

British Columbia Métis Federation (BCMF)

Preamble

Canada is committed to advancing reconciliation and renewing the relationship with Indigenous peoples, based on recognition of rights, respect, cooperation and partnership. In the spirit of advancing reconciliation, Canada is committed to understanding the asserted or established Aboriginal and Treaty rights and title, as well as interests, of Indigenous groups. Given the breadth of Canada's objectives in consulting, Canada has therefore defined "Indigenous Interests" in this report to include asserted or established Aboriginal and Treaty rights and title, as well as interests, in order to be inclusive.

1. Introduction

The Federal Court of Appeal (FCA) rendered its decision in *Tsleil-Waututh Nation v. Canada (Attorney General)* quashing the Governor in Council's (GiC) 2016 decision to approve the Trans Mountain Expansion Project (the Project) in 2018. Canada decided not to appeal the judgment of the FCA. Instead, following the release of the FCA's judgment, Canada:

1. instructed the National Energy Board (NEB) to reconsider aspects of its recommendation, by, among other things, taking into account the effects of Project-related marine shipping, and
2. re-initiated Phase III consultations with all Indigenous groups potentially impacted by the Project.

Canada's new Phase III consultation process was designed to remedy the flaws identified by the FCA in Canada's previous consultation efforts.

Canada's modified approach to consultations is intended to ensure that Canada and Indigenous groups can:

- engage in a meaningful, two-way dialogue;
- collaborate to better understand Project-related impacts on Indigenous Interests;
- consult in a manner responsive to communities' individual needs; and
- develop potential accommodation measures to mitigate those impacts.

The Crown established a whole-of-government Crown consultation team. A dedicated Consultation Lead, Consultation Director and a team of experts were identified to work with British Columbia Métis Federation (BCMF). For all Indigenous groups, this generally included having officials from Trans Mountain Corporation (TMC), the proponent, at the table as part of the consultations, as there are concerns, impacts and accommodations that are best addressed by the company and the easiest way to do so was to have everyone in the same room at the same time.

The new consultations began with Canada examining its records, including the 2016 Crown Consultation and Accommodation Report (CCAR) annex for BCMF, in the spirit of building on the exchanges and knowledge gained from existing information, interactions and processes. Canada provided BCMF with their annex at the beginning of the consultation knowing that an update to each CCAR annex would be required. Canada offered, through the new consultation process and meaningful dialogue to validate

and revise information on issues and concerns, to work with Indigenous groups to reflect these changes as well as remedy any missing information and assessments.

For the British Columbia Métis Federation (BCMF) this also meant the following:

- Involving BCMF in conversations about emergency preparedness and spill response regimes;
- Providing access to funding for BCMF's requested Traditional Land Use (TLU) Study through the Terrestrial Studies accommodation;
- Providing opportunities for BCMF to develop relationships with CCG, Western Canada Marine Response Corporation (WCMRC) and TMC; and,
- Providing funding and experts to participate in BCMF's forum for members to discuss the Project and related economic opportunities for training, employment and contracting.

The Crown recognizes that the timeframe for some of these accommodations goes beyond the Phase III consultation process for the Project and the Crown has indicated there will be opportunities to explore discussions in areas that go beyond the scope of the Project.

2. Background Information

BCMF is a non-profit association founded in 2011 that works with Metis communities across British Columbia. Their mandate is to ensure the well-being of their 7,500 registered members.

Métis have Indigenous rights to hunt, trap and fish where they had settled communities that were established before they came under the effective control of European laws and customs as established by the Supreme Court of Canada in the *Powley* decision of 2003. At present, the Government of British Columbia has not acknowledged any Métis right to harvest within British Columbia and it is of the view that no Métis community is capable of successfully asserting site specific Section 35 rights in British Columbia based on the *Powley* test. From the perspective of BCMF, the Métis are in a unique situation for exercising their S.35 rights as they were typically very mobile, and many travel to exercise their hunting, fishing, and trapping rights.

BCMF has asserted in their communications that their members' S.35 rights are likely to be impacted by the Project. BCMF has stated that they represent the interests of their members and member organizations and partners communities, and that there remain concerns related to safety, benefits and employment.

3. 2016 NEB Review and Crown Consultation Process

BCMF was an intervenor in the 2016 NEB review of the Project. BCMF did not file information requests, oral traditional evidence, written evidence or an oral summary argument. BCMF did not respond to the Major Project Management Office's Issues Tracking Table Information Request.

BCMF has noted that its Consultation Office was not established until November 2015, and it was not supported with the capacity or funding to engage in the regulatory process as it would have wished. BCMF noted that "inequity in the support to participate in regulatory processes" has translated directly

into an absence of capacity to participate in the process and the exclusion of BCMF's voice on behalf of their membership. BCMF signed a contribution agreement with the NEB for \$15,000 plus travel for five to the hearing. The Major Projects Management Office (MPMO) offered BCMF \$1,500 in participant funding for consultations following the close of the 2016 NEB hearing record. MPMO offered BCMF an additional \$6,000 to support their participation in consultations following the release of the 2016 NEB Recommendation Report. BCMF signed contribution agreements with the MPMO in response to both of these offers, for a total of \$7,500 in allocated funding.

The Crown met with the BCMF on February 17, 2016 and August 11, 2016 to discuss the Project. During these meetings, BCMF noted that their relationship with the proponent to date could be improved. At the latter meeting, the Crown consultation team undertook to investigate the issues raised by BCMF, namely relations with the proponent and the provincial government's handling of trap line matters potentially impacted by the Project. On November 13, 2016, the Crown received correspondence from the BCMF indicating that their relationship with the proponent had improved significantly. In that correspondence, BCMF stated that based on their improved relationship and the proponent's renewed commitments to them, BCMF have confidence in their ability to secure procurement and jobs for their members going forward.

The Crown provided a first draft of the 2016 Consultation and Accommodation Report (the 2016 Report) to BCMF for review and comment on August 26, 2016. The Crown received comments from BCMF on the draft 2016 Report BC Métis Federation Annex on September 29, 2016. A second draft of the 2016 Report BC Métis Federation Annex was provided to BCMF for review and comment on November 4, 2016 and BCMF provided comments on November 18, 2016.

BCMF provided a separate Indigenous group submission to the Crown for inclusion in the Separate Submissions from Aboriginal Groups (Appendix J) of the 2016 CCAR.

Following issuance of a Certificate of Public Convenience and Necessity for the Project on December 1, 2016, TMC continued to engaged with BCMF on a number of issues of importance to BCMF. TMC and BCMF had previously entered into a confidential Mutual Benefit Agreement (MBA) as a commitment to continued meaningful engagement with BCMF to address the questions and concerns of its members throughout the life of the Project.

