

July 12, 2017

The Honourable James Carr  
Minister of Natural Resources  
House of Commons  
Ottawa, ON K1A 0A6

Mr. Peter Watson  
Chair and CEO, National Energy Board  
Suite 210 – 517 Tenth Avenue SW  
Calgary, AB T2R 0A8

Dear Minister Carr and Mr. Watson:

We are the chiefs and other leaders of Cheam First Nation, Lower Nicola Indian Band, Upper Nicola Indian Band, Paul First Nation, Enoch Cree Nation, Nooaitch Indian Band, Kwikwetlem First Nation, Scia'new (Beecher Bay) First Nation, the Métis Nation of Alberta and Lac Ste. Anne Métis. Our communities have been represented on the Working Group that, with representatives of the federal Government and the National Energy Board, has been developing the Indigenous Advisory and Monitoring Committee for the Trans Mountain pipelines and marine shipping.

One of the Working Group's primary tasks has been to draft the enclosed Terms of Reference for the Committee, and to determine whether among Indigenous communities affected by the Trans Mountain pipelines and marine shipping there is substantial support for establishing the Committee based on those Terms of Reference.

The enclosed report sets out what we have heard from Indigenous communities with respect to the Terms of Reference and we ask that you read it closely. In summary, we heard a great deal of concern among the Indigenous Communities about the risks of the existing and proposed pipelines and marine shipping, as well as concern that an "advisory" body – as opposed to one that makes decisions – does not go far enough. However, we also heard widespread willingness to participate in the Committee, largely on the bases that:

- Participation is explicitly "**without prejudice**" to a community's position on the pipelines and marine shipping;
- The Committee will monitor the **existing pipeline and marine shipping**, as well as **the TMX and the new marine shipping**;
- The Terms of Reference set out a **shared long-term vision** of increasing Indigenous Communities' involvement in decisions over the pipelines and marine shipping; and

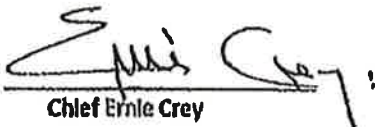
- There is a need to **pursue every avenue to reduce the risks** the pipelines and marine shipping pose to the environment and to the Indigenous Communities' Aboriginal title and rights and treaty rights.

Through the process we describe in the enclosed report, we believe that, overall, we have heard substantial support among the Indigenous communities for the Terms of Reference and the establishment of the Committee. Further, to date 10 of the 13 members of the Initial Indigenous Caucus (the Committee members chosen by the Indigenous communities) have been selected and confirmed, such that the Indigenous majority requirement for the purposes of quorum can be met and the Committee can conduct its business.

For these reasons, and based on the considerations set out in the enclosed report, we recommend that the Terms of Reference be ratified and the Committee established.

It has been our privilege to serve on the Working Group in respect of this important and precedent-setting initiative. We commend the Government for agreeing to co-develop the Committee, which we hope will foster a new relationship based on recognition, respect and collaboration in order to improve the safety of the pipelines and marine shipping and better protect the Indigenous communities' Aboriginal title and rights and treaty rights. Achieving that new relationship will depend on the Government pursuing legislative initiatives in the coming months to allow for the Committee's increased involvement in decision-making, as well as on Committee members – including those from Government and the NEB – bringing to their work the same collaborative and solutions-focused spirit we have seen within the Working Group. We encourage the Government and the NEB to support the deepening of the relationship in these ways, and we wish the Committee lasting success.

**CHEAM FIRST NATION**

Per:   
Chief Ernie Croy

**LOWER NICOLA INDIAN BAND**

Per:   
Chief Aaron Sam

**UPPER NICOLA INDIAN BAND**

Per:   
Chief Harvey McLeod

**NOOAITCH INDIAN BAND**

Per:   
Chief Marcel Shackelly

**KWIKWETLEM FIRST NATION**

Per:   
Acting Chief Fred Hulbert  
Chief Ron Giesbrecht


**LAC STE. ANNE MÉTIS (GUNN MÉTIS  
LOCAL 55)**

Per:   
Marleen Crossen, President

**MÉTIS NATION OF ALBERTA-REGION 4**

Per:   
Audrey Poltras, President  
Cecil Bellrose, President

**ENOCH CREE NATION**

Per:   
Chief William (Billy) Morin

**PAUL FIRST NATION**

Per:   
Chief Arthur Rain

**SCIA'NEW FIRST NATION (BEECHER BAY)**

Per:   
Chief Russell Chipps

Enclosures

# TRANS MOUNTAIN INDIGENOUS ADVISORY AND MONITORING COMMITTEE

## TERMS OF REFERENCE

### DEFINITIONS

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1. Defined terms in these Terms of Reference have the following meanings, which also include their singular and plural forms:

**"Committee"** means the Trans Mountain Indigenous Advisory and Monitoring Committee established by these Terms of Reference as detailed in section 24, as may be amended from time to time;

**"Committee Members"** means the Indigenous Caucus and the Government Committee Members;

**"CPCN"** means the new Certificate of Public Convenience and Necessity, Instrument No. OC-064 issued to Kinder Morgan in relation to the Project on 1 December 2016;

**"DFO"** means Fisheries and Oceans Canada;

**"Government"** means the Government of Canada, including its departments and agencies;

**"Government Committee Members"** are the representatives of federal government departments and agencies as contemplated by section 24(b);

**"Indigenous Caucus"** means the members of the Committee appointed by the Indigenous Communities;

**"Indigenous Communities"** are those Indigenous communities and groups to which the federal Crown determined it owes a duty to consult in relation to the Project, as set out in Appendix A;

**"Kinder Morgan"** means Trans Mountain Pipeline ULC or the company that currently holds the CPCN, NEB Certificates of Public Convenience and Necessity OC-49 and OC-2 for the existing NEB-regulated Trans Mountain pipeline, together with all related Amending Orders, authorizations and exemptions for the TM Pipelines;

**"Lifecycle"** includes the planning, application, construction, operation, decommissioning and abandonment phases of a pipeline, a terminal and their associated works;

**"Marine Terminal"** means the Westridge Marine Terminal in Burnaby, BC;

**"Monitor"** means the person designated by the Committee to accompany an NEB Inspection Officer while carrying out their duties related to the TM Activities regulated by the NEB;

**"NEB"** is the National Energy Board;

**"NEB Inspection Officer"** means any person who has been designated and duly authorized by the NEB to carry out the duties for that position, as described in sections 49 to 51 of the *NEB Act*;

**"NRCan"** means Natural Resources Canada;

**"Project"** means the Trans Mountain Expansion Project;

**"Regulator"** means a federal department or agency with regulatory powers or other authorities in regards to the TM Activities and includes the NEB;

**"TM Activities"** are the activities that may be undertaken in the TM Corridor relating to the TM Pipelines, the Marine Terminal and the marine shipping associated with the TM Pipelines;

**"TM Corridor"** is the corridor comprising the routes of the existing Trans Mountain Pipeline and the Project; and

**"TM Pipelines"** refer to the existing NEB-regulated Trans Mountain pipeline and the proposed pipeline associated with the Project.

## GOAL

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2. The Committee is intended to form the basis of a new relationship between Indigenous Communities, the Government and the NEB in respect of the TM Activities. The Committee provides for collaborative, inclusive and meaningful Indigenous involvement in the review and monitoring of the environmental, safety and socio-economic issues related to the TM Activities over their lifecycles.

## PURPOSES OF THE COMMITTEE

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3. To provide a collaborative forum supported by technical resources for Indigenous Communities, the Government and Regulators to enhance environmental protection and the safety of the TM Activities.
4. To support Indigenous Communities' effective and meaningful participation in the monitoring of the environmental, safety and socio-economic aspects of the TM Activities.
5. To enable Indigenous Communities to come together to identify common priorities and perspectives related to the TM Activities and to voice those interests to the Government and Regulators.
6. To build an understanding of issues of concern to Indigenous Communities in order to develop a common perspective between the Government, the NEB and Indigenous Communities regarding the TM Activities and to provide informed advice to the Government and the NEB on how to address those issues.
7. To share information in a cooperative and transparent manner relating to the environmental, safety and socio-economic issues of the TM Activities.

## GUIDING PRINCIPLES

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8. **Shared interest.** Committee members share the objective of working together to enhance the safety of the TM Activities and protect the environment and Indigenous interests in the lands and waters.
9. **Integration of Indigenous perspectives.** The Committee facilitates the integration of Indigenous knowledge, values and perspectives into the monitoring, regulation and performance of the TM Activities. To this end, the Committee is guided by s. 35 of the

*Constitution Act, 1982* and the principles of the UN Declaration on the Rights of Indigenous Peoples, and the Committee works to support reconciliation.

10. **Capacity.** The Committee strives to improve the capacity of Indigenous Communities to monitor effectively the TM Activities and to engage with Regulators and Kinder Morgan.
11. **Collaborative forum.** The Committee is a forum for collaborative problem solving, priority setting and innovation. Committee members approach their work with openness to the concerns and perspectives of other members and a resolve to develop consensus-based solutions.
12. **Attention to both land and marine-based issues.** The Committee's structure reflects the importance of both inland and marine-based TM Activities, including by way of the formation of subcommittees and the allocation of the Committee's resources.
13. **Adaptive approach.** It is anticipated that the Committee, consistent with its purposes, will adapt its structure and activities, including through amendment of these Terms of Reference, in light of its experience, the progress of the TM Activities, and changes in the regulatory framework and/or other Government or NEB initiatives.
14. **Longer-term vision.** In establishing the Committee, the parties to these Terms of Reference intend to depart from past practice and instead to create an opportunity for the Government, the NEB and Indigenous Communities to learn and work together to advance their shared interests in environmental protection and pipeline and marine safety. These Terms of Reference are intended to set the parties on a new course based on an honourable and respectful relationship, recognition of Aboriginal and treaty rights, and the meaningful participation of Indigenous Communities in the oversight of the TM Activities. The Committee will seek to strengthen this relationship over time, including through greater involvement in decisions related to the oversight of the TM Activities. While it is recognized that some measures for deepening the relationship would require legislative initiatives that Parliament may or may not pursue, the Committee will endeavour to contribute to consideration of such initiatives as opportunities arise.
15. **Duplication to be avoided.** The Committee seeks to avoid duplication of efforts and to apply attention and resources to matters that, in the Committee's view, are not being fully addressed through other processes. Where matters of interest are being addressed through other processes, or other Government and NEB initiatives, the Committee may seek to participate in those processes or refer issues to them.

