

Ministry Of Forests, Bulkley/Cassiar Forest District District Manager's Policy for Culturally Modified Trees May 4th, 1999

I. Scope

This policy applies to the Ministry of Forests and the Licensees within the Bulkley/Cassiar Forest District. The application of this policy may be superseded by a Treaty or court decisions concerning aboriginal rights and/or title.

II. Policy

It is the policy of the District Manager of the Bulkley/Cassiar Forest District to avoid where possible infringement of any aboriginal rights and/or title, while maintaining a timely approval process.

The purpose of this policy is to provide licensees and Ministry of Forests staff in the Bulkley/Cassiar District with direction on how to manage areas where Culturally Modified Trees (CMT's) have been found.

III. Background

The preamble to the *Forest Practices Code of British Columbia Act* establishes that sustainable use of the forest resource includes "balancing economic, productive, spiritual, ecological and recreational values of the forest to meet the economic, social and cultural needs of peoples and communities, including First Nations". *Section 17* of the *Forest Practices Code of British Columbia Act* requires that tenure holders "formulate operational plans..., assess cultural heritage resources and make the assessment(s) available to the District Manager." The *Act (Section 51)* also requires that where a person finds an unidentified resource feature (which includes cultural heritage resource) when carrying out a forest practice, the forest practice must be modified or stopped in the immediate vicinity and the district manager must be promptly advised of its existence and location.

All forest resources must be adequately managed and conserved when carrying out forest practices. The following direction serves to provide assistance in properly managing Cultural Heritage Resources.

District Archaeological Overview Assessments and Traditional Use Sites Maps are the first order of cultural resource identification; the second order is field staff: they will identify areas where Culturally Modified Trees (CMTs) have been found and help identify other features, sites and trails. This is the process to be followed for forest practices in the Bulkley-Cassiar District.

What is a CMT?

Culturally Modified Trees are trees that have been altered by aboriginal people during the practice of traditional cultural activities. The Forest Act defines Cultural Heritage Resources .."an object, a site or the location of a traditional societal practice that is of historical, cultural, and archaeological significance to British Columbia, a community or an aboriginal people". CMT's are evidence of aboriginal cultural practices [and often indicate other types of archaeological sites may be found nearby](#). CMTs altered before 1846 are considered archaeological sites and are protected under the Heritage Conservation Act. (sec 13) CMTs altered after 1846 are not protected as archaeological sites but provide evidence of aboriginal right(s) being practiced in the area and fall within the MOF Protection of Aboriginal Rights Policy. Aboriginal uses differ from nation to nation, therefore, the cultural significance placed on CMT's by aboriginal people may differ.

The three most common modifications found in the central interior are:

- Stripping - ie. scars on pine trees, bark removed and cambium scraped off for food sources.
 - Blazes - ie. mark a trail route
 - Choppings - chopping marks on tree or branches or small diameter tree stumps.
- (see appendix one for examples)

The most common CMT found in the Bulkley/Cassiar Forest District is lodgepole pine, bark-stripped for cambium which was used by First Nations for sustenance, medicinal, ceremonial and spiritual purposes. As many as 20 species were used by interior natives for food, medicines and other traditional practices.

Determining Potential of Culturally Modified Trees

One of the reasons Archeological Overview Assessments (AOA) and Archeological Impact Assessments (AIA) are completed is to identify culturally significant sites well in advance of proposed harvesting dates. The Ministry of Forests is responsible for completion of the AOA, and AIA's in Small Business Areas; the licensee is responsible to complete AIA's in their areas of operation where directed by the District Manager. The Bulkley/Cassiar District is still in the process of upgrading the AOA for the Bulkley TSA. [When complete, the AOA will provide the best opportunity to identify CMT sites early in the planning process.](#)

MINISTRY OF FORESTS RESPONSIBILITY

The Ministry of Forests is responsible for training staff including SBFEP staff to recognize markings on possible CMTs as soon as possible in their processes, and [to record them to Level 1 standard and note the features on a site map.](#)

The Ministry of Forests is also responsible for providing the information about the CMTs to the First Nation in whose traditional territory the CMTs are located. The amount of consultation required will depend on archaeological potential of the area (once defined by Archaeological Overview Assessment), or the number of CMT's, their age, and their significance as to the surrounding area, and the extent to which logging or road building will impact the site.

