

# MÉTIS NATION BRITISH COLUMBIA



## NATURAL RESOURCE ACT

REVISED SEPTEMBER 2010

*"INCORPORATES THE RESOLUTIONS OF THE 2010 AGM"*



## ARTICLE ONE – TITLE

1.0 This Act is cited as “Métis Nation British Columbia - Natural Resource Act.”

## ARTICLE TWO – INTERPRETATIONS

2.0 In this Act and subsequent Addendums and Regulations:

- 2.1 “**Act**” means the *MNBC Natural Resource Act*.
- 2.2 “**Addendums**” are Ministerial approved supplements to the *Natural Resource Act* that enables the development of annually renewed, low-level legislation.
- 2.3 “**BCMANR**” means the British Columbia Métis Assembly of Natural Resources which is a non-political committee that manages the natural resources on behalf of the MNBC.
- 2.4 “**Captain’s Assembly**” consists of the seven voting regional Captain of Natural Resources.
- 2.5 “**Captain of Natural Resources**” means a MNBC citizen who has been selected, through the BCMANR Policies and Procedures, and endorsed by the Regional Governance Council of their respective region.
- 2.6 “**Constitution**” means the *Constitution* of the MNBC as amended from time to time.
- 2.7 “**Director of Natural Resources**” means a person that is employed by the MNBC Secretariat and has expertise and experience in the natural resource sector.
- 2.8 “**Issuer**” means a person that is delegated the authority by BCMANR to issue licensing, tags and permits.
- 2.9 “**Legislation**” means legislative documents, laws and/or acts including amendments to existing legislative documents, laws and/or acts and, for the purposes of this Act, will include draft or proposed Legislation.
- 2.10 “**MNBC**” means the Métis Nation British Columbia which represents and/or is comprised of the Métis Citizens of British Columbia and which is governed by the provisions of the *Constitution*.
- 2.11 “**Métis Citizen**” as defined by the *MNBC Citizenship Act*.
- 2.12 “**Minister of Natural Resources**” means the MNBC Board Member that has been assigned the Natural Resource Ministry by the President of the MNBC.
- 2.13 “**Ministry of Natural Resources**” means the MNBC Secretariat department that is responsible for all natural resource issues under the authority of the Minister of Natural Resources (political), Director of Natural Resources (technical) and the B.C. Métis Assembly of Natural Resources.



- 2.14 **“Officer of Natural Resource”** means a Métis Citizen who has been selected, through the BCMANR Policies and Procedures, and endorsed by the Community Executive of their respective Chartered Métis Community.
- 2.15 **“Parties”** for the purpose of consultation means government, proponents, regulatory agencies and other external entities whose mandate includes Aboriginal consultation.
- 2.16 **“Region”** means a MNBC Region as determined by the *Constitution*.
- 2.17 **“Regulation”** is the annually renewed provincial and regional rules that manage the Métis harvest.
- 2.18 **“Senate”** means the MNBC Senate.
- 2.19 **“Youth”** for the purpose of harvesting under the authority of this *Act* and to provide consistency with existing provincial and federal government legislation (i.e. *B.C. Wildlife Act*) means a Métis Citizen between the ages of 10-18 years of age.

### **ARTICLE THREE – PURPOSE OF THE ACT**

- 3.0 The purpose of this Act is to provide Métis specific legislative authority for the regulated management of all natural resources in British Columbia which are utilized by the Métis Citizens, thus;
  - 3.1 Establish natural resource regulation, policy and guidelines by combining both Métis traditional knowledge and western-based science management principles;
  - 3.2 Institute sound conservation practices and measures;
  - 3.3 Protect the sustenance and cultural needs of the Métis Citizens in British Columbia;
  - 3.4 Ensure adequate consultation on all natural resource issues.

