



Improving Fibre Recovery

Administrative Guide

December 14, 2015



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PURPOSE

This guide provides information on engaging a process and using certain legislative tools that will lead to the increased utilization of Residual Fibre, as well as increase the security and supply of Residual Fibre to the non-sawlog industry.

In areas of the province where the Residual Fibre is being utilized, or where there is no demand, or where removal is clearly uneconomical, or for another reason as determined by the District Manager, the process outlined in Part A and the legislative tools included in Part B will not be engaged.

In the majority of situations the harvesting of Residual Fibre will be most efficiently done when coordinated with primary harvesting operations. This is achieved through business to business (B2B) relationships between the primary harvester (PH) and the secondary user (SU). **See Appendix A – The Case for Business-to-Business (B2B).**

Part A of these Guidelines outlines a process that encourages the interaction of the PH and SU that should lead to the utilization of Residual Fibre under existing cutting authorities by encouraging the establishment and continuation of B2B relationships.

Part B outlines the various legislative tools that are available to the FLNRO District Manager (DM) that, if implemented will lead to increased utilization. These tools are to be used where B2B relationships have not been developed. They add an additional layer of administration and workload on all parties involved including the PH, SU and FLNRO staff.

Within the context of the legislation and policy, this guide provides a quick reference and guidance to FLNRO staff as well as a general reference for PHs, SHs, new entrants to the forest sector and the general public.

Given the recent development of economic opportunities in utilizing low grade fibre and the inherent complexities involving tenure rights and obligations, the purpose of this guide also includes providing consistency regarding the harvesting of Residual Fibre throughout the province.

Organization and Format

This Guide is designed to be used online or printed. References are cited throughout with underlined hyperlinks to websites where available.

Updates

This Guide will be updated as needed to reflect policy changes and new legislation. The latest version will be available from the Forest Tenures Branch (FTB) website:

<http://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm>

GLOSSARY

Business to Business (B2B) means when two or more business entities make an agreement with each other to utilize Residual Fibre. The agreement could also address operational issues such as safety, road use, road deactivation, site disturbance, and hazard abatement obligations.

Do Not Destroy Order is an order issued by the DM under Section 79.1 of the *Forest Act* to specific licensees preventing the destruction of Residual Fibre.

Fibre Recovery Tenures are tenures issued under the *Forest Act* that authorize the grinding, chipping and removal of Residual Fibre from roadsides and landings.

Fibre Recovery Zone is an area identified by the DM where it has been determined that an increase in the use of Residual Fibre would be improved by initiating the formal notification process under Section 79.1 of the *Forest Act* and/or issuing one or more Fibre Recovery Tenures.

Fibre Supply Agreements are agreements entered into by a PH and third parties that require a certain volume of logs, chips or hog fuel be delivered by the PH to the third party. The Crown is not a party to these forms of agreement.

Primary Harvester (PH) includes all major licensees (as defined in the *Forest Act*) and B.C. Timber Sales (BCTS).

Residual Fibre is Crown timber cut and left after primary harvesting is completed and that remains on roads and landings. It does not include timber that remains dispersed throughout a block after primary harvesting.

Secondary User (SU) includes those parties that use Residual Fibre as input for their facilities (i.e. pulp mills, pellet plants, bioenergy, and any other potential user of fibre).

OVERVIEW

Over the past few years, significant effort has been made to support the development of new forestry technologies and products. Increasing global demand for sustainably managed renewable resources provides British Columbia (BC) with a significant development opportunity regarding the conversion of renewable forest biomass into products such as engineered wood, wood pellets, bio-fuels, chemicals, and other materials.

The mountain pine beetle infestation has resulted in increased amounts of low-quality wood that is not suitable for lumber production. However, this wood, and wood residue and debris, is suitable for use by pulp and paper mills that use chips for pulp production, oriented strandboard mills, pellet plants and others. Wood pellet production capacity has doubled over the last few years and there are now 12 pellet plants operating in BC. Pulp and paper producers also put significant capital investments into their plants to derive energy from wood residue.

In September 2015, the Minister of FLNRO announced the Forestry Fibre Action Plan (Action Plan) that included a number of measures to be taken to increase the use of Residual Fibre. This was in response to direction in the Minister's Mandate Letter (2014 and 2015) to “examine ways to enhance the security of fibre supply for secondary and non-lumber users of lower quality and residual fibre”. The Action Plan is also a component of the Forest Sector Competitiveness Strategy currently being developed.

The Action Plan was developed by the Forestry and Fibre Working Group (FFWG). This Working Group is made up of representatives from the lumber, pellet, non-lumber, pulp and paper sectors and ministry staff that have been working together to provide the Minister with recommendations to streamline and increase the efficiency and recovery of Residual Fibre. The recommendations made by the FFWG are included in the Action Plan and have been incorporated into these Guidelines. New processes have been added to the existing legislative tools such as the two forms of licences (Fibre Supply Licence to Cut; Fibre Forestry Licence to Cut) introduced in 2012.

The Action Plan provides:

- support and encouragement for B2B relationships between PHs and SUs;
- support for removing residuals from the forest where B2B relationships do not exist; and
- tenure opportunities for SUs where there are no PHs.

Additional details regarding the Action Plan can be found on the following website:

<https://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm>

PART A: PROCESS TO IMPROVE UTILIZATION OF RESIDUAL FIBRE

The process outlined in this part focusses on improving the utilization of Residual Fibre.

While the implementation of this process falls within the existing legislative framework, its success will in large part be founded upon the goodwill and behaviour of the parties involved.

In addition to improving the utilization of Residual Fibre, implementing this process will support:

- the development of B2B relationships between PHs and SUs;
- the timely sharing of information between PHs and SHs with respect to fibre needs and potential opportunities to harvest Residual Fibre; and
- better planning and practices that lead to cost-effective removal of Residual Fibre.

1.0 Preliminary District Review of the Current Availability and Use of Residual Fibre (DM)

The process begins with the DM conducting an informal review that may be undertaken at any time. A review could be initiated as a result of a number of factors including:

- SUs expressing concerns with respect to negotiating B2B relationships for the use of Residual Fibre;
- interest in and proposed construction of a new non-sawlog industrial plant; and
- PHs expressing interest in developing new B2B relationships with SHs.

