

# **SAWRIDGE FIRST NATION**

## ***NATURAL WORLD PROTECTION ACT***

**Introduced at a General Assembly Held – July 15, 2017**

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**Third Reading – February 24, 2018**

**Came in to Force – August 24, 2018**

## SAWRIDGE FIRST NATION

# *NATURAL WORLD PROTECTION ACT*

### *Preamble*

*Whereas* the Creator of all things put into this natural world peoples with unique cultures and languages to occupy the air, waters and lands;

*Whereas* the Constitution of the Cree People of the Sawridge First Nation, reminds us of our inherent responsibilities, rights and powers to govern ourselves and the lands to which we belong;

*Whereas* our lands, waters, and natural resources have provided for our creation and existence and are sacred and essential to the survival of our community;

*Whereas* our teachings and laws require us to maintain a mutual respect and beneficial dependency with the natural world which makes our existence possible,

*Whereas* our constitutional jurisdiction includes the right to make laws in relation to land management, development and land use, as well as in relation to natural resources and natural world as we have done since time immemorial in fulfilling our spiritual, political, economic and cultural destinies;

*Whereas* the spirit and intent of our Treaty #8 with the Imperial Crown on behalf of the settler peoples guarantees our continuing responsibility and inherent right to protect the territory described in the Treaty #8, which we share with the other First Nations within the area Treaty #8.

*Whereas* we have a sacred obligation to protect the natural world which provides us the elements required for our lives and future and to be vigilant against any human activities which would lead to environmental degradation on those lands on which we have rights and interests and to protect the natural world for the continuation of the practice of our traditional way of life for seven generations on a continuous basis;

*Whereas* these obligations require us to protect our lands and territories both for ourselves and all the natural world's creatures according to the principles of sustainable development and for the use and benefit of current and future generations;

*Whereas* we have a sacred and intimate relationship with the natural world and many interdependent connections which make us a part of our distinct ecosystems and which thus should be reflected in the way we demonstrate our stewardship and utilize and protect our lands and territories;

*Whereas* we are the guardians of traditional ecological knowledge about the natural world in which we live and have an obligation to use our knowledge to protect our own future and the future of the natural world;

*Whereas* the United Nations Declaration on the Rights of Indigenous Peoples notes that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions,

*Whereas* Canada and Alberta have adopted the United Nations Declaration on the Rights of Indigenous Peoples,

*Whereas* the Declaration reaffirms our right to strengthen our distinctive spiritual relationship with our traditional lands and waters and to uphold our responsibilities to future generations in this regard,

*Whereas* the Declaration guarantees our right to the lands, territories and resources which we have traditionally owned and occupied; and requires States to give legal recognition and protection to these lands, territories and resources;

*Therefore*, the Sawridge General Assembly enacts as follows:

## **1. TITLE**

1. This Act may be cited as the *Natural World Protection Act*

## **2. INTERPRETATION (DEFINITIONS)**

2. In this Act, the following terms are defined:

- (a) With respect to the definition of lands,

“Sawridge Lands” are those lands defined as “Sawridge Lands” in the Constitution of the Sawridge First Nation;

“Sawridge Area of Interest” includes those lands which are within the area bounded by the Athabasca River in the South, with an eastern boundary

running north south at the eastern most point of Fawcett Lake, with a western boundary 16 kilometers west of the western most Sawridge lands running north south and a northern boundary running east west at the southern most point of Nipisi Lake from the western boundary to the eastern boundary;

“Sawridge Traditional Territory” are all those lands within the boundaries described in the text of Treaty No. 8, with the broadest possible interpretation;

*Notwithstanding this Declaration of Sawridge Traditional Territory, the Sawridge First Nation continues to retain and enjoy all its rights and interests in the Territory described as being included in Treaty No. 8 entered into with the Crown of England and Ireland*

(b) With respect to terminology other than that defining categories of lands,

"beach" includes that portion of the shoreline land commencing at the base of the bank or slope where the soil and vegetation end and sand or pebbles commence and extending into the water until the water has a depth of over two metres and containing water, sand, gravel, rock, shale or other earthen material;

“Chief” means the Chief of the First Nation and in respect of any action includes any Councillor authorized by the Chief in accordance with this Act to carry out that action;

"Environmental Protection Officer" means the person appointed to act as Environmental Protection Officer appointed pursuant to this Act;

"contaminant" means any noise, heat, vibration, radiation, solid, liquid, gas, waste, odour, and *including* such other substance as the Council may prescribe, in any combination,

- (a) which is foreign to or in excess of the natural constituents of the natural world into which it is being introduced;
- (b) which will or may adversely affect or cause damage to, either directly or indirectly, the natural, physical, chemical or biological quality of the natural world, including air, land, water, and plant, animal, aquatic and human life and any feature, part, component, resource or element thereof;

- (c) endangers the health, safety or welfare of persons, plants, animals or the natural world,
- (d) interferes or is likely to interfere with the comfort, well-being, livelihood, or normal enjoyment of life or property,
- (e) endangers the health of animal life, or
- (f) which is declared by regulation to be a contaminant.

“contaminated site” means an area of the natural world designated as a contaminated site pursuant to this Act;

"court" means any Court with jurisdiction to hear the matter;

"discharge" includes, but not so as to limit the meaning, any drainage, depositing, releasing, pumping, pouring, throwing, dumping, emitting, burning, spraying, spreading, leaking, spilling or escaping;

"endanger" includes contributing to the endangerment of, or likely to endanger;

“inspector” means a person appointed pursuant to this Act and includes the Environmental Protection Officer;

“licence” means a licence issued pursuant to this Act;

“litter”, as a verb, means to discard trash, garbage, rubbish or any other objects, and, as a noun, means trash, garbage or other objects

“livestock” includes, but is not limited to, animals commonly referred to as cows, cattle, swine, horses, sheep, goats, poultry and any other animal that that is kept for agricultural or commercial purposes;

“motor vehicle” means a vehicle that is powered, drawn, propelled or driven by any means other than muscular power;

“muskeg” includes but is not limited to a swamp or bog consisting of a mixture of water and partly dead vegetation, that may be covered with mosses;

“natural world” means the components of the Earth and includes

- (a) air, land and water,
- (b) all layers of the atmosphere,
- (c) all organic and inorganic matter, rocks and living organisms, and

- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c);

“permit” means a permit issued pursuant to this Act;

“person” includes a natural person, corporation, any other incorporated body and the successor, assignee, receiver, purchaser or agent of a corporation or incorporated body;

"recyclable material" means a material or product that

- (i) is prescribed as a recyclable material in the regulations, or
- (ii) meets the criteria for a recyclable material as set out in the regulations;

"recycling" means the practice of accepting, collecting, storing, sorting, handling, and preparing for transport or transporting, recyclable material for the purpose of the use or incorporation of the material in the manufacture of secondary products, and includes

- (i) compacting,
- (ii) bundling,
- (iii) baling,
- (iv) shredding, and
- (v) crushing;

“recycling facility” means a facility or place where recyclable material is

- (i) accepted and stored, and
- (ii) handled, collected, sorted or prepared for transport,

for the purpose of the use, reuse or incorporation of the material in the manufacture of secondary products;

“substance” means any solid, liquid, gas, odour or organism or combination of any of them, including natural substances which have been caused by human activity to be in locations or concentrations which are different than those usual to the place where they are found;

“undertaking” includes any construction, industry, operation or other project or any alteration or modification of any existing undertaking which will or may

- (i) cause the emission or discharge of any contaminant into the natural world,
- (ii) have an effect on any unique, rare or endangered feature of the natural world,

(iii) have a significant effect on the natural world or necessitate further development which is likely to have a significant effect on the natural world, or

(iv) cause public concern because of its real or perceived effect or potential effect on the natural world;

“waste” means materials discarded or abandoned by persons in the course of their daily activities at home or at commercial businesses, industries and institutions or other related activities;

“waste management” means a system or process for the collection, transportation, separation, treatment or disposal of waste and includes disposal sites and landfill sites;

“waste treatment system” means any plant or installation used, or intended to be used to treat a contaminant prior to disposal on land, or into air or water and includes a sewerage system;

“water” includes liquid and frozen surface and ground water;

“watercourse” means an area which has a sediment bed and may or may not contain water, and without limiting the generality of the foregoing, includes the full length and width of the sediment bed, bank and shore of any stream, spring, creek, brook, river, lake, pond, bay, any water therein, and any part thereof, up to and including the watercourse boundary;

“water supply system” means a water works for the collection, treatment, purification, storage, supply or distribution of water to

- (i) five or more households, or
- (ii) a public building or place of assembly;

“well” means an artificial opening in the ground

- (i) from which water is obtained, or
- (ii) made for the purpose of exploring for or obtaining water;

“well-head protection area” means the surface and sub-surface area surrounding a well, supplying any water supply system, through which contaminants may or are reasonably likely to move toward and reach such well;

“wetland” means an area which

- (i) contains hydric soil, aquatic or water-tolerant vegetation, and may or may not contain water, and includes any water therein and everything up to and including the wetland boundary, and
- (ii) without limiting the generality of the foregoing, includes any area identified in the Inventory (as defined in the Regulations) as open water, fens, deep marsh, shallow marsh, salt marsh, seasonally-flooded flats, muskeg, brackish marsh, a shrub swamp, a wooded swamp, a bog or a meadow.

### **3. PURPOSE AND APPLICATION**

#### *Purpose*

- 3.1 The purpose of this Act is to set out the legal framework for the management and protection of Sawridge Lands, Sawridge Area of Interest, and Sawridge Traditional Territory.

#### *Binding on Government*

- 3.2 This Act and the regulations made pursuant to this Act bind the Government of the Sawridge First Nation.

#### *Application*

- 3.3 Subject to the more specific provisions of this Act, this Act applies to Sawridge Lands, to Sawridge Area of Interest, and to Sawridge Traditional Territory.

#### *Non-application*

- 3.4 This Act does not apply to any person who is authorized under another Act of the Sawridge First Nation to do anything that, but for such Act, would be in contravention of this Act or the regulations.

#### *Agreements*

- 3.5 The Chief of the Sawridge First Nation may, on the advice of Council, enter into agreements with any government, person, institution, organization, or firm respecting the administration and enforcement of
- (a) this Act and the regulations; or
  - (b) any Act or regulation of another government relating to the preservation or protection of the natural world.

#### *Powers of the Chief*



- 3.6 The Chief may, with the advice of Council, with respect to any lands or waters in Sawridge Traditional Territory,
- (a) establish, operate and maintain those systems or mechanisms necessary to monitor any changes in the health of the natural world;
  - (b) conduct research studies, conferences and training programs relating to the preservation or protection of the natural world;
  - (c) develop, co-ordinate and administer policies, standards, guidelines and codes of practice relating to the preservation or protection of the natural world;
  - (d) compile, study, collect, publish and distribute information relating to the preservation or protection of the natural world, and to utilize this information in the exercise of his/her powers under this Act; and
  - (e) upon written request of a party to a dispute involving a matter arising under this Act, appoint a mediator, establish the term of office, remuneration and terms of reference of the mediator to mediate the dispute.

