



December 15, 2010

County Council and Administrator
County of St. Paul No. 19
5015-49Ave.
St Paul, Alberta T0A 3A4

Greetings from the Onion Lake Cree Nation

RE: The Duty to Consult and Accommodate – Onion Lake Cree Nation Territory

First of all, we would like to extend our best wishes to you and yours during this holiday season. We would like to reintroduce ourselves to you, the County Council and Administration of the County of St. Paul No. 19. As our neighbors, it is our mutual responsibility to build upon a relationship that can be beneficial. The intent of this letter is to inform the County Council and Administration, that the Nation continues to assert its inherent and Treaty Rights and that as the Nation, we must first inform you, our neighbors, that we draw your attention to the Duty to Consult and Accommodate the Nation in matters affecting our rights and interests in the lands and resources developed within our territory. Enclosed is our Consultation Protocol for your reference, as this protocol outlines our processes for consultation with the Nation.

The Onion Lake Cree Nation is located 49kms north of the City of Lloydminster and 16kms from Tulliby Lake, Alberta. We have reserve lands in what is now the province of Alberta and province of Saskatchewan. Our Territory is Treaty NO. 6 and lands outside of Treaty No. 6 Territory located in both provinces. Our governing body of Chief Wallace Fox and Councillors Mr. Tom Chief, Mr. Walter Pahtayken, Ms. Doreen Masson, Ms. Delores Gamble, Mr. Joe Dillon, Mr. Roy Littlewolfe, and Mr. Leon Whitstone, elected in the fall of 2010, governs the Nation and its affairs. We have various departments operating the Nation and its programs and services we offer our band membership. One of these departments is Lands and Resources and

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one of the many mandates under this department is the Duty to Consult. I would like to take this time to outline the following:

The Supreme Court of Canada has recognized and affirmed the Crown's duty to consult with First Nations, such as Orion Lake Cree Nation, when the Crown has knowledge of the *potential existence* of an Aboriginal or Treaty Right or title and contemplates conduct that *might* adversely affect it. One component of the duty to consult identified by the Supreme Court of Canada is the Crown's obligation to inform itself of the impact the conduct will have on the exercise of the First Nation's rights [*Mikisew Cree*]. The Court also found, "...The Crown's duty to consult imposes on it a positive obligation to reasonably ensure that aboriginal peoples are provided with all necessary information in a timely way so that they have an opportunity to express their interests and concerns, and to ensure that their representations are seriously considered and wherever possible, demonstrably integrated into their proposed plan of action...". Accordingly, the Crown has a positive obligation to ensure that Orion Lake Cree Nation is provided with all necessary information to assess the impact of any project on our constitutionally protected inherent aboriginal and treaty rights.

It is important to note that the County of St. Paul has given its approval to various projects that impact Orion Lake Cree Nation's members' ability to hunt, trap, fish and gather within our traditional lands. This was done without consideration of Orion Lake's rights and interests in the lands and resources held within our territory.

When proponents, such as CNRL, Husky, Devon, and others operating adjacent to our Nation, come to the County for approvals, we request that the County of St. Paul enters into discussions with Orion Lake to determine the level of consultation and accommodation required for these projects. We also note that the Crown has delegated some responsibilities of Consultation to proponents, municipalities and counties, and therefore it is still the responsibility of the County to consult with Orion Lake. Clearly, with the large scale developments occurring very close to our reserve, it reduces the ability for our members to exercise their inherent *nehiyaw* and Treaty rights, and as a good neighbor, we would like for the County to provide the following:

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A. Project Specific Information:

Specific information with respect to the project area and copies of any reports or documents substantiating the same.

B. Current Use Information:

Locations of:

- a. Trails, including game trails, wagon trails, historic or traditional use trails, etc.;
- b. Cabins (current or historic);
- c. Moose calving or mating grounds;
- d. Caribou calving or mating grounds;
- e. Other animal habitat areas;
- f. Berry patches or other food plants;
- g. Medicinal plants;
- h. Spiritual sites;
- i. Grandfather trees/rocks; and
- j. Any other areas of significance previously recorded

B. Historical Resource Information:

The territory of Onion Lake Cree Nation contains important archaeological sites. Accordingly, in order to assess whether there are sites of cultural and archaeological significance to Onion Lake Cree Nation, which should be avoided or mitigated Onion Lake Cree Nation requires historical resource information, including the following:

Locations of:

- a. stone features (stone circles, cairns, medicine wheels, stone line, drive lines, effigies, etc.);
- b. rock art (petroglyphs, pictographs);
- c. scatter;
- d. campsite (contains evidence of fireplace or hearth);
- e. killsites;
- f. workshop;
- g. quarry;
- h. human burial sites; and
- i. ceremonial sites.

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Please note, Orion Lake Cree Nation views all gravesites as important spiritual areas, which should not be disturbed under any circumstances. Identification and avoidance of gravesites is required further in the areas we previously identified.

Although it is clearly the sole responsibility of the Crown to collect and provide this information to the Nation, Orion Lake Cree Nation is willing to assist County of St. Paul in its collection. To do so, experts will need to be brought in (i.e. archaeologist, traditional scientist, Elder), who will require payment for their services. We are not and will not be held responsible for these or any other associated costs for a project we are neither implementing nor require.

