

**Pouce Coupé Pipe Line Ltd.Lateral Project:  
Consultation Survey Report**

**Submitted by:**

The BC Métis Federation

**for:**

Pouce Coupé Pipe Line Ltd.

**Prepared by:**

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## **1 Introduction**

This report provides a summary of a community consultation and engagement survey supported by the proponent (Pouce Coupé), designed and conducted by the BC Métis Federation (BCMF Consultation Office) for the proposed Pouce Coupé Pipe Line Ltd. Lateral Project (the Project). The overarching aims of this survey were to inform BC Métis Federation members of the Project and deepen our understanding of the quality and efficacy of current consultation practices with BC Métis Federation members in north east British Columbia.

### **1.1 The Project**

Pouce Coupé Pipe Line Ltd. is a wholly-owned subsidiary of Pembina Pipeline Corporation, a proponent that has been building, acquiring and operating pipelines in northeast British Columbia for decades, and who has been providing transportation services in North America for over half a century. Pouce Coupé Pipe Line Ltd. has applied to the National Energy Board (NEB) under Section 58 of the *National Energy Board Act* for approval to construct and operate the proposed Pouce Coupé Lateral Project. The Project is a 27 kilometer long, 12-inch diameter pipe line that, if approved, will be constructed parallel to the existing 8-inch diameter Pouce Coupé System, with an expected service commencement date of early 2017. The Project will transport crude oil, condensate and natural gas liquids, and will be entirely constructed on farmland for its whole length, save for a small portion of crown land on the banks of the Pouce Coupé River. Directional drilling will be used for the Pouce Coupé River crossing in order to avoid impacts to the local biophysical environment and to Aboriginal use.

### **1.2 The BC Métis Federation**

The BC Métis Federation is a provincial Métis organization with a democratically elected Board of Directors representing and ensuring the well being of some 7,300 members in British Columbia (Figure 1). The BC Métis Federation was formed in 2011, and is governed by the *Bylaws of the BC Métis Federation Society* (BCMF, 2011). Contact information has been provided in Table 1.2-1, and the mailing address for the BC Métis Federation is:

The BC Métis Federation  
#300 - 3665 Kingsway  
Vancouver BC V5R 5W2  
Canada  
Telephone: 604-638-7220

**Figure 1: BC Métis Federation Membership**

**Table 1.2-1: BC Métis Federation Contact Information**

<b>Title</b>	<b>Name</b>	<b>Email</b>	<b>Elected</b>
<b>President</b>	Keith Henry	k.henry@bcmetis.com	Sept. 28, 2014
<b>Office Manager</b>	Sherry Daniels	s.daniels@bcmetis.com	N/A
<b>Vice President</b>	Rene Therrien	r.therrien@bcmetis.com	Sept. 28, 2014
<b>Secretary</b>	Joe Desjarlais	j.desjarlais@bcmetis.com	Sept. 28, 2014
<b>Treasurer</b>	Betty Fisher	b.fisher@bcmetis.com	Sept. 28, 2014
<b>Director</b>	Ken Fisher	k.fisher@bcmetis.com	Sept. 28, 2014
<b>Director</b>	Baillie Redfern	b.redfern@bcmetis.com	Sept. 28, 2014
<b>Director</b>	JJ Lavallee	j.lavallee@bcmetis.com	Sept. 28, 2014
<b>MEDC</b>	Shauna Benson	s.benson@bcmetis.com	N/A
<b>Consultation Office Email:</b>		bcmf@ksdandassociates.com	

Note: BCMF bylaws stated that Board Members are to be elected every two years. The next election is tentatively scheduled for September 23 or 24th, 2016.

In 2015, the BC Métis Federation set up an arms-length, independent, non-partisan organization that supports economic development with members and their businesses: The Métis Economic Development Corporation (MEDC). Additionally, and due largely to reports from members that project consultation was not happening, or was happening and was ineffective, the BC Métis Federation set up the BCMF Consultation Office in 2015. It's mandate: to ensure the well being of members through effective advocacy and support in matters related to regulatory and development decisions, and to consultation.

The BCMF Consultation Office advocates for and facilitates participation of members in development decisions and associated regulatory processes, including environmental assessments. For proponents, timely (early) and equitable inclusion of BC Métis Federation members into these processes during the early stages of development can translate directly into improved shareholder value because potential impacts to the environment and to asserted Métis rights can be identified and mitigated early on, and because commercial and contract opportunities using local, qualified, Métis individuals and companies can be identified and cultivated through the MEDC.