*Powers of Chief or Councillor Appointed*

- 3.7 The Chief may, with the advice of Council,
- (1) establish boards, committees or other bodies to provide advice relating to the preservation, protection or enhancement of the natural world;
  - (2) appoint the members of such bodies;
  - (3) establish the term of office of the members;
  - (4) designate a chairperson, vice-chairperson and secretary for the body;
  - (5) provide for the remuneration of the members of the body for their services and allowances for travelling and other expenses;
  - (6) authorize the body to hire and establish remuneration for experts; and
  - (7) specify the functions that the body is to perform and the manner in which the functions are to be performed.

*Powers of board*

- 3.8 Where a board is established pursuant to this section, if the board decides it is necessary for the fulfilment of its mandate to have
- (1) attendance, swearing and examination of witnesses;
  - (2) the production and inspection of records and documents; and/or

(3) the production and examination of evidence,  
the board may apply to a Court of competent jurisdiction for an appropriate order  
and the Court may at its discretion provide such an order.

*Enforcement of powers*

- (4) Where a person appearing before a board refuses to comply with a requirement of the board under the previous subsection, the board may, by its own application or as a party to a proceeding, apply to a Court of competent jurisdiction for an order compelling compliance with the requirement of the board and the Court may at its discretion provide such an order.

*Publication of notice*

3.9 Where the Chief with the advice of Council establishes a Board, the Council shall publish a notice on a website accessible by the public or in a newspaper having circulation in the area of the Sawridge First Nation; the notice shall state the membership of the board, the functions the board is to perform and the manner in which the functions are to be performed.

*Public inquiry*

- 3.10 (1) The Chief may direct that a public inquiry be held where discharge of a contaminant or other environmentally-related event on Sawridge Lands has resulted in
- (a) injury or death to any person;
  - (b) danger or potential danger to the health or safety of the public; or
  - (c) significant damage to property or the natural world.
- (2) Where the discharge of a contaminant or other environmentally-related event occurs on Sawridge Traditional Territory, where possible and advisable, the Chief shall cooperate with other jurisdictions in the holding of a public inquiry where appropriate participation of the Sawridge First Nation is assured.
- (3) The Chief may use the evidence, results and/or recommendations of public inquiries held by other jurisdictions.

*Appointment*

3.11 The Chief may, with the advice of Council, appoint persons to conduct or participate in a public inquiry.

*Public Inquiries Act*

3.12 Until such time as the Assembly passes a *Public Inquiries Act*, the Council shall by regulation establish the terms of reference and rules of any public inquiry directed to take place.

#### **4. ADMINISTRATION**

*Environmental Protection Officer*

4.1 (1) The Chief shall appoint an Environmental Protection Officer who shall administer and enforce this Act and the regulations.

*Powers and duties of inspectors*

(2) The Environmental Protection Officer may appoint inspectors, subject to resource availability, and shall specify in the appointment the powers that may be exercised and the duties that may be performed by the inspector under this Act and the regulations.

*Powers of Environmental Protection Officer*

(3) The Environmental Protection Officer may exercise any of the powers or perform any of the duties of an inspector.

*Delegation*

4.2 (1) The Chief may delegate, in writing, any of his or her powers and duties, except the powers set out in sections 3.5, 3.6, 3.7, and 10, to the Environmental Protection Officer.

(2) The Environmental Protection Officer may delegate to any other person any of his or her powers or duties, other than powers or duties delegated to the Environmental Protection Officer by the Chief.

*Experts and technical advisers to Environmental Protection Officer*

4.3. The Environmental Protection Officer may, subject to resource availability, engage the services of members, experts or persons having special technical or other knowledge to advise the Environmental Protection Officer or to inquire into and report to the Environmental Protection Officer on matters within the jurisdiction of the Environmental Protection Officer.

*Peace officers*

- 4.4. For the purposes of enforcing the provisions of this Act and the regulations, every inspector appointed pursuant to this Act is a peace officer of the Sawridge First Nation.

*Certificate of identification*

- 4.5. Every inspector shall be furnished with a certificate of identification in a form approved by the Environmental Protection Officer, and on entering any place or vehicle under this Act, shall, if so requested by the owner or person in charge, produce the certificate.

## **5. ENVIRONMENTAL PROTECTION**

### *Environmental Impact Assessment*

- 5.1 (1) In the interests of the provisions of this Act with regard to Environmental Impact Assessments not causing unnecessary additional expense or delay to the person proposing an activity, the Council may take such steps as it deems are appropriate to harmonize the Assessment process with those being conducted for the same proposal by another jurisdiction, if any.
- (2) No person shall initiate any undertaking on Sawridge Lands, or in the Sawridge Area of Interest which may have an effect on the natural world unless that person first files a written proposal with the Environmental Protection Officer and obtains from the Chief written approval, provided on advice of Council, to proceed with the proposed undertaking.
- (3) The Chief, in considering a proposal submitted pursuant to subsection (2), may
- (a) require the person submitting it to supply such additional information as the Chief considers necessary;
  - (b) require that person to carry out an environmental impact assessment and submit an environmental impact statement;
  - (c) notify the public of the proposal and provide opportunity for comment.
- (4) An environmental assessment and environmental impact statement shall have such content as the Chief may direct.
- (5) An environmental impact statement shall be in such form as the Chief may direct.

5.2 A person who is required to submit an environmental impact statement pursuant to this Act shall pay such fees as and when may be required by the regulations for the Environmental Protection Officer's review of the environmental impact statement.

*Protection order*

5.3 Where the Environmental Protection Officer is of the opinion, based on reasonable grounds, that it is necessary or advisable for the protection of Sawridge Lands or the Sawridge Area of Interest to do so, the Environmental Protection Officer may, by order directed to any person, require that person

- (a) to install safeguards to prevent the discharge of contaminants into the natural world;
- (b) to site, transport or store any contaminant in the manner set out in the order;

or

- (c) to have on hand at all times the equipment and material necessary to alleviate the effect of any discharge of contaminants that may be specified in the order.

*Discharge of Contaminants*

5.4 Where an inspector believes on reasonable grounds that a discharge of a contaminant in contravention of this Act, the regulations or a provision of a permit or licence is likely to occur, the inspector may issue an order requiring any person whose actions may increase the likelihood of a discharge or the owner or person in charge, management or control of the contaminant to take the preventive measures that the inspector considers necessary.

*Bulk Water Removal*

5.5 (1) No person shall drill for, extract, take or use groundwater from Sawridge Lands or Sawridge Area of Interest except through an agreement reached with the Sawridge Council.

(2) No person shall extract, remove or withdraw water from any water basin, watercourse or other surface water body in the Sawridge Area of Interest for the purpose of transfer or removal from the Sawridge Area of Interest.

(3) Subsections (1) and (2) do not apply to water

- (a) that is to be used for drinking water purposes and is packaged in Sawridge Traditional Territory in containers having a capacity of not more than 25 litres;

- (b) that is removed in the ordinary course of carrying water in a vehicle, vessel or aircraft for use by persons or animals while they are being transported in it;
- (c) that is removed in a vessel, vehicle or aircraft and is necessary for the ordinary operation of the vehicle, vessel or aircraft or for the transport of food or products in the vehicle, vessel or aircraft; or
- (d) that is removed, with the written permission of the Chief to meet short-term safety, security or humanitarian needs.

*Waste Treatment and Water Supply Systems*

- 5.6 (1) No person shall undertake the establishment of a waste treatment system or water supply system in the Sawridge Area of Interest or on Sawridge Lands, or shall change any existing system, without first obtaining written approval from the Chief on the advice of Council.
- (2) An application for approval pursuant to subsection (1) shall be supported by the plans and specifications of the waste treatment system or water supply system and the work to be undertaken, and such other information as the Chief may require.
- (3) Where it appears to the Chief that any person has contravened subsection (1), the Chief may order an investigation of the violation and may order the person to take such action as the Chief considers necessary.
- (4) Where the Chief on the advice of Council is satisfied that for the purpose of protecting the Sawridge Lands or its environmental health it is necessary to do so, may, by order, require that an area be served by a water supply system or waste treatment system.
- (5) An order under subsection (4), shall be directed to the person causing or likely to cause the hazard to the natural world or environmental health.
- (6) Waste treatment and water supply systems on Sawridge Lands shall at all times be maintained and operated in such manner and with such facilities as the Chief on the advice of Council may direct.

*Beaches and Sand Dunes*

- 5.7 No person shall, without written permission of the Chief on the advice of Council, on Sawridge Lands
- (a) operate a motor vehicle on a beach or a sand dune;

- (b) carry out any activity that will or may
  - (i) interfere with the natural supply or movement of sand to or within a beach or a sand dune,
  - (ii) alter, remove, or destroy natural stabilizing features, including vegetation, of a beach or a sand dune.

## **6. ENVIRONMENTAL PROTECTION ORDER RE DISCHARGE OF CONTAMINANTS**

### *Discharge of contaminants*

6.1 Subject to section 6.2, no person shall discharge or cause or permit the discharge of a contaminant into the natural world on Sawridge Lands or in the Sawridge Area of Interest.

### *Exceptions*

- 6.2 (1) Subsection 6.1 does not apply where the person who discharged the contaminant or permitted the discharge of the contaminant establishes that
- (a) the discharge is authorized by this Act or the regulations or by an order issued under this Act or the regulations;
  - (b) the contaminant has been used solely for domestic purposes and was discharged from within a dwelling-house;
  - (c) the contaminant was discharged from the exhaust system of a vehicle;
  - (d) the discharge of the contaminant resulted from the burning of leaves, foliage, wood, crops or stubble for domestic or agricultural purposes;
  - (e) the discharge of the contaminant resulted from burning for land clearing or land grading;
  - (f) the discharge of the contaminant resulted from a fire set by a public official for habitat management or silviculture purposes;
  - (g) the contaminant was discharged for the purposes of combatting a forest fire;
  - (h) the contaminant is a soil particle or grit discharged in the course of agriculture or horticulture; or
  - (i) the contaminant is a pesticide classified and labelled as "domestic";

*Exception does not apply*

- (2) The exceptions set out in subsection (1) do not apply where a person discharges a contaminant that the inspector has reasonable grounds to believe is not usually associated with a discharge from the excepted activity.