We also would like to invite you to visit our office if you require further information or we would also be happy to present to you all at a Council meeting in the 2011 to further clarify. In the meantime, if you have any comments, questions or concerns, you may contact me at the office at (780) 847-2200 extension 2523 or via email at candice.maglione@onionlake.ca Again, season's greetings and happy 2011.

Sincerely,



Candice Maglione
Orion Lake Cree Nation
Duty to Consult

Enclosure

cc: Orion Lake Cree Nation Chief and Council
Consultation Committee
Executive Director of Operations
Director, Lands and Resources
Witten LLP, Garry Appelt



Protocol on Consultation

Introduction:

Onion Lake Cree Nation is in the process of determining their Traditional Territory and is concerned about the impact of development on their Traditional Territory. The ability to preserve our cultural heritage, exercise our inherent Treaty Rights and traditional land uses, unfettered and unimpaired, and preserve our land for future generations is of the utmost importance. As a Nation, we survive and thrive only if our land is preserved and protected.

Onion Lake Cree Nation accepts economic development in our Traditional Territory that is consistent with our nehiyaw Treaty Rights and that is mutually beneficial to both our Nation and industry.

Purpose

The duty to consult and accommodate Aboriginal peoples has been defined and affirmed by various recent decisions of the Supreme Court of Canada. While this duty to consult and accommodate lies with the Crown, the Courts have found that they may delegate procedural aspects of this duty to proponents. In order to provide consistency and certainty to industry as they enter into consultation with our Nation, we have developed this Protocol.

Consultation Committee:

Chief and Council of Onion Lake Cree Nation has established a Consultation Committee. In conjunction with the Elders Advisory, they will work with the Consultation Officer to review all proposed developments within Onion Lake Cree Nation's Traditional Territory. The objective is to:

- ensure preservation of historical, cultural, spiritual, and traditional land use sites for the education and use of future generations.
- minimize fragmentation and reduce development impact to ensure preservation of diverse wildlife, fish and plants to allow for our

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continued ability to hunt, trap, fish, and gather medicinal herbs and plants.

- promote environmental conservation and stewardship.
- encourage mutually beneficial economic partnerships with industry.

Consultation Officer

It is the Consultation Officer's mandate to co-ordinate the review of all proposed developments within Onion Lake Cree Nation's Traditional Territory. The Consultation Officer will utilize various resources to ensure due diligence in the review of these proposals. These resources include:

- Consultation Committee
- Elders Advisory
- Portfolio Officers
- Legal support
- Technical support
- Consultants

In addition to reviewing proposals, the Consultation Officer will initiate negotiations with industry and make recommendations to Chief and Council. Authority for making final decisions will remain with Chief and Council, who will delegate decision-making to the Consultation Officer where appropriate.

Chief and Council may request direct meetings with industry as appropriate.

Process

When a proposed development is initially contemplated within our Traditional Territory, the Consultation Officer should be contacted and apprised, in order to allow sufficient time for the consultation process to be completed.

Subsequently, the proposal for development and all related material should be sent, in writing, to Onion Lake Cree Nation, PO Box 100, Onion Lake, Saskatchewan, S0M 2E0, Attention: Consultation Officer, Telephone: (780) 847-2200 or (306) 344-4200, Facsimile: (306) 344-4244. A duplicate copy of the proposal and all related material should be sent to Witten LLP, Suite 2500, 10303 Jasper Avenue, Edmonton, Alberta, T5J 3N6, Attention: Aboriginal Law, Telephone: (780) 428-0501, Facsimile: (780) 429-2559.

Although not a comprehensive list, proposals should, at minimum, include the following information:

- Plain language, non-technical description of proposed development.

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- Confirmation of proposed commencement and completion date of project.
- Confirmation of location within Traditional Territory (LSD preferable).
- Copy of government agency application (i.e. ERCB application pursuant to Directive 56).
- Detailed survey map(s) of suitable size.
- Photographs of project location.
- Any environmental reports completed or proposed.
- Any traditional land use reports completed or proposed.
- Any technical reports completed or proposed.
- Proposed environmental management, habitat and or wildlife protection plans.
- Reclamation plans.
- Any historical studies completed or proposed.

After a review of the proposal, the Consultation Officer or his/her designate may contact the proponent for one or more of the following:

- Further information or documentation.
- Elder monitors during new disturbance.
- Traditional land use studies.
- Other studies, as necessary.
- A meeting to further discuss proposal with proponent.
- Mitigation of potential negative impacts.

Once the review process has been completed, a letter will be issued to the proponent supporting the project or outlining the remaining concerns.

Costs

All costs associated with consultation will be borne by the proponent.



#118 SAKSISNGC-NANITANV-7120
BOX 100 ORION LAKE, SK S0W2E0

FAX TRANSMITTAL FORM

Date: Dec 15/10

Attention: County of St. Paul

Title/Organization: County Council + Administration

Fax Number: (780) 845-3104

From:

<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Lands Department
<input type="checkbox"/> Finance Department	<input type="checkbox"/> Recreation Department
<input type="checkbox"/> General	<input type="checkbox"/> Social Development

Fax Numbers: (780) 847-2226 or (306) 344-4244

Regarding: Orion Lake Cree Nation Duty to Consult

MESSAGE: Original will follow Fax only

Information contained in this facsimile is intended only for the use of the named above and the others who have been specifically authorized to such information. If you have received this communication in error, please notify us immediately.

If you do not receive all the 8 pages transmitted, please contact Candice at (780) 847-2200 or (306) 344-4200, Ext.# 2523