



Ministry of
Forests, Lands, Natural
Resource Operations
and Rural Development

Residual Fibre Utilization (Fibre Recovery Process)

**FOREST TENURES BRANCH
April 29, 2020**

Disclaimer

This document contains material to promote the increased use of fibre remaining on a block after primary harvesting is completed (residual fibre). This document contains both a summary of the legal requirements and advice/suggestions from the non-legal realm. The latter are not legal requirements that you must follow, nor are they government policy.

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EXECUTIVE SUMMARY

The Forest Act defines “residual fibre” as Crown timber in an area that is cut but not removed from the area.

Improving the utilization of poorer quality timber and reducing the volume of residual fibre left in the bush continues to be an important objective for the government of B.C. Increasing utilization will help mitigate shortfalls in projected fibre supplies, support new industries that can utilize low quality fibre, reduce carbon emissions and improve air quality through less burning of residual fibre.

The Fibre Recovery Process (FRP) focuses on improving the use of lower-quality timber in areas of the province where there is a demand for the fibre from secondary users (SUs) such as pulp mills, pellet plants, bioenergy facilities, and other users of low quality logs. It encourages increased utilization through voluntary business to business (B2B) relationships between primary harvesters (PHs) and SUs, and provides for the use of legislative tools that ensure SUs have access to residual fibre where B2B relationships don’t materialize.

Part A of the FRP identifies the initiatives that encourage the formation of business to business (B2B) relationships in order to harvest poor quality fibre in the most economical manner.

Part B outlines the legislative tools that are available to ensure access to residual fibre where B2B relationships have not developed. Section 79.1 of the *Forest Act* includes provisions for:

- Mandatory reporting by PHs on locations of existing and/or anticipated volumes of residual fibre. May also require estimates of volumes and a declaration whether or not the residual fibre will be used;
- A district manager issuing a Do Not Damage Order;
- PH declaring a willingness to abandon the Residual Fibre;
- Residual fibre being deemed abandoned and cancellation of the PH rights to the fibre; and
- Allocating rights to use roadside and landing Residual Fibre to the holder of one of the following Fibre Recovery Tenures:
 - Fibre supply licence to cut
 - Fibre forestry licence to cut

This document is intended as a quick reference and guide for the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRO) staff as well as a general reference for PHs, SUs, and new entrants to the forest sector.

Table of Contents

| | |
|--|----|
| EXECUTIVE SUMMARY | 3 |
| PART A – Promoting Business to Business | 5 |
| 1. Preliminary District Review | 5 |
| 2. Voluntary Information Sharing | 5 |
| 3. Business to Business Negotiations | 6 |
| 4. Establishing a Residual Fibre Area | 6 |
| 5. Implement Integrated Harvesting Operations | 6 |
| PART B – Using Fibre Recovery Tenures (Legislative Tools) | 7 |
| 1. Mandatory Residual Fibre Reporting | 7 |
| 2. Issuing of Orders Not to Damage Timber | 8 |
| 3. Abandoning and Cancelling PH Rights to the Residual Fibre | 8 |
| 4. Issuing a Fibre Recovery Tenure | 9 |
| APPENDIX 1 – Summary of Obligations and Liabilities | 11 |
| APPENDIX 2 | 13 |
| MINISTER’S ORDER TO PROVIDE RESIDUAL FIBRE REPORTS | 13 |
| MINISTER’S ORDER NOT TO DAMAGE RESIDUAL FIBRE | 15 |
| NOTICE OF DEEMED ABANDONED RESIDUAL FIBRE AND CANCELLATION OF RIGHTS | 16 |
| APPENDIX 3 – Section 79.1 of the <i>Forest Act</i> | 17 |

PART A – Promoting Business to Business

The following are the suggested initiatives that can be employed at any given time, and in any order with the objective of promoting B2B relationships between PHs and SUs to increase the utilization of poor quality fibre.

1. Preliminary District Review

The FRP process is led by the appropriate District Manager for a natural resource district. A timber sales manager may lead the FRP for a BCTS operating area.

A preliminary district review should provide a clear understanding of the dynamics within the District. This includes an assessment of where residual fibre can be harvested economically and where demand for residual fibre exists. This can be achieved through local district knowledge, input from PHs and SUs operating within the area, information developed by FPInnovations, parties interested in developing operations within the area as well as other experts within the district and FLNRO.

A preliminary district review could be initiated as a result of an SUs expressing concerns with respect to negotiating B2B relationships for 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.

2. Voluntary Information Sharing

Both PHs and SUs are encouraged to share planning and operational information with each other in a timely manner. SUs should share information such as plant locations, fibre supply needs, and operational and economic constraints. As a best practice, it is recommended that PHs provide share information on proposed cutting permits at least six months prior to harvest commencement.