If there is clearly no demand or supply issue within the District for Residual Fibre, the DM would not engage this process.

Through this review, the DM should develop a clear understanding of the dynamics within the District or part of the District in regard to the supply and demand of Residual Fibre. This includes identifying if PHs are using the Residual Fibre themselves or through B2B relationships or Fibre Supply Agreements. This can be achieved through local district knowledge, input from PHs and SU operating within the area, parties interested in developing operations within the area as well as other experts within the district and FLNRO.

If there is clearly no supply of Residual Fibre or if the DM determines that the supply is of a quality or in a location that would render it uneconomical to harvest, then no further action is required and it would be business as usual for PHs.

If there is a clear demand for, and a supply of economical Residual Fibre that is not being used, the DM will establish the Area of Interest and implement the Information Sharing Stage outlined in Section 2.

The area of interest will include areas where a supply exists (i.e. does not cover operating areas of PHs who are using the Residual Fibre through B2B and fibre supply agreements) and that can be removed economically. In some cases SUs may assist with defining the area of interest by using an economic radius from their facility.

2.0 Information Sharing Stage (PH/SH)

The DM will inform the appropriate PHs within the area of interest that there is an expectation for them to begin sharing information with the SH. This can be achieved through letters/emails being sent to the PH or through face to face meetings or the Timber Supply Area Steering Committee meetings. The appropriate PH includes those who have harvesting operations within the area of interest that result in Residual Fibre not being used.

The DM will also maintain a registry of SUs which will be shared with PHs and may be posted to the District webpage. Interested SUs will be responsible to ensure they are on the Registry.

On a semi-annual basis (likely beginning in January), the PHs¹ will provide information on proposed harvesting operations for the year to all currently registered SHs. The information will include the approximate timing of harvest, location, estimated total volume/species of the original stand, contact information, and any other information the PH believes may be relevant (e.g. access, ongoing liabilities that may affect operations, etc.).

The PH could also use other means to share information with SHs such as:

1. Discussions at Timber Supply Area Steering Committee if it includes broad based licensee representation; and
2. Advertising in local papers.
3. Meeting with SUs.

The information being provided will also include a deadline for a SU to express interest in the Residual Fibre. It is recommended that a deadline of 30 days from the date the information is shared.

Further assistance may be required for coordinating the information sharing between SUs and smaller PHs such as Woodlot Licensees; Community Forest Agreements; First Nations Woodland Licences, and industrial activity where tree cutting on Crown land occurs (i.e. oil and gas).

3.0 B2B Negotiations (PH and SU)

SUs that are interested in gaining access to the Residual Fibre should contact the PH as soon as possible and within the timeline included in the notices.

PH and SUs will then negotiate B2B deals to remove and use the Residual Fibre. Both parties must make all reasonable attempts to successfully conclude agreements within the following two months. **The DM is not part of these negotiations.**

It must be recognized that PHs have full legal rights to the Residual Fibre and will have full discretion as to which SUs they choose to do business with.

¹ Appropriate PHs will vary from district to district and may include only major licensees, or all licensees including woodlots, First Nation woodland licences, and community forest agreements.

If negotiations are successful then business may carry on and the DM has no reason to be further involved. If negotiations are not successful the process moves on to the next step (Section 4). This would usually be initiated by the SU through an application to the DM.

4.0 Fibre Recovery Review (DM)

The DM may choose to conduct a review of the potential for accessing and using the Residual Fibre in question.

The review will include considerations such as:

- i. Whether or not the fibre can be removed economically;
- ii. Does the SU have a reasonable business case;
- iii. Is fibre being recovered from other similar blocks in the general vicinity;
- iv. Have the PH and SU made reasonable efforts to share information and conclude B2B relationships as outlined in earlier steps.
- v. Are there are good reasons why B2B relationships have not developed?

If the DM determines that there are good reasons why B2B relationships have not developed (i.e. removal of fibre would clearly be uneconomical; unreasonable demands of the SU or PH) and that using one of the legislative tools would not result in the increase in the use of Residual Fibre then no further action would be required by the DM other than informing the PHs and SHs involved. The DM could also encourage further efforts to develop B2B relationships.

The review could result in the DM determining that the use of Residual Fibre would likely be increased by using one of the legislative tools. In this case the DM would implement one or more of the legislative tools as outlined in the following Part B.

PART B: LEGISLATIVE TOOLS TO INCREASE THE USE OF RESIDUAL FIRBE

1.0 Legislative Tools

If the review conducted in Section 4.0 of Part A results in the DM determining that the utilization of Residual Fibre could be enhanced through the use of a legislative tool, the DM has the following options:

1. Establishing a Fibre Recovery Zone by initiating the requirement for PH to begin to provide notices under Section 79.1 if the *Forest Act*;
2. Issuing one or more Fibre Recovery Tenures to the SU(s).
3. Issuing Do Not Destroy Orders and issuing one or more Fibre Recovery Tenures to the SU(s)
4. Issuing a standalone Do Not Destroy Order to the PH(s).

1.1 Section 79.1 of the *Forest Act*

Section 79.1 (**Appendix B**) of the *Forest Act* is an integral part of the framework for using one or more of the legislative tools. This Section includes the following provisions:

1. 79.1 (1) provides the authority for the DM to order a PH to begin providing notice to the DM whether the PH has abandoned or intends to abandon Residual Fibre remaining on a block once primary harvesting is completed;
2. 79.1 (2) provides the authority for the DM to order the PH “Not to Destroy” the Residual Fibre in the case where the PH has indicated they intend to or are abandoning the timber;
3. 79.1 (3) provides the authority for the DM to order the PH “Not to Destroy” the Residual Fibre in the case where the PH has indicated they are not abandoning the timber; and/or
4. 79.1 (4) requires they PH to comply with the Orders issued under the previous clauses. A maximum penalty of \$100,000 is established for non-compliance with this section under the Administration Orders and Remedies Regulation.