*Environmental Protection Orders*

- 6.3 (1) Where the Chief or the Environmental Protection Officer believes, on reasonable and probable grounds,
  - (a) that a contaminant has been, is being, or is going to be, discharged on Sawridge Lands or in the Sawridge Area of Interest, that an act or omission of a person is or may be a contravention of this Act or the regulations or otherwise be a threat to Sawridge Lands or the Sawridge Area of Interest or their environmental health; and
  - (b) that it is necessary or advisable for the protection of Sawridge Lands and the Sawridge Area of Interest or the prevention or control of danger to life or health or of damage to property therein, the Chief or the Environmental Protection Officer, as the case may be, may issue an environmental protection order to
    - (i) the person who is the owner or previous owner of the contaminant or the source of the contaminant;
    - (ii) the person who is or was in occupation of the contaminant or the source of the contaminant;
    - (iii) the person who has, or had, the charge, management, or control of the contaminant or the source of the contaminant;
    - (iv) the person whose act or omission is or may be a contravention of this Act or the regulations or otherwise be a threat to the natural world or environmental health; or
    - (v) one or more of the above persons,
- (2) An environmental protection order issued pursuant to subsection (1) may specify terms and conditions, including time limits, and may require the person to whom it is directed, at his or her own cost, if any, to
  - (a) meet with the Environmental Protection Officer and other persons for such purposes as may be required by the environmental protection order;
  - (b) permit inspection;



- (c) permit testing and sampling;
  - (d) carry out inspections, testing, and sampling, including professional hydro-geological or engineering investigations, to determine the extent and effects of the contaminant;
  - (e) cease an activity specified in the environmental protection order either permanently or for a period of time, as specified in the environmental protection order;
  - (f) clean, repair, and restore the area affected by the contaminant to the extent indicated in the environmental protection order or, otherwise, to the satisfaction of the Chief, or an inspector as the case may be;
  - (g) take specified action to prevent or avoid danger to life or health or damage to property or to protect the natural world;
  - (h) submit a written report with respect to his or her activities pursuant to this section;
  - (i) do any or all of those things specified in this section either forthwith or as of the future date specified in the environmental protection order.
- (3) For the purpose of investigating threats to Sawridge Lands or the Sawridge Area of Interest or otherwise ensuring compliance with this Act or the regulations, the Environmental Protection Officer, or inspector may
- (a) subject to subsections (4) and (5), at any reasonable time, enter and inspect any place in which he or she believes on reasonable grounds there is a contaminant or any other thing in respect of which this Act or the regulations apply;
  - (b) examine any contaminant or suspected contaminant, or any other thing in respect of which this Act or the regulations apply and take samples of it;
  - (c) require any person to produce for inspection or copying, in whole or in part, any record or other document that he or she believes on reasonable grounds contains any information relevant to the administration of this Act or the regulations; and
  - (d) conduct any tests or analyses or take any measurements.
- (4) The inspector or a peace officer may not enter a dwelling-place except with the consent of the occupant of the dwelling-place or under the authority of a warrant.

- (5) Where on *ex parte* application a Court of Competent Jurisdiction is satisfied by information on oath that
  - (a) the conditions for entry described in subsection (3) exist in relation to a dwelling-place;
  - (b) entry to the dwelling-place is necessary for any purpose relating to the administration of this Act or the regulations; and
  - (c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,  
the Court may at any time sign and issue a warrant authorizing the inspector or peace officer named in the warrant to enter the dwelling-place, subject to any conditions that may be specified in the warrant.
- (6) An environmental protection order issued pursuant to subsection (1) shall run with the land and shall be binding upon the successor or successors or assignee of the person to whom it is directed.
- (7) Upon the written request of any person as to whether an environmental protection order has been issued against a particular person, the Chief or the Environmental Protection Officer who issued the order, as the case may be, shall provide the information and if an environmental protection order has been issued, make a copy available.

#### *Analysis*

- 6.4 (1) The Chief may, for purposes of this Act or the regulations, designate any person as an analyst, and the person so designated may, with respect to any sample analyzed by him or her, issue a certificate of analysis.
- (2) A certificate of an analyst stating that he has analyzed or examined a sample submitted by an inspector or other person authorized by the Chief and stating the results of his analysis or examination, is admissible in evidence in any legal proceeding or prosecution under this Act or the regulations, without proof of the signature or official character of the person appearing to have signed the certificate of analysis and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate of analysis.

- (3) The party against whom a certificate of analysis is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for purposes of cross-examination.

*Environmental emergency*

- 6.5.(1) Where a discharge of a contaminant into the natural world in contravention of this Act or the regulations or the provisions of a permit or licence issued under this Act or the regulations occurs or a reasonable likelihood of such a discharge exists, every person causing or contributing to the discharge or increasing the likelihood of such a discharge, and the owner or the person in charge, management or control of the contaminant before its discharge or likely discharge, shall immediately
- (a) subject to any regulations, report the discharge or likely discharge to the Environmental Protection Officer, inspector or such other person or office designated by the regulations;
  - (b) take all reasonable measures consistent with public safety to stop the discharge, repair any damage caused by the discharge and prevent or eliminate any danger to life, health, property or the natural world that results or may be reasonably expected to result from the discharge or likely discharge; and
  - (c) make a reasonable effort to notify every member of the public who may be adversely affected by the discharge or likely discharge.

*Effect of order*

- (2) The issue of an order under this section does not preclude the prosecution of an offence under this Act.

## **7. ORDER TO REPAIR OR REMEDY**

*Order to remedy or repair damage*

- 7.1 (1) Notwithstanding section 6, where a person discharges or permits the discharge of a contaminant on Sawridge Lands or the Sawridge Area of Interest, the Chief, or the Environmental Protection Officer may order that person to repair or remedy any injury or damage to the natural world that results from the discharge.

*Measures where failure to comply with order*

(2) Where

(a) pursuant to this Act or the regulations,

(i) the Chief or the Environmental Protection Officer has issued an order, including an environmental protection order, or

(ii) the Chief has given a direction;

and

(b) the person to whom the order is issued, or the direction is given, has failed to comply with it,

the Chief or the Environmental Protection Officer may apply to a Court of Competent Jurisdiction for an order authorizing them to take such remedial action as may be specified in the order.

(3) After taking remedial action under a court order pursuant to subsection (2), the Chief or the Environmental Protection Officer may issue an order for the costs of the remedial action against the person to whom the original order or direction was given.

(4) Where

(a) pursuant to this Act or the regulations,

(i) the Chief or the Environmental Protection Officer has issued an order, including an environmental protection order, or

(ii) the Chief has given a direction;

(b) the person to whom the order is issued, or the direction is given, has failed to comply with it; and

(c) the order or direction relates to a matter which in the opinion of the Chief or the Environmental Protection Officer requires immediate action to prevent further injury to the natural world,

the Chief or the Environmental Protection Officer may take the appropriate remedial action to carry out the terms of the order or direction.

(5) After taking remedial action under subsection (4) the Chief or the Environmental Protection Officer may issue an order for the costs of the remedial action against the person to whom the original order or direction was given.

## 8. EMERGENCY ORDER

### *Emergency order*

8.1 (1) Notwithstanding section 7, where, in the opinion of the Chief, or the Environmental Protection Officer, an emergency exists and an order must be issued under section 6 or subsection 7, any of these officials may issue a verbal or written order to the person who, in the opinion of the official is the person best able to comply with the order.

### *Order effective when issued*

(2) An order issued under subsection (1) shall take effect from the time it is issued.

### *Effect of verbal order*

(3) A verbal order issued under subsection (1) shall have the same force and effect as a written order.

### *Service in written form*

(4) An order issued under subsection (1) shall be served in written form in accordance with section 8 as soon as is practicable after it is issued.

### *Emergency Action*

(5) Where contamination or damage of any kind is caused by failure of any person to comply with the provisions of this Act or regulations or direction and where the contamination or damage relates to a matter which in the opinion of the Chief or Environmental Protection Officer requires immediate action to prevent further injury to the natural world, the Chief or Environmental Protection Officer may take the appropriate remedial action to clean up the contamination or damage.

(6) After taking remedial action under subsection (5) the Chief or Environmental Protection Officer may issue an order for the costs of the remedial action against the person responsible for the contamination or damage.

(7) An order for cost of remediation may be filed with the Registrar of a Court of Competent Jurisdiction at any time within thirty days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment.

## 9. UNSIGHTLY LAND

### *Application*

9.1 This part of the Act only applies to Sawridge Lands.

*Meaning of unsightly land*

9.2 Land is unsightly where an inspector believes, on reasonable grounds and in accordance with any applicable regulations, that litter or things placed on the land cause the land to be unsightly.

*Unsightly Land*

9.3. No occupier of land shall allow land to become unsightly.

*Order to improve condition of land*

9.4 (1) Where an inspector believes on reasonable grounds that any land is unsightly, the Chief or the Environmental Protection Officer may issue a written order to the occupier of the land or the last person to occupy the land to improve the condition of the land in such manner and to such extent as may be set out in the order.

*Improvement of condition of land by Environmental Protection Officer*

(2) Where a person fails to comply with an order under subsection (1), the Chief or the Environmental Protection Officer may take such action as he or she considers necessary to improve the condition of the land in accordance with the order.

*Limitation*

(3) No order may be made under subsection (1) to a person who is the last person to occupy land that is unsightly more than five years after that person ceased to occupy the land.

*Littering*

(4) No person shall deposit litter  
(a) upon any land, or  
(b) into or upon any watercourse or wetland.

## **10. PERMITS AND LICENCES**

*Controller of Licensing*

10.1 (1) The Chief shall appoint a Controller of Licensing who may, in accordance with the regulations, issue permits and licences.

*Restrictions*

(2) Every permit or licence is subject to this Act and the regulations and to the terms and conditions set out in the permit or licence.

*Terms and conditions*

- (3) The Controller of Licensing may attach any terms or conditions to the permit or licence that he or she considers appropriate at the time of issuance of the permit or licence.

*Experts and technical advisers to Controller of Licensing*

- (4) The Controller of Licensing may engage the services of experts or persons having technical or other knowledge to advise the Controller of Licensing or to inquire into and report to the Controller of Licensing on matters within the jurisdiction of the Controller of Licensing.

*Fees*

- 10.2 (1) Every application for a permit or licence shall be accompanied by the prescribed fee.

*Form*

- (2) Every permit, licence, application and report issued or prepared under this Act or the regulations shall be in the prescribed form.

*Transfer*

- 10.3. Except with the written consent of the Controller of Licensing, a permit or licence and the rights or privileges carried by a permit or licence may not be assigned or transferred.

*Amendment*

- 10.4. The holder of a permit or licence may apply to the Controller of Licensing for an amendment of the permit or licence.

*Publication of notice*

- 10.5 (1) An applicant for a permit or licence or an amendment to a permit or licence shall publish notice of the application in the prescribed manner.

*Proof of publication*

- (2) An applicant shall provide proof of publication of the notice to the Controller of Licensing in accordance with the regulations.

*Comments by interested persons*

- (3) Where a notice is published, interested persons may provide written comments to the Controller of Licensing within the time provided in the notice.

***Suspension***

*Non-payment of fees*

- 10.6 (1) The Controller of Licensing may, seven days after serving a notice on the holder of a permit or licence suspend the permit or licence where fees or charges in respect of the permit or licence are owing and have remained unpaid for 30 days.

*Period of suspension*

- (2) The Controller of Licensing may suspend a permit or licence referred to in subsection (1) until he or she receives the fees or charges that are owing.

*Violation*

- 10.7 (1) Where the Controller of Licensing believes on reasonable grounds that the person holding the permit or licence or the employees or agents of the person have violated a provision of this Act, the regulations or a provision of a permit or licence, the Controller of Licensing may suspend a permit or licence for such period as he or she thinks reasonable.

*Restriction on suspension*

- (2) Where a court refrains from suspending or cancelling the permit or licence of a person who is found guilty of an offence under this Act or regulations, the Controller of Licensing shall not suspend the permit or licence of that person in respect of that violation.

