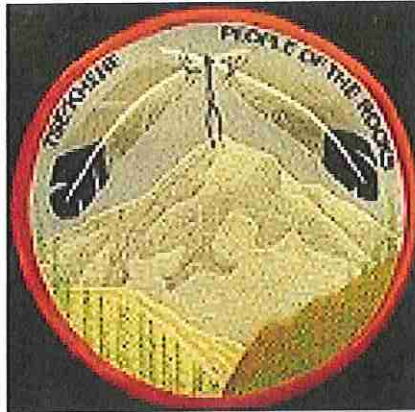


# McLeod Lake Indian Band Forest Practices Code



**June, 2003**

**Version 8.2**

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**McLeod Lake Indian Band  
Forest Practices Code  
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## **Part 1 - Purpose**

### **1. Purpose**

The purpose of the McLeod Lake Indian Band Forest Practices Code is to ensure that on Band lands all forest practices are conducted in accordance with sustainable forest use for the benefit of all Band members, present and future.



## Part 2 - Definitions, Interpretation And Application

### 1. Definitions

(1) in this code;

**"active flood plain"** means a level area, with alluvial soils, adjacent to streams that is flooded by stream water on a periodic basis and is at the same elevation as areas showing evidence of:

- (a) flood channels free of terrestrial vegetation,
- (b) recently rafted debris or fluvial sediments newly deposited on the surface of the forest floor or suspended on trees or vegetation, or
- (c) recent scarring of trees by material moved by flood waters;

**"access management"** means the temporary removal of a major drainage structure or of a barrier, including a gate, excavation, or placement of boulders with the purpose of temporarily eliminating all vehicle access;

**"adjacent"** means an area contiguous to, or in close proximity to,

- (a) a road or proposed road,
- (b) a cutblock, or
- (c) an area under a stand management prescription or site plan that due to its location
  - i. could directly impact on,
  - ii. be impacted by, forest practices within the area of the road, cutblock or prescription;

**"aggressive harvest"** means removal or modification of up to 100% of original stand composition and natural levels of shading and light intensity reaching the forest floors.

**"annual audit"** means the audit of the McLeod Lake Indian Band's Forest Practices conducted in accordance with Part 10 Article 2(1) of the Code;

**"annual audit report"** means the report produced on the annual audit in accordance with the Part 10 Article 2(2) of the Code;

**"annual report"** means the report of the McLeod Lake Indian Band's Forest Practices produced in accordance with Part 10 Article 1(1) of the Code;

**"archaeological impact assessment"** means an assessment of archaeological impacts that meets the requirements and standards set out in the *Heritage Conservation Act*;

**"area to be treated"** means the total of the areas that are proposed for treatments under a stand management prescription, but does not include any of the following:

- (a) an area occupied by permanent access structures;

- (b) an area including an area of rock or wetland, that in its natural state is not capable of supporting a free growing stand of trees;
- (c) an area of non-commercial forest cover except and to the extent that it is specifically identified in the stand management prescription as an area for treatment;
- (d) an area indicated in a stand management prescription map as a reserve area where the treatment of a free growing stand is not proposed;

**"Band"** means the McLeod Lake Indian Band;

**"Band land"** means land administered by the McLeod Lake Indian Band including reserve lands of the Band;

**"Band member"** means 'member of the Band' as defined in the Indian Act, of the McLeod Lake Indian Band;

**"biodiversity"** means the diversity of plants, animals and other living organisms in all their forms and levels of organization, and includes the diversity of genes, species and ecosystems, as well as the evolutionary and functional processes that link them;

**"biogeoclimatic ecosystem classification"** means a hierarchical classification system of ecosystems that

- (a) integrates regional, local and chronological factors, and
- (b) combines climatic, vegetation and site factors;

**"bladed trail"** means a constructed trail that has

- (a) a width greater than 1.5 m and
- (b) a mineral soil cutbank height greater than 30 cm;

**"botanical forest product"** means a plant or fungus that occurs naturally on Band land;

**"bridge"** means a temporary or permanent structure carrying a road above a stream or other opening;

**"clearcut"** means a silvicultural system that

(a) removes the entire stand of trees in a single harvesting operation from an area that is:

- i. one ha or greater, and
- ii. at least 2 tree heights in width, and

(b) is designed to manage the area as an even-aged stand;

**"clearing width"** means the width required to be cleared of standing timber to accommodate road construction maintenance or use;

**"Code"** means the McLeod Lake Indian Band Forest Practices Code;

**"commencement date"** means for a site plan, the date when timber harvesting, excluding road and landing construction, begins on the area under the plan;

**"compacted area"** means an area of soil that

- (a) is greater than 100 m<sup>2</sup> in area and greater than 5 m wide,
- (b) has a moderate, high or very high soil compaction hazard or the assessment of its soil compaction hazard was not documented in an operational plan
- (c) has been compacted by equipment traveling over it, and
- (d) has one or more of the following attributes:
  - i. altered soil structure or increased density relative to the surrounding undisturbed soil;
  - ii. soil puddling;
  - iii. compacted deposits of forest floor, fine slash, and woody debris overlaying or crushed into the mineral soil;

**"corduroyed trail"** means logs and woody debris placed side-by-side to form a surface greater than 2 m in length capable of supporting equipment traffic;

**"Council"** means the 'council of the band' as defined in the Indian Act, of McLeod Lake, elected pursuant to the McLeod Lake Indian Band Custom Election Code;

**"culvert"** means a transverse drain pipe or log structure covered with soil and lying below the road surface;

**"cutblock"** means a specific area of land identified on a forest development plan within which timber is to be or has been harvested.

**"cut slope"** means the face of an excavated bank required to lower the natural ground line to the desired road profile;

**"Cutting Permit"** means a permit to harvest timber issued under this Code.

**"deactivation"** means to provide maintenance-free pathways for surface water, seepage and overland flow so that surface soil erosion, mass wasting and surface ponding of water are minimized and the road prism is stabilized;

**"designate"** means a person designated by the Council to act in its place;

**"determination"** means any act, omission, decision, procedure, levy, order or other determination made under the Code by the Council or designate;

**"direct tributary"** means the reaches of a tributary stream that have the same stream order as the most downstream reach of the tributary;

**"dispersed disturbance"** means any of the following:

- (a) an area of soil that is at least 1 m x 2 m in area and that otherwise meets the definition of 'compacted area';
- (b) a rut in the soil that
  - i. is at least 30 cm x 2 m, and
  - ii. has a minimum depth, for a distance of at least 2 m, of

- (a) 15 cm from the surface of the undisturbed forest floor, or
- (b) 5 cm from the surface of the undisturbed mineral soil, if the area has a high or very high soil compaction hazard or the assessment of its soil compaction hazard was not documented in an operational plan;
- (c) an excavation into mineral soil that is
  - i. deeper than 30 cm,
  - ii. deeper than 5 cm if it covers
    - (a) at least 80% of a 1.8 m x 1.8 m area, or
    - (b) an area of a least of 1 m x 3 m, or
  - iii. to the depth of bedrock;
- (d) an area in which the forest floor has been removed from
  - i. over 80% of a 3 m x 3 m area, or
  - ii. over 80% of a 1.8 m x 1.8 m area if the area
    - (a) has a moderate or high likelihood of landslides,
    - (b) has a very high soil erosion hazard,
    - (c) has a very high soil compaction hazard,
    - (d) has a very high soil displacement hazard, or
    - (e) has not had hazards relating to soil compaction, soil displacement or soil erosion documented in an operational plan;

**"ESSF"** means the Englemann spruce subalpine fir biogeoclimatic zone;

**"excavated trail"** means a constructed trail that has

- (a) an excavated or bladed width greater than 1.5 m, and
- (b) a mineral soil cutbank height greater than 30 cm;

**"fill slope"** means the face of an embankment required to raise the desired road profile above the natural ground line;

**"fire extinguisher"** means a fully charged and operable fire extinguisher bearing the Underwriters' Laboratories of Canada label that rates the extinguisher as suitable for use on class A, B or C fires;

**"fire watcher"** means a person at an industrial activity work site who provides surveillance for forest fires;

**"fish stream"** means a stream that

- (a) is frequented by any of the following species:
  - i. anadromous salmonids;

- ii. rainbow trout, cutthroat trout, brown trout, bull trout, Dolly Varden char, lake trout, brook trout, mountain whitefish, lake whitefish, arctic grayling, burbot, white sturgeon;
  - iii. identified threatened or endangered fish classified under section 71 of the Operational Planning Regulation of the Forest Practices Code of British Columbia Act;
  - iv. regionally important fish as determined by the Ministry of Environment - Regional Fisheries Biologist.
- (b) has a slope gradient, determined in accordance with the Fish-stream Identification Guidebook, of less than 20%,
- i. unless the stream has been identified in a fish inventory carried out in accordance with the Fish-stream Identification Guidebook, as not containing any of the species of fish specified in paragraph (a), or
  - ii. unless
    - (a) the stream is located upstream of a known barrier to fish passage, identified on a fish and fish habitat inventory map,
    - (b) all reaches upstream of the barrier are simultaneously dry at any time during the year, and
    - (c) no perennial fish habitats exist upstream of the barrier.

**"fisheries-sensitive zone"** means a flooded depression, pond or swamp, that:

- (a) either perennially or seasonally contains water, and
- (b) is seasonally occupied by a species of fish listed in the definition of "fish stream", but does not include a stream wetland or lake that has a riparian management zone established;

**"flat gradient"** means a stream with an average gradient of 0-3% where it flows through Band Land.

**"forest"** includes all of the following:

- (a) Band land that is predominantly maintained in one or more successive stands of trees, or
- (b) successive crop of forage;

**"forest development plan"** means the document that describes and illustrates how harvesting and road development for a specific area will be managed for a period of at least five years;

**"forest fire"** means a fire burning in a forest or a fire burning at an industrial activity work site which threatens to spread to a forest;

**"forest health factors"** means biotic and abiotic influences on a forest that are usually a naturally occurring component of forest ecosystems;

**"forest licence"** means a licence authorizing the harvesting of a specified allowable annual cut of timber and/or related forest products over a specified area of Band land;

**"forest practices"** means timber harvesting and related activities, road construction, road modification, road maintenance, road deactivation, silviculture treatments, botanical forest products collecting, grazing, fire use, control and suppression and any other forest activity that is carried out on Band land;

**"forest products"** means timber, special forest products and pulplogs; whether trees standing, falling, living, dead, limbed, bucked or peeled;

**"forest resources"** means resources and values associated with forests and range including, without limitation, timber, water, wildlife, fisheries, recreation, botanical forest products, forage and biological diversity;

**"Forestry Officer"** means the Forestry Officer of the McLeod Lake Indian Band, as provided in Part 13, Article 1;

**"free growing"** means a stand of healthy trees of a commercially valuable species, the growth of which is not impeded by competition from plants, shrubs or other trees;

**"free growing assessment period"** means the period of time within which the requirements of Part 7 will be met, wherein the beginning and end of the period are measured from the commencement date, if the site plan is approved by the Council;

**"free growing date"** means the period of years specified, by which the requirement to produce a free growing stand will be met;

**"greened-up"** means when used to describe a cutblock, a cutblock where at least 75% of the cutblock meets the following requirements, unless the Council or designate specifies another percentage in a written notice:

- (a) for the purposes of paragraph (b) **"adequately stocked"** means a total stand density of commercially valuable species of not less than 1000 stems per hectare.
- (b) if no higher level plan specifies a green-up requirement that applies to the cutblock, the cutblock is greened-up if:
  - i. it is adequately stocked and
    - (a) the leading species in the cutblock has attained a top height of at least 3 m, or
    - (b) the dominant overstory species has attained a top height of at least 3 m, where the leading species does not reflect the dominant stand height as a result of dense natural regeneration of the leading species under a well established overstory or
  - ii. it is not adequately stocked, and
    - (a) either
      - i. the leading species has attained a top height of greater than 3m specified by the Council or designate, or,

- ii. the dominant overstory species has attained a top height greater than 3m, specified by the Council or designate where the leading species does not reflect the dominant stand height as a result of dense natural regeneration of the leading species under a well established overstory and
- (b) the cutblock contains at least the minimum number of trees per hectare specified by the Council or designate, of a species specified by the Council or designate;
  - (c) despite paragraph (c), the Council or designate, may specify in a written notice given to the holder:
    - i. a minimum number of trees per hectare required to attain a height of 3m that will be used for the purposes of that paragraph, or
    - ii. a top height of a species, other than the leading species, that will be used for the purposes of that paragraph, if the Council or designate is satisfied that the leading species:
      - (a) does not reflect the dominant stand height,
      - (b) if deciduous, does not meet hydrologic, wildlife or scenic values, or
      - (c) may be subject to removal or modification;
      - (d) despite paragraphs (c) and (d), the top height that will be attained may be a height of less than 3m, specified by the Council or designate in a written notice given to the holder, if the Council or designate is satisfied that the specified height adequately manages and conserves the forest resources;
      - (e) despite paragraph (c), the top height that will be attained by the leading species may be a height of more than 3 m specified by the Council or designate in a written notice given to the holder, if the Council or designate determines that the area does not support a stand sufficient to:
        - i. meet hydrological concerns,
        - ii. manage wildlife values, or
        - iii. manage recreation or scenic values;

**"harvesting"** means the practice of felling trees, removing trees or the removal of dead or damaged trees from an area;

**"hot work"** means any work generating significant amounts of heat and includes the cutting, grinding, welding and heating of metals;

**"indicators of potential slope instability"** means the indicators of potential slope instability as determined in accordance with the procedure set out in the Mapping and Assessing Terrain Stability Guidebook of the British Columbia Ministry of Forests;

**"industrial activity"** includes land clearing, timber harvesting, timber processing, mechanical site preparations and other silviculture treatments, mining, road construction and any prescribed activity;

**"initial fire suppression"** means action that is appropriate to take when a fire is first discovered, to contain or limit the spread of the fire, and, if possible, extinguish the fire;

**"intermediate cuttings"** means the harvesting of timber, other than minor salvage and minor harvesting operations, where

- (a) the harvesting takes place before the final harvest or regeneration cut, and does not result in a requirement to regenerate the area, and
- (b) the majority of the pre-harvest stand volume is not removed;

**"inner gorge"** means where a sidewall slope of a gorge breaks to less than 50% slope

**"inordinate soil disturbance"** means soil disturbance that

- (a) results in the Forestry Officer requiring rehabilitation of soil or
- (b) exceeds the soil disturbance limit specified in a site plan

**"large engine"** means an engine having a power greater than 7.5 kw (10 hp.) used in an industrial activity but does not include

- (a) a water-borne engine,
- (b) an engine in a vehicle which is primarily used for the transportation of people, or
- (c) an engine in a helicopter;

**"likelihood of landslides"** means the likelihood of landslides as determined by a terrain stability field assessment unless the context indicates otherwise;

**"Long Term Reserve"** means a parcel of land identified by Council, where commercial timber harvesting is restricted;

**"long term supply of large woody debris"** means the supply of large woody debris into a stream for the period between 50 and 150 years after forest harvesting.

**"major culvert"** means a stream culvert having a pipe diameter of 2,000 mm or greater or a maximum design discharge of 6m<sup>3</sup>/sec or greater;

**"mature layer"** means the layer of trees that have a stem diameter of 12.5 cm or greater measured at a height of 1.3 m;

**"minor harvesting operations"** means timber harvesting operations, including the harvesting of special forest products, of a volume **not** exceeding the greater of

- (a) a volume not exceeding 1000 m<sup>3</sup>
- (b) of an area not exceeding 1 ha contiguous.

**"minor salvage operation"** means any harvesting of timber that:

- (a) is dead, infested with pests or otherwise damaged or that is required to be harvested to facilitate the removal of the dead, infested or damaged timber, or



(b) is required as part of a sanitation treatment, and is of a total volume not exceeding 1,000 m<sup>3</sup>, or an area not exceeding 1 ha contiguous excluding the volume and area harvested from any road clearing width, if the road is required to facilitate the removal of timber referred to in paragraph (a) or (b).

**"moderate gradient"** means a stream with an average gradient of 4-12% where it flows through Band Land.

**"modification"** means, with respect to roads and trails, a significant alteration of an existing road or trail that involves rebuilding or relocating the road or trail;

**"natural levels of shading"** means the amount of shading and light intensity reaching the stream surface and forest floor prior to harvesting. The shading should be assessed using the concept of angular canopy density provided by Beaudry et al (1999).

**"net area to be reforested"** means that portion of the area under an operational or site plan that does not include

(a) an area occupied by permanent access structures,

(b) an area of rock, wetland or other area that in its natural state is incapable of growing a stand of trees that meets the stocking requirements specified in the plan, or

(c) a contiguous area of more than 4 ha that the council or designate determines is composed of non-commercial forest cover,

(d) a long term reserve where new stand is not required;

**"open fire"** means any burning conducted in such a manner that combustion products are not vented through a stack or chimney;

**"operational plan"** means a forest development plan, site plan or stand management prescription;

**"owner"** in relation to an industrial activity means,

(a) a person who owns the right to conduct the industrial activity if the industrial activity is conducted on Band land, or

(b) a licensee or permittee if the industrial activity is conducted on Band land under a licence or permit issued under the Code;

**"penalty"** means an assessed penalty consistent with the Administrative Remedies Section of McLeod Lake Indian Band - Forest Practices Code;

**"permanent access structure"** means

(a) a road, landing, pit or quarry that is

- i. reasonably required to be used, or to provide access for, timber harvesting or other forest management activities, and whose continuous or periodic use will continue for a long enough time to prevent the production of a commercial crop of trees, on the area of the road, landing, pit or quarry, that will be harvestable concurrently with the crop in adjacent areas, or

- ii. either constructed through soil or rock that is not suitable, or that contains component materials such as ballast that are not suitable, for use in carrying out the soil rehabilitation treatments necessary to grow a commercial crop of trees, unless the structure has been identified in an operational plan as a temporary access structure, and
- (b) an excavated or bladed trail, or other logging trail, whose continuous or periodic use will continue for a long enough time to prevent the production of a commercial crop of trees, on the area of the trail, that will be harvestable concurrently with the crop in adjacent areas;

**"permanent bridge"** means a bridge whose expected life at its current location is greater than 15 years;

**"person"** means any individual, company, corporation, partnership, the Band, trust, joint venture, unincorporated organization, Indian Band, union or governmental body; and their respective heirs, legal representative, successors or assigns;

**"person's area of operation"** means the area on which or within 500m of which the person is carrying out an industrial activity;

**"plant harvesting"** means the collection of plant life including, but not limited to, bark, berries, boughs, branches, burls, cones, conks, ferns, flowers, grasses, herbs, fungi, lichens, mosses, mushrooms, roots, shrubs, sedges, sprays and twigs;

**"pole layer"** means the layer of trees that have a stem diameter greater than or equal to 7.5 cm, but less than 12.5 cm measured at a height of 1.3 m;

**"preferred and acceptable species"** means the preferred and acceptable species of trees specified in an operational plan;

**"professional engineer"** means a Registered Professional Engineer (P.Eng) with the Association of Professional Engineers and Geoscientists of British Columbia;

**"professional forester"** means a Registered Professional Forester (RPF) with the Association of British Columbia Professional Foresters;

**"pulplog"** means a firmwood reject log where:

- (a) heart rot or hole runs the entire length of the log being scaled and the residual collar of the firmwood constitutes less than 50% of the gross scale of the log;
- (b) rot is in the log and the scaler estimates the net length of the log to be less than 1.2 m;
- (c) sap rot or charred wood exists and the residual firmwood is less than 10 cm in diameter at the butt end of the log;
- (d) that portion of a log that is less than 10 cm in diameter or that portion of a slab that is less than 10 cm in thickness;

**"qualified inspector"** means a person who, in the opinion of the Council or designate is qualified by training or experience to inspect bridges or major culverts and interpret the significance of the inspection results;

**"reach"** has the meaning defined in the Fish-stream Identification Guidebook;

**"reconnaissance terrain stability map"** means a map produced from aerial photographs, with few or no ground checks, that identifies unstable and potentially unstable terrain;

**"recreation feature"** means a biological, physical, cultural or historical feature that has recreational significance or value;

**"regeneration date"** means the date by which the requirements of Part 7 will be met, determined as follows: (a) the date is measured from the commencement date, if the site plan is approved by the council or designate;

**"regeneration layer"** means the layer of trees that is less than 1.3 m in height;

**"rehabilitation"** means restoring the site to a stable condition that will no longer require human intervention to maintain, and re-establishing soil productivity to a level capable of sustaining the production of a crop of commercially acceptable trees;

**"resource feature"** includes all of the following:

- (a) a cultural heritage resource;
- (b) a recreational feature;
- (c) a range development;
- (d) a wildlife habitat feature;
- (e) a stream, wetland and lake;
- (f) any other feature designated by Council;

**"restricted area"** means an area of land designated by the Council or designate as a restricted area;

**"riparian"** means of, on, or relating to the bank of a natural course of water;

**"riparian class"** means a riparian class determined under Part 8;

**"riparian management area"** means an area of a width determined in accordance with Part 8 that;

- (a) is adjacent to a stream, wetland or a lake and,
- (b) based on a site specific assessment by a professional forester, consists of a specific prescription for a riparian management area depending on the riparian class of the stream,

**"risk of sediment delivery to streams"** means the risk of sediment delivery to streams as determined in accordance with the Hazard Assessment Keys for Evaluating Site Sensitivity to Soil Degrading Processes Guidebook;

**"road"** means roads and landings within the reserve and roads outside the reserve leading to the reserve. Road outside the reserve include, but are not limited to the following: Ministry of Forests Forest Service Roads, Road Permitted Roads and Timber Sale Licence Roads; Ministry of Highways Roads; and other roads under the jurisdiction of B.C.

**"road prism"** means the area of the ground containing the road surface, cut slope and fill slope;

**"road subgrade width"** means the width of the top surface of the road fill or excavated surface before surfacing is applied;

**"sanitation treatment"** means tree removal or modification operations designed to reduce damage caused by forest pests and to prevent their spread;

**"sapling layer"** means the layer of trees that have a stem diameter of less than 7.5 cm measured at a height of 1.3 m;

**"SBS"** means the sub-boreal spruce biogeoclimatic zone;

**"seedlot"** means a quantity of cones or seeds having the same species, source, quality and year of collection;

**"sensitive slopes"** means the following areas:

- (a) areas mapped on terrain stability hazard maps as having a moderate or high likelihood of landslides;
- (b) if no terrain stability hazard mapping has been done, areas identified on reconnaissance terrain stability maps as having unstable or potentially unstable terrain;
- (c) if no terrain stability hazard mapping or reconnaissance terrain stability mapping has been carried out, areas with a slope gradient greater than 60%;
- (d) areas with indicators of potential slope instability;
- (e) other areas identified by the Council or designate as having unstable or potentially unstable terrain;

**"shading assessment"** means an assessment of the shading reaching a stream surface and forest floor. The shading should be assessed using the concept of *angular canopy density*<sup>1</sup>.

**"short term supply of large woody debris (LWD)"** means the supply of large woody debris into a stream for the 50 years following forest harvesting.

**"sidecast"** means the act of moving excavated material onto the downslope side of an excavated or bladed trail or a landing during their construction;

**"silviculture"** means the care and cultivation of forest trees;

**"single tree selection"** means a silvicultural system in which age classes are created or maintained by the removal, uniformly throughout the stand, of individual trees of all size classes;

**"site plan"** means the document that describes and illustrates how harvesting and silvicultural treatments for a specific area will be managed for a period up to the time the area is free growing;

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<sup>1</sup> The rationale and methodology are provided in Beaudry et. al. (1999).