The information could 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, turn arounds for chip/ bin trucks, switch backs, etc.). This can be achieved through the exchange of letters/emails, a registry of SUs organized by the District, through face to face meetings or via timber supply area (TSA) steering committee meetings, or through advertising in local newspapers.

3. Business to Business Negotiations

SUs that are interested in gaining access to the residual fibre should contact the PH as soon as possible and within the timeline requested by the PH. PH and SUs would then negotiate B2B agreements to access and remove residual fibre. Both parties should make all reasonable attempts to successfully conclude agreements. **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.

4. Establishing a Residual Fibre Area

There are many parts of the province where residual fibre can be economically recovered and there is sufficient demand. The District Manager may establish a Residual Fibre Area (RFA) over any part or all of a district and by doing so make it known that enhancing residual fibre utilization within the RFA is a high priority for the District. This indicates an expectation for PH and SU to ensure that ongoing business practices include a priority to increase utilization within the RFA and for the PH and SU to use the other initiatives included under Part A of this document.

The Province continues to work on various initiatives and tools to enhance residual fibre utilization. See the following website:

[Residual Fibre Utilization.](#)

5. Implement Integrated Harvesting Operations

Historically, residual fibre has been piled for burning after primary harvesting has been completed. The manner in which timber is handled can significantly influence the way residual fibre can be harvested and the resulting costs to remove it. FP Innovations has produced a document called [“Best Management Practices for Integrated Harvesting in B.C.”](#). This document outlines best harvesting practices to be used to facilitate the removal of residual fibre both when it is being harvested in association with primary harvesting operations as well as after primary harvesting is completed.

PART B – Using Fibre Recovery Tenures (Legislative Tools)

This section includes a more formal process that may be implemented to ensure access to residual fibre within a District or a portion of a District when B2B relationships have not developed. This can occur where residual fibre exists within the District, can be harvested economically and there is clear demand.

Given the increased layers of administration and extra workload for PHs, SUs and ministry staff, Part B is intended to be used only where B2B relationships encouraged under Part A have not materialized.

The steps included in Part B move through the sequence under Section 79.1 (see Appendix 3) of the *Forest Act* which are as follows:

- 1 Ordering a PH to provide mandatory reports on residual fibre.
- 2 Ordering a PH not to damage residual fibre.
- 3 A PH expressing a willingness to abandon residual fibre.
- 4 Deeming residual fibre as abandoned and cancelling PH's rights to the fibre.
- 5 Issuing a Fibre Recovery Tenure to a third party to harvest the residual fibre.

1. Mandatory Residual Fibre Reporting

Section 79.1 of the *Forest Act* gives the DM the ability to order PHs to submit Residual Fibre reports. The requirement to provide reports may apply to one cut block at a single point in time or to multiple cut blocks within larger geographic areas over multiple time periods. It is up to the DM to ensure the information requested meets the district's needs.

The order will identify which licences and cut blocks are applicable which may include:

- One or more specific licences issued under Section 12 of the *Forest Act* (i.e. Forest Licence; Tree Farm Licence); and,
- One or more cutting authorities in a specific operating area.

The order will also specify the timelines for the PH to report and what format the reports are to follow. The provisions under Section 79.1 provide significant flexibility as to when an order can be issued, the timing of reporting and the requirement to provide updates.

Depending upon the circumstances, the options for the PH to begin providing residual fibre reports could include:

- Early in the planning stage;
- Harvest commencement;

- Anytime during harvesting operations;
- After harvest completion and/or waste surveys complete.

Residual Fibre reports should include:

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 residual fibre;
4. Primary harvest utilization levels (i.e. sawlog; pulp log; min log diameter; min log length).
5. Estimates of the volume of residual fibre; and
6. Estimates of how much of the residual fibre the PH will not be using.

Once the PH receives an order from the DM to submit residual fibre reports, the PH is legally required to begin reporting in accordance with and at the times specified in the order. 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 must be signed by the PH or an authorized representative.

In circumstances where the SU subsequently establishes a B2B arrangement or there is no longer interest in the residual fibre, a DM may rescind an order thereby relieving the PH from providing further reports.

2. Issuing of Orders Not to Damage Timber

If the PH reports that residual fibre is not being used, or is not going to be used, the DM may issue a Do Not Damage Order (usually when primary harvesting activities are complete). A Do Not Damage Order precludes the PH from burning or in any other way damaging the residual fibre. However, the PH may move the material for certain reasons (i.e. safety) so long as it is preserved.

