

MCLEOD LAKE INDIAN BAND TREATY NO. 8 ADHESION AND SETTLEMENT AGREEMENT ACT

[SBC 2000] CHAPTER 8

Assented to June 12, 2000

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Definitions

1 In this Act:

"district manager", "free growing stand", "holder of a major licence" and "silviculture prescription" have the same meanings as they have in the Forest Practices Code of British Columbia Act;

"government corporation" means government corporation as defined in the Financial Administration Act;

"holder", in relation to a transferable silviculture prescription, includes a person that was the holder of the prescription immediately before a transfer of Crown land to Canada that included land under the prescription, but does not include the government of British Columbia;

"MLIB Agreement" means the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement entered into by the McLeod Lake Indian Band, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia;

"person", in relation to a transferable road deactivation obligation, includes a person that had that obligation immediately before a transfer of Crown land to Canada that included all or part of a road that was the subject of the obligation, but does not include the government of British Columbia;

"transfer of Crown land to Canada" means a transfer, required or permitted under the MLIB Agreement, from the government of British Columbia to Canada, of the administration, control and benefit of Crown land;

"transferable road deactivation obligation" means an obligation, subsisting immediately before a transfer of Crown land to Canada, under which a person is or will be required under section 64 of the Forest Practices Code of British Columbia Act to permanently deactivate a road on land that is part of the Crown land that is the subject of the transfer;

"transferable silviculture prescription" means a silviculture prescription under which, immediately before a transfer of Crown land to Canada, a holder of a major licence has or will have a subsisting obligation under

section 70 of the Forest Practices Code of British Columbia Act to establish a free growing stand on an area of land under the prescription which land is part of the Crown land that is the subject of the transfer.

Assigning responsibilities within government

2 The Lieutenant Governor in Council by order may assign to a minister, another official, a ministry or a government corporation the responsibility of

- (a) carrying out on behalf of the government of British Columbia, any of its obligations under the MLIB Agreement, or
- (b) exercising on behalf of the government of British Columbia any discretion it has under the MLIB Agreement.

Exercise of discretion under other Acts

3 (1) If the implementation of the MLIB Agreement by the government of British Columbia depends on the exercise of a discretion given under any enactment to the Lieutenant Governor in Council, a minister, another official or a government corporation, the Lieutenant Governor in Council, minister, other official or government corporation, as the case may be, must exercise the discretion to implement the agreement.

(2) If there is in any enactment a preliminary requirement relevant to a discretion that under subsection (1) must be exercised to implement the MLIB agreement, the preliminary requirement does not apply to the exercise of the discretion.

(3) Section 70 of the Land Act does not apply to Crown land that, under the MLIB Agreement, has been, must be, or may be the subject of a transfer of Crown land to Canada.

(4) Subsection (3) is retroactive to the extent necessary to give it effect according to its intent.

Certain interests cease on land transfer

4 (1) Subject to subsection (2), on a transfer of Crown land to Canada every interest that, immediately before the transfer of the land became effective, encumbered or applied to the transferred land or its use ceases to exist, except

- (a) those encumbrances that are listed in article 4.1.1 (a) and (b) of the MLIB Agreement, and
- (b) those encumbrances that,
 - (i) under article 4.5 of the MLIB Agreement, Canada and the Council of the McLeod Lake Indian Band agree may remain in place, and
 - (ii) are specifically identified in the transfer as encumbrances that remain in place after the transfer.

(2) Subsection (1) does not affect rights, interests, responsibilities or liabilities under

- (a) section 5 or 6 or an agreement referred to in section 5 or 6, or
- (b) a transferable silviculture prescription or transferable road deactivation obligation.

Silviculture and reforestation

5 (1) Before or within 60 days after a transfer of Crown land to Canada that includes land under a transferable silviculture prescription, the district manager must deliver written notice to the holder of the prescription of the holder's right to make an election under subsection (2).