### **1.3 Rationale**

The Duty to Consult is well established in Aboriginal case law and the *Constitution Act, 1982*: Section 35 (2) of the *Constitution Act, 1982* states "...the "aboriginal peoples of Canada" includes the Indian, Inuit, and Métis peoples..." of Canada. Section 35 (1) recognizes and affirms the Aboriginal rights of the same. Métis people, with their unique and diverse culture, language and traditional practices and customs, have accrued and transmitted their knowledge over generations. Most recently, the well publicized and long-awaited *Daniels* decision came down from the Supreme Court of Canada, which holds that the term 'Indians' in Section 91 (4) of the *Constitution Act* includes Métis and non-status Indians, and settles any doubt or controversy that Métis and non-status Indians have the right to be consulted with, in good faith, on a collective basis by representatives elected by them. The BC Métis Federation has encouraged and empowered proponents and the government to engage in meaningful consultation with our members, and since 2011 have provided guidance through *The Duty to Consult: BC Métis Federation Guide to Métis Consultation*, which states:

*The Crown has a constitutional obligation to consult with the Métis when a project threatens asserted or existing Métis rights. This duty was created because of the Supreme Court of Canada decisions in Haida Nation, Taku River Tlingit, and Mikisew Cree. Section 35 of the Canadian Constitution reinforces the fact that the duty to consult applies to the Métis. The federal government recognizes the fact that the duty to consult applies to the Métis... (BCMF n.d.).*

Given that there are proponents who have been actively operating in north east British Columbia for decades, and given that there are a number of proposed development projects planned in the region then it stands to reason that if consultation activities - meetings, open houses, map reviews and workshops - are being held with BC Métis Federation members, then members should have knowledge of these projects and proponents.

Proponents are empowered by the Crown (the Government) to conduct timely, meaningful, transparent and thorough consultation programs for their projects, though strategies employed differ greatly from project to project, and from proponent to proponent. Regulatory procedures and processes, regulatory websites and advertisements, community meetings and map reviews, open houses, or having local staff to maintain personal relationships as the face of the company are all examples of strategies, and are used in various combinations depending on the community, the proponent, the state of their relationship, and the goals of the consultation investments. As a result of difference in approach, results (consultation efficacy) also differs greatly amongst proponents. The most basic and direct results of consultation in any form, presumably, would be that the people who consultation efforts are targeting would know basic details about the endeavor being consulted on (i.e. they would know basic details about the project and the proponent). Results of more focused or intensive consultation efforts might be evident in the overall "feeling" about the proponent, or more detailed knowledge about the

project, project safety plans, economic development opportunities, and perhaps any agreements between the proponent and the collective being consulted. More extensive research is required to identify barriers to effective consultation and definitively answer the question of "Which consultation strategy is most effective for members of the BC Métis Federation," though the reader will find some concrete and practical recommendations to improving the efficacy of their consultation programs in the Conclusions and Recommendations section. Details of the methods used to conduct the survey are presented in the following section.

## **2 Methods**

This section provides details about the methods used to conduct the consultation survey, including guiding principles, a short discussion of the sample, a brief overview of the consent process, personnel involved and research design. Results of the survey and recommendations flowing from the survey are presented in Section 3: Results.

### **2.1 Research Principles**

The knowledge collected for this survey is considered Métis Indigenous Knowledge, as it pertains directly to consultation. The collection and use of knowledge for this survey is guided by the principles outlined by the World Intellectual Property Organization (<http://www.wipo.int>) and professional experience. No personal information was collected, used or disclosed for the purposes of this survey, and use, collection and disclosure of knowledge collected was/is guided by the following principles and best practices:

- knowledge is the intellectual property of individual participants and, collectively, the BC Métis Federation;
- participation is voluntary, and the decision regarding provision of knowledge for publication is made by participants initially, and respected fully by the researchers. Participants reserve the right to change their decision anytime before publication;
- there is no benefit nor penalty for participating or not participating;
- the sample is purposive in that selection is based on geographic area and membership with the BC Métis Federation;
- use of this report and the knowledge contained herein for regulatory purposes is established only through permission from the community. This report was produced specifically for Pouce Coupé Pipe Line Ltd. for consideration and/or inclusion in the Project application;
- the results of this survey are reviewed by the BC Métis Federation Board of Directors, and may be used to inform internal programming; and
- the information and knowledge in this report, nor the funding provided to conduct this survey, does not constitute consultation.

## **2.2 Sample**

BC Métis Federation members in north east British Columbia were contacted for the purposes of this survey. No conscious or purposive criteria beyond membership and geographic location (as listed in the membership database) were used in sample selection, and so the sample may or may not be biased in terms of its composition and characteristics. Information about the sample was not collected, nor is it discussed further in this report, as this was not the primary aim of the study and it is of little relevance in this context. In total, the sample size is 12 members: "60 to 70 members were contacted. Of those, 20 to 30 responded of whom 12 provided consent for their responses to be included in the report" (Sherry Daniels personal communication April 22, 2016).