**"slash"** means the residue left on the ground as a result of forest and other vegetation being altered by forest practices or other land use activities;

**"small engine"** means an internal combustion engine having a power of 7.5 kw (10 hp) or less but does not include

(a) a water borne engine

(b) an engine in a vehicle which is primarily used for the transportation of people;

**"smooth transition"** means a reasonable, gradual movement from existing harvest levels to a Sustainable Long-term Harvest Level;

**"snow course"** means permanent sample sites established or approved by the Council for the purposes of measuring the water content of the snow pack on a given area;

**"snow road"** means a road constructed of ice and snow;

**"soil compaction hazard"** means the soil compaction hazard as determined in accordance with procedures set out in the Hazard Assessment Keys for Evaluating Site Sensitivity to Soil Degrading Processes Guidebook;

**"soil displacement hazard"** means the soil displacement hazard as determined in accordance with procedures set out in the Hazard Assessment Keys for Evaluating Site Sensitivity to Soil Degrading Processes Guidebook;

**"soil disturbance"** means the soil disturbance caused by forest practices on an area covered by a site plan or stand management prescription including

(a) areas occupied by excavated or bladed trails of a temporary nature,

(b) areas occupied by corduroyed trails,

(c) compacted areas, and

(d) areas of dispersed disturbance;

**"soil erosion hazard"** means the soil erosion hazard as determined in accordance with procedures set out in the Hazard Assessment Keys for Evaluating Site Sensitivity to Soil Degrading Processes Guidebook;

**"soil erosion potential"** means the result of an interpretation of terrain maps that ranks the potential for soil erosion in accordance with the procedures set out in the Mapping and Assessing Terrain Stability Guidebook:

**"source"** means

(a) the geographic source of cones, seeds and vegetative material including the latitude, longitude and elevation of the source, or

(b) the name and licence number of the seed orchard, cutting orchard or production facility;

**"special forest products"** means poles, building logs, posts, pilings, mining timbers, props and caps, cribbing, car stakes, round stakes and sticks and pickets;

**“stand management prescription”** means the document that describes and illustrates how harvesting and silvicultural treatments for a specific area will be managed for a period from the time the area is free growing up to the time the area reaches maturity;

**"standard"** means a standard established by the Council;

**"standard unit"** means a portion of the net area to be reforested that will be managed through the application of the same;

- (a) stocking requirements, and
- (b) maximum limit for soil disturbance;
- (c) silviculture system;
- (d) harvesting method;

**"stocking requirements"** means the stocking specifications for a stand of trees that will be achieved for an area as specified

- (a) by the regeneration date and
- (b) by the free growing date;

**"stream"** means a reach flowing on a perennial or seasonal basis having a continuous channel bed, whether or not the bed or banks of the reach are locally obscured by overhanging or bridging vegetation or soil mats, if the channel bed

- (a) is scoured by water, or
- (b) contains observable deposits of mineral alluvium;

**"stream culvert"** means a culvert used to carry stream flow in an ephemeral or perennial stream channel from one side of the road to the other;

**"sump"** means a depression in the ground constructed for the purpose of storing water;

**"surface soil erosion"** means, for an area where forest practices have been carried out, the movement of soil particles from the area by wind, gravity, or water at a rate that is greater than that which would have occurred had forest practices not been carried out;

**"sustainable forest use"** means:

- (a) managing forest to meet present needs without compromising the needs of future generations;
- (b) providing stewardship of forests based on an ethic of respect for the land;
- (c) balancing productive, spiritual, ecological and recreational values of the forests to meet the economic, social and cultural needs of McLeod Lake and its members;
- (d) conserving biological diversity, soil, water, fish, wildlife, scenic diversity and other forest resources; and,
- (e) restoring damaged ecologies.

**"sustainable long term harvest level"** means a harvest level that can be maintained indefinitely given a particular forest management regime which defines the timber-harvesting land base and includes objectives and guidelines for non-timber values and estimates of timber growth and yield. This method of forest management calls for a long term approximate balance between net growth and the amount harvested.

**"target stocking standard"** means the optimum number of healthy well spaced and free growing trees of the preferred and acceptable species per hectare;

**"target stocking standard for single tree selection"** means the optimum number of healthy well spaced and free growing trees of the preferred and acceptable species per hectare;

**"temporary access structure"** means

- (a) an excavated or bladed trail;
- (b) a main skid trail, backspar trail, corduroyed trail or similar structure that is identified in a silviculture prescription or logging plan as a temporary access structure, or
- (c) a road, landing, pit or quarry that is identified in an operational plan as a temporary access structure;

**"temporary bridge"** means a bridge whose expected life at its current location is 15 years or less.

**"terrain stability field assessment"** means an on-site assessment of the potential impact of harvesting, road construction, modification or deactivation, or the construction of excavated or bladed trails on terrain stability, carried out in accordance with the procedure set out in the Mapping and Assessing Terrain Stability Guidebook

**"terrain stability hazard map"** means a detailed map of terrain stability hazards produced at a terrain survey intensity level B or C, in accordance with procedures set out in the Mapping and Assessing Terrain Stability Guidebook:

**"understory"** means the layers of trees comprised of the C2 layer (pole), C3 layer (sapling) and C4 layer (regeneration), consistent with the Silviculture Surveys Guidebook if the BC Forest Practices Code;

**"vegetative lot"** means a quantity of vegetative material or vegetative propagules having the same species, source and year of collection;

**"vegetative material"** means plant parts or tissues used to produce vegetative propagules through asexual means;

**"vegetative propagule"** means a plant that has been produced through asexual means;

**"violation"** means a contravention of the McLeod Lake Indian Band - Forest Practices Code;

**"water delivery system"** means a system:

- (a) consisting of a water supply, a water pump or equivalent means of pressurizing water and the ancillary hoses, attachments and tools necessary for the operations and maintenance of the system, and
- (b) that can deliver, to any place on the work site,
  - i. water at a pressure of 280 kPa (40 psi) and a rate of 90 litres per minutethrough a 9.50 mm straight bore nozzle opening for 50 minutes, or
  - ii. 2,500 litres of liquid, of which 0.5% is a liquid surfactant concentrate that, when added to water and used with a pump, hose and nozzle is capable of producing foam that will extinguish a fire in ordinary combustibles such as wood, paper or forest products;

**"well spaced"** means

- (a) for other than a mature layer, trees that are at least the following minimum distance apart:
  - i. the distance specified in an operational plan for the area, or
  - ii. if there is no distance specified in an operational plan for the area,
    - (a) for the ESSF and SBS biogeoclimatic zones,
      - i. 1.6 m for planted areas, and
      - ii. 1.6 m for naturally regenerated areas.
- (b) for the mature layer, any distance apart.

**"well spaced trees"** means trees that meet the minimum allowable horizontal distance specified in the plan;

**"wetland"** means a swamp, marsh or other similar area that supports natural vegetation that is distinct from nearby upland areas;

**"wildlife"** means

- (a) a vertebrate that is a mammal, bird, reptile or amphibian prescribed as wildlife under the Wildlife Act, S.B.C. 1982, C.57,
- (b) a fish, including
  - i. any vertebrate of the order Petromyzoniformes (lampreys) or class Osteichthyes (bony fish) or
  - ii. any invertebrate of the class Crustacea (crustaceans) or class Mollusca (mollusks) from the Band land, and
- (c) an invertebrate or plant listed by the Minister of Environment, Lands and Parks, or the council or designate as an endangered, a threatened or a vulnerable species, and includes the eggs and juvenile stages of these vertebrates, invertebrates and plants.

**"wildlife habitat feature"** means

- (a) a significant mineral lick or wallow,



- (b) an active nest of a bald eagle, osprey or great blue heron, or
- (c) any other localized feature agreed to by the Forestry Officer or Council or designate.

**"wildlife tree"** means a tree with characteristics that provide present or future wildlife habitat;

**"wildlife tree patch"** means a group of trees that are identified in an operational plan to provide present or future wildlife habitat;

**"work site"** means

- (a) in the case of an industrial activity other than timber harvesting, the site at which the work is performed, or
- (b) in the case of timber harvesting, an area of land within which an operation relation to timber harvesting is performed.

## **2. Interpretation**

- (1) Distances referred to in this Code are horizontal distances except in relation to the widths of riparian reserve zones and riparian management zones, which are slope distances.
- (2) In this Code, references to the following are references to British Columbia Ministry of Forests' publications of the same name, as amended from time to time:
  - (a) Fish-stream Identification Guidebook;
  - (b) Gully Assessment Procedure Guidebook;
  - (c) Hazard Assessment Keys for Evaluating Site Sensitivity to Soil Degrading Processes Guidebook;
  - (d) Mapping and Assessing Terrain Stability Guidebook;
  - (e) Seed and Vegetative Material Guidebook.

## **3. Application**

This Code applies to the Band and its members, and their employees, agents, contractors or subcontractors and any person engaging in forest practices on Band land.

## Part 3 - Planning

### General

#### 1. Forest Practices

The McLeod Lake Indian Band will conduct forest practices on Band lands in accordance with:

- (a) the McLeod Lake Indian Band Forest Practices Code ;
- (b) McLeod Lake Operational Plans, including the Forest Development Plan;
- (c) sustainable forest use; and,
- (d) any applicable federal legislative requirement.

### Determination of Annual Allowable Cut

#### 2. Calculation of Annual Harvest

- (1) The Band will establish an annual allowable harvest level (or AAC) to enable it to carry out sustainable forestry use in accordance with the Code, subject to the following conditions:
  - (a) The annual allowable harvest level set by the Band will be based on a timber supply analysis of the Band lands conducted by a professional forester, and;
  - (b) The timber supply analysis referred to in Article 2(1)(a) will take into account:
    - i. the current composition of forest resources on the Band lands and its expected rate of growth,
    - ii. expected silviculture treatments including regeneration delays,
    - iii. standards of utilization, and
    - iv. yield estimating procedures in use in British Columbia which best represent the growth rates of the Band's forest resources;
  - (c) The annual allowable harvest level will be based on a harvest flow option from the timber supply analysis which takes into account all of the Band's management practices planned for the Band lands and which demonstrates a smooth transition to a sustainable long term harvest level; and,
  - (d) Written documentation will be maintained which describes the procedures, models and assumptions used in the timber supply analysis and the rationale for the annual allowable harvest level set by the Band.
- (2) The Band will carry out the analysis of the timber supply every 5 to 10 years.
- (3) The Band will harvest over each 5 year cut control period a volume of timber that is not less than 80 percent nor more than 120 percent of the total of the annual harvest levels established under Article 2(1) during that 5 year cut control period.

- (4) The allowable harvest level set out in Article 2(1)(a) and Article 2(3) may be exceeded as deemed necessary by the Council, if there is a serious risk to the timber such as insect and disease infestations, fire, windthrow and flooding.
- (5) If the volume of timber harvested during a 5 year cut control period exceeds the 5 year allowable cut for the 5 year cut control period in accordance with Articles 2(3) and 2(4), the excess is deemed to be timber harvested during the succeeding 5 year cut control period.
- (6) If the volume of timber harvested during a 5 year cut control period is less than the 5 year allowable cut for the 5 year cut control period the deficit volume not exceeding 10% of the 5 year allowable cut will be carried forward to the succeeding 5 year cut control period.

## **Operational Plans**

### **3. Authorized Signatures**

All operational plans and amendments thereto, to be effective, require and will contain;

- (1) the signature and seal of a professional forester,
- (2) the signature of the Forestry Officer, and
- (3) the signatures of a quorum of the Council.

## **Forest Development Plan**

### **4. Forest Development Plan Based On Sustainability**

- (1) A professional forester will produce a forest development plan based on sustainable forest use and sustainable long term harvest levels, prior to commencing any timber harvesting on Band land.
- (2) The forest development plan will be:
  - (a) approved by council;
  - (b) developed in accordance with the principles set out in the Code, including sustainable forest use;
  - (c) signed and sealed by a professional forester;
  - (d) made available for review by members of the Band including posting in a conspicuous place at the Band office in McLeod Lake, B.C. pursuant to Article 10(1);
  - (e) made available to British Columbia Ministry of Forests for public distribution.
- (3) The Council will consider any concerns that British Columbia may bring to their attention with respect to the Forest Development Plan.

### **5. Period And Effective Term Of A Forest Development Plan**

- (1) The forest development plan will cover a period of at least 5 years unless:

- (a) the remaining term of the plan is less than 5 years, or
- (b) the professional forester is satisfied that the plan cannot be developed for a period of 5 years because:
  - i. the plan was entered into shortly before the commencement of the harvesting season for the proposed cutblocks and as a result there is insufficient time to prepare a forest development plan that covers a period of 5 years,
  - ii. a significant portion of the plan is for the harvesting of timber that is damaged by wind, insects or fire and the exact location of the timber cannot be determined, or
  - iii. of reasons beyond the control of the Band.
- (2) Unless otherwise specified by the Council, a forest development plan expires 5 years from the date specified in the approval of the plan.

## **6. General Content Requirements For Forest Development Plans**

- (1) The forest development plan will address the entire Band land unless the Council is satisfied that a smaller area is sufficient.
- (2) The forest development plan will include the timing of:
  - (a) proposed timber harvesting and related forest practices, including road construction, modification, maintenance and deactivation, and
  - (b) proposed silviculture activities including measures for slash debris disposal, if the Council determines that the timing is critical to the management of forest resources.
- (3) The forest development plan will describe or identify the following, including maps at sufficient scale to permit adequate assessment where applicable:
  - (a) the forest cover,
  - (b) the topography
  - (c) the location and classification of streams, wetlands and lakes that may be affected by proposed forest management activities shown on:
    - i. forest cover maps,
    - ii. terrain resource inventory maps, or
    - iii. fish and fish habitat inventory maps;
  - (d) public utilities including:
    - i. transmission lines,
    - ii. gas and oil pipelines,
    - iii. railways, and
    - iv. highways,
  - (e) the approximate size, shape and location of proposed cutblocks;

- (f) the location of previously harvested areas that are contiguous to the proposed cutblocks and that are not currently greened-up;
  - (g) the approximate location of road construction or modification operations to be carried out under the plan within or providing access to the proposed cutblocks;
  - (h) for any proposed bridge, whether the bridge will be temporary or permanent;
  - (i) the road structural maintenance operations that:
    - i. are to be carried out during the term of the plan, and
    - ii. concern maintenance and replacement of bridges and culverts;
  - (j) the road deactivation operations that have been conducted or are to be conducted under the plan, including a description of roads that are:
    - i. currently deactivated to a temporary or semi-permanent level, and
    - ii. to be deactivated under the plan and the level of that deactivation.
  - (k) roads proposed by others;
  - (l) temporary or permanent barriers to vehicle access;
  - (m) resource features, other than wildlife habitat features and archaeological sites;
  - (n) the general objectives for retention of:
    - i. coarse woody debris, and
    - ii. wildlife trees and wildlife tree patches, and
  - (o) measures to reduce any losses that are identified after evaluation of the occurrence of significant forest health factors which are causing or may cause damage.
  - (p) the silviculture activities, including slash debris disposal measures, that are to be conducted in accordance with a site plan or stand management prescription, in each of the first 2 years of the plan;
  - (q) general objectives of Riparian Management Areas;
  - (r) areas of sensitive slopes.
- (4) The forest development plan for each proposed cutblock will specify:
- (a) the silvicultural system, where known and
  - (b) whether the cutblock will be harvested by cable, aerial or ground based harvesting methods or a combination of those methods.
- (5) The Band may establish Long Term Reserves, and define the location and purpose of such reserves.
- 7. Information Required For Proposed Cutblocks**
- (1) For each proposed cutblock, the professional forester will include all of the following information either entirely in a forest development plan or entirely in a site plan, whichever plan the Band chooses:

- (a) the biogeoclimatic ecosystem classification of the area within each standards unit;
- (b) the total area of each cutblock;
- (c) net area to be reforested and non-productive areas for each cutblock;
- (d) the net area to be reforested for each standards unit within each cutblock;
- (e) the free growing stocking standards;
- (f) areas where the regeneration method is planting or natural;
- (g) the elevation range if planting is proposed;
- (h) the preferred and acceptable species for each standards unit;
- (i) the riparian class of streams, wetlands and lakes that are in or adjacent to the cutblock;
- (j) if the harvesting is proposed for areas that are within a riparian management area,
  - i. whether falling or yarding across streams will be undertaken and, if falling or yarding across streams will be undertaken, the measures for debris management;
  - ii. and measures to protect stream banks and debris management measures;
- (k) the selection criteria and level of retention for wildlife trees and wildlife tree patches;
- (l) the location of a known resource feature in or adjacent to the cutblock, other than an archaeological site, and:
  - i. any measures to protect the resource feature, or
  - ii. the reason for not protecting the resource feature;
- (m) If the following information in (m) i. and (m) ii. was not included in the development plan, a site plan will include the following:
  - i. location of permanent and temporary access structures, and
  - ii. permanent and temporary access structures that will be rehabilitated, and the timing of their rehabilitation;
- (n) the results of soil hazard assessments;
- (o) a detailed description of the silvicultural system;
- (p) the stand structure that will be retained at the completion of the proposed harvesting;
- (q) with respect to excavated or bladed trails all of the following:
  - i. the portions of each cutblock where excavated or bladed trails may be constructed;
  - ii. the maximum and average height of cutbanks into mineral soil;
  - iii. equipment to be used for trail construction if other than an excavator;

- (r) maximum limits for site disturbance and permanent access structures.
- (2) A site plan or stand management prescription prepared under this Article will be consistent with the forest development plan in effect when the site plan or stand management prescription is submitted for approval.
- (3) A site plan or stand management prescription may be prepared for an area within a forest development plan that is larger than a cutblock.
- (4) If the professional forester submitted for approval a site plan with the development plan the information referred to in Article 6(1) for a proposed cutblock:
  - (a) the Band is exempt from the development plan requirements of Article 6(1) and the forest development plan need only show the approximate size, shape and location of the cutblock, and
  - (b) the information in the site plan will be based on a field traverse.
- (5) The forest development plan, site plan or stand management prescription will include a map that identifies, for each proposed cutblock, the approximate location of any Long Term Reserve areas greater than .25 ha, including wildlife tree patches and riparian reserve areas.
- (6) The forest development plan, site plan or stand management prescription, for any riparian management area within a proposed cutblock, will specify:
  - (a) the stand structure that will be retained after the proposed harvesting operations or silviculture treatments are completed.
  - (b) the characteristics, species and function of trees that will be retained after the proposed harvesting operations or silviculture treatments are completed, and
  - (c) one of the following:
    - i. the basal area per hectare to be retained;
    - ii. the trees per hectare to be retained;
    - iii. the minimum total number of trees to be retained.
- (7) Without limiting Article 6(6), if within a cutblock harvesting or silviculture treatments are proposed in the riparian management area of a stream that:
  - (a) has a riparian class of S4, S5 or S6,
  - (b) is a direct tributary to a stream with a riparian class of S1, S2, S3 or S4 that is a known temperature sensitive stream, and
  - (c) currently has sufficient numbers and distribution of trees to provide the shade necessary to prevent the stream temperature from increasing, the Band will specify in the forest development plan, site plan or stand management prescription, a stand structure in the riparian management area that will continue to provide the shade necessary to prevent the stream temperature from increasing.
- (8) Without limiting Article 6(6), if within a cutblock harvesting or silviculture treatments are proposed in the riparian management area of a stream that:

- (a) has a riparian class of S4, S5 or S6,
- (b) is a direct tributary to a stream with a riparian class of S1, S2 or S3
- (c) currently has sufficient numbers and distribution of trees to provide, or contribute significantly to the maintenance of, stream bank or channel stability, or both, the Band will specify in the forest development plan, site plan or stand management prescription a stand structure in the riparian management area that will continue to provide, or contribute significantly to the maintenance of, stream bank or channel stability, or both, as the case may be.

#### **8. Archaeological Impact Assessment May Be Required**

- (1) The Forestry officer will carry out an archaeological impact assessment, and make the assessment available to Council, if the Council determines that an archaeological impact assessment is necessary to adequately manage and conserve archaeological sites in the area, prior to approval of a site plan or stand management prescription;
- (2) The archaeological impact assessment does not form part of an operational plan.

#### **9. Information Not Required For Minor Salvage And Minor Harvesting Operations**

- (1) The professional forester is not required to include the information set out in Article 6 if only minor salvage operations will be carried out, unless the Council, by written notice, requires some or all of that information.
- (2) For minor harvesting operations, the Band:
  - (a) is exempt from the requirements of Article 6 and
  - (b) is not required to include the information specified in Article 6 unless the Council, with a professional forester's written concurrence, by written notice, requires some or all of that information.

#### **10. Forest Development Plan Available For Review By Band Members**

- (1) The Band will post in a conspicuous place in the Band office at McLeod Lake, B.C., a copy of the forest development plan or any significant amendment 60 days prior to the approval of the plan by Council. Summaries of the forest development plan or amendment will be mailed to each Band member 18 years of age and older 60 days prior to the approval of the plan by Council.
- (2) The forest development plan or significant amendment will be made available for Band member review and comments for a period of 60 days, prior to the approval of the plan by Council.
- (3) The Band will hold Band member information sessions at McLeod Lake and Prince George, B.C. in the period indicated in Article 10(2). The Band and the signing professional forester will explain the purpose of the plan and be available for questions and discussions.
- (4) Comments from Band members will be required to be submitted to the Band prior to the end of the period specified in Article 10(2) in order that their comments can be



considered by the Council prior to the approval of the forest development plan by Council.

- (5) The Band will respond in writing to the comments received under Article 10(4), including either the proposed actions to address the comments in Article 10(4) or the rationale for why no action was taken.
- (6) The approved forest development plan or amendment, including the written comments received under Article 10(4) and the written responses from the Band under Article 10(5), will be made available at McLeod Lake, B.C. for Band member review until the expiry or replacement of the forest development plan.

## **Site Plans**

### **11. Requirement For A Site Plan If Site Information Was Not Included In Forest Development Plan**

- (1) A professional forester will, before the commencement of harvesting on the cutblock, prepare and obtain the Council's approval of a site plan for the cutblock that specifies the information referred to in Article 6.
- (2) The Band will implement the site plan in accordance with the Code and the site plan.
- (3) A site plan prepared under this Article will be consistent with the forest development plan in effect when the site plan is submitted for approval.

## **Stand Management Prescriptions**

### **12. Silviculture Treatments On Free Growing Stands**

- (1) A professional forester will prepare a stand management prescription before the commencement of silviculture treatment(s) on a free growing stand, and obtain the Council's approval of the stand management prescription.
- (2) The Band will carry out the silviculture treatment(s) in accordance with the Code and the stand management prescription.
- (3) A stand management prescription prepared under this Article will be consistent with the forest development plan in effect when the stand management prescription is submitted for approval.

### **13. Content Of Stand Management Prescriptions**

A stand management prescription will contain:

- (1) A map illustrating all of the following:
  - (a) the location of the area to be treated;
  - (b) the biogeoclimatic ecosystem classification for the area to be treated;
  - (c) the location of streams, wetlands and lakes that are within or adjacent to the area to be treated, and their riparian class;

- (d) the approximate location of reserve areas greater than .25 ha, including wildlife tree patches, that are in or adjacent to the area to be treated;
- (2) A description of all of the following:
    - (a) the current stand condition, including the tree species composition, height, age, density and site index;
    - (b) the area to be treated;
    - (c) the proposed silviculture treatments for the area to be treated and the objectives of those treatments;
    - (d) significant forest health factors that exist currently in the area, and the measures that will be required during the proposed treatments to mitigate the impact of those factors;
    - (e) non-timber forest resources on or adjacent to the area that may be adversely affected by the proposed treatment, and the measures that are proposed to accommodate those resources;
    - (f) measures that will be carried out in a riparian management area;
  - (3) If mechanized ground based stand tending involving heavy machinery is proposed, and is anticipated that soil disturbance as a result of the treatment will occupy more than 4% of the area to be treated, a description of:
    - (a) the hazard for soil compaction, and
    - (b) the maximum proportion of the area to be treated that may be occupied by soil disturbance;
  - (4) If mechanized ground based stand tending employing heavy machine is proposed for a sensitive slope, the likelihood of landslides;
  - (5) If the proposed treatment is spacing:
    - (a) the minimum distance between crop trees,
    - (b) the target number of crop trees per hectare to be retained, and
    - (c) any selection criteria for trees or vegetation that are to be retained;
  - (6) If the proposed treatment is pruning:
    - (a) the selection criteria for trees to be pruned,
    - (b) the target number of crop trees per hectare to be pruned, and
    - (c) for each crop tree, the minimum post treatment live crown;
  - (7) If the proposed treatment is fertilization, all of the following:
    - (a) the type of fertilizer,
    - (b) the rate of application,
    - (c) the method of application, the season the proposed treatment is to be carried out.

#### **14. Approval Of Plans By Council**

- (1) An operational plan will be approved by Council before it is effective.
- (2) The Council will approve an operational plan or amendment submitted under this part if:
  - (a) the plan was prepared and submitted in accordance with the Code and,
  - (b) the Council is satisfied that the plan will adequately manage and conserve the forest resources of the area to which it applies.
- (3) Before approving a plan or amendment the Council may require the Band to submit information that the Council reasonably requires in order to determine if the plan or amendment meets the requirements of Article 6(1).
- (4) The Council may approve an operational plan or amendment only if it meets the requirements of Article 6(2).
- (5) The Council may make its approval of a forest development plan or amendment subject to a condition.

## **15. Approval In Emergency Cases**

The Council may, in accordance with the Code, give effect to a forest development plan or amendment without the plan or amendment having been made available for Band review and comment if the Council determines that the plan or amendment

- (1) otherwise complies with this Code, and
- (2) the timber on the area under the plan or amendment should be harvested without delay because it is in imminent danger of being damaged or destroyed, or significantly reduced in value, and
- (3) is in the best interest of the Band to proceed without review and comment.