16. **Working within timelines.** In order to have the greatest possible impact and have its views taken into account, the Committee strives to work within regulatory timelines and Project construction and operations schedules.
17. **Working within current legislative and regulatory frameworks.** The Committee recognizes the current legislative and regulatory frameworks and the applicable principles of administrative law, including procedural fairness, and understands that, absent a statutory mechanism for doing so, statutory and ministerial decision-making powers or other statutory authorities and duties cannot be fettered or delegated to others, including the Committee. Within those frameworks, the Government and the NEB seek to develop innovative and creative ways to support the Committee's goal and purposes.

## COMMITTEE ROLES AND RESPONSIBILITIES

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18. **Annual work plans.** At least annually, the Committee sets out in a work plan the activities it intends to undertake in that year to fulfill its purposes. The work plan will include accountabilities, budgets and timeframes.
19. **Committee activities.** Committee activities may include – but need not be limited to – any of the following:
  - a. **Input and advice.** Providing input and advice to Regulators with respect to environmental, safety and socio-economic aspects of the performance of the TM Activities, including:
    - i. Issues of concern to the Committee, including compliance with the conditions set out in the CPCN, as well as other requirements under the regulatory framework, and how those issues could be addressed;
    - ii. Regulatory standards and policies applicable to the TM Activities, so that they are informed by Indigenous knowledge, perspectives and interests; and/or
    - iii. The adequacy and accuracy of reports and filings made by Kinder Morgan in connection with the TM Activities.
  - b. **Government and NEB initiatives.** The Committee may also provide input to existing Government and NEB initiatives to improve environmental protection policies and processes to modernize regulatory systems, such as by providing advice related to



legislative, regulatory or policy changes, including changes that would enhance the Committee's role in the oversight of the TM Activities.

- c. **Monitoring.** Monitoring the TM Activities, including by:
  - i. Identifying Monitors to accompany and advise NEB Inspection Officers and other staff from the NEB as described in section 55. This would involve assisting in the planning and providing input into the scope of certain compliance verification activities (e.g. inspections) and accompanying NEB Inspection Officers during certain compliance verification activities;
  - ii. Engaging with NEB Inspection Officers as described in section 55 on corrective actions to be taken when non-compliance is identified; and/or
  - iii. Providing or arranging for training and educational materials to Indigenous Communities to improve their knowledge and capacity surrounding the TM Activities, including their ability to detect and respond to any spills or other hazards or emergencies.
- d. **Hiring and training of NEB staff.** Involvement in the hiring and training of certain NEB staff who may be involved in the TM Pipelines and the Marine Terminal, including:
  - i. Making recommendations on the hiring of NEB Inspection Officers and engagement staff who may be assigned to work related to the TM Pipelines and the Marine Terminal, including by designating a Committee member or another individual to sit on the relevant selection panel. The hiring process will follow the NEB's hiring practices, including those set out by the Public Service Commission, and all related legislation; and/or
  - ii. Participating in the training of NEB Inspection Officers and other staff to build an awareness of Indigenous perspectives as appropriate.
- e. **Incident prevention, emergency preparedness and response.** Enabling efforts to anticipate, prevent, mitigate, manage and recover from potential incidents (including oil spills) related to the TM Activities by:
  - i. Supporting and enabling Indigenous Communities' general emergency management capacity and involvement in broader existing emergency management systems, including: prevention, mitigation, preparedness (including planning), response and recovery consistent with NEB responsibilities in a terrestrial context, and in a marine context consistent with the broader marine safety system, environmental protection and other improvements under the Oceans Protection Plan;

- ii. Identifying and requesting potential enhancements in Kinder Morgan's plans and procedures to anticipate, prevent, manage and mitigate conditions during an emergency, including oil spills that adversely affect property, the environment and/or safety of the public or workers;
    - iii. Working with Kinder Morgan to reinforce, influence and enhance its safety culture; and/or
    - iv. Reviewing and providing advice on Kinder Morgan's detailed incident reports filed with the NEB.
  - f. **Identifying information gaps.** Identifying and seeking to fill information gaps, including with respect to the collection of baseline data along the TM Corridor.
  - g. **NEB communications.** Providing input and advice on the need for and content of NEB communications and educational materials for Indigenous Communities.
20. **Committee engagement with Indigenous Communities.** In coordination with the Indigenous Caucus, the Committee communicates and engages regularly with Indigenous Communities using various means regarding the TM Activities, the work of the Committee, Indigenous Communities' recommendations and concerns, and Indigenous Communities' monitoring efforts. The Committee, including the Indigenous Caucus, seeks to work with leadership of the Indigenous Communities to establish protocols to guide the engagement, and the Committee may allocate resources to support that engagement within its overall work plan and budget as appropriate.
21. **Means of fostering communication.** The Committee fosters open and effective communication with Indigenous Communities and others regarding TM Activities, including by such means as:
- a. Creating a website and other communication and engagement tools;
  - b. Creating summaries of complex technical information so that it is easily understood;
  - c. Distributing educational materials and reports regarding the TM Activities, the Committee's work and efforts that can be undertaken by Indigenous Communities to monitor the TM Activities;
  - d. Receiving, considering, responding to or referring issues raised by Indigenous Communities, including by making linkages with ongoing or new Government and NEB initiatives and sources of information that support the work of the Committee, as well as for those issues that go beyond the scope of the Committee; and

- e. Agreeing on spokespeople for the Committee and protocols for media and public communication.
22. ***Supporting Indigenous Communities' engagement.*** While the Committee's work does not duplicate or replace consultation by the Government or engagement by Kinder Morgan with Indigenous Communities, the Committee (including through the Indigenous Caucus) seeks to support Indigenous Communities in their engagement with the Government, the NEB and Kinder Morgan.
23. ***Marine.*** With respect to marine-related TM Activities:
- a. The Committee reviews and monitors compliance with the marine conditions set out in the CPCN, including the marine-related commitments made by Kinder Morgan;
  - b. The Committee works with Regulators in monitoring the marine aspects of the TM Activities so that the Committee can review and, as necessary, provide advice on those activities, the performance of those activities, and the effectiveness of any required mitigation; and
  - c. Transport Canada, DFO and the Canadian Coast Guard are committed to identifying opportunities for engagement with the Committee, including as follows:
    - i. Transport Canada, DFO and the Canadian Coast Guard will seek to identify opportunities for the Committee's meaningful engagement in the initiatives relevant to the TM Activities under the Oceans Protection Plan;
    - ii. DFO will facilitate opportunities for the Committee to:
      - 1. Review any monitoring reports required by DFO under any authorizations issued in respect of the expansion of the Marine Terminal pursuant to paragraph 35(2)(b) of the *Fisheries Act*. At the request of the Committee, DFO will facilitate meetings between the holder of any of the authorizations and the Committee to discuss any concerns the Committee may have arising from any monitoring reports; and
      - 2. Engage with DFO in the development of DFO's comments on Kinder Morgan's Marine Mammal Protection Program and regarding the implementation of that program.
    - iii. The Committee recognizes that certain regulations and standards that govern marine shipping operations are set through international agreements and are reflected in the legislative, regulatory and policy frameworks of individual International Maritime Organization member

countries, including Canada. However, Transport Canada will facilitate opportunities, as appropriate, to engage and seek feedback from the Committee on the marine safety system. For example, engagement on the marine inspection and enforcement regime may include:

1. Inviting Committee members to accompany Transport Canada Marine Safety Inspectors as observers during a Port State Control inspection and provide feedback;
  2. Discussing processes and procedures relating to marine compliance inspections and/or enforcement investigations of tankers within the marine safety regime; and
  3. Working with Kinder Morgan to provide opportunities for the Committee to observe vessels loading product at the Marine Terminal.
- iv. The Canadian Coast Guard will consider opportunities for the Committee to engage on the TM Activities that intersect with the Canadian Coast Guard operational programs, and Oceans Protection Plan initiatives, such as Enhanced Maritime Situational Awareness, Additional Radar Sites, Indigenous Community Response Teams, Indigenous chapters of the Canadian Coast Guard Auxiliary, Enhanced Environmental Response and Regional Response Planning.

## COMMITTEE MEMBERSHIP AND MEETINGS

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24. **Membership.** The Committee is comprised of:

- a. 13 representatives of Indigenous Communities, appointed in accordance with section 41; and
- b. One senior representative appointed in accordance with section 43 from each of the following:
  - i. Natural Resources Canada;
  - ii. National Energy Board;
  - iii. Transport Canada;
  - iv. Fisheries and Oceans Canada;
  - v. the Canadian Coast Guard; and
  - vi. Environment and Climate Change Canada.

