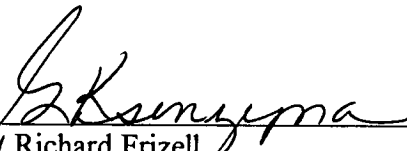


**CERTIFICATION**

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the Cook's Ferry Indian Band Taxation and Assessment amending Bylaw No. 1995-1, dated April 4, 1995 is a true copy of the said by-law.

  
A/ Richard Frizell  
Lands and Trust Services,  
a Superintendent as defined in  
Section 2(1) Indian Act RSC 1985

Minister of Indian Affairs  
and Northern Development



Ministre des Affaires  
indiennes et du Nord canadien

E4216-694  
A Price

On behalf of the Minister of Indian Affairs and Northern Development,  
I HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the  
following bylaw made by the Cook's Ferry Indian Band, in the Province of  
British Columbia, at a meeting held on the 4<sup>th</sup> day of April 1995.

**COOK'S FERRY INDIAN BAND  
TAXATION AND ASSESSMENT AMENDING BYLAW NO. 1995-1**

Dated at Hull, Quebec

this 3<sup>rd</sup> day of May 1995.

A handwritten signature in black ink, appearing to read "Dan E. Goodleaf".

Dan E. Goodleaf  
Deputy Minister

TAXATION AND ASSESSMENT AMENDING BYLAW NO. 1995-1

**WHEREAS** the Cook's Ferry Indian Band Taxation and Assessment Bylaws were approved pursuant to Section 83 of the Indian Act on June 23, 1993.

**AND WHEREAS** the Cook's Ferry Indian Band would like to move from a biennial roll system to an annual roll system to be concurrent with the Province of British Columbia.

**AND WHEREAS** it is necessary for the efficient operation of the taxation system to make certain amendments to the foresaid by-laws.

**BE IT HEREBY RESOLVED** that the Chief and Council of the Cook's Ferry Indian Band enacts the following bylaw pursuant to Section 83 of the Indian Act.

**1. Short Title**

This Bylaw may be cited as the Cook's Ferry Indian Band Assessment and Taxation Amending Bylaw No. 1995-1.

## 2. Assessment Bylaw

### Interpretations

The definition of "assessment roll" has been amended to read the following:

"assessment roll" "assessment roll" includes a supplementary roll.

The definition of "improvements" has been amended by deleting it and substituting it by the following:

- "improvements" (1) means any building, fixture, structure or similar thing constructed, or placed on or in reserve land, or water over reserve land, or on or in another improvement, but does not include any of the following things unless that thing is a building or is deemed to be included in this definition by subsection (2):
- (a) production machinery;
  - (b) anything intended to be moved as a complete unit in its day to day use;
  - (c) furniture and equipment that is not affixed for any purpose other than its own stability and that is easily moved by hand;
- (2) Without limiting the definition of "improvements" in subsection (1), the following things are deemed to be included in that definition unless excluded from it under subsection 3:
- (a) anything that is an integral part of a building or structure and is intended to serve or enhance the building or structure, including elevators, escalators and systems for power distribution, heating, lighting, ventilation, air conditioning, communications, security and fire protection;
  - (b) any building or structure that is capable of maintaining a controlled temperature or containing a special atmosphere, including dry kilns, steam chests, greenhouses and cooling towers;

- (c) any lighting fixtures, paving and fencing;
- (d) any
  - (i) piling, retaining walls and bulkheads, and
  - (ii) water system, storm drainage system and industrial or sanitary sewer system, the value of which is not included by the assessor in the value of the land;
- (e) any foundations, such as footings, perimeter walls, slabs, foundations for machinery and equipment;
- (f) any pipe racks, tending platforms, conveyor structures, log decks and supports for machinery and equipment, including structural members comprising trestles, bents, truss and joint sections, stringers, beams, channels, angles and similar things;
- (g) any aqueducts, dams, reservoirs and artificial lagoons and any tunnels other than mine workings;
- (h) any roads, airstrips, bridges, trestles and towers, including ski towers;
- (i) any mains, pipes or pipelines for the movement of fluids or gas;
- (j) any track in place, including railway track in place;
- (k) any pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, substations, conduits and mains that are used to provide electric light, power, telecommunications, transportation and similar services, including power wiring for production machinery up to the main electrical panels or motor control centre, those panels and that centre;

- (l) any vessels, such as tanks, bins, hoppers and silos, with a prescribed capacity and any structure that is connected to those vessels;
  - (m) docks, wharves, rafts and floats;
  - (n) floating homes and other floating structures and devices that are used principally for purposes other than transportation;
  - (o) that part of anything referred to in paragraphs (a) to (o) or of any building, fixture, structure or similar thing that, whether or not completed or capable of being used for the purpose which it is designed,
    - (i) is being constructed or placed, and,
    - (ii) is intended, when completed, to constitute, or will with the addition of further construction constitute, any of those things.
- (3) The following categories and types of things, which are deemed to be included in the definition of "improvements" in subsection (2) are excluded from the definition of "improvements", but any foundations associated with them are not excluded:
- (a) portable elements of communications, security or fire protection systems;
  - (b) bucket elevators;
  - (c) fans, motors, piping other than piping used to supply fuel, or other equipment that is used to control or provide the temperature, irrigation or atmosphere within a dry kiln, steam chest, greenhouse, cooling tower, controlled atmosphere warehouse or cold storage warehouse, and all ventilating and heating equipment used for process purposes in farms as set out in subsection 2(b);
  - (d) coolers, freezers or controlled environment cabinets that are
    - (i) of a modular walk-in or reach-in type, and

