Canada Energy Regulator | Régie de l'énergie du Canada

Commission of the Canada Energy Regulator Report

Pouce Coupé Pipe Line Ltd.
OH-001-2024

November 2025

Canada

Commission of the Canada Energy Regulator Report

In the matter of

Pouce Coupé Pipe Line Ltd.

Application dated 23 April 2024 for the Taylor to Gordondale Pipeline Project
OH-001-2024

November 2025

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Glossary of Terms and Abbreviations

2023 BC Agreements	The Blueberry River First Nations Implementation Agreement and the Consensus Document are collectively defined as the "**2023 BC Agreements**" in this Report.
adverse effect	The impairment of or damage to the environment, the health of humans, to property or the loss of reasonable enjoyment of life or property.
Application	The application submitted on 23 April 2024 by Pouce Coupé to build an 89-km pipeline to transport natural gas liquids between the Taylor Tank Farm in northeastern British Columbia and a shut-off valve near Gordondale, in northwestern Alberta.
baseline	The state of the environment, or environmental or socio-economic setting for a particular element providing a reference point for the element, with which to compare future conditions, and potential project effects. Proponents are required to identify and describe the current biophysical and socioeconomic setting of each element (i.e., baseline information) in a project's ESA.
BC	British Columbia
BC Cumulative Effects Management Regime	Defined in the *Treaty 8 Planning and Mitigation Regulation*, BC Reg. 146/2023 (as amended) as: "Means timely and enforceable regulatory and legislative mechanisms and processes (including, without limitation, restoration, resource management commitments, as identified in ARTICLE 14 of the [Blueberry River First Nations] Implementation Agreement, that are and will be developed to assess the cumulative impact of industrial development on [Blueberry River First Nations'] Treaty Rights." The regime is inclusive of the BC-Blueberry River First Nations Implementation Agreement that established it.
BCER	British Columbia Energy Regulator
BCSC	Supreme Court of British Columbia
butane	A hydrocarbon with the molecular formula C_4H_{10}. Butane is a gas at room temperature and pressure, but condenses into a liquid when pressurized, such as when stored in a bottle or cylinder.
CAC	criteria air contaminants
CCC	Crown Consultation Coordinator

Certificate	A certificate issued pursuant to section 186 of the *Canadian Energy Regulator Act*
CER	Canada Energy Regulator
CER Act	*Canadian Energy Regulator Act*, SC 2019, c 28, s 10
construction	Any in-field activity that may have an effect on the environment and that is necessary for preparing or installing any component of the Project. Construction activities include mowing, clearing, drilling, blasting, grading, boring, trenching, backfilling and reclamation activities. Construction activities do not include activities associated with surveying or data collection such as biophysical or geotechnical investigations.
condensate	A liquid similar to a very light oil but is extracted from natural gas production. Condensate is produced at gas wells.
crude oil	A mixture of liquid hydrocarbons in underground reservoirs that remains liquid at atmospheric pressure and temperature. Crude oil may contain small amounts of sulphur and other non-hydrocarbons, but it does not include liquids obtained from the processing of natural gas. It is refined into a variety of petroleum products, including gasoline, diesel, jet fuel, and petrochemicals, which are used to make many consumer and industrial products.
CSA Z662:23	CSA Z662:23 Oil and Gas Pipeline Systems
cumulative effects	Changes to the environment that are caused by an action in combination with other past, present and future human actions. ('Action' includes projects and activities.)
DFO	Department of Fisheries and Oceans Canada
ECCC	Environment and Climate Change Canada
Edson	NOVA Gas Transmission Ltd.'s Edson Mainline Expansion Project, approved under Certificate GC-133
EF2023	CER's Canada's Energy Future 2023: Energy Supply and Demand Projections to 2050 report
effects pathway	The cause–effect linkage between a project and components of the human or natural environment.
EPP	Environmental Protection Plan
ERP	Emergency Response Plan

ESA	Environmental and Socio-economic Assessment
ethane	A hydrocarbon gas with the molecular formula C_2H_6. Ethane is mostly used to make ethylene, which is used to make plastics.
Filing Manual	Canada Energy Regulator Filing Manual
fractionation	The process of separating a stream of natural gas liquids into individual components, or fractions (for example, ethane, propane, butanes, and pentanes plus) at a natural gas liquids processing facility (fractionator).
GDP	gross domestic product
GHG	greenhouse gas
GIC	The Governor in Council, the branch of the Canadian government responsible for deciding whether a Certificate for a project will be issued based on the report issued by the Commission.
HADD	habitat alteration, disruption, and destruction
HDD	horizontal directional drill
human health	A state of complete physical, mental and social well-being, and the ability to adapt to the stresses of daily life; it is not merely the absence of disease or infirmity.
HVP	high vapour pressure
IAAC	Impact Assessment Agency of Canada
Impact Assessment Act	*Impact Assessment Act*, SC 2019, c 28, s 1
Implementation Agreement	Blueberry River First Nations Implementation Agreement
Indigenous Peoples	The use of the term “Indigenous” has the meaning assigned by the definition of “aboriginal peoples of Canada” in subsection 35(2) of the *Constitution Act, 1982*, which states: In this Act, “Aboriginal Peoples of Canada” includes the Indian, Inuit, and Métis peoples of Canada.
IR	information request
LAA	Local Assessment Area

light crude oil	Generally, crude oil with low viscosity, which flows freely at room temperature. There are varying thresholds for the line between light and medium crude oils. Also a collective term used to refer to conventional light crude oil, upgraded heavy crude oil, and pentanes plus.
LNG	Liquefied natural gas, which is natural gas cooled below -162 degrees Celsius (-260 degrees Fahrenheit) so that it condenses into a liquid. This reduces the volume of gas by more than 600 times, allowing for efficient transport via LNG tanker or trucks.
LPG	liquified petroleum gas
LVP	low vapour pressure
Minister	Minister of Energy and Natural Resources
mitigation	In respect of a project, the elimination, reduction, or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation, or any other means.
natural gas	A naturally occurring gas comprised primarily of methane and other hydrocarbons. It is used as a source of energy for heating and cooking, and to generate electricity.
NGLs	Natural gas liquids are hydrocarbons that are recovered from natural gas or condensate as liquids when they are under slightly higher pressures and slightly lower temperatures than at the atmosphere. These liquids include, but are not limited to, ethane, propane, butanes, and pentanes plus.
navigable water or waterway	Includes a canal and any other body of water created or altered as a result of the construction of any work. As well, a navigable water is considered as any body of water capable, in its natural state, of being navigated by floating vessels of any description for the purpose of transportation, recreation or commerce, and may also be a human made feature such as a canal or reservoir.
navigation	Use of a vessel for transportation, recreation, or commerce on a navigable waterway.
NDE	non-destructive examination
NEBC Connector Project	NorthRiver Midstream NEBC Connector GP Inc.’s NEBC Connector Project, approved under Certificate GC-67

northeast BC Montney Formation	A Triassic-aged siltstone formation in northeastern BC and in Alberta that is rich in natural gas, NGLs, and light crude oil.
NorthRiver	NorthRiver Midstream NEBC Connector GP Inc.
NRTA	*The Alberta Natural Resources Act*, SA 1930, c 21, Alberta, also referred to as the *Natural Resources Transfer Agreement*.
OMS	Pembina's Operating Management System
OPR	*Canadian Energy Regulator Onshore Pipeline Regulations*, SOR/99-294
OGMA	Old Growth Management Area
PDA	Project Development Area
Pembina	Pembina Pipeline Corporation
pentanes plus	A liquid similar to a very light oil that is extracted from natural gas at gas processing plants and is also produced at refineries.
Peters	Peters & Co. Limited
Peters Forecast	Peters & Co. Limited's natural gas and liquids forecast provided by Pouce Coupé
Peters Report	Peters & Co. Limited expert report provided by Pouce Coupé
Pipeline	The 89-km pipeline proposed as part of the Project
Pouce Coupé	Pouce Coupé Pipe Line Ltd.
PPBoR	plan, profile and book of reference
Project	The proposed Taylor to Gordondale Pipeline project, as described in Pouce Coupé's 23 April 2024 application
propane	A hydrocarbon with the molecular formula C_3H_8. Propane is a gas at room temperature and room pressure, but condenses into a liquid when pressurized, such as when stored in a propane tank.

