

**Fishing Lake Metis Settlement In The Province Of Alberta  
Mineral Projects Bylaw No. FLMS 2002121**

**Part 1 - Context**

**1.1 Background**

Although the Settlement Area was set aside as a land base to provide for the preservation and enhancement of Metis culture and identity, it is used by others for the purpose of finding and removing minerals. Legislation by the Province and the General Council creates a framework for enabling such activities, providing for their licensing, regulation, and taxation, and allowing for a General Council Policy on such matters to include a by-law. 1

**1.2 Purpose**

The purposes of this by-law are to

- (1) enable land uses and activities related to mineral projects in the settlement Area while preserving an environment that will sustain a Metis way of life;
- (2) create a system of payment on the property associated with mineral projects that will ensure the property contributes fairly to the viability of the Settlement; 2
- (3) address the effect of mineral projects on the capacity of the land to sustain individuals and the community in more traditional ways; and
- (4) establish procedures for fairly sharing the burden and benefit of these uses and related activities between the Settlement and Affected Settlement residents.

**1.3 Interpretation**

The definitions and rules of interpretation of the *Mineral Projects Policy* apply to this by-law.

**Part 2 - Project Licence**

**2.1 Prohibition**

- (1) No activity or use related to a project is permitted in the Settlement Area unless it is authorized by a project licence.
- (2) The Settlement council may adopt, by bylaw or resolution, a development plan for any part of the Settlement area and in that plan specify conditions to be included in any project licence granted for a project in that part of the Settlement area.
- (3) A project licence can only be granted if the Settlement Council is satisfied that

1 For reference see sections 51, 99, 22 (1) (c), (i), (m)-(s) and Schedule 1, s. 14, of the *Metis Settlements Act*, and the General Council *Mineral Projects Policy*.

2 The property referred to includes a project interest, and the payments on such property and related rights should be considered as "taxes" as provided for in section 166(1) of the *Metis Settlements Act*.

- (1) the proposed use of land conforms with any development plans the Settlement Council has adopted;
  - (2) operations will not begin in the Settlement Area under the licence until the operator has obtained all approvals required by provincial law;
  - (3) a Master Development Agreement, if necessary, has been made,
  - (4) the project operator has signed a project agreement addressing issues such as compliance with local laws and development plans, work practices, payment of fees, taxes, and compensation, and community benefit from the project; and
  - (5) the project operator has acquired the rights to enter and use all parts of the project area, whether by agreement with landholders and occupants or by order.
- (4) Notwithstanding subsection (3), the Settlement council may approve the granting of a temporary project licence for a specified number of days if it is satisfied that an emergency situation exists and that the conditions of subsection (3) will be satisfied within a reasonable period of time.

## **2.2 Project licence**

- (1) A project licence may relate to one or more parcels of land.
- (2) A project licence operates as approval of the project to proceed and as an ongoing annual licence permitting project activities.
- (3) A project licence may provide for the payment of an initial fee in relation to project approval and an annual fee in relation to the licencing of ongoing project activities.
- (4) A project licence cannot be revoked except as provided for by General Council Policy, this bylaw, the project agreement, or a Master Development Agreement governing the project.

## **2.3 Obtaining a project licence**

- (1) Applications for project licences must be made to the Settlement office.
- (2) The Settlement administrator may issue a project licence when directed to do so by Settlement Council resolution.
- (3) No project licence is effective unless signed by the Settlement administrator.

## 2.4 Contents of a project agreement

The Settlement Council may impose any conditions in a project agreement, consistent with the *Mineral Projects Policy* and any related Master Development Agreement, that it considers of benefit to the community, such as

- (1) location of project and related work and facilities,
- (2) rules and procedures for entering land and doing the work,
- (3) provisions required in agreements with landholders and occupants,
- (4) measures for promoting local employment and economic development,
- (5) measures for the protection of the community, culture, and environment ,and
- (6) fees, charges, and taxes payable, as a specified amount or formula.

## 2.5 Consulting occupants

(1) When the Settlement Council receives an application for a project licence it must try to ensure occupants of the project area are consulted about the project, including

- (1) what sort of work will be done and where
  - (2) the general rules that the Settlement will be applying to the project and any special conditions that may be appropriate given the nature of the project area, and
  - (3) the compensation for access and damages that the operator may be expected to pay land holders and occupants.
- (2) If the Council is unable to contact an occupant in person within 7 days of the application, it can satisfy its responsibilities under subsection (1) by sending the information to the occupant by mail.

## Part 3 - Environmental Protection

### 3.1 Preliminary inspection

- (1) Unless the settlement Council provides a written exemption, before a project licence is issued the project operator must inspect the project area with a representative of the Settlement to identify environmentally or culturally sensitive areas.

- (2) If the Settlement Council determines that a project is likely to damage an environmentally or culturally sensitive area, it may impose any conditions necessary to prevent the project from causing unacceptable harm.

### 3.2 Roads

Unless the Settlement Council establishes other conditions for a specific project, the project operator must ensure that roadways in the project area are

- (1) constructed to a low profile, and if gravelled, topped with rock particles at most cm in diameter, and
- (2) kept properly maintained and free of weeds.