- (ii) located within a building or structure, and any associated machinery and controls;
- (e) portable lighting or portable lighting plants;
- (f) those pumps, motors, travelling screens, travelling cranes and hoists, filters, chlorinators, skimmers, aerators and similar things that are in water or sewer systems;
- (g) in the case of rail car and truck dumpers, lifts for marine vessels, platform scales, hoppers, stacker-reclaimers, conveyors, screw conveyors and travelling cranes, their moving parts and all controls related to their moving parts;
- (h) casings for screw conveyors or bucket elevators;
- (i) those catwalks or tending platforms that are principally mounted on or are supported either by an improvement exempted by this bylaw or by production machinery;
- (j) idler arms for conveyors;
- (k) chip or hog blow lines;
- (l) J-bar or tray sorters, excluding any enclosure and associated framing;
- (m) turbines, generators and related controls;
- (n) those surface tows or aerial chairs, gondolas or tramways that are supported by towers, including their supporting cables, sheave assemblies, bull wheels, motors and controls;
- (n.1) snow making systems except piping or associated structures;
- (o) haul roads within active mine pits;
- (p) subject to paragraph (c), piping in a plant that is within property classified for assessment purposes as Class 4 or 5, other than that portion of the piping which supplies or moves

- (i) water that is used for drinking, cooking or personal hygiene,
  - (ii) water to the beginning of a plant process for use in that process,
  - (iii) materials that are used for fire protection,
  - (iv) fuel or steam that is used for heating or power production,
  - (v) materials to the point where major processing of the materials begins,
  - (vi) industrial or non-industrial waste, or
  - (vii) materials that have been refined, manufactured or otherwise processed in the plant and which are not subject to any further refinement, manufacturing or other processing in that plant;
- (q) casings or piping in oil or gas wells;
- (r) electrical distribution equipment and materials, not including the load break switch or circuit breaker referred to in subparagraph (ii), that are located
- (i) within properties classified for assessment purposes as Class 4, 5 or 6, and
  - (ii) between a medium voltage load break switch, or a medium voltage circuit breaker, and production machinery, where "medium voltage" is 601 volts to and including 15 kilovolts and the load break switch or circuit breaker is located, as determined by the current flow, immediately before a distribution transformer that serves the production machinery;
- (s) portable power or generating facilities;
- (t) the following vessels:
- (i) cyclones, dust and particulate collectors or separators, power and recovery boilers, furnaces used in industrial processes, rotary dyers rotary kilns, rotary mixers, compressor tanks, evaporators, heat exchangers, electrolytic cells, electrolytic tanks, stripping or scrubbing vessels or expansion tanks;



- (ii) those floatation cells, crushers, grinding mills, dewatering filters, primary and secondary leach filters, aeration columns, carbon columns, heavy media separators and floatation columns that are used in the ming industry;
- (iii) those rotary modulizers, absorption towers, cottrell treaters, humidifying towers, spray towers, glover towers, hot treaters, mist eliminators, melting pots, scrubbers and acidifiers that are used in the smelting industry;
- (iv) those cat cracker columns, desalters, atmospheric columns, vacuum columns, rectifier columns, fractionator columns, reactors, distillation towers, reformer stacks, asphalt oxidizers, hydrotreater units, reformer units, platformer units, crude units, alkylation units, fluid cat cracker units, isomerization units, rerefined oil process units, blending or shipping kettles, oxidation towers, gas or oil separator towers, emulsion treater towers condensate accumulators, contractor towers, reboilers, stills, instrument air receivers, treater pressure filters, treater zeolite softeners, water treater towers, coalescers, inlet scrubbers, sour water stripper towers, condensate receivers, sulfreen reactors, converters, reflux accumulators, water wash towers, methanol towers, methanol degassers, methanol strippers, instrument air receivers, dehydrator towers, separator towers, demethanizer towers, deethanizertowers, depropanizer towers, debutanizer towers, refrigerant receivers, refrigerant blowcases and condensers, except cooling condensers that are used in the petroleum and gas industry;

- (v) those resin blenders, batch or continuous digester vessels, bleaching towers, demineralizers, water softeners, chlorine or chlorine dioxide generators, air receivers, steaming vessels (TMP), deaerators, impregnation vessels, oxygen reactors, repulpers, oxygen drum washers, preheaters, brown stock decker washers and brown stock steam vessels that are used in the forest industry;
- (vi) those distillation towers, graphite cells, synthesizer towers, cooler vessels, solution treaters, hydrogenator treaters, rotary pebble mills, prilling towers, degasser eliminators, vacuum dryers, methanator units, extractor units, reboilers, converters, still columns, kettles, untreated chlorate dryers, deaerator systems and steam drums that are used in the chemical industry;
- (vii) those spas, hot-tubs and swimming pools that are free standing and any associated machinery and controls.

The definition of "interest holder" has been amended by deleting it and substituting it with the following:

"interest holder" includes a person who has an interest in land or improvements or both within the reserve, including rights to occupy, possess or use land or improvements or both within the reserve and also includes a person who simply occupies land or improvements or both within the reserve.

The definition of "interest" has been added to the interpretation section of the assessment by-law.

"interest" "interest" includes any legal or beneficial right, title, estate or interest;

The definition of "land" has been amended by removing subsection (c) and replacing it with the following:

- (c) sand and gravel;

The definition of "manufactured home" has been added to the interpretation section of the assessment bylaw.

"manufactured home" "manufactured home" or "mobile home" means

- (i) any structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and to provide
  - (a) a dwelling house or premises,
  - (b) a business office or premises,
  - (c) accommodation for any other purpose other than those referred to in paragraphs (a) and (b),
  - (d) shelter for machinery or other equipment, or
  - (e) storage, workshop, repair, construction or manufacturing facilities.
- (ii) for the purposes of assessment, "manufactured" or "mobile" homes shall be deemed to be an improvement unless exempted by resolution of the Band Chief and Council.

