

# Chapter 6.2

## Completing Application Information Details: Rights Holder Engagement

### 6.2 Rights Holder Engagement

Rights holder engagement is required as part of the application process for NEB related approvals, associated oil and gas activities on Crown land, and authorizations permitted under the Water Sustainability Act. Submission of an application for any of the above applications must include additional application deliverables specific to rights holder engagement.

The rights holder engagement tab requires specific application information details. This section includes an overview of rights holder engagement, guidance regarding rights holder engagement, details related to rights holder engagement requirements and detailed instructions for completing the data fields within the rights holder engagement tab.

#### 6.2.1 Rights Holder Engagement Process Overview

The province coordinates resource management related to oil and gas activities and is mindful of reducing adverse effects on long-term rights holders' interests. The methods used to engage rights holders may vary depending on the nature and scope of the proposed related activity. Rights holder engagement is a process to ensure appropriate engagement with rights holders in cases where the consultation and notification process does not apply.

#### **Rights Holder Defined**

A rights holder is a person granted non-intensive occupation or use of Crown land by permit, licence or approval indicated as follows:

Legislation	Permission
Land Act	Licence under Section 39 Permit under Section 14
Forest Act	Forest licence Forestry licence to cut (major) – unharvested CP only Community forest agreement Timber sale licence Tree farm licence – unharvested CP only Woodlot licence
Range Act	Grazing permit Grazing licence
Wildlife Act	Guide outfitter's licence Guiding territory certificate for Crown land Registered trapline
Mineral Tenure Act	Mineral claim
Water Sustainability Act	Water licence Use approval (Short-term water use) Change approval (Changes in and about a stream)

The Commission requires applicants engage rights holders prior to submitting an application. The applicant is expected to notify a rights holder if the proposed activity is within an area subject to the right of a rights holder (e.g., the proposed related activity falls within a guide outfitter's tenure) or if the proposed activity is deemed to have the potential to adversely affect existing rights (e.g. if the proposed activity could result in impacts to downstream water rights holders).

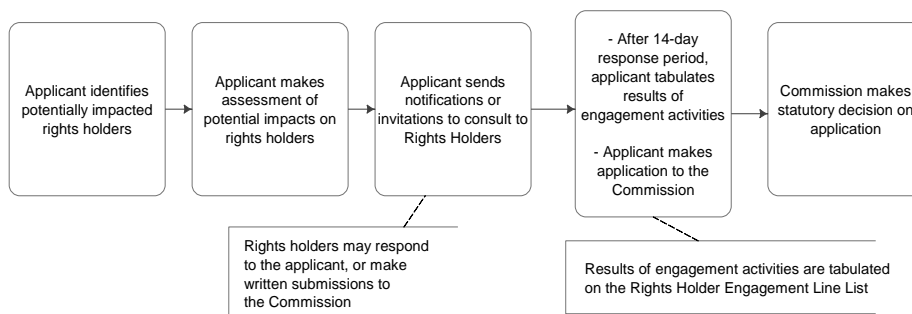
If proposed activity is within an area subject to the right of a rights holder or as detailed in engagement requirements for Water Sustainability Act applications below, and it is known to the applicant that the ability of the rights holder to exercise their rights are likely to be directly and adversely affected, the Commission expects the applicant to engage the rights holder in consultation.

**Please Note:**

If a legal recipient chooses to designate someone to communicate on their behalf, a letter designating the representation must be sent to the Commission. The letter must be addressed to the Commission, state the name of the designate, outline the parameters of the representation, and be signed by the official recipient. Letters must be provided for each application, as the Commission will not keep a record of representation for use on other applications.

**Please Note:**

For Power of Attorney, a copy of the legal document must be sent to the Commission.

**Figure 6-J: Rights Holder Engagement Process****Who must carry out Rights Holder Engagement?**

The rights holder engagement process must be carried out by applicants preparing applications for the following activities:

- Associated oil and gas activities not included in consultation and notification processes carried out on an OGAA activity.
- NEB pipeline right-of-way applications.
- NEB road right-of-way applications
- NEB ancillary applications.
- Short-term water use authorizations.
- Changes in and about a stream applications.
- Water Licence applications.

In addition, the rights holder engagement process must be carried out in preparing revision or amendment applications if the revision or amendment will change the location of the activity or if the applicant expects the changes may lead to additional adverse impacts on rights holders.