*Suspension ceases*

- (3) Where the Controller of Licensing suspends the permit or licence of a person for a violation of a provision of this Act or the regulations or a provision of a permit or licence and a court acquits the person of the charge of violating that provision, the suspension of the permit or licence ceases.



***Right to Written Reasons***

*Written reasons*

10.8 (1) Where the Controller of Licensing refuses to issue a permit or licence or suspends a permit or licence, the Controller of Licensing shall provide written reasons for the refusal or suspension to the applicant or to the permit or licence holder as the case may be.

*Service*

(2) The Controller of Licensing shall serve the notice of the refusal or suspension in accordance with this Act and written reasons for the refusal or suspension.

***Right to Appeal***

10.9 (1) A person affected by the issuance of a permit or license may, within 30 days of publication of the notice in respect of that permit or license, file an appeal of the permit or license with the Chief.

*Right to appeal refusal*

(2) A person whose application for a permit or licence is refused may, within 30 days of receiving notice of the refusal, send a notice of appeal from that decision to the Chief.

*Right to appeal conditions*

(3) A person whose permit or licence has been issued subject to conditions may, within 30 days of receiving the permit or licence, send a notice of appeal of the conditions to the Chief.

*Right to appeal suspension*

(4) A person whose permit or licence has been suspended may, within 30 days of receiving notice of the suspension, send a notice of appeal of the suspension to the Chief.

(5) A notice of appeal sent under this Section shall contain all of the grounds for appeal by the appellant.

*Powers of The Chief*

10.10 (1) The Chief may engage the services of experts or take such other reasonable actions as he or she considers necessary to obtain the information the Chief requires to make a decision on an appeal.

- (2) In addition to any action taken under subsection (1), the Chief may require the appellant to provide such further information as the Chief considers necessary and the appellant shall provide the information.

*Time for decision*

- (3) Within 60 days of receiving a notice of appeal under this Act, the Chief, on the advice of Council, shall
  - (a) make a decision on the appeal; or
  - (b) serve the appellant with a notice extending the time period within which he or she must make a decision on the appeal, providing that such extension may not be longer than 30 days.

*Service of reasons*

- (4) Within 14 days of making a decision on an appeal, the Chief shall serve the appellant with written reasons.

*Decision of Chief final*

10.11 (1) The decision of the Chief is final.

*Appeal on law or jurisdiction*

- (2) An appeal from a decision of the Chief lies with a Court of Competent Jurisdiction on a question of law or jurisdiction.

*Time for appeal*

- (3) A notice of application for appeal on a question of law or jurisdiction must be made within 30 days of service of the decision.

## **11. POWERS OF INSPECTORS AND OTHER OFFICIALS**

*Trespass*

- 11.1 (1) Subject to subsection (3), the Chief, Environmental Protection Officer or an inspector, acting in the exercise of a duty or in the performance of a power under this Act may enter and pass over any public or private land without being liable for trespass.

*No liability for trespass*

- (2) A person who is subject to an order may enter and pass over any public or private land without being liable for trespass when the trespass is necessary for compliance with the order.

*Liability*

- (3) An official or other person referred to in subsections (1) and (2) who enters and passes over land under the authority of that subsection is liable for damages to the land resulting from his or her activities.

*Application*

- (4) Subsections (1) and (3) apply to any person who is assisting an official.

## **12. VOLUNTARY REPORTING**

*Definitions*

12.1. (1) In this section,

"environmental audit" means an independent assessment of

- (a) a person's compliance with this Act, the regulations, guidelines or environmental standards,
- (b) a person's environmental plans, policies, practices, controls and records, and
- (c) the extent to which a person's environmental plans, policies and controls have been implemented;

"environmental site assessment" means an independent assessment of a site or the operations on a site to

- (a) determine whether the natural world is or may be subject to contamination,
- (b) establish the extent of any contamination,
- (c) identify the causes of any contamination and identify anything that may cause contamination in the future,
- (d) identify ways to repair or remedy any injury or damage to the natural world resulting from contamination, and
- (e) identify ways to prevent future contamination.

*Voluntary information*

- (2) Where a person voluntarily provides the Environmental Protection Officer with detailed information which that person has obtained through an environmental audit or an environmental site assessment about that person's non-compliance with this Act, the regulations, guidelines or environmental standards, the Environmental Protection Officer may
- (a) negotiate and enter into an agreement with that person to address any injury or damage to the natural world or any other circumstances arising from the non-compliance; or
  - (b) issue an order pursuant to this Act.

*Agreement is not a bar to an order*

- (3) For greater certainty, the fact that the Environmental Protection Officer has negotiated or entered into an agreement with a person pursuant to this Act does not operate as a bar to the Environmental Protection Officer making an order pursuant to this Act.

- 12.2 (1) Every person who, without permission discharges, or causes or permits to be discharged, a contaminant onto Sawridge Lands or the Sawridge Area of Interest or who owns or has control of a contaminant which is discharged onto Sawridge Lands or the Sawridge Area of Interest shall
- (a) immediately notify the Environmental Protection Officer and
  - (b) take such action as the Environmental Protection Officer may direct
    - (i) to investigate and define the extent, nature and impact of the contaminant,
    - (ii) to repair, restore and remedy the natural world or to confine or contain the effects of the contaminant.
- (2) Where any person fails to take such action as is directed by the Environmental Protection Officer pursuant to subsection (1), and where the discharge of a contaminant into the natural world has caused, is causing or may cause a threat to the natural world or environmental health, the Chief may make application to a Court of Competent Jurisdiction for an injunction requiring that person to carry out that action.

*Person may not be prosecuted*

- (3) A person who voluntarily provides the Environmental Protection Officer with information under subsection (1) about that person's non-compliance with this Act or the regulations shall not be prosecuted for the non-compliance if the person complies with
- (a) the terms of an agreement subsequently entered into by the Environmental Protection Officer and the person pursuant to this Act where an agreement has been entered into and an order has not been made,
  - (b) an order issued pursuant to this Act where an order has been made and an agreement has not been entered into, or
  - (c) the terms of an agreement referred to in paragraph (a) and an order referred to in paragraph (b), where an agreement has been entered into and an order has been made.

*Exception*

- (4) Subsection (3) does not apply where
- (a) the Environmental Protection Officer, prior to receiving the information from the person under subsection (1), had received or obtained information that gave the Environmental Protection Officer reason to believe that the person was not complying with this Act or the regulations; or
  - (b) the person does not provide the Environmental Protection Officer with all information relevant to the non-compliance
    - (i) that is in the person's possession at the time an agreement is entered into or an order is made as referred to in subsection (1), or
    - (ii) that comes into the person's possession during the time an agreement or order is in effect.

*Prosecution*

- (5) The fact that an agreement was entered into under paragraph (3)(a) does not preclude the prosecution of the person who is a party to the agreement in respect of matters not covered by the agreement.

## **13. OFFENCES AND PUNISHMENT**

*Offences and punishment*

13.1 (1) Any natural person who contravenes or violates

- (a) any provision of this Act or the regulations; or
- (b) any term, condition or provision of any order, including an environmental protection order, license, certificate, approval, permit, endorsement on a permit, permission or other authorization issued under this Act or the regulations,

is guilty of an offence and if no penalty is otherwise specifically provided in this Act or the regulations, is liable on summary conviction to a fine of not less than \$200 or more than \$10,000, or to imprisonment for 90 days, or to both, and to pay such restitution as the judge thinks fit to any person aggrieved or affected by the contravention or violation and/or to pay costs of a recovery plan.

(2) Any corporation which contravenes or violates

- (a) any provision of this Act or the regulations; or
- (b) any term, condition or provision of any order, including an environmental protection order, license, certificate, approval, permit, endorsement on a permit, permission or other authorization issued under this Act or the regulations,

is guilty of an offence and if no penalty is otherwise specifically provided in this Act or the regulations, is liable on summary conviction

- (i) for a first offence, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months or to both, and
- (ii) for each subsequent offence, to a fine not exceeding \$1,000,000 or to imprisonment for a term of less than two years or to both.

and to pay such restitution as the Court thinks fit to any person aggrieved or affected by the contravention or violation or towards the costs of a recovery plan.

#### *Orders of court*

13.2 Where a person has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the court may make an order with one or more of the following terms:

- (a) prohibiting the person from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the court considers appropriate to remedy any harm to the natural world that results or may result from the act or omission that constituted the offence;

- (c) directing the person to take any action that the court considers appropriate to avoid any harm to the natural world that may result from the act or omission that constituted the offence;
- (d) directing the person to publish, in the manner determined by the court, the facts relating to the offence;
- (e) directing the person to notify, at his or her own cost and in a specified manner, any person aggrieved or affected by the person's conduct of the facts relating to the offence;
- (f) directing the person to post a bond or pay an amount of money into court that will ensure compliance with any order made under this section;
- (g) cancelling or suspending any permit or licence issued under this Act or other regulations;
- (h) directing the person to pay the cost of any research or analysis related to the prosecution of the offence;
- (i) requiring the offender to comply with any other reasonable conditions that the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the offence or committing other offences under this Act; and
- (j) any further terms the court considers appropriate in the circumstances;

*Variation of order*

- 13.3 (1) Subject to subsection (2), where a court makes an order under section 13.2, on application for review by the prosecutor, the Environmental Protection Officer or the person who is the subject of the order, the court may require that person to appear before the court and, after hearing the evidence, the court may
- (a) make changes in the order or the conditions specified in the order or extend the period for which the order is to remain in force for a period, not exceeding one year, that the court considers desirable; or
  - (b) decrease the period for which the order is to remain in force or relieve the offender, either absolutely or partially or for a period that the court considers desirable, from having to comply with any condition that is specified in the order.

*Notice*

- (2) Before making an order under subsection (1), the court may direct that notice be given to the persons whom the court considers to be interested persons and the court may hear any such person.

*Continuing offences*

13.4 (1) Every contravention of this Act or failure to comply with the terms of an order or notice made or given under this Act is a continuing offence and a separate information may be laid for each day the offence continues, and the punishment provided for pursuant to this act applies for each conviction resulting from the laying of each information.

*Further prosecutions*

(2) The conviction of a person for an offence under this Act does not operate as a bar to further prosecution for the continued neglect or failure on his or her part to comply with this Act or any order or notice made or given under this Act.

*Proof of offence*

13.5 In a prosecution for an offence under this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence.

*Liability of directors*

13.6 (1) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence by that corporation is a party to and is guilty of the offence and is liable to any penalty in addition to that for which the corporation is liable.

(2) An officer, director or agent of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted for or convicted of the offence.

13.7 For the purposes of this section, the First Nation is deemed to be a corporation.

*Defence*

13.8 No person shall be found guilty of an offence under this Act or the regulations if the person establishes that he or she exercised all due diligence to prevent its commission.



*Limitation*

13.9 Proceedings in respect of an offence under this Act may be instituted at any time within seven years after the day on which the Environmental Protection Officer became aware or ought to have become aware of the subject-matter of the proceedings.