The definition of "occupier" has been added to the interpretation section of the Assessment By-law.

"occupier" "occupier" means a person who, for the time being, is in actual occupation of land and improvements or both within the reserve;

The definition of "person" has been amended by deleting it and substituting it by the following:

"person" "person" in addition to its ordinary meaning, includes a partnership, syndicate, association, any government or any agency or political subdivision thereof, or any corporation and the agent and trustee of a person;

The definition of "production machinery" has been added to the interpretation section of the assessment bylaw.

"production machinery" "production machinery" means any,

- (a) engine,
- (b) motor, or
- (c) machine

used to manufacture, process, repair or convey a product;

Section 26(1) has been amended by deleting it and substituting it by the following:

26. (1) In this by-law

"actual value" "actual value" means the price which land and improvements might reasonably be expected to bring if held in fee simple off reserve and offered for sale in the open market on the valuation date;

26. (1)(a) For the purposes of determining the actual value of property, the valuation date is July 1 1994 for the first assessment roll created in 1995, and for each assessment roll thereafter, the valuation date is July 1 of the year during which the assessment roll is completed.

26. (1)(b) The actual value of property for an assessment roll is to be determined as if on the valuation date

(i) the property and all other properties were in the physical condition that they are in on October 31 following the valuation date, and

(ii) the permitted use of the property and all other properties were the same as on October 31 following the valuation date.

Section 2(1) of the Assessment bylaw has been amended by deleting it and substituting it by the following:

2. (1) The assessor shall, when so directed by the chief and council not later than April 30, 1995, December 31, 1995 and December 31 for each year thereafter, complete a new assessment roll in which he shall set down each property liable to assessment within the reserve and give to every person named in the assessment roll a notice of assessment, and in the case of the first assessment roll completed in 1995, it shall, subject by-law, be the assessment roll for the purpose of taxation during the 1995 calendar year, and in the case of each assessment roll completed thereafter, it shall, subject to this by-law, be the assessment roll for the purpose of taxation during the calendar year following the completion of that roll.

Sections 2(1.1), (1.2), (1.3), (1.4), (1.5) and (1.6) repealed.

Section 2(3) has been amended by deleting it and substituting it by the following:

- (3) The assessor may, when completing an assessment roll make reference to the records of the land title office or the Reserve Land Register as those records stood on November 30 of the year previous to which he completes that assessment roll.

Section 11(2)(f) is amended by deleting it and substituting it for the following:

- (f) a person's making of an incorrect return, required under this or any other by-law.

Section 11 (3) is amended by deleting it and substituting it for the following:

- 11 (3) Notwithstanding sections 9 and 10, and in addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before April 30, 1996 following the return of the completed assessment roll under section 6 and at any time before December 31st for each subsequent year following the return of the completed assessment roll under section 6, correct errors and supply omissions in the completed assessment roll by means of entries in a supplementary assessment roll.

Sections 11 (5), (6), & (7) repealed.

Section 11 (8)(a), (b) repealed.

Section 11 (8) has been added as follows:

- (8) Nothing in subsection (1), (3) or (4) authorizes the preparation of a supplementary roll, or the correction of a roll, for the purpose of changing or updating an assessment roll, completed as required by section 2 (1), later than 12 months after the completion of that assessment roll.

Section 26 (1)(b) repealed.

Section 26.1 (1) is amended by deleting it and substituting it by the following:

### Major industry valuation

26.1 (1) In this section

"cost of industrial improvement" means the cost of replacing an existing industrial improvement with an improvement that

- (a) has the same area and volume as the existing industrial improvement,
- (b) serves the same function that the existing industrial improvement was designed for or, where the existing industrial improvement is no longer used for that function, serves the same function that the existing industrial improvement now serves, and
- (c) is constructed using current, generally accepted construction techniques and materials for the type of improvement being constructed

and, for the purposes of determining cost, manuals or texts or reference works for the determination of rates, formulae, rules or principles for the calculation of cost as used for assessment purposes and as prescribed in section 105 of this by-law;

"industrial improvement" means an improvement that is part of a plant that is designed and built for the purpose of one or more of the following:

- (a) mining, extracting, beneficiating or milling of metallic or non-metallic ore;
- (b) mining, breaking, washing, grading or beneficiating of coal;
- (c) producing of aluminum;
- (d) smelting or refining of metal from ore or ore concentrate;
- (e) producing, manufacturing, processing or refining of petroleum or natural gas;
- (f) manufacturing of lumber or other sawmill and planing mill products;

- (g) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products;
- (h) manufacturing of gypsum board;
- (i) manufacturing of pulp, paper or linerboard;
- (j) manufacturing of chemicals;
- (k) manufacturing of chemical fertilizer;
- (l) manufacturing of synthetic resins or the compounding of synthetic resins into moulding compounds;
- (m) manufacturing of cement;
- (n) manufacturing of insulation;
- (o) manufacturing sheet glass or glass bottles;
- (p) building, refitting or repairing ships;
- (q) loading cargo onto sea going or lake going ships or barges, including associated cargo storage and loading facilities,

notwithstanding that the plant cannot be operated as a going concern or is temporarily or permanently unprofitable, but does not include an improvement exempted under subsection (1.1).

Section 26.1(1.1) has been added as follows:

- (1.1) The Band Chief and Council may for economic adversities, pursuant to section 34 of the Cook's Ferry Indian band Taxation Bylaw, exempt from the definition of "industrial improvement" improvements in a plant or class of plant that has less than a prescribed capacity and may prescribe different capacities for different types of plants and shall notify the assessor of such exemptions.

Section 26.2 repealed.