In January of 2017, TMC sought BCMF's feedback on the Preliminary Training and Education Monitoring Plan. TMC also contacted BCMF to advise of its employment and training program as well as a list of 2017 career fairs, and provided a link to TMC's online employment and skills registry.

In August of 2017, TMC contacted BCMF to indicate that Kiewit-Ledcord TMC Partnership (KLTP) would be the general contractor for the Project and offered to coordinate a meeting to introduce to KLTP and discuss opportunities for BCMF. BCMF contacted TMC in August of 2017 and invited TMC to BCMF's Annual General Meeting and on October 1, 2017, TMC attended the BCMF Annual General Meeting and provided information on the Project construction and procurement process. On November 22, 2017, TMC contacted BCMF and indicated that a series of meetings would be held between TMC, general construction contractors and Aboriginal groups. TMC invited BCMF to attend the Round 1 meeting.

Throughout 2018, TMC continued to engage with BCMF regarding employment and training opportunities, including advising BCMF of employment opportunities and providing a list of employment opportunities and contact information for questions or resumes. On July 25, 2018, TMC met with BCMF to further discuss employment and training opportunities. At this meeting, TMC agreed to send all request for proposals to BCMF.

TMC and BCMF's engagement regarding spill response is discussed in section 4 below.

4. 2018/19 NEB Reconsideration Review Process and Crown Consultation Process

2018/19 NEB Reconsideration Review Process

On September 20 2018, the GiC directed the NEB to conduct a reconsideration of its previous recommendations and terms and conditions taking into account the environmental effects of Project-related marine shipping in view of the requirements of the *CEAA 2012*, and the adverse effects of Project-related marine shipping on species at risk in view of any requirements of section 79 of the *Species at Risk Act*.

On September 26, 2018 the NEB sent a letter to potentially impacted Indigenous groups announcing the process and the opportunity to comment; inviting parties to apply to participate; and, outlining the availability of participant funding.

On September 28, 2018 Natural Resources Canada wrote to BCMF to advise them of the referral to the NEB and committed to follow-up in the coming weeks with additional details on the Crown's plans for re-initiating the Phase III consultation process.

BCMF participated in the 2019 NEB Reconsideration Review process as an intervenor, and filed its Application to Participate on October 12, 2018.

BCMF filed a Métis Knowledge Assessment Final Report as its written submission to the NEB Reconsideration review on December 4, 2018. In its submission, BCMF presented Métis Knowledge and recommendations on four Project-related subjects: Crown consultation processes, marine shipping and air quality, air quality and human health, and marine shipping, water quality, and wildlife.

On February 22, 2019, following a comprehensive 22-week reconsideration process, the NEB delivered its Reconsideration Report to the Government of Canada, which included consideration of the effects of project-related marine shipping. Its overall recommendation was that the Project is in the Canadian public interest and should be approved. The report recommended 156 conditions on the proponent and 16 new recommendations to Canada, if the Project is approved by the GiC.

2018/19 Participant Funding

To support the participation and inclusion of BCMF within the NEB 2018-19 Reconsideration Review process, the NEB allocated BCMF \$80,000 in participation funding.

2018/19 Re-Initiated Phase III Crown Consultation Process

On October 3, 2018, the Government announced the appointment of former Supreme Court of Canada Justice, the Honourable Frank Iacobucci as a Federal Representative to oversee the consultation process, to provide advice on designing the process, and to ensure that Indigenous consultations were in compliance with the Federal Court of Appeal judgment.

On October 5, 2018, the Minister of Natural Resources, The Honourable Amarjeet Sohi wrote a letter inviting BCMF to discuss its views and concerns regarding the Project.

On November 2, 2018, the Deputy Minister of Natural Resources Canada, Christyne Tremblay, sent a follow-up letter inviting BCMF officially to participate in the re-initiated Phase III consultation process and to apply for participant funding. Deputy Minister Tremblay's letter also enclosed the BC Métis Federation Annex of the 2016 CCAR, as a starting point for the re-initiated discussions.

On November 20, 2018, BCMF was invited to attend a Roundtable discussion with the Honourable Justice Frank Iacobucci, and funding was made available from Natural Resources Canada to support travel costs for two individuals to attend this discussion.

On November 30, 2018, the Crown wrote to BCMF providing additional information on the availability of funding to facilitate BCMF participation in the re-initiated Phase III consultation process.

The Crown emailed BCMF on December 6, 2018, to inquire about BCMF's preferred approach to consultation and to ask if BCMF intended to attend a roundtable discussion with Justice Frank Iacobucci. Receiving no response, the Crown followed up via email on December 13, 2018 to offer BCMF assistance with its funding request. The Crown and BCMF exchanged several logistical emails regarding participant funding on December 19, 2018, and the Crown confirmed that it had received the BCMF's completed funding application on December 20, 2018 for \$21,600.

On January 8, 2019, the Crown emailed BCMF to propose an initial consultation meeting. The Crown and BCMF exchanged logistical emails over the next several days, and on January 11, 2019 they agreed to meet on January 25, 2019. The Crown and BCMF exchanged several emails between January 18 and January 22, 2019, where the Crown proposed and BCMF accepted an agenda for their meeting.

The Crown, including TMC, and BCMF, and met on January 25, 2019 for an introductory meeting to discuss the Project. BCMF expressed support for the Project, with procurement and employment opportunities as their key objective. BCMF noted that slow Project progress and burdensome funding processes could affect their ability to engage members and consult meaningfully. The Crown committed to follow up on these concerns, and BCMF invited the Crown to speak at its next Board meeting on February 9, 2019, with a subsequent consultation meeting on February 25, 2019.

BCMF followed up with the via email on January 27, 2019, noting the "constructive tone" of their meeting, and confirming plans for the Crown to attend BCMF's upcoming Board meeting and to meet later in February. BCMF also requested clarification on how to claim participant funding. The Crown replied on January 28, 2019, accepting BCMF's invitations and committing to send information about participant funding. This information was sent via emails on January 29 and 30, 2019.

The Crown and BCMF exchanged several emails on February 7 and 8, 2019, to provide information about the Project in preparation for the Crown's attendance at BCMF's Board meeting.