*Order is proof*

13.10 An order purporting to be signed by the Environmental Protection Officer or an inspector, or a certified copy of the order, is admissible in evidence in an action, prosecution or other proceeding and, in the absence of evidence to the contrary, the document is proof of the statements contained in it without proof of the signature or of the official character of the person appearing to have signed it.

## **14. OTHER REMEDIES**

*Injunction*

14.1 In addition to any other remedy provided by law, any contravention or violation of this Act or the regulations may be restrained by injunction.

- (1) Where, on the application of the Chief it appears to a judge of a Competent Court that a person has done or is about to do or is likely to do any act or thing constituting or directed toward the commission of an offence under this Act, upon being satisfied that the granting of the injunction is advisable to ensure compliance with this Act or the regulations or for the protection of the natural world, the Court may issue an injunction ordering any person named in the application
  - (a) to refrain from doing any act or thing that it appears to the judge may constitute or be directed toward the commission of an offence under this Act; or
  - (b) to do any act or thing that it appears to the judge may prevent the commission of an offence under this Act.

*Notice*

- (2) No injunction shall be issued under subsection (1) unless the party or parties named in the application have been served notice pursuant to this Act with 48 hours notice or the urgency of the situation is such that service of notice would not be in the public interest or the interest of the natural world.
- (3) An injunction granted pursuant to subsection (1) may be prohibitive or mandatory in nature, and where mandatory, may require the taking of action to clean or restore the natural world.

## ***Recovery of Costs and Expenses***

### *Costs and expenses*

14.2. (1) The Government of the Sawridge First Nation may claim and recover the reasonable costs and expenses incurred in taking any measures under this Act from every person who, through his or her actions or negligence or the actions or negligence of others for whom he or she is by law responsible, caused, permitted or contributed to the discharge of a contaminant or otherwise contravened the provisions of this Act or the regulations.

### *Joint and several liability*

(2) Where the Government of the Sawridge First Nation may claim and recover costs and expenses from two or more persons under subsection (1), the costs and expenses may be recovered jointly and severally from those persons.

### *Liability for costs*

(3) Where a person fails to comply with an order issued under this Act, that person is liable for all costs and expenses incurred as a result of any action taken under this Act to carry out the order.

### *Procedure*

(4) A claim for costs and expenses under this Act may be sued for and recovered with costs as a debt due to the Government of the Sawridge First Nation.

## ***Records***

### *Request for records*

14.3 (1) The Environmental Protection Officer may, in writing, require that, within a specific time, any records that are required to be maintained for the purposes of this Act or the regulations be provided to the Environmental Protection Officer by the owner or person who is required to maintain records.

### *Duty to comply*

(2) A person who receives a written request under subsection (1) shall comply with the request.

## ***Inspection***

14.4 (1) For the purposes of determining whether there is compliance with this Act or the regulations or a provision of a permit or licence, an inspector may, at any reasonable time, without a warrant, enter and inspect any place or vehicle, other than a dwelling-house, where the inspector believes on reasonable grounds that

(a) a contaminant is located on or in the place or vehicle; or

- (b) any books, records, electronic data or other documents relevant to the administration of this Act can be found in the place or vehicle.

*Request driver to stop*

- (2) An inspector may, for the purposes of an inspection under subsection (1), stop a vehicle and direct the driver to park the vehicle at a place specified by the inspector.

*Duty to comply*

- (3) Where, under subsection (2) an inspector directs the driver of a vehicle to stop, the driver shall
  - (a) immediately park the vehicle at the place specified by the inspector; and
  - (b) not move the vehicle until permitted to do so by the inspector.

*Powers under inspection*

- 14.5. (1) An inspector may, in the performance of an inspection pursuant to this Act
- (a) examine any substance;
  - (b) open and examine any receptacle or package that the inspector has reason to believe contains any contaminant;
  - (c) examine any books, records, electronic data or documents that the inspector believes on reasonable grounds contain any information required by the inspector and make copies of them or take extracts from them;
  - (d) take samples of anything; and
  - (e) conduct any tests or take any measurements.

*Duty of person in possession or charge*

- (2) Every person who is in possession or charge of any place or vehicle being inspected pursuant to this Act shall permit the inspector
  - (a) to use or cause to be used any computer system at the place or vehicle; and
  - (b) to use or cause to be used any copying equipment at the place.

*Destruction of contaminant*

- 14.6. (1) An inspector may destroy or otherwise dispose of a contaminant in any manner that is appropriate
- (a) if, in the performance of an inspection pursuant to this Act he or she believes on reasonable grounds that the contaminant is a danger to life, health, property or the natural world and has been abandoned or has deteriorated;
- or

- (b) with the written consent of the owner or person in charge, management or control of the contaminant.

*Liability for costs*

- (2) The owner of or person in charge of a contaminant is liable for all reasonable costs and expenses incurred as a result of an inspector destroying or disposing of the contaminant under subsection (1).

*Search*

*Search warrant*

- 14.7 (1) On *ex parte* application, a court may issue a warrant authorizing such inspectors or peace officers, as a Court of Competent Jurisdiction may specify in the warrant, to enter and search a place or vehicle, subject to such conditions as the court may specify in the warrant, where the court is satisfied by information on oath that there are reasonable grounds to believe that there is in the place or vehicle
- (a) anything in respect of which any contravention of this Act, the regulations or a provision of a permit or licence has been or is suspected to have been committed; or
  - (b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of any contravention of this Act, the regulations or a provision of a permit or licence.

*Search and seizure*

- (2) Subject to the terms of the warrant, an inspector or peace officer to whom a warrant is issued under subsection (1) may exercise the powers described in subsection 14.5 (1).

*Warrant not required*

- 14.8 Where an inspector on reasonable grounds believes that there is in any place or vehicle anything referred to in paragraph 14.7 (1), but by reason of exigent circumstances it would not be practicable to obtain a warrant under subsection 14.7 (1), the inspector may search that place or vehicle without a warrant.

*Force*

- 14.9 An inspector making a search authorized under this Act may use such force as, in the opinion of the inspector, is necessary to facilitate the search, including the breaking of any lock or fastening. An Inspector may not use force unless he is accompanied by a peace officer.

*Operation of equipment*

14.10 (1) An inspector making a search of a place or vehicle authorized under this Act may

- (a) use or cause to be used any computer system at the place or vehicle; and
- (b) use or cause to be used any copying equipment at the place.

*Duty of person in possession or charge*

(2) Every person who is in possession or charge of any place or vehicle in respect of which a search is carried out under this Act shall permit the inspector carrying out the search

- (a) to use or cause to be used any computer system at the place or vehicle;  
and
- (b) to use or cause to be used any copying equipment at the place.

*Assistance to inspectors*

14.11 The owner or the person in charge of a place or vehicle entered by an inspector under this Act and every person found in the place or vehicle shall

- (a) give the inspector all reasonable assistance to enable the inspector to carry out his or her duties under this Act and the regulations, and
- (b) furnish the inspector with such information as, in the opinion of the inspector is necessary for the enforcement of this Act and the regulations.

***Seizure***

14.12 (1) Where, during the course of an inspection or a search, an inspector has reasonable grounds to believe that any provision of this Act, the regulations or the provision of a permit or licence has been contravened, the inspector may seize any thing

- (a) by means of or in relation to which the inspector reasonably believes the contravention occurred; or
- (b) that the inspector reasonably believes will afford evidence of the contravention.

*Limitation*

(2) An inspector shall not seize any thing under subsection (1) unless it is required as evidence or for purposes of analysis or the inspector has reasonable grounds to believe that the seizure is necessary in the public interest.

*Notice of seizure*

- (3) An inspector who has seized a thing under subsection (1) shall, as soon as practicable and in writing, advise the person in whose possession it was at the time of seizure
- (a) of the seizure of the thing; and
  - (b) of the provision of this Act, the regulations or a provision of a permit or licence that the inspector believes has been contravened.

*Release from seizure*

14.13 The Environmental Protection Officer shall release from seizure any thing seized under this Act,

- (a) on application to the Environmental Protection Officer by the owner of the thing or the person in whose possession it was at the time of seizure and the Environmental Protection Officer is satisfied that it is not in the public interest to continue to detain the thing or that it is not required as evidence or for purposes of analysis; or
- (b) 180 days after the day of seizure, unless before that time
  - (i) the thing has been forfeited pursuant to this Act;
  - (ii) proceedings have been instituted in respect of the contravention in relation to which the thing was seized, in which case it may be detained until the proceedings are concluded, or
  - (iii) the Environmental Protection Officer has served or made reasonable efforts to serve notice of an application for an order extending the time during which the thing may be detained in accordance with this Act.

*Application to extend period of detention*

14.14 (1) Where proceedings have not been instituted in respect of the contravention in relation to which a thing was seized under this Act, the Environmental Protection Officer may, before the expiration of 180 days after the day of seizure and on serving notice in accordance with subsection (2) on the owner of the thing or on the person who at the time of seizure was in charge, management or control of it, apply to a court of competent jurisdiction for an order extending the time during which it may be detained.

*Notice*

- (2) A notice referred to in subsection (1) shall be served in accordance with this Act at least 10 days prior to the date the application is to be heard and shall specify
- (a) the court in which the application is to be made;
  - (b) the place where and the time at which the application is to be heard;
  - (c) the thing seized in respect of which the application is to be made; and
  - (d) the grounds on which the Environmental Protection Officer intends to rely to show why there should be an extension of the time during which the thing seized may be detained.

*Order of extension granted*

- (3) Where, on the hearing of an application made under subsection (1), the court is satisfied that the thing seized should continue to be detained, the court shall order
- (a) that the thing be detained for such additional period of time and on such conditions as the court considers proper; and
  - (b) that the thing be released from seizure at the expiration of the additional period of time unless before that time action is taken pursuant to this Act to obtain an extension.

*Order of extension refused*

- (4) Where, on the hearing of an application made under subsection (1), the court is not satisfied that the thing seized should continue to be detained, the court shall order that, on the expiration of 180 days after the day of seizure, it be released unless, before the expiration of the 180 days, action is taken pursuant to this Act.

*Order for restoration*

- (5) Where, at the time of the hearing of an application made under subsection (1), 180 days have expired after the day of seizure, the court shall order the release of the thing.

*Storage of seized thing*

14.15 (1) A thing seized by an inspector under this Act shall be kept or stored in the place where it was seized except where it is removed in accordance with provisions of this Act.

*Removal*

- (2) The inspector may remove a thing seized where, in the opinion of the inspector,
- (a) it is not in the public interest to keep or store a thing seized in the place it was seized; or
  - (b) the thing seized, or a sample of it, is required as evidence and removal and storage of the thing seized is necessary to ensure that the thing or sample will be available as evidence in any related proceedings.
- (3) Where the person who had possession of the thing at the time of seizure or the person entitled to possession of the place where the thing was seized requests the inspector to have it removed to some other place, the thing may be removed and stored in any other place at the direction of an inspector at the expense of the person who requested the removal.

*Interference with seized thing*

14.16 (1) Unless authorized by an inspector, no person shall remove, alter or interfere in any way with anything seized by an inspector under this Act.

*Examination of seized thing*

(2) An inspector shall, at the request of the person from whom a thing was seized, allow that person or any person authorized by that person to examine it and, where practicable, furnish a sample or copy of it to such person.