Section 27 (1) (a), (b), (c), (d) and (e) are amended by deleting them and substituting them by the following:

27. (1) Notwithstanding sections 26 and 26.1, the Assessor shall, by using rates established by regulation under the Assessment Act, R.S.B.C. 1979, c.21 determine the value of the following properties:
- (i) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, pipe lines, conduits and mains of a telecommunications, cable television, bus or electrical power corporation;
  - (ii) the track in place of a railway corporation, whether the track is on a highway, or on a privately held, owned or occupied right of way, or on Band land;
  - (iii) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products, or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right-of-way, but not including pumping equipment, compressor equipment, storage tanks and buildings;
  - (iv) the right-of-way for the pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipe lines referred to in paragraphs (i) and (iii);
  - (v) the right-of-way for track referred to in paragraph (ii);

Subsections 27(6) and 27(7) have been amended by deleting them and replacing them by the following;

- (2) For the purposes of subsection (1) (iv) and (v), "right-of-way" means land and improvements that a corporation is entitled to use for the operation of those things referred to in paragraphs (i), (ii) or (iii) that are to be valued under this section, but "right-of-way" does not include land and improvements of which the corporation is not an interest holder within the meaning of this by-law.
- (3) For the purpose of applying subsection (1) (ii), the track in place of a railway corporation is inclusive of all structures, erections and things, other than such buildings, bridges, trestles, viaducts, overpasses and similar things, coal bunkers, corrals, stand pipes, fuel oil storage tanks, oil fuelling equipment, water tanks, station houses, engine houses, roundhouses, turntables, docks, wharves, freight sheds, weigh



scales, repair and cleaning shops and equipment, boiler houses, offices, sand towers and equipment, pavement, platforms, yard fencing and lighting, powerhouses, transmission stations or substations, and the separate equipment for each of them, as are necessary for the operation of the railway.

Section 36. 1(1) is amended by deleting it and substituting it for the following:

36.1 (1) Where land and improvements or all are held or occupied in the manner referred to in section 34, 35, or 36 by 2 or persons, and there is no paramount interest holder, the land and improvements or all shall be assessed in the names of those persons jointly.

Sections 36.1 (2) and (3) repealed.

Section 41.1 (1) has been added as follows:

Board of Review to be Notified

- 41.1 (1) The assessor shall notify the Board of Review if any of following circumstances apply:
- (a) because of a change of an interest holder that occurs after November 30 and before the following January 1,
    - (i) land or improvements or both that were not previously liable to taxation become liable to taxation, or
    - (ii) land or improvements or both that were previously liable to taxation cease to be liable to taxation;
  - (b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed;
  - (c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the home is purchased by the owner of land that has been assessed;
  - (d) after November 30 and before the following January 1 land or improvements or both are transferred to or from the British Columbia Hydro and Power Authority;
  - (e) land or improvements or both that are owned by the British Columbia Hydro and Power Authority are held or occupied by another person, and that person's interest commences or terminates after November 30 and before the following January 1;

- (f) land or improvements or both that are owned by British Columbia Railway Company or by its subsidiary are held or occupied by another person, and that person's interest commences or terminates after November 30 and before the following January 1;

Section 41.1 (2) has been added as follows:

- (2) Any matter that the Board of Review is notified of under subsection (1) shall be treated as an error or omission in the completed assessment roll, and notice of the matter shall be treated by the board as a complaint.

Section 41 (5)(a) and (b) have been amended by deleting them and substituting it by the following:

- (5) Notice in writing of every complaint in respect to an entry in an assessment roll shall be delivered to the assessor not later than May 30 for the 1995 assessment year and January 31 for each subsequent year in which the assessment roll is completed;

Section 41(6) repealed.

Section 41(7) repealed.

Section 44 is amended by deleting it and substituting it by the following:

- 44. A person making a complaint under section 41 may leave the assessor an address to which notices for that person shall be sent.

Section 45(1.1) has been added to the assessment bylaw as follows:

- (1.1) No increase in the amount of assessment and no change in classification shall be directed under clause 45(1) until after five days notice of the intention to direct the increase or change and of the time and place of holding the adjourned sittings of the Board of Review at which the direction is to be made, has been given by the assessor to the assessed interest holders of the property on which the assessments are proposed to be increased, or changed as to classification. A party interested, or their solicitor or agent duly authorized under this by-law, if they appear, shall be heard by the Board of Review.

Section 45(3) repealed.

Section 82 repealed.

Section 102 (1) (a) is amended by deleting it and substituting it by the following:

- (a) "annual depreciation rate" is the percentage for the category of plant which the industrial improvement is a part, and

Sections 111, 112, and 113 repealed.

Sections 121, 123, 124 and 125 repealed.

Sections 131, 132, 133, 134 and 135 repealed.

Sections 159 and 160 have amended by deleting them and substituting them by the following:

- 159. Class 9 property shall include only land classified as farm land.
- 159.1 An application by the occupier/lessee to have or part of his land classified as farm shall be in the form available at the office of the assessor.
- 159.2 The assessor shall set the standards for the classification of land as farm in accordance with the Assessment Act, R.S.B.C. 1979, c.21.

Section 175 (1) is amended by deleting it and substituting it by the following:

Appointment of assessor

- 175. (1) The chief and council shall appoint an assessor.

Sections 201, 202, 203, 204, 205, 206, and 207 repealed.

Schedules "B" and "C" to the by-law have been repealed.

