



August 18, 2021

Obligations and Expectations of Road Use Permit Holders

I am writing to Licensees regarding Road Use Permits (RUP) in the Chilliwack Natural Resource District, as a follow-up to enquiries for clarification on the role of licensees in government's legal obligation around consultation and specifically associated to road maintenance activities. The purpose of this communication is to outline my expectations regarding road maintenance and to clarify the roles, obligations and expectations of RUP holders including the designated maintainer.

Within the context of the above, my expectations are categorized into various subheadings from Engagement with First Nations to Expectations for RUP holders, Designated Maintainer, and Secondary User, as follows:

Engagement with First Nations for Road Maintenance Activities

Consultation is required "When the Crown has knowledge, real or constructive, of the potential existence of an Aboriginal RIGHT or TITLE and contemplates a decision that might adversely affect it." (Haida)

The Province is legally obligated to consult and accommodate First Nations, where required, on land and resource decisions that could impact their Indigenous Interests.

While the Province is responsible for ensuring adequate and appropriate consultation and accommodation, it may involve Licensees in the procedural aspects of consultation. Licensees are generally encouraged to engage with First Nations as early as possible in the planning stages. Early engagement can help to build relationships, aid the information sharing process and provide practical, timely and cost-effective opportunities to address any potential issues in support of the consultation process.

When ground disturbance is expected to happen while carrying out road maintenance activities on Forest Service Roads (i.e. new road construction, road re-alignment, road deactivation) and the ground disturbance may pose a potential impact to Indigenous Interests, the Licensee is advised to notify the District Manager (DM) of the proposed/ongoing road maintenance activities. The DM will consider all aspects of the proposed activities and determine whether to share any of the procedural aspects of consultation to the Licensee.

The Chilliwack Natural Resource District has developed a guidance document for when First Nation consultation is triggered based on various road maintenance activities. Please refer to *Appendix A – Road Maintenance Flowsheet: A guide to advise if First nations consultation is required for road maintenance activities.*

Professional Reliance

Legislation that applies to bridge and road practices is not limited to forest legislation (*Forest Act, Forest and Range Practices Act* and their Regulations), but includes conformance to other legislation as well.

The *Forest and Range Practices Act (FRPA)* includes an underlying expectation of appropriate application of professional reliance. Two key acts related to resource roads and bridges are the *Foresters Act* and *The Engineers and Geoscientists Act*. These professional practice acts basically require that the appropriate professionals are engaged where and when required. There is an expectation that permit holders will conduct their activities consistent with all applicable legislation including engagement of appropriate professionals.

To this end, it is expected that all RUP holders and their employees, agents and contractors will conduct their activities consistent with professional practice guidelines from the Associations of BC Forest Professionals and Engineers and Geoscientists of BC including:

- [Guidelines for Professional Services in the Forest Sector — Crossings](#)
- [Guidelines for Professional Services in the Forest Sector –Forest Roads](#)

¹ Forest Practices Board Reports:

“Road and Bridge Maintenance Obligations within Three Forest Districts, Coast Forest Region”, FPB/SIR/31 April 2011

<https://www.bcfpb.ca/wp-content/uploads/2016/04/SIR31-Road-Bridge-Maintenance-WEB.pdf>

“Bridge Planning, Design and Construction”, Special Investigation, FPB/SIR/38, March 2014,

<https://www.bcfpb.ca/wp-content/uploads/2016/04/SIR38-Bridge-Planning-Design-and-Construction.pdf>

“Road and Bridge Practices Board Audit Findings 2005-2011”, Special Report, FPB/SR/43, February 2013,

<https://www.bcfpb.ca/wp-content/uploads/2016/04/SR43-Road-and-Bridge-WEB.pdf>

Road Use Permit's for Industrial Use

- i. Per the [Forest Act \(FA\) 115](#), a person who has the right to harvest timber under a specified forest tenure, may apply to the DM for a RUP to use a forest service road. Subject to the conditions of the *Act*, the DM must grant the applicant an RUP.
- ii. Per the [Forest Act 117](#) a person who wishes to use a forest service road for an industrial purpose (that is not forest harvest related), may apply to the DM for a road use permit and subject to conditions the DM may grant an RUP.
- iii. The [FRPA 22.1 and 22.2](#) specify conditions in which the DM may exempt an industrial user from the requirement of an RUP.
- iv. The [Forest Practice and Planning Regulation \(FPPR\) 79\(4\)](#) provides for the DM to order the holder of an RUP that authorizes the use of a forest service road to assume all or part of the responsibility to maintain the road, including bridges, culverts, fords and other structures associated with the road. (i.e. the designated maintainer). Designated maintainers are typically assigned based on greatest demonstrated future requirement for access to natural resources; e.g. long-term timber harvesting tenures, clean energy infrastructures (power poles, penstocks etc.) within the FSR right of way. There will only be one designated maintainer for a given FSR.
- v. RUP holders are informed within their RUP who the DM has designated responsibility for maintenance. Subject to [FRPA 22.1\(7\)](#), RUP holders must give at least 5 days notice to the designated maintainer of the date on which they will begin to use the road.
- vi. Per limitations specified in [FRPA 22.3](#) the designated maintainer may, by written notice to a person who has caused damage to the FSR, require payment as contribution towards maintaining, modifying and repairing damage caused by the person's use and the person is liable for the payment specified.
- vii. It is expected that RUP holders will restrict their loads to the Gross Vehicle Weights (GVWs) and dimension limits stated in Road Use Permits or as posted. RUP holders should be aware of the limitations associated with GVW load limits and that they are intended for log haul vehicle configurations and do not apply to equipment loads. It is suggested that