The Crown attended BCMF's Board meeting to discuss the Project on February 9, 2019. The Board identified its primary concerns as clear communication with its membership regarding the Project, inclusion in engagement plans on spill response and monitoring, an industry liaison, and limits to tanker speed, and also expressed an interest in economic participation in the Project. BCMF suggested a community forum to engage its membership about the Project, which could require additional funding, and requested information about the health effects of the Project, roles and responsibilities with respect to marine monitoring and shipping, and other potential funding opportunities. The Crown provided BCMF with a meeting summary and follow-up information in a February 22, 2019, email, and invited BCMF to review and comment.

On February 13, 2018, BCMF confirmed with the Crown via email that it would distribute the Crown's information to its members.

The Crown and BCMF exchanged a number of collaborative emails between February 13 and February 22, 2019, to schedule and set an agenda for a meeting on February 25, 2019.

On February 19, 2019 the Deputy Minister of Natural Resources Canada wrote to BCMF to share the Crown's updated approach to the re-initiated Phase III consultations, which was the result of work undertaken by Justice Iacobucci, based on input received at the roundtables and in early correspondence and meetings with the Crown.

On February 25, 2019, the Crown, including TMC, and BCMF met to discuss the Project, with the Western Canada Marine Response Corporation (WCMRC) also in attendance. Key topics discussed included emergency marine spill response, BCMF's interest in education, training, and employment opportunities for its members, and BCMF's proposal for a member forum to discuss the Project and related economic opportunities. At this meeting, TMC gave a presentation and provided information about Enhanced Emergency Management. TMC also shared further job opportunities with BCMF. The Crown and TMC committed to follow up on funding opportunities for BCMF's proposed forum, and to work with BCMF, CCG, and WCMRC to coordinate a meeting to discuss marine spill response.

The next day, February 26, 2019, the Crown provided BCMF with a written summary of the meeting's action items, and included a presentation from the WCMRC that the BCMF had requested. BCMF requested additional information about Crown and industry roles and responsibilities, and the Crown provided details of the Coast Guard's involvement in spill response on February 28, 2019.

The Crown emailed BCMF on March 4, 2019, to begin scheduling their next meeting and to provide information about Coast Guard career opportunities that might be of interest to Indigenous and Coastal Community members. BCMF and Crown exchanged several additional planning emails that day to set the agenda for a meeting on March 13, 2019, and to discuss the Coast Guard opportunities. The Crown and BCMF worked over email to refine the meeting agenda, logistics, and materials between March 4 and March 13, 2019.

On March 6, 2019, the Crown emailed BCMF to inform them of a public Voyage of the Vessel event as BCMF had expressed an interest in seeing the presentation. No BCMF board members were able to attend on short notice.

The Crown, including TMC, and the BCMF met as scheduled on March 13, 2019, to discuss BCMF's proposed forum, BCMF's expectations regarding marine spill response, and Project-related contracting and procurement opportunities for Métis businesses. The Crown committed to work quickly to explore funding opportunities for BCMF's proposed forum. BCMF noted it was pleased with consultations thus far, and a final consultation meeting was scheduled for April 4, 2019. The Crown provided BCMF with a list of action items from the meeting via email later that evening, which BCMF acknowledged in a series of emails on March 13 and 14, 2019.

On March 14, 2019, TMC provided BCMF with information it had earlier requested about worker health and wellness in camps.

On March 14, 2019, BCMF sent a letter to the Minister and Deputy Minister of Natural Resources "to express sincere appreciation" for the Crown consultation team's work.

On March 15, 2019, the Crown provided BCMF with a formal letter from the Minister of Finance, the Honourable Bill Morneau, committing to explore the economic participation in the Project, of impacted Indigenous groups should the Project ultimately be approved by the GiC. The Minister's letter reflected that this commitment was intended to respond to the expressed desire of many Indigenous groups to share in the economic benefits of the Project, should it be built.

The Crown and BCMF were in frequent contact via email between March 14 and March 21, 2019, to discuss logistical matters related to funding and planning for the upcoming forum.

On April 1, 2019, the Crown sent a letter to BCMF informing them of the suite of enhanced accommodation measures being offered by the Government for the re-initiated Phase III consultation process. The potential accommodations are intended to respond to the concerns about the impacts that the Project could have on Indigenous Interests.

These measures include:

1. Salish Sea Initiative (SSI), a joint Indigenous-government governance structure, to be co-developed, with funding to support Indigenous capacity to better understand and put in place mechanisms to monitor and address cumulative effects in the Salish Sea.
2. Co-Developing Community Response, a measure that could deliver training and equipment and bring Indigenous groups to the table for the planning of emergency response in the marine environment.
3. Enhanced Maritime Situational Awareness (EMSA) to develop partnerships with Indigenous groups to pilot the new system and tailor it to user needs to increase domain awareness system in the project area.
4. Marine Safety Equipment and Training to provide funding for safety equipment such as Automatic Identification Systems, marine radios, and emergency position-indicating radio beacon and funding for training to improve marine safety on the water.

5. Quiet Vessel Initiative to test safe and effective quiet vessel technologies and operational practices that reduce underwater noise at its source as a complement to various other measures currently underway to support the recovery of the Southern Resident Killer Whale (e.g. slowdowns, reductions of containments and increased prey availability, etc.).
6. Fish Habitat Restoration Fund that would support collaboration with Indigenous groups to protect and restore aquatic habitats that would be impacted by the project.
7. Terrestrial Cumulative Effects Initiative to enable co-development of a cumulative effects framework with a focus on understanding the current state of the environment and monitoring changes in response to development and natural processes, for example to inform and complement projects to restore fish habitat or to conduct watershed analysis.
8. Terrestrial Studies program to support improved understanding of Project-related terrestrial impacts, for example on traditional land use, and informing the construction, operations and maintenance phases of the Project.

The Crown, including TMC, and BCMF had a meeting on April 4, 2019. BCMF expressed their overall positive experience through the re-initiated Phase III consultations. BCMF and Natural Resources Canada reviewed a summary table of the BCMF's issues and Crown responses, and BCMF indicated that they planned to share the summary table with their community members once finalized. The Crown sent the finalized table to BCMF on April 23, 2019 and BCMF confirmed that they would distribute it to their membership before the upcoming BCMF Community Forum.

A BCMF Community Forum for the Project is scheduled to take place on May 5 and 6, 2019, to which TMC will attend and also contributed \$25,000 in funding. This forum is an opportunity for TMC to further engage with BCMF regarding contract and procurement opportunities as well as training.

