

Appendix B.28 – Williams Lake Indian Band

I - Background Information

Williams Lake Indian Band (Williams Lake) is a community of Secwepemc People. Together with three other communities they are members of the Northern Shuswap Tribal Council (Northern Secwepemc te Qelmuw) and also part of the larger collective of the Secwepemc Nation. The Williams Lake registered population is approximately 800. Williams Lake has eight reserves with a combined area of 1,920.1 hectares (ha).

The Northern Secwepemc te Qelmuw is in Stage 4 negotiations within the BC Treaty Commission Process and submitted a Statement of Intent Map as part of that process. The Northern Secwepemc te Qelmuw Nation also filed a protective *Writ of Summons* with the British Columbia (BC) Supreme Court on December 10, 2003, asserting Aboriginal title to a territory identified in the writ. The Statement of Intent map generally conforms to the protective *Writ of Summons* map.

II - Preliminary Strength of Claim Assessment

The pipeline right of way (RoW) follows along the north-eastern and south-eastern edges of the Statement of Intent map in the vicinity of Valemount and Clearwater for approximately 42 kilometres (km).

III - Involvement in the NEB and Crown Consultation Process

Given the nature and location of the Project, and the potential impacts of the Project on Williams Lake's Aboriginal Interests, the Crown is of the view that the legal duty to consult Williams Lake lies at the low portion of the *Haida* consultation spectrum. Williams Lake was placed on Schedule C of the Section 11 Order issued by the Environmental Assessment Office (EAO).

Williams Lake disputes the Crown assessment on depth of duty to consult. During the Crown consultation meeting held November 18, 2016, Williams Lake said that their traditional land use evidence confirms that they exercise their rights in other parts of the Secwepemc Nation territory. Williams Lake was an intervenor in the National Energy Board (NEB) hearing process; however, Williams Lake was not an active, formal participant. The only record on the NEB registry is their Application to Participate. During Crown consultation meetings, Williams Lake described their active following of the NEB process. Williams Lake described their efforts to monitor other Secwepemc engagement, they assessed evidence submitted to the NEB hearings and they collaborated with other Secwepemc groups that were formally participating in the NEB hearings. Williams Lake told the Crown consultation team that this informal participation informed their understanding of the Project. They said that they were unable to do more because of lack of financial resources and because the proponent would not engage with them. In a letter provide September 30, 2016 to the Trans Mountain Expansion Ministerial Panel, Williams Lake provided high level preliminary concerns regarding the Project.

The Major Projects Management Office (MPMO) offered Williams Lake \$6,000 to support their participation in consultations following the release of the *NEB Recommendation Report*. Williams Lake signed a contribution agreement with the MPMO in response to this offer, receiving \$5,981.

Williams Lake met with the federal and provincial crown consultation team on October 27, 2016, to discuss their views on the Project. In response to concerns raised by Williams Lake at the meeting about resources to do a review of the *NEB Recommendation Report* conditions and to conduct a small traditional use study, the MPMO offered Williams Lake additional \$20,000 capacity funds. This amount was less than the budget proposed by Williams Lake for this work. Nevertheless, Williams Lake made the best use of the funding and did as much as they could in the limited time available. A second meeting was held on November 17, 2016.

The Crown provided a first draft of this Report to Williams Lake for review and comment on August 17, 2016. The Crown received comments from Williams Lake on the draft Report on September 30, 2016. A second draft of this Report was provided to Aboriginal groups for review and comment on November 1, 2016. The Crown received verbal comments from Williams Lake at the November 17, 2016 meeting.

Williams Lake provided a separate Aboriginal group submission to the Crown on November 20, 2016.

IV - Summary of Key Williams Lake Issues and Concerns Raised

This section offers a summary of the key issues raised by the Williams Lake, and does not present the views of the Crown as to whether it agrees or not with the issues. The Crown's assessment of the impact of the Project presented in the subsequent section incorporates a consideration of these issues and includes the Crown's views and conclusions. The Crown's understanding of the Williams Lake's key Project-related issues and concerns are summarized below.

The Crown has gained its understanding of Williams Lake's issues and concerns through Williams Lake's letter to the Ministerial Panel dated September 30, 2016 and the community's involvement in the consultations with the Crown, including the Crown consultation meetings held in October and November 2016. The Crown's understanding of Williams Lake's key Project-related issues and concerns is summarized below.

Methodology, Process and Consultation

Williams Lake indicated that they have not had the ability to be meaningfully involved in the NEB and Crown consultation processes to date due to a lack of funding. Williams Lake further noted that the consultation process is inadequate given there has only been two meetings with them. Williams Lake expressed that the financial resources provided are inadequate to facilitate meaningful consultation. Williams Lake stated that they never had a meeting with the proponent and because of this, they do not have a good understanding of the Project on a technical level. Due to this lack of consultation, Williams Lake expressed the view that the 157 conditions do not reflect their concerns.