RAA	Regional Assessment Area. Pouce Coupé defined the rights of Indigenous Peoples RAA as consisting of a 15 km buffer around the PDAs, which represent the maximum combined extent of the RAA for aquatic resources, vegetation and wetlands, and wildlife and wildlife habitat. The RAA of these supporting valued components provide the regional context for the predicted effects of the Project on the rights of Indigenous Peoples. This RAA definition does not preclude consideration of interactions beyond the rights of Indigenous Peoples RAA, as identified through Indigenous engagement.
Report	This report, which was prepared by the Commission for the Minister of Energy and Natural Resources and includes the Commission's recommendation as to whether a Certificate should be issued for the Project, the reasons for the recommendation, and all conditions the Commission considers necessary or in the public interest if the GIC were to direct that the certificate be issued.
residual cumulative effects	The effect of all past, present, and reasonably foreseeable future projects and physical activities in combination with the residual effect of the Project, taking into account how the proposed mitigation will reduce or avoid the effect.
residual effects	Effects that are present after mitigation is applied.
Rights of Indigenous Peoples	The existing Aboriginal and treaty rights affirmed in subsection 35(1) of *Constitution Act, 1982*. Synonymous with "Indigenous rights," "Indigenous rights and interests," "inherent rights," "Treaty rights," etc.
RoW	right-of-way
RVP	Reid Vapour Pressure
SARA	*Species at Risk Act*, SC 2022, c 29
SACC	Environment and Climate Change Canada's Strategic Assessment of Climate Change
SCADA	supervisory control and data acquisition
solastalgia	Refers to a form of emotional or existential distress caused by negatively perceived environmental change.
section 214 decisions	The decisions the Commission has made on Pouce Coupé's exemption requests under section 214 of the CER Act and described in Order XO-002-2025.

Stantec Supplement	Stantec ESA Supplement submitted with Pouce Coupé's reply evidence
Tidewater	Tidewater Midstream and Infrastructure Ltd.
traditional territory	Area where an Indigenous Nation has claimed or asserted the right to use the land for traditional purposes such as hunting, fishing, trapping, gathering or spiritual activities. One or more Indigenous Nations may claim the same lands as their traditional territory.
TLRU	traditional land and resource use, Indigenous land and resource use
TSA	Timber Supply Area (BC)
TWS	temporary workspace
UN Declaration	United Nations Declaration on the Rights of Indigenous Peoples
VC	valued component
Yahey decision	*Yahey v British Columbia,* 2021 BCSC 1287

Symbols, Formulas and Units

$	dollars (CAD)
%	per cent
°C	degrees Celsius
$10^3m^3/d$	thousand cubic metres per day
10^6m^3	million cubic metres
10^9m^3	billion cubic metres
bbl	barrels
Bcf/d	billion cubic feet per day
dB	decibel
dBA leq	average sound pressure level in decibels (adjusted for human response)
ha	hectare
km	kilometre
kPa	kilopascal
kt CO_2e	kilotons carbon dioxide equivalent
m	metre
m^3	cubic metres
m^3/d	cubic metres per day
Mbbl/d	thousand barrels per day
MMbbl/d	million barrels per day
mm	millimetre
Tcf	trillion cubic feet

Recital

IN THE MATTER OF the *Canadian Energy Regulator Act* and the regulations made thereunder;

AND IN THE MATTER OF an application made by Pouce Coupé Pipe Line Ltd. for a certificate and other related approvals pursuant to Part 3 of the *Canadian Energy Regulator Act* filed on 23 April 2024 with the Canada Energy Regulator under File 5904522;

AND IN THE MATTER OF Canada Energy Regulator Hearing Order OH-001-2024, dated 21 November 2024;

HEARD in Grande Prairie, Alberta, on 17, 18, 19, 20, 21, 22 and 24 March, and in Calgary, Alberta, on 18 and 19 June and 5 August 2025.

BEFORE:

Trena Grimoldby	Presiding Commissioner
Mélanie Chartier	Commissioner
Jean-Denis Charlebois	Commissioner

Hearing participants[1]

Applicant	
Pouce Coupé Pipe Line Ltd.	
Intervenors	
Alberta Department of Energy and Minerals	Louis Bull Tribe
ARC Resources Ltd.	Manitoba Métis Federation
British Columbia Métis Federation	Métis Nation British Columbia
Canadian Natural Resources Limited	Natural Resources Canada
The Cadotte Lake Métis Nation	NorthRiver Midstream NEBC Connector GP Inc.[2]
Dene Tha' First Nation	O'Chiese First Nation
Doig River First Nation	Otipemisiwak Métis Government
Driftpile Cree Nation	Paddle Prairie Metis Settlement
Duncan's First Nation	Peavine Metis Settlement
Enoch Cree Nation	Prophet River First Nation
Foothills First Nation	the Province of British Columbia
Gift Lake Metis Settlement	Saulteau First Nations

1 The Crown Consultation Coordinator also participated in the hearing.

2 NorthRiver withdrew from the proceeding before oral cross-examination (C35014).

Intervenors	
Horse Lake First Nation IRC	Sucker Creek First Nation
KAPS Pipeline Joint Venture (Keyera and Kentucky Canada Pipelines Limited Partnership)	Tidewater Midstream and Infrastructure Ltd.
	Tourmaline Oil Corp.
Kelly Lake Cree Nation	Whitefish (Goodfish) Lake First Nation #128
Kikino Metis Settlement	Whitefish Lake First Nation #459
Kelly Lake First Nation Society	
Commenters	
Blueberry River First Nations	Environment and Climate Change Canada

Oral Indigenous knowledge

Appearances	Participants	Witnesses	
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A. Lalji	Sucker Creek First Nation	C. Badger	
A. Lalji	Whitefish Lake First Nation #459	Nick Anderson Nelson Anderson	G. Laderoute F. Grey
A. Lalji	Louis Bull Tribe	S. Raine P. M. Shortneck B. Bull	
	Kelly Lake Cree Nation	S. Calliou G. Calliou P. Campbell	C. Calliou M. Gladue P. Calliou
A. Lalji	Prophet River First Nation	V. Askoty T. Bigfoot	M. McKancha
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	Kikino Metis Settlement	T. Clark	
S. Louden	O'Chiese First Nation	C. Sario T. Campbell	
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Written final argument

Submissions from	
Driftpile Cree Nation	O'Chiese First Nation
Doig River First Nation	Pouce Coupé Pipe Line Ltd.
Duncan's First Nation	Prophet River First Nation
Kikino Metis Settlement	Saulteau First Nations
Louis Bull Tribe	Tidewater Midstream and Infrastructure Ltd.
Manitoba Métis Federation	Whitefish (Goodfish) Lake First Nation #128
Sucker Creek First Nation	Whitefish Lake First Nation #459

Oral summary argument

Appearances	Parties
S. Duncanson M. O'Neill Sanger S. Denstedt	Pouce Coupé Pipe Line Ltd.
B.J. Roth K.C.	Tidewater Midstream and Infrastructure Ltd.

Executive summary

The Commission of the Canada Energy Regulator finds that Pouce Coupé Pipe Line Ltd.'s (**Pouce Coupé**) Taylor to Gordondale project (**Project**) is and will be required by the present and future public convenience and necessity.[3] Accordingly, the Commission recommends issuing a certificate for the Project under section 186 of the *Canadian Energy Regulator Act* (**CER Act**). This certificate would authorize Pouce Coupé to build and operate the Project. Subject to the certificate being issued, the Commission would also grant the requested exemptions to Pouce Coupé in Order XO-002-2025.

Pouce Coupé applied to build a pipeline that would be approximately 89 kilometres long and install a new pump station within its existing Taylor Tank Farm. The Project is in Treaty 8 territory and would cross the traditional lands and territories of Indigenous communities, including the Blueberry Claim Area at issue in *Yahey v British Columbia*.[4]

The Project is needed and economically beneficial. The approximately 89-kilometre pipeline would transport condensates and natural gas liquids from the Montney region in northeastern BC to refineries, plants, and storage facilities in Alberta, with an estimated capital cost of $340.9 million ($2024). The Project would provide significant economic benefits, contributing an estimated $112.1 million to BC's GDP, $69.9 million to Alberta's GDP, and $29.9 million to the rest of Canada, along with employment, business, and other economic opportunities for Indigenous Peoples and other Canadians and Canadian businesses.

