

Fishing Lake Metis Settlement In the Province of Alberta

Timber Bylaw No. 2002-122

Part 1-Context

1.1 Background

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

1.2 Purpose

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

1.3 Definitions

In this bylaw

- (a) Act means the Metis Settlements Act,
- (b) forest improvement means any activity on an area of land aimed at creating, restoring, or improving the forest land in the area (2).
- (c) forest land means a connected area of land of at least 10 hectares in which the dominant plants are trees
- (d) landholder, when used in reference to a parcel of land, means the person holding the Metis title, provisional Metis title, allotment, or allocation in the parcel (3)
- (e) land Policy means the Metis Settlements General Council Land policy in place at the time of interpreting this policy;
- (f) personal timber use means cutting trees on a parcel of land with the landholders consent for direct use within the settlement area
 - (i) for firewood or other household purpose, or
 - (ii) for materials to build things for use on the landholder's land (4)

- (a) timber means all tree living or dead, of any size or species and whether standing, fallen, cut or extracted and, where the context requires, including anything made from them;
- (b) timber dues includes any fees, dues, charges or levies payable in respect to timber, timber operations, timber permits, or forest improvement;
- (c) timber lands means any land designated by the settlement council under section 2.1 of this bylaw;
- (d) Timber Management Guidelines means the Timber Management Guidelines attached as

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

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

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

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

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- Appendix A to this bylaw, including any amendments made to them;
 - (k) timber officer means a timber officer appointed under this bylaw;
 - (l) timber operation means any activity, other than personal timber use, involved in cutting, removing, processing, manufacturing or marketing timber, including burning or otherwise destroying or damaging timber;
 - (m) timber permit means a permit to authorize timber operations in the settlement area that is issued by the settlement council in accordance with this bylaw;
 - (n) wood lot plan means a plan for managing a specified area of forest land so that it will produce removable timber on a sustainable basis;

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

1.4 Footnotes

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

1.5 Delegation

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

PART 2-TIMBER MANAGEMENT

2.1 Timber Lands

(1) to better manage forest lands and timber, a settlement council may determine that certain parts of the settlement are best used for long term timber production and designate these parts as timber lands.

(2) The settlement council is responsible for long term forest management planning for all lands except those declared unsuitable for long term timber production.

2.2 Timber Management Guidelines

(1) Timber operations on timber lands must comply with all provisions of the Timber Management Guidelines attached as Appendix A to this bylaw,

(2) In addition to timber lands, the settlement council can create other categories of land for timber management purposes and specify which parts of the Timber Management Guidelines apply to each category

(3) subject to subsection (2), Part 1 and Part 2 of the Timber Management Guidelines it considers necessary to better meet the timber management needs of the settlement.

2.3 Timber Permits

(1) No timber operation may take place in the settlement area unless authorized by a timber permit

(2) The settlement council can create any type of timber permit it considers necessary to achieve the purposes of this bylaw, and may for each type of permit specify the timber dues payable to the settlement

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

(3) Until settlement council adopts a different form the timber permit form in Schedule A to this bylaw applies,

(4) The settlement council can refuse to issue a timber permit or to renew or grant an extension of a permit

- (5) No timber permit can be issued for a specified area of land unless
- (a) there is a timber management plan or wood lot plan in place for the specified area or,
 - (b) the settlement council has determined that the specified area is better suited for some other use and declared it unsuitable for long term timber production.

2.4 Access to Land

The settlement council cannot grant a timber permit allowing timber operations on a parcel of land without the consent of the landholder.

2.5 rights in Timber

- (1) The only rights or interests in timber that a person gets from a timber permit are the ones stated in the permit.
- (2) Unless the permit states otherwise, any timber still in the cutting area one year after the permit was issued belongs to the settlement, but the permit holder still has to pay what they owe under the permit.

2.6 Personal Timber Use

Timber cut for personal timber use cannot be sold, traded, or used for any other purpose.