25. **Meetings.** The Committee meets at least quarterly during the construction of the Project, and at least once annually during the balance of the TM Activities, or more frequently as agreed to by the Committee.
26. **Non-member participants.** Other individuals and representatives may, with the consent of the Committee, be invited to attend Committee or subcommittee meetings, including representatives from Indigenous Communities, Kinder Morgan, other federal or provincial departments, ministries or agencies, municipal governments, the Port of Vancouver, and others.
27. **Co-Chairs.** The work of the Committee is facilitated by two co-chairs, one of whom is a member of, and is appointed by, the Indigenous Caucus, and the other of whom is the Committee member representing NRCan.
28. **Quorum.** Quorum for Committee meetings requires:
- a. The attendance of at least 50% of the membership of the Committee, which must include the representatives of NRCan and the NEB; and
  - b. That a majority of the attendees of the meeting are Indigenous Caucus members.
29. **Alternates.** Committee members may send an alternate to a meeting where the member is unable to attend. It is understood that, because of the importance of maintaining continuity, sending alternates is to be done only on an exceptional basis.
30. **Recusal.** Committee members may recuse themselves where not doing so would create a conflict of interest. This should be done on an exceptional basis only.
31. **Transparency.** The Committee strives to make available to the public significant documents relating to its work, such as the Committee's and subcommittees' Terms of Reference and work plans, approved records of meetings, the names and affiliations of all Committee and subcommittee members, and the final version of all Committee reports, including financial reports. Where the Committee determines that certain documents should not be publicly disclosed, it provides reasons upon request.

## INDIGENOUS COMMITTEE MEMBERS (CAUCUS)

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32. **Representing Indigenous Communities' interests.** In order for the Committee to fulfill its goal and purposes, it supports an Indigenous Caucus. The Indigenous Caucus strives to represent the interests of the Indigenous Communities at the Committee, and to that end

it regularly engages with the Indigenous Communities to discern and develop shared understandings, priorities, perspectives and approaches, informed by technical capacity, which the Indigenous Caucus advances within the Committee with a view to shared understanding and problem solving.

33. ***Communication with Indigenous Communities.*** The Indigenous Caucus facilitates ongoing and effective communication with Indigenous Communities related to the Indigenous Caucus' work, including by:

- a. Sharing and distributing information, reports and input or advice aimed at determining shared priorities and perspectives; and
- b. Engaging with and creating accessible means to receive input from the Indigenous Communities, including through protocols established under section 20.

34. ***Meetings with Indigenous Communities.*** The Indigenous Caucus meets with the Indigenous Communities as follows:

- a. It holds at least one meeting per year to which the Indigenous Communities are invited in order to establish common priorities and approaches;
- b. It may hold regional meetings, as appropriate, to discuss the TM Activities, and in particular during the construction period;
- c. It is understood that the Indigenous Communities need to discuss issues among themselves. It is also important that the Indigenous Communities meet with the full Committee, and the Indigenous Caucus will, as appropriate, invite the full Committee to attend portions of meetings in order to update the Indigenous Communities on the Committee's work; and
- d. It may establish *ad hoc* processes to discuss matters specific to the Indigenous Caucus, such as the development of alternative models for selecting members of the Indigenous Caucus.

35. ***Supported by resources.*** The Indigenous Caucus requires support. Within its annual budgets, the Committee, by consensus, allocates resources to the Indigenous Caucus to support staff, who are accountable to the Indigenous Caucus, work under its direction, and who support its priority-setting, communication and engagement with Indigenous Communities. It is expected that these resources will comprise two staff positions, which may, at the Indigenous Caucus's option, involve technical capacity. In order to fulfill its responsibilities under these Terms of Reference, the Indigenous Caucus is also supported by Committee and secretariat resources. The substantive work contemplated by these

Terms of Reference is to be conducted under the Committee's direction and the work of the Caucus and its staff is to be consistent with the purposes and principles of these Terms of Reference.

36. ***Duties of Indigenous Caucus members.*** Each member of the Indigenous Caucus strives to advance the interests of the Indigenous Communities as a whole, although each member also pays special attention to the concerns and perspectives of the Indigenous Communities of the grouping that selected the member.
37. ***Informing the Committee as appropriate.*** In order to support the collaborative spirit of the Committee, the Indigenous Caucus, as appropriate, keeps the Committee generally informed of its engagement work with the Indigenous Communities and it seeks to coordinate those engagement efforts with the Committee.
38. ***Honourarium.*** It is contemplated that the Indigenous Caucus members will be provided an honourarium to reflect and facilitate their participation.
39. ***Terms of Initial Indigenous Caucus Members.*** The first members of the Indigenous Caucus (the "Initial Indigenous Caucus") serve 18-month terms.
40. ***Membership.*** The membership of the Initial Indigenous Caucus is the following, with reference to the groupings of Indigenous Communities set out in Appendix A:
  - a. One member from each of:
    - i. Vancouver Island – Western Approach;
    - ii. Vancouver Island – South;
    - iii. Vancouver Island – Southeast;
    - iv. Burrard Inlet / Lower Fraser;
    - v. Fraser Valley;
    - vi. Mid-Fraser / Thompson;
    - vii. BC Interior;
    - viii. Okanagan;
  - b. Three members from Alberta First Nations;
  - c. One member from BC Métis; and
  - d. One member from Alberta Métis.

41. ***Selection of Initial Indigenous Caucus members.*** For each of the groupings set out in section 40:
- a. The Indigenous Communities are invited to select their respective member or members for the Initial Indigenous Caucus; and
  - b. If, after three months following these Terms of Reference coming into force, there is a significant interest among the Indigenous Communities of a grouping to confirm or replace its respective member(s), the Initial Indigenous Caucus will facilitate an opportunity for that grouping to do so.
42. ***Future method for selecting members.*** During its term, the Initial Indigenous Caucus develops and sets out methods for the selection of members of the Indigenous Caucus, and it initiates and oversees a process by which a method for future selections, and the terms for Indigenous Caucus members going forward, is determined by the Indigenous Communities. The number of Indigenous Caucus members may be changed only by decision of the Committee.

## GOVERNMENT AND NEB COMMITTEE MEMBERS

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43. ***Representatives.*** Government Committee Members are designated by the Deputy Minister of the department they are representing. The NEB Committee Member is designated by the Chief Executive Officer of the NEB.
44. ***Committee meeting participation.*** Government and NEB Committee Members attend Committee meetings seeking to understand Indigenous perspectives, share information to build understanding about the role of the Regulators, and collaborate on solutions to issues in a timely manner.
45. ***Engagement within Government.*** The Government and the NEB undertake to establish such practices, procedures and protocols within their organizations as they deem necessary to promote these Terms of Reference and ensure they can be implemented throughout their respective organizations.

## COMMITTEE STRUCTURE

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46. ***Resources.*** The Committee is supported by a secretariat established within NRCan. It operates within an overall funding envelope, which has been allocated by Government



over five years, and is administered by NRCan. The Committee develops, on a consensus basis, and submits to NRCan an annual budget that enables it to deliver on its work plan.

47. **Subcommittees.** The Committee forms and oversees subcommittees to work on specific issues or regional concerns. The subcommittees undertake work that requires more expertise or focus on a particular issue.
48. **Subcommittee terms of reference and work plans.** The Committee may request subcommittees to develop terms of reference and/or work plans for approval by the Committee.
49. **Subcommittee membership.** The Committee determines the membership of subcommittees. Subcommittee members may include Committee members. The Committee may also invite the participation of other individuals and representatives, such as: Elders, youth, Indigenous knowledge-holders, other community members or staff from Indigenous Communities or other Indigenous groups; representatives of the federal, provincial and local governments; Kinder Morgan representatives; and technical experts.

## INFORMED DELIBERATIONS AND DECISIONS

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50. **Dealings with the Committee.** Government and the NEB are open, accessible and transparent in their dealings with the Committee and subcommittees.
51. **Government and NEB information sharing.** Government and the NEB share information openly with the Committee, subject to common law privileges or other restrictions or exemptions as may be found in federal legislation concerning the disclosure of documents and other materials, or when the NEB is in the middle of a decision process or procedural fairness otherwise prohibiting disclosure. When information cannot be shared, Government or the NEB provides reasons.
52. **Indigenous Communities' information sharing.** In order to fulfill the purposes of the Committee, including the integration of Indigenous perspectives into the regulation of the TM Activities, Indigenous Communities are encouraged to share their perspectives, knowledge and other information with the Committee as they deem appropriate.
53. **Accessible information.** In order to inform its deliberations, the Committee maintains an information base that may be comprised of both western and traditional knowledge, and is

accessible by all members of the Committee. The Committee develops rules regarding the management of that information.

## ENGAGEMENT WITH KINDER MORGAN

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54. The Committee seeks proactive and productive means to engage with Kinder Morgan and include it in its discussions, as appropriate, with the aim of promoting continual improvement of its safety culture and performance, and its relations and engagement with Indigenous Communities.

## NATIONAL ENERGY BOARD INSPECTION OFFICERS

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55. ***NEB Inspection Officers' engagement with Committee.*** NEB Inspection Officers' primary role, as set out in the *NEB Act*, is to ensure the safety and security of people and pipeline, and the protection of property and the environment. NEB Inspection Officers inspecting the TM Pipelines and the Marine Terminal exercise their powers independently and in accordance with the regulatory framework and their professional judgement. NEB Inspection Officers or other NEB staff also seek to:
- a. Keep the Committee informed of their activities, including any issues of concern in relation to the TM Pipelines and the Marine Terminal;
  - b. Facilitate the involvement and respond to concerns of any Monitors regarding the TM Pipelines and the Marine Terminal;
  - c. Receive and consider any information or input from the Committee (including its subcommittees);
  - d. Where the NEB Inspection Officer is of the view that the grounds for making an Order under s. 51.1 of the *NEB Act* may exist, they can consider, as is appropriate and practicable in the circumstances, the views of the Committee and/or any Monitors regarding the potential grounds for making an Order and the potential terms under which an Order should be made, as well as whether there are additional considerations that should be taken into account in relation to the terms of the Order; and
  - e. As appropriate and practicable, receive input from the Committee and/or Monitors with respect to whether a hazardous or detrimental situation has been remedied satisfactorily, whether an Order should be lifted, and whether other measures to address the situation should be put in place.

