

Métis Nation of Alberta-Government of Alberta



Métis Harvesting Agreement

THIS AGREEMENT is made in duplicate this 12th day of March 2019.

BETWEEN

HER MAJESTY THE QUEEN
in right of the Province of Alberta, as
represented by the Ministers of
Environment and Parks and of Indigenous
Relations (hereinafter referred to as
"Alberta")

AND

MÉTIS NATION OF ALBERTA
ASSOCIATION,
which the Métis Nation of Alberta has
incorporated to act as its legal and
administrative arm, as represented by its
President (hereinafter referred to as the
"MNA")

(hereinafter referred to collectively as the "Parties" and individually as a "Party")

WHEREAS Alberta is committed to ensuring that Métis people who might be beneficiaries of Métis harvesting rights, which are recognized as Aboriginal rights within the meaning of s. 35 of the *Constitution Act, 1982*, have the ability to hunt, fish, and trap for food;

AND WHEREAS on February 1, 2017, Alberta and the MNA signed the *Métis Nation of Alberta—Government of Alberta Framework Agreement*, by which the Parties agreed to "pursue collaborative discussions with the Ministry of Environment and Parks with respect to Métis harvesting rights" as a means of "facilitating the recognition and respect of Métis rights in Alberta that upholds the honour of the Crown and advances reconciliation;"

AND WHEREAS, in September 2017, the MNA and Alberta concluded *A Way Forward: Métis Harvesting in Alberta*, which set out a process "to pursue collaborative discussions with respect to Métis harvesting rights" and for a review of the *Métis Harvesting in Alberta (2010)* policy;

AND WHEREAS, following the collaborative review process provided for in *A Way Forward: Métis Harvesting in Alberta*, Alberta adopted a new *Métis Harvesting in Alberta Policy (2018)* (the "Policy");

AND WHEREAS Alberta wishes to clarify a role for the MNA in the identification of eligible Métis harvesters pursuant to the Policy as set out in this Agreement;

NOW THEREFORE Alberta and the MNA covenant and agree as follows:

1. INTERPRETATION

1.1 In this Agreement:

“Implementation Committee” means the committee established pursuant to section 4 of this Agreement;

“Métis Harvester” means a recognized Métis harvester as defined in the Policy;

“Métis Harvester Identification Sticker” means a sticker issued by the MNA in accordance with this Agreement that indicates the Métis Harvesting Area(s) where an MNA Member who has been identified as a Métis Harvester is eligible to harvest;

“Métis Harvesting Area” means any of the Métis harvesting areas identified in the Policy, which is attached to this Agreement as Schedule A;

“MNA Member” means a registered citizen of the MNA in accordance with the citizenship requirements set out in the MNA’s bylaws;

“Policy” means Alberta’s *Métis Harvesting in Alberta Policy (2018)*, which is attached to this Agreement as Schedule A.

1.2 In this Agreement, unless otherwise expressly provided for or unless otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular.

2. IDENTIFICATION OF ELIGIBLE MÉTIS HARVESTERS

2.1 As of September 1, 2019, for the purposes of the Policy and this Agreement, Alberta will recognize as Métis Harvesters all MNA Members whose MNA citizenship cards have a valid Métis Harvester Identification Sticker issued by the MNA in accordance with this Agreement. Each Métis Harvester Identification Sticker will indicate the Métis Harvesting Area(s) in which the Métis Harvester is eligible to harvest.

2.2 *Self-Identification as Métis*: Métis Harvesters must self-identify as Métis.

- 2.2.1 All MNA Members are understood to self-identify as Métis for the purposes of the Policy.
- 2.3 *An Ancestral Connection to a Métis Harvesting Area:* Métis Harvesters must show a pre-1900 ancestral connection to one or more Métis Harvesting Area in a manner consistent with *Powley* and related case law.
- 2.3.1 The Parties agree that the 1901 Census of Canada is a historic document that can be used to demonstrate a pre-1900 connection to a Métis Harvesting Area.
- 2.4 *Contemporary connection to the same Métis Harvesting Area:* Métis Harvesters must show a contemporary connection to one or more of the Métis Harvesting Areas to which they have shown an ancestral connection.
- 2.4.1 For the purposes of this Agreement, the MNA's policy governing contemporary community acceptance in a Métis Harvesting Area will be considered a sufficient description of acceptance by and involvement in the Métis Harvesting Area.
- 2.5 Alberta will seek the advice of the MNA on the establishment of an objectively verifiable system to identify Métis Harvesters who are not MNA Members or who do not wish to be identified as Métis Harvesters by the MNA.