### 3.3 Fencing

- (1) Except where the Settlement Council decides it is unnecessary, the project operator must
  - (1) put a good fence around the project area,
  - (2) replace and repair any fences removed or damaged in carrying out the project, and
  - (3) ensure that gates allowing access to the project area or closed when not in use.
- (2) If the Settlement Council, at any time before or during the project, determines that a livestock guard is necessary at a point of entry to the project area, it may require the project operator to construct such a guard.

### 3.4 Weeds

- (1) The project operator must ensure that weeds in the project area are controlled in a manner consistent with good oilfield practice and relevant legislation.
- (2) Chemical weed control measures may not be used except with the written permission of the Settlement.

### 3.5 Stream protection

In carrying out a project the project operator must, except as exempted by the Settlement Council:

- (1) construct and maintain culverts and any other structures in the project area needed for water to flow easily through natural drainage courses;
- (2) fix any interference its operation cause to natural water drainage;

- (3) remove, without damaging the channel, any obstructions its operations cause to the natural flow of water in water courses, streams and channels;
- (4) ensure that any project related cutting, clearing, and digging does not cause soil erosion, sedimentation in streams, or reduction of water capacity;
- (5) reestablish and maintain a sufficient growth of vegetation to prevent accelerated erosion of all bare soil area in the project area; and
- (6) prevent project activities from causing the pollution of land or water in the Settlement Area, and in particular prevent the accumulation of waste material that might, during spring runoff or flood periods, be carried into the water system.

### **3.6 Waste materials**

- (1) In this section "waste materials" includes sump fluids, garbage, and all other waste by products related to the finding or removing of minerals on land inside or outside the Settlement Area.
- (2) No one may dispose of waste materials within the Settlement Area except as authorized in writing by the Settlement Council.
- (3) Any Disposal of waste materials in the Settlement Area must comply with good oilfield practice, provincial legislation, and the directions of the Settlement Council.
- (4) Anyone disposing of waste materials contrary to this section will be responsible for the cost of removing the improperly disposed materials and related clean up and reclamation.

### **3.7 Environmental spills**

- (1) The project operator must establish a monitoring system that ensures the Settlement office is notified of any potentially harmful project related spill within a reasonable time of its occurrence.
- (2) When it has good reason to believe that a harmful spill has occurred, or is likely to occur, the Settlement Council can order the project operator to take whatever reasonable corrective action the situation requires.
- (3) In determining the appropriate corrective action, the Settlement Council must, if possible, consult the project operator.

### 3.8 Reclamation

- (1) Except where the Settlement Council specifies otherwise, the project operator must
  - (1) strip and preserve the topsoil of the project area, keeping it separate from the subsoil and woody debris, as required by good soil conservation practices and legislation; and
  - (2) as soon as practicable considering project operations, return topsoil to the project area in about the same depth as it was before the project started and reseed to restore suitable ground cover.
- (2) In addition to the provisions of this bylaw, the project operator must comply with the requirements for restoration, reclamation, and abandonment set out in the *Environmental Protection Act* and other applicable provincial laws.

### Part 4 - Payments Required

#### 4.1 Licence fees

- (1) All project licence holders must pay to the Settlement the project licence fees and other charges as set out in the Fee Schedule attached as Schedule A.
- (2) The Settlement Council can amend the Fee Schedule as it considers necessary.

#### 4.2 Compensation

- (1) The minimum rates of compensation to be paid by project operators for access to parcels in a project area, and for certain types of damages related to the project, are set out in Schedule A of this bylaw.
- (2) The Settlement Council can amend the minimum compensation schedule when it considers such an amendment to be in the best interests of the Settlement or its members.
- (3) An occupant does not qualify for compensation unless they have actual possession of, or a registered interest in, land in the project area.

#### 4.3 Special damages

Nothing in this bylaw replaces or reduces an occupant's right to special compensation for special damages resulting from the project.

#### **4.4 Other fees and taxes**

The requirement to pay compensation, licence fees, and other charges in relation to a project does not affect any liability for taxes or contributions created by agreement, Settlement bylaws, or General Council Policy.

### **Part 5 - General Matters**

#### **5.1 Administration**

- (1) Unless the Settlement has approved a licence or agreement saying otherwise, all payments required under this bylaw must be made to the Settlement.
- (2) The Settlement must pay out the money it gets on behalf of other persons to the appropriate occupants and to the General council as provided for in the relevant Policy, licence, agreement, or order.

#### **5.2 Suspension or revocation of licence**

- (1) If the Settlement Council determines that there are activities or land uses related to the project that are contrary to this bylaw or the terms of the project licence or project agreement, it may give the project operator notice of the violation and directions to remedy the situation.
- (2) At the time of giving notice under subsection (1), the Settlement Council may also , if it considers it necessary for the environmental health of the community, suspend the project licence.
- (3) If the project operator has not begun correcting the situation within 30 days of being notified, the Settlement Council can cancel the project licence.
- (4) The project operator can within 30 days of being notified of a suspension or cancellation of the project licence, appeal the action to the Metis Settlements Appeal Tribunal.

#### **5.3 Offences and penalties**

- (1) A person who knowingly contravenes a provision of this bylaw, including a failure to comply with an order of the Settlement Council made under sections 3.7(2), is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) is liable to a fine not exceeding \$2,500, payable to the Settlement.