## **Amendments**

### **16. Amendments Required**

- (1) The Band or any person who is responsible for the plan, who knows or ought reasonably to know that performing the operations specified in an operational plan will not achieve the results specified in the plan or this regulation:
  - (a) will submit to the Forestry Officer an amendment to the plan, and
  - (b) will not carry out any operation under the plan on any parts of the plan area that would be materially affected by the proposed amendment until the amendment has been approved by Council.
- (2) If the requirements of the operational plan cannot be met as a result of:
  - (a) a person carrying out, or failing to carry out, forest practices on the area covered by the plan, or
  - (b) the occurrence of a natural event, the Forestry Officer will:
    - i. notify the Council or designate, and

- ii. if any amendment to the plan is required, not carry out an operation on an area covered by the plan that would be materially affected by the proposed amendment until the amendment has been approved.
- (3) If, a person:
    - (a) exceeds the limits for permanent access structures but has notified the Council and has carried out site rehabilitation as directed, or,
    - (b) exceeds the limits for soil disturbance but has promptly notified the Council and carried out any site rehabilitation as directed, that person is not required to amend the operational plan for the area.
  - (4) Notwithstanding Article 19(1) the Forestry Officer is authorized to make minimal non- substantive changes to operational plans during the implementation of forest practices without the signature and seal of a professional forester and the approval of the Council. However, the Forestry Officer will immediately inform the professional forester of the change and record the change on the operational plan.

#### **17. Exemptions For Operation Planning Requirements Exemption For Forest Development Plans**

The Council may exempt the requirement for a forest development plan if it determines that:

- (1) the only timber harvesting that will take place is:
  - (a) the felling and removal of trees to eliminate a safety hazard
  - (b) the felling and removal of trees that have been or will be treated to facilitate the entrapment of pests, and
  - (c) and the total volume of timber on Band land felled and removed does not exceed 1000 cu.m. or an area not exceeding 1 ha., and
- (2) there is no road construction required to provide access for the timber harvesting under Article 20(1).

## Part 4 - Protection of Forest Resources

### General

#### 1. Unauthorized Timber Harvest Operations

- (1) A person will not cut, remove, harvest, damage or destroy timber unless authorized to do so:
  - (a) under a Cutting Permit,
  - (b) in the course of carrying out duties as a land surveyor at the request of the Band, or
  - (c) by the Code, in the course of fire control or suppression operations.
- (2) If a person cuts, removes, damages or destroys timber contrary to the direction of, or on behalf of, another person that other person also contravenes the Code.

#### 2. Unauthorized Dead Timber Harvest Operations

A person will not harvest, cut or remove any dead timber or wood for sale or resale unless authorized by Council.

#### 3. Trespassing Livestock

A person will not cause or permit livestock to be ridden or driven on, or to graze on Band land unless authorized to do so under an agreement with the Band.

#### 4. Unauthorized Trail Or Campsite Construction

- (1) A person will obtain the consent of the Forestry Officer before constructing, rehabilitating or maintaining a trail or campsite on Band Land.
- (2) Article 3(1) does not apply to a person who is authorized under another Band bylaw to construct, rehabilitate or maintain a trail or campsite.
- (3) The Forestry Officer may, in a notice serviced on a person who contravenes Article 3(1), order the person to:
  - (a) remove or destroy, or both, the trail or campsite, and
  - (b) restore the land underlying the trail or campsite.

#### 5. Tree Spiking Prohibited

A person will not:

- (1) drive or place any nail, spike or other potentially hazardous object into any timber,
- (2) possess any nail, spike or other potentially hazardous object with the intention of driving or placing it into any timber, or
- (3) solicit funds or materials from another person with the stated intention that the funds or materials will be used to enable any person to drive or place any nail, spike or other potentially hazardous object into any timber not authorized to alter.

## **6. Previously Unidentified Resource Features**

If a person carrying out forest practices, other than fire control or suppression, find a resource feature that was not identified on an approved operational plan or permit, the person carrying out forest practices will:

- (1) modify or stop any forest practices that are in the immediate vicinity of the previous unidentified resource feature to the extent necessary to refrain from threatening it, and
- (2) promptly advise the Forestry Officer of the existence and location of the resource feature.

## **7. Constraining Slash And Debris In And Around Aquatic Environments**

A person who carries out harvesting or a silviculture treatment will not deposit a volume of slash or debris, capable of damaging fish habitat or reducing water quality, into any of the following:

- (1) a lake;
- (2) a wetland;
- (3) a fisheries-sensitive zone;
- (4) a fish stream;
- (5) a stream that:
  - (a) can transport the slash and debris into any of the areas listed in paragraphs (1) to (4), or
  - (b) may be destabilized by the accumulated slash and debris and result in increased sediment deposition in the areas listed in paragraphs (1) to (4), or,
- (6) a stream or lake that is used for domestic or industrial water supply.

## **8. Restrictions On Use Of Machinery**

- (1) A person will ensure that the tracks or wheels of ground based machinery used in carrying out harvesting, road or trail construction or modification, or silviculture treatments are not permitted within 5 m of a stream bank except for any of the following:
  - (a) for carrying out fire fighting activities;
  - (b) in response to natural disasters;
  - (c) at stream crossings identified in an operational plan or otherwise authorized in writing by the Forestry Officer;
  - (d) if operations will be conducted in such a manner that they protect stream banks and minimize damage to understory vegetation;
  - (e) if approved in an operational plan or otherwise authorized in writing by the Forestry Officer, to
    - i. construct or maintain a range development,

- ii. construct or maintain a work or to carry out an activity within or adjacent to streams for the purpose of controlling soil erosion, protecting stream banks or managing fisheries or wildlife, or
    - iii. carry out an activity similar to one described in subparagraph (i) or (ii);
  - (f) if in the opinion of the Forestry Officer
    - i. no other practicable option exists, or
    - ii. operating the machinery more than 5 m from the stream bank will create a higher risk of sediment delivery.
- (2) A person will ensure that machinery used in carrying out harvesting, road construction or modification or a silviculture treatment is not fuelled or serviced within the riparian management area of a stream or a wetland or within 30 m of a lakeshore unless
  - (a) authorized, in writing by the Forestry Officer, or
  - (b) the machinery is:
    - i. on an approved road or landing,
    - ii. handheld,
    - iii. required for fire fighting, or
    - iv. broken down and requires fuelling or servicing to be moved.

## **9. Restrictions On Harvesting Or Modification Of Trees In Riparian Reserves**

A person who carries out harvesting or silviculture treatments will not harvest, fell or modify trees in a riparian reserve zone unless the harvesting, felling or modification has been identified in an operational plan or otherwise authorized in writing by the Forestry Officer for one or more of the following purposes:

- (1) undertaking recreational facility management;
- (2) reducing windthrow potential by topping or pruning;
- (3) creating corridors for full suspension yarding;
- (4) removing any tree that is hazardous to workers because of location, direction of lean, physical damage, overhead hazards, deterioration of limbs, stem or root system or a combination of these;
- (5) stream crossings, including roads;
- (6) carrying out, constructing, modifying or maintaining a range development;
- (7) trees that need to be modified to support rigging for cable yarding;
- (8) any other similar purpose.

## **10. Protection Of The Environment**

- (1) A person will not carry out forest practices that result in damage to the environment.

- (2) Subject to Article 9(3), a person does not contravene Article 9(1) if, with respect to forest practices referred to in Article 9(1):
  - (a) the person is acting in accordance with an approved operational plan issued under the Code, or
  - (b) the person has been exempted from the requirement to have an operational plan and is acting in accordance with the Code.
- (3) A person will not carry out forest practices if he or she knows, or should reasonably know that, due to weather conditions or site factors, the carrying out of forest practices may result, directly or indirectly, in:
  - (a) slumping or sliding of land,
  - (b) inordinate soil disturbance, or
  - (c) other significant damage to the environment.
- (4) A person who contravenes Article 9(1) or 9(3) will:
  - (a) stop the forest practices in the area affected,
  - (b) prevent any further damage to the environment,
  - (c) promptly notify the Forestry Officer, and
  - (d) take any remedial measures that the Forestry Officer requires.
- (5) A person who has stopped forest practices under Article 9(4)(a) may resume forest practices when:
  - (a) they can be resumed without contravening Articles 9(1) or 9(3), and
  - (b) any remedial measures required under Article 9(4)(d) have been carried out to the satisfaction of the Forestry Officer.
- (6) A person does not contravene Article 9(1) or 9(3) if the person is:
  - (a) carrying out fire control or suppression in accordance with this Code, or
  - (b) carrying out a controlled burn for the purpose of range improvement, or wildlife habitat management, authorized by the Forestry Officer.



## Part 5 - Roads

### 1. Limits On Area That May Be Occupied By Permanent Access Structures

- (1) The maximum proportion of the total area within a cutblock that may be occupied by permanent access structures is the amount specified for the area in an operational plan.
- (2) A person will not exceed the limit for permanent access structures specified in Article 1(1).
- (3) If the limit for permanent access structures specified in Article 1(1) is exceeded, a person will
  - (a) promptly notify the Forestry Officer and
  - (b) carry out any site rehabilitation measures required by the Forestry Officer.

### General Road Requirements

#### 2. Road Construction Or Modification

- (1) Before a road is constructed or modified, the road will be identified on an approved forest development plan, unless the road is immediately required for fire control or suppression or another emergency.
- (2) If a road referred to in Article 2(1) is constructed or modified because the road is required for an emergency and the road is not identified on a forest development plan, when the emergency is over the Forestry Officer will assess the condition of the road and ensure that the road is maintained or deactivated in accordance with the Code.

#### 3. General Requirements For Road Construction And Modification, Maintenance And Deactivation

- (1) A person when constructing or modifying, maintaining or deactivating the road, including bridges and major culverts, will do all of the following:
  - (a) provide for user safety;
  - (b) protect forest resources;
  - (c) maintain surface drainage patterns;
  - (d) protect water quality;
  - (e) protect stream bank stability;
  - (f) for fish streams, ensure the safe passage of fish for the purposes of spawning, rearing or migration;
  - (g) protect fish habitat;
  - (h) protect structural integrity of the road and drainage structures;
  - (i) maintain slope stability;

- (j) minimize surface soil erosion;
  - (k) minimize sediment entering into streams.
- (2) The road surface will have surface materials of a type necessary to:
    - (a) allow the road to carry the design wheel loads during the periods of use, and
    - (b) minimize the surface erosion of the road if it would otherwise have adversely affected adjacent streams, wetlands, or lakes.
  - (3) A person will, after completion of construction, modification or deactivation, revegetate to the satisfaction of the Forestry Officer all exposed soil that will support vegetation in the following areas:
    - (a) inactive borrow pits;
    - (b) waste areas;
    - (c) cut slopes;
    - (d) fill slopes;
    - (e) other disturbed areas within the road clearing width.
  - (4) A person referred to in Article 3(1) will not deposit slash, debris or erodible soil into a lake, wetland, stream or fisheries sensitive zone, if the deposit is capable of
    - (a) damaging fish habitat, or
    - (b) degrading water quality if there are downstream users of the water.

## **Layout and Design**

### **4. Road Layout And Design And Related Assessments - General**

- (1) Before a person carries out road construction or modification, the riparian class of a stream wetland or lake that is in or adjacent to the proposed road or road work will be determined;
- (2) The Band, when identifying the road location will, except for crossings, select a road location outside of any riparian management area, unless otherwise authorized by the Forestry Officer;
- (3) The Band will prepare a road layout and design which includes a map showing the location of:
  - (a) the road, as determined by a field traverse, by reference to:
    - i. survey references,
    - ii. any stream crossings, and
    - iii. any topographic features that control road location;
  - (b) the outer boundary of any riparian management area adjacent to a proposed road other than at a crossing of a stream, wetland or lake.
- (4) The road layout and design will include all of the following:

- (a) the location of known resource features in or adjacent to the road, other than archaeological sites, and:
    - i. any measures to protect the resource feature, or
    - ii. the reason for not protecting the resource feature;
  - (b) the actions, if any, that are necessary to:
    - i. adequately manage and conserve archaeological sites,
    - ii. adequately manage and conserve the non-timber forest resources that may impact on or be impacted by the road location.
  - (c) if stumps, root or embedded logs will be left or placed in the road prism of segments of roads that are not snow roads or that involve overlanding, a statement to that effect;
  - (d) the drainage design specifications, including designs and measures for stream culvert structures that will:
    - i. meet at least the peak flow for the specified return period, as specified in Table A and
    - ii. manage anticipated debris;
  - (e) the vegetation specifications for stabilization of cut and fill slopes
- (5) If a road layout and design has the statement referred to in Article 4(4)(c), the Forestry Officer may only approve the road layout and design if satisfied that:
- (a) leaving or placing stumps, roots or embedded logs in the road prism will not significantly increase the risk of a failure of the road subgrade, and
  - (b) the stumps, roots and embedded logs are located
    - i. outside the road subgrade width on the downhill side, or
    - ii. inside the road subgrade width and the road will be deactivated within 5 years

## **5. Road Layout And Design - Sensitive Slopes**

- (1) A terrain stability field assessment will be carried out by a geotechnical expert or professional civil engineer prior to road construction on a sensitive slope.
- (2) If the road will cross areas with a moderate or high likelihood of landslides, the road layout and design will include the following:
  - (a) the results of a road location survey, which includes plans, profiles and cross sections,
  - (b) a geometric road design based on the road location survey data, and
  - (c) measures in the road design specifications to maintain slope stability that are prepared by a person with the same qualifications as are required for a terrain stability field assessment.

**6. Road Layout And Design - Bridges, Major Culverts And Special Structures**

- (1) Where required, the Band will prepare a road layout and design for bridges and major culverts, including:
  - (a) references, locations and dimensions of bridges and major culverts, and
  - (b) any stream or lake crossing information that any reasonable person would expect to influence the size, location or type of the bridge or major culvert.
- (2) The Band, when determining the drainage design specifications for bridges and major culverts, will specify designs and measures for bridges and approaches that will:
  - (a) manage anticipated debris, and
  - (b) pass expected flows for:
    - i. the seasons of use, if the components of a bridge are to be removed at times of risk, or
    - ii. the peak flow criteria set out in the following table:

	Minimum design peak flow
Permanent bridges	100 year return period
Temporary bridges	50 year return period

- (3) Where road layout and design has been prepared, a professional engineer will specify designs for all of the following:
  - (a) cattle guard fabrication, and the construction or modification of:
    - i. retaining walls greater than 1.5 m high, and
    - ii. other specialized structures the designs of which fall within the practice of professional engineering as defined in the *Engineers and Geoscientists Act*;
  - (b) bridges and log culverts, unless;
    - i. the bridges and log culverts are temporary, single span structures on:
      - (a) cribs, or
      - (b) sills or pads up to and including 1.5 m high bearing on the original ground or any excavation below original ground,
    - ii. the person preparing the design can satisfy that
      - (a) the person has past experience with similar structures, and
      - (b) the structure is adequate for the given site conditions, and
    - iii. the person preparing the design is preparing it based on standard drawings, tables, charts and other tools that

- (a) are prepared by a professional engineer,
  - (b) individually and together reproduce the specific structure to be used at the site, including member size and connections, and
  - (c) are referenced in the road layout and design;
- (c) portable bridge superstructures that are being reused at a new site unless:
- i. the bridge superstructure was originally designed by a professional engineer,
  - ii. the bridge superstructure will be reused at the new site to carry the original design loads or lighter loads, and
  - iii. a qualified inspector is unable to detect any damage or deterioration in the bridge at the time the road layout and design is prepared;
- (d) major culverts.
- (4) A design for a bridge will:
- (a) be in accordance with the requirements of:
    - i. The Canadian Standards Association, Design of Highway Bridges, CAN/CSA-S6, and
    - ii. the Canadian Foundation Engineering Manual in effect at the time the design is done, and
  - (b) take into account logging trucks with unbalanced loads and off-centre driving.

## **7. Road Layout And Design - Authorized Signatures**

A road layout and design and a bridge and major culvert design will contain:

- (1) the signature of the person who prepared the layout and design,
- (2) the signature of the professional engineer or geotechnical expert under Articles 5(1) and 5(3),
- (3) the signature of the Forestry Officer as approval.

## **Construction or Modification**

### **8. Construction Or Modification - General**

- (1) A person, when constructing or modifying a road will remove from within the road prism width, stumps, roots, embedded logs, topsoil, and soils that are not capable of supporting the road and applied vehicle loads unless:
  - (a) the area does not have a moderate or high likelihood of landslides, or
  - (b) the area has a moderate or high likelihood of landslides, and:
    - i. the stumps roots and logs are used as retaining structures under or against the fill as a measure to maintain slope stability,
    - ii. the road will be
      - (a) permanently deactivated within 5 years after construction, or

(b) permanently deactivated more than 5 years, but not more than 10 years, after construction, if the person has reasonable grounds to believe, on the basis of assessments carried out more than 5 years after construction and at times the person considers appropriate, that the road is not likely to be at risk due to decomposition of the stumps, roots and embedded logs until the next assessment, and

iii. any deactivation prescription and deactivation works will incorporate measures to remove stumps, roots and embedded logs that may reasonably be expected to fail and de-stabilize the road fill.

- (2) Article 7(1) does not apply to overloading or snow roads.
- (3) A person, when constructing or modifying a road, will
  - (a) minimize ground, if the road being constructed or modified is a snow road, and
  - (b) remove gravel or fill from riparian management zones identified in an operational plan only with the prior approval of the Forestry Officer.

#### **9. Construction Or Modification - Sensitive Slopes**

If a road will cross areas with a moderate or high likelihood of landslides, when constructing or modifying the subgrade of the road, the Band will:

- (1) carry out a construction survey that includes:
  - (a) re-establishment of the road centre line,
  - (b) grade staking, and
  - (c) any centre line relocations and redesigns required to adjust for site conditions discovered during construction, and
- (2) have a qualified professional certify that the measures to maintain slope stability have been carried out in general conformance with the road layout and design.

#### **10. Construction Or Modification - Fish Streams And Fisheries-Sensitive Zones**

- (1) A person who, during construction or modification of a road, finds a previously unidentified fisheries-sensitive zone will modify or stop the activity to the extent necessary to refrain from damaging it.
- (2) A person will conform with timing windows and measures that are provided in writing by the Forestry Officer when constructing crossings in fish streams.

#### **11. Construction Or Modification - Bridges, Major Culverts And Special Structures**

The Forestry Officer will:

- (1) during and at the completion of construction activities, obtain and retain any pile driving records and, for new materials, mill test certificates in-plant steel fabrication drawings, concrete test results, compaction results, and other pertinent field and

- construction data,
- (2) during and at the completion of construction activities, prepare as built drawings and retain them for the life of the structure, and
  - (3) after the construction of bridges, culverts and other structures requiring professional design, if required by the road layout and design, have a qualified professional certify that:
    - (a) the entire structure is in general conformance with the design drawings and specifications, and
    - (b) if there are changes from the original design, the structure is at least as durable and as strong as the original design intended;
  - (4) Post at the bridge site the safe allowable loading for bridges, and the period that the load is valid for.

## **Bridge Maintenance**

### **12. Bridge And Major Culvert Inspection, Evaluation And Maintenance**

- (1) The Band will retain a qualified inspector to inspect bridges and major culverts, and produce a written inspection report concerning bridges and major culverts, at least once every 3 years after they are constructed, unless any portion of the structural components are untreated wood, in which case the inspection will be carried out at least once every 2 years after construction.
- (2) Without limiting Article 11(1), a qualified inspector will carry out any inspection of, and produce a written inspection report concerning, a bridge or major culvert:
  - (a) after the occurrence of an event that may cause damage to the structure, and
  - (b) more often than is required under Article 11(1) and at a level of frequency that a professional engineer determines in writing to be adequate for the continuing safe use of the bridge, if an inspection detects structural defects or if the defects are otherwise evident.
- (3) A written inspection report of a bridge or major culvert under this section will include all of the following:
  - (a) the date of the inspection;
  - (b) an assessment of, and report on, the condition of the components of the structure;
  - (c) a recommendation for any repairs that may be required and a schedule for those repairs;
  - (d) the date of the next scheduled inspection;
  - (e) the length of time a bridge has been at its current site;
  - (f) whether a bridge was designed and constructed to be at the current site for no more than 15 years.
- (4) The Band will retain a copy of the written inspection report for one year beyond the

actual life of the structure at the site.

### **13. Follow Up To Inspection Of Bridge And Major Culverts**

- (1) If as a result of an inspection under Article 11 the qualified inspector is of the opinion that the bridge may have structural deficiencies, the Forestry Officer will:
  - (a) correct the deficiencies; or
  - (b) close, remove or replace the bridge before users or downstream improvements and forest resources are placed at risk; or
  - (c) restrict traffic loads to a safe level.
- (2) For those bridges that are reported under Article 11 being designed and constructed to be at the current site for no more than 15 years that are now expected to be at their current site for more than 15 years:
  - (a) the Band will retain a professional engineer to evaluate the bridge to determine if the bridge meets peak flow criteria, including any debris considerations, for a 100 year return period, and
  - (b) if the professional engineer determines that the bridge does not meet peak flow criteria, including any debris considerations, for a 100 year return period, the Forestry Officer will:
    - i modify the bridge and its approaches in accordance with the Code to meet peak flow criteria, including any debris considerations, or
    - ii. remove or replace the bridge.
- (3) If a professional engineer determines that a bridge is unable to carry its original design load, the Forestry Officer will place a sign on each bridge approach stating the actual capacity of the bridge.

## **Road Deactivation**

### **14. Deactivation - General**

- (1) The Band will prepare and obtain the Forestry Officer's approval of a deactivation prescription if:
  - (a) the holder carries out semi-permanent or permanent deactivation of a road on an area of moderate or high likelihood of landslides, or
  - (b) a road deactivation prescription is requested by the Forestry Officer.
- (2) If the deactivation prescription is approved by the Forestry Officer, the Band may modify the prescription to address unforeseen site conditions on a road deactivation project
  - (a) without the authorization of the Forestry Officer, if the change is not expected to adversely impact forest resources, and
  - (b) with the authorization of the Forestry Officer, if the change is expected to adversely impact forest resources or impact proposed future access objectives on



the deactivated road.

- (3) A person who uses a road under the authority of a cutting permit or authority from the Forestry Officer, will deactivate the road temporarily, semi-permanently or permanently, or a combination of temporarily, semi-permanently or permanently, as required by, and in accordance with:
  - (a) any forest development plan,
  - (b) the Code, and
  - (c) the layout and design as required by Forestry Officer.
- (4) Before commencement of road deactivation activities, a person will post information at the beginning of the affected portion of road to advise road users of hazards that may be expected due to deactivation.

#### **15. Deactivation - Sensitive Slopes**

- (1) If a road crosses a sensitive slope and a terrain stability field assessment has not been carried out, the Band will carry out the assessment before anyone commences deactivation of the road.
- (2) If a road crosses areas with a moderate or high likelihood of landslides, the Band will:
  - (a) have a qualified professional prepare a prescription for deactivation work to reduce the likelihood of landslides, and
  - (b) not modify a prescription prepared in accordance with paragraph (a) unless the change is agreed to by a qualified professional.

#### **16. Deactivation Prescription - Authorized Signatures**

A deactivation prescription will contain:

- (1) the signature and the person who prepared the deactivation prescription,
- (2) the signature of the professional engineer or geotechnical expert where required, and
- (3) the signature of the Forestry Officer as approval.

#### **17. Deactivation - Fish Streams And Fisheries-Sensitive Zones**

A person who deactivates a road will conform with timing windows and measures for works in and around stream crossings developed and made available by the Regional Fisheries Biologist.

#### **18. Deactivation - Bridges**

- (1) A person who carries out semi-permanent deactivation on a road will protect road users during the period of deactivation by removing those bridges that may place users at risk, or by repairing or replacing them.
- (2) A person who carries out permanent deactivation on a road will:
  - (a) remove bridge superstructures, and

(b) if failure of a bridge substructure would affect downstream values, remove bridge substructures.

**19. Use Of Roads For Timber Harvesting Or Other Industrial Purposes**

- (1) A person will not use a road for timber harvesting and related forest practices, or any other purpose, unless the person is authorized to do so.
- (2) The Forestry Officer may exempt a person or a type of load from the authorization requirement on being satisfied that:
  - (a) the person's use of the road or the type of load will not:
    - i. materially affect the use of the road by others, or
    - ii. unnecessarily disturb the natural environment or cultural heritage resources, and
  - (b) the use of the road will be for a period of less than 60 days.
- (3) Subject to this section and to the Code, respecting roads, a road constructed, modified, or maintained by any person may be used for non-industrial purposes by any Band member, without charge.
- (4) If use of a road would likely cause significant damage to the road or environment, or endanger life or property, or if the presence on the road of a vehicle or animal would likely cause significant damage to the road or environment, or endanger life or property, the Forestry Officer may:
  - (a) close or restrict the use of the road, or
  - (b) at the expense of its owner, remove the vehicle or animal.