BCMF attended the April 12, 2019 information session Canada hosted for Indigenous groups in Sidney, B.C., at the Institute of Ocean Sciences on the marine response and safety regime and proposed measures to co-develop community safety and response capacity. The intent of the session was to complement ongoing consultations on the Project. Technical experts and officials from the Canadian Coast Guard, Transport Canada and Natural Resources Canada (the departments responsible for working with Indigenous communities and other partners to improve marine safety and response), participated in an open dialogue, shared information, received feedback and responded to questions from Indigenous groups, including BCMF. Many participants recognized that the information session was a positive continuation of the dialogue, and welcomed the absence of any requirement that they endorse the Project as a condition of having the dialogue.

Since the Government re-initiated Phase III consultations with Indigenous groups it has maintained that the Governor in Council would only make a decision on the Project once it is satisfied that it has met its duty to consult. With advice from Federal Representative Justice Iacobucci, the Governor in Council (GiC) has extended the timeline, so that a decision on the Project can be made by June 18, 2019. This extension will allow for further engagement between the Crown consultation teams and Indigenous groups to find solutions to concerns raised and ensure meaningful, two-way dialogue. On April 17, 2019, the Minister of Natural Resources wrote to all potentially impacted Indigenous groups, including BCMF to inform them of this important development.

The Crown presents this initial description of dialogue and consultation with BCMF with the understanding that consultation is still in progress and that this section will evolve as additional consultation meetings and discussions take place, and as BCMF reviews and may provide comment to this annex.

2018/19 Participant Funding

BCMF was offered \$21,600 in participant funding for the re-initiated Phase III consultations. BCMF applied for and was allocated funding. Approved funding can be utilized retroactively to November 2, 2018. BCMF also requested additional funding from the Crown to help fund a community meeting. The Crown supported this request and provided an additional \$50,000 in participant funding for this meeting.

Proponent Engagement, Responses and Funding

Following issuance of a Certificate of Public Convenience and Necessity for the Project on December 1, 2016, TMC continued to engaged with BCMF on a number of issues of importance to BCMF. TMC and BCMF had previously entered into a confidential Mutual Benefit Agreement (MBA) as a commitment to continued meaningful engagement with BCMF to address the questions and concerns of its members throughout the life of the Project.

In January of 2017, TMC sought BCMF's feedback on the Preliminary Training and Education Monitoring Plan. TMC also contacted BCMF to advise of its employment and training program as well as a list of 2017 career fairs, and provided a link to TMC's online employment and skills registry.

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A BCMF Community Forum for the Project is scheduled to take place on May 5 and 6, 2019, to which TMC will attend and also contributed \$25,000 in funding. This forum is an opportunity for TMC to further engage with BCMF regarding contract and procurement opportunities as well as training.

5. Preliminary Strength of Claim and Depth of Consultation Assessment

The primary concern for BCMF, in its 2016 filings, was regarding potential impacts on its members' Aboriginal rights in the Merritt and Metro Vancouver areas. Though BCMF still has concerns about capacity and funding restraints which have inhibited BCMF's ability to collect data from its membership, they have produced two reports with federal funding through the NEB and IAMC detailing members' outstanding concerns with the Project since 2016. BCMF has informed the Crown that, due to the unique perspective of Métis people, they believe that regulatory decisions made without the input of their members would be based on incomplete information.

It is not clear whether BCMF members have any specific claims to Aboriginal rights that would not otherwise be represented by the Métis Nation of British Columbia.

Given the nature and location of the Project, and the potential impacts of the Project on BCMF's Indigenous Interests, in the 2016 process the Crown was of the view that the legal duty to consult BCMF lay at the lower end of the *Haida* consultation spectrum. Given the nature and location of the Project, and the potential impacts of the Project on BCMF's Indigenous Interests, the Crown has reaffirmed its initial assessment that the legal duty to consult BCMF lies at the lower end of the *Haida* consultation spectrum.

2016 Potential Impacts on Indigenous Interests, Accommodation Measures and Crown Analysis

The 2016 Annex for BC Métis Federation was sent to BCMF in a letter dated November 2, 2018 from the Deputy Minister of Natural Resources Canada. The 2016 Annex captured the Crown's understanding of BCMF's concerns on the Project's impacts from the previous consultation process.

The Crown acknowledges that BCMF had considerable outstanding concerns in 2016. These concerns were conveyed to the Crown by email dated November 18, 2016. Concerns expressed were with the regulatory process, meaningfulness of consultations, and overall BCMF involvement in the review processes for development decisions. The Crown has addressed these concerns as described in section 7 below.

6. 2018/19 Potential Impacts on Indigenous Interests and Accommodation Measures, and Crown Analysis

The Crown recognizes that areas within the asserted or established traditional territory of each Indigenous group may be particularly important and valuable for specific qualities associated with traditional cultural or spiritual practices. These areas may also be used for traditional harvesting activities (e.g., hunting, trapping, fishing and gathering), by individual members or families.

A discussion of the Crown's approach to assessing Project impacts on Indigenous Interests is provided in Chapter 4 of the CCAR.

The discussion in this section focuses on potential impacts of the Project on BCMF Indigenous Interests. These potential impacts are characterized by considering how the Project could affect several factors important to BCMF Indigenous Interests. Where information was available, the Crown considered the following:

- Biophysical effects to values linked to Aboriginal rights (e.g., fish) that were assessed by the NEB;
- Impacts on specific sites or areas identified as important to traditional use; and
- Impacts on social, cultural, spiritual, and experiential aspects of exercising Indigenous Interests.

The general direct and indirect effects of the Projects on Aboriginal rights, along with key mitigation measures, are described in Chapter 4. The Crown's conclusion on the seriousness of Project impacts on BCMF's Indigenous Interests considers information available to the Crown from the two NEB processes, consultation with BCMF, BCMF's engagement with the proponent, proponent commitments, NEB conditions and recommendations, the additional Crown Accommodation measures which are contemplated as part of the re-initiated Phase III consultation, as well as relevant proposed conditions of any EAC issued by the Province.

No BCMF traditional use information has been made available to the Crown to inform the Crown regarding potential for impacts on the BCMF's Indigenous Interests. The Crown's current understanding regarding potential impacts on the Indigenous Interests of BCMF is as follows:

I. Potential Impacts on Hunting, Trapping and Gathering Rights

Description

The BCMF has broadly characterized its concerns respecting potential impacts of the Project on the BCMF's Indigenous Interests. No detailed traditional use information has been made available to inform the Crown regarding potential for impacts on the BCMF's Indigenous Interests.

Issue

BCMF has informed the Crown that much information about potential impacts to its membership has yet to be collected due to capacity and funding restraints that inhibit BCMF's ability to collect data from its membership. BCMF would like to complete a Traditional Land Use Study to help revitalize cultural knowledge and ensure community knowledge can be taken into consideration in an ongoing way.