### **ARTICLE FOUR – FINANCES**

- 4.0 The financial requirements for MNBC’s Ministry of Natural Resources shall be satisfied as follows:
  - 4.1 Where fiscal resources are available, the MNBC, in accordance with the laws and regulations of the MNBC Financial Policies and Procedures, shall provide financial resources to BCMANR as required for the purposes of carrying out the provisions of this Act.
  - 4.2 Such resources shall be within the means available to the MNBC for such purposes.



- 4.3 The Director of Natural Resources shall make formal written request to the MNBC for all expenditures of BCMANR.
- 4.4 The MNBC shall actively pursue financial resources for the functions of BCMANR and the Ministry of Natural Resources.
- 4.5 The MNBC will be responsible for travel expenses and honorariums for BCMANR while conducting official BCMANR business, pursuant to this Act.

#### **ARTICLE FIVE – RECORD KEEPING AND REPORTING PROCEDURES**

5.0 In this Act:

- 5.1 BCMANR shall keep written minutes of all meetings and shall issue these minutes to the Director of Natural Resources and the Minister of Natural Resources.
- 5.2 All decisions of BCMANR shall be recorded and a report provided to the Citizens at an Annual General Meeting or Special General Meeting of the MNBC and the Métis Nation Governing Assembly.
- 5.3 The MNBC's Minister responsible for Natural Resources will be required to report all updates to the MNBC Board of the Directors.

#### **ARTICLE SIX – HARVESTING FOR PROFIT AND COMMERCIAL**

6.0 In this Act the harvesting of wildlife and fish for profit or commercial purposes;

- 6.1 Is not authorized, and;
- 6.2 Only permits harvesting by Métis Citizens for food, social, ceremonial and traditional purposes.

#### **ARTICLE SEVEN – MANAGEMENT AGREEMENTS**

7.0 Management agreements;

- 7.1 The MNBC Board of Directors may enter into agreements with Canada or British Columbia pertaining to management, perpetuation or rehabilitation of wildlife or fish populations or the ecosystems of which those populations are a part.
- 7.2 The MNBC Board of Directors may enter into agreements with aboriginal nations, non-government organizations and stakeholder groups that pertain or contribute to natural resource management and conservation of fish and wildlife populations and habitats.



- 7.3 The MNBC Board of Directors may enter into agreements with the owners of lands respecting the management of the lands for the purposes mentioned in *Article 3.0*, and such agreements may authorize BCMANR to carry out habitat improvement work, protective measures, stocking programs, fencing, erection of signs, harvesting activities and any other management practice.
- 7.4 The MNBC Board of Directors may enter into agreements, for the purpose of consultation, as per *Article 11.0* of this Act.

## ARTICLE EIGHT – MNBC HARVESTING CARDS

8.0 In this Act:

### 8.1 MNBC Harvesting Cards

- 8.1.1 MNBC Harvesting Cards may be issued to Métis Citizens who submit applications and meet requirements for approval. This Act applies only to those persons who have chosen to harvest under the authority of the Act.
- 8.1.2 A MNBC Citizen cannot harvest a wildlife and fish quota (or bag limit) under multiple licensing authorities (i.e. MNBC Harvesting Card and a Province of British Columbia *Wildlife Act* hunting license).
- 8.1.3 The holder of a MNBC Harvesting Card constitutes acceptance of all terms and conditions for use of the card as outlined in this Act and any subsequent regulations created under the authority of Article 9.0.
- 8.1.4 Contravention of terms is an Offence.
- 8.1.5 No person shall contravene the terms or conditions of the person's MNBC Harvesting Card.

### 8.2 Transfer of MNBC Harvesting Card, validation or tag;

- 8.2.1 Except as provided in the regulations, no MNBC Harvesting Card shall be transferred and no person shall buy, sell, exchange or in anyway be a party to the transfer of a MNBC Harvesting Card, validation or tag, or in any way use or attempt to use a MNBC Harvesting Card, validation or tag, issued to any other person.

### 8.3 MNBC Harvesting Cards apply only to those species, areas and times described by regulations developed under the authority of *Article 9.0*.