***Forfeiture***

*Forfeiture on consent*

14.17 (1) A thing seized by an inspector pursuant to this Act is forfeited to the Government of the Sawridge First Nation where the owner or person in whose possession it was at the time of seizure consents in writing to the forfeiture of the thing.

*Disposal or destruction*

(2) The Chief may dispose of or destroy any thing forfeited under subsection (1).



*Liability for costs*

- (3) If the Chief so directs, the owner or the person who was in lawful possession of the thing at the time it was seized is liable for all reasonable costs and expenses incurred as a result of the disposal or destruction of the thing seized.

*Forfeiture by order of court*

- 14.18 Where a person is convicted of an offence under this Act or the regulations and any thing seized pursuant to this Act or in relation to that offence is being detained,
- (a) the thing is, if the court so directs, forfeited to the Government of the Sawridge First Nation in which case
    - (i) the Chief may dispose of or destroy the thing, and
    - (ii) the offender is liable for all reasonable costs of the disposal or destruction; or
  - (b) the thing shall, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings, as the case may be, be restored to the person from whom it was seized or to any other person entitled to possession of it on such conditions, if any, as may be imposed by order of the court and as, in the opinion of the court, are necessary to avoid the commission of any further offence under this Act or the regulations.

*Liability for thing seized*

- 14.19 No right of action lies and no right of compensation exists against the Government of the Sawridge First Nation or the Chief, the Environmental Protection Officer or an inspector or a person acting under the authority of any of them for loss or damage arising from the seizure or disposal authorized by this Act or the deterioration of anything during any period when it is under seizure unless the Government of the Sawridge First Nation or any such person was negligent in the care of the thing seized.

## 15. GENERAL

- 15.1 No person shall knowingly give false information in any application, return, or statement made to the Chief, an environmental officer, or any other official of the First Nation in respect of any matter under this Act or the regulations.
- 15.2 (1) This Act and the regulations may be enforced by
- (a) the Chief;
  - (b) the Environmental Protection Officer;
  - (c) any other official provided with powers under this Act.
  - (d) any peace officer or member of the Royal Canadian Mounted Police;
  - (e) an environmental or conservation officer of any other jurisdiction with authority in the Sawridge Traditional Territory,
  - (f) a Fisheries officer.
- (2) No person shall obstruct or attempt to obstruct any person lawfully carrying out the enforcement of this Act or the regulations.
- 15.3 The Chief, on the advice of Council, may, as he or she considers necessary, revoke terms, impose terms and conditions on, or alter any terms and conditions of, any authorization issued under this Act or the regulations, including the following:
- (a) an order, including an environmental protection order;
  - (b) a license;
  - (c) a certificate;
  - (d) an approval;
  - (e) a permit or an endorsement on a permit;
  - (f) a variance;
  - (g) a management plan;
  - (h) a material stewardship plan;
  - (i) an exemption;
  - (j) a permission.
- 15.4 (1) No person to whom an order, including an environmental protection order, is directed pursuant to this Act or the regulations is required to comply with the order until the order has been served on the person.

- (2) Any order issued pursuant to this Act or the regulations is deemed sufficiently served
  - (a) upon a copy being personally served on the person to whom it is directed;
  - (b) upon a copy being sent by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt being received;
  - (c) five days after a copy is sent by mail addressed to the person to whom it is directed at the last known address for that person; or
  - (d) in the case of a registered owner of real property, five days after a copy is sent by mail to the address for the registered owner.
- (3) Where the person to be served is a corporation, service on an officer or recognized agent of the corporation in accordance with subsection (2) is deemed to be service on the corporation for the purposes of this Act.
- (4) Where it is impractical for any reason to serve an order in a substituted service manner referred to prescribed in subsection (2), an *ex parte* application may be made to a Court of Competent Jurisdiction which may make an order for substituted service providing for such steps to be taken to bring the matter to the attention of the party to be served.
- (5) Any order issued pursuant to this Act or the regulations shall be *prima facie* proof in proceedings in any court not only that the order was legally made, but also that every administrative prerequisite necessary to enable the making of the order was done and satisfied, and no further proof than the mere production of the original order or a copy thereof certified by the Chief or his or her representative, is necessary.

*Appeal*

- 15.5 (1) A person to whom an environmental protection order is issued may, within 30 days from the date the environmental protection order is served on the person, appeal the environmental protection order
- (a) if issued by an inspector, to the Environmental Protection Officer,
  - (b) if issued by the Environmental Protection Officer, to the Chief,
  - (c) if issued by the Chief to a Court of Competent Jurisdiction

- (2) A person who is aggrieved by a decision
- (a) to refuse that person an exemption or other authorization that may be issued under this Act or the regulations;
  - (b) to revoke or amend an exemption or other authorization held by that person under this Act or the regulations; or
  - (c) to refuse to approve a management plan or a material stewardship plan proposed by that person under the regulations, or to revoke or amend a management plan or a material stewardship plan of that person after it was approved,
- may, within 30 days from the date the decision is served on the person, appeal the decision by serving a notice of appeal
- (a) if issued by an inspector, to the Environmental Protection Officer,
  - (b) if issued by the Environmental Protection Officer, to the Chief,
  - (c) if issued by the Chief to a Court of Competent Jurisdiction.
- (3) A notice of appeal shall be in writing, on a form set out by regulation, and shall state the grounds for the appeal, the relief sought, and the name and address of the person making the appeal.
- (4) The service of a written notice of appeal under this section does not operate as a stay of, and shall not in any way affect the environmental protection order or other order or a decision, as the case may be, that is the subject matter of the appeal.
- (5) In any appeal under this section, the official to whom the appeal is addressed shall serve notice upon the person making the appeal of the date, time and place at which the appeal will be heard.
- (6) Such notice may be served personally or by mail.
- (7) Where service is made by mail, the service shall be deemed to be made on the fifth day after the date of mailing, unless the person on whom service is being made establishes that the person, acting in good faith, through the absence, accident, illness or other cause beyond the person's control, did not receive the notice until a later date.

- (8) The official hearing an appeal shall do so through a procedure which adheres to the rules of natural justice.
- (9) The official hearing an appeal shall hear and decide the appeal and shall issue an order giving effect to its disposition.
- (10) Disposition of an appeal may vary, confirm, or rescind all or parts of the decision being appealed.
- (11) The official deciding an appeal shall give written reasons for the decision and shall provide a certified copy of the decision to the appellant.

*Liability of Officials*

15.6 Any official acting under the authority of this Act or the regulations is not personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done in the purported exercise of any powers given by this Act or the regulations.

*Laws of General Application*

15.7 Laws of General Application of Canada, a Province or Territory will apply to Sawridge Traditional Territory unless they are inconsistent with the Sawridge Constitution, this or any other law of the Sawridge First Nation, an Aboriginal or Treaty right, or Treaty #8.

*Standards*

15.8 Where the Standards of the Sawridge First Nation applicable in the Sawridge Area of Interest or Sawridge Lands are more stringent or restrictive than the Standards that would otherwise apply, the Standards of the Sawridge First Nation shall apply.

## 16. RECOVERY PLAN

### *Development of A Recovery Plan*

- 16.1 (1) The Chief, on advice of the Council, may cause to be prepared a “Natural World Recovery Plan” which sets out a plan for the correction of damage which has been caused by human activity over time particularly when aspects of the natural world have been placed at risk, to cause the plan to be revised every five years and as soon as possible after any event occurring which has caused destructive changes in an area of land or waters.
- (2) The Recovery Plan and its revisions shall
- (a) involve both the people of the First Nation and other interested parties in the planning and recovery actions;
  - (b) include our traditional cultural means to attain recovery as well as instruments developed by other peoples;
  - (c) promote stewardship and capacity building both amongst our own people and others who utilize and depend upon our traditional territories pursuant to the arrangements made in Treaty No. 8;
  - (d) involve research conducted through scientific research and monitoring, both that which is derived from our own scientific approaches and those of other peoples;
  - (e) build partnerships with others and act so as to cause exponential multiplying effects from the efforts and resources of other parties;
  - (f) make recommendations to the Assembly, Council and Elders Commission as to laws, decisions and actions required for the success of the Recovery Plan’s implementation.
- (3) The Recovery Plan may address
- (a) conservation of existing ecosystems and habitats where human activity is causing alterations including those which occur over time;
  - (b) recovery through rehabilitation of degraded ecosystems and habitats;
  - (c) promotion of health of the natural world on lands and waters within Sawridge territories by such means as
    - (i) land use planning and designation to protect areas at risk, including official designation of conservation lands and protected areas;

- (ii) enforceable policies and laws to protect areas at risk;
- (iii) infrastructure to implement and oversee plans and policies;
- (iv) ensuring development does not take place at the expense of the natural world;
- (v) promoting traditional knowledge and language so as to improve the human-natural world relationship;
- (vi) ensuring that the Cree culture is strengthened as a check against acquired consumer-oriented cultures and increasing appreciation of the natural world and our dependence upon it;

## 17. REGULATIONS

### *Regulations*

- 17.1 The Council may make regulations respecting such subjects as are permitted by this Act.
- 17.2 (1) Subject to subsection (2), the Council may make such regulations as the Council considers necessary or advisable for the enhancement and protection of the natural world, and without limiting the generality of the foregoing, may make regulations
- (a) prescribing any matter that may be prescribed under this Act;
  - (b) respecting contaminants or the concentration of contaminants that may or may not be discharged into the natural world;
  - (c) respecting the maximum permissible concentration of a contaminant in the natural world;
  - (d) respecting acceptable levels of contaminants within other substances;
  - (e) respecting the reporting of discharges of contaminants or the likely discharge of contaminants;
  - (f) respecting the methods for sampling and analyzing contaminants;
  - (g) respecting the methods for sampling and analyzing the rate of emission of a contaminant into the natural world;
  - (h) respecting the use, installation, removal or modification of equipment designed to control the release of contaminants;

- (i) categorizing contaminants;
- (j) respecting the design, construction, identification, siting and operation of disposal sites for contaminants;
- (k) respecting the requirements for the identification, storage, handling, discharge, transport or use of contaminants;
- (l) respecting methods of collection, treatment, distribution, recycling, reuse or disposal of contaminants;
- (m) respecting standards for environmental audits and environmental site assessments;
- (n) respecting procedures for entering into agreements and the contents of those agreements;
- (o) respecting procedures relating to appeals and public participation relating to appeals;
- (p) respecting the measures required and the standards to be met for the remedy or repair of any injury or damage to the natural world;
- (q) respecting the material and equipment required to be on hand to alleviate the effect of any discharge of contaminants;
- (r) respecting the safeguards required to prevent the discharge of contaminants;
- (s) respecting environmental impact assessments and ensuring specific opportunity for public involvement in the screening and assessment of undertakings;
- (t) establishing environmental quality standards for part or all of any category of lands;
- (u) creating classes of permits and licences;
- (v) respecting the requirements for the application, issuing, refusal and suspension of permits and licences and public participation relating to this subject matter;
- (w) respecting the licenses, permits, endorsements on permits, approvals, certificates, exemptions, variances, management plans, material stewardship plans and other authorizations required to be held by persons under this Act or the regulations in respect of the carrying on of an activity or undertaking, including regulations respecting