Through the re-initiated Phase III consultation process, the Crown heard from many Indigenous groups about concern regarding the cumulative effects of development, and the impact that is having on the exercise of s. 35 rights – including hunting, trapping, and plant gathering. Project-related impacts on access to or use of culturally sensitive sites and practices are viewed as additive to the current baseline which reflects cumulative effects of past development activities.

Response

Through the Terrestrial Studies potential accommodation, the Government of Canada will support Indigenous-led studies to better understand the potential land use and cumulative impacts, which would potentially inform cumulative effects monitoring and/or construction, operations and maintenance phases of the Project, if approved. The Terrestrial Studies may contribute to the completion of a land use study for BCMF and the Crown encouraged BCMF to apply for funding for Terrestrial and Traditional Land Use Studies through the Terrestrial Studies proposed accommodation.

When discussing the proposed accommodation, BCMF was of the view that the accommodation was responsive to BCMF objectives.

Canada has also proposed that a terrestrial Cumulative Effects Initiative (CEI) be co-developed by potentially impacted Indigenous groups and the Government of Canada (see Chapter 4). Through these initiatives, the Crown is taking additional steps to address broader concerns regarding the cumulative effects of development on the exercise of BCMF's asserted s. 35 rights to hunt, trap, and plant gather.

As described in the 2016 *NEB Recommendation Report* and the 2019 *NEB Reconsideration Report*, Project-related activities are likely to result in low to moderate magnitude effects on soil and soil productivity, rare plants and lichens and vegetation communities of concern, wetlands, and wildlife and wildlife habitat (including species listed under the *Species at Risk Act*).

NEB conditions, if the Project is approved, would either directly or indirectly avoid or reduce potential impacts on specific locations and access to hunting, trapping, and gathering sites (see Chapter 4). The Access Management Plan (Condition 47) is intended to reduce disturbances caused by access, construction equipment and vehicle traffic, during and following construction in order to minimize impediments to access of lands used by BCMF members for traditional activities

The proponent would implement several mitigation measures to reduce potential effects to species important for the BCMF's hunting, trapping, and plant gathering activities. The proponent is committed to minimizing the Project footprint to the maximum extent feasible, and all sensitive resources identified on the Environmental Alignments Sheets and environmental tables within the immediate vicinity of the Project right of way (RoW) will be clearly marked before the start of clearing. Mitigation measures to reduce effects on habitat, limit barriers to movement, avoid attraction to wildlife to the work site, minimize sensory disturbance and protect site specific habitat features are outlined in the Project Environmental Protection Plan (EPP), and vegetation and wildlife management plans.

Project-related construction and routine maintenance are expected to cause short-term, temporary disruptions to BCMF's access to hunting, trapping and plant gathering activities, largely confined to the Project footprint for the pipeline and associated facilities. Construction and reclamation activities may result in disruptions to access and a loss of harvesting opportunities for the BCMF. The Crown understands that these short-term disruptions could temporarily alter the behaviour of BCMF community members' hunting, trapping or plant gathering activities during construction, and that reduced participation in traditional activities, while not expected to occur from temporary access disruptions within the footprint of the Project, could have spiritual and cultural impacts on community members.

The proponent is committed to implementing weed management (as outlined in the Weed and Vegetation Management Plan) to reduce the potential for weed infestation following construction, and utilizing an Integrated Vegetation Management approach intended to reduce the use of herbicides and promote healthy ecosystems. The proponent will consult with Indigenous groups, including BCMF, regarding problem vegetation management and methods of treatment. If the Project is approved, the proponent will formally notify all directly affected tenure and disposition holders, including registered trap line tenure holders, in advance of construction activity.

Measures outlined in the proponent's Reclamation Management Plan are intended to stabilize and revegetate affected lands to achieve land productivity along the construction RoW and footprint, equivalent to the adjacent land use. The proponent is committed to minimizing the development of new access routes, controlling public access along the construction right-of-way, selecting appropriate access routes that cause the least disturbance to high quality, sensitive wildlife habitat, managing traffic on these routes and determining appropriate construction reclamation. The proponent has also committed to ongoing engagement with Indigenous groups regarding the integration of *Indigenous* knowledge related to the location and construction of the Project, in which BCMF has expressed interest multiple times throughout the re-initiated Phase III consultation process.

Crown Analysis of Impacts on Hunting, Trapping and Gathering Rights

In consideration of the information available to the Crown from consultation with the BCMF the NEB process, the BCMF's engagement with the proponent, the proponent's proposed mitigation measures and the recommended NEB conditions, Project construction and routine maintenance during operation are expected to result in a negligible-to-minor impact on the traditional activities carried out by BCMF's members, including hunting, trapping, and plant gathering activities.

During the re-initiated Phase III consultations, the Crown has identified mitigation and, where appropriate, proposed accommodation measures to lessen the impacts of the Project on the rights of BCMF.

II. Potential Impacts on Freshwater Fishing

Description

The BCMF has stated its concerns about Métis Section 35 rights being respected by the proponent and the Crown. The BCMF has also expressed concerns with TMC's use of fish spawning mats.

Issue

The Crown understands that if construction and reclamation occur during the fishing season, there could be a potential reduction in access to waterways, staging areas, and fishing sites for BCMF members.

Response

As described in the 2016 *NEB Recommendation Report* and the 2019 *NEB Reconsideration Report*, Project-related construction and routine maintenance activities are expected to cause short-term, temporary disruptions to the BCMF's access to freshwater fishing activities. As described in the *NEB Reconsideration Report*, Project-related construction and operation could result in low to moderate magnitude effects on fish and fish habitat and surface water.

Moderate effects to fish and fish habitat would be localized to individual watercourse crossings, and effects to marine fish and fish habitat would be limited to a few or many individuals, where any potential serious harm would be compensated by offset measures. NEB conditions would either directly or indirectly avoid or reduce potential environmental effects on fishing activities (Chapter 4 of this

Report). A number of recommended NEB conditions require the proponent to file reports that will monitor Project-related impacts to freshwater fish and fish habitat and riparian habitats (NEB Conditions 43, 47, 71, 75, 92, 108, 151, and 154). However, disruptions to access would largely be confined to the Project footprint for the pipeline and associated facilities during construction and reclamation. NEB conditions, if the Project is approved, would either directly or indirectly avoid or reduce potential impacts on specific locations and access to fishing sites (see Chapter 4).