In most cases, the DM will only issue a Do Not Damage Order when there is a clear demand and use for the residual fibre and intends to issue a Fibre Recovery Tenure to harvest the residual fibre.

3. Abandoning and Cancelling PH Rights to the Residual Fibre

If the PH receives a Do Not Damage Order from the DM, the PH has the option of notifying the DM that it is willing to abandon the rights to the identified residual fibre. Such a notice starts the clock, and for the next 60 days, the PH may not deal with the residual fibre in any way without the consent of the DM. That means the PH may not destroy the residual fibre but may move the material for certain reasons (i.e. safety).

In addition, within the 60 day time period, the DM may specify by order that the PH's rights to the residual fibre are deemed abandoned. If such an order is issued, then the PH rights to the residual fibre are also cancelled. Both the abandonment and cancellation of rights may be included within one notice to the PH (see Appendix 2 for template letter).

If the 60 day period lapses without issuance of a fibre recovery tenure, the PH would retain all obligations associated with harvesting including fire hazard abatement.

NOTE: A sequence of determinations is required prior to the issuance of a fibre recovery tenure:

- Request to determine a licensee's intent to declare interest in residual fibre they do not intend to use - 79.1(2)(b);
- Do Not Damage Order for residual fibre a licensee does not intend to use - 79.1(2)(d);
- Licensee's notification that they wish to abandon residual fibre -79.1(4); and,
- Residual fibre deemed abandoned and cancelled -79.1(5)(a) and 79.1(5)(a)

4. Issuing a Fibre Recovery Tenure

Once the PH's rights to the Residual Fibre are cancelled, the DM may issue the rights to a third party under a Fibre Recovery Tenure. Provisions of the *Forest Act* include two forms of Fibre Recovery Tenure:

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

The issuance of a Fibre Recovery Tenure permanently transfers hazard abatement obligations to the SH. As such, a Fibre Recovery Tenure should be issued expeditiously and the DM should consider requesting an appropriate security deposit to abate the wildfire hazard if the tenure holder does not enter into, or otherwise, comply with the licence conditions.

Forestry Fibre 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 to deal with short-term situations. This form of tenure could 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 10 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 residual fibre if there are abandoned by the PH, and will result in the PH being relieved of certain obligations (hazard abatement) that are transferred to the SH.

Additional details on the awarding and administering of Fibre Recovery Tenures can be found in the [Licence to Cut Administrative Guidebook](#).

Appendix 1: *Includes a summary of obligations associated with the original harvest authority and the fibre recovery tenure holder.*

Appendix 2: *Includes templates for the various orders and reports contemplated under S. 79.1 of the Forest Act.*

Appendix 3: *Includes Section 79.1 of the Forest Act.*

Issuing rights to residual fibre to a third party under a Fibre Recovery Tenure can only occur after:

- **The PH has provided report(s) that they are willing to abandon the Residual Fibre;**
- **The DM has issued a Do Not Damage Order to the PH;**
- **The DM has provided notice that the Residual Fibre is deemed abandoned and the PH rights to the Residual Fibre have been cancelled; and,**
- **The PH has completed and submitted waste surveys.**

APPENDIX 1 – Summary of Obligations and Liabilities

The following is a short summary of certain obligations and liabilities associated with the original harvest authority and the fibre recovery tenure. This summary is not necessarily complete, nor is it to be relied upon for legal purposes. Stakeholders are strongly encouraged to refer to the appropriate legislation and most up to date policies regarding outstanding obligations associated with the harvesting of Crown timber.

Fire Hazard Abatement

Under the Wildfire Act and regulation, a primary harvester will have fire hazard abatement obligations on completed blocks. This will not change if residual fibre is removed by a SU under the PH's harvesting authority.

If under Section 79.1 of the *Forest Act*, the PH's rights to the residual fibre are cancelled and the rights are issued to a SU under a FRT, then the obligations to abate a fire hazard are automatically transferred to the holder of the FRT. The transfer of obligations is restricted to the licence area of the FRT (usually around roads and landings). Fire hazard abatement obligations associated with the remainder of the block remain with the PH.

Roads construction, use and maintenance

Use of roads outside of the cut block to access residual fibre.

In most cases a SU will automatically be exempted from requiring "authority" to use the main haul roads to access residual fibre (section 79.1 of the Forest Planning and Practices Regulation). However, the exemption may be removed if the use of the road by the SU is expected to materially affect the use of the road by others or adversely impact forest resources.

A PH or the government may be required to maintain a road to specified standards. The person responsible for maintaining a road may require the SU, or holder of a FRT, to pay a share of the costs of maintaining a road to access the licence area. The SU, or FRT holder, is required to ensure road surfaces and drainage are in the same condition as before operations began.