## REGULATORS' AND GOVERNMENT'S RESPONSES TO ADVICE

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56. ***Advice from the majority of the Committee.*** The Committee uses its best efforts to ensure that advice provided to a Regulator or the Government reflects a consensus among Committee members. After making best efforts to reach consensus, advice supported by a majority of members may be put forward on behalf of the Committee for consideration by a Regulator or the Government, provided that the Committee members putting forward the advice first:
- a. Ensure that the advice has been provided to all Committee members in final written form; and
  - b. Provide all Committee members with an opportunity to explain, in writing, why they cannot support the advice in whole or in part and those reasons will be conveyed to the Regulator or the Government for consideration along with the advice.
57. ***Advice to Regulator or Government.*** When the Committee provides advice to a Regulator or the Government in writing, the Regulator or Government considers the advice, and, to the extent permitted by the legislative and regulatory framework and applicable principles of law, including procedural fairness, either:
- a. Agrees with and adopts the advice; or
  - b. After engaging with the Committee, adopts the advice with modifications, or rejects it, in which case the Regulator or the Government provides written reasons for why the advice was modified or rejected, and whether or how the interests or concerns underlying the advice have been or will be addressed.
58. ***Advice to NEB in quasi-judicial role.*** Where the Committee provides advice to the NEB in a situation where an NEB member or members are authorized by legislation to make a binding decision, the NEB member(s) considers the advice and, to the extent required under the principles of administrative law, provides written reasons, including how the advice was treated in the decision. This may include specifically how and why the advice was accepted, accepted with modifications, or rejected.
59. ***Duties also owed to Indigenous Communities.*** For greater clarity, while sections 57 and 58 apply only to advice from the Committee, the duties of Regulators and Government to respond to that advice as set out in those sections is for the benefit not only of the Committee but also of each Indigenous Community.

## REACHING CONSENSUS

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60. **Consensus model.** The Committee and the subcommittees will deal with issues and resolve disputes using a consensus model. A single voice reflecting a consensus will speak more persuasively than advice based on separate voices.
61. **Conduct.** Members of the Committee, Indigenous Caucus and subcommittees will:
- a. Treat each other and all members' organizations or communities with respect and good faith;
  - b. Share relevant information, to the extent they are authorized to do so;
  - c. Listen to one another with open minds in an effort to understand each other's concerns and perspectives; and
  - d. Strive to find ways to address all concerns and to incorporate different perspectives.
62. **Meaning of consensus.** For the purposes of the Committee, consensus means the general agreement of all Committee members on a course of action. Consensus does not require concurrence on every point, but rather broad agreement on the general approach and willingness to accept the overall course of action. Points of disagreement may be identified along with an explanation as to why agreement on those points has not been possible. In order to ensure the broadest possible consideration of options and possibilities, all suggestions are considered tentative until consensus is achieved on the overall course of action.
63. **Dispute resolution.** To assist in reaching consensus on particularly contentious or difficult issues, the Committee may retain the services of a facilitator or seek the advice of an independent expert. The Committee may use structured dispute resolution processes where required, including but not limited to the following:
- a. Committee members have an obligation to fully explore issues and search for mutually acceptable solutions, articulate interests, propose alternatives, listen to proposals and endeavour to build agreement;
  - b. Committee members can expect adequate time and opportunity to become informed, discuss issues and articulate areas of agreement and disagreement; and
  - c. When unable to support a consensus, Committee members have an obligation to explain how the matter at issue is of importance, identify how they are adversely impacted and suggest an alternative.

64. ***Participation is without prejudice.*** It is understood and accepted that Indigenous Communities have varied opinions on the TM Activities, and that some communities support them and some oppose them. Participating in the work of the Committee – including by attending meetings of the Indigenous Caucus, or by a community member acting as a member of the Committee or a subcommittee – does not indicate that a community supports or does not oppose the TM Activities. Participation in this process is entirely “without prejudice” to the Government’s, the NEB’s and the Indigenous Communities’ positions with respect to existing or prospective litigation. In plain terms, Government undertakes not to argue or adduce evidence in any current or future legal proceeding that is to the effect that, based on a Community’s participation in this process: (i) the Community agrees with or otherwise acquiesces to Canada’s position that the Committee is a form of accommodation; (ii) the Community has accepted that it is being accommodated in relation to the Project through its participation in the Committee; and/or (iii) the Community has agreed that the Committee responds to any of the concerns and objections to the Project.
65. ***No diminishment of duty to consult.*** The Committee will be an additional forum for engagement between Regulators and Indigenous Communities and will not replace or diminish any right of individual Indigenous Communities to be consulted and accommodated by the Government.
66. ***No diminishment of Kinder Morgan’s obligations.*** Any advice or input provided to Kinder Morgan by the Committee is intended to help Kinder Morgan achieve or remain in compliance with legal requirements. This advice does not relieve Kinder Morgan from its responsibility to comply with all applicable legal and regulatory requirements, as determined by the Regulators or the Government.
67. ***Not a treaty, and no derogation from Aboriginal and treaty rights.*** It is understood and acknowledged that these Terms of Reference do not:
- a. Constitute a land claims agreement or treaty within the meaning of sections 25 and 35 of the *Constitution Act, 1982*; or
  - b. Affect, define, extinguish or derogate from any treaty or Aboriginal rights, including Aboriginal title.

## ANNUAL REPORT

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68. The Committee will submit an Annual Report to the Minister of Natural Resources, the Chief Executive Officer of the NEB and the Indigenous Communities, highlighting achievements and lessons learned. The report will be made publicly available.

## REVIEW, AMENDMENT AND TERMINATION

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69. **Review.** The Committee reviews the effectiveness of these Terms of Reference, including the structure, on an annual basis during the construction phase of the Project and at least every three years thereafter. The Committee may invite the participation in this process of senior representatives of the Government and the NEB. The first review will be completed by September 30, 2018, and will include at least the following:
- a. An assessment of how the Committee has enhanced Indigenous participation in monitoring the TM Activities;
  - b. An evaluation of opportunities to align the Committee with any new environmental processes or changes to the NEB or other Government legislative or regulatory framework; and
  - c. A consolidation of early learnings from the Committee operations.
70. **Amendment.** These Terms of Reference may be amended by agreement in writing of the Government, the NEB and the Indigenous Caucus.
71. **Termination.** These Terms of Reference will terminate at the end of the lifecycles of the TM Activities or earlier upon the agreement of the Government, the NEB and the Indigenous Caucus.

## APPENDIX A: INDIGENOUS COMMUNITIES

### Western Approach

|  |                          |
|--|--------------------------|
| Ditidaht First Nation                        | Huu-ay-aht First Nations |
| Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations | Pacheedaht First Nation  |
| Toquaht Nation                               | Uchucklesaht Tribe       |
| Ucluelet First Nation                        |                          |

### Vancouver Island - South

|                             |                                    |
|-----------------------------|------------------------------------|
| Esquimalt Nation            | Malahat Nation                     |
| Pauquachin First Nation     | Scia'new (Beecher Bay) Indian Band |
| Songhees (Lekwungen) Nation | Tsartlip First Nation              |
| Tsawout First Nation        | Tseycum First Nation               |
| T'Sou-ke First Nation       |                                    |

### Southeastern Vancouver Island

|                                   |                                     |
|-----------------------------------|-------------------------------------|
| Cowichan Tribes                   | Halalt First Nation                 |
| Lake Cowichan First Nation        | Lyackson First Nation               |
| Penelakut Tribe                   | Snaw-naw-as (Nanoose) First Nation  |
| Snuneymuxw (Nanaimo) First Nation | Stz'uminus (Chemainus) First Nation |

### Burrard Inlet / Lower Fraser

|                                    |                         |
|------------------------------------|-------------------------|
| Katzie First Nation                | Kwikwetlem First Nation |
| Musqueam Indian Band (Xwməθkwəyəm) | Semiahmoo First Nation  |
| Squamish Nation (Skwxwú7mesh)      | Tsawwassen First Nation |
| Tsleil-Waututh Nation              |                         |

### Fraser Valley

|  |                                      |
|--|--------------------------------------|
| Aitchelitz Band (Athelets)                   | Chawathil First Nation               |
| Cheam First Nation                           | Kwantlen First Nation                |
| Kwaw-Kwaw-Apilt First Nation (QweQwe'opelhp) | Leq'a:mel First Nation               |
| Matsqui First Nation                         | Peters First Nation                  |
| Popkum First Nation                          | Scowlitz (Sq'ewlets)                 |
| Seabird Island Indian Band (Sq'ewqel)        | Shxw'ōwhāmel First Nation            |
| Shxwhā:y Village                             | Skawahlook First Nation (Sq'ewá:lxw) |
| Skowkale First Nation (Sq'ewqéyl)            | Skwah First Nation                   |
| Soowahlie First Nation (Th'ewá:li)           | Squiala First Nation (Sxwoyehálá)    |
| Sts'ailes Nation                             | Sumas First Nation (Sema:th)         |

|  |                        |
|--|------------------------|
| Tzeachten First Nation (Ch'iyaqtel)      | Union Bar First Nation |
| Yakwekwioose First Nation (Yeqwyeqwi:ws) | Yale First Nation      |