### 3. Taxation Bylaw

#### Interpretation

The definition of "assessment roll" has been amended to read the following:

- "assessment roll" "assessment roll" includes a supplementary assessment roll and includes anything recorded as an addendum to the assessment roll under the Assessment By-Law;
- "interest holder" "interest holder" means an interest holder as defined in the Assessment By-Law;
- "interest" "interest" means interest as defined in the Assessment By-Law;
- "occupier" "occupier" means occupier as defined in the Assessment By-Law;

Section 10(4) of the Taxation By-Law has been added to this section as follows:

- (4) For the 1995 taxation year, any dates, times, or periods established under this by-law or the Cook's Ferry Indian Band Assessment By-law, shall be changed or extended by such reasonable amount or amounts as may be necessary to permit, enable, and allow the effective and efficient implementation and administration of this bylaw and the Cook's Ferry Indian Band Assessment By-law.

Section 41 has been added to the taxation bylaw as follows:

#### Lien for taxes

41. (1) Taxes assessed or imposed and due for land and/or improvements under this by-law, or any property subject to taxation under another by-law, form a lien and charge in favour of the Cook's Ferry Indian Band on the entire property taxed; and every lien or charge created by this subsection has priority over every other lien, charge or encumbrance on the property, from the time of registration.

- (2) The lien or charge created by this section and its priority is not lost or impaired by any neglect, omission or error of the chief and council, the surveyor of taxes or of any other agent or officer, or by taking or failing to take proceedings to recover the taxes due, or by tender or acceptance of partial payment of the taxes or by want of registration.

Section 44 (1) has been amended by deleting it and substituting it by the following:

#### Notice before taking proceedings

44. (1) Before taking proceedings for the recovery of taxes under this by-law, the chief and council shall give 30 days notice to the person liable for payment of the delinquent taxes of their intention to enforce payment.

Section 46 is amended by deleting and substituting it by the following:

#### Distress: Seizure of goods

46. (1) With the authorization of the Chief and council, if the taxes or any portion of the thereof remain unpaid after the 30 day period provided by section 44, proceedings by way of distress, as set out herein, may be taken by the Band.
- (2) The Band shall serve a Notice of Distress on the tax debtor and provide a copy of same to the locatee, where applicable, in the form set out in Schedule "B".
- (3) If the taxes, or any portion thereof, remain outstanding following the time provided by the Notice of Distress, then the Band shall effect a seizure by distress of such property, and post a notice of the property which is seized pursuant to this section on the land. The seized property shall then be in the possession of the Band, as represented by the surveyor of taxes.
- (4) So long as the taxes, or any portion thereof, remain outstanding, no goods seized pursuant to section 46(3) which are located on reserve shall be removed therefrom, and any such removal shall be considered a trespass. Without restricting the generality of the foregoing, no such property shall be seized by a bailiff, sheriff, assignee or liquidator or trustee, or authorized trustee in bankruptcy, except under the authority of the Chief and council.

Section 47 is amended by deleting it and substituting it by the following:

**Distress: Sale of goods seized by distress**

47. (1) If the Band seizes by distress the tax debtor's goods pursuant to section 46(3), and the tax debtor does not commence legal proceedings in a court of competent jurisdiction within 60 days after the date of seizure challenging such, the property may be sold in accordance with this Part and the tax debtor is estopped from denying the validity of the seizure and sale of such property.
- (2) Upon expiration of 60 days after seizure by distress pursuant to section 46(3), if the outstanding taxes have not been paid in full, the goods seized will be deemed to have been abandoned by the tax debtor and, may be sold by public auction, the proceeds of which will be used for payment of taxes.
- (3) A Notice of Sale of Goods Seized by Distress in the form set out in Schedule "C" to this By-law shall be published in at least one newspaper of general local circulation for 7 days prior to the sale, and shall be posted on the tax debtor's premises located on reserve.
- (4) The sale of goods seized by distress shall be conducted at the time and place advertised pursuant to subsection (3), unless it is necessary to adjourn such sale, in which case an additional notice shall be published in the manner provided in subsection (3).
- (5) Any surplus resulting from the sale conducted pursuant to subsection (4), after deducting all liabilities of the tax debtor, including all costs and charges arising from the sale, shall be paid to the owner of the property seized. In the event that the surveyor of taxes is uncertain as to the person entitled to such surplus the surveyor of taxes shall pay such money into court by way of interpleader action.
- (6) Any goods of any tax debtor that would be exempt from seizure under a writ of execution issued by a superior court of the province in which the seizure is made are exempt from seizure under this section.

Section 48 is amended by deleting it and substituting it by the following:

#### Sale of Improvements or Proprietary Interest

48. (1) With the authorization of the Chief and council, if the taxes or any part thereof remain unpaid after expiration of the 30 day period provided in section 46, proceedings by way of sale of improvements or proprietary interests, may be taken by the Band. The Band shall serve the tax debtor and locatee, where applicable, a Notice of Sale of Improvements and Disposition of Interests on Reserve, in the form set out in Schedule "D" to this By-law.
- (2) On June 30 following the year in which the taxes are imposed, and upon the failure of the tax debtor to pay the outstanding taxes or to commence legal proceedings in a court of competent jurisdiction challenging the sale or disposition, the Band through its surveyor shall sell the improvements or dispose the interest of the tax debtor in the Reserve by public auction, or pursuant to subsection (3) by public tender.
- (3) The Chief and council shall prescribe the method of public tender, including the conditions of sale, method of publication or circulation, and conditions attached to the acceptance of any offer.
- (4) A Notice of Sale of Improvements Disposition of Interest in the Reserve in the from in Schedule "D" to this By-law shall be published in at least one newspaper of general local circulation for 7 days prior to the sale, and shall be posted on the tax debtor's premises located on reserve.
- (5) The sale of the improvements and disposition of interest in the Reserve shall be conducted at the time and place advertised pursuant to subsection (3), unless it is necessary to adjourn such disposition. If an adjournment is necessary an additional notice shall be published in the same manner provided by subsection (3).
- (6) The surveyor of taxes, upon receiving the prior approval of the Chief and council, may at any sale and disposition conducted pursuant to subsection (2) or (4), set an upset price equal to the outstanding taxes with respect to that property, and that upset price shall be the lowest price for which the improvements may be sold and the interest in the Reserve disposed.
- (7) Where the surveyor of taxes sets an upset price pursuant to subsection (6), and there is no bid at the sale and disposition conducted pursuant to subsection (2) or (4) that is equal to or greater than the upset price, the Band shall be deemed to be the purchaser and shall acquire the interest in the land free and clear of all encumbrances or charges.