A summary of the Project application, hearing process, and the Commission's recommendation and decisions is provided in **Chapter 1**. Participants included Pouce Coupé, 26 Indigenous communities, two commercial parties, government participants, and the Crown Consultation Coordinator. **Appendix 5** includes a summary of community-specific knowledge, concerns, and recommendations shared by Indigenous communities and organizations who participated. Communities' evidence is also reflected throughout this Report.

The Commission is satisfied that the consultation process was adequate. However, the Commission finds that Pouce Coupé's proposed mitigation measures were not sufficient on their own to address the Project's impacts on the rights of Indigenous Peoples and that accommodation for the Project's impacts on those rights is required. The Commission would therefore recommend imposing two additional conditions: one requiring Pouce Coupé to establish an Indigenous Project Committee to provide oversight and participation in Project activities, and another one requiring an Offset measures plan to address the Project's contribution to cumulative effects on Indigenous rights. More details are provided in **Chapter 2** and **Chapter 5**.

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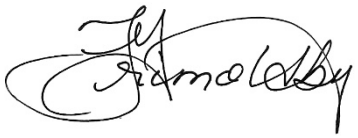
3 CER Act, paragraph 183(1)(a).

4 Yahey v British Columbia, 2021 BCSC 1287.

The Commission carefully considered and weighed the evidence on the record in this hearing process and finds that the Project would:

- be needed, economically feasible, and likely to be used at a reasonable level over its lifetime (detailed in **Chapter 3**);
- likely lead to residual effects, including cumulative effects, on vegetation, wetlands, and wildlife and wildlife habitat. With the Commission's recommended conditions, the total cumulative effects on these valued components are expected to be of low to medium significance (detailed in **Chapter 4**);
- likely lead to residual effects on the rights and interests of Indigenous Peoples, including effects on the quality, quantity, or distribution of, and access to, resources required or involved in the exercise of their Indigenous and Treaty 8 rights, and contribute to existing high cumulative effects in the Project area (detailed in **Chapter 5**);
- be unlikely lead to residual effects on heritage resources, would likely lead to negative effects on the health and social and cultural well-being of Indigenous Peoples, and positive residual effects on employment and economy for Indigenous Peoples (detailed in **Chapter 5**);
- likely lead to negative residual health and social effects, including adverse contributions to cumulative effects, but, with the Commission's recommended conditions, any residual Project effects on human health would be of low significance (detailed in **Chapter 6**);
- likely lead to positive economic effects including employment and business opportunities (detailed in **Chapter 6**);
- benefit the economy, providing a total economic impact to GDP (direct, indirect, and induced) of an estimated $112.1 million in BC, $69.9 million in Alberta, and $29.9 million in the rest of Canada (detailed in **Chapter 6**); and
- be built and operated safely and in alignment with regulatory and safety standards (detailed in **Chapter 7**).

After balancing the benefits and burdens of the Project, the Commission finds that the Project would be in the public interest and recommends that a certificate be issued to authorize the Project, subject to the conditions outlined in **Appendix 2**.



Trena Grimoldby
Presiding Commissioner

Mélanie Chartier
Commissioner

Jean-Denis Charlebois
Commissioner

1. Overview

The Commission of the Canada Energy Regulator recommends that a certificate be issued for Pouce Coupé Pipe Line Ltd.'s[5] (**Pouce Coupé**) Taylor to Gordondale Pipeline Project (**Project**) under section 186 of the *Canadian Energy Regulator Act* (**CER Act**), to authorize the construction and operation of the Project, subject to the conditions set out in **Appendix 2**. Under section 214 of the CER Act, the Commission approves Pouce Coupé's request for certain Project activities to be exempt from the application of subsections 198(c) and (d), and section 199 of the CER Act, contingent on the issuance of a certificate. This recommendation report explains the Commission's reasons for its recommendation and decisions (**Report**).

1.1. Pouce Coupé's Application

On 23 April 2024, Pouce Coupé applied to build a pipeline to transport natural gas liquids between the Taylor Tank Farm in northeastern British Columbia (**BC**) and a shut-off valve near Gordondale, in northwestern Alberta (**Application**). The pipeline would be approximately 89 kilometres (**km**) long and have an outside diameter of approximately 406.4 millimetres (**mm**), which is nominal pipe size 16 (**Pipeline**). Pouce Coupé also applied to install a new pump station within its existing Taylor Tank Farm (C29302).[6] A map of the Project is shown in **Figure 1**. In the Application, Pouce Coupé asked that the Commission:

- issue a report recommending the issuance of a certificate, under section 183 of the CER Act, authorizing construction and operation of the Project;
- issue an order, under section 214 of the CER Act, exempting Pouce Coupé from the requirements of subsections 198(c) and (d), and section 199 of the CER Act in relation to:
  - temporary infrastructure required for construction of the Pipeline;
  - right-of-way (**RoW**) preparation activities (including clearing, grading, stripping, and topsoil storage) and constructing trenchless crossings in select areas along the proposed route (in aggregate not exceeding 40 km in length); and
  - installation of pumps and other equipment within the boundaries of the existing Taylor Tank Farm footprint; and
- grant such further and other relief as Pouce Coupé might request or the Commission might consider appropriate.

Pouce Coupé confirmed that if the Commission grants the exemptions under section 214, Pouce Coupé would only undertake these activities after the Commission issues a certificate for the entire Project and after Pouce Coupé satisfies any applicable conditions for the activities.

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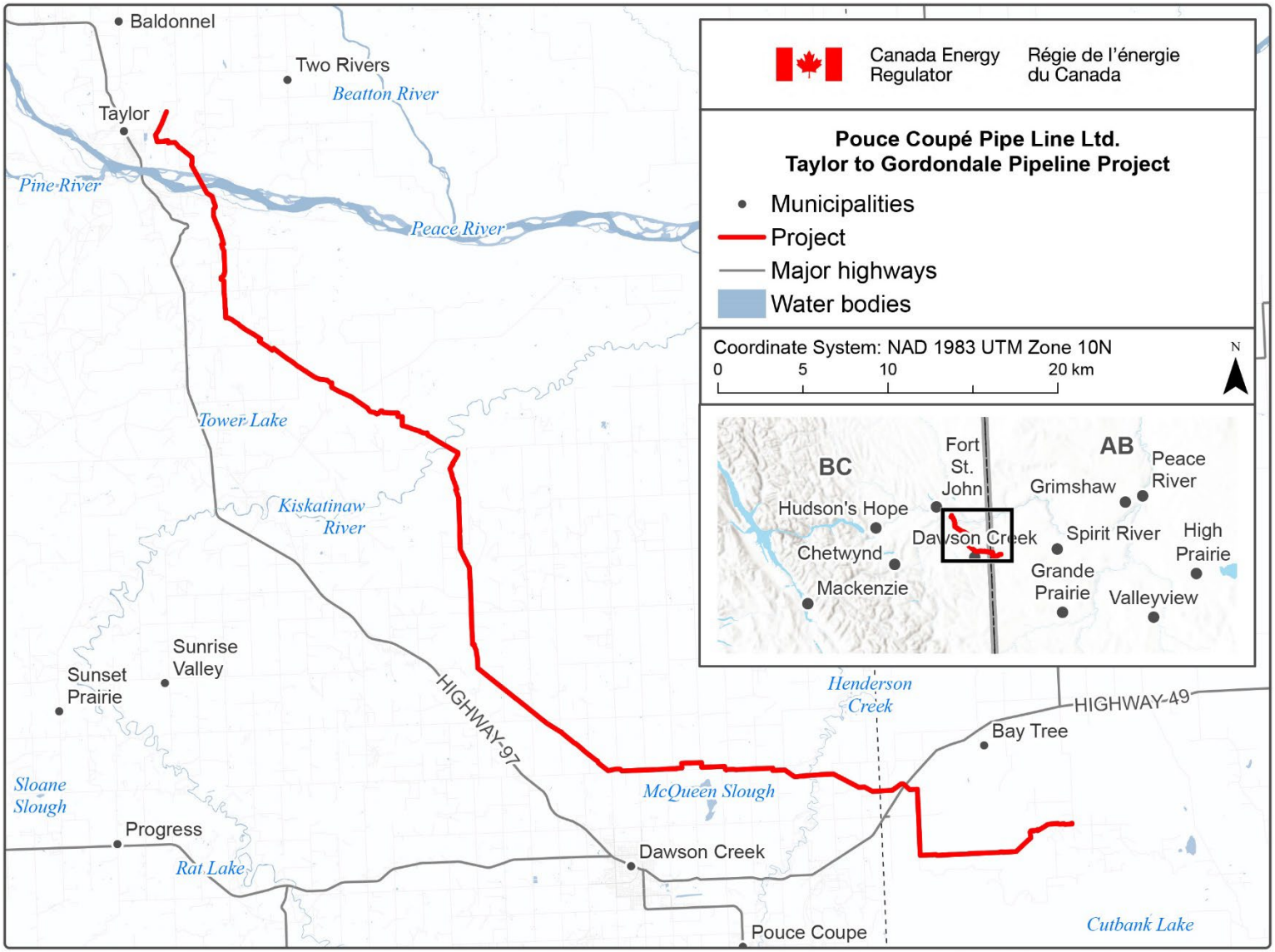
[5] Pouce Coupé is a wholly owned subsidiary of Pembina Pipeline Corporation (**Pembina**) and the general partner of Pembina North Limited Partnership.