### Mid-Fraser / Thompson

|                                   |   |
|-----------------------------------|---|
| Ashcroft Indian Band              | Boothroyd Band                                  |
| Boston Bar Band                   | Coldwater Indian Band (C'eletkwmx or Ntsla'tko) |
| Cook's Ferry Indian Band          | Kanaka Bar Indian Band                          |
| Lower Nicola Indian Band (Shulus) | Lytton First Nation                             |
| Nicomien Indian Band              | Nooaitch Indian Band (Nooaitch)                 |
| Oregon Jack Creek Band            | Shackan Indian Band (Shackan)                   |
| Siska Indian Band                 | Skuppah First Nation                            |
| Spuzzum First Nation              |   |

### BC Interior

|  |  |
|--|--|
| Adams Lake Indian Band (Sexqeltqin)                          | Bonaparte Indian Band (St'uxwtews)               |
| Canim Lake Band (Tsq'escen')                                 | High Bar First Nation (Llenlleney'ten)           |
| Lheidli T'enneh First Nation                                 | Lhtako Dene Nation                               |
| Little Shuswap Lake Indian Band (Skwlax)                     | Neskonlith Indian Band                           |
| Shuswap Indian Band (Kenpésq't)                              | Simpcw First Nation                              |
| Skeetchestn Indian Band (Skítsesten)                         | Splatsin First Nation (Splatsín)                 |
| Stswecem'c / Xgat'tem (Canoe Creek / Dog Creek Indian Band)  | Tk'emlúps te Secwépemc                           |
| Toosey Indian Band (Tl'esqox)                                | Ts'kw'aylaxw First Nation (Pavilion Indian Band) |
| Whispering Pines / Clinton Indian Band (Stil'qw / Pelltiq't) | Williams Lake Indian Band (T'exelc)              |
| Xat'súll First Nation (Soda Creek Indian Band)               |  |

### Okanagan

|  |                               |
|--|-------------------------------|
| Lower Similkameen Indian Band (Smelqmix) | Okanagan Indian Band          |
| Osoyoos Indian Band                      | Penticton Indian Band         |
| Upper Nicola Band                        | Upper Similkameen Indian Band |
| Westbank First Nation                    |                               |

### Alberta First Nations

|                                     |                            |
|-------------------------------------|----------------------------|
| Alexander First Nation (Kipohtakaw) | Alexis Nakota Sioux Nation |
| Enoch Cree Nation                   | Ermineskin Cree Nation     |
| Horse Lake First Nation             | Louis Bull Tribe           |
| Montana First Nation                | O'Chiese First Nation      |
| Paul First Nation                   | Samson Cree First Nation   |



|   |                           |
|---|---------------------------|
| Stoney Nakoda First Nation (Iyarhe Nakoda)                        | Sturgeon Lake Cree Nation |
| Sucker Creek First Nation   | Sunchild First Nation     |
| Whitefish (Good fish) Lake First Nation / Saddle Lake Cree Nation |                           |

### **British Columbia Métis**

|                     |                                     |
|---------------------|-------------------------------------|
| BC Métis Federation | Kelly Lake Métis Settlement Society |
| Métis Nation of BC  |                                     |

### **Alberta Métis**

|  |                         |
|--|-------------------------|
| Lac Ste. Anne (Gunn Métis - Local Council #55) | Métis Nation of Alberta |
| Mountain Métis Nation Association              |                         |

## Report of the Indigenous members of the Working Group in respect of the Indigenous Advisory and Monitoring Committee for the Trans Mountain pipelines and marine shipping

We are the chiefs and other leaders of Cheam First Nation, Lower Nicola Indian Band, Upper Nicola Indian Band, Paul First Nation, Enoch Cree Nation, Nooaitch Indian Band, Kwikwetelem First Nation, Scia'new (Beecher Bay) First Nation, Métis Nation of Alberta and Lac Ste. Anne Métis. Our communities have been represented on the Working Group that, with federal government and NEB representatives, has been developing the Indigenous Advisory and Monitoring Committee (the "Committee") for the Trans Mountain pipelines and marine shipping.

One of the Working Group's primary tasks has been to draft Terms of Reference for the Committee, and to determine whether among the 117 Indigenous communities (the "Indigenous Communities") affected by the Trans Mountain pipelines and marine shipping there is substantial support for establishing the Committee based on those Terms of Reference. This is our report on what we have heard from the Indigenous Communities, with our recommendation on whether the Committee should be established.

### ***Context***

The current Trans Mountain Pipeline transports approximately 300,000 barrels per day of crude and refined oil from Edmonton, Alberta to Burnaby, BC, from where the products are shipped by tanker out to the international shipping lanes. The pipeline has operated for over 60 years and was approved without a proper environmental assessment having been conducted. The pipeline runs through First Nations' reserves and sacred places, over lands that are subject to Aboriginal title, and along rivers that have sustained Indigenous peoples since time out of mind. The oil tankers traverse the waters of Burrard Inlet, the Salish Sea and the western approach, which Indigenous peoples have relied upon for generations beyond counting. Nonetheless, Indigenous Communities have never been meaningfully consulted about the existence of the pipeline or been given substantial recognition in the regulation of its operations.

Using broadly the same corridor and shipping lanes, the Trans Mountain Expansion Project (the "TMX") will, if it proceeds, triple the amount of oil being transported through Indigenous Communities' territories and reserve lands. To put the scale of the TMX into context, it will add to the Trans Mountain system somewhat more capacity than the amount that would have been transported by the Northern Gateway Pipeline, had it gone ahead. The TMX is extremely controversial among the Indigenous Communities – including the communities represented on the Working Group – many of whom regard it as a grave threat to the continued integrity of

their homelands, to their ways of life, and to their spiritual connections to the lands and waters that have sustained their peoples for millennia.

The TMX was reviewed by a National Energy Board (“NEB”) panel in a two-year process that culminated in May of 2017 with a report and a recommendation by the panel that the Governor-in-Council approve the issuance of a Certificate of Public Convenience and Necessity (“CPCN”) for the TMX. Canada engaged in some further consultation with Indigenous Communities over the months following the NEB report and then on November 29, 2016 approved the CPCN, subject to 157 conditions. Kinder Morgan, the parent of the companies that owns the Trans Mountain system, made a positive Final Investment Decision in respect of the TMX on May 25, 2017, and construction is scheduled to begin in August of this year.

There is a wide variety of views of the TMX among the Indigenous Communities. Some are adamantly opposed to the project, including those that are challenging the CPCN in court, while others have signed benefits agreements with Kinder Morgan, providing support for the project in exchange for such things as financial, employment and procurement benefits and environmental monitoring standards. Among those that have signed benefits agreements, various reasons for entering such agreements have been cited, including the opportunities to employ community members, grow local businesses and fund social programs, as well as concern that the TMX may proceed regardless of their opposition.

From what we have seen and heard, however, the Indigenous Communities are essentially unanimous on two points: that the current Trans Mountain Pipeline and the new TMX pose serious risks to the environment and the communities’ interests in their lands and waters, and that the NEB process and the Crown’s subsequent consultation with the Indigenous Communities were inadequate, in part because they did not provide Indigenous Communities with meaningful participation in the decision-making process.

It is because of those two widely-held concerns that an Indigenous oversight committee was first proposed. In June of 2016, Chief Aaron Sam (Lower Nicola Indian Band) and Chief Ernie Crey (Cheam First Nation) wrote a letter to the Prime Minister in which they articulated those two concerns and called for the establishment of “an Indigenous led independent safety and environmental oversight body with participation from all Nations affected by the existing pipeline and the TMX”. That letter, which we have appended to this report, was supported by the signatures of representatives of over 50 Indigenous groups.

The letter prompted the federal government to meet with Indigenous Communities in Kamloops in early November of 2016 to discuss the potential establishment of an Indigenous oversight body. Those of us who were at that meeting heard substantial interest from the communities that attended, but also a clear demand for more time to discuss the nature of such a body prior to any decision on the CPCN being made. The federal government did not

heed that call for more time and instead proceeded to approve the TMX at the end of November. Despite this failure, we were pleased that, as part of that decision, the government did commit to co-developing an Indigenous Advisory and Monitoring Committee with Indigenous Communities and allocated up to \$64.7 million over five years to support the Committee if it is ultimately established.

### ***The Working Group***

The Working Group was formed in January of 2017. Comprised at first of Chief Sam and Chief Crey on the Indigenous side, it was quickly expanded to include representatives of all of our communities, alongside representatives of the federal government and the NEB.

The Working Group has largely viewed its task as attempting to develop Terms of Reference for the Committee that would gain substantial support among the Indigenous Communities. Given the extreme shortness of time and the very large number of Indigenous Communities, this has been a daunting task. The Working Group generally met every week, with certain of us undertaking substantial work in between meetings. We believe that, with the committed involvement of federal government and NEB representatives, we have been able to accomplish in roughly five months what might normally take two years or more. We have moved so quickly because construction is scheduled to begin on the Westridge Marine Terminal in August of this year and on sections of the pipeline in September. We have been conscious that, if ultimately the Committee were established, then it is imperative that it be in place, with resources including staff, for the start of construction.

Even as we scrambled to meet the construction start date, however, we knew that through this entire period the Committee was already missing the opportunity to review and comment upon Kinder Morgan's numerous pre-construction filings with the NEB – matters that would undoubtedly have been central to the Committee's work, had it have been given the time to be established. On May 15, 2017 we wrote to the NEB member (Mr. David Hamilton) mandated to decide upon some of those filings (the applications for approval) in an effort to preserve an opportunity for the Committee to comment upon them, including by providing an opportunity for any approvals to be subject to amendment in light of comments received from the Committee once it is established. Mr. Hamilton stated in reply on June 21, 2017, however, that he was unable to accede to our request. The result is that it is very likely that, because of the extreme time pressures under which the Working Group has had to operate, the Committee will have been denied the opportunity to comment upon highly significant NEB filings. In this light, we must express our deep disappointment and frustration that the Committee was not provided more time prior to construction to be established and initiate its important work.