2.0 Establishing a Fibre Recovery Zone

In establishing a FRZ, the DM is informing the PHs and SHs within the District that the DM is planning on using one or more of the legislative tools to increase the use of Residual Fibre within the FRZ.

A FRZ is a geographic area that can cover the whole or any part of a District. Generally it will be based on the area of interest (economic feasibility) that was established under Section 1 of Part A.

The DM will determine which PH and operations the FRZ will apply to. The order should **not** be applied to PHs who are using the Residual Fibre or have existing B2B relationships with SU to use the Residual Fibre. FRZs can apply to one or all PHs within the area of interest.

A FRZ is implemented through the provisions of Section 79.1 (1) of the *Forest Act* and is done on a on a licence by licence basis².

2.1 DM Orders to PH to begin providing notice under S. 79.1

As indicated above, Section 79.1 of the *Forest Act* gives the DM the ability to order PHs to provide notice whether or not they have abandon or intend to abandon timber they have cut under a licence, but have not removed.

The notification process may apply to just a few cut blocks to accommodate small operations or may encompass larger geographic areas to facilitate larger scale operations. It is up to the DM to ensure the information requested in an Order meets the district’s needs.

² Certain types of licences may be exempt from being included in a FRZ.

The DM order to the PH will identify which licences and cut blocks the order will be applied to. This may include:

- One or more specific licences issued under Section 12 of the *Forest Act* (i.e. Forest Licence; Tree Farm Licence);
- One or more management units (Timber Supply Area, Tree Farm Licence or Community Forest Agreement) within a forest district or any holder of a tenure (with the exception of Schedule A private lands, or BC Timber Sales Licences); and
- One or more cutting authorities in a specific operating area where timber harvesting is being conducted under the licence.

The Order will also specify the timelines for the PH to provide notice and in what format the notices are to follow (letter; email etc.). This may include the PH providing notice either at the commencement of harvesting of a cut block or upon completion of harvesting operations.

Ultimately the notification process may result in the rights to the Residual Fibre being granted to a SH. This can only happen if the PH has provided notice that they have abandoned the Residual Fibre. Notices from a PH of abandoning the timber may only happen once harvesting is complete and waste surveys have been submitted (and approved). Therefore, a notice from the PH when harvesting commences that they “intend to abandon” can only be used for planning purposes, and rights cannot be granted to a SU prior to a second notice from the PH confirming they have abandon the Residual Fibre.

In most cases it will be beneficial from a planning perspective for the Notice to be provided at the time harvesting commences on a block. However, notices at this stage will only include the requirement for the PH to identify if they intend to abandon the Residual Fibre or not. Examples of the various DM’s Orders are included in Appendix C.

In circumstances where the SU has subsequently established a B2B arrangement or there is no longer interest in the Residual Fibre, the DM may rescind the order thereby relieving the holder from providing any further notification for cut blocks and roads that were specified in the order.

2.2 Notice of Intent to Abandon Timber

Once the PH receives an Order from the DM to provide notice when harvesting commences, the PH is legally required to begin providing notice on a block by block basis in accordance with the content of the order. As a minimum, the following information should be requested in the Order:

1. The cutting permit and block to which the notice applies;
2. Timing of the operations on the block;
3. Any forest management concerns the PH has with respect to removal of the LRW; and
4. A statement as to whether or not the PH *intends to abandon the timber*.

The PH is not limited to information requested in the Order and may include additional information if the PH considers it relevant to its operations.

The Order may require the notice be in a format acceptable to the DM and must be signed by the PH or authorized representative (an example format is provided in Appendix 2).

As mentioned above, this information will be used for planning purposes only. Rights to the Residual Fibre cannot be granted to a SU until harvesting is complete, waste surveys are complete, and the PH has provided another notice indicating they have abandoned the timber.

2.3 Notice Confirming Residual Fibre is being Abandoned

Once harvesting is complete on the block, the PH will be required to provide a second notice. The purpose of this second notice is to confirm whether or not the Residual Fibre is abandoned or not. It is possible for the PH to have previously indicated they intend to abandon the Residual Fibre, but decide not to abandon the Residual Fibre as a result of changing conditions and operations.

At a minimum, the following information should be included in the notice:

1. The cutting permit and block to which the notice applies;
2. An estimate of the volume (m³) of LRW material for each cutting authority identified in sequence (e.g. a gross ocular estimate of waste volume along the in-block roads or an estimate from historic waste assessments);
3. Timing of the operations on the block;
4. Any forest management concerns the PH has with respect to removal of the LRW; and
5. Confirmation that the PH is or is not abandoning the Residual Fibre.

Note: The information provided in the notice may be critical to the decision as to whether or not an opportunity is available and to provide the SU with enough information to evaluate the opportunity.

2.3 Receipt of notice

Where the PH's notice confirms that they are abandoning the Residual Fibre, the DM should provide a response within 30 days or sooner of the plans for the Residual Fibre. This communication is necessary to allow the PH to carry on with hazard abatement if the DM does not issue the rights to the Residual Fibre to a SH.

3.0 DM Enters Into One or More Fibre Recovery Tenures

Provisions of the *Forest Act* include two forms of Fibre Recovery Tenure. These are:

1. Fibre Supply Licence to Cut; and
2. Fibre Forestry Licence to Cut.

These tenures provide the ability to issue rights to Residual Fibre over existing blocks to utilize Residual Fibre that is left behind on landings and roadsides provided that the PH has provided notice that they have abandoned the Residual Fibre.

Fibre Forestry Licence to Cut (FFLTC)

A FFLTC would generally be used for small, short-term 'one-off' operations limited to small areas such as a few cut blocks and small scale operations. Although the *Forest Act* provides for terms up to 5 years, the term of these licences will likely be less than one year.

The FFLTC is intended to be directly awarded (not competitively) and to be used where a quick turn-around is needed and to deal with short-term situations.

It is suggested that this form of tenure be used to 'test drive' the process in a District prior to issuing a longer-term, larger scale FSLTC. In addition, this tenure could be used to meet the need while a FSLTC is being advertised and awarded.