**Table A - Peak Flow Criteria**

<b>Structure Type</b>	<b>Minimum design peak flow</b>
Permanent bridges and culverts	100 year return period
Temporary bridges	50 year return period

## Part 6 - Harvesting Practices

### 1. Marking Wildlife Tree Patches

- (1) The Band will mark in the field, before commencement of harvesting, the location of:
  - (a) wildlife tree patches that are located within the cutblock that are
    - i. .25 ha or more in size, unless exempted by the Forestry Officer, and
    - ii. less than .25 ha in size, if required by the Forestry Officer, and
  - (b) wildlife trees that are located within the cutblock, if required by the Forestry Officer.
- (2) Marking under Article 1(1) will be visible during harvesting and for a period of at least 6 months after the completion of harvesting.

### 2. Terrain Stability Field Assessments

- (1) Before a person carries out harvesting on a sensitive slope within a cutblock, including the construction of roads excavated or bladed trails, the Band will carry out a terrain stability field assessment to the satisfaction of the Forestry Officer.
- (2) Despite Article 1(1), the terrain stability field assessment is not required in any area if terrain stability hazard mapping has been carried out and, as a result of this mapping the cutblock is shown on a forest development plan as having a moderate or less than moderate likelihood of landslides and
  - (a) all of the following conditions are met:
    - i. the proposed harvesting method is cable or aerial;
    - ii. no excavated or bladed trails will be constructed, or
  - (b) the assessment has been carried out for the purposes of a road layout and design, and the assessment included the area to be harvested.

### 3. Harvesting On Sensitive Slopes

- (1) The provisions of this Article do not apply to harvesting that is necessary to construct or modify a road.
- (2) A person will not clearcut an area that is subject to a high likelihood of landslides, unless a terrain stability field assessment is done and it is the assessor's opinion that, based on the assessment, the assessor has reasonable grounds to believe that clearcutting the area will not significantly increase the risk of a landslide and that there is a low likelihood of landslide debris:
  - (a) entering into a fish stream or a perennial stream that is a direct tributary to a fish stream, or
  - (b) causing damage to public utilities, including but not limited to roads, bridges, transmission lines, pipelines, recreation sites or any other similar structures.

#### **4. Excavated Or Bladed Trails**

- (1) person will not construct any excavated or bladed trail on any area that is subject to a high likelihood of landslides.
- (2) person will not construct an excavated or bladed trail on an area that subject to a moderate likelihood of landslides, unless a terrain stability field assessment document is done and it is the assessor's opinion that, based on the assessment, the assessor has reasonable grounds to believe that:
  - (a) the excavated or bladed trail can be located, constructed and rehabilitated in a manner that will not significantly increase the risk of a landslide, and
  - (b) there is a low likelihood of landslide debris:
    - i. entering into a fish stream or a perennial stream that is a direct tributary to a fish stream, or
    - ii. causing damage to private property or public utilities, including but not limited to roads, bridges, transmission lines, pipelines, recreation sites, or any other similar structures.
- (3) A person will not sidecast material onto slopes that have a high likelihood of landslides.
- (4) A person will not construct any excavated or bladed trail unless it is:
  - (a) provided for in an operational plan, or
  - (b) otherwise authorized in writing by the Forestry Officer.
- (5) A person will ensure that excavated or bladed trails are constructed:
  - (a) to prevent subsurface seepage water from being diverted onto potentially unstable slopes or into stream channels or gullies that would not naturally have received the water;
  - (b) to maintain stability of cut slopes and fill slopes;
  - (c) to maintain surface drainage patterns;
  - (d) to minimize soil erosion and the amount of sediment entering streams
- (6) A person who constructs or modifies any excavated or bladed trail that is not a permanent access structure will rehabilitate the area occupied by the excavated or bladed trail within 1 year of completion of harvest.
- (7) Excavated or bladed trails requiring rehabilitation under Article 3(4) or 4(3) will be rehabilitated by:
  - (a) carrying out to the satisfaction of the Forestry Officer all of the following:
    - i. decompacting the running surface, unless the soil is sand, loamy sand, or contains in excess of 70% coarse fragments by volume;
    - ii. placing sidecast fill material on the excavated portion of the trail;
    - iii. recontouring the slope;

- iv. re-establishing surface drainage patterns;
  - v. scattering woody debris on exposed mineral soil surfaces, or
  - (b) carrying out other measures authorized in writing by the Forestry Officer.
- (8) The Forestry Officer may exempt a holder from the requirement to rehabilitate an area occupied by an excavated or bladed trail under Article 3(4) or 4(3) on the grounds that:
- (a) the area is too small to warrant rehabilitation,
  - (b) rehabilitating the area is unlikely to restore productivity to an acceptable level, or
  - (c) rehabilitating the area will create an unacceptable risk of further damage or harm to, or impairment of forest resources.

## **5. Landings**

- (1) A person will construct landings at least 30 m from a fish stream or a stream unless
- (a) there is no other practicable location for the landing
  - (b) constructing the landing closer to the stream will not create a higher risk of sediment delivery to the stream, and
  - (c) the landing is identified in an operational plan as being closer than 30 m to the stream.
- (2) A person required to rehabilitate a temporary landing must do all of the following:
- (a) incorporate drainage systems to minimize runoff flowing onto the landing and erosion of the landing fill and material;
  - (b) carry out measures to ensure that the landing is stable;
  - (c) decompact the landing area;
  - (d) spread retrievable soil material, that was displaced to construct the landing, over the surface of the landing;
  - (e) re-establish natural surface drainage;
  - (f) place woody debris over exposed mineral soil; and
  - (g) other activities as directed by the Forestry Officer.

## **6. Harvesting Adjacent To Streams, Wetlands And Lakes Not Identified Or Incorrectly Classified**

If a stream, wetland or lake was not identified or was incorrectly classified in an operational plan:

- (1) the riparian management area will have the widths established in Part 8, and
- (2) a person will not carry out harvesting within the riparian management area, except in accordance with the Forestry Officer's written authorization, and the Forestry Officer may give the authorization only if satisfied, based on the correct classification, that the harvesting will adequately manage and conserve the forest resources.

## **7. Temporary Stream Crossings**

A person carrying out harvesting will:

- (1) not construct a temporary stream crossing unless authorized by the Forestry Officer;
- (2) locate, design, construct, use, repair and remove temporary stream crossings in a manner that:
  - (a) protects the stream channel and stream bank immediately above and below the stream crossing, and
  - (b) mitigates disturbance to the stream channel or stream bank at the crossing;
- (3) locate, design, construct, use, repair and remove temporary stream crossings in a manner that is consistent with timing windows and measures provided in writing by the Forestry Officer, if the crossing is for a fish stream:
- (4) remove all temporary stream crossings at the completion of harvesting, unless otherwise directed by the Forestry Officer.

## **8. Maintaining Stream Bank Stability**

A person carrying out harvesting or stream cleaning, for purposes other than constructing or modifying an authorized stream crossing, will not remove stable natural material that is in a stream or that is embedded in a stream bank, or a root system that contributes to stream bank stability and fish habitat, unless authorized by the Forestry Officer.

## **9. Restrictions On The Location Of Helicopter Or Balloon Log Drop Areas**

A person will not locate an aerial harvesting log drop area in:

- (1) the littoral zone of a fresh water system,
- (2) water that is less than 10 m deep.

## **10 Felling, Yarding And Skidding**

A person will ensure that timber is:

- (1) felled onto a stream, lake, wetland or fisheries sensitive zone, only if approved in an operational plan or otherwise authorized in writing by the Forestry Officer, or
- (2) yarded or skidded through or over any stream or fisheries-sensitive zone, only if approved in an operational plan or otherwise authorized in writing by the Forestry Officer.

## **11. Landing And Roadside Slash Accumulations**

Unless otherwise authorized by the Forestry Officer, a person will burn the combustible slash that accumulates at landings and roadside work areas within the following time periods:

- (1) if the slash is insect-infested, before the insects emerge;
- (2) if the slash is not insect-infested, before the end of the first burning season after harvesting is completed.

## **12. Rehabilitation Of Compacted Areas And Corduroyed Trails**

At the conclusion of harvesting operations, or at another time directed by the Forestry Officer a person will rehabilitate compacted areas and areas occupied by corduroyed trails, to the satisfaction of the Forestry Officer, unless the Forestry Officer exempts the person from this requirement on the grounds that:

- (1) the area is too small to warrant rehabilitation,
- (2) rehabilitating the area is unlikely to restore productivity to an acceptable level, or
- (3) rehabilitating the area will create an unacceptable risk of further damage or harm to, or impairment of, forest resources.

## **13. Limits On Area That May Be Occupied By Soil Disturbance**

- (1) The maximum proportion of any standards unit within the net area to be reforested that may be occupied by soil disturbance is:
  - (a) If all assessments of the following hazards have been carried out and documented in the forest development plan or operational plan:
    - i. soil compaction hazard;
    - ii. soil erosion hazard;
    - iii. soil displacement hazard, the amount of site disturbance as specified in the site plan or forest development plan, or,
  - (b) 5%, if the requirements of paragraph (a) have not been met.
- (2) If the limit for soil disturbance specified in Article 13(1) or in a site plan is exceeded, the person will:
  - (a) promptly notify the Forestry Officer, and
  - (b) carry out any site rehabilitation measures required by the Forestry Officer.

## **Part 7 - Silviculture**

### **Obligations to Produce a Free Growing Stand**

#### **General**

##### **1. Site Plans**

Where a site plan has been prepared, the Band will establish, in accordance with the Code and the site plan, a free growing stand on those portions of the area under the plan that are within the net area to be reforested.

##### **2. Silviculture Treatments on Free Growing Stands**

- (1) Before silviculture treatments are done on a free growing stand, a Professional Forester will prepare a Stand Management Prescription on the area to be treated.
- (2) The Band will carry out the silviculture treatment in accordance with the Code and the Stand Management Prescription.

##### **3. Producing A Free Growing Stand On Required Areas**

- (1) The Band will produce, in accordance with Part 7 Article 3 to 6, a free growing stand on:
  - (a) the net area to be reforested, except on areas of intermediate cuttings, and
  - (b) areas where the timber was harvested in contravention of the Code.
- (2) The Council may exempt the Band from the requirements of Article (1) if the harvesting is limited to one or more of the following:
  - (a) harvesting timber on land that is, or will be, used for
    - i. grazing or growing of hay
    - ii. an experimental purpose,
    - iii. growing Christmas trees, or
    - iv. any use that is incompatible with the establishment of a free growing stand;
  - (b) harvesting activities limited to
    - i. removing a safety hazard,
    - ii. facilitating the collection of seed for reforestation, or
    - iii. facilitating the entrapment of pests;
  - (c) the felling and removal of special forest products;
  - (d) minor salvage operations;
  - (e) minor harvesting operations.

##### **4. Stocking Requirements At Regeneration Date**



- (1) When establishing a free growing stand under Part 7 Article 3, the Band will establish a stand that meets the stocking requirements of this section, by:
  - (a) the end of the regeneration date specified in an operational plan for the area, or
  - (b) if the regeneration date is not specified in an operational plan, the end of the regeneration date that is, for ESSF and SBS biogeoclimatic zones:
    - i. 4 years after denudation for areas where planting is specified in an operational plan, and
    - ii. 7 years after denudation for areas where natural regeneration is specified in an operational plan.
- (2) If the silvicultural system approved for the area is other than single tree selection, the stand of trees will contain at least:
  - (a) the minimum number of healthy, well spaced trees of the preferred and acceptable species per hectare specified in Part 7 Table A, and
  - (b) the minimum number of healthy, well spaced trees of the preferred species per hectare specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Part 7 Schedule A
- (3) If the silvicultural system approved for the area is single tree selection, the stand of trees will contain, for at least one layer of the stand:
  - (a) at least the minimum number of healthy, well spaced trees of the preferred and acceptable species per hectare specified in Part 7 Table B, and
  - (b) at least the minimum number of healthy, well spaced trees of the preferred species per hectare specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Part 7 Schedule A.
- (4) The Band will maintain the stocking requirements of this Article from the regeneration date referred to in Article 4(1) until the free growing date.

## **5. Stocking Requirements At Free Growing Date**

- (1) When establishing a free growing stand under Part 7 Article 3, the Band will establish a free growing stand that meets the requirements of this Article by the free growing date:
  - (a) specified in an operational plan for the area, or
  - (b) if not specified in an operational plan for the area, 15 years for the SBS and 20 years for the ESSF biogeoclimatic zones.
- (2) The period of years referred to in Article 5(1) begins:
  - (a) for cutblocks harvested after the coming into force of this Code, on the date when harvesting, excluding road and landing construction, begins on the cutblock;
  - (b) for areas where the timber was harvested by a person in contravention of Part 4 Article 1 of the Code on the date when the contravention occurred.

- (3) If the silvicultural system approved for the area is other than single tree selection, the stand of trees will contain at least:
  - (a) the minimum number of healthy, well spaced trees of the preferred and acceptable species per hectare, and
  - (b) the minimum number of healthy, well spaced trees of the preferred species per hectare specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Part 7 Schedule A
- (4) If the silvicultural system approved for the area is single tree selection, the stand of trees will contain, for at least one layer of the stand:
  - (a) at least the minimum number of healthy, well spaced trees of the preferred and acceptable species per hectare, and
  - (b) at least the minimum number of healthy, well spaced trees of the preferred species per hectare specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Part 7 Schedule A.
- (5) Healthy, well spaced trees of a preferred or acceptable species, referred to in Article 5(3) or 5(4), will have achieved:
  - (a) the minimum height for their species as specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Schedule A, and
  - (b) the height, relative to competing vegetation within a 1 m radius of the tree trunk:
    - i. specified in an operational plan for the area, or
    - ii. specified in Schedule A, or
    - iii. if there is no amount specified in an operational plan for the area or in Schedule A:
      - (a) 125% for the ESSF biogeoclimatic zone, and
      - (b) 150% for the SBS biogeoclimatic zone.
- (6) For healthy, well spaced trees of a preferred or acceptable species to be considered free growing, they will have been on the cutblock for at least 5 years from the date harvesting commenced on the cutblock, excluding harvesting for road or landing construction, unless Council specifies, in writing, another period.
- (7) The maximum number of coniferous trees allowed per hectare before a spacing treatment is required under Part 7 Article 5 is:
  - (a) a number established:
    - i. by the Council in writing, or
    - ii. in an operational plan for the area if a number has not been established under subparagraph 7(a)i., or:
  - (b) 10,000 trees per hectare if a number has not been established under paragraph 7(a).

- (8) If a spacing treatment is required under Part 7 Article 5 the number of coniferous trees per hectare that remain after the spacing treatment will not exceed:
- (a) the maximum number specified in an operational plan for the area or
  - (b) if there is no number specified in an operational plan for the area then
    - i. if a silvicultural system other than single tree selection is approved for the area 2,000 coniferous trees per hectare for the ESSF and SBS biogeoclimatic zones,
    - ii. if single tree selection is approved for the area, 1,500 coniferous trees per hectare in the sapling layer,
    - iii. a number established by Council in writing.

## **6. Maximum Density Spacing Treatment Requirement**

- (1) When establishing a free growing stand under Part 7 Article 5, if the maximum number of coniferous trees per hectare on an area exceeds the number specified in Part 7 Article 5, the Band will carry out a spacing treatment before the free growing date to reduce the number of coniferous trees per hectare on the area to:
- (a) a number not greater than the maximum number specified in an operational plan for the area, or
  - (b) if there is no number specified in an operational plan for the area, a number not greater than the number specified in Part 7 Article 5(8).
- (2) For a coniferous tree to be countable for the purposes of this Article, the coniferous tree will:
- (a) be of a height that is at least 20% of the median height of well spaced trees in the survey plot,
  - (b) if the silvicultural system is single tree selection, be at least 1.3 m in height and less than 7.5 cm in diameter measured at a height of 1.3 m, or
  - (c) meet the criteria specified by Council.

## **7. Target Stocking Standard**

- (1) When establishing a free growing stand under Part 7 Article 3:
- (a) if the silvicultural system approved for the area is other than single tree selection, the Band will carry out a regime of silviculture treatments designed to achieve the target stocking standard, as specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Part 7 Schedule A, or
  - (b) if the silvicultural system approved for the area is single tree selection, the Band will carry out harvesting and a regime of silviculture treatments that is designed to achieve the target stocking standard for single tree selection for at least one layer of the stand, as specified in an operational plan for the area, or if not specified in an operational plan for the area, as determined in accordance with Schedule A.

- (2) The Council may require the professional forester to prepare and obtain the Council's approval of a site plan or amendment, that outlines a regime of silviculture treatments designed to achieve a target stocking standard required under Article 7(1), if the Council is of the opinion that the Band is not complying with Article 7(1).

## **8. Use Of Seeds And Vegetative Material**

If the Band carries out planting to produce a free growing stand, they will comply with all of the following:

- (1) use only seedlots or vegetative lots collected and registered in accordance with the Tree Cone, Seed and Vegetative Material Regulation of the Forest Practices Code of B. C. Act;
- (2) unless otherwise authorized by the Council or designate, use the best genetic quality source available;
- (3) not exceed the limits for seed or vegetative material transfer specified in the Seed and Vegetative Material Guidebook of the BC Forest Practices Code Act, unless otherwise permitted by the Council or designate;
- (4) store seeds for reforestation with the Ministry of Forests;
- (5) keep a record of the registration numbers of the seedlots or vegetative lots used and the locations where they are planted;
- (6) use only seedlings or vegetative propagules that indicate on their shipping containers whether or not the seedlings or vegetative propagules have been treated with pesticides;
- (7) if the Band knows or should know of forest health concerns that affect the health of the species of trees that are required by the operational plan, use only naturally or genetically improved resistant seed sources, seedlings or vegetative propagules if they are available.

## **9. Livestock For Silviculture Purposes**

A person who uses livestock for site preparation or brush control will comply with the following:

- (1) all necessary measures, including any specified by the Council or designate, are taken to:
  - (a) protect fish, wildlife and their habitat,
  - (b) minimize conflict between livestock and animals that could prey on livestock,
  - (c) protect irrigation and licensed domestic water supply intakes,
  - (d) prevent transmission of disease from livestock to wildlife, and
  - (e) maintain the health of livestock;
- (2) a livestock corral is not constructed
  - (a) within a riparian reserve zone or riparian management zone, or

- (b) on a site that drains directly into a stream, lake or other watercourse bearing fish or used as a potable water source;
- (3) the Band is notified before the arrival of livestock;
- (4) all livestock health certifications and health inspections required by the Ministry of Agriculture and Food are carried out.

#### **10. Use Of Fertilizer For Silviculture Purposes**

A person using fertilizer in silviculture treatments will handle and apply the fertilizer in a manner that protects forest resources, and in accordance with applicable provincial regulations.

#### **11. Insect Behaviour Modifying Treatments**

Unless exempted by the Council, the Band, who uses trap trees or pheromones to concentrate insect populations, will destroy the insect brood before the insects emerge.

### **Surveys and Reports**

#### **12. Silviculture Surveys**

- (1) Where the Band is required to establish a free growing stand on an area, a professional forester will carry out an assessment for the net area to be reforested by the regeneration date, showing whether or not the stocking requirements for the regeneration date have been met.
- (2) The professional forester will carry out a survey for the net area to be reforested, on or before the free growing date or within the free growing assessment period for the area under a site plan, identifying the following:
  - (a) the area for which the free growing stocking requirements have been met;
  - (b) the number of healthy, well spaced free growing trees per hectare of the preferred and acceptable species;
  - (c) the number of healthy, well spaced free growing trees per hectare of the preferred species;
  - (d) the total number of countable coniferous trees per hectare for the purpose of determining compliance with the maximum number of coniferous trees allowed per hectare under Part 7 Article 5;
  - (e) for any areas for which the free growing stocking requirements have not been met, the areas that are
    - i. satisfactorily stocked, or
    - ii. not satisfactorily restocked;
  - (f) the inventory label and silviculture label, including species component, age, height, density and site index.
- (3) Where the professional forester has prescribed intermediate cuttings, the professional forester will carry out a survey, between 1 and 3 years after the completion of harvesting on the area, that identifies:

- (a) the area,
  - (b) the inventory label including species component, age, height, density and site index, and
  - (c) the incidence of damage by forest health factors affecting trees.
- (4) Without limiting Articles 12(1) to 12(3), the professional forester will:
- (a) carry out surveys and assessments to the satisfaction of the Council or designate;
  - (b) keep a written record of a survey or assessment and, if required, provide it to the Council or designate.

**Table A - Stocking Standards for Silvicultural Systems Other than Single Tree Selection**

(section 1 of Schedule 'A')

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Region	Subzone Variant	Site Series	Target Stocking Standard	Minimum number of healthy, well spaced trees of the preferred & acceptable species per ha.	Minimum number of healthy, well spaced trees of the preferred species per ha.	Minimum free growing height (m)
All Regions	ESSFmv1	01	1200	700	600	PI 1.6 Other 0.8
All Regions	ESSFmv1	02,03,04,05	1000	500	400	PI 1.2 Other 0.6
All Regions	ESSFmv2	01,02,04,05	1200	700	600	PI 1.6 Other 0.8
All Regions	ESSFmv2	03	1000	500	400	PI 1.2 Other 0.6
All Regions	ESSFmv2	06	400	200	200	PI 1.2 Other 0.6
All Regions	ESSFmv3	01,04,05,06	1200	700	600	PI 1.6 Other 0.8
All Regions	ESSFmv3	02,03,07	1000	500	400	PI 1.2 Other 0.6
All Regions	ESSFmv4	01,04	1200	700	600	PI 1.6 Other 0.8
All Regions	ESSFmv4	02,03	1000	500	400	PI 1.2 Other 0.6
All Regions	ESSFmv4	05	400	200	200	PI 1.2 Other 0.6
All Regions	SBSmk1	01,02,03,04,05,06,07,08	1200	700	600	PI 2.0 Fd 1.4 Other 1.0
All Regions	SBSmk1	09	1000	500	400	PI 1.4 Other 0.8
All Regions	SBSmk1	10	400	200	200	PI 1.4 Other 0.8
All Regions	SBSwk1	01,03,04,05,06,07,08	1200	700	600	PI 2.0 Fd 1.4 Other 1.0
All Regions	SBSwk1	02,09,10	1000	500	400	PI 1.4 Fd 1.0 Other 0.8
All Regions	SBSwk1	11	400	200	200	PI 1.4 Other 0.8
All Regions	SBSwk2	01,03,04,05	1200	700	600	PI 2.0 Other 1.0
All Regions	SBSwk2	02,06	1000	500	400	PI 1.4 Other 0.8
All Regions	SBSwk3	01,03,04,05,06,07	1200	700	600	PI 2.0 Fd 1.4 Other 1.0
All Regions	SBSwk3	02,08	1000	500	400	PI 1.4 Other 0.8

The minimum heights that are assigned for various tree species in a group of biogeoclimatic site series do not imply that the tree species are acceptable for all of the site series. The preferred and acceptable tree species for any site series will be approved in an operational plan. Once a tree species has been approved as preferred or acceptable on a given site series, the minimum height in the table will be achieved unless an alternative free growing height has been approved in an operational plan.

**Table B - Stocking Standards for Single Tree Selection Silvicultural Systems**

(section 2 of Schedule 'A')

(all numbers in this table are healthy well spaced trees per hectare)

Column 1	Column 2	Column 3	Column 4	Column 5
Target stocking standard for the appropriate biogeoclimatic ecosystem classification from Table 'A'	Layer	Target stocking standard for single tree selection	Minimum number of healthy, well spaced trees of the preferred and acceptable species per ha.	Minimum number of healthy, well spaced trees of the preferred species per ha.
1200	mature	600	300	250
	pole	800	400	300
	sapling	1000	500	400
	regeneration	1200	700	600
1000	mature	400	200	200
	pole	600	300	250
	sapling	800	400	300
	regeneration	1000	500	400
900	mature	400	200	200
	pole	500	300	250
	sapling	700	400	300
	regeneration	900	500	400
800	mature	300	150	150
	pole	400	200	200
	sapling	600	300	300
	regeneration	800	400	400
600	mature	300	150	150
	pole	400	200	200
	sapling	500	300	300
	regeneration	600	400	400
400	mature	200	100	100
	pole	300	125	125
	sapling	300	150	150
	regeneration	400	200	200



## Part 8 - Riparian Widths

### General

#### 1. Determining The Applicable Riparian Widths

- (1) The riparian management area widths specified in this Part apply to all forest practices on Band lands.
- (2) The Council on advice from a professional forester, may vary the width of a riparian management area established under this Part.
- (3) Prescriptions for the Riparian Management Areas will be provided on a site specific basis by a professional forester.

