives require more than 10 percent mature/overmature forest, such areas will be identified in the Forest Management Plan or the cruise report.
- 2. The stands managed as overmature/mature should be distributed throughout the disposition and be of a variety of sizes from 4 ha or larger; large patches are preferred. The amount and distribution of overmature/mature timber in a particular disposition should be arrived at the cruise report stage.
- 3. In deciduous timber dispositions where there are no coniferous stands suitable for providing winter thermal cover over large areas, special effort will be made to developing future thermal cover through understorey protection where such understoreys exist.
- 4. Using the following guidelines, timber operators should design, construct and manage their roads to minimize the impact on fish and wildlife.
 - (a) Roads and trails should be constructed away from important wildlife habitat areas, including reproductive habitat for selected management species, key features such as mineral licks, and important feeding habitats and watering sites.
 - (b) In designated areas, road construction and hauling activities should avoid critical wintering, breeding and birthing periods when populations may be more vulnerable to sensory disturbance and harassment.
 - (c) Road access in some key habitats should be removed after all operations have been completed.

- (d) Cutblock access roads should be managed to minimize the secondary impacts of vehicle access (e.g., hunting pressure, poaching and animal harassment). Roads may be closed by removing stream crossings, rolling back slash, roots and other logging debris on portions of the ROWs, scuffling and planing, or other similar techniques.

5. Cutblocks and cleanings beside long-term roads should be managed to minimize the line-of-sight.

6. In cutblocks, the distance to winter hiding cover should not exceed 200 m. Cutblocks where the distance to cover is 150 m to 200 m will be acceptable provided measures are taken to improve cutblocks for wildlife use (e.g., creating irregular edges, leaving residual stands in cutblocks, ensuring understoreys and leaving debris piles). Where these features are not provided within cutblocks, distances to hiding cover should not exceed 150 m.

7. The distance to winter thermal cover should be considered when designing cutblocks, especially during planning of subsequent harvest passes. Unmerchantable, deferred, isolated, inoperable or other timber cover not scheduled for harvest may provide adequate thermal cover. Where such cover is unavailable, timber stands that will provide thermal cover should be retained as required.

8. Timber operators should incorporate irregular and natural boundaries in their harvest layout wherever possible, and limit the line of sight. Adjacent to roads that will be used five years or longer, the sight distance should be less than 400 m.

9. Wildlife travel corridors are required in well-defined valleys or along permanent streams and rivers. These should contain timber stands on the floodplain of well-developed valleys, and forested areas at the top of well-developed valley breaks. These corridors should be movement of wildlife. Where the stream buffer provides adequate sight distance, no additional consideration is needed. Harvest designs may include selective harvest, narrow cutblocks, and other techniques designed to maintain or enhance travel corridors.

10. Dead standing trees and some live trees should be left for snag recruitment (8 per ha) in the cutblock to provide habitat. Wherever this does not jeopardize worker safety. Large-diameter dead and selected live trees of unmerchantable species should be identified as a high priority for retention. Trees are preferred in a clumped distribution.

11. Scattered pieces of large woody debris (8 cm diameter and greater) should be retained within cutblocks for small mammal habitat.

12. Piles of large woody debris should be left within cutblocks to provide denning sites for furbearers and their prey species, and cover for small mammals and birds. The piles should be randomly located in the cutblocks (approximately 50 m apart). For fire protection, however, the piles should not be left within 8 m of cutblock edges.

13. Mineral licks, springs that are frequented by wildlife, and water-source areas that are potentially significant for fish spawning and egg incubation should be protected. They should be identified on logging plans and mineral licks, and springs should be protected by a buffer with the width of one sight distance. When sites are encountered during harvest operations, specific prescriptions shall be applied incorporating procedures such as relocation of cutblock boundaries and retention of undisturbed vegetation buffers.

2.1.2 Ungulate Zone

Objective:

To enhance habitat in important ungulate winter range and other key habitats that have relatively high ungulate populations when compared to surrounding areas in the Forest Management Unit.

Note:

All standards and guidelines stated for the General Wildlife Habitat Maintenance Zone apply to the Ungulate Zone, in addition to the following standard and guidelines.

Standards:

The ungulate species and the area of concern shall be identified in the cruise report.

Guidelines:

- 1. A three-pass harvest pattern should be used to enhance moose and elk habitat. This will extend the availability of early successional vegetation for forage, and maintain thermal cover and snow-interception cover. Regeneration should be 10 m tall in first-