### 8.4 Cancellation of MNBC Harvesting Card in event of error;

- 8.4.1 BCMANR may cancel any MNBC Harvesting Card where an error has been made from any cause when issuing it, and the holder has no claim for indemnity or compensation with respect to it other than the adjustment or refund of any fee collected.



- 8.5 MNBC Harvesting Card is to be carried and produced upon demand;
- 8.5.1 No holder of a MNBC Harvesting Card shall hunt, fish, trap or collect natural resources unless at that time he or she has the MNBC Harvesting Card on his or her person;
- 8.5.2 The holder of a MNBC Harvesting Card shall produce the card to any enforcement officer whenever requested.
- 8.6 MNBC Harvesting Card obtained by misrepresentation;
- 8.6.1 The holder of a MNBC Harvesting Card obtained by any false or misleading statement made in respect of any information required for the issue of the MNBC Harvesting Card shall be deemed to be the holder of a void MNBC Harvesting Card and the holder will be prosecuted under this Act.
- 8.7 Refusal of MNBC Harvesting Card;
- 8.7.1 An issuer of MNBC Harvesting Cards may refuse to issue a MNBC Harvesting Card where the refusal is due to failure to verify MNBC Citizenship for the applicant or,
- 8.7.2 Where the refusal is reasonably necessary for the achievement of the purpose and intent of this Act as per *Article 3.0*.
- 8.8 Notice of refusal
- 8.8.1 Where an issuer of MNBC Harvesting Card refuses to issue a MNBC Harvesting Card, BCMANR shall serve notice of the refusal on the application for the MNBC Harvesting Card.
- 8.9 A person, who has not complied with terms of any BCMANR Captain's Assembly decisions related to offences under the Act, will not be eligible to apply for a MNBC Harvesting Card, unless the offence has been over-turned by a successful MNBC Senate appeal.

#### **ARTICLE NINE – REGULATIONS BY BCMANR**

- 9.0 BCMANR will make regulations that are consistent with *Article 3.0* and develop regulations based on the principles of existing case law, and whereas;
- a. An agreement (as per *Article 7.0*) that has been endorsed between the MNBC and a provincial and/or federal government partner, or;
- b. Legislative or political direction has been provided by the Métis Nation Governing Assembly, MNBC Annual General Assembly or a ratified motion of the MNBC Board of Directors, however;



- c. If neither *Articles 9.0 a.* nor *9.0 b.* are present, then provincial and federal government legislation and regulation will be sanctioned.

9.1 BCMANR will make regulations as follows:

- 9.1.1 Respecting threatened species or endangered species;
- 9.1.2 Application for MNBC Harvesting Cards and permits as per *Article 8.0*;
- 9.1.3 Prescribing the conditions of a MNBC Harvesting Card and conditions that the Issuer may attach to a MNBC Harvesting Card when he or she issues it to a Métis Citizen;
- 9.1.4 Limiting the number and types of tags and permits that may be held by a person;
- 9.1.5 Prescribing fees;
- 9.1.6 Prescribing the maximum number of a species of wildlife, by sex and age, that a person may kill or possess in a period of time and the circumstances in which a person may kill or possess wildlife;
- 9.1.7 Designating no shooting and/or no harvesting areas;
- 9.1.8 Providing for cancellation or suspension of, periods of ineligibility for and periods of suspension of MNBC Harvesting Cards for specified offences or combinations of offences, and specifying what a second or subsequent offence is, consistent with *Article 12.0*;
- 9.1.9 Specifying lakes, streams or areas of British Columbia for the purpose of requiring a member of a class of Métis Citizens to hold a MNBC Harvesting Card issued under the authority of this Act to engage in angling in that lake, stream or area (i.e. youth and elder harvests);
- 9.1.10 Respecting how decision for appeal may be supplied for the purposes of *Article 13.0*;
- 9.1.11 Prohibiting or regulating methods and devices for hunting or taking wildlife and respecting safety in those activities;
- 9.1.12 Providing for the reporting and recording;
- 9.1.13 Requiring wildlife or a part of wildlife to be permanently or temporarily marked or tagged;
- 9.1.14 Requiring that a person who kills wildlife, take that wildlife or a part of it to a place and report to a person specified by BCMANR;