The proponent has committed to time watercourse crossing construction activities to occur within the least risk biological windows in an attempt to avoid causing serious harm to fish, has committed to working with Indigenous groups to identify the most appropriate means of offsetting serious harm to fish and fish habitat, and has proposed the implementation of channel and bank reclamation measures at each watercourse crossing to help maintain the productive capacity of water bodies that provide fish habitat. As previously discussed, the proponent is committed to minimize disturbance to access to the lands used for traditional purposes by BCMF members, as described in the Access Management Plan. The proponent is committed to working with Indigenous groups to develop strategies to most effectively communicate the construction schedule and work areas to community members.

Although BCMF has not directly expressed an interest in the Crown's proposed Aquatic Habitat Restoration Fund accommodation measure, their members' fishing activities could benefit from its implementation and there would be future opportunities for BCMF's direct involvement. Through this initiative, the Crown is taking additional steps to address broader concerns regarding fish and fish habitat on the exercise of BCMF's asserted s. 35 rights to fish. The Crown acknowledges that, if approved, this work would continue past the re-initiated Phase III consultations.

With regard to the use of fish spawning mats, TMC engaged with BCMF on several occasions to provide information on the purpose of fish spawning mats and indicated the mats were designed to protect fish and fish habitats. In November of 2017, TMC advised BCMF that the NEB had determined the installation of fish spawning mats was within the definition of construction and noted the spawning mats had been removed under the NEB's direction.

Crown Analysis of Impacts on Freshwater Fishing Rights

In consideration of the information available to the Crown from consultation with the BCMF, the NEB process, the BCMF's engagement with the proponent, the proponent's proposed mitigation measures and the recommended NEB conditions, Project construction and routine maintenance during operation are expected to result in a negligible-to-minor impact on the BCMF's freshwater fishing activities.

During the re-initiated Phase III consultations, the Crown has identified mitigation and, where appropriate, proposed accommodation measures to lessen the impacts of the Project on the rights of BCMF.

III. Potential Impacts on Marine Fishing and Harvesting Rights

Description

The BCMF has stated its concerns about Métis Section 35 rights being respected by the proponent and the Crown.

Issue

The Crown acknowledges that the Project has the potential to impact BCMF's Aboriginal rights to fish. The Crown was informed through the re-initiated Phase III consultation process that BCMF members live in coastal communities, fish and harvest marine resources and regularly.

Response

As described in the *NEB Reconsideration Report*, Project-related activities could result in low to moderate magnitude effects on marine fish and fish habitat, surface water and marine water quality.

NEB conditions and recommendations, if the Project is approved, would either directly or indirectly avoid or reduce potential access-related impacts associated with marine fishing and harvesting sites important for BCMF (see Chapter 4) and the proponent would implement several mitigation measures to reduce potential effects on marine fishing and harvesting activities. These mitigations include access management plans, scheduling and notification of Project activities including Project-related marine vessel traffic, and environmental monitoring programs.

The proponent has completed a preliminary offsetting plan for impacts on fish and fish habitat associated with construction and operation of the WMT. For Project-related marine shipping activities, the proponent will require all tankers to process and empty their bilges prior to arrival and lock the discharge valve of the bilge water while in Canadian waters.

The Crown understands that marine fishing and harvesting activities directly affected by the construction and operation of the WMT are not likely to occur within the expanded water lease boundaries during the operational life of the Project. Impacts on navigation, specifically in eastern Burrard Inlet, would exist for the lifetime of the Project, and would occur daily. Project-related marine vessels are expected to cause temporary disruptions to BCMF members' marine fishing and harvesting activities. BCMF members could be discouraged from travelling to marine fishing and harvesting sites that require these members to cross shipping lanes. Disruptions to BCMF's marine fishing and harvesting activities are likely to be temporary when accessing fishing sites in the Burrard Inlet that require crossing shipping lanes, as community members would be able to continue their movements shortly after the tanker passes.

Crown Analysis of Impacts on Marine Fishing and Harvesting Rights

The Crown has considered available information from consultation with BCMF, the NEB process, BCMF engagement with the proponent, the proponent's proposed mitigation measures and the recommended NEB conditions, as well as relevant Provincial proposed conditions of any Environmental Assessment Certificate issued by the Province. In consideration of this information, the Crown expects impacts of Project construction and operation, and Project-related marine shipping activities on BCMF members' and marine fishing and harvesting activities would be up to minor.

During the re-initiated Phase III consultations, the Crown has identified mitigation and, where appropriate, proposed accommodation measures to lessen the impacts of the Project on the rights of BCMF.

IV. Potential Impacts on the Exercise on Other Traditional and Cultural Uses

Description

The BCMF has noted its “deep concerns about potential impacts to Métis cultural lifestyles and practices, including a number of historic areas of B.C. for the Métis”.¹ The BCMF has commented that the additional community-driven research and discussion that would provide formal exploration of these impacts has not been supported despite repeated requests.

Issue

BCMF noted that a priority of utmost importance is the maintenance of Metis culture and cultural knowledge. BCMF would like to complete a TLU Study to help revitalize cultural knowledge and ensure community knowledge can be taken into consideration in an ongoing way.

Response

As described in Chapter 4 of the Report, Project-related activities are not likely to result in significant adverse effects on the ability of Indigenous groups to use land, waters or resources for traditional purposes, and Project-related activities are expected to cause short-term disruptions that temporarily affect the ability of Aboriginal groups to access land, waters or resources for traditional purposes.

The Crown understands that BCMF members’ opportunities for certain traditional and cultural activities will be temporarily interrupted during construction and routine operation, and there could be reduced access to travel ways, habitation sites, gathering sites, and sacred areas. However, temporary disruptions to BCMF’s traditional and cultural practices would be largely confined to sites within the Project footprint for the pipeline and associated facilities. NEB conditions, if the Project is approved, would either directly or indirectly avoid or reduce potential impacts on specific sites and access to physical and cultural heritage resources (see Chapter 4).

BCMF has expressed an interest in working with the proponent and the Crown to incorporate community knowledge and considerations in an ongoing way. The proponent has committed to ongoing engagement with Indigenous groups, including BCMF, that are interested in providing traditional knowledge related to the location and construction of the Project. The Crown has also encouraged BCMF to engage further directly with the Indigenous Advisory and Monitoring Committee. The Crown acknowledges that, if approved, this work will continue after the conclusion of the re-initiated Phase III consultations.

¹ Canada. NEB. (2014). TMEP Regulatory Documents: C39-0 – *British Columbia Métis Federation Society – Application to Participate (A58267)*.

