**Saulteau First Nations Information Guidance**

**and Categorization Worksheet**

**INFORMATION GUIDANCE**

*In 1982, existing aboriginal and treaty rights were recognized and affirmed in Section 35(1) of the Constitution Act, 1982 (“Section 35 rights”). The courts continue to clarify the nature of existing aboriginal and treaty rights and, as a consequence, define the legal relationship between the Province and First Nations. The Province has a legal obligation to consult and, as appropriate, accommodate First Nations’ Section 35 rights which may be adversely impacted by its actions or decisions. No infringements to First Nations’ Section 35 rights can be justified without consultation occurring. In short, government is legally required to consult with First Nations and seek to address their concerns before impacting their Section 35 rights.*

The Oil and Gas Commission (Commission), as an agent of the Crown, is legally required to consider First Nation’s rights and title prior to resource development. The Commission takes this legal responsibility very seriously and is the leading edge in its rigorous consultation approach on oil and gas activities with First Nations throughout BC. Guidance is provided through the Provincial mandate (New Relationship), Provincial Consultation standards, and further defined by community specific agreements.

**Present Agreements with First Nations that guide the referral process on oil and gas consultation, are more robust than previous versions. Among other things, these agreements may reference** the adoption of industry’s best practices, submission of pre-engagement records, enhanced application packages, and publically available First Nations consultative area maps to assist in project planning.

**You** are encouraged to download a copy of the respective agreement and become familiar with the content.

**Oil and Gas proponents play a vital role in the successful**

**engagement with First Nation Communities**

**Pre-Application Engagement**

In order to facilitate the efficiency of consultation, the Commission encourages Proponents that may be contemplating oil and gas activities to meet with and engage in dialogue with the First Nation(s) during the project planning stages, and to identify whether multiple applications are contemplated as part of a long term development plan.

**Engagement Log**

These early engagement meetings and conversations with First Nations are best tracked in an engagement log and submitted with the referral. The [Engagement Log](http://bcogc.ca/node/8023/download) Template can be found on the Commission’s website under the First Nations tab.

**Cover Letter**

The [SFN, HRFN and MLIB Cover Letter](http://bcogc.ca/node/8303/download) (Cover Letter) can be found on the Commission’s website under the First Nations tab.

Please be sure to complete the entire checklist, and verify that all required information is included with your submission. Submitting an incomplete referral package will cause unnecessary delays for the submitting proponent—it is best that all information be double-checked for accuracy and completeness.

The Cover Letter is submitted with your original referral package, once received by the Commission, the package is separated from the main application and forwarded onto the respective First Nations Liaison Officer (FNLO).

If the referral package is determined to be complete, the FNLO will forward it onto the respective First Nation(s).

If the referral package is incomplete, the FNLO will contact the submitting proponent for any necessary change(s), and the package will be declined. An email will be sent to the submitting proponent and the FNLO will advise either that a new First Nation’s “package is required”, or that “no package is required”.

Once the corrected referral package is received by the Commission, it will undergo a thorough screening (where the First Nation’s packages stay with the application package until it has been deemed correct and the application accepted), and then, if accepted, will be forwarded to the FNLO for circulation to the respective First Nation(s).

If you have a question regarding the Cover Letter, contact the FNLO who works with the respective First Nation you are submitting the Cover Letter for.

***Note: Two (2) copies of the Cover Letter are required with each individual First Nation’s Referral Package.***

**Categorization Worksheet**

The Categorization Worksheet illustrates the categories that a referral package can be streamed into. It will be used to provide a consistent and transparent approach to classifying referral packages. It draws directly from the categorization criteria listed in the respective First Nation Agreement. Please be sure to refer to the Categorization Worksheet of the First Nation you are submitting a referral package for as there are differences amongst the agreements.

**Attachments**

APPENDIX A – Saulteau River First Nation Categorization Worksheet

**APPENDIX A**

**Categorization Worksheet**

**Saulteau FIRST NATION oil AND gas CONSULTATION AGREEMENT**

Please do not submit this worksheet. Cut and Paste appropriate portions into the rationale portion of the First Nation Cover Letter

**Purpose**

The worksheet is a tool to implement the categorization criteria from the Saulteau First Nation Oil and Gas Consultation Agreement (“OGCA”) in a consistent and transparent way by:

* Providing a consistent approach for the Commission, industry, and First Nation’s staff to categorize application, amendment, and revision submissions; and
* Documenting the rationale for the appropriate categorization.

**General Principles**

* Minor amendments and some new applications with a low risk of potential adverse impacts to Section 35 rights are streamed as Notification;
* Major amendments and new applications are streamed as standard or complex; and
* Engagement logs which track the exchange between First Nations and Industry are encouraged.

**General Guidance**

***Section 5.6***

***Following review of an Application received by OGC from the Applicant, OGC will make an initial impact assessment of any potential adverse impacts on the exercise of SFN Section 35(1) Rights relating to the Application pursuant to Section 5.7 and will confirm the level of consultation for the Application as Notification, Standard or Complex.***

In addition to an Initial Impact Assessment (“IIA”) prepared by the Commission, the OGCA sets out some criteria by which Applications may be classified as Notification (s. 5.10), Standard (s. 5.11), or Complex (s. 5.12 and 5.13) (the “Classification Criteria”). The particular circumstances of the submission will determine which streaming Classification Criteria applies. As per Section 5.6 and5.8 of the OGCA, the Commission will confirm the level of consultation for the application. Based on the IIA, the Commission may determine that an application will be streamed at a different classification than the Classification Criteria guidelines indicate.