Provincial and federal government agencies are not considered rights holders. Applicants are not obligated to engage agencies prior to submitting an application to the Commission, however, applicants are encouraged to advise the Commission of any provincial or federal interests, such as Land Act Map Reserves or Resource Features (as defined in the EPMR), as early as possible. The Commission will facilitate any required engagement during the application review.

**Please Note:**

If an associated oil and gas activity was included in the Consultation and Notification process carried out under an OGAA application, but is being applied for separately from that OGAA application, further rights holder engagement is not required prior to application for the associated oil and gas activity.

**Please Note:**

Prior to the submission of an application for a camp, applicants are required to notify the Peace River Regional District (PRRD) as a rights holder.

## **Rights Holder Engagement Requirements for NEB Related Approvals and Associated Oil and Gas Authorizations**

The province makes every effort to ensure that resource management is coordinated and that the related oil and gas activities will not adversely affect long-term rights holders' interests. The methods used to engage rights holders may vary depending on the nature and scope of the proposed related activity.

Engagement materials provided to the rights holder must provide sufficient information to enable an understanding of the proposed activity and its relationship to the rights holder's legally granted interests. Generally, relevant information includes:

- Applicant name and contact information.

- Description of the location of proposed activity.
- Activity specifics including any significant structures and equipment to be added.
- Any roads that will be used to carry out the proposed activities.
- Approximate timing schedule of project where applicable.
- Map that shows the proposed activities in relation to rights holder's area of interest.
- Statement advising the rights holder may make a Written Submission to the Commission and at any time prior to the application decision.
- Recipient response options. Clearly state options for recipients to respond including:
  - Responding directly to applicant.
  - Providing a Written Submission to the Commission.

The Commission requires the applicant to document their completed rights holder engagement process and include with the application submission. Applications for authorizations under the Act must be submitted to the Commission no less than 14 calendar days after all rights holders, and land owners have been deemed to have received notification.

## **Methods of Service**

Acceptable methods of service for the distribution of rights holder engagement materials and for standards used in determining when a document is to be deemed received in the rights holder engagement process, refer to Section 6.1.7 of this manual for further information.

## **Timelines**

During engagement with rights holders, applicants must allow 14 calendar days for the rights holder to respond, after the deemed received date, before submitting the application to the Commission. However, applicants may apply earlier if a written response from all impacted rights holders is received, stating there are no objections. If a written response is received within the prescribed engagement period, the applicant is required to submit the response including the applicant's written reply with the application.

**Please Note:**

A written response letter that signifies non-objection enables the applicant to apply to the Commission earlier than the 14 days past receipt by the recipients. However, if the letter contains additional comments or concerns, it does not qualify as a letter of non-objection.

**Best Practices**

If there is a major schedule change for an activity, or if the permit holder decides not to carry forward with the planned activity, all recipients should be notified of the change.

**Rights Holder Engagement Requirements for Water Sustainability Act Authorizations**

For the purposes of authorizations granted under the Water Sustainability (Short-Term Water Use (use approval), Changes in and about a stream (change approval), Water Licences), water rights holders as defined in the Water Sustainability Act are those water rights holders whose water rights may be detrimentally affected by the issuance of the authorization under consideration.

Water rights holders include:

- Water licensees.
- Applicants for water licences.
- Use approval holders.
- Use approval applicants.

The Water Sustainability Act also specifies that riparian owners and those land owners whose property may be physically affected by the issuance of the licence or authorization under consideration must also be notified. If access across private property is required the applicant must have land owner consent. On Crown land currently under treaty, riparian owners are generally expected to include those First Nations in whose traditional territory the proposed water withdrawals are to occur.

First Nations deemed as riparian owners will be engaged as per the Commission's First Nations consultation process and therefore do not require notification during rights holder engagement.

A search of the [Water Licenses Web Query](#), along with the [North East Water Tool \(NEWT\)](#), the [Omineca Water Tool \(OWT\)](#), or the [North West Water Tool \(NWWT\)](#) should be completed before submitting a Short-Term Water Use Application, to assist with determining water rights holders on the same water source.

Applicants must notify and engage with rights holders, riparian owners and land owners as defined in the Water Sustainability Act, and provide a summary of that engagement with their application. For change approval applications, verification of the landowners consent is required and must be included with the application.