9.2 Without limiting *Article 9.1*, BCMANR will make regulations as follows:



- 9.2.1 Specifying open seasons or closed seasons, or both, for a sex, age or species of wildlife;
  - 9.2.2 Prescribing the hours of the day or night during which the hunting of wildlife is prohibited or allowed;
  - 9.2.3 Prescribing restrictions on the manner in which fish caught by angling may be dressed or packed and limits on the amount of fish or fish parts possessed by a person at a place other than at a private residence;
  - 9.2.4 Prescribing MNBC Harvesting Cards or permits that must be held to angle for or to catch and retain a designated species of fish or to angle in a designated area of British Columbia, including tidal waters;
  - 9.2.5 Prescribing tags that must be attached in the prescribed manner to fish caught by angling;
  - 9.2.6 Prescribing an offence under a specified provision of this Act, or a regulation under this Act, as an offence.
- 9.3 BCMANR, despite anything in this Act, may make regulations respecting the issue of permits.
- 9.4 Regulation requires a scientific written opinion by a Registered Professional Biologist(s), in good standing, with the College of Applied Biology to ensure adherence to purpose of this Act in *Article 3.0*.
- 9.5 Regulations must assure public safety and public health.
- 9.6 This Act authorizes the creation of a BCMANR Policy and Procedure section pertaining to the process for regulation development.
- 9.7 All regulation must be approved, via motion, by the BCMANR Captain's Assembly.

## **ARTICLE TEN – ENVIRONMENTAL PROTECTION**

- 10.0 This Act authorizes the development of Environmental Protection Policy.
- 10.1 Environmental Protection Policy is the responsibility of the MNBC Ministry of Natural Resources.
- 10.2 BCMANR will be responsible for all Environmental Protection regulations developed under the authority of this Act.
- 10.3 Proposed Environmental Protection Policy and Regulation requires a scientific written opinion by a Registered Professional Biologist(s), in good standing, with the College of Applied Biology to ensure adherence to the purpose of this Act in *Article 3.0*.



- 10.4 The MNBC Board of Directors has the approval authority for all Environmental Protection Policy.

## ARTICLE ELEVEN – CONSULTATION

- 11.0 This Act authorizes the development of an MNBC Consultation Guidelines and supporting procedures.
- 11.1 The development of MNBC's Consultation Guidelines is the responsibility of the MNBC Ministry of Natural Resources. The policy will be revised from time to time to reflect MNBC's position with respect to consultation within context of current Supreme Court of Canada rulings and associated regulatory requirements as they apply to Métis rights and interests;
- 11.2 Consultation Guidelines, pertaining specifically to natural resource issues (either negative or positive), require a scientific written opinion by a Registered Professional Biologist(s), in good standing, with the College of Applied Biology to ensure adherence to purpose of this Act in *Article 3.0*.
- 11.3 The Consultation Guidelines will include a definition of traditional knowledge, written by the BCMANR Captain's Assembly, to ensure adherence to purpose of this Act in *Article 3.0*.
- 11.3.1 Traditional knowledge protocol and procedure in the Consultation Guidelines will be established by the BCMANR Captain's Assembly.
- 11.4 The MNBC Board of Directors has the approval authority for all Consultation Guidelines.
- 11.5 The Director of Natural Resources, under the direction and guidance of the Ministry of Natural Resources, will be responsible for the implementation of the Consultation Guidelines.
- 11.6 Consultation Guidelines will address the following principles;
- 11.6.1 Promote the adherence of government, proponent and regulatory agencies to the implementation of Aboriginal consultation in a manner that respects and addresses the unique culture, heritage by:
- 11.6.1.1 Increasing awareness of the Métis in British Columbia including the cultural, heritage and land-use issues of concern to Métis;
- 11.6.1.2 Strive to ensure the timely and effective avoidance, mitigation, accommodation and/or compensation of potentially adverse impacts to Métis rights and interests in keeping with current MNBC mandates related to consultation;
- 11.6.2 MNBC Ministry of Natural Resources will endeavor to keep apprised of and inform the MNBC's Board of Directors of current case law, regulatory requirements, government policies and other matters that may