Fibre Supply Licence to Cut (FSLTC)

The FSLTC is a longer-term licence covering a larger geographic area. It is an overarching licence with fibre recovery permits issued pursuant to the licence. The maximum term of the licence is five years.

A FSLTC can only be directly awarded under certain circumstances (i.e. to a First Nations pursuant to a treaty-related agreement), and in all other cases the FSLTC must be competitively awarded.

The outcome of awarding rights under a Fibre Recovery Tenure will provide one specific SU with the rights to the fibre and will result in the PH being relieved of certain obligations (hazard abatement) that are transferred to the SH.

The new fibre recovery tenures are a tool to be used where a third party arrangement cannot be established. Consequently, FLNRO does not manage these tenures within a specific program.

Appendix D includes further details on the advertising, awarding, and administration of Fibre Recovery Tenures. In addition, the Forest Tenures Branch has a website dedicated to Fibre Recovery Tenures:

<http://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm>

In most cases, if the PH is cooperating with the SU to ensure Residual Fibre can be utilized the DM will issue a Fibre Recovery Tenure to the SU thus relieving the PH of their hazard abatement obligations.

4.0 DM Issues Standalone Do Not Destroy Order

Section 79.1 (1) and (2) provide the discretion to the DM to order the PH not to destroy Residual Fibre that has been identified in a PH notice to the DM as discussed above. Such an order may be applied regardless as to whether the PH has indicated they have abandoned the timber or that they have not abandoned the timber.

If the DM issues a Do Not Destroy Order and does not issue a Fibre Recovery Tenures for the Residual Fibre, the consequences are that the PH will remain responsible for hazard abatement without having the option to destroy the timber to meet those obligations³.

While this narrows the options for the PH, the PH maintains the discretion as to how they will address the fibre situation and who they may employ or conduct business with.

Failure to comply with an Order not to destroy timber may result in the DM applying an administrative penalty in accordance with the Administration Orders and Remedies Regulation⁴.

Note: Templates for DM orders under S. 79.1 are included in Appendix C and on the FTB Fibre Recovery Tenures website: <http://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm>

4.1 Fibre Recovery Tenure versus Stand Alone Do Not Destroy Orders

- What are the preferences of the PH and SH?
- Has the PH left the material in accordance with guidelines so that the recovery of the material by a SU is as efficient as possible? If they have, the DM may be more likely to issue the Fibre Recovery Tenure. If they have not, the DM may be more likely to end the process with an “Order Not to Destroy Timber”.
- What level of cooperation and reasonableness has been displayed by the PH and SU throughout the process to date? An uncooperative/unreasonable PH may support an “Order Not to Destroy Timber” only and an uncooperative/unreasonable SU may support a tenure offer.
- What proportion of the material is the SU wanting to take—if it is only a small proportion, a Fibre Recovery Tenure over that material may be the best solution. Alternatively, if the SU is indicating that they will take most or all of the material a Do Not Destroy Order and Fibre Recovery Tenure may be the best alternative.
- Is there more than one SU interested in the Residual Fibre? If so, a competitive award of a Fibre Recovery Tenure may be warranted.

³ Note that the PH would be relieved of hazard abatement obligations if a Residual Fibre Tenure was granted to a SU for the fibre – see the next section.

⁴ Monetary penalty can be up to \$100,000

APPENDIX A – THE CASE FOR “BUSINESS TO BUSINESS (B2B)”

In most cases, the most efficient and effective way to maximize the value of logging debris is for the PH to integrate and maximize the utilization of whole logs into their harvesting operations. Sorting, chipping, and grinding of wood waste may be coordinated with PH timber harvesting activities. Efficiencies may be achieved by planning how and where primary harvesting debris is piled or sorted, the time period during which it will be used by, and when the cut block roads will be deactivated.

As part of the Forest Fibre Action Plan new procedures are being implemented for scales based cutting authorities to address challenges with performing waste assessments on residual fibre before it is delivered to a secondary facility as a special forest product.

There is an opportunity for new businesses to enter into B2B relationships to gain access to wood fibre on virtually any tenure that involves timber harvesting. This includes: major licensees, community forest agreements, woodlots, licence to cuts, tree cutting on Crown land for industrial purposes like major projects, and government programs like “Forests for Tomorrow.”

Advantages to the B2B Approach for the Primary Harvester:

- Represents a free market approach that provides financial compensation and/or services that the parties may agree to;
- Reduces the liability associated with fire hazard abatement and/or creating plantable spots and may result in less scanning for hot spots by reducing LRW piles ;
- Provides the ability to manage the SH’s environmental footprint and prevent certification issues that might otherwise arise via Fibre Recovery Tenures awarded by FLNRO;
- Provides the opportunity to integrate fibre recovery harvesting at a strategic level as values change and to potentially lower fixed costs; and
- Grade 4 timber delivered to a non-sawlog facility is credited back to the licence, thus minimizing cut control implications.

Advantages to the B2B Approach for the Secondary User:

- Provides further efficiencies such as reducing administration and time delays without the need to award secondary tenures ;
- Ability to enter into a contract that would provide certainty to the supply (volume and term) of fibre recovery material; and
- Ability to forecast and schedule the removal of LRW with the greatest amount of certainty; and potential to lower fixed costs by coordinating access with the PH.

Note: A B2B approach is the most streamlined way of accessing fibre. The secondary tenure is inherently complex and may require significant time before it can be issued.

APPENDIX B - SECTION 79.1 OF THE *FOREST ACT*

Order respecting notice

- (1) During the term of an agreement under section 12, the minister may order that the agreement holder must notify the minister, in accordance with the requirements specified in the order, whether the agreement holder has abandoned or intends to abandon any rights the agreement holder has in respect of Crown timber that has been cut under the agreement but has not been removed from an area specified in the order.
- (2) If an agreement holder referred to in subsection (1) notifies the minister that the agreement holder has abandoned or intends to abandon the rights referred to in subsection (1), the minister may order the agreement holder not to destroy or otherwise deal with the Crown timber referred to in that subsection.
- (3) If an agreement holder referred to in subsection (1) notifies the minister that the agreement holder has not abandoned and does not intend to abandon the rights referred to in subsection (1), the minister may order the agreement holder not to destroy the Crown timber referred to in that subsection, if the minister is satisfied that a market exists for that Crown timber.
- (4) A person to whom an order under this section has been given must comply with the order.