[The District Manager is also responsible for directing licensees when an AIA is required to adequately assess potential archaeological sites in order that we may manage identified resources and conserve archaeological sites \(sec 37\(1\)\(e\) FPC Operational Planning Regulation\).](#)

LICENCEE'S RESPONSIBILITY

Licensee's are responsible for training staff and licensee representatives to recognize markings on possible CMTs as soon as possible in their processes, [record them to Level 1 standard and note the features on a site map](#). Also following this policy and, where questions arise, contact district ALO or Compliance and Enforcement staff for clarification.

They are also responsible for conducting AIAs (where required by the DM) and for obtaining the necessary permits for Archaeology Branch .

IV. Implementation Guidelines

CMT Recording

PRE AND POST 1846 CMTS (level 1 survey and mapping)

When a CMT is discovered it must be determined whether it was altered pre 1846 or post 1846. This, at present, is the Ministries accepted date of "significant European contact", (which may change according to a First Nations' location and history).

To ascertain whether the markings could have been made prior to 1846, bore representative surrounding trees. The sample size should be based on the number of CMTs. For a cluster of CMTs greater than 50 and/or trees, 10-20 trees should be sampled; for a cluster of CMTs less than 50, or trail markers, 5-10 trees should be sampled; and for single CMT 2-3 trees should be sampled. A summary of test results put on a Level CMT Recording Form in the comments section.

The site should be mapped and flagged to Level 1 Standard. Any other cultural historic indicators such as trails, cache pits, or meat poles or building sites should also be noted and identified on the site map. If CMTs are located, the entire development area and the adjacent 100 metres, CMTs, should also be surveyed and recorded as above.

Timeline

Licensees and SBFEP should make an attempt to recognize CMTs using the Archaeological Overview Assessment prior to harvest. This may not occur as every tree is not looked at prior to harvest.

Where CMTs are found prior to operational plan approval, the Level 1 CMT Recording Form (copy attached) and location map will be submitted immediately, prior to permit submission. [DM may direct licensee to carry out AIA where appropriate \(ie, CMTs are likely pre-1846, or there are likely to be other arch sites in vicinity\) or alter block to protect the resources. The results of any assessments and actions necessary to manage or conserve the CMTs must be reflected in the silviculture prescriptions \(sec 39\(3\)\(m\)\(iv\) FPC Operational Planning Regulation\).](#)

Where CMTs are found during harvest operations, operations in the immediate vicinity of the tree(s) will be stopped and the Ministry contract coordinator notified; a Level 1CMT Recording Form and location map should be completed by the licensee and submitted to the DM for his consideration. The District ALO will be notified at this time. Management direction will depend on the number, significance and age of the trees using the following criteria.

CMT Management Strategies

Pre-1846

Pre-1846 CMT's are protected and managed under the *Heritage Conservation Act (R.S.B.C., Chap 165, 1979)* as an archaeological site (*S. 13(2)(d) and (g)*). If operations are to proceed in an area with trees which are identified as pre 1846, **the District Manager will require that an AIA be completed. In this case a permit must be obtained under sec. 14 of the Heritage Conservation Act** in order to modify, or sample the pre-1846 CMTs. **Both the permit application and completed AIA report should be copied to the District Manager and the affected First Nation for comment. The Archaeology Branch will determine the appropriate management prescription for the pre-1846 CMT(s).** If the decision is to proceed **with removing the CMT(s), the licensee must apply for a Permit to Alter an Archaeological Site, issued by the Archaeological Branch, Ministry of Small Business Tourism and Culture (MSBTC) [sec 12, Heritage Conservation Act].**