The overwhelming sentiment we heard from the Indigenous Communities with respect to the schedule was similar to our own views: while they shared our frustration at the extreme

shortness of time, they urged us to work as quickly as possible to have the Committee established so that it would be in place when the construction started. We heard that view, and others, at meetings we held with the Indigenous Communities. A first meeting was held at Tzeachten First Nation in Chilliwack on February 20-21, 2017, where the Working Group discussed the concept of the Committee in general terms and the proposed co-development process for its establishment. We heard strong support for the Working Group and its efforts to co-develop Terms of Reference for the Committee. At a meeting hosted by Enoch Cree Nation at River Creek Resort in Edmonton on April 19-20, we presented the Indigenous Communities with certain key concepts for the Terms of Reference and we received valuable and informative feedback in return.

Following that meeting we engaged in intensive drafting of the Terms of Reference with the government and NEB members of the Working Group, and the government conducted its internal review. The Working Group – again including the government and NEB members – then took the working draft of the Terms of Reference to a series of regional meetings with the Indigenous Communities on June 1 (Chilliwack), June 5 (Edmonton), June 6 (Kamloops) and June 14 (Sooke). In those meetings we sought feedback on the Terms of Reference, including whether there were refinements that should be made, and whether, with those refinements, there was substantial support for establishing the Committee on the basis of the Terms of Reference. We sent out written materials in advance of these meetings, and we sought to reach out personally to chiefs to encourage their attendance. We recognized that the short timelines by which our work has progressed made it difficult for some communities to attend, and we sought to address those difficulties by allowing time for communities to provide comments in writing after the meetings, and to hold additional meetings where necessary. Follow up meetings were held on June 19 (Edmonton), June 20 (Kamloops), June 22 (Sooke) and July 11 (Merritt), in particular to discuss and advance Committee membership.

### ***What We Heard***

We found the meetings with the Indigenous Communities on the draft Terms of Reference to be highly respectful, substantive and helpful, and to reflect the communities' intense interest in protecting the environmental integrity of their territories.

In these meetings, we heard comments from a number of directions, including suggestions to improve the draft Terms of Reference, concerns with whether the Terms of Reference go far enough to be worth establishing the Committee, and voices supporting the Terms of Reference and the establishment of the Committee. We listened intently, and the feedback we received informed our own consideration the Terms of Reference. Throughout the process of meeting with the Indigenous Communities we continued to refine the Terms of Reference, which

ultimately went through 22 drafts. We believe that the Terms of Reference were significantly improved by virtue of the feedback we received from the Indigenous Communities.

As noted, we heard from the Indigenous Communities comments on both sides of the fundamental question of whether the Committee and the Terms of Reference were worth supporting. Under the subheadings below we set out the main comments we heard in this regard, as well as some of our considerations on those issues.

### **Concerns with the Terms of Reference**

Throughout our engagement with Indigenous Communities we heard a number of serious concerns voiced about the Terms of Reference and the establishment of the Committee. Many representatives of the Indigenous Communities struggle with these concerns, and indeed we share them. Through the co-development process, and informed by suggestions from our meetings with Indigenous Communities, we have tried to address these concerns in the Terms of Reference, as summarized below:

- **Implied consent to the pipelines.** Some Indigenous Community members voiced the concern that participating in the Committee would imply consent to the TMX and the existing pipeline. In particular, three generations of women from the Neskonlith Indian Band strongly delivered that message to us in Kamloops on June 6. We – and we believe many members of the Indigenous Communities – deeply share the concern that the participation in the work of the Committee not be taken as any sign of support for the TMX, and so the Terms of Reference expressly state as much at section 64. Further, the Terms of Reference make clear at sections 65 and 66 that the Committee does not replace or diminish the Crown’s duty to consult Indigenous Communities directly or Kinder Morgan’s obligations to engage with them. Despite these provisions in the Terms of Reference, which address the *legal* ramifications of the Terms of Reference, there remains the concern that the Committee may be regarded in a *political* sense as some sort of endorsement of the TMX. We share that anxiety, but we are also concerned to ensure that, if the TMX is going to be built, the TM Activities are subjected to the most rigorous compliance monitoring possible, informed by Indigenous values, perspectives and interests.
- **Teeth, not tokenism.** A constant theme throughout this process has been the need to ensure that the Committee represents “teeth, not tokenism”, as one Working Group member put it. In other words, there has been real concern with the framing of this Committee as being “advisory” instead of being granted direct decision-making authority. We have sought to address this issue in the Terms of Reference in three main ways.

First, we have built in provisions that commit government and the NEB to respecting the Committee and its processes and effecting real culture change within government. For instance, the government and the NEB are committing to putting in place the internal mechanisms necessary to support the work of their Committee members (section 45). Further, in sections 57 and 58 we have built in “standards” by which government and regulators (including the NEB) must respond to advice from the Committee, including seriously considering implementing that advice or seeking other ways to address the underlying concerns, and giving written reasons.

Second, we have sought to make sure that, with the funding made available to the Committee, it will have the technical staff and experts necessary to frame input and advice that will be taken seriously by regulators, and “boots on the ground” to monitor construction and operations as they take place. That is, we have tried to make sure that the Committee is not just a forum for *talking* about the TM Activities, but also an organization that is actually *doing* detailed and ground level monitoring work.

Third, we have sought to address the legal constraint that the current legislative framework does not allow regulators like the NEB to delegate their decision-making powers to the Committee; with government and the NEB, we have committed to the shared longer-term vision (section 14) of deepening over time the Committee’s involvement in decisions relating to the TM Activities, including as such opportunities arise with legislative change. We interpret this vision as providing scope for the Committee to advocate for amendments to the *NEB Act* and other legislation that would provide for shared decision-making over the TM Activities in the future.

We were pleased to review a discussion paper on environmental and regulatory reviews issued by the federal government on June 29, 2017. In that discussion paper, the government outlines changes it is considering making with respect to federal environmental assessment and regulatory processes as part of its commitment to “modernize” the *National Energy Board Act*, the *Canadian Environmental Assessment Act, 2012*, the *Fisheries Act* and the *Navigable Waters Protection Act*. In the discussion paper the government sets out that it is considering changes to achieve “cooperation and partnership based on recognition of Indigenous rights throughout processes”, including by:

- “Being responsive to Indigenous rights, jurisdiction and decision making, with space created to enable increased Indigenous involvement, including Indigenous-led assessments”;
- “Allowing for the sharing of administrative authority and management responsibility with Indigenous peoples in a manner similar to other jurisdictions (e.g. independent environmental monitors)”;
- “Formalizing the co-development of frameworks for collaboration with Indigenous peoples on environmental assessments and regulatory processes”;
- “Creating opportunities for Indigenous partnerships and co-development in monitoring – building on systems in Canada’s North (e.g. established through land claim agreements) and on co-development work initiated for some projects”; and
- “Expanding the role of Indigenous peoples in the monitoring of pipeline and other energy infrastructure from construction to decommissioning”.

We see in these proposals under consideration real potential that the amended legislative scheme will allow for shared decision-making over the TM Activities. That is a goal we have consistently heard articulated by many Indigenous Communities, and the Terms of Reference’s inclusion in section 14 of the longer-term vision of expanding Indigenous Communities’ involvement in the TM Activities is a central reason many Indigenous Communities support the establishment of the Committee. With the release of the discussion paper, we have some increased optimism that the goal of shared decision-maker will ultimately be achieved.

- Government and NEB involvement in the Committee. We have heard concerns that the Committee is not comprised entirely of Indigenous members, but also includes government and NEB representatives. There are benefits to this structure – principally, it allows much greater opportunity for creative collaboration and positive culture change within government and the NEB – but there is also the serious concern that the government and NEB representatives may block our Indigenous members from taking the strong positions necessary to protect our lands and waters. We have sought to address that concern by recognizing a distinct role for the “Indigenous Caucus”, which is the collective of Indigenous members of the Committee. Our vision is that the Indigenous Caucus will be able to discern shared perspectives among Indigenous Communities on many issues, and will be able to advance a more unified, collective agenda that will ring loudly in the halls of government and the NEB. To enable this collective agenda-setting, we have made clear that the Caucus will have access to



resources, including two dedicated staff entirely under its own direction. Further, we have provided that Indigenous members will form a majority of the Committee and that, if consensus cannot be reached at the Committee, then a majority of the Committee may provide input and advice to government and regulators. While we sincerely hope that the Committee will be characterized by productive consensus-building, we have tried to ensure through these means that the Indigenous Caucus members will not be prevented from taking strong positions where the government or the NEB representatives are not able to support them.

- Rushed process. Many attendees of the meetings understandably expressed concern that the Terms of Reference were being developed too quickly. We entirely share this concern. As discussed above, we have moved so quickly out of consideration that construction is scheduled to begin in August. While we believe most meeting attendees accepted the need to move with urgency, we have also built into the Terms of Reference the principle that they will be adapted and evolved as we learn from experience what works and what does not, and they will be subjected to regular reviews.