[6] This Report will include CER Filing ID numbers relating to filings in this proceeding. In the event the links are broken, the Filing ID numbers can be entered into the "Search by Document Number" field located on the left side of the Regulatory Documents home page, which can be found by clicking the "View regulatory documents" link on the CER website.

Figure 1 – Map of the Project



1.2. Description of the Project

As shown on Figure 1, the 89 km-long Pipeline would start east of Taylor, BC, at the Taylor Tank Farm, and end in the Gordondale area at Pouce Coupé's block valve, approximately 38 km west of Spirit River, Alberta. The Pipeline route would run parallel to existing and approved pipeline RoWs for approximately 94 per cent of its length, is proposed entirely within Treaty No. 8 territory, and would intersect the traditional lands of a number of First Nations and Métis communities.[7]

The facilities that would be constructed within the Taylor Tank Farm include the following components:

- one pump station with two booster pumps and two mainline pumps;
- one metering station;
- one electrical building and one pump building; and
- associated station piping.

In addition to the facilities at the Taylor Tank Farm, the Pipeline includes the following facilities:

- one pig launcher and receiver, within the Taylor Tank Farm; and
- one pig launcher and receiver at the Pouce Coupé Block Valve site.

The Project would primarily transport condensates, which are a mixture of hydrocarbon liquids that are extracted from natural gas, from the Montney region in northeastern BC to fractionation plants near Fort Saskatchewan, Alberta, as well as to refineries and crude storage locations in the Edmonton area, and to various other pipelines for export. Pouce Coupé designed the Pipeline to carry both low vapour pressure (**LVP**) and high vapour pressure (**HVP**) products, but did not apply to construct the facilities that would need to be installed at the Taylor Tank Farm to transport HVP products. If Pouce Coupé wants to transport HVP products through those facilities in future, it would first need to apply for and receive Commission approval.

Pouce Coupé estimated that the capital cost of the Project would be $340.9 million ($2024). Pouce Coupé would like the Project to be operational by the second quarter of 2027. **Figure 2**, shown below, provides an overview of the Project route, pipelines on the existing Pouce Coupé system, as well as NorthRiver Midstream NEBC Connector GP Inc.'s (**NorthRiver**) NEBC Connector Project, which are discussed further in **Chapter 3**.

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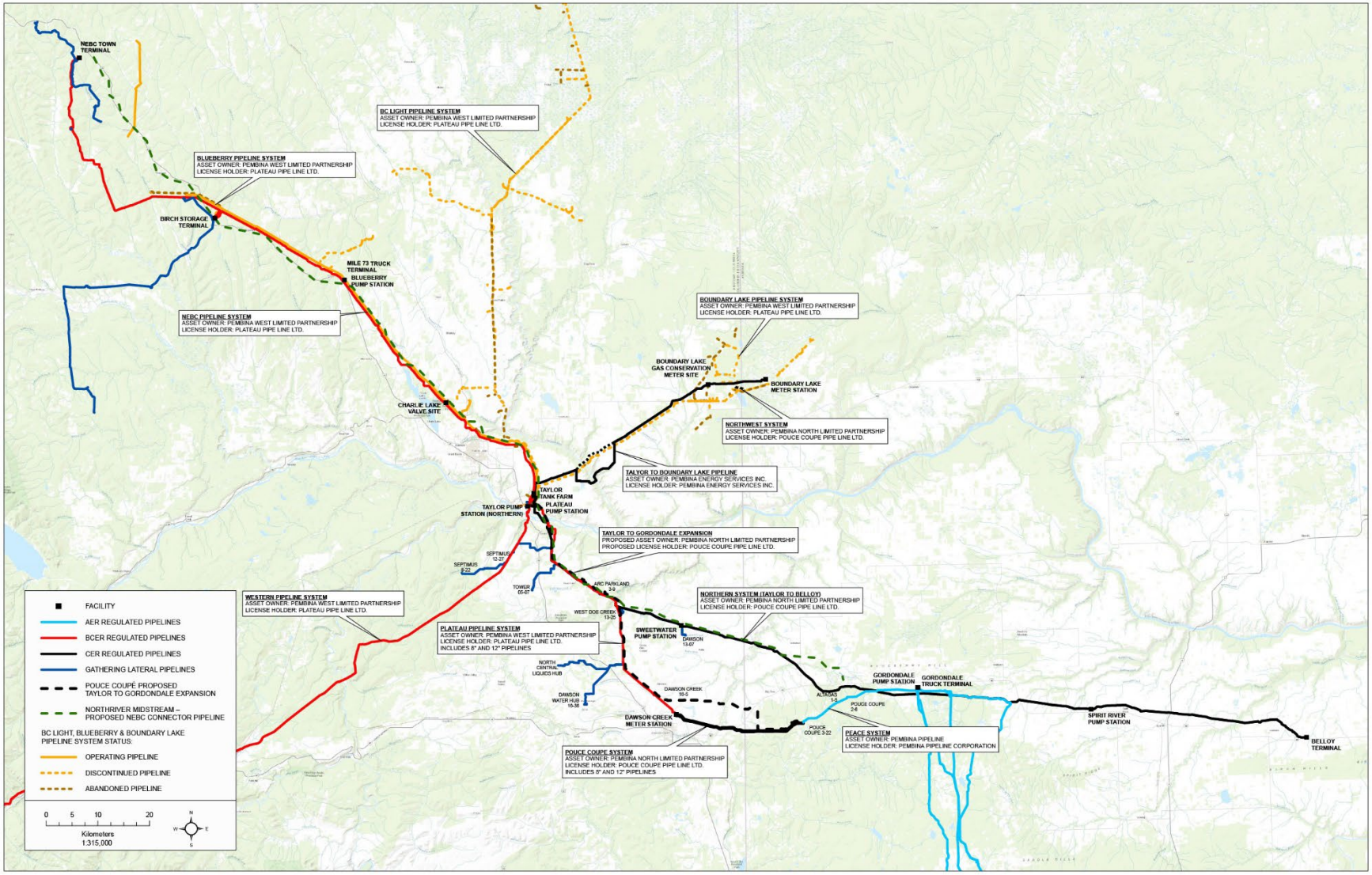
[7] In addition to the communities listed in the list of hearing participants, the following communities are also located in the Project area: Apetokosan Nation (Kelly Lake Métis Settlement Society); Blueberry River First Nations; Buffalo Lake Metis Settlement; East Prairie Metis Settlement; Fishing Lake Métis Settlement; Halfway River First Nation; McLeod Lake Indian Band; Otiemisiwak Métis Government – Peace River Territory; Sturgeon Lake Cree Nation; West Moberly First Nations. The Crown Consultation Coordinator also sent notifications to Elizabeth Metis Settlement and Metis Settlements General Council (C34921).

Figure 2 – Project overview within existing Pouce Coupé system



Source: Pouce Coupé supplemental responses to intervenor IRs, Attachment TMI 1.21, PDF page 1 of 1 (C337329)

1.3. Pouce Coupé's route selection process

Having considered the routing criteria and selection process used by Pouce Coupé and submissions made by participants during the hearing process, the Commission finds the selected route and the route selection process to be appropriate because the route reasonably minimizes impacts on the environment, Indigenous Peoples, landowners, and land users, while also providing the most efficient design for construction and operations. The Commission recognizes the benefits of Pouce Coupé's routing criteria, including paralleling existing infrastructure, reducing length to minimize the environmental and socio-economic footprint, and incorporating the input from affected Indigenous Peoples, landowners, occupants, and land users.