#### 2. Measuring Riparian Widths

- (1) Riparian management areas are the areas of a width specified in this Part that are measured from:

- (a) for streams:

- i. the edge of the stream channel bank, to the widest of:

- (a) the top of the inner gorge of the stream,

- (b) the width specified under Part 8 Articles 1 or 4, or

- (c) the outer edge of any:

- (i) active flood plain or

- (ii) wetland that is less than 1 ha in size and is located directly adjacent to the stream

- (b) for wetlands:

- i. the edge of the wetland, to the widest of the widths specified under Part 8 Articles 1 or 6

- (c) for lakes:

- i. the edge of the lake, to the widest of the widths specified under Part 8 Articles 1 or 8.

## Streams

### 3. Riparian Classes Of Streams

- (1) Fish streams have the following riparian classes:

Stream Width (m)	Riparian Class
$>20$	S1
$>5 \leq 20$	S2
$1.5 \leq 5$	S3
$<1.5$	S4

- (2) Streams that are not fish streams have the following riparian classes:

Stream Width (m)	Riparian Class
$>3$	S5
$\leq 3$	S6

### 4. Widths Of Riparian Management Areas For Streams

For each riparian class referred to in Article 3 above, the riparian management area width on each side of the stream is as follows:

Riparian Class	Riparian Management Area (m)
S1	70
S2	50
S3	40
S4	30
S5	30
S6	20

## Wetlands

### 5. Riparian Classes Of Wetlands

A wetland has a riparian class of

- (1) W1 if the wetland is greater than 5 ha in size,
- (2) W3 if the wetland is between 1 ha and 5 ha in size.
- (3) W5 if the area consists of 2 or more individual wetlands with overlapping riparian management zones and the combined size of the wetlands is 5 ha or larger.

## 6. Widths Of Riparian Management Areas For Wetlands

For each riparian class referred to in Article 5(1), the riparian management area width is the following:

Riparian Class	Riparian Management Area (m)
W1	50
W3	30
W5	50

## Lakes

### 7. Riparian Classes Of Lakes

A lake has a riparian class of:

- (1) L1 if the lake is:
  - (a) greater than 5 ha in size, or
  - (b) designated by the Council or designate,
- (2) L3 if the lake is between 1 ha and 5 ha in size;

### 8. Widths Of Riparian Management Areas For Lakes

- (1) A lake with a riparian class of L1 has a riparian management area width specified by the Council based on the recommendation of a professional forester.
- (2) A lake with a riparian class other than L1 has the following riparian management area width.

Riparian Class	Riparian Management Area (m)
L3	30

### 9. Specific Guidelines For Management Of Riparian Areas Located Along Streams Within Band Land

- (1) S2 streams with flat gradients:
  - (a) Harvest of adjacent Riparian Management Area is acceptable for limited stretches of stream, but aggressive harvesting should not exceed 100 meters of contiguous length of stream or eliminate the opportunity for the recruitment of large woody debris,
  - (b) Maintain a minimum 10 meter machine free zone,
- (2) S3 streams:

- (a) Maintain at least 65% of the natural levels of shading and light intensity reaching the stream surface,
  - (b) Maintain an adequate "short term supply" and "long term supply" of large woody debris (LWD) for the stream channel type, as defined in Part 8 Articles 10 and 11,
- (3) S4 Streams all gradients:
- (a) Maintain at least 50% of the natural levels of shading and light intensity reaching the stream surface,
  - (b) In the Riparian Management Area, leave standing 10 trees in a mix of sizes between 15 cm and 40(+) cm dbh, for every 100 meters of stream channel harvested,
  - (c) If a danger tree, located within the 30 meter Riparian Management Area, needs to be felled and falls across the stream channel, then it can count for the inventory of 10 residual trees per 100 meters of channel length,
  - (d) Maintain a minimum 5 meter machine free zone (seasonal or operability constraints may require a prescription for a wider machine free zone).

## **10. Maintaining An Adequate Long Term Supply Of Large Woody Debris**

The long term supply of large woody debris will be maintained by implementing the following practices:

- (1) For S3 Streams with flat gradients:
  - (a) If the stand structure permits, leave good quality understory coniferous trees that have a potential of responding positively to a partial cutting operation (these are the trees that will potentially supply the large woody debris to the stream channel during the long term period). The target number of "released" understory trees should be 20-25 trees per 100 meters of channel length.
  - (b) If the stand structure is not conducive to leaving good quality understory trees, then windfirm clumps or patches of mature trees should be left along the stream. These patches should cover at least 40% of the length of the channel, and be at least 150 meters in length.
  - (c) Maintain natural root structure adjacent to the stream, by utilizing a minimum 5 meter machine free zone (seasonal or operability constraints may require a prescription for a wider machine free zone).
- (2) For S3 streams with moderate gradients:
  - (a) Recommendations are similar to above, however because of the greater inherent sensitivity of these channel types the target number of "released" understory trees should be increased to 25 – 30 trees per 100 meters of channel length.

## 11. Maintaining An Adequate Short Term Supply Of Large Woody Debris

The short term supply of large woody debris will be maintained by implementing following practices:

- (1) For S3 streams with flat gradients:
  - (a) Do not remove any existing large woody debris that is either spanning the channel at the time of forest harvest, even if it is recent blowdown and has commercial value.
  - (b) In the Riparian Management Zone, leave at least 20 trees standing in a mix of sizes, between 15 and 40 cm (+) dbh, for every 100 meters of stream channel harvested. These residual trees should have a good potential for falling into or across the stream channel within the next 30 years. The species mix of these residual trees should represent the species mix of the original stand.
  - (c) To prevent excessive stream channel damage from blowdown events, harvest those trees immediately adjacent to the stream channel that are a high blowdown hazard. These trees are typically located within the first two to three meters from the stream edge.
  - (d) If a danger tree, located within the Riparian Management Zone, needs to be felled and falls across the stream channel, this can count for the inventory of 20 residual trees per 100 meters of stream length.
  - (e) If the harvest operation is a blowdown salvage, and many of the trees in the Riparian Management Zone have fallen across the stream channel, the following recommendations are provided:
    - i. Leave in place all trees and pieces of large woody debris that fell into the stream channel prior to the blowdown event;
    - ii. Leave at least 15 blowdown trees per 100 meters of channel length (the trees should be fairly evenly distributed along the length of the stream channel).
- (2) For S3 streams with moderate gradients
  - (a) Recommendations are similar to above, however because of the greater inherent sensitivity of these channel types the number of trees left standing should be increased to at least 40 trees in a mix of sizes, between 15 and 40(+)cm dbh, for every 100 meters of stream channel harvested.

## **Part 9 - Fire Use, Wildfire Prevention and Wildfire Control**

### **General**

#### **1. Application**

Part 9 applies only from April 1 to October 31 each year, unless extended by Council.

### **Division 1 - Wildfire Prevention**

#### **2. Fire Watcher**

- (1) When a fire watcher is required to be present by the Code, the fire watcher will:
  - (a) watch for sparks and fires,
  - (b) report any fires to the Forestry Officer or Council or designate, or the person carrying out an industrial activity at the work site at which the fire watcher is engaged, and
  - (c) assist in fighting any fire that occurs in the area being watched by the fire watcher.
- (2) When the fire watcher reports a fire to a person carrying out an industrial activity, the person will immediately report the forest fire to the Forestry Officer, Council or designate and the British Columbia Ministry of Forests.
- (3) A person carrying out an industrial activity will ensure that a fire watcher has access to the following:
  - (a) one round-nosed shovel;
  - (b) one Pulaski tool or mattock;
  - (c) one hand-tank pump containing at least 18 liters of water;
  - (d) a radio or telephone that can be used to report a fire and request assistance.
- (4) A fire watcher must comply with the requirements of Schedule 4 of this part.

#### **3. Fire Fighting Tools – General**

- (1) When the number of persons who normally work at an industrial activity work site is 3 or less, the person carrying out the industrial activity will ensure that the following fire fighting tools are kept at the work site:
  - (a) one round-nosed shovel;
  - (b) one Pulaski tool or mattock;
  - (c) one hand-tank pump containing at least 18 litres of water.
- (2) When the number of persons normally working at an industrial activity work site is more than 3, the person carrying out the industrial activity will ensure that the following fire fighting tools are kept at the work site:

- (a) one round-nosed shovel, Pulaski tool or mattock for each person;
  - (b) one hand-tank pump containing at least 18 litres of water for every 3 persons, to a maximum of 8 hand-tank pumps.
- (3) For the purpose of Article 3(2), the number of round-nosed shovels will, as nearly as possible, equal the combined number of Pulaski tools and mattocks.

#### **4. Fire Fighting Tools - Large Engines**

- (1) A person carrying out an industrial activity will ensure that every large engine used in an industrial activity has attached to it the following fire fighting tools:
- (a) one round-nosed shovel;
  - (b) one Pulaski tool or mattock;
  - (c) one fire extinguisher with a ULC rating of at least 1A5BC;
  - (d) one fire extinguisher with a ULC rating of at least 3A 10BC or an integral vehicle fire suppression system.

#### **5. Fire Fighting Tools - Hot Work**

In addition to any other requirement of this Code, a person carrying out an industrial activity will ensure that the following fire fighting tools are kept at each work site where hot work is performed:

- (1) 2 fire extinguishers each with a ULC rating of at least 3 A 10BC;
- (2) one round-nosed shovel;
- (3) 2 hand-tank pumps containing at least 18 litres of water each.

#### **6. Fire Fighting Tools - Explosives**

In addition to any other requirement of this Code, if explosives are used in an industrial activity the person carrying out the industrial activity will ensure that the following fire fighting tools are kept at the place from which the blast will be controlled:

- (1) 2 round-nosed shovels;
- (2) hand-tank pumps containing at least 18 litres of water each.

#### **7. Fire Fighting Tools - Helicopters**

- (1) In addition to any other requirement of this Code, if one or more helicopters are normally used in an industrial activity to extract logs or to move personnel and equipment to and from a logging operation, the person carrying out an industrial activity will ensure that there is kept at a helicopter landing spot near the logging operation, for the exclusive use of each helicopter, a water bucket that is;
- (a) of a type designed and adapted for aerial fire fighting,
  - (b) capable of being attached to a helicopter, and

- (c) capable of being both filled and emptied from a helicopter while the helicopter is airborne.
- (2) A person carrying out a logging operation will ensure that all helicopters used in the operation area are:
  - (a) equipped and maintained so that they are capable of operating the water bucket specified in Article 7(1), and
  - (b) operated by pilots who are knowledgeable about the use of the water bucket.

## **8. Water Delivery Systems**

- (1) In this Article "portable pump unit" means a water pump, not affixed to another machine, that is capable of maintaining a pressure of 1,000 kPa (145 psi) while delivering 135 litres of water per minute from 30 m of hose with:
  - (a) a nozzle having a 9.5 mm opening,
  - (b) a suction hose,
  - (c) at least 450 m of discharge hose having a diameter not less than:
    - i. 38 mm, unlined, or
    - ii. 25 mm, lined, and
  - (d) the tools and accessories necessary to operate and maintain the water pump and hoses.
- (2) In addition to any other requirement of this Code, a person carrying out an industrial activity that includes an activity in risk classification A or B under Schedule 1 will ensure that each work site has:
  - (a) one water delivery system if there are 4 - 10 workers working at the work site normally or
  - (b) 2 water delivery systems if there are 11 or more workers working at the work site, normally.
- (3) For the purpose of Article 8(2), if more than one activity is carried on at a work site, the number of persons working at the work site is considered to be the sum of the number of persons normally working at each activity.

## **9. Central Equipment Cache**

- (1) In addition to any other requirement of this Code, a person carrying out an industrial activity that is an activity in risk classification A or B under Schedule 1 will ensure that extra equipment is kept at a central equipment cache where it can be delivered to the work site within 2 hours.
- (2) The quantity of extra equipment required by Article 9(1) is set out in Columns 2 to 5 of Schedule 2 opposite Column 1 which lists the number of persons who normally work at the work site.



- (3) For the purpose of Article 9(2), if more than one activity is carried on at a work site, the number of persons at the work site is considered to be the sum of the number of persons normally working at each activity.

## **10. Large Engines**

- (1) A person will not operate a large engine unless it is equipped with a safe and effective device for arresting sparks that is:
  - (a) an integral part of the exhaust system, and
  - (b) in good repair.
- (2) A person will not operate a large engine that operates in a stationary capacity unless the site has been cleared of combustible material for a distance of at least 3 m in each direction from the large engine.
- (3) A person carrying out an industrial activity will ensure that a large engine meets the requirements under Article 10(1) and that combustible material is cleared as required under Article 10(2).

## **11. Small Engines**

- (1) A person will not operate a small engine unless:
  - (a) the muffler on the small engine is maintained and in good repair, and,
  - (b) there is available at all times a fire extinguisher charged with at least 0.225 (0.5 lb.) of fire extinguishing chemical.
- (2) A person will not operate a small engine if the ability of the muffler to reduce hot carbon emissions has been lessened by modification of the muffler or by redirection of the emissions.
- (3) A person carrying out an industrial activity will ensure that a small engine is engine is equipped with a muffler that meets the requirements under Articles 1(1)(a) and 11(2) and that a fire extinguisher is available as required under Article 11(1)(b).

## **12. Hot Work**

- (1) A person will not perform hot work unless a fire watcher is present.
- (2) The fire watcher required under Article 12(1), must remain at the site of the hot work for 30 minutes after the hot work has ceased, unless a longer period is required, as directed by the Forestry Officer.
- (3) A fire watcher is not required under Article 12(1) if all combustible materials is removed for at least 10m from the place where the hot work is performed, as approved by the Forestry Officer.

## **13. Cable Logging**

A person carrying out an industrial activity that is a cable logging system will:

- (1) lay out all running lines in straight lines,

- (2) remove branches, brush and shrubs to a width of 75 cm on each side of the running line for a distance of 4 m in either direction from each corner block, and
- (3) in addition to any other requirement of this Code, provide a hand-tank pump containing at least 18 litres of water and keep it immediately adjacent to each corner block that is in use.

#### **14. Fireworks**

If an order made under the Code prohibiting the use of an open fire is in effect in an area, a person will not ignite fireworks in that area.

#### **15. Combustible Material**

- (1) A person carrying out an industrial activity that involves a place that is a camp, mine, sawmill, refuse disposal site or processing facility will ensure that an area that extends inward 15 m from the perimeter of the place is kept clear of combustible material.
- (2) A person carrying out an industrial activity that involves a camp, mine, sawmill, refuse disposal site or processing facility will ensure that all combustible material cleared from the area referred to in Article 15(1) is disposed of at least once in every calendar year.

#### **16. Explosives**

A person will not use explosives at the site of an industrial activity unless a fire watcher remains at the site where the explosives are used for at least 30 minutes after the explosives have been detonated, unless a longer period is required by the Forestry Officer.

#### **17. Restrictions On Industrial Activities**

- (1) A person carrying out an industrial activity will ensure that the activity is conducted in accordance with the requirements set out in Columns 3 and 4 of Schedule 4 that are opposite the industrial activity's risk classification in Column 2 and fire danger class in Column 1.
- (2) The person carrying out the industrial activity will determine:
  - (a) the industrial activity's risk classification from Schedule 1, and
  - (b) obtain from the Forestry Officer the fire danger class.
- (3) The Forestry Officer will determine the fire danger class for the industrial activity from data provided by representative weather stations and the tables set out in Schedule 3.

#### **18. Fire Hazard Assessment**

If required by the Code, a person who engages in a prescribed activity related to timber harvesting will, in accordance with the Code:

- (1) assess the fire hazard, in accordance with Schedule 1 and Schedules 3 and 4 of this section, and
- (2) submit the results of the fire hazard assessment to the Forestry Officer.

## **19 Responsibility For Abatement And Removal Of The Fire Hazard**

If a fire hazard exists on Band land as a result of an industrial activity, the person carrying out the activity and the person causing the activity to be carried out will abate, remove or both abate and remove, the fire hazard as required by, and in accordance with, the Code.

## **20. Burning Permit To Abate Or Remove A Fire Hazard**

- (1) Before a person abates or removes a fire hazard by burning, the person will apply for a burning permit and, subject to Article 20(2), a burning permit will be issued to the person.
- (2) If the Forestry Officer determines that burning is not an appropriate means of abatement or removal of the fire hazard, he or she will determine whether
  - (a) a burning permit should be issued at a later date, or
  - (b) the hazard should be abated or removed by a means other than burning,
- (3) The Forestry Officer who makes a determination under Article 20(2):
  - (a) will promptly advise the person who made the application for the burning permit of the determination, and may extend the prescribed time or the time specified in a notice for abating or removing the fire hazard.
- (4) A person responsible for carrying out a silviculture treatment that specifies burning, who is advised of a determination under Article 20(2)(b), will carry out an alternative type of silviculture treatment specified in the site plan.

## **21. Order To Abate Or Remove The Fire Hazard**

- (1) If the Forestry Officer determines that a fire hazard has not been removed as required by the Code, he or she may, in a notice of determination given to a person require the person to remove or abate the fire hazard and the person will comply.

## **22. Fire Preparedness Responsibilities Of A Person Engaged In An Industrial Activity**

A person carrying out an industrial activity on Band land will:

- (1) do so in accordance with the Code, and
- (2) at all times have:
  - (a) the tools and equipment in the quantity and of the type required by the Code,
  - (b) the prescribed number of personnel who meet the prescribed training requirements as described in Schedule 5 of this Part.

## Division 2 - Fire Use

### 23. Fires For Cooking, Warmth And Ceremony

A person may light, fuel or make use of an open fire without a burning permit for cooking, warmth or ceremonial purposes if the burning is conducted in accordance with the following conditions:

- (1) before the fire is ignited, all combustible material will be removed for at least 30 cm in every direction from the perimeter of the fire,
- (2) the fire will not be closer than 3m to any snag, slash, standing tree or wooden structure;
- (3) the fire will not be more than 1m in diameter or 1m in height;
- (4) a shovel, or a pail containing at least 8 litres of water, will be kept near the fire at all times;
- (5) the fire will be completely extinguished before the person leaves the site of the fire.

### 24. Fires For Disposal Of Waste

A person authorized to occupy Band land may light, fuel, or make use of, an open fire on the land without a burning permit for the purpose of disposing of waste material consisting of paper, cardboard, lumber, brush, slash, stumps, trees or other woody debris, if the burning is conducted in accordance with the following conditions:

- (1) Prior to ignition, the person receives **written permission** from the Forestry Officer to ignite material;
- (2) piles of material to be burned will not exceed 2 m in height and 3 m in diameter or width;
- (3) during light-up and until all fires are extinguished there will be at least one person at the site who:
  - (a) actively patrols to prevent the fire from escaping and
  - (b) is equipped with the following:
    - i. a shovel;
    - ii. either an axe or a Pulaski;
    - iii. a pail containing at least 18 litres of water, or something that is at least equivalent to an 18 litre pail of water;
- (4) before any fires are ignited, all combustible material will be removed for at least 1 m in every direction from the perimeter of the pile of material to be burned;
- (5) the material to be burned will be a minimum of 5 m from any snag, slash, wooden structure or standing timber;
- (6) the person lighting, fuelling, or making use of the open fire will, immediately on the fire escaping or threatening to escape, provide, in addition to the person patrolling, 2

adult persons with suitable fire fighting tools, and will ensure that they make reasonable attempts to extinguish the fire;

- (7) no more than 2 burn piles may be ignited at one time;
- (8) ignited piles will have burned down to a smoldering condition before more piles are ignited.

## **25. Use Of Planned Fire**

- (1) When carrying out forest practices a person will:
  - (a) comply with fuel management requirements established in an operational plan, and
  - (b) use fire only in accordance with the conditions of a burning permit and the Code.
- (2) In accordance with the Code, a person who has carried out a planned fire that is in the nature of a broadcast burn will, after the burn, promptly:
  - (a) carry out an impact assessment of the site and soil conditions, and
  - (b) if the assessment shows that the effects of the planned fire were more severe than specified in the site plan or the operational plan, develop arehabilitation plan and submit it to the Forestry Officer for approval.
- (3) If the Forestry Officer approves the rehabilitation plan, the person who submitted the plan will implement it.

## **26. Council May Except Band Land**

Council may except Band land from some or all provisions of Division 2, Part 9, if Council determines that the resources and land of the Band are adequately managed and protected.

## **27. Fires Not Permitted**

The Forestry Officer may suspend, cancel or restrict burning in an area that has been excepted under the Code if he or she:

- (1) considers it necessary to limit the risk of a forest fire, and
- (2) in or near the area, posts or broadcasts, or both, a notice of the suspension, cancellation or restriction.

## **28. Issuing A Burning Permit**

The Forestry Officer may issue a burning permit containing the conditions that are:

- (1) in accordance with the Code, and
- (2) considered appropriate by the Forestry Officer issuing the permit.

## **29. Suspension, Cancellation Or Variation Of Burning As A Precaution Against Forest Fires**

The Forestry Officer may, where necessary as a preventative measure to limit the risk of a forest fire starting:

- (1) suspend, cancel or restrict the use of all burning permits issued for the area,
- (2) order that a person will not light, fuel or make use of an open fire in the area for any purpose referred to, and
- (3) in a notice served on its holder, vary, suspend, cancel or restrict the use of a burning permit.

### **Division 3 - Wildfire Control**

#### **30. Initial Fire Suppression**

- (1) A person carrying out an industrial activity will take appropriate action when a fire is first discovered to:
  - (a) contain or limit the spread of the fire, and
  - (b) if possible, extinguish the fire.
- (2) The person will commit, if necessary to meet the requirements of Article 30(1):
  - (a) all employees of the person who are working in the area of operation, and,
  - (b) all tools and equipment required by and under this Code, as well as any other tools and equipment that are available to the person.

#### **31. Restricted Area**

- (1) The Forestry Officer may, in a notice personally given, or in a notice that is published or broadcast in or near the area, order that for the period specified in the notice, that area is a restricted area, if the Forestry Officer considers it appropriate in a specified area:
  - (a) as a preventative measure to limit the risk of a forest fire starting,
  - (b) as a public safety measure to protect the public from an actual or potential fire or from fire control or suppression operations, or
  - (c) to avoid interference with fire control or suppression operations.
- (2) If an order made under Article 31(1) does not prevent a person from
  - (a) travelling to and from or occupying his or her residence, or
  - (b) carrying on or travelling to and from an operation of a type authorized under the order
- (3) A person entering a restricted area will comply with the Code.

#### **32. Order To Leave Area**

- (1) The Forestry Officer may order a person to leave an area specified in the order if the provincial government or Band is engaged in fire control or suppression operations.
- (2) A person who receives an order under Article 31(1) will immediately comply with the requirements of the order.

- (3) The Forestry Officer may make an order under Article 31(1) whether or not the area specified in the order has been declared a restricted area.

### **33. General Duty To Report A Fire**

- (1) A person who sees a fire burning on Band land, that appears to be unattended or burning without any precautions taken to extinguish or prevent its spread, will immediately report the fire to the Forestry Officer, Council or designate and the British Columbia Ministry of Forests.

### **34. Prohibition**

- (1) Except for the purpose of starting a fire in accordance with this Code, a person will not drop a burning substance on Band land.
- (2) A person who contravenes Article 34(1) will immediately take all reasonable steps to extinguish the burning substance.

### **35. Obligation Of Person Starting Fire**

- (1) A person will take the actions required if the person does any of the following things on Band land:
  - (a) starts or causes a fire, otherwise than as permitted by the regulations;
  - (b) starts or causes an open fire that spreads beyond the area authorized or intended for burning or otherwise becomes out of control.
- (2) A person to whom this applies will:
  - (a) immediately take all reasonable steps to extinguish the fire, if the fire can be extinguished, and after that to report the fire in accordance with 3 3(1), or
  - (b) if it appears the fire cannot be extinguished by the person, immediately report the fire in accordance with 3 2(1).

### **36. Fire Suppression Responsibilities Of A Person Engaged In An Industrial Activity**

If a person is carrying out an industrial activity and a fire occurs on Band land within 1 km of a person's area of operation, that person:

- (1) will report the fire to the Forestry Officer or Council or designate, and the British Columbia Ministry of Forests; and
- (2) carry out initial fire suppression in accordance with the regulations.

## **Division 4 - Rehabilitation**

### **37. Site Rehabilitation**

- (1) A person who carries out fire control or fire suppression operations will stabilize all fire access trails, fire guards and other fire suppression works to ensure that natural drainage patterns are maintained and surface soil erosion is minimized.