Note: Minister has delegated powers under this section to District Managers

APPENDIX C - DISTRICT MANAGER ORDER FOR A LICENSEE TO PROVIDE NOTICE (TEMPLATE)

Order to Provide Notice under Section 79.1 of the Forest Act

To: _____
Agreement Holder

Licence No.

In accordance with Section 79.1(1) of the Forest Act, as of _____ (date) you are hereby ordered to provide written notice when timber harvesting operations commence on individual blocks under the Licences and on Road Permits listed in the attached Table 1.

These notices must include the following information on a block by block basis:

1. A list of the activities the PH has planned for the block and the timing of those activities.
2. Whether you **intend to abandon** any rights you have in respect of Residual Fibre that will be remaining on the block when harvesting is complete.

In addition, you are hereby ordered to provide written notice when timber harvesting operations and waste surveys are complete on individual blocks under the Licences and Road Permits listed in the attached Table 1.

These notices must include the following information on a block by block basis:

1. The dates when harvesting and the waste survey were completed.
2. An estimate of the volume of Residual Fibre remaining on the roads and landings.
3. A list of the post-harvest activities that are planned for the block and the timing of those activities.
4. Any management concerns the holder has with respect to the potential removal of the Residual Fibre from roads and landings.
5. **Confirmation that you are abandoning or not abandoning** any rights you have to the Residual Fibre remaining on the block.

If you confirm that you are abandoning the Residual Fibre, the (District Manager, Regional Manager) may offer the rights to the Residual Fibre under a Fibre Recovery Tenure.

Notices must be sent to the attention of the District Manager at the following address:

_____ Forest District

District Manager

Date

Table 1:

Licence	Cutting permit or Road Permit #	Block(s)

APPENDIX D (1) - NOTICE TO THE DM - HARVESTING COMMENCES (TEMPLATE)

Primary Harvester's Notice Section 79.1 of the Forest Act

Agreement Holder

Licence No.

Pursuant to Section 79.1(1) of the Forest Act, and the order issued by the _____ District Manager, dated _____, I hereby provide notice that harvesting operations have commenced on the block(s) and road permits listed in Table 1.

Table 1 also indicates a statement in regard to whether we intend to abandon or not abandon any Residual Fibre remaining on the block once harvesting is complete.

Table 1:

Licence	CP or RP	Block(s)	Date harvesting commenced	Estimated completion date	Intent to abandon Residual Fibre on roads and landings (yes/no)

Additional Information:

- A list of the activities the PH has planned for the area(s) and the timing of those activities; and
- Any management concerns the holder has with respect to removal of the LRW.

Signature of Authorized Representative

Date

Name of Licensee: _____

(Attachments, maps, list of operational activities, concerns etc.)

APPENDIX D (2) - NOTICE TO THE DM -HARVESTING COMPLETED (TEMPLATE)

Primary Harvester's Notice Section 79.1 of the Forest Act

Agreement Holder

Licence No.

Pursuant to Section 79.1(1) of the Forest Act, and the order issued by the _____ District Manager, dated _____, I hereby provide notice that primary harvesting operations and waste surveys have been completed on the areas listed in Table 1.

Table 1 also indicates a statement confirming whether we are abandoning or not abandoning the Residual Fibre remaining on the block.

Table 1:

Licence	CP or RP	Block(s)	Date harvesting completed	Date Waste Survey Completed	Confirmation if Residual Fibre on roads and landings is abandon (yes/no)

The Agreement Holder has included the following information as attachments to Table 2:

- Waste Assessment Completion date for accumulations along the roadside and landings;
- An estimate of the volume of LRW material for each cutting authority declared in the notice (e.g. a gross estimate of fibre recovery volume);
- A list of the activities the PH has planned for the area(s) and the timing of those activities; and
- Any management concerns the holder has with respect to removal of the LRW.

I understand that the District Manager may prohibit the destruction of any Residual Fibre on roads and landings through an Order issued under Section 79.1 (2) or(3) of the Forest Act if the Residual Fibre is being abandon or not abandon.

I understand that if the Residual Fibre is being abandoned, the District Manager may issue the rights to the Residual Fibre to a third party under a Fibre Recovery Tenure.

Signature of Authorized Representative

Date

Name of Licensee: _____

(Attachments, maps, list of operational activities, concerns etc.)

APPENDIX E - ORDER NOT TO DESTROY TIMBER (TEMPLATE)

ORDER NOT TO DESTROY TIMBER

To: _____
Agreement Holder

Licence No.

In accordance with Section 79.1(2)(3) of the Forest Act, Agreement Holder Name (Licence No.) is hereby ordered not to destroy Residual Fibre on roadside and landings (20 metres either side of the centre line of the roadways and 40 meters radius from the centre of the landing, within the bold black line indicated on the attached Exhibit A map)) on the cutting authorities listed in the following table:

Table 1:

CP or RP	Block(s) Road Segments	FLTC or FRP Issue Date	FLTC or FRP Expiry Date

District Manager

Date

Attachment (map)

APPENDIX F - FIBRE RECOVERY TENURES (ADVERTISING, AWARDING AND ADMINISTRATION)

Overview of Fibre Recovery Tenures

The two fibre recovery tenures are the “Fibre Supply Licence to Cut” (FSLTC) and the “Fibre Forestry Licence to Cut” (FFLTC). These tenures authorize the processing (chips and hogged tree material) and removal of Crown timber. These tenures also authorize the removal of unprocessed Crown timber, but do not authorize the cutting of standing Crown timber.

Fibre recovery tenures are part of the licence to cut suite of tenures designed to meet many different purposes (small scale salvage, timber removal for scientific purposes, forest health, small volumes for commercial firewood, fence posts).