### **Support for the Terms of Reference**

Last, we heard many members of the Indigenous Communities voice support for the Terms of Reference. While we doubt that any attendee at our meetings did not share at least some of the anxieties summarized above, we heard many attendees express the perspective that the benefits of the Committee make it a worthwhile endeavour. As leaders of our own communities – some of which outright oppose the TMX – we have also grappled with that fundamental question of whether the benefits outweigh the costs. As reflected in what we heard at the meetings and have considered ourselves, we see some of the main benefits as the following:

- A seat at the table. Even though the main functions of the Committee are “advisory” and “monitoring”, as opposed to decision-making, the Committee would provide our communities with far more meaningful involvement in the regulation of the TM Activities than we would otherwise have, which we can leverage to protect the environment and our Aboriginal and treaty rights to our lands and waters.
- Taken seriously by government and regulators. As discussed above, a number of elements of the Terms of Reference will help ensure that the Committee’s advice is taken seriously by government and regulators (including the NEB). They will need to respond meaningfully to the Committee’s advice, the involvement of government representatives on the Committee will promote culture change within the government and regulators, and the Committee will have the technical expertise to be persuasive.

- Regulation over the existing pipeline and the marine shipping. The “TM Activities” the Committee will monitor are not limited to the TMX, but will include the existing pipeline and marine shipping. Those latter activities have never been subjected to any meaningful review by Indigenous Communities, and there is no clear alternative process for the Indigenous Committees to monitor and participate in the regulation of those existing activities.
- Adaptive and evolving. The Committee will provide a platform for the Indigenous Communities to continue to deepen their involvement in the regulation of the TM Activities, including by advocating for shared decision-making.
- Boots on the ground. The Committee will be able to fund on-the-ground monitors, and will be entitled to accompany NEB inspection officers.
- An additional and collective forum for Indigenous involvement. The Committee will not replace or diminish individual Indigenous Communities’ rights to be consulted by government and engaged with by Kinder Morgan. Instead, the Committee will provide an *additional* space for the inclusion of Indigenous perspectives, which we hope and expect will be advanced at the Committee on a more aggregated, collective basis so that they are loud, clear and compelling.

### ***Conclusion with respect to substantial support for the Terms of Reference***

We have heard a number of voices from the Indigenous Communities in opposition to the establishment of the Committee. However, on balance, we have heard far greater support among the Indigenous Communities for these Terms of Reference and the Committee. Most of the communities from which we have heard have expressed the viewpoint that, despite its drawbacks and the concern not to imply support for the TMX, the Committee represents an important and welcome opportunity to advance Indigenous participation in the oversight and regulation of a major resource project and thereby better ensure its safety and the integrity of our territories.

Without excluding any of the considerations within the cost-benefit analysis we have outlined above, we stress that the support we have heard for these Terms of Reference and the establishment of the Committee is entirely premised on the government’s express promise that participation in the Committee is “without prejudice”, in that it cannot be taken as an indication of support or non-opposition to the TMX, or of any sort of acceptance of the adequacy of the government’s consultation or accommodation. That point is fundamental.

### ***Selection of Indigenous Caucus Members***

The Terms of Reference provide, at section 24, that the Committee will include 13 members selected by the Indigenous Communities (i.e. Indigenous Caucus members). Those members will comprise a majority of the members of the Committee, and section 28 provides that quorum requires a majority of members present at a Committee meeting be Indigenous Caucus members.

Not all members of the Initial Indigenous Caucus have been selected to date, but we are pleased to report that 10 members have been, as follows:

- Vancouver Island – Western Approach: Kristine Pearson (Pacheedaht First Nation);
- Vancouver Island – South: Chief Russ Chipps (Scia'new (Beecher Bay) First Nation);
- Vancouver Island – Southeast: Caitlin Kenney (Halalt First Nation);
- Burrard Inlet / Lower Fraser: Carleen Thomas (Tsleil-Waututh First Nation);
- Fraser Valley: Chief Ernie Crey (Cheam First Nation);
- Mid-Fraser / Thompson: Chief Marcel Shackelly (Nooaitch Indian Band);
- Okanagan: Chief Harvey McLeod (Upper Nicola Indian Band);
- Alberta First Nations:
  - Ray Cardinal (Paul First Nation);
  - Norine Saddleback (Louis Bull Tribe); and
  - Michelle Wilsdon (Enoch Cree Nation).

In the result, there are currently sufficient Initial Indigenous Caucus members to allow the Committee to hold meetings and conduct its business.

### ***Recommendation***

Given all that we have heard, as summarized in this report, we recommend that the Terms of Reference be implemented and the Committee be established.

Alongside that recommendation, we want to applaud the government's and the NEB's willingness to participate in this co-development process, which in our view required boldness, commitment and a desire to effect positive change in partnership with Indigenous Nations. This is an essential component of true reconciliation. Moreover, we commend the efforts of the government and NEB representatives on the Working Group, who have demonstrated the collaborative, inclusive and solutions-focused mindset we expect all Committee members will bring, and who undertook their work with great energy and commitment. Last, we wish to extend our heartfelt thanks to the facilitator, Jessica Bratty, without whose dedication, passion and vision we doubt this process would have succeeded.

While we value the opportunity to participate in the oversight of the TM Activities, we do not suggest for a moment that the development of this Committee justifies the *approval* of the TMX. Indeed, the federal government is currently considering changes to environmental assessment and regulatory processes in order to “regain public trust” in them, while nonetheless having relied upon the old, flawed NEB process for the TMX approval – a troubling contradiction.

We also note that, while the co-development of this Committee is an important first step, further steps are required in order to achieve a new relationship of recognition, respect and collaboration. One such step relates to how the Committee members approach the implementation of the Terms of Reference in the coming months and years. The Committee will not be truly successful unless all members continue the work in collaboration – including on matters under the direction of individual entities, such as the NRCan Secretariat and the NEB Inspection Officers – and strive together to improve the safety of the TM Activities and protect the environment and Indigenous interests in the land and waters. If instead the government and NEB members – with the resources of their home departments and the Secretariat behind them – begin to dominate the Committee’s agenda, then little will ultimately be accomplished in this regard. Again, however, our experience on the Working Group has given us optimism that the government and NEB members will come to the Committee with an open mindset and a commitment to collaborative decision-making, and we hope that the Indigenous Caucus, as part of the Committee as a whole, will be in a position to report as much a year from now at the time of the first review.

The second step relates to the longer-term vision of deepening the Indigenous Communities’ involvement in decisions over the TM Activities. As set out in section 14 of the Terms of Reference, some means of doing so – including providing the Committee with real “teeth”, such as through shared decision-making over the TM Activities – will require legislative change. As discussed above, in this regard we are heartened to see in the June 29 discussion paper that the federal government is broadly considering legislative changes that appear to have the potential to allow the Committee over time to take on some direct regulatory powers. The modernization of the *NEB Act* and related legislation provides an opportunity for this government to demonstrate true leadership in advancing reconciliation with Indigenous peoples at the intersection with major industrial projects. The government has taken an initial step, and we strongly encourage it to continue in this direction.

It has been an honour and a privilege to serve on the Working Group in relation to this important initiative. It is our sincere hope that this Committee does indeed represent a departure from the practices of the past and is the beginning of a new relationship based on recognition, respect and collaboration in relation to the TM Activities. We wish the Committee lasting success in its work.

July 12, 2017

June 15, 2016

The Right Honourable Justin Trudeau, Prime Minister of Canada  
Office of the Prime Minister  
80 Wellington Street  
Ottawa, ON K1A 0A2

The Honourable Rachel Notley, Premier of Alberta  
Office of the Premier  
307 Legislature Building  
10800 - 97 Avenue  
Edmonton, Alberta T5K 2B6

The Honourable Christy Clark, Premier of British Columbia  
Office of the Premier  
West Annex, Parliament Buildings  
Victoria, BC V8V 1X4

**Attention: The Right Honourable Justin Trudeau, The Honourable Rachel Notley and  
The Honourable Christy Clark**

Dear Mr. Trudeau, Ms. Notley and Ms. Clark,

**Re. Consultation, Indigenous Consent and the Trans Mountain Expansion Project**

We are a collective of Indigenous leaders representing Nations impacted by Kinder Morgan's Trans Mountain Expansion Project (TMX). As you know, on May 19, 2016, the National Energy Board recommended the conditional approval of TMX subject to 157 conditions.

We are writing to advise you that engagement of our Nations with respect to TMX has been woefully inadequate and not in line with your respective governments' constitutional and international obligations.

**Domestic Law**

Based on *Haida Nation* and other related court decisions, the law in Canada is clear that prior to proof of Aboriginal rights and title, your governments have an obligation to consult with our Nations whenever you *contemplate* a decision that *may* impact our asserted Aboriginal rights and title. The content of this duty varies with the circumstances, but the evidence is clear that TMX could have a significant adverse effect on our strong claims of Aboriginal rights and title, and therefore your governments are at a minimum required to engage our Nations in "deep consultation".

Based on *Tsilhqot'in* and other related court decisions, the law in Canada is also clear that following proof of Aboriginal rights and title, in the absence of Aboriginal consent, your governments must justify any infringement of our proven interests. Where there is no Aboriginal consent, and where the infringement cannot be justified, projects that have been previously approved may be required to be cancelled.

The federal government has recently commenced what it calls “consultation” by sending representatives of Natural Resources Canada to attend meetings in some of our communities along the pipeline. We have also learned of the potential for further meetings with a newly constituted “Ministerial panel”. These meetings may be an avenue to open discussions, but they do not, in our view, come close to satisfying the federal government’s obligations with respect to the very serious question of whether TMX should be approved.

British Columbia has only recently (and reluctantly) begun its own engagement process on TMX following prompting from the BC Supreme Court in the recent *Coastal First Nations* decision. We fully expect British Columbia to meet its legal obligations in good faith and to carry out a meaningful engagement process. Thus far, British Columbia’s efforts in this respect have been insufficient.