Impacts to Aboriginal Rights

Other concerns raised by Williams Lake include potential impacts on their Aboriginal right to fish, hunt, gather and harvest in areas of current and historical use; the potential for lost economic opportunities as a result of environmental and social impacts; and, cumulative effects on the environment and human health.

Williams Lake's Response to NEB Recommendation Report and Conditions

Williams Lake offered comments on 40 of the conditions requiring plans, inventories and assessments. Generally, Williams Lake urges NEB reconsideration of those conditions to amend timelines and require traditional land use (TLU) studies to inform all of the various plans, inventories and assessment reports. Williams Lake urges the NEB to require subsequent Aboriginal traditional evidence throughout the life of the Project and make it a condition that this type of information may continue to be brought forward and relied upon. Williams Lake urges the NEB to require the proponent to undertake early and meaningful Aboriginal engagement throughout the life of the Project. In general Williams Lake's comments ask the NEB to require that conditions be implemented in a way that provides for meaningful Aboriginal engagement. Williams Lake note that not every Aboriginal group was able to participate in the hearing but all affected Aboriginal groups will have relevant and potentially otherwise unknown traditional knowledge. Plants are a critical component of Williams Lake's culture. Williams Lake has rich traditions and knowledge of the ecology in Williams Lake traditional territory. Williams Lake's unique knowledge should be incorporated into the final report and binding on the proponent.

V - Potential Impacts of the Project on Williams Lake's Aboriginal Interests

A discussion of the Crown's assessment approach and understanding of the potential impacts of the Project on Aboriginal Interests is provided in Sections 2.4.3 and Section 4.3 of this Report, respectively. The Crown recognizes that areas within the asserted traditional territory of each Aboriginal 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.

The Crown understands that while Williams Lake did not formally participate in the NEB process, they did undertake an abbreviated literature review traditional land and resource use study that was orally and visually presented during the November Crown consultation meeting. As a result, the Crown has limited information on the specific sites and resources used by Williams Lake for traditional purposes that could be impacted by the Project. Williams Lake identified concerns during the Crown consultation process, which the Crown has taken into consideration in its assessment of potential impacts on Williams Lake's Aboriginal Interests.

The general direct and indirect effects of the Project on Aboriginal Interests, along with key mitigation measures, are described in Section 4.3 of the main body of this Report. As described in that section, routine Project-related activities are likely to result in low to moderate impacts on the lands, waters and resources that Aboriginal groups use to exercise their hunting, trapping, plant gathering, fishing, and other traditional activities. Short-term, temporary access disruptions to traditional activities are

expected, although these impacts would be localized within the Project footprint for the pipeline and associated facilities. The distance of Williams Lake's traditional territory from the Project area of approximately 71 km significantly reduces the potential for Williams Lake's exercise of Aboriginal Interests to be directly impacted by routine Project activities. In consideration of the information available to the Crown from, Crown consultation with Williams Lake, the proponent's proposed mitigation measures and the recommended NEB conditions, as well as relevant proposed conditions of any Environmental Assessment Certificate issued by the Province, the Project is expected to result in a negligible impact on Williams Lake's Aboriginal Interests.

Williams Lake rejected this conclusion during the Crown consultation meeting on November 17, 2016. Williams Lake told the Crown consultation team that they assess the impact as moderate to serious.

A discussion of the potential impacts of a pipeline spill on Aboriginal Interests is provided in Section 4.3.6 of this Report. In consideration of this information and analysis, as well as information available to the Crown on Williams Lake's Aboriginal Interests, concerns raised by Williams Lake during the Crown consultation process, a pipeline spill associated with the Project could result in negligible to moderate impacts on Williams Lake's exercise of Aboriginal Interests, depending on the characteristics and severity of the spill. The Crown acknowledges the numerous factors that would influence the severity and types of effects associated with a pipeline 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. Williams Lake rejected this assessment during the November 17, 2016 meeting and noted that they did not have the time nor the funding for an independent assessment.

VI - Conclusions

The Crown understands the Project could adversely impact the ability of Aboriginal groups to use lands, waters and resources for traditional purposes. In respect of these findings, and based on the information available to the Crown about areas where Williams Lake exercises Aboriginal Interests, the Crown expects that under the typical conditions for construction and operations, impacts of the Project on Williams Lake would be negligible. Williams Lake rejected this conclusion during the Crown consultation meeting on November 17, 2016.

The Crown is supportive of consultation requirements provided by the NEB and EAO in the various conditions, which would support Williams Lake's ongoing involvement and participation in the proponent's detailed Project planning including the development of site-specific measures or pipeline routing to ensure negligible impacts on Williams Lake's Aboriginal Interests, as well as the involvement of Williams Lake in emergency response planning activities. Williams Lake noted that a traditional land use study would be required to inform effective Williams Lake participation in these activities.