RUP holders review and be familiar with: [Engineering Bulletin #1 - Clarification of GVW as Applicable to Bridge Load Rating](#). The RUP holder must consult with the ministry prior to transporting any loads which may exceed or potentially exceed safe load limits or dimensions.

District Manager (DM) Expectations of RUP Holders

- i. RUP holders are responsible for communicating requirements of the RUP with their employees, agents and contractors.
- ii. RUP holders are responsible for compliance of their employees, agents and contractors with the requirements of their RUP.
- iii. Industrial operators are expected to self-monitor and avoid damage to the FSR such as during spring freshet or wet weather. A person must not use an FSR, or operate, or cause to be operated, a motor vehicle, or other equipment on an FSR, in a manner that damages the FSR [[Forest Service Road Use Regulations \(FSRUR\) 10\(1\)](#)]. The DM may order the user causing damage to pay for remediating the damages [[FSRUR10\(2\)](#)].
- iv. Where industrial users observe significant structural or potential environmental safety problems with bridges, major culverts, fish stream culverts or other road structures, they should notify the designated maintainer.
- v. During periods when multiple industrial users are operating, RUP holders are encouraged to establish and participate in a local road user group to coordinate hauling activities, discuss shared costs and maintenance standards, and ensure a safe transport route for all users.
- vi. It is the DM's expectation that a fair Shared Road Maintenance Agreement is negotiated **prior to hauling activities** between the designated maintainer and other industrial parties for periods of road use.
- vii. Industrial users are expected to adequately maintain signs on Forest Service Roads. Signs may not be erected on a Forest Service right-of-way without the approval of the District Manager. Standard informational and resource road radio communication signage has been developed by government for use on Forest Service roads. ([Forest Service Road Sign Standards](#)).

- viii. All road users, when using mobile radios for communicating location and position must use the posted channels and protocols. Resource Road (RR) channels shall only be used, with exception of emergency situations, for the purposes of communicating location and position ([RR — British Columbia Resource Road Channels](#)). RR channels are not to be used for business or other communication.
- ix. Subject to [Forest Practices Planning Regulations Section 79 \(6\)](#), RUP holders are expected to maintain the road to be used safely by industrial users. During timber hauling operations in dry conditions, dust control must be carried out using water or a product that meets Ministry standards.

DM Expectations of the Designated Maintainer

- i. The designated maintainer must maintain the FSR to one of two levels:
 - 1. **Industrial Use** – Subject to [FRPA 22, a](#) and [FPPR 79 \(6\) to \(9\)](#) the designated maintainer of the FSR must ensure that the structural integrity of the road prism and clearing width are protected; the drainage systems of the road are functional; and the road can be used safely by industrial users.
 - 2. **Wilderness Level Maintenance** - During periods of no industrial activity, subject to [FRPA 22](#) and [FPPR 81](#), the designated maintainer must ensure the structural integrity of the road prism and clearing width are protected and that the drainage systems of the road are functional only to the extent necessary to ensure there is no material adverse effect on a forest resource.
- ii. It is expected that the designated maintainer will maintain the FSR and associated structures to provide for safe industrial use and protection of the environment consistent with all legislative requirements inclusive of Work Safe BC requirements.
- iii. Designated maintainers are expected to conduct and document regular road inspections, rectifying any deficiencies discovered during those inspections.
- iv. Safety issues for industrial users and negative impacts on forest values are to be addressed immediately.

- v. Repairs will be completed in a timely manner to maintain the structural integrity of the road prism, including the sub-grade and structures, and to protect the environment.
- vi. Forest Tenure holders are expected to conduct road management and maintenance consistent with Coast Appraisal Manual section 5.4. [Coast Appraisal Manual - Timber Pricing Branch Manuals - Ministry of Forests, Lands and Natural Resource Operations - Province of B.C.](#)
- vii. The DM may close an FSR if continued use may cause significant damage to the road, cause significant sediment delivery, or endanger property, public health or public safety [\[FRPA 22.2\(2\)\(c\)\]](#).
- viii. Ensure all maintenance and repairs are carried out in a timely fashion regardless of who is responsible for damage.
- ix. Report to the DM any significant structural, user safety, or environmental safety concerns on FSRs or FSR structures.