A SU, or FRT holder is required to give the district manager 5 days' notice prior to using a forest service road (FSR).

Use of roads within the cut block (Licence Area)

The authority to use a road within the FRT licence area may be included as a standard clause in the licence. This section requires the SH to ensure that upon harvest completion, the road surfaces and drainage are compatible with the condition as they were immediately before the SH began using the roads. If it is determined that the SH should be responsible for deactivating the roads within the permit area once operations are complete, then the appropriate requirement (clause) must be included.

Road deactivation

Generally, the PH is required to maintain a road until it is deactivated or the road permit is issued to another person or declared an FS road. If agreed, a clause may be included in the licence to require the holder of the FRT to deactivate a road used to access the licence area when operations are complete. This then becomes a licence requirement.

A road used by the holder of a FRT within the licence area must be left safe for industrial users and the drainage systems must be functional.

In most cases, a road constructed within the FRT licence area and under the authority of the FRT must be deactivated by the holder.

Free Growing Obligation

The PH is responsible for free-growing within the net area to be reforested on a completed cutblock. Generally, harvesting residual fibre under a FRT will be restricted to narrow strips along roads and landings, and any risk to a PH's free growing obligations is low.

A number of optional clauses have been identified for inclusion in the FRT if certain risks are identified (i.e. SU must establish plantable spots where chip/hog accumulations have occurred; must not remove timber from areas that have been planted or site prepared).

Soil Disturbance

As per Section 35 of the Forest Planning and Practices Regulation, a PH must not cause soil disturbance above the specified allowable limits. When a FRT is issued, the maximum allowable level of disturbance is increased to 25%. If the allowable levels are exceeded, the PH or holder of the FRT may be required to rehabilitate compacted soils.

APPENDIX 2

MINISTER'S ORDER TO PROVIDE RESIDUAL FIBRE REPORTS

To: _____
Agreement Holder

In accordance with Section 79.1(2) of the Forest Act, as of _____ (date) you are hereby ordered to provide Residual Fibre Reports to the District Manager, _____ District. The reports are to be submitted at the following times (*choose one or more of the following*):

1. At the time timber harvesting operations commence on the blocks under the Licences and Road Permits listed in Table 1;
2. At the time timber harvesting operations are completed on the blocks and road permit listed in Table 1;
3. When waste assessments are completed on the blocks and road permits listed in the attached Table 1;
4. Insert specific dates; or
5. Other.

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

1. Anticipated or actual harvest commencement dates;
2. Anticipated or actual harvest completion dates;
3. Primary harvest utilization specifications (i.e. sawlog; pulp log; min log diameter; min log length).
4. An estimate of the volume of Residual Fibre that exists on roads and landings within the block at the time of the report;
5. An estimate of the volume of Residual Fibre the PH expects to exist on the roads and landings within the block as of (specify);
6. An estimate of the volume of Residual Fibre on roads and landings the PH does not intend to use.

In addition, the Residual Fibre Report may include the following information on a block by block basis:

1. The dates if and when harvesting and the waste survey were completed.
2. A list of the post-harvest activities that are planned for the block and the timing of those activities.
3. Any management concerns the holder has with respect to the potential removal of the Residual Fibre from roads and landings.

Please be advised that if you identify a volume of Residual Fibre that you do not intend to use, one or more of the following actions may be taken:

1. Issuance of a Do Not Damage Order regarding the Residual Fibre you do not intend to use;
2. The Residual Fibre that you do not intend to use may be identified as abandoned and your rights to the fibre are cancelled;
3. Rights to the Residual Fibre are issued to third party under a Fibre Recovery Tenure.

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

District

District Manager **Date**

Table 1:

| Licence No. | Cutting permit or Road Permit # | Block(s) |
|---|--|---|
| Specify individual licence; Specify all licences under FA; Specify certain parts of a licence area. | Specify individual CP or RP Specify all CPs under or RP associated with a specific licence. | Specify individual blocks or Specify all blocks and RP |
| | | |
| | | |

MINISTER'S ORDER NOT TO DAMAGE RESIDUAL FIBRE

To: _____
Agreement Holder

In accordance with Section 79.1(2)(d) of the *Forest Act*, and pursuant to the Residual Fibre Report dated _____, *Agreement Holder Name* is hereby ordered not to damage any Residual Fibre on roadside and landings located within 20 metres either side of the centre line of the roads and 40 meters radius from the centre of the landing), within the:

- A) Within the boundaries of the cutting permits and blocks listed in Table 1; or
- B) Within the bold black line indicated on the attached Exhibit A maps.