- 1) FSLTC – The licence will specify an area or areas to which it applies and provides for Fibre Recovery Permits (FRP). The Forest Act (Act) requires that the FSLTC be offered competitively except where the Act specifies circumstances where the tenure may be direct awarded without competition.

A holder of a FSLTC can only access wood waste by a FRP. A FRP may only be issued on LRW that has been abandoned by the PH and the licensor is satisfied that the risks to forest management or the PH obligations are minimized

- 2) Fibre Forestry Licence to Cut

This use of a Forestry Licence to Cut is designed to do the same thing as a FSLTC, but without the need for FRPs. It is intended to be used where there is sporadic demand for wood fibre and may be offered competitively or direct awarded. The FFLTC is recommended to test the wood fibre opportunities within the district or to meet limited client demand for small amounts of volume on specific areas identified by the client.

Note: Before a FFLTC or a FRP can be issued, the LRW material must have been identified in a notice to the SDM as abandoned by the Agreement Holder that currently holds the cutting authority for the timber.

Features of the Fibre Supply LTC and Fibre FLTC include:

- FSLTC is competitively awarded based on highest bonus bid and the Fibre FLTC may be direct or competitively awarded;
- Terms for a Fibre FLTC and Fibre Supply LTC are up to 5 years;
- Area based (areas that encompass landings and roadsides);
- No requirements for Forest Stewardship Plan, or reforestation responsibilities associated with Forest and Range Practices Act (FRPA);
- Subject to Forest Planning and Practices Regulation practice requirements and soil disturbance limits;
- Must pay stumpage to the Crown;
- No requirement for appraisal of timber;
- Provisions for a security deposit;
- Requirement for hazard abatement under the Wildfire Act;
- Authority to process Crown timber into Special Forest Products such as chips or hog fuel on site;

- No requirement for waste assessment;
- No annual rent;
- No volume limit.

The Fibre Supply LTC provides the right to remove LRW when the PH has provided notice under Section 79.1 of the Forest Act that the PH has abandoned timber.

Note: A Fibre Supply LTC does not provide any assurance by the Crown of fibre being made available within the licence area since the primary licensee may change specifications for timber utilization or begin to utilize harvesting waste for their own purposes.

General Business Process for the Issuance of a Fibre Recovery Tenure

A business process map titled Fibre Recovery Process (Appendix 1) breaks down the fibre recovery tenure administration into four “Steps.” These steps identify the roles of the Primary Harvester (PH), Statutory Decision Maker (SDM) and a Secondary user (SH).

- Step 1: The process is triggered when a client expresses interest in recovering specific LRW. The SDM determines if an opportunity is available and whether the client (SH) has made reasonable attempts to contact and enter into a B2B relationship with the PH responsible for the waste material.
- Step 2: If no arrangement can be made with the PH the SDM may “Order” a PH to provide notice under authority of Section 79.1 of the Forest Act.
- Step 3: The fibre recovery tenure awarded by the SDM will require security deposits and may include special licence conditions.
- Step 4: Addresses the completion of tenure where the SU processes and/or removes the fibre and completes obligations. Fibre Forestry Licence to Cut (FFLTC)

Note: A fibre FLTC or FRP cannot be issued until the PH has provided notice and indicated they have abandoned the timber.

The following websites provide more information on general forest tenure provisions refer to:

<https://www.for.gov.bc.ca/hth/index.htm>

Fibre Forestry Licence to Cut

- Generally used for small, short-term “one-off” operations limited to small areas such as a few cut blocks.
- Term of the licence will likely be less than one year.
- Can be directly awarded.
- Used where a quick turn-around is needed.
- Used to deal with short-term situations.
- Would need to set up.

When to Use

- Can be used for quick turn-around.
- Can be directly awarded.
- Need to establish a fair practice if more than one SU is interested (i.e. rotating list).
- Should be used to deal with a short-term issue.
- Should be used to deal with relatively smaller-scale operations.
- Could be used to “test drive” the process prior to issuing a FSLTC.
- Could be used to meet the need while a FSLTC is being advertised and awarded.

Fibre Supply Licence to Cut (FSLTC)

- A longer-term licence covering a larger geographic area.
- Overarching licence with fibre recovery permits issued pursuant to the licence.
- Maximum term of the licence is five years.
- Can only be direct awarded under certain circumstances (i.e. to a First Nations pursuant to a treaty-related agreement).
- In all other cases, the FSLTC will be competitively awarded.

When to use

- With some exceptions must be competitively awarded.
- Takes longer to put into place (FN consultation; advertise; award) (6 months).
- Use if the situation appears to be longer-term issue.
- Puts the rights into the hands of one SU for the established geographic area.
- Should be used for larger-scaled operations (district wide; majority of PH).

The award of fibre recovery tenures can be grouped into two categories direct and competitive. The legislative authority is found in the *Forest Act* and the *Advertising, Deposits, Disposition and Extension Regulation*.

Note: A fibre FLTC or FRP cannot be issued until the PH has provided notice and indicated they have abandoned the timber.

Direct Award

Where there is sporadic demand for LRW material, SDMs have the ability to direct award a fibre FLTC under Section 47.6 (2.11) of the *Forest Act*. The concept here is to use the direct award provisions unless there are multiple SH's that may have an interest in the LRW material. The SDM has discretion to determine when to offer the tenure on a competitive basis.

The SDM can also direct award a fibre FLTC to a First Nations as provided for in Section 47.3 of the *Forest Act*. Entering into the licence must further an agreement between the First Nation and the government respecting treaty related measures, interim measures or economic measures.

Competitive Award

The SDM can competitively award a Fibre Supply LTC or a Fibre FLTC by advertising an opportunity to submit applications. Applications are to be evaluated based on revenue to the Crown. For a Fibre Supply LTC the available volume at the time of the auction is unknown; however, the Fibre Supply LTC provides the first right of refusal for abandoned LRW within the Fibre Supply LTC area.