Additionally, through the Terrestrial Studies potential accommodation the Government of Canada will support Indigenous-led studies to better understand the potential land use and cumulative impacts, which would potentially inform cumulative effects monitoring and/or construction, operations and maintenance phases of the Project, if approved. BCMF has expressed their interest in pursuing this accommodation to fund a traditional land use study to fill in knowledge gaps related to the practice of their members' rights and help incorporate Métis knowledge in an ongoing way.

Crown Analysis of Impacts on the Exercise on Other Traditional and Cultural Uses

In consideration of the information available to the Crown from consultation with the BCMF, the NEB process, the BCMF's engagement with the proponent, the proponent's proposed mitigation measures and the recommended NEB conditions and recommendations, Project construction and routine maintenance during operation are expected to result in a negligible-to-minor impact on the BCMF's other traditional and cultural practices.

During the re-initiated Phase III consultations, the Crown has identified mitigation and, where appropriate, proposed accommodation measures to lessen the impacts of the Project on the rights of BCMF.

V. Potential Impacts Associated with Accidental Pipeline Spill

Description

The BCMF has stated its concerns about Métis Section 35 rights being respected by the proponent and the Crown.

Issue

BCMF expressed several concerns with direct and indirect effects of Project-related pipeline spills on their Indigenous Interests, particularly about contamination of the Salish Sea (and beyond) in the event of a spill, and if a spill were to occur in the terrestrial environment. The Crown also understands BCMF's concerns regarding spills, and the potential for a spill to impact BCMF's use and occupation of traditional land use areas and to adversely impact marine habitat, wildlife, and people who fish.

Response

A discussion of the potential impacts of a pipeline spill on Indigenous Interests is provided in Chapter 4 of the CCAR.

NEB Conditions 1, 2, 17, 18, 21, 22, 24, 81, 84, 89, 90, 91, 113, 117, 118, 119, 120, 124, 125, 126, 127, 129, 133, 134, 136, 138, 144 and 153, and Recommendations 7, 8, and 12 address concerns in relation to spill response and accidents and malfunctions.

The proponent met with BCMF to explain the pipeline emergency response system, informed by a presentation titled "Pipeline Emergency Response Guidelines for Indigenous Communities" that was shared with BCMF. BCMF and TMC discussed improved communication, and confirmed that a BCMF board member was on TMC's incident notification list. BCMF also met with the CCG and WCMRC as part

of the Phase III consultations to learn about marine environmental response. The proponent and WCMRC have committed to explore areas of importance to BCMF with regards to geographic spill response plans and BCMF members' potential involvement in environmental response.

Additionally, through the Co-Developing Community Response potential accommodation the Government of Canada is open to co-developing a role for Indigenous groups in the Project Area in preparedness and response to marine incidents. If the Project is approved, this could include: knowledge sharing; training and exercises; response planning; personnel; equipment; and, communications technologies and tools. BCMF has expressed their interest in pursuing this accommodation to increase their knowledge and potential involvement in spill response.

Crown Analysis of Impacts Associated with Accidental Pipeline Spill

In consideration of this information and analysis, as well as information available to the Crown on the BCMF's Aboriginal Interests and concerns raised by the BCMF during the NEB processes and Crown consultation processes, a pipeline spill associated with the Project could result in minor to serious impacts on BCMF's Aboriginal Interests. The Crown acknowledges the numerous factors that would influence the severity and types of effects associated with a spill, and that an impacts determination that relates the consequences of a spill to specific impacts on Aboriginal Interests has a high degree of uncertainty. In making this general conclusion, the Crown acknowledges that Indigenous peoples who live nearby and rely on subsistence foods and natural resources are at greatest risk for adverse effects from an oil spill.²

During the re-initiated Phase III consultations, the Crown has identified mitigation and, where appropriate, proposed accommodation measures to lessen the impacts of the Project on the rights of BCMF.

VI. Other Common Concerns

Southern Resident Killer Whale

BCMF is concerned about the potential impacts of the Project on the Southern Resident Killer Whale (SRKW) due to increased marine shipping. It is also concerned that tanker emissions will directly affect air quality, and the potential impacts of the project on water quality, outside of the potential for accidental spills. On the latter concern, bilge water is viewed by BCMF as a potential source of serious contamination (e.g., by sewage, viruses, bacteria, mussels and other crustaceans).

Response

With respect to concerns respecting the Southern Resident Killer Whale, TMC has proposed instituting its Marine Mammal Protection Program, which includes a variety of specific measures that will contribute to the recovery of Southern Resident Killer Whales. Examples of the measures the program would institute include collaborating with local stakeholders, including Aboriginal communities, to protect critical Fraser River salmon habitat, working with marine shipping partners to improve regional navigation practices, and working with industry groups to reduce the potential for an accidental

² TMC Final Argument, p. 85 and 207

hydrocarbon spills. TMC plans on reducing tanker traffic noise by participating in the Port of Metro Vancouver's ECHO program and international efforts to develop ship noise reduction guidelines, such as the Quiet Oceans Experiment.

NEB Conditions 1, 2, 3, 4, 43, 44, 47, 65, 72, 81, 83, 91, 92, 108, 109, 132, 133, 134, 151, and Recommendations 1, 2, 5, 6 and 10 address concerns related to impacts on marine mammals, including the Southern Resident Killer Whales.

There are a variety of government initiatives and programs underway (e.g., ECHO, Green Marine, and DFO-led initiatives under the Oceans Protection Plan, and the Whales Initiative) aimed at developing mitigation measures to reduce effects of underwater noise and ship strikes on marine mammals. For example, vessel slowdown trials in recent years in vicinity of the shipping lanes (e.g., Haro Strait) although aimed at reducing underwater noise, resulted in reduced vessels speeds, which in turn likely reduced the potential of lethal ship strikes of large whales. Use of onboard marine mammal observers on vessels in coordination with whale sighting networks may also provide benefits in terms of reducing strike risk to large whales.

With respect to concerns surrounding air quality, TMC has committed to various procedures for the protection of the environment (See Commitments: 36, 683, 2310). NEB Conditions 1, 2, 3, 35, 52, 81, 84, 90, 91, 113, 117, 119, 123, 124, 126, 129, 133, 134, 136, 144, 153, and Recommendations 7, 8 and 12 address concerns in relation to air quality.

Concerns related to operational ship source pollution are addressed through Canada's existing Marine Safety and Security System, OPP, or proposed accommodations. Based on consideration of EA material, ECCC determined that emissions are not expected to lead to notable air quality impacts at the Edmonton Terminal, the pumping stations, or along the pipeline route, while emissions from the Burnaby Mountain Terminal area expected to be minor.