TABLE 1:

| Licence No. | Cutting Permit or Road Permit | Block(s) |
|--------------------|--------------------------------------|-----------------|
| | | |
| | | |
| | | |
| | | |

District Manager

Date

NOTICE OF DEEMED ABANDONED RESIDUAL FIBRE AND CANCELLATION OF RIGHTS

To: _____
Agreement Holder

Pursuant to _____ (agreement holder) Notice of Willingness to Abandon Residual Fibre and section 79.1 5 (b) of the Forest Act, I hereby order that the Residual Fibre existing on the locations identified in the following table are deemed abandoned.

In addition, and pursuant to Section 79.1 (8) of the Forest Act, your rights to this Residual Fibre are cancelled.

The rights to the Residual Fibre may be issued to a third party. You will be notified as soon as practicable if and when this occurs.

| Licence No. | Cutting Permit or Road Permit | Block(s) |
|--------------------|--------------------------------------|-----------------|
| | | |
| | | |
| | | |
| | | |

District Manager

Date

APPENDIX 3 – Section 79.1 of the *Forest Act*

79.1 (1) In this section:

"agreement" means

- (a) a form of agreement referred to in section 12, or
- (b) a pulpwood agreement;

"residual fibre" means Crown timber in an area that is cut but not removed from the area.

- (2) The minister may order the holder of an agreement
 - (a) to submit a report to the minister in the form and within the time period specified by the minister,
 - (b) to include in the report referred to in paragraph (a) information specified by the minister related to an area specified by the minister, which may include, without limitation, the following information:
 - (i) an estimate, made in accordance with the regulations, of the volume of residual fibre in the area at the time of the report;
 - (ii) an estimate, made in accordance with the regulations, of the volume of residual fibre the holder of the agreement reasonably expects to be in the area at a time specified by the minister;
 - (iii) an estimate, made in accordance with the regulations, of the volume of residual fibre the holder of the agreement does not intend to use,
 - (c) to submit updates of any information included in the report under paragraph (b), in the form and within the time period specified by the minister,
 - (d) if the residual fibre is not being utilized or is not going to be utilized, not to damage some or all of the residual fibre for a period of time specified by the minister in an area specified by the minister, and
 - (e) to handle the residual fibre as set out in the regulations.
- (3) The minister may amend or rescind an order made under subsection (2).
- (4) If an order is made under subsection (2) (d), the holder of the agreement may identify all or a portion of the residual fibre that is subject to the order and notify the minister that the holder of the agreement is willing to abandon the holder's rights to the identified residual fibre.
- (5) If the holder of the agreement gives notice to the minister under subsection (4), for a period of 60 days starting on the date notice is received by the minister,
 - (a) the holder of the agreement may not deal with the residual fibre identified in the notice without the consent of the minister, and

- (b) the minister may
 - (i) by order, specify some or all of the residual fibre identified in the notice and deem, as abandoned, the rights of the holder of the agreement to the residual fibre specified in the order, and
 - (ii) issue to a person other than the holder of the agreement one or both of the following in respect of some or all of the residual fibre specified in the order made under subparagraph (i):
 - (A) a fibre recovery permit referred to in section 47.72 (1) (c) if the person other than the holder of the agreement holds a fibre supply licence to cut under section 47.3 (1) or 47.71 that includes the area that is subject to the order made under subsection (2) (d) of this section;
 - (B) a forestry licence to cut referred to in section 47.6 (2.11) that includes the area that is subject to the order made under subsection (2) (d) of this section.
- (6) Notice given under subsection (4) is deemed to be received by the minister as follows:
 - (a) if given by mailing a copy by ordinary or registered mail, on the 5th day after the copy is mailed;
 - (b) if given by sending a copy by electronic mail, on the 3rd day after the copy is sent;
 - (c) if given by leaving a copy at a district office, on the 3rd day after the copy is left;
 - (d) if given by delivering by hand a copy to a district manager, on delivery of the copy.
- (7) On the date the minister makes an order under subsection (5) (b) (i) deeming the rights of a holder of an agreement to be abandoned with respect to the residual fibre specified in the order, all rights of the holder of the agreement to that residual fibre are cancelled.
- (8) As soon as practicable after the date the minister makes an order under subsection (5) (b) (i), the minister must give to the holder of the agreement
 - (a) a copy of the order, and
 - (b) written notice stating that the rights of the holder of the agreement respecting the residual fibre specified in the order are cancelled.
- (9) As soon as practicable after the date the minister issues a permit or licence under subsection (5) (b) (ii), the minister must give to the holder of the agreement written notice that the permit or licence has been issued.