(2) Within 60 days after the date of delivery of a notice under subsection (1) to the holder of a transferable silviculture prescription, the holder, by written notice delivered to the district manager, may elect to

(a) request that the district manager enter into an agreement with the holder to assume on behalf of the government of British Columbia the responsibility for carrying out the prescription after the transfer of Crown land to Canada, or

(b) carry out the prescription after the transfer of Crown land to Canada.

(3) On receiving a request referred to in subsection (2) (a), the district manager may enter into an agreement with the holder of the transferable silviculture prescription to assume on behalf of the government of British Columbia the responsibility for carrying out the prescription, if the holder pays the government of British Columbia an amount agreed between the district manager and the holder for the costs of carrying out the prescription and any other directly or indirectly associated costs.

(4) The holder of a transferable silviculture prescription is liable to the government of British Columbia for the latter's costs of carrying out any part of the prescription not carried out by the holder, and any other directly or indirectly associated costs, if the holder

(a) does not give any notice under subsection (2),

(b) gives notice under subsection (2) but no agreement referred to in subsection (2) (a) is entered into between the holder and the district manager, within 90 days after the date of the request referred to in subsection (2) (a), or within a longer period agreed to by the holder and the district manager, or
(c) elects under subsection (2) (b) to carry out the prescription but does not carry out or fully carry out the prescription.

Forest roads

6 (1) Before or within 60 days after a transfer of Crown land to Canada that includes a road for which a person has a transferable road deactivation obligation, the district manager must deliver written notice to the person of the person's right to make an election under subsection (2).

(2) Within 60 days after the date of delivery of a notice under subsection (1) to the person that has the transferable road deactivation obligation, the person, by written notice delivered to the district manager, may elect to

(a) request that the district manager enter into an agreement with the person to assume on behalf of the government of British Columbia the responsibility for carrying out the obligation after the transfer of Crown land to Canada, or

(b) carry out the obligation after the transfer of Crown land to Canada.

(3) On receiving a request referred to in subsection (2) (a), the district manager may enter into an agreement with the person that has the transferable road deactivation obligation to assume on behalf of the government of British Columbia the responsibility for carrying out the obligation, if the person pays the government of British Columbia an amount agreed between the district manager and the person for the costs of carrying out the obligation and any other directly or indirectly associated costs.

(4) The person that has the transferable road deactivation obligation is liable to the government of British Columbia for the latter's costs of carrying out any part of the prescription not carried out by the person, and any other directly or indirectly associated costs, if the person

(a) does not give any notice under subsection (2),

(b) gives notice under subsection (2), but no agreement referred to in subsection (2) (a) is entered into between the person and the district manager, within 90 days after the date of the request referred to in subsection (2) (a), or within a longer period agreed to by the person and the district manager, or

(c) elects under subsection (2) (b) to carry out the obligation, but does not carry out or fully carry out the obligation.

Non deactivation of Status Forest Roads under the MLIB Agreement

7 Any Status Forest Roads, as defined in the MLIB Agreement, that are identified by the McLeod Lake Indian Band under article 6.8.1 of the MLIB Agreement or that are identified by the McLeod Lake Indian Band and Canada under article 6.8.2 of that agreement are not subject to the requirements respecting road deactivation under the Forest Practices Code of British Columbia Act.

Agreements for silviculture, reforestation and deactivation of roads

8 The minister, or another official designated by order of the Lieutenant Governor in Council, on behalf of the government, may enter into agreements, referred to in articles 6.7.1 (b), 6.7.3 and 6.8.4 of the MLIB Agreement, with the McLeod Lake Indian Band.

Crown grants of land in severalty

9 A Crown grant that, in fulfillment of article 8.5 of the MLIB Agreement, conveys land from the government of British Columbia to a member of the McLeod Lake Indian Band, or to the legal representative of a member of the McLeod Lake Indian Band on the member's behalf, must contain a proviso as to non-alienation of the land without the consent of the Governor General in Council.

Repealed

10 [Repealed 2000-8-10.]