- (2) Without limiting Article 37(1), a person carrying out rehabilitation will include the following activities:
  - (a) stabilization and revegetation of soil disturbed or exposed by heavy equipment;
  - (b) disposal of slash and debris;
  - (c) stabilization of the stream channel and stream bed at stream crossings;
  - (d) stabilization of sump and dam locations.
- (3) A person responsible for stabilization activities under Article 37(1) will prepare and submit a site rehabilitation plan to the Forestry Officer for approval not later than 10 days after the fire is suppressed if heavy equipment was used to construct fire access trails, fire guards, fire camps, staging areas or heliports.

### **Schedule 1 – Forest Fire Risk Classification**

1. The activities of industrial operations have the risk classifications assigned to them in Table 1.
2. If an industrial operation includes more than one component activity, each activity is subject to this regulation.
3. An activity not specifically listed in Table 1 is deemed to be risk classification A.



**Table 1 - Risk Classification by Activity**

Risk Classification A (High)	Risk Classification B (Moderate)	Risk Classification C (Low)
Blasting Bucking - power saw Bucking - tree processor Log barking Log skidding - ground system Log yarding - cable logging Metal cutting, grinding or welding Rail grinding Road right of way grass Sawmilling Silviculture - using small engines Silviculture - use large engines Trail building - using small engines	Bucking, at landing Firewood cutting Land clearing Log forwarding Log yarding - helicopter Mining explorations Right of way clearing or maintenance Trenching	Bitumen processing - portable plant Bridge building Drilling Equipment transportation Excavating Fencing Gas or oil well operation Gravel processing, loading and hauling Guiding and packing Log sorting or reloading Log hauling Log loading Log scaling
Tree felling Wood chipping Wood processing		Log dumping Mining operations Mowing Pipeline construction Plant harvesting Power line construction Prospecting Quarrying Railway construction or maintenance Ranch operation Road construction or maintenance Silviculture - using hand tools Surveying or engineering Timber cruising Tourism resort operation Trail building - using hand tools

**Schedule 2 – Quantities of Equipment Required for a Central Equipment Cache**

Column 1 Number of persons	Column 2 Portable Pump Units	Column 3 Pulaski tools/ Shovels	Column 4 Hand-tank Mattocks	Column 5 Pumps
1-10	0	0	0	0
11-20	1	4	4	2
21-40	2	6	6	4
41-60	3	10	8	6
61-80	4	14	10	8
81-100	5	20	12	12
101+	6	22	14	14

### Schedule 3 – Fire Danger Class (DGR)

Buildup	Fire Weather Index (FWI)				
Index (BUI)	0	1-7	8-16	17-30	31+
0-19	I	II	II	III	III
20-42	II	II	III	III	IV
43-69	II	III	III	IV	IV
70-118	II	III	IV	IV	V
119+	III	III	IV	V	V

### Schedule 4 – Restrictions on Industrial Operations

Column 1 Fire Danger Class (DGR)	Column 2 Risk Classification	Column 3 Restriction	Column 4 Duration
III (Moderate)	A or B	After 3 consecutive days of DGR III maintain a fire watch after work for 1 hour	Until the fire danger class falls below DRG III
IV (High)	A	Maintain a fire watch after work for 1 hour  After 3 consecutive days of DGR I or greater, cease activity between 1 p.m. and 9 p.m. local time each day	Until the fire danger class falls below DGR III  Until the fire danger class falls to DRG III for 2 consecutive days, or until the fire danger class falls to DGR II or DGR I
	B	Maintain a fire watch after work for 1 hour	Until the fire danger class falls below DGR III
V (Extreme)	A	Maintain a fire watch after work for 1 hour  After 2 consecutive days of DGR V, cease all activity all day	Until the fire danger class falls below DGR III  Until the fire danger class falls below DGR V, then resume the activity except between 1 p.m. and 9 p.m. local time, or until the fire danger class falls to DGR III
	B	Maintain a fire watch after work for 1 hour  After 3 consecutive days, cease activity between 1 p.m. and 9 p.m., local time each day	Until the fire danger class falls below DGR III  Until the fire danger class falls to DGR IV for 3 consecutive days, or until the fire danger class falls to DGR III

## **Schedule 5 – Training Requirements**

1. A person carrying out an industrial activity must ensure at all times during the operation that a person in charge is present on the site who has been trained to a level acceptable to the council in the areas of fire suppression techniques, fire behaviour and fire line safety.
2. The following courses are prescribed for the purposes of Part 9, Article 22(2)(b) of the Code:
  - (a) Fundamentals of Fire Fighting s-130 (B.C.);
  - (b) Safety and Fire Behavior s-190 (B.C.);
  - (c) Portable Pumps and Water Use s-232 (B.C.);
  - (d) courses that, in the opinion of the Forestry Officer, are the equivalent of a course referred to in paragraphs (a) to (c).

## Part 10 – Forest Licence

### 1. Requirement Of A Forest Licence

- (1) The Council may issue a forest licence to a company wholly owned and controlled by, or established for the benefit of, the McLeod Lake Indian Band;
- (2) The Council may issue one or more forest licences.

### 2. Content Of A Forest Licence

A forest licence:

- (1) will be for a term not exceeding 15 years;
- (2) will specify an area of Band land within which its holder may harvest timber;
- (3) will require its holder to pay to the Band, in addition to other amounts payable under this Code, stumpage under Part 16;
- (4) will provide for cutting permits to be issued by the Council, within the limits provided in the forest licence and subject to this Code, to authorize its holder to harvest the allowable annual cut, from specified areas of Band land, and
- (5) may make provision for timber or other forest products to be harvested by persons under contract with its holder.

### 3. Replacement

- (1) Unless a forest licence provides that a replacement for the forest licence will not be offered, the Council, during the 6 month period following the fourth anniversary of the exiting forest licence, will offer its holder a replacement for the forest licence.
- (2) Despite Article 3(1), if the Council determines that
  - (a) the rights under the existing forest licence are under suspension, or
  - (b) the holder of the existing forest licence has failed to:
    - i. pay stumpage or other money payable in respect of timber harvested under the forest licence,
    - ii. perform an obligation under the forest licence to be performed by the holder in respect of an area of land specified in a cutting permit,
    - iii. comply with the requirement of the Code in respect of an area of land referred to in Article 3(2)(b)ii,the Council, to the extent provided in the Code,
  - (c) may decline to offer a replacement for the existing forest licence until:
    - i the suspension is rescinded,
    - ii the suspended rights are reinstated, or
    - iii the holder of the existing forest licence:

- (A) pays the stumpage or other money payable,
  - (B) performs the obligation to be performed under the existing forest licence in respect of land referred to in Article 3(2)(b)ii, or
  - (C) complies with the requirement of the Code in respect of land referred to in Article 3(2)(b)ii, and
- (d) may offer a replacement with special conditions.
- (3) A forest licence offered under this section will
- (a) have a term commencing
    - i on the fifth anniversary of the exiting forest licence, or
    - ii if the Council exercises the power conferred under Article 3(2)(c) on a date to be determined by the Council,
  - (b) be for a term equal to the lessor of
    - i 15 years, or
    - ii if the Council exercises the power conferred under Article 3(2)(c), a period, not exceeding the period referred to in Article 3(3)(b)i, to be determined by the Council,
  - (c) specify the Band land specified in the existing forest licence,
  - (d) subject to takings, reductions and deletions authorized or required under this Code, specify an allowable annual cut that may be harvested under it equal to the allowable annual cut under the existing forest licence, and
  - (e) include other terms and conditions, consistent with this Code.
- (4) An offer made under this Article may be
- (a) amended, and
  - (b) accepted by written notice of acceptance served on the Council not later than 3 months after the offer is served.
- (4) If an offer made under this Article is accepted
- (a) an agreement in the form of a forest licence containing the terms and conditions set out in the offer, including amendments, must be entered into by the Council and the holder of the forest licence, and
  - (b) the forest licence then in force expires on the commencement of the replacement licence.
- (5) If an offer made under this Article is not accepted, the existing forest licence continues in force until its term expires, after which it has no further effect.
- (6) No forest licence is renewable.

## **Part 11 – Cutting Permits**

### **1. Requirement Of A Cutting Permit**

- (1) No timber will be harvested, cut, or removed unless a cutting permit has been issued by the Council;
- (2) The Council will only issue cutting permits when there has been compliance with Parts 3, 4, 5, 6, 7, 8, 9, of the Code;
- (3) The Council will only issue cutting permits when there has been an environmental screening of the harvest proposal in accordance with the Canadian Environmental Assessment Act (CEAA);
- (4) The Council may issue cutting permits to any of the following:
  - (a) the McLeod Lake Indian Band, or any member thereof;
  - (b) a company wholly owned and controlled by, or established for the benefit of, the McLeod Lake Indian Band; or
  - (c) any person who is not a member of the Band.
- (5) Notwithstanding any other provision in the Forest Practices Code and provided a forest licensee has complied with all written terms and conditions of its forest licence issued by the Council pursuant to the Land Code, the Council shall issue or grant such licensee a cutting permit pursuant to these cutting permits provisions.

### **2. Content Of A Cutting Permit**

- (1) A cutting permit will include the following:
  - (a) an approved site plan;
  - (b) a approved CEAA environmental screening;
  - (c) a schedule of road use;
  - (d) the authorized timber mark;
  - (e) the stumpage rate for timber harvested on;
    - i. the area of harvest in the block;
    - ii. the area of harvest to access the block.
- (2) An authorized cutting permit will be signed by:
  - (a) the Forestry Officer;
  - (b) a quorum of Council.

## **Part 12 - Investigations and Enforcement**

### **Inspecting, Stopping and Seizing**

#### **1. Powers Of Forestry Officer**

The Forestry Officer is empowered to enforce the Code including investigations into allegations of non-compliance with the Code and the assessments of penalties.

#### **2. Entry And Inspection**

- (1) For any purpose related to the administration or enforcement of the Code, the Forestry Officer may enter any building or land, at any reasonable time, other than a dwelling house or a room being used as a dwelling, if the Forestry Officer has reasonable grounds to believe that the land or premises:
  - (a) has located on it timber that is required to be scaled or marked with a Band timber mark;
  - (b) is the site of timber harvesting that is regulated under this Code;
  - (c) is the site of forest practices that are regulated under this Code or is carried on by a person who is required under the Code to hold a licence or permit to carry out that forest practice;
  - (d) is the site of trading in botanical forest products;
  - (e) is the site of an activity that requires a permit, plan or approval under the Code;
  - (f) is the site of an industrial activity being carried out in or within 1 km of a forest.
- (2) The Forestry Officer may, at any reasonable time, enter on Band lands that are in or within 1 km of a forest to inspect for fire hazards if the Forestry Officer has reasonable grounds to believe that an activity is being carried out or a condition exists on the land that might cause or produce a fire hazard.
- (3) The Forestry Officer who enters on land or premises under this Article may:
  - (a) inspect any thing or any activity that is reasonably related to the purpose of the inspection, and
  - (b) require production for the purposes of inspection or copying of:
    - i. a licence, permit or operational plan that is required for the activity, and
    - ii. a record required to be kept under the regulations.

#### **3. Inspection Of Vehicle Or Vessel Carrying Forest Products**

For any purposes related to the administration and enforcement of the Code, the Forestry Officer may at any time stop and inspect a vehicle or vessel on Band lands if the Forestry Officer has reasonable grounds to believe it :

- (1) contains or is transporting timber, special forest products, botanical forest products or hay, and

- (2) is under the operation or control of any person.

#### **4. Production Of Records**

- (1) The Forestry Officer may by written order require the holder of an agreement within the time specified in the order, to produce records that are:
  - (a) related to an activity that requires a permit, plan or approval under the Code, and
  - (b) specified or otherwise described in the order.
- (2) At any reasonable time the Forestry Officer may enter the business premises of a holder of an agreement under the Code where records are kept for the purposes of inspecting or copying records that are required to be kept under the Code.

#### **5. Obligation Of The Forestry Officer**

The Forestry Officer who conducts an inspection under this Part will provide proof of identity to the person who has apparent custody or control of the property or activity being inspected on the request of that person.

#### **6. Obligation Of Person Inspected**

- (1) A person will not obstruct the Forestry Officer in the lawful exercise of an inspection.
- (2) The operator of a vehicle or vessel will stop the vehicle or vessel when required to do so by the Forestry Officer.
- (3) A person who:
  - (a) has apparent custody or control of the land, premises, records or other property that is being inspected,
  - (b) is in charge of the activity that is being inspected, is operating a vehicle or vessel that is stopped will, on request of the Forestry Officer, produce proof of identity.

#### **7. Special Investigations**

In accordance with the Code, Council may carry out special investigations to determine:

- (1) compliance with the requirements of the Code, and
- (2) the appropriateness of the enforcement of the Forestry Officer under the Code.



## Part 13 - Penalties

### Administrative Remedies

#### 1. Penalties

- (1) If the Forestry Officer determines that a person has contravened the Code, the Forestry Officer may levy a penalty against the person up to the amount provided in the Schedule of Penalties herein.
- (2) If a person's employee, agent or contractor contravenes the Code in the course of carrying out the employment, agency or contract, the person also commits the contravention.
- (3) If a corporation contravenes the Code, a director or officer of it who authorized permitted or acquiesced in the contravention also commits the contravention.
- (4) Before the Forestry Officer levies a penalty, he or she:
  - (a) will consider any policy established by Council, and,
  - (b) subject to any policy established by Council may consider the following:
    - i. previous contravention of a similar nature by the person;
    - ii. the gravity and magnitude of the contravention;
    - iii. whether the violation was repeated or continuous;
    - iv. whether the contravention was deliberate;
    - v. any economic benefit derived by the person from the contravention;
    - vi. any other considerations that Council may prescribe.
- (5) The Forestry Officer who levies a penalty against a person under this Article, or any other Article, will give a notice of determination to the person setting out all of the following:
  - (a) the nature of the contravention;
  - (b) the amount of the penalty;
  - (c) the date by which the penalty will be paid;
  - (d) the person's right to a review and appeal.
- (6) For the purposes of Article (1) the Forestry Officer may prescribe penalties that vary according to:
  - (a) the area of land;
  - (b) the volume of timber;
  - (c) the number of trees, or
  - (d) the number of livestock affected by the contravention.

#### 2. Remedial Orders

- (1) If the Forestry Officer determines that a person has contravened the Code, he or she, in a notice of determination, may order the person to do work to remedy the contravention:
  - (a) by requiring the holder to carry out forest practices:
    - i. that is required by the Code, and
    - ii. that the holder has failed to carry out, or
  - (b) by requiring the holder to repair any damage caused by the contravention to the land on which forest practices were carried out.
- (2) The Forestry Officer who orders work to be done will give a notice of determination to the person setting out all of the following that is applicable:
  - (a) the nature of the contravention;
  - (b) the nature of the work to be done to remedy the contravention;
  - (c) the date by which the work will be completed;
  - (d) the person's right to a review and appeal;
  - (e) the right of the Band to carry out the work and levy a penalty if the person fails to comply with the order.
- (3) If a person fails to comply with an order by the date specified in a notice given under Article (2), the Forestry Officer may do one or more of the following:
  - (a) in a notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order.
  - (b) realize on any security the person was required to provide under the Code.
- (4) If the Forestry Officer carries out work under Article (2) he or she may levy against the person who has failed to comply with the order a penalty in an amount the Forestry Officer determines to be equal to the expenses incurred in carrying out the work.
- (5) If the Forestry Officer carries out work that results from a contravention, the person who failed to comply with the order may pay a penalty of up to twice the amount the Forestry Officer determines to be equal to the expenses incurred in carrying out the work
- (6) If security is realized, the person will immediately replace the security to the extent it has been realized.

### **3. Penalties For Unauthorized Timber Harvesting**

- (1) If the Forestry Officer determines that a person has cut, damaged, removed or destroyed timber in contravention of the Code, he or she may levy a penalty against the person up to an amount equal to the greater of \$200/m<sup>3</sup> of timber affected and \$100,000 per ha of timber affected.

- (2) The Forestry Officer who determines that a person has cut, damaged, removed or destroyed timber in contravention of the Code, may levy a penalty against the person up to an amount equal to his or her determination of:
  - (a) the cost that will be incurred by the Band in re-establishing a free growing stand on the area, and
  - (b) the costs that were incurred by the Band in applying silviculture treatments to the area that were rendered ineffective because of the contravention.

#### **4. Notice Of Determination That A Person Contributed To A Fire**

The Forestry Officer who makes a determination that a person caused a fire, failed to comply with the Code or contributed to the cause or spread of a fire will give the person a notice of determination setting out sufficient information to enable the person to respond to the determination.

#### **5. Extension Of Notice Of Determination**

- (1) The Forestry Officer may extend a date referred to in a notice of determination under this division.
- (2) Any penalty or charge is due on the date set out in the notice of determination, unless the person requests a review in which case it is due on the date the stay ceases to apply.

#### **6. Policies And Procedures Established By The Council**

- (1) The Council may establish, vary or rescind policies and procedures respecting penalties and remediation orders.
- (2) Before the Forestry Officer levies a penalty or makes an order, the Forestry Officer will consider any applicable policy or procedure established under this Article.
- (3) The policies and procedures established, varied or rescinded will be made available for inspection by any person.

#### **7. Stopwork Order**

- (1) If the Forestry Officer considers that a person is contravening a provision of the Code, the Forestry Officer, in accordance with the Code may order that the contravention cease, or cease to the extent specified by the order until the person has a required licence, permit, plan, prescription or approval.
- (2) An order under this Article may be made to apply generally or to one or more persons named in the order.

#### **8. Suspension Or Cancellation Of Burning Permit**

The Forestry Officer may, in a notice served on the holder of a burning permit, suspend or cancel a burning permit, if the Council determines that the holder of the burning permit:

- (1) is not complying with the permit,
- (2) has contravened the Code.

## **9. Determination Not Effective Until Proceedings Concluded**

A determination that may be reviewed does not become effective until the person who is the subject of the determination has no further right to have the determination reviewed or appealed.

## **10. Right Of Review**

- (1) A person who is the subject of a determination, a penalty, or an order by the Forest Officer, may deliver to Council a written request for a review of the determination.
- (2) The person will attach, as part of the request, a written statement explaining why the person believes the determination is wrong.
- (3) The person will deliver the request to Council not later than 7 days after the date the notice of determination was given to the person.
- (4) Before or after the time limit expires, Council may extend it.
- (5) A person who does not deliver the request for a review within the time specified loses the right to a review.

## **11. Council Review**

- (1) Within 30 days of receipt of a written request for a review of a determination, the Council will review the determination.
- (2) The Council may confirm, rescind or vary the determination.

## **12. Extension Of Time**

The council may extend a time required to do anything under the Code other than a review or appeal of a determination or the time to commence a proceeding.

## **13. Taking Remedial Action Does Not Affect Penalties**

Taking remedial action after a contravention has occurred does not affect any fine or penalty to which a person may be liable under the Code, for the contravention.

## **14. Administrative Remedies**

- (1) The Council may make standards respecting administrative remedies.
- (2) Without limiting the generality of Article (1), the Council may make regulations respecting fees, charges and penalties in cases where there is a failure to comply with the requirements of the Code.

### Schedule 1: Schedule of Penalties

Part 3 Section 1	Failure to carry out forest practices in a manner consistent with subsections (1), (2), (3), (4), or (5).	\$50,000
Part 3 Section 6	Failure to carry out timber harvesting in accordance with the silviculture system and harvesting methods, and during the season, required by the site plan, the regulations or the standards.	50,000
Part 3 Article 6(1)(p)	Harvesting or damaging trees that are required by the site plan to be left standing or undamaged.	5,000
Part 3 Article 19(1)	Failure of a person who has a specified operational plan to submit an amendment to the plan or a new plan for approval if required.	5,000
Part 3 Article 19(2)(b)	Carrying out an operation under an operational plan before a required amendment or a new plan has been approved.	5,000
Part 4 Article (1) and (2) and Part 10 Article (1)	Cutting, removing, damaging or destroying timber without authorization.	the greater of \$200 per m <sup>3</sup> of timber affected and \$100,000 per ha of timber affected.
Part 4 Article 2	Causing or permitting livestock to be ridden or driven on, or to graze on land without authorization.	10,000
Part 4 Article 3(1)	Failure to obtain consent before constructing or rehabilitating a trail or campsite.	5,000
Part 4 Article 7(1)	Permitting the wheels or tracks of ground-based machinery within 5 m of a stream bank.	10,000
Part 4 Article 7(2)	Fueling or servicing machinery within a riparian reserve zone or riparian management zone or within 30 m of a lakeshore.	10,000
Part 4 Article 8	Harvesting, felling or modifying trees within a riparian reserve zone where no approval has been provided.	50,000
Part 4 Article 9(1)	Carrying out forest practices that result in damage to the environment.	50,000
Part 4 Article 9(3)	Carrying out forest practices if he or she knows or should reasonably know that, due to weather conditions or site factors, the carrying out of forest practices may result, directly or indirectly, in significant damage to the environment.	50,000
Part 4 Article 9(4)	Failure of a person who contravenes Part 3 Article 9(1) or (3) to take required action.	20,000
Part 4 Article 9(5)	Inappropriately resuming forest practices that were stopped under Part 3 Article 9(4)a.	20,000
Part 5 Article 1(1)	Exceeding the permanent access structure limit.	50,000
Part 5 Article 1(3)	Failure to carry out required site rehabilitation measures.	50,000
Part 5 Article 3	Failure to construct or modify a road in accordance with all of the requirements.	50,000

Part 5 Article 3(1)a	Failure to provide for user safety when constructing or modifying, maintaining or deactivating a road.	20,000
Part 5 Article 3(1)b	Failure to protect forest resources when constructing or modifying, maintaining or deactivating a road.	50,000
Part 5 Article 3(1)c	Failure to maintain surface drainage structures when constructing or modifying, maintaining or deactivating a road.	10,000
Part 5 Article 3(1)d	Failure to protect water quality when constructing or modifying, maintaining or deactivating a road.	5,000
Part 5 Article 3(1)e	Failure to protect stream bank stability when constructing or modifying, maintaining or deactivating a road.	10,000
Part 5 Article 3(1)f	Failure to ensure the safe passage of fish when constructing or modifying, maintaining or deactivating a road.	5,000
Part 5 Article 3 (1)g	Failure to protect fish habitat when constructing or modifying, maintaining or deactivating a road.	5,000
Part 5 Article 3(1)h	Failure to protect structural integrity of the road and drainage systems when constructing or modifying, maintaining or deactivating a road.	10 ,000
Part 5 Article 3(1)i	Failure to maintain slope stability when constructing or modifying, maintaining or deactivating a road.	10,000
Part 5 Article 3(1)j	Failure to minimize surface soil erosion when constructing or modifying, maintaining or deactivating a road.	10,000
Part 5 Article 3(1)k	Failure to minimize sediment entering into streams when constructing or modifying, maintaining or deactivating a road.	10,000
Part 5 Article 3(2)a	Failure to ensure that the road surface has surface materials of a type necessary to allow the road to carry the design wheel loads during the periods of use.	10,000
Part 5 Article 3(2)b	Failure to ensure the road surface has surface materials that will minimize surface erosion of the road.	50,000
Part 5 Article 3(3)	Failure to revegetate the required areas.	5,000
Part 5 Article 3(4)	Depositing slash, debris or erodible soil in prohibited areas.	20,000
Part 5 Article 4	Failure to obtain approval for a road layout and design before constructing or modifying a road to which the permit applies.	20,000
Part 5 Article 7(1)	Failure to remove from within the road prism width, if required, stumps, roots, embedded logs, topsoil and soils that are not capable of supporting the road and applied vehicle loads.	2,000
Part 5 Article 7(3)a	Failure to minimize ground disturbance when constructing or modifying a snow road.	10,000
Part 5 Article 7(3)b	Removing gravel or fill from riparian management zones without the prior approval of the Forestry Officer.	10,000
Part 5 Article 9(1)	Failure to modify or stop road construction or modification in vicinity of fisheries-sensitive zone.	10,000