Pouce Coupé stated that route selection is one of the primary mitigation options for reducing conflict between the Project and existing facilities and pipelines; Indigenous Peoples; landowners and land users; and biophysical, socio-economic, and cultural resources. Pouce Coupé submitted that the Project would parallel other infrastructure for approximately 84 km of existing and approved linear disturbances (approximately 94 per cent of the total pipeline length). Paralleling would enable Pouce Coupé to overlap existing linear disturbances, which would reduce the area of new disturbance and the extent of new access required for construction and operation.

Pouce Coupé submitted that it selected the Project start and end points to maximize use of existing facility locations. As Pouce Coupé developed the route corridor, it considered and balanced several criteria when evaluating route options. Pouce Coupé considered two routing options between Taylor, BC, and the Kiskatinaw River. The route Pouce Coupé put forward was preferred because of the higher level of certainty regarding geohazard risk and the slightly shorter length. Pouce Coupé also considered two routing options for the proposed segment in proximity to Dawson Creek, BC and chose to avoid Dawson Creek.

Pouce Coupé considered the following criteria to select the Pipeline route:

- input from potentially affected landowners, occupants, stakeholders, and Indigenous communities through various engagement activities;
- minimizing length to reduce the overall environmental impact and footprint;
- parallelling existing linear disturbances;
- avoiding or reducing routing through sensitive environmental features;
- minimizing the number, and ensuring the construction feasibility, of watercourses, roads, and utility crossings;
- avoiding geotechnical hazards, such as unstable slopes and problem soils;
- avoiding urban areas and concentrated areas of rural residences;

- avoiding lands of designated status, such as parks, protected areas, historic sites, and archaeological or heritage sites; and
- ensuring public safety.

Approximately 75.5 km of the 89 km Pipeline, or almost 85 per cent of the Pipeline's total length, would be located on privately owned land. Privately owned lands would account for 95 per cent of the BC portion of the route, and 57 per cent of the Alberta portion of the route. Table 1-1 shows a breakdown of land type along the Pipeline route, along with the breakdown by province.

Table 1-1 – Percentages of land type along the Pipeline route

Land type	Approx. length	Approx. percentage of total Project area	Approx. percentage of provincial Project area
Alberta Crown	9.4 km	12%	57%
Alberta freehold	6.9 km	8%	43%
BC Crown	3.9 km	2%	6%
BC freehold	68.6 km	78%	94%

Source: Pouce Coupé response to Commission Information Request No. 4.26, PDF page 3 of 4, C34175-13

1.4. The Commission's assessment of the Project

1.4.1. The Commission's role in assessing the Application

When a company applies for a certificate under section 182 of the CER Act, the Commission must, under section 183 of the CER Act, prepare a report with its recommendation to the Minister of Energy and Natural Resources (**Minister**) as to whether a certificate should be issued for all or part of the project. To assess an application, the Commission must hold a public hearing.[8]

When making its recommendation, the Commission must take into account whether a project is and will be required by the present and future public convenience and necessity.[9] The Commission must also consider the following factors:[10]

a) the environmental effects, including any cumulative environmental effects;

b) the safety and security of persons and the protection of property and the environment;

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8 CER Act, section 52.

9 CER Act, paragraph 183(1)(a).

10 CER Act, subsection 183(2).

c) the health, social and economic effects, including with respect to the intersection of sex and gender with other identity factors;

d) the interests and concerns of the Indigenous peoples of Canada, including with respect to their current use of lands and resources for traditional purposes;

e) the effects on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*;

f) the availability of oil, gas or any other commodity to the pipeline;

g) the existence of actual or potential markets;

h) the economic feasibility of the pipeline;

i) the financial resources, financial responsibility and financial structure of the applicant, the methods of financing the pipeline and the extent to which Canadians will have an opportunity to participate in the financing, engineering and construction of the pipeline;

j) the extent to which the effects of the pipeline hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change;

k) any relevant assessment referred to in section 92, 93, or 95 of the *Impact Assessment Act*; and

l) any public interest that the Commission considers may be affected by the issuance of the certificate or the dismissal of the application.

Regardless of its recommendation, the Commission must also set out all the conditions it considers necessary or in the public interest to which a certificate would be subject, if the GIC were to direct the Commission to issue a certificate.[11]

If a company also applies for parts of a project to be exempt from certain sections of the CER Act, under section 214 of the CER Act, the Commission is responsible for deciding on that part of the application. Section 52 of the CER Act also enables the Commission to hold a public hearing for an application under section 214 of the CER Act.

1.4.2. The hearing process for the Project

Pouce Coupé filed a Project notification with the CER on 4 December 2023 (C27527). After receiving it, the CER, and the CER Crown Consultation Coordinator[12] (**CCC**), contacted anyone who may be affected by the Project to inform them about the expected Application and to gather any early concerns. This Report refers to this period of time as "early engagement."

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[11] CER Act, paragraph 183(2)(b).

[12] The CCC is part of the CER and consults with Indigenous Peoples who may be affected by a project to complement the consultation that takes place through the Commission's assessment process.

Both the CER and the CCC provided early engagement reports to Pouce Coupé before it submitted its Application (C29155 and C29156, respectively). The CER and the CCC also provided copies of their reports to the Commission.

Pouce Coupé filed its Application on 23 April 2024 with the CER, and notified those potentially affected by the Project, including Indigenous Peoples, landowners, local residents, land and waterway users, government authorities, industry, and commercial third parties.

Before determining if the Application was complete, the Commission invited anyone who was interested to file comments on whether it was complete and, if not, why not (C30832). On 27 September 2024, the Commission determined that the Application was complete and communicated that the Lead Commissioner had set the legislated time limit at 430 days (C31485). This meant that the Commission did not have the maximum 450 days for the legislated time limit and had until 1 December 2025 to provide its Report to the Minister. The Commission also provided notice that it would hold a public hearing to assess the Application and released the list of participants, a draft list of issues, and a draft timetable of events for the participants to comment on.

The participants included Pouce Coupé, 26 Indigenous communities who registered as intervenors, two commercial parties (one of which withdrew before the hearing concluded), and the CCC.[13] The CER provided funding to eligible intervenors to participate in the hearing.[14]

The Commission issued Hearing Order OH–001–2024 on 21 November 2024 (C32402). The hearing order included the timetable of events, which set out the process steps and deadlines for the hearing; a list of issues the Commission would consider; and guidance on how to participate in the hearing.

Participants had many opportunities to participate in the hearing process and to share their views about the Project with the Commission, including the following:

- all participants could file written evidence;
- Indigenous participants could provide oral Indigenous knowledge;
- all participants who were adverse in interest to each other could ask questions about each others' evidence through information requests, and file motions to compel further and better responses;
- all participants who were adverse in interest to each other could also test each other's evidence through oral cross-examination;
- all participants could file motions or provide comments on motions;

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[13] Intervenors in this hearing are listed in the recitals of the Report.

[14] For this hearing, intervenors were all participants other than Pouce Coupé and the CCC. The Participant Funding Guide explains which intervenors are eligible for funding, and can be found on the CER website by navigating to: Applications and hearings > Participate in a hearing > Participant Funding Program (https://www.cer-rec.gc.ca/en/applications-hearings/participate-hearing/index.html).

- all participants could participate in a workshop about conditions and file comments on potential conditions;
- all participants could file written argument; and
- all participants who filed written argument could provide oral summary argument.

Anyone who was not a participant in the hearing could file a letter of comment. The Commission received two letters of comment, from Environment and Climate Change Canada (**ECCC**) and Blueberry River First Nations.

The timetable of events, as updated over the course of the hearing, is attached as **Appendix 1**. The hearing record, including all evidence, written submissions and oral transcripts, can be found on the CER's regulatory documents repository (**REGDOCS**) in Folder 4445359.

1.4.3. The assessment process met procedural fairness requirements

The Commission concludes that the hearing process met the requirements of procedural fairness, providing all participants with meaningful opportunities to know the case to meet and present their positions. Although some participants raised procedural fairness concerns throughout the hearing, the record demonstrates that the Commission's process ensured fair participation within statutory constraints.

Procedural fairness is a common law concept that requires administrative decision-makers to implement processes that enable affected parties to know the case to be met and provide meaningful opportunities to respond before decisions affecting their interests are made. These processes enable parties to participate in the decision-making process and provide information that assists decision-makers in reaching their conclusions and determinations. The processes necessary to ensure procedural fairness can vary with the context and the nature of interests at stake. The key question is whether, at the close of the proceeding, considering all circumstances, those whose interests were affected had a meaningful opportunity to present their case fully and fairly.