The application must also include a bid deposit in the amount determined by the SDM. Section 8 of the *Advertising, Deposits, Dispositions and Extension Regulation* provides flexibility for the SDM to consider the appropriate amount of bid deposit. Where multiple clients are bidding in good faith, the relatively low revenue risk and the desire to streamline administration a zero bid deposit may be considered.

Evaluation of Applications

The regulations identify 4 criteria that may be used for evaluating applications for a Fibre Supply Licence to Cut. These include:

- (a) the amount and sufficiency of the revenue the licence is anticipated to generate for the government;
- (b) the best use of the Crown timber;
- (c) the economic value to British Columbia of existing facilities proposed to receive and use the timber removed under the licence;
- (d) the economic value to British Columbia] of facilities proposed to be modified or constructed to receive and use the timber removed under the licence.

Applications must be evaluated on the basis of any of any of these factors, and to the extent considered applicable and set out in the advertisement inviting applications for that licence. Therefore, the competition can be based on one or more or all of the criteria, and each criteria that is included may be weighted accordingly as long as the criteria and weighting are clearly identified in the particulars package.

If required applications must contain or be accompanied by a sealed bonus bid payable to the government in addition to other amounts payable under the *Forest Act* in respect of the licence, and the application must contain or be accompanied by information specified for the purpose of evaluating the application.

A sample application tender package can be found at the following website:

<https://www.for.gov.bc.ca/hth/timber-tenures/fibre-recovery.htm>

If the successful applicant chooses not enter into the licence, then the bid deposit may be forfeited in accordance with the Advertising, Deposits and Disposition Regulation.

Security Deposit Requirements

Regardless if the licence was awarded using the direct or competitive award process, the applicant is required to comply with the *Advertising, Deposits, Disposition and Extension Regulation's* security deposit requirements before entering into the licence. Security deposits are held to ensure obligations under or in respect of the licence are fulfilled. This may include obligations under the *Forest Act*, *Forest and Range Practices Act*, the *Wildfire Act* or the *Forest Practices Code of British Columbia Act*.

Security deposits determined by the SDM may be based on an assessment of risk (see next section). The following are the minimum requirements found in the *Advertising, Deposits, Disposition and Extension Regulation*:

- For a Fibre Supply LTC, the security deposit will not be less than \$7,500 at any time, and may be re-determined by the SDM at anytime during the term of the licence as each application for FRP is made; and
- The minimum amount for a Fibre FLTC can be \$0.

For the Fibre Supply LTC, the security deposit could be increased to reflect the individual risk of sites or cut blocks included in a permit.

Assessment to Determine Security Requirements

It is up to the SDM to determine or adjust the amount of security deposit beyond the minimums set by regulation for fibre recovery tenures. The SDM can consider any activity or operation that may be engaged in or carried out under the licence where there is potential risk.

For a chipping or grinding operation, the SDM needs to ensure that there is enough security to address any consequences that could reasonably be anticipated to occur. The common concerns associated with a LRW operation are site specific damage to in-block roads, culverts, cattle guards or bridges, failure to abate waste piles and adequately deactivate roads to standard.

The key to assessing how much security is required to remedy the situation is having an understanding of the current condition or value of the asset and how much it will cost the SDM to rectify. As each district experiences different costs, it will be up to the individual districts to establish a reasonable security deposit.

In order to respect the business needs of the SH, operations staff will need a transparent and timely method to communicate the security requirements.

Table 1 captures factors associated with a chipping and grinding operation and assigns a monetary value for **additional security** (over and above minimum security requirements set by regulation).

Table 1

Factor	Low Consequence	Moderate Consequence	High Consequence
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Volume	< 2000 m ³	2000 m ³ - 5000 m ³	>5000 m ³
Length of On Site Roads	< 1 km	1-2 km	>2 km
On Site Bridge	N/A	1	>1
On Site Culverts	< 3	3-6	> 6 or any culvert >1200 cm dia.
Deactivation Requirements	< 1 km	1-2 km	>2 km
On Site Cattle Guards	N/A	1	>1
Additional Security	\$ 0	\$3 750	\$7 500

The following are rationales why the above factors should be considered:

1. **Volume:** relates to the amount of hauling on road system and provides an indication of how much volume the SU may be responsible to abate (fire hazard).
2. **Length of On Site roads:** refers to the amount of road in the cut block.
3. **On site bridges:** reflects potential damage to the asset.
4. **On site culverts:** reflects potential damage to culverts (compacted, bent, plugged, etc.).
5. **Deactivation requirements:** reflects the liability costs of deactivation requirements.
6. **On site cattle guards:** reflects potential damage to the function of a cattle guard.

This table could be utilized by the SDM to adjust the security requirements and prepare a notice of the opportunity to the SU once potential sites are received from the PH's notification. In this process, the SDM has the ability to exclude sites that may not be suitable for issuing a FRP or entering into a Fibre FLTC.

Provincial Tenure Template

Document templates are available that may be used by ministry staff for the Fibre FLTC, Fibre Supply LTC and the Fibre Recovery Permit on the RTEB SharePoint site: <http://www.for.gov.bc.ca/hth/timber-tenures/templates-files.htm>

Fibre recovery tenures are intended to authorize the holder to do any of the following:

- Occupy Crown land for the purpose of removing Crown timber; and
- Process felled Crown timber into special forest products.

First Nations Consultation

The B.C. government has a legal duty to consult with First Nations on proposed forestry activities that may adversely impact aboriginal rights or title. It is up to each DM to determine how best to meet government's consultation requirements for the issuance, extension or amendment of fibre recovery tenures.

Extensions of Permits or Licences

The maximum term for both the Fibre FLTC and Fibre Supply LTC is five years. For operational purposes, the DM may extend a permit or a licence. There is no maximum term for a FRP; however, the expiry date of the permit cannot exceed the expiry date of the Fibre Supply LTC.

Road Use and Maintenance

Use of roads outside of the cut block to access the Licence Area

In most cases the SU will automatically be exempted from requiring “authority” to use a road to access the licence area (see section 79.1 of the *Forest Planning and Practices Regulation*.) However, the exemption may be removed if, in the opinion of the district manager, the use of the road by the SU will materially affect the use of the road by others or adversely impact forest resources (see section 79.1 (3)).