Part 5 Article 9(2)	Failure to construct crossings in fish streams in accordance with timing windows and measures provided by the designated environment official.	50,000
Part 5 Article 13(1)	Failure to obtain authorization from the Forestry Officer prior to modifying a deactivation prescription if required.	50,000
Part 5 Article 13(3)	Failure to deactivate a road.	50,000
Part 5 Article 13(4)	Failure to post information respecting deactivation of roads as required.	20,000
Part 5 Article 14(2)b	Modifying a deactivation prescription without consent.	50,000
Part 5 Article 15	Failure to deactivate a road in accordance with timing windows and measures for works in and around streams.	50,000
Part 5 Article 16(1)	Failure to remove, repair or replace those bridges that may place users at risk during semi-permanent deactivation.	10,000
Part 5 Article 17(1)	Using a road for timber harvesting and related forest practices without authorization.	10,000
Part 6 Article 4(1)	Constructing an excavated or bladed trail that is not provided for in an operational plan or authorized by the Forestry Officer.	10,000
Part 6 Article 4(2)	Failure to meet requirements when constructing excavated or bladed trails.	20,000
Part 6 Article 4(3)	Failure to rehabilitate the area occupied by an excavated or bladed trail in the required areas.	50,000
Part 6 Article 4(4)	Failure to rehabilitate the area occupied by an excavated or bladed trail in accordance with Part 6 Article 4(4).	50,000
Part 6 Article 5(1)	Constructing a landing within 30 m of a fish stream.	20,000
Part 6 Article 5(2)	Failure to rehabilitate a landing in accordance with the requirements.	20,000
Part 6 Article 6	Harvesting in a riparian reserve zone of a stream wetland or lake without approval.	50,000
Part 6 Article 7(1)	Constructing a temporary stream crossing without authorization	10,000
Part 6 Article 7(2)a	Failure to protect a stream channel and stream bank when constructing and using a temporary stream crossing.	20,000
Part 6 Article 7(2)b	Failure to mitigate disturbance to stream channel or stream bank when constructing and using a temporary stream crossing.	20,000
Part 6 Article 7(3)	Failure to construct, repair or remove a temporary stream crossing in accordance with timing windows or measures.	20,000
Part 6 Article 7(4)	Failure to remove a temporary stream crossing.	20,000
Part 6 Article 8	Unauthorized removal of stable natural material or a root system.	20,000

Part 6 Article 9(1) and (2)	Using as a log drop area, the littoral zone of a fresh water system or water that is less than 10 m deep.	50,000
Part 6 Article 10(1)	Felling trees onto streams, lakes, wetlands, marine-sensitive zones or fisheries-sensitive zones.	10,000
Part 6 Article 10(2)	Yarding or skidding trees through or over a stream or fisheries-sensitive zone unless authorized.	5,000
Part 6 Article 11	If burning of landing and roadside accumulations is required, failure to complete the burning in the first burning season after use or before the insects emerge, if it is insect infested.	1,000
Part 6 Article 12	Failure to rehabilitate compacted areas and areas occupied by corduroyed trails.	20,000
Part 6 Article 13(1)	Exceeding the limit for soil disturbance specified in Part 6Article 13(1).	100,000
Part 6 Article 13(2)	Failure to carry out required site rehabilitation measures.	50,000
Part 7 Article 2	Failure to prepare and obtain approval of a stand management prescription for an area before carrying out a silviculture treatment on the area.	5,000
Part 7 Article 2(2)	Failure to carry out the silviculture treatment in accordance with a stand management prescription.	10,000
Part 7 Article 9(1)	Failure to take that all necessary measures to meet the requirements, when using livestock for site preparation or brush control.	2,000
Part 7 Article 9(2)	Constructing a livestock corral within a riparian reserve zone, riparian management zone or on a site that drains directly into a stream, lake or other prohibited watercourse.	2,000
Part 7 Article 9(3)	Failure to notify the Forestry Officer before the arrival of the livestock.	2,000
Part 7 Article 9(4)	Using livestock that fail to meet the health certifications and health inspections.	2,000
Part 7 Article 10	Failure to store, handle and apply fertilizer in a manner that protects forest resources.	5,000
Part 7 Article 11	Failure to destroy insect brood before the insects emerge when using trap trees or pheromones to concentrate insect populations.	5,000
Part 9 Article 2(1)(a)	Failure of a fire watcher to watch for sparks and fires.	1,000
Part 9 Article 2(1)(b)	Failure of a fire watcher to report any fires as required.	1,000
Part 9 Article 2(1)(c)	Failure of a fire watcher to assist in fighting any fire that occurs in the area being watched by the fire watcher.	2,000
Part 9 Article 2(3)	Failure of a person carrying out an industrial activity to ensure that a fire watcher has access to the specified tools and equipment.	2,000



Part 9 Article 3(1)	Failure of a person carrying out an industrial activity to ensure that the specified fire fighting tools are kept at the work site.	2,000
Part 9 Article 3(2)	Failure of a person carrying out an industrial activity to ensure that the specified fire fighting tools are kept at the work site.	2,000
Part 9 Article 4	Failure of a person carrying out an industrial activity to ensure that every large engine used in an industrial activity has the specified fire fighting tools.	2,000
Part 9 Article 5	Failure of a person carrying out an industrial activity to ensure that the specified fire fighting tools are kept at each work site where hot work is performed.	2,000
Part 9 Article 6	Failure of a person carrying out an industrial activity using explosives to ensure that the specified fire fighting tools are kept as required.	2,000
Part 9 Article 7(1)	Failure of a person carrying out an industrial activity using helicopters to ensure that a specified water bucket is kept as required.	2,000
Part 9 Article 7(2)	Failure of a person carrying out a logging operation to ensure that all helicopters used in the operation are properly equipped and maintained to operate fire fighting equipment.	2,000
Part 9 Article 7(2)(b)	Failure of a person carrying out a logging operation to ensure that all helicopters used in the operation are operated by pilots who are knowledgeable about the use of fire fighting equipment.	2,000
Part 9 Article 8(2)	Failure of a person carrying out an industrial activity that includes activities with specified risks to ensure that each work site has the specified water delivery systems.	2,000
Part 9 Article 9(1)	Failure of a person carrying out an industrial activity with a specified risk to ensure that necessary equipment is available as required.	2,000
Part 9 Article 10(1)	Operating a large engine without a safe and effective device for arresting sparks.	1,000
Part 9 Article 10(2)	Operating a large engine that operates in a stationary capacity without removing combustible material as requested.	1,000
Part 9 Article 10(3)	Failure of a person carrying out an industrial activity to ensure that the requirements of Article 10(1) and (2) are met.	2,000
Part 9 Article 11(1)	Operating a small engine without an effective muffler and fire extinguisher.	1,000
Part 9 Article 11(2)	Operating a small engine with an inappropriate muffler.	1,000
Part 9 Article 11(3)	Failure of a person carrying out an industrial activity to ensure that a small engine is equipped with an effective muffler and fire extinguisher.	2,000
Part 9 Article 12(1)	Performing hot work without a fire watcher.	1,000
Part 9 Article 12(2)	Failure of a fire watcher to remain at the site for a specified period.	1,000

Part 9 Article 13(1)	Failure of a person carrying out an industrial activity that is a cable logging system to meet the specified requirements.	2,000
Part 9 Article 15(1)	Failure of a person carrying out an industrial activity that involves a place that is a camp, mine, sawmill, refuse disposal site or processing facility, to ensure that a specified area is kept clear of combustible material.	2,000
Part 9 Article 15(2)	Failure of a person carrying out an industrial activity that involves a camp, mine, sawmill, refuse disposal site or processing facility, to dispose of all combustible material as required.	2,000
Part 9 Article 16	Using explosives at the site of an industrial activity to ensure that the activity is conducted in accordance with the specified requirements.	1,000
Part 9 Article 17(1)	Failure of a person carrying out an industrial activity to ensure that the activity is conducted in accordance with the specified requirements.	5,000
Part 9 Article 17(2)	Failure of a person carrying out an industrial activity to determine the industrial activity's risk classification and the fire danger class as required.	5,000
Part 9 Article 18(1)	Failure to assess the fire hazard in accordance with the regulations.	1,000
Part 9 Article 18(2)	Failure to submit the results of the fire hazard assessment to the Forestry Officer.	5,000
Part 9 Article 19	Failure to abate, remove or both abate and remove, the fire hazard as required by, and in accordance with the Code.	500 per ha
Part 9 Article 20(1)	Failure to apply for a burning permit before abating or removing a fire hazard by burning.	1,000
Part 9 Article 20(4)	Failure to carry out an alternate type of silviculture treatment specified in the site plan if required.	5,000
Part 9 Article 21	Failure to comply with a notice to remove or abate the fire hazard.	the greater of \$500 per ha and \$5,000
Part 9 Article 25(1)(a)	Failure to comply with fuel management requirements established in an operational plan.	10,000
Part 9 Article 25(1)(b)	Failure to use fire only in accordance with the conditions of a burning permit and the Code.	10,000
Part 9 Article 25(2)(a)	Failure to carry out an impact assessment of the site and soil condition where required.	5,000
Part 9 Article 25(2)(b)	Failure to develop a rehabilitation plan and submit it to the Forestry Officer for approval where required.	5,000
Part 9 Article 25(3)	Failure to implement an approved rehabilitation plan.	5,000
Part 9 Article 28(1)	Failure to comply with a notice respecting conditions attached to a burning permit.	1,000
Part 9 Article 29(1)	Failure to comply with a notice respecting the use of a burning permit.	1,000

Part 9 Article 30(1)	Failure of a person carrying out an industrial activity to take appropriate action when a fire is discovered.	5,000
Part 9 Article 30(2)	Failure of a person to provide the specified resources if required.	5,000
Part 9 Article 31(1)	Entering a restricted area without the written consent of the Forestry Officer.	1,000
Part 9 Article 31(1)	Failure to immediately comply with the requirements of an order under Part 9 Article 31(1).	1,000
Part 9 Article 31(3)	Failure to comply with the code in a restricted area.	1,000
Part 9 Article 33(1)	Failure to immediately report the fire as required.	1,000
Part 9 Article 34(1)	Dropping a burning substance, in or within 300 m of a forest.	2,000
Part 9 Article 34(2)	Failure to immediately take all reasonable steps to extinguish a burning substance that was inappropriately dropped.	2,000
Part 9 Article 35(2)(a)	Failure, if required, to immediately take all reasonable steps to extinguish a fire, if the fire can be extinguished, and after that to report the fire.	2,000
Part 9 Article 35(2)(b)	Failure, if required and it appears the fire cannot be extinguished by the person, to immediately report the fire.	2,000
Part 9 Article 37(1)	Failure of a person who carries out fire control or fire suppression operations to stabilize areas as required.	5,000
Part 9 Article 37(2)	Failure of a person to carry out the required rehabilitation activities.	5,000
Part 9 Article 37(3)	Failure of a person responsible for stabilization activities to prepare and submit a site rehabilitation plan where required.	5,000

## **Part 14 - Administrative Matters**

### **1. Forestry Officer**

- (1) The Forestry Officer will be appointed by the Council, and under its direction, will be responsible for carrying out the obligations for the Band pursuant to this Code.
- (2) The Forestry Officer is responsible for the administration and enforcement of the Code, including investigations into and allegations of non-compliance with the Code, and the assessment of penalties.

### **2. Forms**

The Council may prescribe forms for the purposes of this Code.

### **3. Fees**

The Council may make requirements respecting fees for the provision, under the Code, of a service by the Band, if any, to any person.

### **4. Security**

The Council may require security of any kind, including money, to be provided by the holder of an agreement under this Code.

### **5. Recovery Of Money**

The Council may make requirements respecting the recovery of money that is required to be paid to the Band under the Code.

### **6. Cost Of Performing Obligations**

- (1) If the Code requires a person to perform an obligation or otherwise comply with the Code, the person will do so at his or her own expense unless another provision of the Code specifically provides otherwise.
- (2) If a person is required under the Code to submit an operational plan or any other plan for approval to a person acting on behalf of the Band, any implementation of the plan or prescription is at the person's own expense.

### **7. Council To Establish Standards**

- (1) Based on sustainable forest practices, and upon recommendation of a professional forester, Council will establish standards for operational planning and forest practices respecting all of the following:
  - (a) biological diversity;
  - (b) forest practices ;
  - (c) timber quality standards for wood produced on areas that have been previously harvested;
  - (d) soil conservation;

- (e) silvicultural systems;
  - (f) roads and rights of way, including the location, survey, design, construction, maintenance and deactivation standards for various types of roads;
  - (g) timber harvesting, including:
    - i. felling and bucking,
    - ii. yarding and skidding,
    - iii. area marking,
    - iv. density, location, design, construction and rehabilitation of logging trails, landings and fireguards,
    - v. debris disposal,
    - vi. utilization standards, and
    - vii. cutblock size, shape and spatial distribution;
  - (h) silviculture, including vegetation management, seed, seedlings and propagule transfer and silviculture surveys;
  - (i) forest health;
  - (j) botanical forest products;
  - (k) range management, including range use, range development and weed control;
  - (l) recreation and wilderness management, including recreation use and resource enhancement and protection;
  - (m) fire use, prevention, control and suppression; the performance of surveys and assessments.
- (2) The Council may make requirements limiting the circumstances in which a standard may be set under the Part (1), and regulating the practice and procedure for setting the standards.

## **Part 15 - Annual Report And Annual Audit**

### **1. Annual Report**

- (1) The Forestry Officer will prepare and deliver to Council an annual report which will summarize for the previous fiscal year, the forest management operations and the current silviculture and reforestation status of Band lands.
- (2) The report will include:
  - (a) a summary of road construction and deactivation activity,
  - (b) a summary of harvesting activity,
  - (c) a summary of silviculture activity,
  - (d) a record of forest practices inspections conducted by the Forestry Officer,
  - (e) a record of forest practices violations,
  - (f) a record of forest practices penalty assessments,
  - (g) the applicable approved development plan map, and
  - (h) any other activities carried out.

### **2. Annual Audit**

The Band will instruct an independent professional forester to:

- (1) conduct an annual audit of forest practices on Band lands and
- (2) prepare and deliver to Council an annual audit report describing forest practices conducted over the past year, indicating the degree to which those forest practices comply with the Code and recommendations to bring the forest practices into compliance with the Code.

### **3. Reports Available For Review By Band Members**

The Band will post in a conspicuous place in the Band office at McLeod Lake, B.C. within 15 days of receipt a copy of the annual report and the annual audit report. Summaries of the annual report and annual audit will be mailed to each Band member 18 years of age and older within 30 days of receipt of the reports by the Band.

### **4. Council Will Provide An Annual Report Promptly**

The Band will promptly provide a copy of the annual report and annual audit report to Department of Indian Affairs and Northern Development and British Columbia Ministry of Forests.

## **Part 16 - Stumpage**

### **1. Stumpage Charges**

The Band will charge and collect stumpage on all forest products harvested from Band land.

### **2. Amount Of Stumpage**

- (1) The amount of stumpage payable to the Band will be determined by multiplying the volume or quantity of forest products reported in a scale by the rate of stumpage applicable to the cutting permit.
- (2) Stumpage will not be lower than a prescribed minimum, to be established by the Council from time to time but not less than once in each year during November of each year.
- (3) Notwithstanding any other provision in the McLeod Lake Indian Band Forest Practices Code, the Council may establish during the term of a licence issued to a person to harvest or cut merchantable timber from Band land pursuant to the Land Code, a prescribed minimum stumpage where the Council, acting reasonably, considers such licence to be in the best interest of the Band.

### **3. Stumpage Rate Determination**

The Forestry Officer will, subject to the approval of the Council, assess the value of the stand and determine the stumpage rate for the cutting permit, as follows:

- (1) determine the selling price of the forest products that can be recovered from the cutting permit,
- (2) determine the least total operating costs necessary to harvest and deliver the forest products from the cutting permit to the purchaser(s),
- (3) determine the indicated stumpage rate by deducting the costs in Article 2(2) from the selling prices in Article 2(1),
- (4) determine the final stumpage rate by selecting the greater of the indicated stumpage rate in Article 2(3) or the prescribed minimum.

### **4. Forest Products Stumpage Rates**

The Forestry Officer will determine stumpage rates by forest product within each cutting permit, based on the selling price and operating costs of each forest product.

### **5. Selling Price Of Forest Products**

The forest product selling price will be based on a sales agreement between the Band or its licensees and the purchaser.

## 6. Operating Costs

The operating costs will include harvesting, road construction, road maintenance, road deactivation, hauling, silviculture and administrative overhead.

- (1) Harvesting costs include, but are not limited to, expenses incurred for: felling, skidding, yarding, bucking, sorting, loading, fuel and equipment moves, crew accommodations, contractor overhead and profit and fringe benefits, lop and scatter, landing and roadside debris piling, skid and backspur trail construction, slashing and crew transport.
- (2) Road construction costs include, but are not limited to, expenses incurred for: new construction, reconstruction and replacement and access management. New construction is defined as the following phases: subgrade construction, placement of additional stabilizing material and installation of drainage and other pertinent structures. Reconstruction and replacement are defined as: replacement or structural repair of a major drainage structure (e.g., replacing stringers, cross ties or cribbing); major resurfacing, which means resurfacing sections of more than .3 km in length that were initially surfaced but have deteriorated due to long term wear and tear; major reconstruction, which means restoring at least .1 km of road (per occurrence) that requires complete rebuilding of the subgrade. Access management is defined as the temporary removal of a major drainage structure or construction of a barrier, including a gate, excavation, or placement of boulders with the purpose of temporarily eliminating all vehicle access.
- (3) Road maintenance costs include, but are not limited to road maintenance expenses incurred for: grading, snow plowing and freezing in, sanding, spot gravelling (< .3 km distance), culvert repairs and thawing, removal and replacement (< 950 mm), non-structural maintenance of bridges, bridge re-decking/wearing surface replacement, ditching, road use charges paid to other licensees, seasonal erosion control, roadside treatments, sign maintenance, dust control, brushing, minor flood and storm damage repair, slough removal (restricted to 250 cu.m. or less material volume per slough), water bar construction (seasonal), road ripping , cross ditch construction and grass seeding.
- (4) Road deactivation costs include, but are not limited to, expenses incurred for: permanent, semi-permanent or temporary deactivation and rehabilitation.
- (5) Hauling costs cover all aspects of log movement from the place of initial loading at the cutting permit to the purchaser, including truck, rail, water and other specialized transportation systems.
- (6) Silviculture costs include, but are not limited to, expenses incurred for: skid trail and backspur trail rehabilitation, three metre knockdown, landing and roadside debris disposal, and silviculture treatment costs that are required up to maturity.
- (7) Administrative overhead costs estimates are for the related administration and supervisory activities attributed to harvesting, road construction, road maintenance, road deactivation, hauling and silviculture that occur at the Band office, camp or operation. The costs include, but are not limited to, expenses incurred for: office operations, scaling, timber cruising, environmental protection, consultants fees and



expenses, engineering (road layout, survey and design and block layout), archaeological surveys, waste and residue surveys, tree marking and beetle probing and pheromone baiting.

## **7. Silviculture Account**

Payment of Silviculture Account:

- (1) The Band will establish a silviculture account into which will be deposited an amount equal to the silviculture costs described in Article 6(6).
- (2) The monies in the silviculture account will be used for silviculture treatment costs and expenditures only and for no other purposes.
- (3) The Band will produce within 90 days of the Band fiscal year end an audited financial statement of the silviculture account. The Council will deliver a copy of this financial statement to the Board of Trustees of the McLeod Lake Indian Band Trust and will make a copy available to any Band member upon request.

## **Attachment 1 - Cutting Permit Application**

## McLeod Lake Indian Band

### CUTTING PERMIT NO. \_\_\_\_\_

PURSUANT TO The McLeod Lake Indian Band, Forest Practices Code, this Cutting Permit is Issued to:

(the "Permittee")

#### **1.0 PERMIT AREA AND TERM**

- 1.01** Subject to the McLeod Lake Indian Band Forest Practices Code, the Permittee is authorized to harvest timber from the lands within the Cutting Permit Area that are designated for harvest on the map attached as Exhibit "A" to this cutting permit.
- 1.02** Subject to paragraph 1.03, the term of this Cutting Permit is one year, beginning on \_\_\_\_\_, 2003, and ending on \_\_\_\_\_, 2004.
- 1.03** Council, in a written notice given to the Permittee, may
- (a) extend the term of this Cutting Permit, and
  - (b) amend this Cutting Permit to the extent necessary to ensure it is consistent with the forest development plan in effect at the time this Cutting Permit is extended.

#### **2.0 SPECIAL CONDITIONS AND REQUIREMENTS**

- 2.01** The Permittee must comply with the conditions and requirements set out in the McLeod Lake Indian Band Forest Practices Code, and, as set out in Schedule "A" to this Cutting Permit, and agrees to be subject to those provisions relating to penalties, and remedial orders as provided in Part 12 of the said code.

#### **3.0 FELLING, BUCKING AND UTILIZATION SPECIFICATIONS**

- 3.01** Subject to paragraph 3.04, the Permittee must
- (a) fell standing timber of the species specified in Schedule "B" to this Cutting Permit, in accordance with the felling specifications set out in this schedule,

(b) buck felled and dead-and-down timber of the species referred to in subparagraph (a) in accordance with the bucking specifications set out in Schedule “B” to this Cutting Permit, and

(c) utilize all timber of the species and grades specified as obligatory utilization in Schedule “B” to this Cutting Permit if the timber meets the utilization specifications set out in that Schedule.

**3.02** Schedule “B” to this Cutting Permit may include a requirement that the Permittee fell other timber in addition to the timber referred to in subparagraph 3.01(a), in which case, subject to paragraph 3.04, the Permittee, must fell but need not remove such timber.

**3.03** Subject to paragraph 3.04, the Permittee may utilize

(a) timber of the species and grades specified as optional utilization in Schedule “B” to this Cutting Permit, and

(b) timber referred to in paragraph 3.02

**3.04** The Permittee must not fell standing timber, or must not buck or utilize felled or dead-and-down timber, as the case may be, if

(a) the timber is specified as reserved timber in Schedule “B” to this Cutting Permit, or

(b) under an operational plan, or standards referred to in the McLeod Lake Indian Forest Practices Code, the Permittee is required not to fell the timber, or not to buck or utilize the timber, for any reason, including silviculture, biodiversity or other forest management reasons.

#### **4.0 TIMBERMARK**

**4.01** The timber mark for timber harvested from McLeod Lake Indian Band Land is:

ML 0001(example)

**4.02** If directed to do so by the Forestry Officer, the Permittee must erect signs at all exits from the areas of land referred to in paragraph 1.01, clearly showing the timber mark(s) referred to in paragraphs 4.01.

**5.0 SCALE BASED STUMPAGE**

**5.01** For the purpose of determining the amount of stumpage payable in respect of timber harvested from areas of Band Land authorized for harvest under this Cutting Permit, the volume or quantity of timber harvested will be determined using information provided in a scale of the timber.

**5.02** The Permittee must ensure that

(a) all timber harvested from the areas of land referred to in paragraph 1.01 is scaled and,

(b) the scale of timber is conducted properly in accordance with the requirements of the government of British Columbia Forests Act, and the regulations made under that Act.

**6.0 ROADS**

**6.01** Subject to the McLeod Lake Indian Band Forest Practices Code, the Permittee may construct or modify roads under the authority of this Cutting Permit, authorized for harvest under this Cutting Permit if the roads are identified on an operational plan.

**7.0 MISCELLANEOUS**

**7.01** The Exhibit and the Schedules to this Cutting Permit are deemed to be part of this Cutting Permit.

DATED: \_\_\_\_\_  
(mm/dd/yy) Forestry Officer

Signed and authorized on behalf of the McLeod Lake Indian Band, by a quorum of council,

\_\_\_\_\_  
Councilor/Chief

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

## **Schedule A**

### **Special Conditions and Requirements**

1.00 Removal of Damaged Timber

This Cutting Permit only authorizes the harvesting of timber designated by the Council of the McLeod Lake Indian Band.

2.00 Orderly and Sanitary Condition

The Permittee shall, concurrently with harvesting operations, leave all areas in an orderly and sanitary condition.

3.00 Other Occupiers of Land

3.01 The rights granted under this Cutting Permit are subject to other rights of use and occupation, and the Permittee must not interfere with exercise of those rights.

3.02 The rights of use and occupation referred to in paragraph 3.01 are as follows:

(a) The Permittee will contact Trapper(s) and Guide(s) by mail, before starting harvesting activities.

4.00 Hazard Trees

4.01 The hazard tree felling area extends 30 metres beyond the cut-block boundary(s).

4.02 The Permittee may fell trees outside of the cut-block boundary(s) but within the area described in paragraph 4.01 if the Forestry Officer determines that the person conducting tree felling or rigging tail hold/anchor trees represents a safety hazard according to Workers' Compensation Board standards of British Columbia.

4.03 The Permittee must not buck or utilize a tree felled under paragraph 4.02 without the consent of the Council of the McLeod Lake Indian Band.

4.04 If consent is granted under paragraph 4.03, the felled hazard tree(s) shall be bucked and utilized according to the standards specified in Schedule "B" of this authority, unless otherwise directed by the Forestry Officer.

5.00 Marking Requirement - Scale

All timber harvested under this Cutting Permit shall be marked in accordance with the requirements of B.C. Ministry of Forests, Part 5 of the *Forest Act* and the Timber Marking and Transportation Regulation.