- (8) At any time within six months after the sale and disposition held pursuant to subsection (2) or (4), the tax debtor may redeem his/her improvements and interest in the Reserve by paying to the Band in the full amount of all taxes for which the improvements were sold and the interest disposed, together with all taxes which have subsequently fallen due.
- (9) If upon the expiration of the redemption period provided by subsection (8), any amount of the taxes remains outstanding, the sale of the improvements or disposition of the interests shall be considered final and with Ministerial consent, the purchaser shall obtain title to the improvements and to the tax debtor's interest in the Reserve. The surveyor of taxes shall certify the sale in the form provided in Schedule "D 1" to this By-law. A certificate issued under this section shall be registered in the Surrendered and Designated Lands Register or the Reserve Land Registry and shall be served on the tax debtor.
- (10) Upon the filing of the certificate provided by subsection (9), the Purchaser shall be substituted for the tax debtor as the holder of the interest in the Reserve, and in addition to any other obligations, shall be liable for all future taxes assessed against that interest.
- (11) Upon the filing of the certificate provided by subsection (9), any surplus resulting from the sale and disposition conducted pursuant to subsection (2) or (4), after deducting all outstanding taxes of the tax debtor, including all costs and charges arising from the sale and disposition, shall be paid or returned to the tax debtor. In the event that the surveyor of taxes is uncertain as to the person entitled to such surplus the surveyor of taxes shall pay such money into court by way of interpleader action.
- (12) Upon the filing of the certificate provided by subsection (9), any remaining debt of the tax debtor with respect to that property, including all costs and charges arising from the sale and disposition, shall be extinguished.
- (13) If, pursuant to subsections (7) and (8) the Band has become the owner of the improvements and interest in the Reserve, the surveyor of taxes may sell such within 90 days for not less than the upset price pursuant to subsection (6).

Section 49 is amended by deleting it and substituting it by the following:

#### **Cancellation of Proprietary Interest Held by Taxpayer**

- 49.(1) With the authorization of the Chief and council, if the taxes or any part thereof remain unpaid, after the 30 day period provided by section 46 has expired proceedings by way of cancellation of proprietary interest, as set out herein, may be taken by the Band. The Band shall serve a Notice of Cancellation of the tax debtor's interest in the Reserve in the form set out in Schedule "E" to this By-law.
- (2) The Band shall mail a copy of the notice referred to in subsection (1) to every place where the interest is registered and to the locatee, where applicable.
- (3) Where taxes with interest are not paid before June 30 of the year following the taxation year in which they were imposed, the lease, licence or permit to occupy the property which is the subject of the unpaid taxes may be cancelled. The surveyor of taxes shall certify the cancellation in the form provided in Schedule "F" to this By-law. A certificate issued under this section shall be registered in the Surrendered and Designated Lands Register and the Reserve Land Register.
- (4) Upon cancellation of the tax debtor's interest and with the consent of the Minister the Band shall acquire the interest in the land free and clear of all encumbrances or charges.

#### **Forfeiture of Property**

- 49.(5)(1) Notwithstanding any other action for the recovery of taxes set out in this By-law, if any taxes remain unpaid 24 months after the mailing of the notice as set out in section 44 to this By-law, the tax debtor's interest in the reserve in respect of which the taxes remain unpaid shall, subject to subsection (2), (3), (4) and (5) herein, be absolutely forfeited.
- (2) The tax debtor's interest in the reserve shall not be forfeited under subsection (1) until the Band serves a Notice of Forfeiture pursuant to subsection (4) and in the form set out in Schedule "G" to this By-law, on the debtor and on anyone else who may be in lawful possession of the lands and the date on which the tax debtor's interest in the reserve forfeits shall be the fortieth day after the date on which the notice was served.
- (3) Prior to serving the Notice of Forfeiture pursuant to subsection (4), the surveyor of taxes shall obtain authorization from the Chief and council to proceed by forfeiture.

- (4) The Notice of Forfeiture shall state:
  - (a) that the interest held by the tax debtor in the reserve is subject to forfeiture under this section,
  - (b) the amount of all taxes, costs and fees that are due and payable to the date of the notice,
  - (c) the date on which the interest in the reserve held by the tax debtor will forfeit,
  - (d) the right to prevent forfeiture by payment under this section, and
  - (e) that on forfeiture under this section, the interest held by the tax debtor in the reserve will be forfeited clear of all charges except those rights of way, easements or other such third party interests which otherwise attach to the land or interest in land.
- (5) The Notice of Forfeiture shall be given by mail or by delivering it to the person entitled to it at that person's last known address or to the address of that person which is specified in the records of the Band.
- (6) Where any taxes remain unpaid on December 31 of the second year after the calendar year in which they were imposed, the payment of those taxes does not prevent forfeiture unless the payment:
  - (a) includes all taxes then due and payable, and
  - (b) is made before forfeiture occurs under this section.
- (7) With the consent of the Minister, the surveyor of taxes shall certify, in the form set out in Schedule "H" to this By-law that the interest in the reserve held by the tax debtor has been forfeited and the Registrar shall record the document cancelling the tax debtor's interest in the Reserve in the Register of Surrendered and Designated Lands and the Reserve Land Registry.
- (8) Upon forfeiture of the tax debtor's interest the Band shall acquire the interest in the land free and clear of all encumbrances or charges.