For administrative tribunals such as the Commission, procedural fairness requires establishing processes that are transparent, accessible, and responsive to the needs of parties appearing before it. This includes ensuring adequate notice, disclosure of relevant information, opportunities to respond to adverse evidence, and the ability to raise procedural concerns throughout the proceedings. The Supreme Court of Canada has established that:

- The duty of procedural fairness is flexible and variable, with requirements determined by contextual factors, including the nature of the decision and its importance to affected parties;[15]

[15] See *Baker v Canada*, [1999] 2 SCR 817, at para 22.

- Administrative bodies must act fairly when their decisions affect rights, privileges, or interests;[16] and
- The duty of procedural fairness is "a cornerstone of modern Canadian administrative law" requiring fair and open procedures.[17]

In terms of early opportunities for process input, from the outset of this proceeding, the Commission provided multiple opportunities for participants to help shape the hearing process itself. Beginning in July 2024 with the Notice of Public Hearing, through to the issuance of the final Hearing Order in November 2024, participants had structured opportunities to influence how the assessment would proceed:

- July-August 2024: Four-week registration period with specific invitation for Indigenous Peoples to identify any additional filing requirements needed for completeness determination
- August 2024: Written comment period on filing requirements, allowing participants to specify what information they deemed necessary before the Application could be considered complete
- September-October 2024: Following the completeness determination, participants were invited to provide comments on both the draft List of Issues and the draft Timetable of Events, enabling them to request additions, deletions, or modifications to the proposed process steps

The Commission considered all comments received during these phases when establishing its process, demonstrating responsiveness to participant input sought on procedural matters.

In the Commission's view, the numerous opportunities provided to those potentially impacted by the Project to participate in the hearing process meets procedural fairness requirements. The decisions to be made here are about the construction and operation of a pipeline, which has the potential to impact various people and organizations in different ways. Because of the potential for impacts, the Commission included in the hearing process numerous opportunities for Pouce Coupé and anyone else who may be impacted to provide relevant information to the Commission. When setting out the hearing process steps and deadlines, the Commission considered both procedural fairness requirements and the overall timeline within which it was required to submit its Report to the Minister.

The process steps for the hearing included opportunities to:

- provide comments about the completeness of the Application;
- provide written evidence;

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[16] See Dunsmuir v New Brunswick, 2008 SCC 9 at para 79; Knight v Indian Head School Division No 19, [1990] 1 SCR 653 at 669-70.

[17] *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 79.

- share Indigenous knowledge orally (for Indigenous intervenors);
- ask questions about the evidence of Pouce Coupé and other intervenors who were adverse in interest through several rounds of written information requests (**IR**);
- file motions to compel full and adequate responses when IR responses were deemed insufficient;
- participate in a workshop about and provide comments on potential conditions for the Project;
- cross-examine witnesses for Pouce Coupé and other intervenors who filed evidence; and
- submit written and oral summary argument.

Throughout the hearing, the Commission issued 20 rulings and 12 procedural updates to address participant needs and ensure fairness. For example, in Ruling No. 9 on 6 March 2025, the Commission granted 43 of the motions to compel fuller responses from Pouce Coupé, demonstrating careful consideration of each party's information needs. The IR process was robust, with participants filing over 200 IRs across multiple rounds. The Commission itself issued five sets of IRs totaling over 100 questions on matters including cumulative effects assessment, potential Indigenous rights impacts, economic feasibility, and safety measures.

The Commission also provided ongoing procedural flexibility in its process. The Commission provided guidance early in the hearing about how to request changes to any of the process steps. Throughout the proceeding, participants had the ability to seek leave from the Commission to address procedural concerns or request modifications to the established process. This flexibility was both expressly scheduled through designated motion periods and continuously available during the process.

Participants actively used these procedural mechanisms. For example, when participants were of the view that information exchange between them was insufficient or problematic, they filed motions to compel full and adequate responses. In Ruling No. 9 alone, the Commission reviewed over 70 contested IRs, granting 43, finding 31 withdrawn, and denying others based on adequacy of existing responses or scope considerations. The Commission ruled on all motions it received during the hearing, and in some instances, these rulings resulted in the provision of additional information to participants, allowing them to better review and consider the Application and determine how to present their cases in light of all available information. The Commission's process provided ongoing opportunities to raise and resolve procedural issues as they arose, and in so doing, ensured that all participants maintained meaningful and informed participation opportunities as the hearing progressed.

In the Commission's view, the process steps included early opportunities for input, ongoing flexibility to address procedural concerns, and provided sufficient opportunities for anyone potentially impacted by the Project to share their knowledge, evidence, and argument with the Commission. The hearing process enabled all participants to know the case they had to meet, respond to adverse evidence, and present their positions fully and fairly within the statutory timeline constraints.

1.5. The Commission's recommendation and decisions

1.5.1. The Commission recommends that a certificate be issued

The Commission recommends that a certificate be issued for the Project to authorize the construction and operation of the Project (**Certificate**). In **Appendix 2** of this Report, the Commission sets out the conditions it considers necessary to which the Certificate would be subject if the GIC were to direct that the Certificate be issued.

1.5.2. The Commission grants the requested exemptions

For Pouce Coupé's exemption requests under section 214 of the CER Act, the Commission finds that it is in the public interest to approve the requests, contingent on a Certificate being issued for the Project. Accordingly, the Commission issues Order XO-002-2025 to exempt the following Project activities from the application of subsections 198(c) and (d), and section 199 of the CER Act, contingent on the issuance of a Certificate:

- temporary infrastructure required for construction of the Pipeline;
- RoW preparation activities (including clearing, grading, stripping, and topsoil storage) and constructing trenchless crossings in select areas along the proposed route (in aggregate not exceeding 40 km in length); and
- installation of pumps and other equipment within the boundaries of the existing Taylor Tank Farm footprint (**section 214 decisions**).

1.5.3. The Commission's recommended conditions

In addition to the conditions described throughout the Report, the Commission recommends imposing four standard conditions which would make all commitments made by Pouce Coupé in this hearing into regulatory requirements:

- **Condition 1** (Condition compliance);
- **Condition 2** (Design, location, construction, and operation);
- **Condition 3** (Environmental protection); and
- **Condition 31** (Condition compliance reporting by accountable officer).

By imposing these conditions, all commitments made by Pouce Coupé would be subject to ongoing oversight by the CER. The Commission also recommends imposing **Condition 22** (Commitment tracking table), which would require Pouce Coupé to confirm 15 days before starting construction that it has made a commitment tracking table available on its website. The Commission understands that many of the commitments Pouce Coupé has made on this record are in response to concerns raised by participants and potentially impacted Indigenous Peoples. By requiring Pouce Coupé to make available its commitment tracking table and update

it every six months until the fifth year after starting operations, interested persons can easily access the list of commitments and check for updates.

The Commission also recommends imposing **Condition 23** (Construction schedule) requiring Pouce Coupé to file its construction schedule before starting construction. This would ensure transparency and allow all interested persons to be aware of upcoming construction activities.

The Commission has explained throughout the Report its reasons for recommending the remaining 34 conditions.

1.5.4. Legislative considerations

In reaching its Certificate recommendation and section 214 decisions, the Commission considered all relevant and applicable legislation, including:

- the factors in subsection 183(2) of the CER Act, listed in **Section 1.4.1** above;
- section 56 of the CER Act, which requires the Commission to consider any adverse effects the decision, order, or recommendation may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- subsection 35(1) of the *Constitution Act, 1982*, which recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada; as well as relevant jurisprudence;
- the United Nations Declaration on the Rights of Indigenous Peoples[18] (**UN Declaration**) and the United Nations Declaration on the Rights of Indigenous Peoples Act;[19]
- section 219 of the CER Act, which requires the Commission to take into account the effects that the issuance of a certificate in respect of a pipeline that passes in, on, over, under, through, or across a navigable water might have on navigation, including on the safety of navigation; and
- section 77 of the *Species at Risk Act* (**SARA**).[20]

This Report explains the Commission's reasons for its recommendation and section 214 decisions, and each of the conditions it considers necessary or in the public interest.

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[18] OHCHR, 33rd Sess, UN Doc A/RES/61/295 (2007) GA Res 61/295.

[19] SC 2021, c 14.

[20] SC 2002, c 29.