2.7 Issuing Permits

- (1) The settlement council can set the forms and procedures to be used in applying for a timber permit,
- (2) No timber permit is valid unless the person getting it signs a commitment to comply with the terms of the permit and this bylaw

2.8 Timber Permit Provisions

- (1) All timber permits must specify
 - (a) the area of land on which the timber may be cut and removed
 - (b) the period of time within which the timber may be cut and removed
 - (c) the volume and type of timber to be cut and removed,
 - (d) the purpose of the permit, including the proposed personal timber use, if any,
 - (e) the timber dues, if any, payable,
 - (f) the expiry date of the permit, and
 - (g) the sections of the Timber Management Guidelines, if any, that apply to operations under the permit
- (2) Subject to any limitations in this or other settlement bylaws, the settlement council may require other provisions to be included in timber permits, such as:
 - (a) how any benefit from timber operations under the permit should be shared;
 - (b) what rights the permit holder acquires in the timber under the permit;

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

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

- (c) the posting of security deposits or other forms of assurance to ensure permit holders meet their obligations;
- (d) how timber will be appraised, what timber dues must be paid, how and when they must be paid, and what happens if payment conditions are not met;
- (e) forest improvement requirements in the area of the timber operations or elsewhere in the settlement area;
- (f) requirements for approval of the permit holders operating plan;

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

2.9 Tree Farms

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

2.10 Payment of Timber Dues

If the timber permit requires timber dues to be paid, they are due the day operations under the timber permit begin on the site, unless the payment say otherwise

2.11 Use of Timber Money

Money received by the settlement from timber operations must be used to sustain, improve, and manage forest resources.

2.12 Permit Defaults

- (1) The holder of the timber permit defaults on the permit if they,
 - (a) fail to begin timber operations by the date specified in the permit,
 - (b) fail to harvest the authorized volume of timber.
 - (c) harvest more timber than is authorized,
 - (d) fail to pay any timber dues that are over 30 days past due,
 - (e) fail to comply with any term or condition of the permit or any other provision or requirement prescribed for permit holders
 - (f) fail to carry on timber operations in accordance with the approved operating plan, if any,
 - (g) contravene this bylaw, or
 - (h) fail to comply with an order of the settlement council made under this bylaw.
- (2) If the holder of the timber permit defaults on the permit, the settlement council may
 - (a) suspend the permit indefinitely or for a fixed period.
 - (b) cancel the permit or arrange for another person to complete the harvesting under the permit,

- (c) shorten the term of the permit, or
- (d) realize on the security or other assurance, if any, deposited by the holder.

PART 3-ENFORCEMENT

3.1 Appointment of a Timber Officer

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

3.2 Search Powers

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

3.3 Registration of Interest

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

3.4 Enforcement Notices

- (1) If a timber permit holder or other person acting under authority of the permit fails to comply with the terms or conditions of the permit or the provisions or requirements of this bylaw, the settlement council may issue a notice
 - (a) requiring the permit holder to remedy any unsatisfactory condition resulting from the non-compliance in a specified manner and within a specified period;
 - (b) providing that if the permit holder does not perform the required remedial work the settlement may have the remedial work done;
 - (c) warning the permit holder that if the settlement council has the remedial work done, the cost of the work will be charged to the permit holder and, in default of payment,
 - (i) any part of any valuable security deposits will be applied as a payment toward the cost,
 - (ii) the balance of the cost, if any, will be recoverable as a debt due to the settlement
 - (ii) a notification of the balance of the cost, if any, may be registered against the parcel of land which is the subject of the permit in the Metis Settlement Land Registry; and
 - (iv) the settlement council may order the suspension of some or all of the timber operations that are carried under any timber permit held by the permit holder, or, if any such operations have not commenced, order that they not commence;

(d) making any other direction that the settlement council considers necessary.

(2) A person who receives a notice under subsection (1) may appeal the notice to the Appeal Tribunal by sending a notice of appeal in writing to the Tribunal within 21 days after the date the notice is received.

3.5 Penalties

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