**Schedule B**  
**Felling, Bucking and Utilization Specifications**

1.00 FELLING SPECIFICATIONS

- 1.01 Subject to paragraph 1.02, standing timber of the species shown on the table attached to this Schedule must be felled in accordance with the following specifications:
- (a) all timber meeting the minimum diameter at stump height shown for that species in the table attached to this Schedule must be felled, and
  - (b) unless otherwise authorized in writing by Council of the McLeod Lake Indian Band, timber must be felled to a stump height that does not exceed the maximum stump height shown for that species in the table attached to this Schedule.
- 1.02 The Permittee must not fell standing timber if
- (a) the timber is specified in Part 6.00 as reserved timber, or
  - (b) under an operational plan or the McLeod Lake Indian Band Forest Practices Code, the Permittee is required not to fell the timber for any reason, including silviculture, biodiversity or other forest management reasons.

2.00 BUCKING SPECIFICATIONS

Subject to paragraph 2.02, felled and dead-and-down timber of the species referred to in paragraph 1.01 must be bucked so as to maximize the volume of logs and slabs which:

- (a) meet the utilization specifications referred to in paragraph 3.01, and
- (b) are of the species and grades specified as obligatory utilization under Part 4.00.

2.02 The Permittee must not buck felled or dead-and-down timber if

- (a) the timber is specified in Part 6.00 as reserved timber, or
- (b) under an operational plan or the McLeod Lake Indian Band Forest Practices Code, the Permittee is required not to buck the timber for any reason, including silviculture, biodiversity or other forest management reasons.

3.00 UTILIZATION SPECIFICATIONS

3.01 Subject to paragraphs 3.02 and 3.03, the following utilization specifications apply to timber authorized for harvest under this Cutting Permit:

- (a) all butt logs meeting
  - (i) the minimum diameter at stump height,

- (ii) the minimum log length, and
- (iii) the minimum top diameter

shown for that species in the table attached to this Schedule must be utilized; and

(b) all top logs meeting

- (i) the minimum log length, and
- (ii) the minimum top diameter

shown for that species in the table attached to this Schedule must be utilized;

(c) all slabs meeting

- (i) the minimum slab length, and (ii) the minimum slab thickness shown for that species in the table attached to this Schedule must be utilized.

3.02 The Permittee need not utilize timber of the species and grades specified in Part 5.00 as optional utilization.

3.03 The Permittee must not utilize timber if

- (a) the timber is specified in Part 6.00 as reserved timber, or
- (b) under an operational plan or the McLeod Lake Indian Band Forest Practices Code, the Licensee is required not to utilize the timber for any reason, including silviculture, biodiversity or other forest management reasons.

#### 4.00 OBLIGATORY UTILIZATION

4.01 Timber of the following species and grades is specified as obligatory utilization:

- (a) all coniferous species that are Sawlog Grade (Grade Code \_\_\_\_).

#### 5.00 OPTIONAL UTILIZATION

5.01 Timber of the following species and grades is specified as optional utilization:

- (a) firmwood rejects;
- (b) all deciduous species of all grades; and
- (c) all coniferous species of the following grades:
  - (i) Dead and Dry Sawlog (Grade Code 3);
  - (ii) Lumber Reject (Grade Code 4);
  - (iii) Dead and Dry Lumber Reject (Grade Code 5); and
  - (iv) Undersized Log Grade (Grade Code 6).

#### 6.00 RESERVED TIMBER



The following timber is specified as reserved timber:

6.01 In accordance with the Site Plan in effect for this Cutting Permit.

## 7.00 DEFINITIONS

7.01 In this Schedule, as exemplified by the diagrams attached to this Schedule,

- (a) "butt end" means the log end that was previously attached to the stump;
- (b) "butt log" means the log cut from the portion of the tree that was previously attached to the stump;
- (c) "diameter at stump height" means
  - (i) in the case of standing timber, the diameter of the tree (outside bark) measured at the point of the maximum stump height shown in the table attached to this Schedule, and
  - (ii) in the case of a butt log, the diameter (outside bark) at the butt end of the log;
- (d) "slab" means one of 2 or more parts of a log produced as a result of the log fracturing along its length;
- (e) "stump height" means the height of the stump measured on the side of the stump adjacent to the highest ground;
- (f) "top diameter" means the diameter (inside bark) at the narrowest end of the log;
- (g) "top log" means any log that is not a butt log.

## **Attachment 2 - Timber Marking Policy**

## **McLeod Lake Indian Band**

### **Timber Marking Policy**

#### **General**

All marking must be done on the cutting area. Loads of logs that are not properly marked contravene the McLeod Lake Indian Band Forest Practices Code and are subject to forfeiture by the McLeod Lake Indian Band.

#### **Marking Requirements**

All timber being transported will be marked as follows:

Two log ends on the back of each load **and** two log ends on the front of each load must be marked with the correct mark using hammer indentation. As well, both sides of each load must be marked with the correct timber mark using paint.

#### **Special Forest Products:**

May be exempted by the Council of the McLeod Lake Indian Band on a specific basis.

#### **Timber Mark Posted On Site:**

The Licensee must post a sign at the point of exit displaying the timber mark (not the cutting permit number) for the area. This will serve to remove any confusion on the part of log haulers as to the correct mark.

#### **Documentation Requirements**

- 1.) A person who transports timber, must at all times, have in his or her possession a written record of the timber being transported.

The written record must include all of the following information:

- a) identification, by license number or by name, of the truck, rail car or vessel in which the timber is being transported;
- b) a description of the location of the origin of the timber;
- c) the date on and time at which the transport of the timber begins;
- d) the destination of the timber;
- e) the timber mark or timber brand, or both, applied to the timber being transported;
- f) the name and signature of the timber transport operator;
- g) if the timber has been scaled, the scalers signature and license number or the signature of an authorized person at the scale site;
- h) a unique serial number.

When timber is being transported, the following persons must ensure that the written record required is accurately completed and copies of the written record are retained and remitted as directed by the Forestry Officer of the McLeod Lake Indian Band:

- a) the holder of the timber mark for the location of origin of the timber;
- b) the receiver of the timber or the operator of the scale site to which the timber is being transported;
- c) the holder of the scaled timber brand.

A person who is required to carry or retain a copy of the written record, must provide the record for inspection if requested to do so by the Forestry Officer of the McLeod Lake Indian Band and if requested to do so by a forest officer of the province of B.C.

Timber transported in contravention of this requirement is subject to forfeiture under Part 11 of the McLeod Lake Indian Band Forest Practices Code.

Please ensure all personnel involved in the transport of timber are made aware of the above noted policy.

All timber shall be scaled to the Schedule of Interior Grades of the B.C. Ministry of Forests.

## **Attachment 3 - Site Plan**

**McLeod Lake Indian Band**

**SITE PLAN**

<b>CP:</b>	<b>BLOCK:</b>	<b>PERMITEE:</b>
<b>LOCATION:</b>	<b>AERIAL PHOTO NUMBER:</b>	<b>MAPSHEET OPENING #:</b>
<b>LONGITUDE/ LATITUDE:</b>	<b>ELEVATION RANGE (m):</b>	
<b>LOGGING CONTRACTOR:</b>		

AREA

<b>TOTAL AREA(HA):</b>	<b>PERMANENT ACCESS (HA) :</b>
<b>NET AREA TO REFOREST (HA):</b>	<b>NP NATURAL (HA):</b>

STANDARDS UNIT (SU)	NET AREA TO BE REFORESTED (ha)	BIOGEOCLIMATIC CLASSIFICATION				REGEN METHOD PLANT(P) OR NATURAL(N)
		ZONE	SUBZONE	VARIANT	SITE SERIES	

**STOCKING STANDARDS**

SU	SPECIES		WELL SPACED TREES/HA				R E G D A T E	FREE GROW DATE (YRS)	MAX DEN. (s/ha)	MINIMUM FREE GROW. HT (m)		POST SPAC. DEN. (s/ha)	CROP TREE HT. VS COMP (%)
	PREF	ACC.	TSS PREF & ACC.	MSS PREF & ACC.	MSS PREF. ONLY	MIN. INTER. SPAC. (m)				SPECIES	HT(m)		
								10,000					

**SOIL DISTURBANCE**

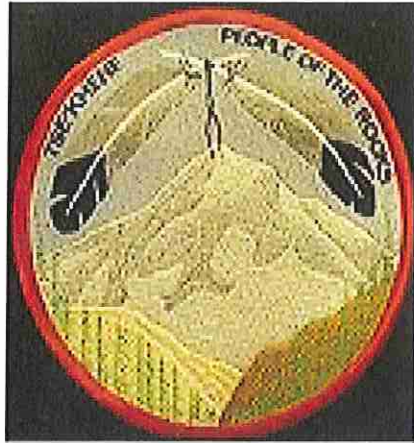
<b>SOIL DISTURBANCE</b>		
Maximum Disturbance of the Net Area to be Reforested to be Occupied by Soil Disturbance <b>(% of NAR) :</b>		
Rationale for greater than 5% of the NAR being occupied by soil disturbance		
<b>Compaction Hazard:</b>	<b>Erosion Hazard:</b>	<b>Displacement Hazard:</b>

**APPROVAL**

Signature of Quorum of Council:		Name and Number of RPF:	
Chief / Councilor	Date:		(mm/dd/yy)
Councilor			
Councilor	Seal and Signature of RPF		
Councilor			
Councilor			
Date		(mm/dd/yy)	

## **Attachment 4 – Forest Licence Document**





**McLeod Lake Indian Band**

**FOREST LICENCE**

**with**

**Duz Cho Logging Limited  
Partnership**

THIS LICENCE, dated June 20, 2003

BETWEEN:

McLeod Lake Indian Band  
(the "Band")

AND:

Duz Cho Logging Limited Partnership  
(the "Licensee")

WHEREAS:

- A. The parties have entered into this Licence pursuant to Part 10 of the McLeod Lake Indian Band Forest Practices Code (the "Code").

THE PARTIES agree as follows:

## **1.00 GRANT OF RIGHTS AND TERM**

1.01 Subject to this Licence, the Licensee

- (a) may harvest an allowable annual cut of  $100,000 \text{ m}^3$  of timber each year for the first five years and  $60,650 \text{ m}^3$  for each of the subsequent 10 years during the term of this Licence from areas of land within McLeod Lake Indian Band Reserves which are specified in cutting permits and road permits, and
- (b) for this purpose may enter onto these areas.

- (c) Can increase the annual allowable cut to a maximum of 200,000m<sup>3</sup> of timber each year over the term of the licence if the credit facility deems it necessary to secure the existing debt. Furthermore if the annual allowable cut is exceeded, as identified in Section 1.01 (a), due to other catastrophic events or a serious risk to the timber, then all net profits received must be deposited in escrow as additional security for the credit facility.

1.02 The term of this Licence is 15 years, renewable every 5-years, beginning *June 20, 2003*.

## **2.00 REVISIONS TO ALLOWABLE ANNUAL CUT**

- 2.01 If the allowable annual cut is increased or reduced under the Code or the regulations made under that Code, subparagraph 1.01(a) is deemed to be amended accordingly.

## **3.00 FELLING, BUCKING AND UTILIZATION SPECIFICATIONS**

- 3.01 With respect to the harvesting of timber authorized under a cutting permit issued pursuant to this Licence, the Licensee must
  - (a) fell standing timber of the species specified as obligation utilization in the Code Attachment 1 "Cutting Permit Application", in accordance with the felling specifications set out in the Code Attachment 1 "Cutting Permit Application",
  - (b) buck felled and dead-and-down timber of the species referred to in subparagraph (a) in accordance with the bucking specifications set out in the Code Attachment 1 "Cutting Permit Application", and
  - (c) utilize all timber of the species and grades specified as obligatory utilization in the Code Attachment 1 "Cutting Permit Application".
- 3.02 Timber that is not felled, bucked or utilized in accordance with paragraph 3.01 will be identified as waste in an assessment under Part 4.00.
- 3.03 A cutting permit may include a requirement that the Licensee fell timber not referred to in subparagraph 3.01(a), in which case, subject to paragraph 3.06, the Licensee must fell but need not utilize such timber.
- 3.04 Subject to paragraph 3.06, the Licensee may utilize
  - (a) timber of the species and grades specified in Part 6.00 of the Code Attachment 1 "Cutting Permit Application", and
  - (b) timber referred to in paragraph 3.03.

- 3.05 Timber referred to in subparagraph 3.04(a) that is not utilized by the Licensee will be identified as residue in an assessment under Part 4.00, unless otherwise provided in the current *B.C. Provincial Logging Residue and Waste Measurement Procedures Manual*.
- 3.06 The Licensee must not fell standing timber, and must not buck or utilize felled or dead-and-down timber, if under an operational plan under the Code referred to in paragraph 7.01, the Licensee is required not to fell the timber, or not to buck or utilize the timber.
- 3.07 If the Licensee fells, bucks or utilizes timber contrary to paragraph 3.06, the Licensee must
  - (a) within 5 business days notify the Forestry Officer, and
  - (b) comply with any directions of the Forestry Officer in respect of the timber.
- 3.08 A cutting permit may include felling, bucking and utilization specifications that are different from those specified in the Code Attachment 1 "Cutting Permit Application", if mutually agreed to by the Forestry Officer and the Licensee.

#### **4.00 RESIDUE AND WASTE ASSESSMENTS**

- 4.01 Subject to paragraphs 4.02 and 4.03, the Band must
  - (a) carry out an assessment of the volume of residue and waste left on an area of land harvested under a cutting permit and, where required by the Forestry Officer on an area of land harvested under a road permit,
    - (i) within 60 days after primary logging on the area has been completed and ground being sufficiently free of snow to allow for an adequate assessment to be carried out, or
    - (ii) if primary logging on the area is not completed before the expiry of the cutting permit, within 60 days after the expiry of the cutting permit and ground being sufficiently free of snow to allow for an adequate assessment to be carried out,
  - (b) as part of the assessment,
    - (i) measure the timber that was not felled, or was not bucked or utilized, in accordance with the specifications set out in the Code Attachment 1 "Cutting Permit Application",
    - (ii) classify the timber referred to in clause (i) as residue or waste, and
    - (iii) classify the residue and waste as avoidable or unavoidable, and
  - (c) within 30 days upon completion of the assessment, provide the Forestry Officer with the results of the assessment.
- 4.02 The Forestry Officer may extend the periods referred to in clauses 4.01(a)(i) and (ii).

- 4.03 If, for the purpose of determining the amount of stumpage payable in respect of timber harvested under a cutting permit, the cutting permit provides that the volume or quantity of timber harvested is to be determined using information provided by a cruise or estimate of the timber conducted before the timber is cut, the Forestry Officer may waive the requirement for an assessment of the volume of residue and waste left on the area.
- 4.04 An assessment referred to in paragraph 4.01 must be carried out in accordance with the current *B.C. Provincial Logging Residue and Waste Measurement Procedures Manual*.
- 4.05 The Forestry Officer, in a notice given to the Licensee, may require the Licensee to pay in respect of avoidable waste left on an area of land authorized for harvest under a cutting permit an amount determined in accordance with paragraph 4.06.
- 4.06 For the purpose of determining the amount payable under paragraph 4.05, the Forestry Officer will
- (a) multiply
    - (i) the volume of avoidable waste assessed under paragraph 4.01 based on sawlog grades, by
    - (ii) the average stumpage rate charged for sawlogs harvested under the cutting permit in statements or invoices issued during the 12 month period ending 1 month after the month in which
      - (A) primary logging on the area was completed, or
      - (B) the cutting permit expires or is otherwise terminated, as the case may be, and
  - (b) multiply
    - (i) the volume of avoidable waste assessed under paragraph 4.01 based on grades other than sawlog grades, by
    - (ii) the stumpage rate charged for timber of the applicable grades.
- 4.07 If the Forestry Officer carries out an assessment under paragraph 4.01, the Forestry Officer, in a notice given to the Licensee, may require the Licensee to pay the costs incurred by the Forestry Officer in carrying out the assessment.

## **5.00 CUT CONTROL**

- 5.01 For the purposes of the definition of "5 year cut control period" in Part 3, Section 2 of the Code, the first 5 year period for this Licence begins on June 20, 2003.
- 5.02 For the purposes of the definition of "volume of timber harvested" during a calendar year in Part 3, Section 2 of the Code, the volume of
- (a) avoidable residue,

- (b) unavoidable residue,
- (c) avoidable waste, and
- (d) unavoidable waste

left on areas of land authorized for harvest under a cutting permit and road permits associated with this Licence, as determined by an assessment under paragraph 4.01, will be charged to the Licensee as volumes of timber estimated to be wasted or damaged.

## **6.00 CUTTING PERMITS**

- 6.01 The Band will issue a cutting permit to the Licensee if the Band is satisfied that the requirements of Part 11 of the Code have been met.
- 6.02 Subject to 6.03, the Council may amend the cutting permit only with the consent of the Forestry Officer.
- 6.03 With the consent of the Forestry Officer, the Band, in a notice given to the Licensee, may
  - (a) extend the term of a cutting permit, and
  - (b) amend the cutting permit to the extent necessary to ensure the cutting permit is consistent with the Forest Development Plan (FDP), in effect at the time the cutting permit is extended.
- 6.04 A cutting permit is deemed to be part of this Licence.
- 6.05 All cutting permits in effect under the Forest Licence that is replaced by this Licence continue under this Licence for the duration of their respective term.

## **7.00 LEGISLATIVE FRAMEWORK**

- 7.01 This Licence is subject to
  - (a) the *McLeod Lake Indian Band Forest Practices Code (the "Code")*.
- 7.02 Nothing in this Licence or a cutting permit issued under this Licence is to be construed as authorizing the Licensee to engage in any activities or carry out any operations otherwise than in compliance with the requirements of the Code referred to in paragraph 7.01.

## **8.00 FINANCIAL AND DEPOSITS**

- 8.01 The Licensee must pay to the Band, within 60 days upon receipt of a notice, statement or invoice issued on behalf of the Band,

- (a) stumpage under Part 15 of the Code in respect of timber harvested under a cutting permit, at rates determined, re-determined and varied under Part 15 that Code,
- (b) any payments required under Part 4.00.

## **9.00 LIABILITY AND INDEMNITY**

- 9.01 The Licensee must indemnify the Band against and save it harmless from all claims, demands, suits, actions, causes of action, costs, expenses and losses faced, incurred or suffered by the Band as a result, directly or indirectly, of any act or omission of
- (a) the Licensee,
  - (b) an employee or agent of the Licensee,
  - (c) a contractor of the Licensee who engages in any activity or carries out any operation, including but not restricted to harvesting operations, under or associated with this Licence, or
  - (d) any other person who on behalf of or with the consent of the Licensee engages in any activity or carries out any operation, including but not restricted to harvesting operations, under or associated with this Licence.
- 9.02 For greater certainty, the Licensee has no obligation to indemnify the Band under paragraph 9.01 in respect of any act or omission of
- (a) an employee, agent or contractor of the Band, in the course of carrying out his or her duties as employee, agent or contractor of the Band, or
  - (b) a person, other than the Licensee, to whom the Band has granted the right to use or occupy Band land, in the course of exercising those rights.

## **10.00 LIMITATION OF LIABILITY**

- 10.01 The Band is not liable to the Licensee for injuries, losses, expenses, or costs incurred or suffered by the Licensee as a result, directly or indirectly, of an act or omission of a person who is not a party to this Licence, including but not restricted to an act or omission of a person disrupting, stopping or otherwise interfering with the Licensee's operations under this Licence by road blocks or other means.

## **11.00 TERMINATION**

- 11.01 If this Licence expires and is not replaced, or is surrendered, cancelled or otherwise terminated,

- (a) all cutting permits will immediately terminate, and
- (b) title to all
  - (i) improvements, including roads and bridges, constructed by the Licensee under the authority of this Licence, and
  - (ii) timber, including logs and special forest products, harvested under the authority of this Licence and are still located on Band land,

will vest in the Band, without right of compensation to the Licensee.

11.02 The Licensee must not remove any improvements or timber referred to in subparagraph 11.01(b), unless authorized to do so by the Forestry Officer.

11.03 If the Licensee commits an act of bankruptcy, makes a general assignment of its creditors or otherwise acknowledges its insolvency, the Licensee is deemed to have failed to perform an obligation under this Licence.

## **12.00 MISCELLANEOUS**

12.01 This Licence will enure to the benefit of, and be binding on, the parties and their respective heirs, executors, successors and permitted assigns.

12.02 Any power conferred or duty imposed on the Band under this Licence may be exercised or fulfilled by a person authorized to do so by the Band.

12.03 The laws of British Columbia and the Government of Canada will govern the interpretation of this Licence and the performance of the parties' obligations under this Licence.

12.04 Nothing in this Licence authorizes the Licensee to in any way restrict the Band's right of access to the areas of land referred to in paragraph 1.01, or the right of any other authorized entrant, user or occupier of these areas.

## **13.00 INTERPRETATION**

13.01 In this Licence, unless the context otherwise requires,

(a) "allowable annual cut" means the allowable annual cut referred to in paragraph 1.01 as amended under paragraph 2.01,

(b) "average stumpage rate charged for sawlogs" means the total stumpage charged for sawlogs divided by the total volume of sawlogs,

(c) "avoidable" in respect of residue or waste means timber that does not fall within the definition of unavoidable,

(d) "Band" means the McLeod Lake Indian Band,

(e) "close" or "closure" means cessation of production of the principal forest products normally produced by a timber processing facility,

- (f) "council" refer to definition in the McLeod Lake Indian Band Forest Practice Code Section 1 (definitions),
- (g) "cutting permit" means a cutting permit issued under this Licence,
- (h) "Forestry Officer" means
  - (i) a Forestry Officer appointed by the Council, and
  - (ii) any person authorized by the Council to exercise a power or fulfil a duty under this Licence,
- (i) "*Forest Practices Code*" means the McLeod Lake Indian Band Forest Practices Code, Version 8.0, July 15, 2001, as amended from time to time, or the successor to this Act if it is repealed,
- (j) "forest development plan" means a forest development plan approved under the Forest Practices Code,
- (k) "person" includes a corporation and a partnership,
- (l) "primary logging" means felling timber and yarding or forwarding the timber to central landings or road-sides, but does not include removing the timber from these landings or road-sides,
- (m) "residue" means timber of a species and grade specified in a Cutting Permit as optional utilization that is not utilized by the Licensee, excluding timber which, under the current *B.C. Provincial Logging Residue and Waste Measurement Procedures Manual*, is not assessed as residue,
- (n) "unavoidable" in respect of residue or waste means timber that was not felled, or was not bucked or utilized, in accordance with the specifications set out in the Forest Practices Code Attachment 1 "Cutting Permit Application", because the timber
  - (i) is inaccessible or physically obstructed,
  - (ii) could not be felled, bucked or utilized safely, or
  - (iii) could not be felled, bucked or utilized because of the restriction referred to in paragraph 3.06,
- (o) "utilize" means to remove timber from an area referred to in paragraph 1.01 for use or processing elsewhere,
- (p) "waste" means timber referred to in paragraph 4.01 that is not felled, bucked or utilized in accordance with the requirements of Code Attachment 1 "Cutting Permit Application".

13.02 Unless otherwise provided in paragraph 13.01, if a word or phrase used in this Licence is defined in the Forest Practices Code, the definition in the Forest Practices Code applies to this Licence, and where the word or phrase in the Forest Practices Code is replaced by a new word or phrase, this Licence is deemed to have been amended accordingly.



13.03 If a provision of the Forest Practices Code referred to in this Licence is renumbered, the reference in this Licence is to be construed as a reference to the provision as renumbered.

13.04 In this Licence, unless the context otherwise requires,

(a) the singular includes the plural and the plural includes the singular, and

(b) the masculine, the feminine and the neuter are interchangeable.

13.05 This Licence is divided into parts, paragraphs, subparagraphs, clauses and sub clauses, illustrated as follows:

1.00 part,

1.01 paragraph,

(a) subparagraph,

(i) clause,

(A) sub clause;

and a reference to a subparagraph, clause or sub clause is to be construed as a reference to a subparagraph, clause or sub clause of the paragraph, subparagraph or clause, as the case may be, in which the reference occurs.

IN WITNESS WHEREOF this Licence has been executed by the Band and the Licensee on the date first written above.

SIGNED by the )  
Council in the )  
presence of: )

)  
)  
.....)  
Signature )

.....  
Councillor

)  
.....)  
Printed Name )

.....

THE COMMON SEAL of )  
the Licensee was affixed )

Councillor

in the presence of: )  
)

.....  
Councillor

)  
.....)  
Signature )

.....  
Councillor

)  
.....)  
Printed Name )

**(or)**

SIGNED by the Licensee )  
in the presence of: )

)  
.....)  
Signature )

.....  
Licensee Signature

)  
.....)  
Printed Name )

.....  
Printed Name and Title