3. ANNUAL REPORT

- 3.1 During the term of this Agreement, the MNA shall maintain full, accurate, and complete records of Métis Harvesters and the process used to determine eligibility.
- 3.2 The records kept by the MNA regarding Métis Harvesters and the process used to determine eligibility will remain in the exclusive custody and control of the MNA.
- 3.3 The MNA shall produce an annual report the purpose of which will be to verify that its list of Métis Harvesters and its process to determine eligibility accords with this Agreement.
- 3.4 The annual report may include the following information anonymized so as to assign a number or letter to each file reviewed with no personal information recorded:
- 3.4.1 The date of the review;

- 3.4.2 The number of files reviewed for each Métis Harvesting Area;
 - 3.4.3 The total number of Métis Harvesters the MNA has determined are eligible in each Métis Harvesting Area at the time of the review;
 - 3.4.4 A summary of each file reviewed to indicate the documentation on the file demonstrating eligibility as a Métis Harvester in the Métis Harvesting Area or indicating the lack of required documentation; and,
 - 3.4.5 The overall results of the review, including a conclusion as to whether the list of Métis Harvesters and the process used to determine eligibility accords with this Agreement.
- 3.5 The MNA will annually consult with Alberta regarding the sufficiency of the annual report for defending against any legal challenge to this Agreement.
- 3.6 The MNA shall present the annual report to its Members each year at the MNA's Annual General Assembly, following which the MNA shall forward a copy of the annual report to Alberta's Ministers of Indigenous Relations and Environment and Parks.

4. IMPLEMENTATION COMMITTEE

- 4.1 The MNA and Alberta will establish an Implementation Committee with a mandate to provide guidance on matters relating to implementation of the Policy and the Agreement, including:
- 4.1.1 Identification of Métis Harvesters;
 - 4.1.2 Identification of and supporting documentation for Métis root family lines;
 - 4.1.3 On-the-ground issues relating to Métis harvesting;
 - 4.1.4 Other matters as identified from time-to-time;
 - 4.1.5 Enforcement of the Policy.

5. TABLE FOR FURTHER DISCUSSIONS

5.1 In recognition of matters the MNA has raised as important to them, the Parties will establish a discussion table with a mandate to undertake further research, collaborations, and discussions. The outcome of these discussions is not guaranteed. The following items will be discussed:

5.1.1 The recognition of Métis harvesting rights in southern Alberta;

5.1.2 Commercial harvesting;

5.1.3 Métis domestic fishing licenses and appropriate conservation measures;

5.1.4 Mobility with respect to the exercise of Métis harvesting rights consistent with *Powley*;

5.1.5 Potential amendments to the Policy and regular collaborative review of the Policy;

5.1.6 Other matters as identified and agreed to by both Parties from time-to-time.

5.2 The Parties will make best efforts to complete these discussions within 3 years so that their results can be reflected in the 3-year review provided for in the Policy. For clarity, nothing in this Agreement prevents the Policy from being amended prior to the 3-year review to reflect the results of discussions provided for in 5.1 should the Parties agree it is desirable to do so.

5.3 The Parties agree that these discussions will be conducted in good faith.

6. FUNDING & CAPACITY

6.1 The Parties recognize that the MNA requires reasonable capacity funding to participate in the process established by this Agreement. Alberta agrees to seek authority to provide funds to the MNA to support its institutional capacity and participation in the process established by this Agreement. Such funding will be provided based on consideration of an annual budget submitted by the MNA and subject to annual appropriations by Alberta.

7. SUPPORT FOR AGREEMENT

7.1 This Agreement is intended to create legally binding obligations between the parties.

- 7.2 During the term of this Agreement, the Parties will not undertake legal action to challenge the validity of this Agreement.
- 7.3 During the term of this Agreement, the Parties will cooperate in defending against any legal action brought by a third party challenging the validity of this Agreement or a decision made by the MNA pursuant to this Agreement in relation to whether an individual is a Métis Harvester. Such cooperation will include sharing of relevant information to the extent permissible by applicable federal and provincial law.

8. NO RESTRICTION OR LIMITATION OF RIGHTS

- 8.1 Nothing in this Agreement modifies, restricts, or limits any Aboriginal right of Métis in Alberta recognized and affirmed by s. 35 of the *Constitution Act, 1982*.
- 8.2 Nothing in this Agreement restricts or limits the ability of the MNA to identify MNA Members for the MNA's own purposes; this Agreement only addresses the identification of Métis Harvesters for the purposes of the Policy.

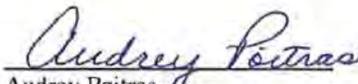
9. TERM OF THE AGREEMENT

- 9.1 The term of this Agreement will begin upon its execution and will continue unless terminated by one or more of the Parties upon 90 days written notice to the other Party.

10. AMENDMENT

- 10.1 This Agreement may be amended with the written consent of the Parties.

IN WITNESS WHEREOF this Agreement has been executed as of the date first written above.


Audrey Poitras

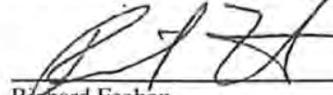
President
Métis Nation of Alberta



Dan Cardinal
Vice President
Métis Nation of Alberta


Shannon Phillips

Minister of Alberta Environment and Parks



Richard Feehan
Minister of Indigenous Relations