Rights holders, riparian owners and land owners must be notified according to the requirements outlined in Section 117 of the Water Sustainability Act which specifies the ways in which a notice may be given or delivered. Section 117 also specifies when a notice may be deemed received depending on which delivery method has been utilized.

Notification materials provided to rights holders, riparian owners and land owners must include:

- The name of the decision maker (BC Oil and Gas Commission).
- The applicant name and contact information.
- A map indicating the POD location/s and/or the proposed works in relation to the rights holders, riparian owners or land owner's area of interest.
- A description of the proposed timing and extent of works.
- A statement advising the rights holder, riparian owner or land owner that they may object to the proposed water withdrawals via Written Submission to the Commission within 30 days of receiving the notice.
- The BC Oil and Gas Commission's Fort St. John mailing address to which objections can be sent.

Notification material must include sufficient information to enable an understanding of the proposed water withdrawals to be made and their relationship to the rights holders, riparian owners, or land owner's legally granted interests.

## **Methods of Service**

Acceptable methods of service for the distribution of rights holder engagement materials and for standards used in determining when a document is to be deemed received in the rights holder engagement process, refer to Section 117 of the Water Sustainability Act for further information.

## **Rights Holder Engagement Requirements for all Applications**

The Commission requires that the applicant document their completed rights holder engagement process and include with the application:

- The Rights Holder Engagement Line List.
- One example of a notification letter sent and any correspondence received from those rights holders, riparian owners and landowners who have been notified.
- A description of all mutually acceptable agreements made including copies of all Letters of Non-Objection received. Letters of Non-Objection must be signed by the rights holder, riparian owner or land owner.
- Details of any known rights holder, riparian owner or land owner concerns and a description of any actions taken or measures applied by the applicant in response to these concerns.
- A map which includes the location of all POD or proposed works and the location of all rights holders, riparian owners and land owners notified.

Applications for authorizations under the Water Sustainability Act must be submitted to the Commission no less than 14 calendar days after all rights holders, riparian owners, and land owners have been deemed to have received notification as per Section 117 of the Water Sustainability Act.



Once the application is received the decision maker will determine if he or she is satisfied with the Rights Holder Engagement undertaken by the proponent.

The Water Sustainability Act gives the decision maker discretion to determine if further Rights Holder Engagement is required as well as if a decision can be rendered before the 30 day waiting period has expired. The Commission encourages companies and the affected rights holder(s) to try to resolve concerns before contacting the Commission.

## **Best Practices**

If there is a major schedule change for an activity, or if the permit holder decides not to carry forward with the planned activity, all recipients should be notified of the change.

## **Case File Numbers**

Case file numbers must be provided on applications whenever there are Written Submissions received or where there are unresolved concerns with respect to proposed activities. The Commission's Community Relations department is able to provide case file numbers upon receipt of information including the following:

- Copy of notification and map sent to recipient.
- Written responses and replies exchanged during the engagement timeline.
- Name, contact information and recipient type for those with unresolved concerns.
- If no documentation identifying unresolved concerns and mitigative actions, a brief summary noting verbal exchanges.

## **Please Note:**

Case file numbers are assigned for the designated person/activity are not interchangeable or reusable. If a case file number has been provided to you and you no longer require it (e.g. if issues are resolved prior to application) please advise the Community Relations department so the Commission can cancel the case file number.

## 6.2.2 Written Submissions to Commission

In order for the Commission to make informed decisions it is necessary to understand interests or concerns of those who may be directly impacted by a proposed activity. The Commission has adopted by policy the opportunity to submit a Written Submission for those wishing to convey interests/concerns. The [Written Submission Form](#) available on the Commission's website.

Written submissions are made directly to the Commission and can happen at any time in the application process and may be made by any person.

The Commission forwards written submissions to applicants. The applicant is not required to reply, however may be encouraged to respond in order to assist in resolution of issues. Completed [Written Submission Forms](#) are sent by email to [OGC.WrittenSubmissions@bcogc.ca](mailto:OGC.WrittenSubmissions@bcogc.ca), or submitted directly to the Commission's Fort St. John or Dawson Creek offices. Written submissions are reviewed by the Commission's statutory decision maker prior to making a statutory decision on the associated permit application.

## 6.2.3 Replying to Recipients

Rights holders with interests in or concerns about a company's proposed oil and gas activity may submit a written response to the applicant or the applicant's designated contact.