This is a statutory decision by the district manager and is to be sent to the SU under a separate notice.

Use of roads within the Licence Area

A standard clause in each tenure or permit authorizes the use of roads within the authorized area. As well as authorizing the use of the roads, the condition references section 79.2 (3) of the *Forest Planning and Practices Regulation*. This section requires the SU to ensure that upon harvest completion, the road surfaces and drainage are compatible with the condition as they were immediately before the SU began using the roads. If it is determined that the SU should be responsible for deactivating the roads within the permit area once operations are complete, then the appropriate requirement (clause) must be included.

Forest and Tenure Administration (FTA)

Currently FTA is under development to create a new file type for the Fibre Supply LTC and add a new purpose code to the Forestry Licence to Cut (BO7) to identify the Fibre FLTC. Until the new system enhancements are in place District staff will follow the procedures located in attached supplement to this guide. There are no reporting requirements for RESULTS.

Pricing, Scaling and Transportation

Stumpage rates for special forest products are provided in the provincial appraisal manual for the coast and the interior.

Scaling and transportation of special forest products must be in accordance with the *Forest Act, Scaling Regulation, Timber Marking and Transportation Regulation* and the Provincial Scaling Manual.

Hazard Assessment and Abatement Responsibilities

Primary Harvester assessment and abatement obligations:

In accordance with the *Wildfire Act* and Regulation, the PH continues to be responsible for hazard assessment and abatement obligations within the PH tenure area even when the PH has provided notice of abandonment of the LRW.

The PH also continues to remain responsible for hazard assessment and abatement obligations for the PH tenure area that is not covered by the SU tenure area. Please refer to the *Wildfire Act* and Regulation, including section 7 of the *Wildfire Act*, and sections 11, 12, 12.1 of the *Wildfire Regulation* for hazard assessment and abatement requirements.

Transfer of abatement responsibility to SH:

Once the FRP or the Fibre FLTC is issued to the SU to allow industrial operations in the operating area (SH Operating Area), the responsibility to carry out hazard abatement is transferred to the SH. Further, the *Wildfire Act* and Regulation exempts both the PH and the SU from all hazard assessment requirements in the SU Operating Area once the FRP or the Fibre FLTC is issued. Please refer to the *Wildfire Act* and Regulation, including section 7 of the *Wildfire Act* and sections 11 and 12.2 of the *Wildfire Regulation*.

The SU will either utilize or meet hazard reduction requirements in accordance with the *Wildfire Regulation* and is only responsible for the area included in the SU Operating Area. The responsibility remains with the PH to assess and abate the hazard for the PH tenure area not covered by the SU tenure.

Note: Once the hazard abatement responsibilities are transferred to the SU, the SU is required to comply with the specified time periods and extent to abate fire hazards in accordance with section 12.2 of the *Wildfire Regulation*.

Timber Processing Report

It is recommended that a requirement to provide a “Timber Processing Report” is included as a contract condition in fibre recovery tenure.

The SDM will use this information to determine if the licensee has addressed tenure requirements that are included as part of the licence. The overall intent of the report is to demonstrate that the site remains in the same or better condition as it was in prior to the SU conducting their activity.

The content of the report may include information with respect to:

- A map of the area subject to the Fibre FLTC or FRP indicating the location of activities; and
- Any additional information the SDM considers necessary to determine compliance with the agreement conditions or the forestry legislation. For example, road deactivation, hazard abatement, etc.

MFLNRO will monitor the effectiveness of the report and may adjust this policy if SHs can find alternative means of demonstrating the completion of obligations.

Compliance with Licence Obligations

In addition to compliance and enforcement inspection procedures, when the SU has completed operations and there is a contractual requirement to prepare and submit a Timber Processing Report (the report) to the SDM, the following steps are advised before the security deposit is released:

- District staff will review the report against the licence/permit requirements, if all obligations are declared complete the licence/permit will be closed and the security deposit will be returned to the SH.
- If the district review identifies deficiencies in the report, the client will be asked to correct or clarify the deficiency.
- Where the report identifies that an obligation has not been completed, but proposes a date when the obligation will be completed, then operations staff will not close the licence/permit or release the security deposit until they are notified that the work is complete.

Where an obligation under the licence has not been satisfactorily completed, the SDM may access all or part of the security deposit to carry out the necessary works.

Note: The SDM does not hold the security deposit and must work with Ministry of Finance to access the funds. The general process is that the SDM performs the works via contract and then invoices Ministry of Finance.

Given this is a new form of tenure; it is recommended that operations staff develop an audit strategy for the Timber Processing Reports. This will help fine-tune the information requirements, get familiar with the operations, review the results and make appropriate adjustments to operation processes.

Notice of Opportunity to a Holder of Fibre Supply LTC Once the SDM has received the notification from the PH, the SDM may carry out a security deposit assessment (see Table 1) for each area(s) identified in the notice. The SDM has the discretion to remove high risk sites that may not be suitable for a FRP due to the factors identified by the PH in the notification.

The SDM will advise the holder of the Fibre Supply LTC of the opportunity and include the PH's information. This information will enable the SU to evaluate the opportunity including the security deposit requirements for the individual cut blocks.

The SDM will indicate the time frame to respond in the notice. A recommended time is ten (10) business days upon receipt.

Order not to Destroy the Timber If the SU confirms a desire for the rights to the timber, and the SDM decides to issue the rights to the SU under a fibre FLTC or FRP, then the SDM will also issue an order to the PH not to destroy or otherwise use the timber in question. The issuing of the Order should happen once the rights to the timber have been awarded as per the following sections (Step 3). An example template for an Order Not To Destroy the timber.

A sample of a notice template is found in Appendix 3. This example, addresses multiple cut blocks in a single notification. PH's are also encouraged to share "Site Plan" information with the SU so they are aware of the local Forest and Range Practices Act (FRPA) values and resources.

APPENDIX G – FIBRE RECOVERY PROCESS MAP