The actual Notification, Complex, and Standard criteria from the agreement are in *italics* below. The below non-italic text is for guidance only. Use the tic boxes below to identify the applicable criteria and to indicate attachments.

**Notification Classification Criteria**

*[ ]  N1. An application, an amendment to an approved Oil and Gas Activity, or a revision to an application, that is for improved health or safety or provides an overall benefit to the environment, including site restoration and remediation activities on the site of an authorized Oil and Gas Activity and which has minimal potential to impact adversely any SFNSection 35(1) Rights.*

Provide rationale of the revision, or amendment for improved safety or overall environmental benefit at the site: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[ ]  N2. An application, an amendment to an approved Oil and Gas Activity or a revision to an application which will implement an accommodation measure identified through consultation with SFN and which SFN has agreed satisfactorily addresses any adverse impacts on SFN Section 35(1) Rights.*

Describe the impact and how the concern was mitigated [make reference and attach relevant written correspondence demonstrating SFN’s agreement with the measure(s)]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
rationale prepared by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ agency or company\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[ ]  N3. An application, amendment to an approved Oil and Gas Activity or a revision to an application where the activity is to be carried out within a construction corridor, as defined in the applicable application manual published by OGC, on which SFN was previously consulted with no outstanding concerns.*

*[ ]  N4. An application, an amendment to an approved Oil and Gas Activity or a revision to an application which:*

* *is immediately off an established access route;*
* *requires less than 500 metres of new road;*
* *requires less than or equal to 1 ha. of clearing;*
* *will not impact archaeological resources; and*
* *is located in or adjacent to a related project in relation to which OGC completed consultation with SFN within the 2 year period prior to the referral of current application or amendment and which concluded with no outstanding site specific concerns;*

**Please Note: N4 applies only if all the N4 sub- criteria are true.**

* [ ]  The AAIF is attached. There are no impacts to archaeological resources.

Provide a complete rationale and include all file #(s) of related projects:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[ ]  N5. Is an application, an amendment to an approved Oil and Gas Activity or a revision to an application, for:*

* *a subsequent well on an existing pad for which no new land is required; or*
* *an additional pipeline within an existing right of way for which no new land is required.*

*[ ]  N6. An application, an amendment to an approved Oil and Gas Activity or a revision to an application for water use, if:*

* *the point of diversion is not within an area established through an order under Section 34 or 35 of the Environmental Protection and Management Regulation, B.C. Reg. 200/210;*
* *the total withdrawal per point of diversion identified in the application, or amendment, is less than or equal to 10,000 m3;*
* *the point of diversion is not located within, as agreed to by OGC and mapped in OGC’s data base, either a sensitive waterbody, or an area of known cultural significance to SFN; and*
* *the use is not primarily intended for hydraulic fracturing.*

Provide a complete rationale:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Please Note: N6 applies only if all the N6 sub- criteria are true.**

**Standard Classification Criteria**

Applications for new Oil and Gas Activities, or revisions, or amendments to an approved Oil and Gas Activities not meeting the criteria set out in either the Notification or Complex classifications will be streamed as Standard.

*[ ]  S1. Does not meet the Notification Classification Criteria; and*

*[ ]  S2. Does not meet the Complex Classification Criteria.*

**Complex Classification Criteria**

Applications for Oil and Gas Activities will be streamed as Complex if the application does not meet the criteria set out in the Notification Classification under Section 5.10 of the OGCA and meets one or more of the criteria set out in Section 5.13 of the OGCA. *The criteria for the Complex Classification are:*

*[ ]  C1. An application for a new activity proposed to be located in an area known to OGC to be of cultural significance to SFN, including those areas identified in Appendix D;*

*[ ]  C2. An application for a new activity in an area identified in an approved Provincial Land and Resource Management Plan as a Special Management Zone designated for wildlife or environmental objectives, a Major River Corridor or a Protected Area identified in an approved Provincial Land and Resource Management Plan;*

*[ ]  C3. An application for a new activity which includes a permanent water crossing of an S1 or S2 stream as classified under the Environmental Protection and Management Regulation, BC Reg. 200/2010;*

*[ ]  C4. An application for a new 3D geophysical activity;*

*[ ]  C5. An application for a new pipeline that has an overall length greater than 15 km or has a segment longer than 10 km;*

*[ ]  C6. An application for construction of a new road longer than 5 km or of new road segments, which segments taken together total more than 5km;*

*[ ]  C7. An application for a new gas processing plant[[1]](#footnote-1) larger than 2 ha;*

*[ ]  C8. An application for a new well site pad for multiple wells;*

*[ ]  C9. An application for a new development project; or*

*[ ]  C10. An application which requires an environmental assessment under provincial or federal legislation.*

1. See interpretation of a “gas processing plant” in the [Drilling and Production Regulation](http://www.bclaws.ca/civix/document/id/complete/statreg/282_2010%22%20%5Cl%20%22part1) for a definition of plant site. [↑](#footnote-ref-1)