## **2.3 Consent**

Participation in this survey was absolutely voluntary and the option of anonymity was provided at the outset. For data that are included in the results section, informed verbal consent was provided by participants following a verbatim recital of the following standard statement:

*This is a brief survey, intended for over-the-phone data gathering with grassroots members. Its purpose: to ask some basic questions regarding consultation practices and players in British Columbia. Detailed information (specifics) used in this survey will not be released to the public, nor any other party. Summaries of this information may be presented in future meetings to industry and government, or perhaps in written documents submitted to regulators, but information that can be used to identify participants will not be included. Participants or members reserve the right to remain anonymous.*

## **2.4 Research Personnel**

The BC Métis Federation Office Manager (Sherry Daniels) acted, in this case, as the surveyor, research assistant, primary data collector, and co-author and central training and capacity was provided by the consultant hired to head the BCMF Consultation Office, study designer, and author of this document, Kelly S. Davison, Principal, KSDavison & Associates (7726929 Canada Inc.).

## **2.5 Research Design**

The overarching aim of this survey was to understand the quality and efficacy of current consultation practices with BC Métis Federation members in north east British Columbia, and the survey was designed with the following objectives:

- first, to engage with BC Métis Federation members who live, work, and use the land in the region in which the Project is located with regard to the Project;
- second, to directly assess member knowledge about the Project, about the proponent, about the proponent's representatives who may or may not be engaging with BC Métis Federation members; and
- finally, to directly assess member knowledge about other projects in the region, proposed and operational, and their respective proponents and proponent representatives.

The survey was conducted during the week of March 28, 2016, and the timing of the survey has no intentional significance other than it coincided with funding availability. The survey was brief, was provided in plain language, and was loosely scripted with the questions presented in Table 2.5-1. Researchers contacted members who identified as residing in north east British Columbia directly via telephone and documented summary responses and recommendations in a standard form/database. General information about the Project was provided to members during these phone calls, and concerns were brought forward to the proponent.

**Table 2.5-1: Consultation Survey Questions**

<b>#</b>	<b>Survey Question</b>
<b>1)</b>	When did you last meet with industry regarding a project in your area?
<b>2)</b>	Are there any people or proponents that you regularly meeting with?
<b>3)</b>	Who, that you know of, is operating or thinking of developing in your area?
<b>4)</b>	What information have you been provided, or are you aware of, about these projects?
<b>5)</b>	Do you feel like you need to have more input?
<b>6)</b>	What would your suggestions be for making this process better?
<b>7)</b>	Are you active on the land? Would you be interested in sharing your knowledge with us?

### **3 Results**

The overarching aim of this survey was to understand the quality and efficacy of current consultation practices with BC Métis Federation members in north east British Columbia, and the survey was designed with the following objectives:

- first, to engage with BC Métis Federation members who live, work, and use the land in the region in which the Project is located with regard to the Project;
- second, to directly assess member knowledge about the Project, about the proponent, about the proponent's representatives who may or may not be engaging with BC Métis Federation members; and
- finally, to directly assess member knowledge about other projects in the region, proposed and operational, and their respective proponents and proponent representatives.

Survey questions and a short summary of results for each is provided below.

#### **3.1 Survey Question 1**

*When did you last meet with industry regarding a project in your area?*

Six of 12 participants responded that the last consultation related meeting they had attended was December, 2015, with TransCanada Pipelines. Three of 12 participants did not know when the last time they met was, and three of 12 participants stated firmly that they have not met with proponents.

#### **3.2 Survey Question 2**

*Are there any people or proponents that you regularly meeting with?*

11 of 12 participants stated that no, there are not proponents that they regularly meet with. One participant stated that they regularly meet with TransCanada representatives.

#### **3.3 Survey Question 3**

*Who, that you know of, is operating or thinking of developing in your area?*

Nine of 12 participants stated that they are unaware of who is operating in or proposing to construct a project in the area. Three of 12 stated that they were aware of TransCanada, broadly.

### **3.4 Survey Question 4**

*What information have you been provided, or are you aware of, about these projects?*

9 of twelve participants responded that they have not been provided with information about proposed projects. Two participants were provided with information directly by TransCanada Corporation, and one participant received TransCanada project (Towerbirch) information from other members.

### **3.5 Survey Question 5**

*Do you feel like you need to have more input?*

All participants in the survey feel as though they need more input into the regulatory for the Project, and into development decisions, in general.

### **3.6 Survey Question 6**

*What would your suggestions be for making this process better?*

All participants requested face to face meeting with the proponent.

### **3.7 Survey Question 7**

*Are you active on the land? Would you be interested in sharing your knowledge with us?*

Eight of twelve participants stated that they are active users of the land, and would be willing to share their knowledge for the purposes of environmental assessments, regulatory matters, and for the BC Métis Federation Indigenous Knowledge, Land Use and Occupancy project. Four participants were unsure about sharing their knowledge and are active on the land.