## Absconding Taxpayer

- 49(6)(1) Where the surveyor of taxes has reasonable grounds to believe that the taxpayer intends to remove his/her goods from the reserve, or intends to dismantle or remove his/her improvements on reserve, or take any other actions which may preclude or impede the collection of outstanding taxes owing pursuant to this By-law, the surveyor of taxes shall apply to the Chief and council for authorization to immediately commence any of the collection proceedings set out in the By-law and abridge or dispense with the time periods required therein.
- (2) In the alternative to subsection 49(6)(1), or upon the request of the Chief and council, the surveyor of taxes may initiate proceedings in a court of competent jurisdiction, notwithstanding the fact that the time for payment of taxes has not yet expired.
- 49(7) With the authorization of the Chief and Council, if the taxes or any part thereof remain unpaid, after the 30 day period provided by section 44 has expired, any services provided by the Band or pursuant to any contract with the Band, to the tax debtor or to the lands or interests located on the reserve which have been assessed pursuant to this By-law may be discontinued. A Notice of Discontinuance of Services in the form of Schedule "I" to this By-law, shall be delivered upon the tax debtor and to the locatee where appropriate, 30 days prior to such discontinuance, and shall include the date, time and place within that 30 days, upon which the tax debtor or the locatee can appear before the Chief and Council to show cause as to why the services should not be discontinued. Following the appearance before Chief and Council, the Chief and council shall determine whether or not it will discontinue such services, and if so advise the person providing such services, to discontinue such services.

SCHEDULE B

NOTICE OF DISTRESS

TO:  
ADDRESS:

RE:  
(Description of Property)

TAKE NOTICE THAT failure to pay the outstanding tax debt due and owing with respect to the above-noted property, being \$\_\_\_\_\_, on or before the expiration of 7 (seven) days after the date of this notice will result in the Surveyor of Taxes, pursuant to section 43(2) of the Cook's Ferry Indian Band Taxation By-law, seizing by distress the property described as follows:

(a general description of the property which has been assessed)

AND FURTHER TAKE NOTICE THAT failure to pay the outstanding tax debt upon the expiration of the 7 (seven) days set out above, will result in a copy of this notice being posted at the locations on reserve where the property is located and will result in the seizure of such property, which will be held in the possession of the Surveyor of Taxes, at your cost, such cost being added to the amount of the taxes outstanding, until the tax debt is paid.

AND FURTHER TAKE NOTICE that pursuant to section 47(1) of the Cook's Ferry Indian Band Taxation By-law, you must commence legal proceedings in a court of competent jurisdiction to challenge such seizure within 60 (sixty) days from the date of such seizure, or you will be estopped from denying the validity of both the seizure and the sale of such property.

AND FURTHER TAKE NOTICE THAT upon the expiration of 60 (sixty) days after the property has been seized and the failure to pay the outstanding tax debt or commence court proceedings as set out above, you will be deemed to have abandoned the property seized and the Surveyor of Taxes may authorize that the property will be sold by public auction. A copy of the Notice of Sale of Property seized by Distress will be posted on your property located on reserve, and will be published for at least 7 (seven) days in the \_\_\_\_\_ Newspaper, (one or more newspapers of general local circulation) before the date of sale.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE C

A NOTICE OF SALE OF GOODS SEIZED BY DISTRESS

TAKE NOTICE THAT a sale by public auction for outstanding taxes owed to the Cook's Ferry Indian Band (Taxation Authority) will occur on \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_ o'clock at \_\_\_\_\_ (Location) on the \_\_\_\_\_ Reserve.

At the above-noted sale, the following goods, seized by Distress pursuant to sections 47 and 48 of the Cook's Ferry Indian Band Taxation By-law, will be sold, with the proceeds of such sale being used to pay the outstanding tax debt:

GENERAL DESCRIPTION OF THE GOODS

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE D

NOTICE OF SALE OF IMPROVEMENTS AND  
DISPOSITION OF INTEREST IN THE RESERVE

TO:

ADDRESS:

RE:

(Description of Property)

(Interest on Reserve)

(Description of Improvements)

TAKE NOTICE THAT failure to pay all outstanding taxes with respect to the above-mentioned property, being \$\_\_\_\_\_, on or before the expiration to 60 (sixty) days after the date of this notice will result in the Surveyor of Taxes for the Cook's Ferry Indian Band holding a sale by public auction (or tender) of the improvements located on the above-mentioned property and a disposition by public auction (or tender) of the above-noted interest on the Reserve. The Sale of Improvements and Disposition of Interest in the \_\_\_\_\_ Reserve shall be published in the \_\_\_\_\_ Newspaper for 7 (seven) days prior to such sale and disposition, and shall be posted on the above-noted property located on the Reserve.

AND TAKE NOTICE THAT on or before the expiration of 6 (six) months after the above-mentioned sale and disposition, you may redeem your improvements and interest in the Reserve by paying to the Surveyor of Taxes the full amount of all taxes for which the improvements were sold and the interest disposed, together with all taxes which have subsequently fallen due, including without restricting, the cost of the above-mentioned sale and disposition. If upon the expiration of those 6 (six) months any amount of the taxes remain outstanding, the sale of the improvements and disposition of the interest will be declared final, and the purchaser shall obtain both your title in the improvements sold and your interest in the Reserve.