2. The Crown met its duty to consult and accommodate

The Commission finds that its recommendation and section 214 decisions in this Report are consistent with subsection 35(1) of the *Constitution Act, 1982*, and the honour of the Crown. The Commission is of the view that the process for consultation was adequate and that mitigation measures to accommodate Indigenous Peoples' section 35 rights that will or may be impacted by the Project, including additional mitigation measures recommended by the Commission, are adequate for the purpose of the Commission's recommendation to the Minister and for the section 214 decisions on this Project.

2.1. The duty to consult and accommodate was met through the hearing process

The Commission finds that the duty to consult and accommodate was met through the hearing process. Section 35 of the *Constitution Act, 1982*, recognizes and affirms existing Aboriginal and treaty rights of the Aboriginal peoples of Canada.[21] The Supreme Court of Canada has found that the honour of the Crown requires the Crown to consult with Indigenous Peoples whose section 35 rights may be impacted by a Crown decision and, where appropriate, to accommodate their rights.[22] This duty is triggered when the Crown has knowledge, real or constructive, of a potential Aboriginal right or title and contemplates action that could adversely affect it.[23] The Commission is an agent of the federal Crown when it makes decisions and recommendations under the CER Act.[24] This means that the Commission must ensure, when making any recommendations and decisions in relation to a project, that consultation and accommodation are adequate.[25]

The scope and content of the duty to consult and accommodate falls along a spectrum.[26] The determinative question is "what is required to maintain the honour of the Crown and to effect reconciliation between the Crown and the Aboriginal peoples with respect to the interests at stake."[27]

The Federal Court recently held in *Kebaowek First Nation v Canadian Nuclear Laboratories* that the UN Declaration is a contextual factor that gives rise to an enhanced obligation to consult, and that the adoption of the UN Declaration into Canadian law now requires more than the

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21 Subsection 35(2) of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c 11, defines "aboriginal peoples of Canada" as follows:

> In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

22 *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 35.

23 *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 35.

24 CER Act, sections 10 and 26.

25 *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 22.

26 *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at paras 43-45.

27 *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319 at para 121, citing *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 45. Canadian Nuclear Laboratories filed an appeal of the Federal Court decision in March 2025.

common law obligations for the duty to consult and accommodate.[28] The Federal Court explained that the duty to consult and accommodate must be informed by the UN Declaration and the principles of free, prior, and informed consent, which require robust consultation that is informed by Indigenous perspectives, laws, knowledge, and practice.[29] Further, the standard of free, prior, and informed consent requires processes that are directed toward finding mutual agreement.[30] Additionally, the Federal Court recently held in *Kebaowek* that administrative tribunals must consider the UN Declaration as an interpretive lens when assessing consultation adequacy, emphasizing that failure to consider the UN Declaration's context constitutes an error of law. While this decision is under appeal, it represents the current state of the law, and accordingly, the Commission has applied the UN Declaration's principles as an interpretive framework in evaluating the adequacy of consultation and accommodation for the Project.

Another relevant contextual factor when considering the duty to consult and accommodate is the importance of considering cumulative effects when assessing potential impacts on Indigenous rights.[31] In *Yahey v British Columbia*, the Supreme Court of British Columbia found that the applicable regulatory regimes did not adequately consider treaty rights or the cumulative effects of industrial development.[32] The Court found that "[t]he cumulative effects of industrial development authorized by the Province [of British Columbia] have significantly diminished the ability of Blueberry [River First Nations] members to exercise their rights to hunt, fish and trap in their territory as part of their way of life"[33] and that "there are not sufficient and appropriate lands in the Blueberry Claim Area to allow for [Blueberry River First Nations'] meaningful exercise of their treaty rights."[34] The Court further found that, in causing and/or permitting these cumulative effects of industrial development on Blueberry River First Nations' treaty rights, the Province of BC breached its treaty obligations, including its honourable and fiduciary obligations.[35] The *Yahey* decision and its findings regarding cumulative effects and related analyses provide important context that informs the Commission's assessment of the Project, which is partially located within the Blueberry River First Nations' traditional territory where the Court found that cumulative industrial development had significantly impacted Blueberry River First Nations' meaningful exercise of Treaty 8 rights.

For the purpose of the Commission's recommendation to the Minister and section 214 decisions for the Project, the Commission is of the view that the duty to consult and accommodate was met through the hearing process. The hearing process enabled potentially affected Indigenous Peoples to understand the Project and its potential impacts on their section 35 rights, as well as to provide evidence, including oral Indigenous knowledge, and raise concerns for the Commission's consideration. The hearing process allowed for deep consultation with

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28 Kebaowek First Nation v Canadian Nuclear Laboratories, 2025 FC 319 at paras 124-25.

29 Kebaowek First Nation v Canadian Nuclear Laboratories, 2025 FC 319 at para 177.

30 Kebaowek First Nation v Canadian Nuclear Laboratories, 2025 FC 319 at para 183.

31 Chippewas of the Thames v Enbridge, 2017 SCC 41 at para 42; Yahey v British Columbia, 2021 BCSC 1287.

32 *Yahey v British Columbia*, 2021 BCSC 1287 at para 1880.

33 *Yahey v British Columbia*, 2021 BCSC 1287 at para 1809.

34 *Yahey v British Columbia*, 2021 BCSC 1287 at para 1894.

35 *Yahey v British Columbia*, 2021 BCSC 1287 at para 1894.

Indigenous Peoples in a way that reflects a number of key objectives of the UN Declaration, including:

- ensuring participation in decision-making (article 18);
- consulting and cooperating in good faith to work towards finding mutual agreement (article 32);
- tailoring hearing steps in consideration of Indigenous Peoples' laws, knowledge, and practices (article 32);
- enabling participation in decision-making surrounding the development and use of lands (articles 26 and 32); and
- protecting traditional knowledge (article 31).

The Commission's hearing process provided a number of opportunities for Indigenous Peoples to share information with the Commission, including opportunities to:

- provide comments on the completeness of the Application;
- provide comments on the hearing steps and timelines;
- share Indigenous knowledge orally in Grande Prairie, Alberta;
- ask Pouce Coupé questions about the Application through IRs;
- submit written evidence;
- participate in a workshop and file comments on potential conditions;
- cross-examine Pouce Coupé and other participants on their evidence;
- submit written argument; and
- provide a summary of their argument orally.

Indigenous Peoples who may be impacted by the Project were able to register to participate in the hearing at any time during the hearing process and participate in the remaining process steps. The hearing process also enabled participants to file motions at any time to request changes to hearing steps or timelines, provided enough notice was given ahead of the requested change. The CER provided funding to support Indigenous Peoples' participation through its Participant Funding Program. Through the hearing steps, Indigenous Peoples shared information that the Commission considered in its assessment of the Project, including what mitigation measures are necessary to accommodate the rights of Indigenous Peoples that will or may be affected by the Project.

As part of its assessment of whether the Crown's duty to consult and accommodate was met, the Commission also considered Pouce Coupé's evidence of engagement activities it carried out with Indigenous Peoples who may be impacted by the Project, both before and during the

hearing process.[36] Pouce Coupé began engaging with Indigenous communities in June 2023. Engagement activities included but were not limited to:

- provision of information packages;
- opportunities to participate in fieldwork for the Environmental and Socio-economic Assessment (**ESA**);
- opportunities to inform the valued components (**VCs**) and their effects and effects pathways Pouce Coupé considered in the ESA;
- open houses in Taylor, BC, and Bonanza, Alberta;
- in-person meetings, phone calls, and email communications;
- opportunities to provide input into the draft ESA;
- provision of funding for Indigenous communities to complete traditional and resource use (**TLRU**) studies;
- receiving and reviewing 21 community-led TLRU study reports;
- proposing additional mitigation measures in response to the TLRU study reports;
- committing to review those TLRU studies that are outstanding; and
- discussions on contracting, employment, education, and training activities related to the Project.

Pouce Coupé tailored its engagement approach to meet the needs of specific communities and supported engagement and meaningful input from Indigenous communities on the Project by entering into 31 Project Capacity Funding Agreements. Throughout the hearing, Pouce Coupé provided updates to the Commission on its engagement activities. The hearing record includes detailed engagement logs and summaries of Pouce Coupé's engagement activities with Indigenous Peoples, including questions and concerns raised by Indigenous Peoples, and Pouce Coupé's responses, including additional Project modifications and mitigation measures to avoid or reduce impacts.