## 4 Conclusions and Recommendations

This short, simple survey which aimed to engage with and clarify the state of consultation with BC Métis Federation members by proponents for active and proposed projects in north east British Columbia is clear evidence that consultation practices and efficacy with members can, and should improve. During the execution of this survey, some 60 to 70 BC Métis Federation members were informed about the Project and for most of those people, this survey was the first time that they had heard about the Project. The Duty to Consult rests with the Crown, and it is clear based on the results of this survey that there is much that can be improved. Collectively, proponents and government agencies with any Duty to Consult with BC Métis Federation members are performing poorly, and failing in this responsibility.

A Consultation Report Card based on the results of this survey, and measured with specific respect to the parameters outlined in the BC Métis Federation Consultation Policy (n.d.), with specific respect to north east British Columbia is presented in Table 4-1. This report card is intended as a broad measure; individual agencies and proponents are individually responsible for the efficacy of their consultation strategies, and are encouraged to work with and through the BCMF Consultation Office to ensure that consultation efficacy, which can also be understood as return of investment in one area of corporate social responsibility, is optimized.

**Table 4-1: Consultation Report Card**

Steps of Consultation	Grade
Notice to members	D
Capacity/Funding	D
Information and knowledge exchange	F
Understanding effects	F
Accommodation	F

In order to improve, the BCMF Consultation Office makes the following broad recommendations to proponents, government agencies, and any party wishing to engage in a meaningful relationship with our members. In light of the historic and ongoing marginalization and exclusion of Métis people, and the importance of recent Supreme Court of Canada decisions (i.e. the *Daniels* decision), it will be very important for agencies and proponents to effectively notify BC Métis Federation members, to provide central support and capacity for engagement of members in regulatory processes, to engage in information and knowledge exchange with our members in

a culturally sensitive, mutually productive and meaningful way to understand the effects of proposed projects on BC Métis Federation members' rights and interests - current and future - , and to actively engage in accommodation measures and strategies. Specific recommendations to improve each of the Steps of Consultation (BCMF Consultation Policy, n.d.) include:

**Notice:**

- continue to provide notices in a timely manner. Timely notification allows enough time to notify and engage with (if warranted) BC Métis Federation members individually, and demonstrably incorporate any knowledge and information gained through sharing into regulatory processes;
- continue to provide written notices to the BC Métis Federation head office, to the attention of Keith Henry or the BCMF Board of Directors:

The BC Métis Federation  
#300 - 3665 Kingsway  
Vancouver BC V5R 5W2  
Canada  
Telephone: 604-638-7220

- identify and recognize barriers to notification, and refuse to capitalize on them: improve perfusion of notice to members by providing support to and working with the BC Métis Consultation Office to identify optimal, mutually beneficial, culturally safe, and meaningful strategies for notification, including holding regular, plain language, face to face meetings with member communities and their members; and
- reduce barriers to notice by supporting and drawing on the BC Métis Federation and BCMF Consultation Office central capacity.

**Capacity/Funding:**

- provide adequate central and member community funding to ensure that BC Métis Federation members can participate in regulatory processes meaningfully.

**Information and knowledge exchange:**

- work with the BCMF Consultation Office to develop and execute strategies for information and knowledge exchange that are safe, sensitive, reduce barriers, promote equity, and are meaningful and of good value for members, proponents and their shareholders, and the Crown;
- protect the sustainability of shareholder value be by ensuring that Métis Indigenous Knowledge, Land Use and Occupancy Studies, even if small in scope, are conducted on a project by project basis.

**Understanding effects:**

- protect the sustainability of shareholder value be by ensuring that Métis Indigenous Knowledge, Land Use and Occupancy Studies, even if small in scope, are conducted on a project by project basis. These studies include biophysical and Aboriginal rights assessment components, and are a useful vehicle for assessing and then engaging in dialogue and teaching regarding effects.

**Accommodation:**

- work directly with the BCMF Consultation Office, members, and the appropriate agencies to develop and execute mutually beneficial and meaningful accommodation measures.

## **5 Closure**

This report has been prepared by the BCMF Consultation Office, and has been reviewed and approved for public release by BCMF leadership. The BCMF Consultation Office looks forward to working in a collaborative and constructive manner with members, proponents and government agencies, in the spirit of reconciliation, going forward.

## **6 References**

BC Métis Federation (BCMF). 2011. *Bylaws of the BC Métis Federation Society*. Accessed in April 2016. [http://bcmetis.com/wp-content/uploads/BCMF\\_Bylaws\\_April\\_2011\\_Draft\\_FINAL.pdf](http://bcmetis.com/wp-content/uploads/BCMF_Bylaws_April_2011_Draft_FINAL.pdf)

BC Métis Federation (BCMF). n.d. *The Duty to Consult: BC Métis Federation Guide to Métis Consultation*. Accessed in April 2016.