With respect to concerns surrounding water quality, TMC has committed to preventing ship source pollution by screening tankers prior to their arrival at the Westridge Marine Terminal to ensure that they do not have a history of non-adherence to the *Canada Shipping Act, 2001* or malfunctions to their pollution prevention equipment.

Vancouver Fraser Port Authority does not allow ballast exchange or black water discharge within its jurisdiction. Grey water can only be discharged within VFPA jurisdiction if authorized to do so. Hull cleaning within VFPA jurisdiction is not permitted unless authorized. Section 8 of Canada's Marine Safety and Security System document ([A95292-23](#)) includes a description of the current domestic regulations and international conventions implemented in Canada's legislative framework governing ballast water management, biofouling of ships hulls, air emissions from ship engines and other discharges including garbage, sewage, and bilge water.

Health and Human Safety

BCMF is concerned about the direct effects of tanker emissions on air quality and human health. BCMF believes that dirtier air will lead to a dirtier environment for humans, more pollution, and more deaths. In particular, BCMF believes that a marginal increase in the incidence of pulmonary disease could be reasonably anticipated. BCMF believes that a potential spill will have devastating effects on marine habitat, wildlife, and people who fish.

Response

TMC representatives met with the BCMF to explain the pipeline emergency response system, informed by a presentation titled “Pipeline Emergency Response Guidelines for Indigenous Communities” that was shared with BCMF. BCMF and TMC discussed improved communication, and confirmed that a BCMF was on TMC’s incident notification list.

NEB Conditions 79, 81, 85, 97, 125, 129, 142, and 151, address concerns in relation to health and human safety.

Guidance for the Environmental Public Health Management of Crude Oil Incidents (Guidance) that Health Canada published in 2018 provides a general overview of the principal toxic constituents of crude oil, human exposure routes, the potential for acute or chronic health effects due to spill exposure, and health-protection standards and guidelines, and shared the link to Health Canada’s Guidance, at: <https://www.canada.ca/en/health-canada/services/environmental-workplace-health/contaminated-sites/guidance-documents/guidance-environmental-public-health-management-crude-oil-incidents.html>. Health Canada stated that Sections 2 (Exposure and health effects considerations) and 3 (Public health risk management) (pages 18 to 44) of [the report](#) related specifically to the questions asked by BCMF.

Finally, Health Canada shared information on another useful reference through the US Agency for Toxic Substances and Disease Registry (ATSDR), which produced a Public Health Statement for Total Petroleum Hydrocarbons (TPH), a term used to describe a broad family of several hundred chemical compounds that originally come from crude oil. It includes a section on “How can TPH affect my health?” and is available online at: <https://www.atsdr.cdc.gov/phs/phs.asp?id=422&tid=75>

First Nations Health Authority (FNHA) provides environmental public health services to BC First Nations communities, including services aimed to assess impacts to human health from food, water, air and sanitation. As part of its services to BC First Nations communities, the FNHA may be able to review any Provincial consumption advice as it pertains to community specific factors and work with health authorities to ensure relevant and community-specific advice.

Representatives from the CCG attended several meetings with BCMF, answered questions, and provided a deck presentation titled “Canadian Coast Guard Environmental Response”.

WCMRC participated in one meeting, answered questions, shared information on job opportunities, and provided a deck presentation titled “Marine Spill Response on the West Coast”.

A “Compensation Fact Sheet for Communities” was shared, which describes the federal liability and compensation from Ship-Source Oil Spills regime.

Community impacts of work camps

BCMF had questions about the impacts of work camps on communities, including with respect to transient populations, or healthcare pressures on small communities.

Response

TMC provided BCMF information on the supports available to camp workers to promote health and wellness. TMC also shared information about work camp requirements, including that they be fully self-

sufficient, including with respect to on-site health care professionals so as not to burden community health services.

The Consultation Team directed the BCMF to the IAMC's Socio-Economic sub-committee, which the consultation team understood was considering the question of work camps. Natural Resources Canada shared with the IAMC Secretariat the contact information for BCMF's representative.

The Socio-economic Impacts Subcommittee was established by the Indigenous Advisory and Monitoring Committee for the Project to focus on priorities, including related to construction work camps.

If the Project is approved, it is anticipated that five work camps will be established in BC (one in Lower Nicola, three in Simpcw, and one in the Fraser Valley). Work camps can contribute economically to Indigenous communities through joint ventures, sub-contracts, and employment opportunities; however, there are also potentially negative effects. The Committee has identified the need to examine impacts of work camps on Indigenous communities, particularly on Indigenous women and girls, and develop strategies aimed at reducing negative impacts.

As a first step, the Socio-economic Subcommittee is engaging with community and other partners and will produce a study that will review camp and community documentation; regulatory practices from other jurisdictions; and an analysis of the issues raised by communities that may not be addressed in the proponent's policies or plans. The study will assemble resources, tools, questions and wise practices materials for communities to help them prepare for camps, and to identify areas for potential collaboration or additional work. The study will also review potential indicators for monitoring the impacts of work camps.

7. Conclusion

In 2016, the Crown stated that the Project could adversely impact the ability of Indigenous groups to use lands, waters and resources for traditional purposes. The Crown acknowledged that proponent commitments, recommended NEB conditions and the existing pipeline safety regime would only partially address these ongoing burdens and risks. Under the typical NEB conditions for construction and operations, the Crown expected impacts of the Project on the exercise of BCMF's Indigenous Interests would range from negligible-to-minor.

The Crown also indicated support for consultation requirements provided by the NEB in the various conditions, which would support BCMF's ongoing involvement and participation in the proponent's detailed Project planning, including the development of site-specific measures or pipeline routing to further avoid or mitigate adverse impacts on Indigenous Interests, as well as the involvement of BCMF in emergency response planning activities.

During the re-initiated Phase III Consultations, the Crown has put forward incremental measures that would further accommodate the potential adverse impacts of the Project on BCMF, as discussed in Chapter 4 of the main body of this Report and section 7 of this annex.

The Crown notes that TMC has entered into a mutual benefit agreement with BCMF.

BCMF has confirmed that they are satisfied with consultations and that the duty to consult and accommodate has been met. On March 14, BCMF President wrote a letter to Minister of Natural Resources, and the Deputy Minister stating that this was the “...best engagement we have ever participated in, with consistent support, commitment to meaningful dialogue, and respect for the position of our Métis members and leadership”.

The Crown understands that BCMF is satisfied that consultations are complete.

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