- (i) the process for applying for any such an authorization,
  - (ii) the issuance, approval, refusal, renewal, expiration, amendment, suspension or revocation of any such authorization,
  - (iii) the qualifications or requirements for, or the circumstances or standards applicable to, any decision referred to in sub-clause (ii), and
  - (iv) the imposition of terms and conditions on any such authorization and the alteration of or requirement for compliance with such terms and conditions;
- (x) respecting the fees that are payable in respect of
    - (i) an application for a license, permit, endorsement on a permit or certificate,
    - (ii) an inspection,
    - (iii) waste management,
    - (iv) a record search,
    - (v) the review of an environmental impact statement, and
    - (vi) such other matters or services provided under the Act or the regulations.
  - (y) respecting the design, location, configuration, construction, adaption, alteration, operation, maintenance and installation of undertakings;
  - (z) respecting plumbing standards, prescribing the use and application of the plumbing standards, and requiring a person to obtain a permit before plumbing is installed or altered;
  - (aa) respecting the design, construction, adaption, alteration, operation, maintenance and installation of systems, processes or works to abate, manage, dispose of or control contaminants, waste or other environmental damage, and those systems, processes or works may include waste management sites, waste treatment systems and incinerators;
  - (bb) regulating or prohibiting the collection, sale, storage, use, treatment, distribution and disposal of contaminants;
  - (cc) prescribing limits, terms and conditions on the release of contaminants and the prohibition of release of contaminants from any undertaking;
  - (dd) regulating or prohibiting the collection, sale, storage, use, treatment, distribution and disposal of any product, container, including beverage containers, or other substance that may adversely affect the natural world;
  - (ee) respecting wells and attachments thereto and the licensing of well drillers, including the requirement that no person shall engage in the business of drilling wells, or shall undertake the construction of a well, or undertake

any operation incidental to the reconstruction or abandonment of a well except pursuant to the regulations.

- (ff) regulating, controlling, prohibiting, directing, or providing for the withdrawal, use, quality, quality monitoring, storage and handling of water from any natural or artificial source including any water supply system;
- (gg) requiring delineation of well-head protection areas and respecting the implementation of controls on activity within the well-head protection area which may include the restriction and prohibition of any activity in the area;
- (hh) prohibiting the alteration of any watercourse, or wetland, or the water flow therein unless the alteration is
  - (i) authorized by a license or permit issued under the regulations and the alteration is carried out in accordance with any terms or conditions imposed on such a license or permit, or
  - (ii) permitted by an exception or exemption set out in the regulations;
- (ii) regulating, controlling, and providing for, the alteration of any watercourse, or wetland, or the water flow therein, including regulations
  - (i) requiring a license or permit issued under the regulations to carry on the alteration, and
  - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which the alteration may be carried on;
- (jj) prohibiting the carrying on of any activity specified in the regulations in or on a watercourse or wetland, including
  - (i) the draining, pumping or diverting of water from a watercourse or wetland,
  - (ii) the dredging, excavating or removal of soil, mud, sand, stones, rubbish, rocks, aggregate or other material or objects of any kind from a watercourse or wetland,
  - (iii) the dumping, infilling or deposition of soil, water, mud, sand, stones, rubbish, litter, rocks, aggregate or other material of any kind into a watercourse or wetland,

- (iv) the construction, placement, repair, replacement, demolition or removal of buildings, structures or obstructions of any kind, including bridges, culverts, breakwaters, dams, docks, slipways and flood or erosion protection works,
- (v) the operation of any heavy equipment or a motor vehicle on the sediment bed, beach or bank of a watercourse or on a wetland,
- (vi) the disturbance, removal, alteration, disruption or destruction of the ground, either by excavating or depositing earthen or other material,
- (vii) the disturbance, alteration, destruction or removal of vegetation of any kind in or on a watercourse or wetland, including but not limited to the cutting down of live trees or live shrubs, or
- (viii) the carrying on of any type of watercourse or wetland enhancement activity, including but not limited to debris removal, habitat development, or the placement of structures, unless the activity is authorized by a license or permit issued under the regulations and the activity is carried on in accordance with any terms or conditions imposed on such license, permit or certificate, or unless the activity is permitted by an exception or exemption set out in the regulations;
- (kk) regulating, controlling or providing for the carrying on of any activity specified in the regulations, including any activity in or on a watercourse or wetland, including regulations
  - (i) requiring a license, permit or certificate issued under the regulations to carry on that activity, and
  - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity may be carried on;
- (ll) requiring an environmental permit for the construction or operation of certain undertakings, and the issuance or withdrawal of the permits;
- (mm) respecting the methods of analyzing samples and prescribing the equipment or apparatus or structures to be used for taking samples;
- (nn) respecting chemical or petroleum storage tank systems;
- (oo) regulating the disposal of litter;

- (pp) prescribing forms;
- (qq) respecting wastewater emissions;
- (rr) respecting emissions into the air;
- (ss) respecting excavation pits, including any excavation in the ground opened for the purpose of searching for or removing clay, gravel, sand, shale, subsoil, topsoil, rock or any other surface or subterranean deposit;
- (tt) controlling, restricting or prohibiting any act for the purpose of abating noise or controlling noise levels;
- (uu) respecting the standards and criteria to be used for the purpose of designating an area of the natural world as a contaminated site;
- (vv) respecting agreements made pursuant to this act for the repair, restoration and remediation of contaminated sites pursuant to this Act;
- (ww) respecting the contaminated sites registry and its operation, including the location and hours of the offices of the Registry;
- (xx) respecting assessment and rehabilitation criteria of contaminated sites and contaminant releases pursuant to this Act;
- (yy) describing the actions pertaining to, or the uses of, an area of the natural world designated as a contaminated site that constitute an alteration of that area;
- (zz) respecting the cancellation and removal of a designation of a contaminated site from the contaminated sites registry;
- (aaa) defining words, phrases or terms that are used in this Act or the regulations and that are not defined in this Act;
- (bbb) respecting any geographic information system databases maintained by the Environmental Protection Officer, including any database relating to wetlands:
  - (i) the maintenance, amendment, publication, inspection and the proof of the contents of the Inventory,
  - (ii) the identification in the Inventory of areas that are wetlands, and
  - (iii) the categorization of wetlands in the Inventory as open water, fens, deep marsh, shallow marsh, salt marsh, seasonally flooded flats,

muskeg, brackish marsh, shrub swamp, wooded swamp, bog or meadow;

- (ccc) prohibiting the alteration or the disturbance of the ground or soil within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary unless the alteration or disturbance is
  - (i) authorized by a license or permit issued under the regulations and the alteration or disturbance is carried out in accordance with any terms or conditions imposed on such license or permit, or
  - (ii) permitted by an exception or exemption set out in the regulations;
- (ddd) regulating, controlling or providing for the alteration or the disturbance of the ground or soil within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations
  - (i) requiring a license or permit issued under the regulations authorizing the carrying on of that alteration or disturbance, and
  - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that alteration or disturbance may be carried on;
- (eee) prohibiting the carrying on of any activity specified in the regulations within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including
  - (i) the draining or pumping of water;
  - (ii) the dredging, excavating or removal of soil, mud, sand, stones, rubbish, rocks, aggregate or other material of any kind,
  - (iii) the dumping, infilling or deposition of soil, water, mud, sand, stones, rubbish, rocks, aggregate or other material or objects of any kind,
  - (iv) the construction, placement, repair, replacement, demolition or removal of buildings, structures or obstructions of any kind, including but not limited to bridges, culverts, breakwaters, dams, wharves, docks, slipways and flood or erosion protection works,
  - (v) the operation of any heavy equipment or a motor vehicle,
  - (vi) the disturbance, removal, alteration, disruption or destruction of the ground, either by excavation or depositing earthen or other material,
  - (vii) the disturbance, removal, alteration, disruption or destruction of vegetation, either by excavation or depositing earthen or other material,

- (viii) the cutting down of live trees or live shrubs,
- (ix) the planting and cultivation of an agricultural crop, or
- (x) the spraying or application of any pesticide in any manner, unless the activity is authorized by a license or permit issued under the regulations and the activity is carried on in accordance with any terms or conditions attached to such license or permit, or unless the activity is permitted by an exception or exemption set out in the regulations;
- (fff) prohibiting the cultivation of any row crop or any portion thereof within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, unless the cultivation is authorized by a written exemption or variance issued under, or permitted by an exception set out in, the regulations;
- (ggg) regulating, controlling or providing for the cultivation of any row crop or portion thereof within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations
  - (i) requiring a written exemption or variance issued under the regulations authorizing the carrying on of that cultivation, and
  - (ii) respecting the manner, circumstances, exceptions, standards or conditions under which that cultivation may be carried on;
- (hhh) regulating, controlling or providing for a geographic information system database maintained by the Environmental Protection Officer of sloped lands within Sawridge lands, or Sawridge Area of Interest, including regulations
  - (i) respecting the maintenance, amendment, publication, inspection and the proof of the contents of the Inventory, and
  - (ii) deeming the areas of land identified in the Inventory as having a slope of greater than 9% and an area of at least one hectare, or as having such other characteristics as the regulations may specify;
- (iii) prohibiting the cultivation of one or more hectares of a row crop on any area of that parcel which has a slope greater than 9%, unless there is a management plan for the parcel of land and the cultivation of the row crop is carried on in accordance with that management plan;
- (jjj) regulating, controlling or providing for, the cultivation of one or more hectares of a row crop on any area of that parcel which has a slope greater than 9%, unless there is a management plan for the parcel of land

and the cultivation of the row crop is carried on in accordance with that management plan;

- (kkk) respecting management plans, including the contents, components, establishment, approval, terms and conditions, amendment, maintenance, expiry and revocation of management plans;
- (lll) respecting the appointment of management specialists and respecting their powers and duties in respect of management plans or other matters;
- (mmm) requiring the owner and operator of an intensive livestock operation to ensure that no livestock waste from the intensive livestock operation enters any watercourse or wetland;
- (nnn) prohibiting, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary,
  - (i) the construction of an intensive livestock operation, or the construction of any building, structure, facility, or any part thereof, of an intensive livestock operation,
  - (ii) the construction of a new building, structure or facility, or any part thereof, or the expansion or renovation of existing buildings, structures or facilities, of an existing intensive livestock operation, or
  - (iii) the carrying on of any activity connected or associated with, or supporting, an activity referred to in clause (i) or (ii), unless such activity or undertaking is carried on under a written authorization issued under the regulations, or unless the activity or undertaking is permitted by an exception set out in the regulations;
- (ooo) regulating, controlling or providing for the carrying on of any activity or undertaking within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, including regulations
  - (i) requiring a written authorization issued under the regulations to carry on that activity or undertaking, and
  - (ii) respecting the manner, circumstances, exceptions, exemptions, standards and conditions under which that activity or undertaking may be carried on;
- (ppp) prohibiting the keeping of livestock, in a density greater than the maximum prescribed number of animal units per acre of living space, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, unless the keeping of livestock in such a density and within such a distance of the landward side of a watercourse boundary or a wetland boundary is authorized in writing by the Chief,

with the advice of the Council, or unless it is permitted by an exception set out in the regulations;