Post-1846

Post-1846 CMT's are not protected by the *Heritage Conservation Act*. On trees where the scarring date is confirmed to be post 1846 an alteration permit is not necessary. **Post-1846 CMT's are, however, indicators of aboriginal rights and the First Nation must be consulted to assess the significance of the CMT with respect to aboriginal rights as follows:**

Single CMT's

Confirmed post-1846 CMT's occurring singly will be located on a tenure map (i.e. Silviculture Prescription map, Logging Plan map, Road Permit map or Special Use Permit map), and be recorded on the Level 1 CMT Recording Form. In the case of a significant CMT, the modification photographed (Significant single trees may : have a small tree with roots sticking out and moss piled on root ball; have glyph on scareface; be blazed on two or more sides; have a cross or name engraved or any other unusual markings). Significant CMT's, even though post-1846, will require further study and consultation with First Nations before any management decisions are made. Review surrounding area within a 50m radius of the CMT to find out if there is a cluster of CMTs. **Any significant CMTs, trails or cache pits found will be mapped along with the CMT(s)** (these would require protective measures under the *Heritage Conservation Act sec 13*). If a cluster is found, follow the appropriate cluster size management strategy. For single (non-“significant”) CMT, once the information is properly recorded **and forwarded to the DM and from there to the appropriate FN for consultation you may proceed with harvesting.**

Small Clusters of CMT's (< 50 trees / ha)

Where CMT's occur in clusters and are found in or adjacent to and contiguous with any harvest unit **[100m adjacent to project area]**, the location of the cluster will be mapped, a Level 1 CMT Recording Form be completed and photographs of modifications representative of the cluster be taken. Recognize that other cultural resource features (trails, cache pits, burial sites) may be associated with clusters of CMT's **and these should be mapped** as they would require protective measures under the *Heritage Conservation Act sec 13*. Send particulars to the DM and FN will be notified of record and consulted with. Management direction will then be decided by the DM.

Large Clusters of CMT's (approximately 400 trees, or > 50 trees/ha)

In some cases the number of CMT's may be so large that further archaeological research is warranted. If there are more than 50 CMTs/ha or 400 CMTs in or adjacent to and contiguous with any harvest unit [100m adjacent to project area], a Level 1 CMT Recording Form will be completed and as many of the sampled trees mapped as possible; again, features such as trails or cache pits should also be noted in the comments section of the Level 1 CMT Recording Form and mapped as they would require protection under *section 13 of the Heritage Conservation Act*. The DM will be notified immediately and the FN consulted. **Plan approval will be based on adequately assessing archaeological potential and consultation with first nations.**

Beetle Infestation

Where a CMT is subject to beetle infestation, the process outlined for a small cluster of CMTs should be followed unless the trees are pre-1846. District ALO will consult with District Forest Health Tech on proposed sites for Beetle Management; where trees are within high potential zone on Archaeological Overview Assessment (AOA), ALO will consult First Nations before any management decisions are made. **NB this policy may negatively affect the timeline of the Emergency Beetle referral process but all effort will be put forth to expedite process by all parties.**

Options for the Management of CMTs (post 1846 or pre-1846 with alteration permit)

There are a number of tools available to the Ministry and to licensees when they are developing strategies to manage in areas in which CMT's are known to occur. Options to manage CMTs include but are not restricted to:

- Wildlife trees or wildlife tree patches can be located around CMT's
- A one and a half treelength buffer can be left around a single significant CMT
- Single CMT's may be cutoff at 3m height and left as a perch tree
- Boundaries can be amended to exclude CMT's
- Block or road can be relocated where possible
- **date, sample and remove CMT under s. 12 permit (pre-1846)**
- **harvested CMTs will be recorded on level 1 recording form and mapped; significant CMTs will be photographed (post-1846)**
- **linear features/trails protocol to be set by Bulkley TSA Trails Management Strategy**
- **in the case of large clusters of CMTs, the DM may warrant the area a Reserve Zone and/or order an AIA**

Afterward

This is a living document and will change as more information is acquired and standardized policies are set. Any change to this document will be made available to all First Nations groups, licensees and concerned individuals.

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Bulkley/Cassiar Forest District

Date