Recipient responses may detail concerns and any proposed recommendations for mitigation. If the response is received within the 14 day engagement period, the applicant is strongly encouraged to reply, in writing, as soon as possible. When part of the rights holder engagement process, this response is not mandatory but is a valuable opportunity to provide information to the rights holder and demonstrates a desire to address concerns.

Recipient concerns, proposed recommendations for mitigation and meeting requests must be tracked by the applicant. The Commission provides the required [Rights Holder Engagement Line List Template](#) for applicants to use to

track all correspondence records. The completed Line List along with recipient written responses and replies must be included in the application submission.

## 6.2.4 Unresolved Concerns

Conflicts not resolved before submitting an application affect the Commission's review process and may determine whether an application is approved with changes, without changes or refused.

If there are unresolved concerns, the applicant is required to include details of the concerns and the proposed mitigation actions with the application submission. The Commission uses the rights holder engagement documentation for evaluation and may:

- Make a decision on the application, based on the engagement documentation.
- Recommend the applicant continue consultation.
- Recommend the use of dispute resolution.

### **Please Note:**

To ensure decisions are made with full knowledge, it is important that all concerns that are unresolved at the time of application, including those outside of the Commission's regulatory jurisdiction, are noted as unresolved concerns. It is also important to note if there are any concerns that were raised and responded to verbally.

## 6.2.5 Dispute Facilitation & Conflict Resolution

The applicant and recipient(s) after all reasonable efforts are made, may require facilitation services within the Commission if issues remain unresolved. This non-mandatory process exists to aid communication and resolve interest-based differences between applicants and consultation and notification recipients.

This facilitation may be as simple as prompting the exchange of additional information to providing neutral mediation between parties. An assessment of the processes and activities completed and the specific circumstances will determine the type of facilitation service most effective. Landowner Liaisons within the Commission's Community Relations Department are available to assist with dispute facilitation.

## 6.2.6 Variance Requests

Where the rights holder engagement process described in this manual is not practicable for a specific application, applicants may request permission to use alternate engagement practices or strategies. Variance requests must be made to the appropriate Authorizations Manager prior to application. Written approval of alternate engagement practices or strategies must be included with the application.

## 6.2.7 Completing the Rights Holder Engagement Tab

Applicants should follow the instructions, answer questions and enter data in the Application Management System. Applicants are required to upload the following items onto the rights holder engagement tab:

- Rights holder engagement line list. The line list is a summary record of the consultation and notification activities performed with each recipient. The Line List Template is found on the Commission website and includes an example for guidance. Table 6-D also provides detailed instructions for each of the data fields of the Line List.

- Engagement map showing the proposed activities in relation to rights holders' areas of interest. The map must cross reference rights holder engagement recipients from the Line List.
- All written responses from recipients and replies from the applicant. It is recommended that the package of responses and replies include a sample copy of the Notification and Invitation to Consult letters sent to recipients.
- Letters of non-objection (if applicable).
- Written Report. In order to make well informed decisions the Commission requires each permit application subject to rights holder engagement requirements to submit a written report to the Commission, summarizing the results of consultation and notification activities. This has been incorporated under the Consultation & Notification and the Rights Holder Engagement tabs within AMS. In addition to the line list, the written report consists of:
  1. Consultation and notification map.
  2. All written responses from recipients and replies from the applicant.

## 6.2.8 Rights Holder: Data Field Completion

Table 6-D below provides detailed instructions for each of the data fields requiring input (not auto populated) within the Application Management System.

**Table 6-D: Application Instruction Table for the Rights Holder Tab**

Label	Instructions
Does the application require a variance from engagement?	Indicate if variance from rights holder engagement was received. If yes, attach Commission approval of the request.
Package of Replies and Responses Attached: (Optional)	Indicate yes to include any written replies and responses between the recipient and proponent.
Letters of Non-objection indicator	Was a letter of non-objection received from the rights holder (Y/N)?

Label	Instructions
Written Submission Received by Non-engaged Persons Indicator	Indicate yes, if written submissions have been received by persons not included on the line list as part of the Consultation and Notification process.
Case File(s) (Written Submissions)	Provide the Commission case file number associated with written submissions received (if applicable).
Unresolved Concerns Indicator	Indicate yes, if concerns brought forward by persons not included on the line list as part of the Consultation and Notification process remain unresolved.
Case File Number(s) (Unresolved Concerns)	Provide the Commission case file number(s) associated with unresolved concerns. Contact the Commission's Community Relations department if you do not have a case file number(s).