DM Expectations for Designated Maintainer for FSR Structures

The designated maintainer is responsible for maintenance of FSR structures including: bridges, major culverts, retaining walls, fords, and other engineered structures.

- i. The designated maintainer shall complete and document on at least an annual basis, or more frequent as may be warranted, during industrial operations, or prior to commencement of industrial activity, condition inspections on FSR bridges.
- ii. Where significant structural and/or potential safety issues are observed, the designated maintainer shall take appropriate and timely action to address safety of users.
- iii. The Ministry co-ordinates routine condition inspections on all FSR bridges and major structures. Inspections carried out are provided through the district manager to designated maintainers for FSRs. These inspection results include load ratings assigned to each structure. Designated maintainers should not be solely relying on inspections results from the ministry but are expected to conduct their own inspections as well.

For your convenience, bridge inspections are posted on Chilliwack District's ftp site at: <http://www.for.gov.bc.ca/ftp/DCK/external!/publish/ENGINEERING/>

- iv. Repair defects or deficiencies that have been identified through inspections, in a timely fashion. [\[FPPR 75\]](#)
- v. All repairs and the materials used to complete the repairs must conform to ministry standards and specifications which can be found through the ministry [Bridges and Major Culverts](#) webpage.
- vi. With the exception of emergency works, provide the DM notice at least 30 days in advance of any bridge, major culvert, fish stream culvert installation or works of a structural nature [\[FPPR 79\(7\)\]](#). This notice requirement applies to structural repairs on Forest Service road bridges. Upon receiving notice the DM may issue a [FS 1229 \(District Manager Requirements – Building of any Forest Service Road Bridges, Major Culverts, or installation of Fish Stream Culverts by a Road Use Permit Holder\)](#) which will specify the design and construction standards to which the designated maintainer will be held [\[FPPR 79\(8\)\]](#). It is recommended to bring forward any proposals for bridges, major culverts, fish stream culverts or works of a structural nature as soon as possible such that the designated maintainer has adequate time to incorporate DM requirements.
- vii. Notify the district manager once bridge repairs and maintenance are completed. This information is used to update the Corporate Bridge Registry which is used to administer and monitor FSR bridge and major culvert infrastructure. Pictures of the completed works are expected to be included with submitted documentations. As-built record drawings and documentation must be provided for new bridges, major culverts, and fish stream culverts [\[FPPR 79\(8\)\]](#).

DM Expectations of the Secondary User (when you are not the Designated Maintainer)

Where you are not the designated maintainer for all or some portions of the FSR identified in Schedule A, you are obliged to make contact with designated maintainer, outline your activities and scheduling and reach agreement as to an appropriate sharing of the road maintenance costs or activities.

Relief of Obligations from a Road Use Permit

When a RUP holder wishes to be relieved from further obligations of a Road Use Permit or any of its branches, they must apply in writing to the DM. The DM will need to be satisfied that obligations of the RUP holder have been met.