(qqq) regulating, controlling or providing for the keeping of livestock within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, respecting the density of livestock, as measured in terms of the number of prescribed animal units per acre of living space or otherwise, that may be kept within a prescribed distance of the landward side of a watercourse boundary or wetland boundary, including regulations

(i) requiring a written authorization issued under the regulations for the keeping of livestock, in a density in excess of the maximum density established by the regulations, within a prescribed distance of the landward side of a watercourse boundary or a wetland boundary, and

(ii) respecting the manner, circumstances, exceptions, standards and conditions under which the keeping of livestock within such a distance of landward side of watercourse boundary or a wetland boundary may be carried on;

(rrr) respecting recyclable materials, including regulations

(i) prescribing recyclable materials,

(ii) establishing criteria for determining whether a material is a recyclable material,

(iii) creating different classes of recyclable materials for different purposes,

(iv) prohibiting or restricting the acceptance, collection, storage, handling, transportation, processing or disposal of recyclable material or classes of recyclable materials,

(v) requiring that a recyclable material or any other material or product be recycled or reused, and

(vi) prohibiting or restricting the disposal of a recyclable material in a landfill, composting facility, incinerator, recycling facility or other site;

(sss) respecting designated materials, including regulations

(i) prescribing designated materials,

(ii) establishing criteria for determining whether a material is a designated material,

(iii) creating different classes of designated materials for different purposes,

(iv) prohibiting or restricting the manufacture, acceptance, collection, sale, supply, offering for sale or supply, packaging, labelling, storage, handling,



distribution, transportation, processing, disposal, recycling, recovery and reuse of designated materials,

(v) requiring that a designated material be recycled or reused, and

(vi) prohibiting or restricting the disposal of a designated material in a landfill, composting facility, incinerator, recycling facility or other site;

(ttt) respecting material stewardship programs for designated materials, including regulations

(i) requiring the development and implementation of material stewardship programs for the management, collection, sale, supply, offering for sale or supply, packaging, labelling, storage, handling, distribution, transportation, processing, disposal, waste minimization, recycling, recovery, reuse and reduction in use of designated materials by manufacturers, distributors, retailers or any other person,

(ii) requiring that a material stewardship program be approved by the Chief, subject to the terms and conditions that the Chief considers appropriate,

(iii) establishing standards for material stewardship programs,

(iv) requiring participation in a material stewardship program and providing for the exemption of persons from a requirement to participate in a material stewardship program,

(v) authorizing a person to designate a third party to operate a material stewardship program on the person's behalf,

(vi) respecting the keeping and inspection of records in respect of a material stewardship program,

(vii) requiring the reporting of information in respect of a material stewardship program to the Chief;

(viii) requiring the provision and posting of public and educational information and material respecting material stewardship programs, and

(ix) requiring a person to provide security to ensure the person's compliance with the terms of a material stewardship program and respecting the form, amount and content of the security;

(uuu) respecting recycling facilities, including regulations

(i) prohibiting the operation of a recycling facility unless authorized by a permit issued under the regulations,

- (ii) establishing standards for the operation, construction and design of recycling facilities, and
- (iii) prohibiting or restricting the acceptance, collection, storage, handling, processing or disposal of any designated material at a recycling facility unless authorized by an endorsement in respect of the designated material on a recycling facility permit;
- (vvv) providing for any transitional matters or issues for the effective implementation of clauses in this section as the Council considers necessary or advisable;
- (www) respecting the entry upon private property and inspection of any premises, other than a dwelling-place, by the Environmental Protection Officer or an inspector for the purpose of ensuring compliance with this Act and the regulations;
- (xxx) respecting the conducting of tests, and the taking of samples, photographs and measurements of water or other liquid, soil, vegetation or other thing or matter by the Environmental Protection Officer or inspector for the purpose of ensuring compliance with this Act and the regulations;
- (yyy) requiring any person to produce for inspection, on the request of an inspector, conservation officer or inspector, any records or other documents concerning matters relevant to ensuring compliance with this Act and the regulations;
- (zzz) requiring any person to produce for inspection, on the request of the Environmental Protection Officer or an inspector, any certificate, license, permit, variance, exemption, management plan or other authorization required to carry on any activity or undertaking under this Act or the regulations;
- (aaaa) respecting the stopping of motor vehicles by an inspector or conservation officer for the purposes of enforcing this Act and the regulations;
- (bbbb) providing that compliance by a person with the provisions of and standards set out in this Act and the regulations, and with the terms and conditions of licenses, permits, endorsements on permits, certificates, management plans, material stewardship plans, exemptions, variances and other authorizations issued under this Act and the regulations, does not preclude the issuance to the person of a protection order pursuant to this Act, or the issuance to the person of an emergency field order where the Environmental Protection Officer believes, on reasonable and

probable grounds, that an activity or undertaking carried on by that person is a threat to the natural world or environmental health;

- (cccc) respecting the issuance of verbal and written emergency field orders by the Environmental Protection Officer or an inspector to any person who is or was carrying on an activity which is a violation of the regulations, or who is the registered owner of the property on which that activity or undertaking is or was carried on, or to any other person specified in the regulations, requiring that person to cease the activity and to take such remedial action as is specified in the order;
- (dddd) requiring any person to whom a verbal or written emergency field order pursuant to this Act is issued by an inspector to comply with the order;
- (eeee) respecting the delegation by the Chief of any function conferred on the Chief by a regulation to another member of Council or to the Environmental Protection Officer;
- (ffff) deeming any person to whom a license, permit, endorsement on a permit, certificate, exemption, variance or other authorization is issued, or for whom a management plan or a material stewardship plan is approved, to have accepted responsibility for all work done pursuant thereto;
- (gggg) exempting the Chief and any employee or officer of the First Nation from liability for any loss or damage caused by
  - (i) any activity or undertaking or other thing done under a license, permit, endorsement on a permit, exemption, management plan, material stewardship plan or other authorization issued under this Act or the regulations,
  - (ii) the revocation of any such license, permit, endorsement on a permit, exemption, management plan, material stewardship plan or other authorization, or
  - (iii) the amendment of any terms and conditions of any such license, permit, endorsement on a permit, exemption, management plan, material stewardship plan or other authorization;
- (hhhh) providing that no action or other proceeding for damages lies or shall be instituted against
  - (i) the Chief,
  - (ii) any person to whom the Chief has delegated one or more of his or her functions under this Act or the regulations;

- (iii) any inspector, conservation officer or inspector or any other person acting under the authority of this Act or the regulations, or
  - (iv) any other person lawfully assisting or acting under the direction of any person provided with authority pursuant to this Act, for anything done or not done, in good faith in the performance or intended performance of any duty or exercise or intended exercise of any power under this Act or the regulations;
- (iiii) prohibiting the giving of false or misleading information in any application, report or statement or any other document submitted or made to the Chief, the Environmental Protection Officer, an inspector, management specialist or other employee under the authority of the Environmental Protection Officer under this Act or the regulations;
  - (jjjj) respecting the grounds for refusing a license, permit, endorsement on a permit, variance, certificate, exemption, management plan, material stewardship plan or other authorization that is the subject of an application, or that has been issued or approved, under this Act or the regulations;
  - (kkkk) requiring any person to whom a person with authority pursuant to this Act makes a request for assistance or information to provide all reasonable assistance and all information reasonably necessary to enable such a person to carry out his or her functions under this Act and the regulations;
  - (llll) prohibiting the obstruction of, or knowingly making of false or misleading statements to a person with authority pursuant to this Act engaged in carrying out his or her functions under this Act or the regulations;
  - (mmmm) prohibiting any person from violating or contravening any provision of the regulations or any term of condition of any license, permit, endorsement on a permit, variance, certificate, exemption, management plan, material stewardship plan or other authorization issued under this Act or the regulations;
  - (nnnn) respecting the burden of proof on a defendant, in any prosecution of an offence under this Act or the regulations, upon the prosecution establishing a prima facie case, or upon a defendant,
    - (i) to prove due diligence, or
    - (ii) to prove that any exception, exemption, proviso, excuse or qualification provided for or recognized in this Act or the regulations operates in favour of the defendant;

- (oooo) establishing factors which may be taken into account, in any prosecution of an offence under this Act or the regulations, to determine whether a defendant exercised due diligence;
- (pppp) deeming, for the purposes of a prosecution of an offence under this Act or the regulations, the registered owner of the property on which any activity or undertaking is or was carried on in contravention of this Act or the regulations to have caused or permitted the activity or undertaking unless the registered owner establishes, on the balance of probabilities, that the registered owner did not do so, and respecting the onus or burden of proof of the registered owner to do so;
- (qqqq) deeming, for the purposes of a prosecution of an offence under this Act or the regulations, the identification of lands as open water, deep marsh, shallow marsh, muskeg, brackish marsh or salt marsh to be prima facie evidence that the area is such a type of wetland;
- (rrrr) respecting the appeal of any order made under this Act or the regulations, or of any decision made under this Act or the regulations to refuse, revoke or amend a permit, endorsement on a permit, variance, exemption or other authorization or of any decision to refuse to approve a management plan or material stewardship plan or to revoke or amend a management plan or material stewardship plan including
  - (i) providing for the appeal of such order or decision to a Court or Tribunal of competent jurisdiction;
  - (ii) respecting the procedure for the appeal from such an order or decision, and
  - (iii) providing that the order or decision continues in effect pending the determination of the appeal;
  - (iv) prescribing the fine or range of fines that a person is liable to, on summary conviction, where the person is found guilty of an offence for contravening a provision of this Act or the regulations;
  - (v) establishing that any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by the corporation is guilty of an offence;
  - (vi) prescribing or specifying any thing or matter required or permitted by this Act to be, or referred to in this Act as being, prescribed or specified by the regulations, for which a specific power is not otherwise provided in this Act;

(ssss) prescribing the contents of forms to be used under this Act;  
(tttt) respecting any other matters that the Council considers necessary or advisable to carry out the purposes and provisions of this Act or to facilitate the implementation or administration of this Act.

- (2) A regulation made under subsection (1) may adopt by reference in whole or in part, with such changes as the Chief considers necessary, any code or standard, or any regulation made by any other government or recognized technical organization, and may require compliance with any code, standard or regulation so adopted.
- (3) Unless there are specific reasons not to do so, all regulations shall be reasonably harmonized with regulations of other authorities having jurisdiction over the same territory as that covered by the Sawridge regulations.

*Publication of proposed regulation*

- (4) Subject to subsection (5), the Council shall, at least 90 days before the proposed effective date of a regulation, send a copy of every regulation that it proposes to make to all parties who reasonably might be expected to be affected by the regulation or, alternatively, publish the regulation on a website accessible to the public and a reasonable opportunity shall be afforded to interested persons to make representations with respect thereto.
- (5) The Council is not required to publish a proposed regulation if the proposed regulation makes no material substantive change in an existing regulation.

## **18. COMING INTO FORCE**

*Coming into force*

18. This Act comes into effect six months after the day of enactment.