- influence Métis rights and interests and have bearing on the MNBC's Consultation Guidelines;
- 11.6.3 Establish appropriate, efficient practices that will fulfill MNBC consultation principles in accordance with MNBC Board direction for all natural resource matters.
  - 11.6.4 Promote and facilitate the protection of traditional land-use locations and other historical resources of significance to Métis within British Columbia;
  - 11.6.5 Guide Parties in fulfilling their consultation duties and objectives in a spirit of reconciliation and transparency and will meet each party's goal of fairness and certainty; and,
  - 11.6.6 Guide MNBC's decision-making processes regarding consultation as it relates to all natural resource matters including resource development and land management practices.
- 11.7 Consultation Guidelines will require the MNBC to;
- 11.7.1 Represent and advocate for consultation of British Columbia Métis Citizens with governments, regulators, proponents and other relevant agencies;
  - 11.7.2 Provide direction and support to the Chartered Métis Communities;
  - 11.7.3 Work with BCMANR to ensure traditional and contemporary land-use information is employed to support consultation where such information is available; or,
    - 11.7.3.1 If absent, advocate for resources to compliment the consultation project with adequate traditional and contemporary land-use information.
  - 11.7.4 Provide information to government and industry to facilitate consultation activities;
  - 11.7.5 Manage and determine the adequacy of consultation activities within the context of MNBC consultation policies, legal precedents and regulatory requirements;
  - 11.7.6 Report to the Chartered Métis Communities, government, regulators, proponents and other relevant agencies regarding decisions concerning consultation as related to their respective mandates; and,
  - 11.7.7 Consider any other issue or take any other action the MNBC deems necessary to ensure consultation adequately protects the rights and interests of British Columbia Métis Citizens.



## **ARTICLE TWELVE – COMPLIANCE AND ENFORCEMENT**

- 12.0 This Act authorizes the BCMANR Captain's Assembly to function in the following compliance and enforcement capacities;
- 12.1 To operate in the capacity of the initial judiciary in relation to offences against this Act or any regulations empowered by this Act.
- 12.2 Powers available to the Captain's Assembly for offences against this Act are;
- a. Suspension of a MNBC Harvesting Card for a period not to exceed two years, offences greater than two years are considered an apprehension.
  - b. Apprehension of a MNBC Harvesting Card for a period not to exceed five years, if the apprehension is recommended by the Captain's Assembly to be greater than five years; the MNBC Minister of Natural Resources must sanction the apprehension.
  - c. Community service hours
  - d. Reparations or mitigated measures
- 12.3 Determine the policies and procedures for the compliance and enforcement authorities assigned under this Act.

## **ARTICLE THIRTEEN – APPEAL MECHANISM**

- 13.0 The MNBC Senate has the authority to hear appeals for;
- 13.1 Any decisions established under the authority of this Act, or;
- 13.2 Any offences established by the BCMANR Captain's Assembly under the authority of *Article 12.0* of this Act.

## **ARTICLE FOURTEEN – BCMANR NATURAL RESOURCE FUND**

- 14.0 BCMANR Natural Resource fund is established to fund projects and activities related to natural resource management, protection, enhancement, education and legal challenges and that a BCMANR Natural Resource fund policy is developed to ensure management of the fund by BCMANR is strategic, effective and transparent.