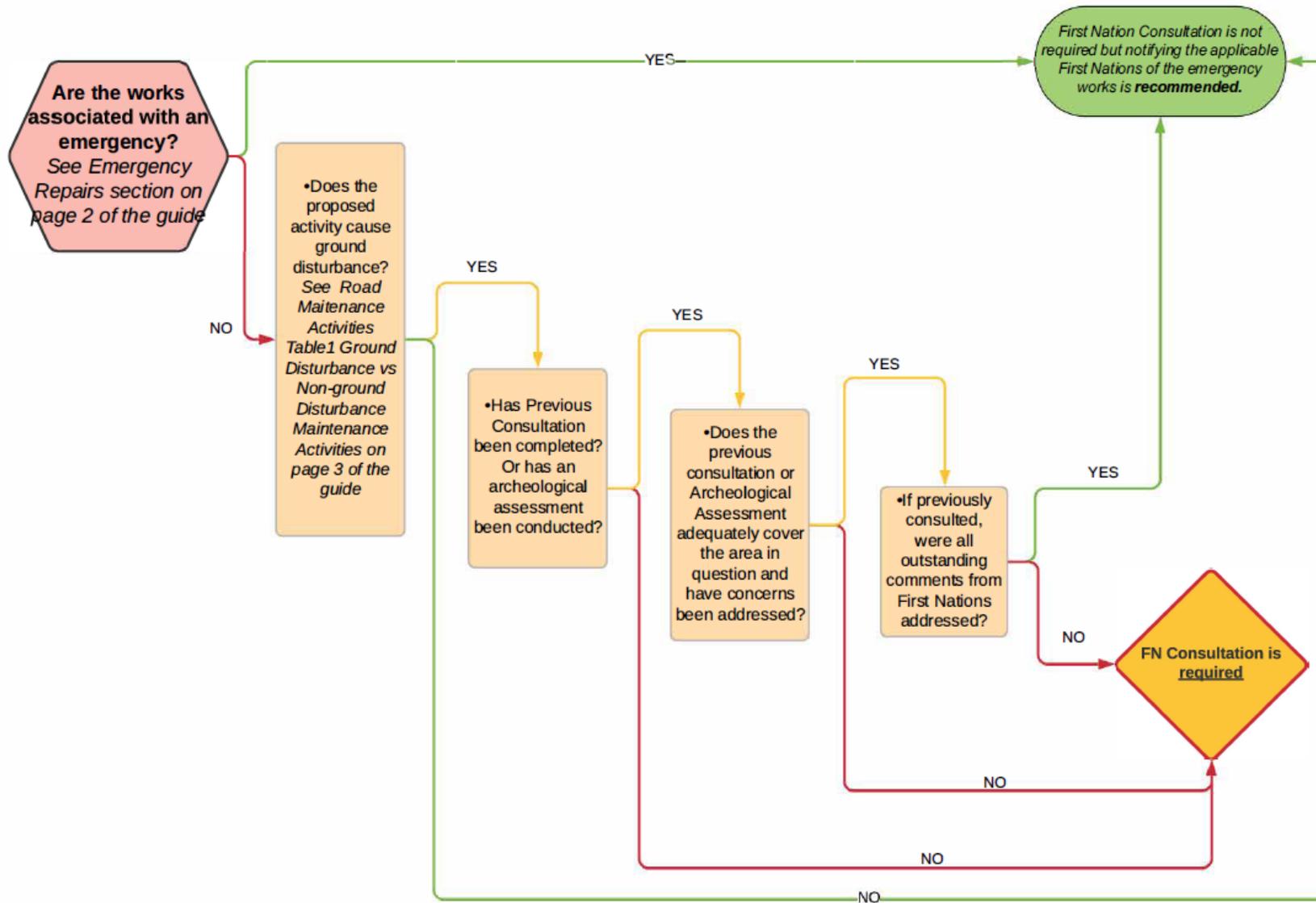
The Statement of General Conformance form must be completed and submitted to the DM - "Statement of General Conformance RUP – Road Use Permit Closure Request". This letter is integral to Road Use Permit FS102, Schedule A and cover letter documents and should be attached thereto.

If you have any questions on the above, please contact our engineering department by phone at 604- 702-5700 or email at: Forests.ChilliwackDistrictOffice@gov.bc.ca

Sincerely,

Mike Peters
District Manager
Chilliwack Natural Resource District

Road Maintenance Flowsheet: A guide to advise if First Nation consultation is required for road maintenance activities in the Chilliwack Natural Resource District



EMERGENCY REPAIRS

Proposed road maintenance activities resulting from a natural event should be identified as “Emergency Repairs” if any of the following statements apply:

- a) Poses an immediate threat to life, health, property, or environment;
- b) Has already caused loss of life, health detriments, property damage, or environmental damage.
- c) Has a high probability of escalating to cause immediate threat to life, health, property, or environmental damage

Road Maintenance Flowsheet: A guide to advise if First Nation consultation is required for road maintenance activities.

Chilliwack Natural Resource District
April 14, 2021

Table 1: Ground Disturbance versus Non-Ground Disturbance Maintenance Activities:

Ground Disturbance (triggers consultation)	Non-ground disturbance (does not trigger consultation)
Bridge installation/replacement	Existing culvert repairs/replacement (same size culvert) *
Major Culvert installation/replacement (arch culverts, culverts >2000mm)	Culvert maintenance (clean up inlet/outlet)
Retaining wall construction: Engineered structure vs. non-engineered structure	Brushing (5m upslope/fillslope)
Armoured ford construction	Ditching
Log/woodbox culvert construction	Surfacing
New installation of open & closed bottom metal culvert on non-fish streams	Grading
Upgrade open & closed bottom metal culvert size *	Dangerous Tree Falling
Rock source material extraction	Sign Installation
Road reactivation/deactivation	Gate installation
FSR construction	Cross-ditches and waterbars re-establishment
FSR re-alignment	Snow plowing
Temporary stream crossing construction	Dust control application
Road prism stabilization due to road washouts, landslides, rock fall events (includes addition of rip rap)	
Construction of spoil sites and/or laydown areas	

*Best Management Practices must be followed

Road Maintenance Flowsheet: A guide to advise if First Nation consultation is required for road maintenance activities.

Chilliwack Natural Resource District
 April 14, 2021