Alberta has been completely absent from consultation efforts to date. It is important for Ms. Notley to understand that the constitutional obligation of provincial governments to consult with Aboriginal people does not stop at provincial borders. Alberta has and continues to routinely make decisions about the extraction of bitumen and other petroleum products knowing full well that those products will pass through our territories and potentially impact our rights and title. Despite this, not one of our Nations has ever been approached by Alberta seeking to understand and mitigate the potential impacts of Alberta’s decisions on our rights and title. We are putting you on notice that this illegal action needs to stop.

Finally, all actual and proposed consultative activities that have been proposed to date have been in a pre-determined, one-size-fits-all form. Good faith engagement of Aboriginal people with respect to TMX must involve input from us regarding format, terms of reference and content. In order for your governments to make a legally defensible decision regarding TMX, you must first discuss with our Nations exactly what form consultation on that decision should take. This very preliminary step has yet to happen in a meaningful way.

### International Obligations

In addition to the requirements established by Canadian courts, the federal government has recently adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In the words of Indigenous Affairs Minister Carolyn Bennett, Canada is “now a full supporter of the declaration, without qualification.” In some cases, full and good faith implementation of UNDRIP requires the federal government to seek or work in good faith to obtain the free, prior and informed consent (FPIC) of Indigenous people.

#### Article 19

*States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.*

#### Article 32.2

*States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources....*

Importantly for TMX, which will involve the transportation and storage of hazardous materials on our territories, Canada's obligations under Article 29.1 of UNDRIP go further than a mere need to "seek" or "consult and cooperate in good faith ... to obtain" our consent. Article 29.1 of UNDRIP requires you to take effective measures to ensure that bitumen and other petroleum products are not stored on our territories without our consent.

Article 29.1

*States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.*

All of these consent requirements are prospective: in order for Canada and the Provinces to issue any approvals for TMX, you must first seek and obtain our consent. However, there is also the issue of the development of the original Trans Mountain Pipeline, which occurred without our consent. In this regard, these historic confiscations and use of our lands require redress, restitution and compensation:

Article 28.1

*Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.*

This Article is consistent with the law of Canada: *Rio Tinto*, *Haida* and other related cases clearly state that damages may be an appropriate remedy for past infringements of an Aboriginal group's title and rights, including past failures to consult and accommodate asserted title and rights.

To date, no level of government in Canada has sought or obtained our free, prior and informed consent to TMX. Moreover, there has been no redress, restitution or compensation for historic confiscation and use of our lands.

Correcting the Process

To be clear: in our view, approval of TMX by any Canadian government requires our free, prior and informed consent. Yet not only have Canadian governments failed to obtain our consent, they have failed to discharge even the most basic of their obligations under Canadian law regarding consultation with Aboriginal groups. On this basis, if the *status quo* continues, we do not see how any decision regarding TMX can withstand any sort of judicial scrutiny.

We have grave concerns about both TMX and the existing Trans Mountain pipeline. These concerns have not been appropriately canvassed to date. These concerns are as unique to each Nation as is that Nation's connection to the land, and cannot be appropriately canvassed in one-size-fits-all meetings with Natural Resources Canada or the Ministerial Panel, which have been unilaterally designed and scoped by Canada.

Accordingly, the first step to correcting the TMX engagement process is to meet with us as a collective to discuss the format, terms of reference and content of the consultative process.

Without this foundation being laid, any subsequent consultation process is indefensible. As part of these discussions, the role of UNDRIP must be addressed, including how free, prior and informed consent will be reflected in any approval of TMX. FPIC involves not only obtaining our consent, but also a process that is guided by our needs and interests, with detailed information provided to us about the proposed project on timelines that are respectful of our values and institutional requirements.

At this stage, we have held preliminary internal discussions on strategies for mitigating the impacts of both the existing pipeline and the TMX throughout our territories. For example, given the Auditor General of Canada's recent findings that the NEB has failed to adequately track implementation of approval conditions or ensure regulatory compliance, we intend to propose creating an Indigenous led independent safety and environmental oversight body with participation from all Nations affected by the existing pipeline and the TMX. It is clear to us that the NEB cannot be entrusted to protect our Nations' interests and there are ample precedents for successful Indigenous led oversight throughout various industries and jurisdictions.

This concept of Indigenous oversight is presented on a without-prejudice basis, and you should not infer that accepting it will result in our consent or that it, in and of itself, will be acceptable to our constituents. Rather, we include it in this letter to demonstrate the type of potential mitigation initiatives that could begin to satisfy your constitutional and international obligations to our Nations.

For the purposes of this initial engagement, please address all communication to the leaders listed below who have been identified as the initial members of our engagement working group:

Chief Aaron Sam  
Lower Nicola Indian Band  
181 Nawishaskin Lane  
Merritt, BC V1K 0A7


Chief Ernie Croy  
Cheam First Nation  
52130 Old Yale Road  
Rosedale, BC V0X 1X1

We look forward to hearing from you on or before July 29, 2016.

**LOWER NICOLA INDIAN BAND**

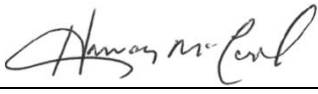
Per:   
\_\_\_\_\_  
Chief Aaron Sam

**CHEAM FIRST NATION**

Per:   
\_\_\_\_\_  
Chief Ernie Croy



**UPPER NICOLA BAND**

Per:   
Chief Harvey McLeod

**OKANAGAN INDIAN BAND**

Per:   
Chief Byron Louis

**ADAMS LAKE INDIAN BAND**

Per:   
Chief Robin Billy


**NICOMEN INDIAN BAND**

Per:   
Chief Ursula Drynock


**CHEMAINUS FIRST NATION**

Per:   
Chief Ray Harris


**SKIDEGATE BAND**

Per:   
Councillor Trent Moraes

**NESKONLITH INDIAN BAND**

Per:   
Chief Judy Wilson


**LOWER SIMILKAMEEN INDIAN BAND**

Per:   
Chief Keith Crow

**KWAKIUTL FIRST NATION**

Per:   
Chief Leslie Dickie

**COOK'S FERRY INDIAN BAND**

Per:   
Chief David Walkem

**SHACKAN INDIAN BAND**

Per:   
Chief Percy Joe


**BONAPARTE INDIAN BAND**

Per:   
Chief Ryan Day

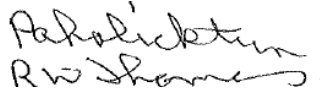
**MOWACHAHT/MUCHALAHT FIRST NATION**

Per:   
Chief Ben Jack

**NADLEH WHUT'EN FIRST NATION**

Per:   
Chief Larry Nooski

**LYACKSON FIRST NATION**

  
Chief Richard Thomas

**LIL'WAT NATION**

Per:   
Chief Dean Nelson


**YAKWEAKWIOOSE FIRST NATION**

Per:   
Chief Frank Malloway


**SISKA INDIAN BAND**

Per:   
Chief Fred Sampson

**XENI GWET'IN FIRST NATION**

Per:   
Councillor and former Chief Marilyn Baptiste

**KLAHOOSE FIRST NATION**

Per:   
Chief James Delorme


**KWIKWASUT'INUXW HAXWA'MIS FIRST NATION**

Per:   
Chief Robert Chamberlin

**SUMAS FIRST NATION**

Per:   
Chief Dalton Silver

**SKEETCHESTN INDIAN BAND**

Per:   
Chief Ron Ignace

**STZ'UMINUS FIRST NATION**

Per:   
Chief John Elliott

**TS'KW'AYLAXW FIRST NATION**

Per:   
Chief Francis Alec

**SHXW'OWHAMEL FIRST NATION**

Per:   
Councillor Clara Anne Paull


**NOOAITCH INDIAN BAND**

Per:   
Chief Marcel Shackelly

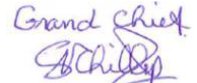
**GWAWAENUK TRIBE**

Per:   
Chief Charlie Williams


**LHOOSK'UZ DENÉ NATION**

Per:   
Chief Liliane Squinas


**OKANAGAN INDIAN ALLIANCE**

Per:   
Grand Chief Stewart Phillip


**SNUNEYMUXW FIRST NATION**

Per:   
Chief John Wesley

**NANOOSE FIRST NATION**

Per:   
Councillor Cheryl Jones

**LOWER KOOTENAY BAND**

Per:   
Chief M. Jason Louie

**CHAWATHIL FIRST NATION**

Per:   
Chief Rhoda Peters

**SQUAMISH NATION**

Per:   
Chief Richard Williams


**SONGHEES FIRST NATION**

Per:   
Councillor Garry Albany

**TOBACCO PLAINS INDIAN BAND**

Per:   
Councillor Corey Letcher

**WET'SUWET'EN FIRST NATION**


Per:   
CHIEF NA'MOKS  
Chief Na'moks (John Ridsdale)

**SPLATSIN FIRST NATION**


Per:   
Chief Kukpi7 Christian

Per:   
Sub Chief George William

**KWANTLEN FIRST NATION**

Per:   
Councillor Les Antone


**KATZIE FIRST NATION**

Per:   
Chief Susan Miller

**MORICETOWN BAND**

Per:   
Deputy Chief Sheri Green

**NAK'AZDLI WHUT'EN FIRST NATION**

Per:   
Chief Fred Sam

**LAKE BABINE NATION**

Per:   
Chief Wilf Adam

**QUATSINO FIRST NATION**

Per:   
Chief James Nelson

**TL'ESQOX FIRST NATION**

Per:   
Chief Francis Laceese

Per:   
Ambassador Peyal Laceese