AND TAKE NOTICE THAT upon the sale and disposition being declared final, you will be required to immediately vacate the property, and any rights or interests which you held in the improvements and to the Reserve land will be transferred in full to the purchaser.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE D1

CERTIFICATION OF SALE AND  
DISPOSITION OF INTEREST ON RESERVE

RE:

(Description of Interest on Reserve)

(Description of Improvements)

I, \_\_\_\_\_, Surveyor of Taxes of the Cook's Ferry Indian Band, hereby certify that resulting from the failure of \_\_\_\_\_ (Tax Debtor) to pay the outstanding tax debt on the above-mentioned interest on Reserve, that interest has been disposed of by Public Auction (or Tender) and the above-mentioned improvements have been sold by Public Auction or Tender pursuant to the Cook's Ferry Indian Band Taxation By-law. The following person shall, pursuant to section 48(9) of that By-law, be substituted for the Tax Debtor as the holder/owner of the above-noted interest in the Reserve, including the improvements:

NAME AND ADDRESS OF PURCHASER AT SALE

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes



SCHEDULE E

NOTICE OF CANCELLATION OF INTEREST IN THE RESERVE

TO:

ADDRESS:

RE:

(Description of Property)

(Interest on Reserve)

TAKE NOTICE THAT failure to pay in full the outstanding tax debt of \$\_\_\_\_\_ with respect to the above-noted property will result, upon the expiration of 6 (six) months from the date of this notice, in the cancellation of your interest in such property on the Reserve, pursuant to section 49(1) of the Cook's Ferry Indian Band Taxation By-Law. The failure to pay such taxes is a breach of a term of the \_\_\_\_\_ (lease, license, permit or agreement) which can result in the cancellation of such interest.

Upon the cancellation of such interest you will be required to immediately vacate the reserve, and any rights or interests which you acquired through such \_\_\_\_\_ (lease, licence, permit or agreement) will cease to exist.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE F

CERTIFICATION OF CANCELLATION OF INTEREST IN THE RESERVE

RE: \_\_\_\_\_  
(Description of Property)

\_\_\_\_\_  
(Interest on Reserve)

I, \_\_\_\_\_, Surveyor of Taxes for the Cook's Ferry Indian Band, hereby certify that the above-mentioned interest on the \_\_\_\_\_ Reserve has been cancelled or terminated pursuant to the Cook's Ferry Indian Band Taxation By-law as a result of the failure of \_\_\_\_\_ (Tax Debtor) to pay the outstanding tax debt which was due and payable.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE G

NOTICE OF FORFEITURE

TO:

ADDRESS:

RE:

(Description of Property)

(Interest in the Reserve)

TAKE NOTICE THAT taxes imposed by the Cook's Ferry Indian Band's Taxation By-law for the above-noted property in the year(s) \_\_\_\_\_, \_\_\_\_\_, have been outstanding for two (2) years and pursuant to Section 49 (5), the above-noted interest on the Reserve is now subject to forfeiture.

The amount of all taxes which are due and payable to the date of this notice is as follows:

ITEMIZED STATEMENT OF ALL TAXES, INCLUDING INTEREST, PENALTIES, COSTS ETC.

AND FURTHER TAKE NOTICE that unless the above-noted outstanding taxes are paid in full on or before the fortieth day after the date of this notice, the interest you hold in this property will be absolutely and unconditionally forfeited to the Cook's Ferry Indian Band. Upon such forfeiture, your interest in the Reserve will vest in the Band clear of all charges except those rights of way, easements or other such third party interests which attach to that Reserve land.

AND FURTHER TAKE NOTICE THAT where any taxes remain unpaid on December 1 of the second year after the calendar year in which they were imposed, the payment of those taxes does not prevent forfeiture unless the payment:

- (i) includes all taxes then due and payable, and
- (ii) is made before forfeiture occurs under this section.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE H  
CERTIFICATION OF FORFEITURE

RE: (Description of Property)

(Interest on Reserve)

I, \_\_\_\_\_, Surveyor of Taxes for the Cook's Ferry Indian Band, hereby certify that resulting from the failure of \_\_\_\_\_ (Tax Debtor) to pay the outstanding tax debt owing on the above-mentioned interest in the \_\_\_\_\_ Reserve, such interest has been forfeited to the Cook's Ferry Indian Band pursuant to Sections 49(7) and (8) of the Cook's Ferry Indian Band Taxation By-law.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Surveyor of Taxes

SCHEDULE I

NOTICE OF DISCONTINUANCE OF SERVICES

TO:

ADDRESS:

RE:

(Description of Property)

TAKE NOTICE THAT the taxes for the above-noted property have been due and outstanding for \_\_\_\_ months, and that unless payment in full for this tax debt is received on or before 30 (thirty) days after the date of this Notice, or you have appeared before the Band Council and shown cause as set out below, the following services provided to this property will be discontinued:

LIST SERVICES TO BE DISCONTINUED

AND FURTHER TAKE NOTICE THAT you may attend a meeting of the Band Council scheduled for \_\_\_\_\_, 19\_\_ at \_\_\_\_ o'clock, at \_\_\_\_\_ (place), (within the 30 days set out above) and show cause as to why the services should not be discontinued.

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Surveyor of Taxes

APPROVED AND PASSED at a duly convened meeting of the  
Band Council of the Cook's Ferry Indian Band held at the  
Cook's Ferry Indian Band Administration Office, Box 130  
Spences Bridge, British Columbia, V0K 2L0, this 4<sup>TH</sup> day of  
APRIL, 1995.

MOVED BY JEAN YORK SECONDED BY PEARL HEWITT

A QUORUM OF BAND COUNCIL CONSISTS OF 3 COUNCILLORS.

David Wall  
CHIEF

Pearl Hewitt  
COUNCILLOR

Jean York  
COUNCILLOR

\_\_\_\_\_  
COUNCILLOR

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COUNCILLOR

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COUNCILLOR