In addition to opportunities for Indigenous Peoples to participate directly in the hearing and to engage with Pouce Coupé, the CCC began consulting with Indigenous Peoples about the Project beginning in late 2023. The CCC held information sessions and met with potentially impacted Indigenous Peoples both remotely and in person in their communities. The CCC also filed summary reports of its consultation activities, which it developed collaboratively with Indigenous Peoples, for the Commission's consideration. The CCC's reports include information from both Indigenous participants to the hearing process and Indigenous Peoples who did not participate directly in the hearing. The CCC advised that it designed its consultation process to reflect Article 32 of the UN Declaration, including the principle of free, prior, and informed consent. While the Commission acknowledges that some Indigenous participants raised

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[36] *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 53.

concerns with the CCC's consultation process, the duty to consult and accommodate was met even with these concerns in mind. The Commission has included this feedback in Appendix 5 for future consideration by the CCC.

2.2. Additional measures are necessary to adequately accommodate Indigenous Peoples' rights

Consistent with Canadian case law about section 35, the UN Declaration, and the evidence on the record, the Commission is of the view that mitigation measures, in addition to those proposed by Pouce Coupé, are necessary to adequately accommodate Indigenous Peoples' rights that may be impacted by the Project.

Canadian courts have consistently held that consultation can identify a need to accommodate Indigenous Peoples' rights if those rights will be adversely affected by a proposed project. The Federal Court recently commented that "[a] review of the jurisprudence concerning section 35 rights and the duty to consult and accommodate generally underscores the importance of meaningful dialogue to find pathways forward through 'a process of balancing interests, of give and take'. If there is to be true reconciliation, both parties must engage in a mutual, respectful dialogue that strives to ensure both parties understand each other's respective interests with the objective of reaching an outcome that is acceptable to both parties."[37]

The interests the Crown must balance may include societal interests and section 35 rights.[38] When balancing these interests to determine whether accommodation is adequate, the factual context in which Indigenous Peoples may experience a project's impacts on their rights is an important consideration. The Supreme Court of Canada has said that "it may be impossible to understand the seriousness of the impact of a project on [section] 35 rights without considering the larger context."[39] In **Chapter 5** the Commission explains how its consideration of specific articles of the UN Declaration helped it to understand the Project's effects on Indigenous Peoples' rights and to determine what additional mitigation measures are necessary to accommodate those rights.

As explained in **Chapter 5**, the Commission considered the high existing cumulative effects on Indigenous Peoples' section 35 rights in the Project area when assessing the adequacy of accommodation for those rights. Canadian case law has emphasized that cumulative effects analysis must be meaningful and substantive when assessing potential impacts on Indigenous rights. In *Yahey*, for example, the Court recognized that industrial development can reach a point where "the exercise of treaty rights either becomes less meaningful or impossible,"[40] highlighting the importance of considering and assessing not just individual project impacts but the collective effect of multiple developments on Indigenous Peoples' ability to meaningfully

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37 *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319 at para 136, referencing *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 48.

38 *Chippewas of the Thames v Enbridge*, 2017 SCC 41 at para 59, citing *Haida Nation v British Columbia* (Minister of Forests), 2004 SCC 73 at para 50.

39 Chippewas of the Thames v Enbridge, 2017 SCC 41 at para 42.

40 *Yahey v British Columbia*, 2021 BCSC 1287 at para 517.

exercise their rights. This contextual analysis informs the Commission's assessment of what accommodation measures may be necessary.

The Commission determined, based on the factual context of existing cumulative effects on Indigenous Peoples' rights in the Project area, consideration of the UN Declaration, and the mitigation measures proposed by Pouce Coupé, that additional mitigation measures are necessary to accommodate the rights of Indigenous Peoples that will or may be impacted by the Project. The Commission's analysis and conclusions are found in **Chapter 5** of this Report.

3. The Project is needed and is economically feasible

The Commission finds that the Project is both needed and economically feasible. When making the determination regarding the economic feasibility of the Project, the Commission assessed the need for the applied-for facilities, the likelihood of them being used at a reasonable level over their economic lives, and Pouce Coupé's ability to finance activities related to the Project.

The Commission finds that the Project is needed and is likely to be used at a reasonable level because:

- sufficient supply and market demand support the need for the Project;
- the agreements with shippers provide some support that the Project would be reasonably used over its economic life; and
- no other transportation options, including existing pipeline systems and other options, are sufficient to transport the volume of natural gas liquids (**NGLs**) that could otherwise be transported by the Project efficiently and effectively.

3.1. Sufficient supply and market demand of natural gas liquids support the need for the Project

The forecasted supply of NGLs and light crude oil, sustained market demand, and adequate upstream and downstream infrastructure support the long-term use of the Project. The underlying producer production forecasts corroborate the supply forecasts, and the investments being made by producers in the region support that, in the near term, supply is likely to align with forecasts or exceed them.

3.1.1. Enough natural gas liquids are likely to be available to support the Project

The Commission finds that NGL supply will likely be sufficient to support the Project. This conclusion is based on the marketable natural gas and NGL resource base in the northeast BC Montney Formation, forecasts of long-term natural gas and NGLs production, and the fact that recent natural gas and condensate production has exceeded what was forecasted in the Application.

3.1.1.1. Forecasts for growing natural gas liquids production support the availability of supply for the Project over its economic life

The Commission finds that the volumes of marketable natural gas and NGLs in the northeast BC Montney Formation support the Project's long-term need. The northeast BC Montney Formation is a well-established resource of natural gas, NGLs, and light crude oil. Total volumes of marketable resources in the northeast BC Montney Formation are estimated at 7,631 $10^9 m^3$ (269 Tcf) of natural gas and 1,985 $10^6 m^3$ (12.5 billion bbls) of NGLs. Natural gas production from the northeast BC Montney Formation has grown significantly in the past ten years. This growth has resulted in increased NGL production, as NGLs are by-products of natural gas

production extracted during field processing. NGLs consist of ethane[41], propane, butane, condensate, and pentanes plus.[42] Natural gas production from the northeast BC Montney Formation is rich in NGLs and natural gas producers benefit economically from extracting NGLs during processing as they are sold in markets, earning additional revenue. This is why, in the context of the Project, the Commission needs to consider the production of natural gas in determining whether sufficient NGLs will be available for the Project.

This finding on marketable volumes of natural gas and NGLs is based on Pouce Coupé's evidence which included an expert report from Peters & Co. Limited (**Peters**) (**Peters Report**). The Peters Report included a natural gas and liquids forecast (**Peters Forecast**), along with liquids forecasts based on the CER's *Canada's Energy Future 2023* report (**EF2023**) natural gas projections for three scenarios. With respect to long-term condensate production, Pouce Coupé referenced the Peters Forecast, which anticipates growing production of natural gas, condensate and NGL mix volumes from the northeast BC Montney Formation.

The Peters Forecast presented the following results:

- natural gas production will rise from 165 $10^6m^3/d$ (5.8 billion cubic feet per day [Bcf/d]) in 2023 to 296 $10^6m^3/d$ (10.5 Bcf/d) in 2050,
- liquids production will steadily increase from 32 $10^3m^3/d$ (198 Mbbl/d) in 2023 to 57 $10^3m^3/d$ (356 Mbbl/d) in 2050; and
- condensate production will increase from 16 $10^3m^3/d$ (102 Mbbl/d) in 2023 to 30 $10^3m^3/d$ (190 Mbbl/d) by 2050 in the northeast BC Montney Formation.

As it relates to 2024 specifically, Pouce Coupé reported that:

- actual natural gas production exceeded the Peters Forecast by approximately three per cent,
- actual condensate volumes were about 10 per cent higher than forecasted,
- other liquids volumes were within one per cent of the forecasted production.

Pouce Coupé further indicated that the northeast BC Montney Formation demonstrates impressive performance metrics, emphasizing its standing as a world-class natural gas resource play, rivalling top plays in North America in terms of economic competitiveness. Peters forecasts about 56 $10^3m^3/d$ (350 Mbbl/d) of total liquids production from the northeast BC Montney Formation from the mid-2030's to the end of the Project's economic life.

While it is possible forecasts for future years may not materialize as anticipated, the Commission finds that the comparison between forecasted and actual condensate production

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41 Ethane is almost entirely transported on natural gas pipelines and would not be transported on the Project, and therefore is not considered in this Report, nor in the resource or production forecasts discussed in this Report.

42 For the remainder of this Report, both condensate and pentanes plus are referred to as 'condensate.'

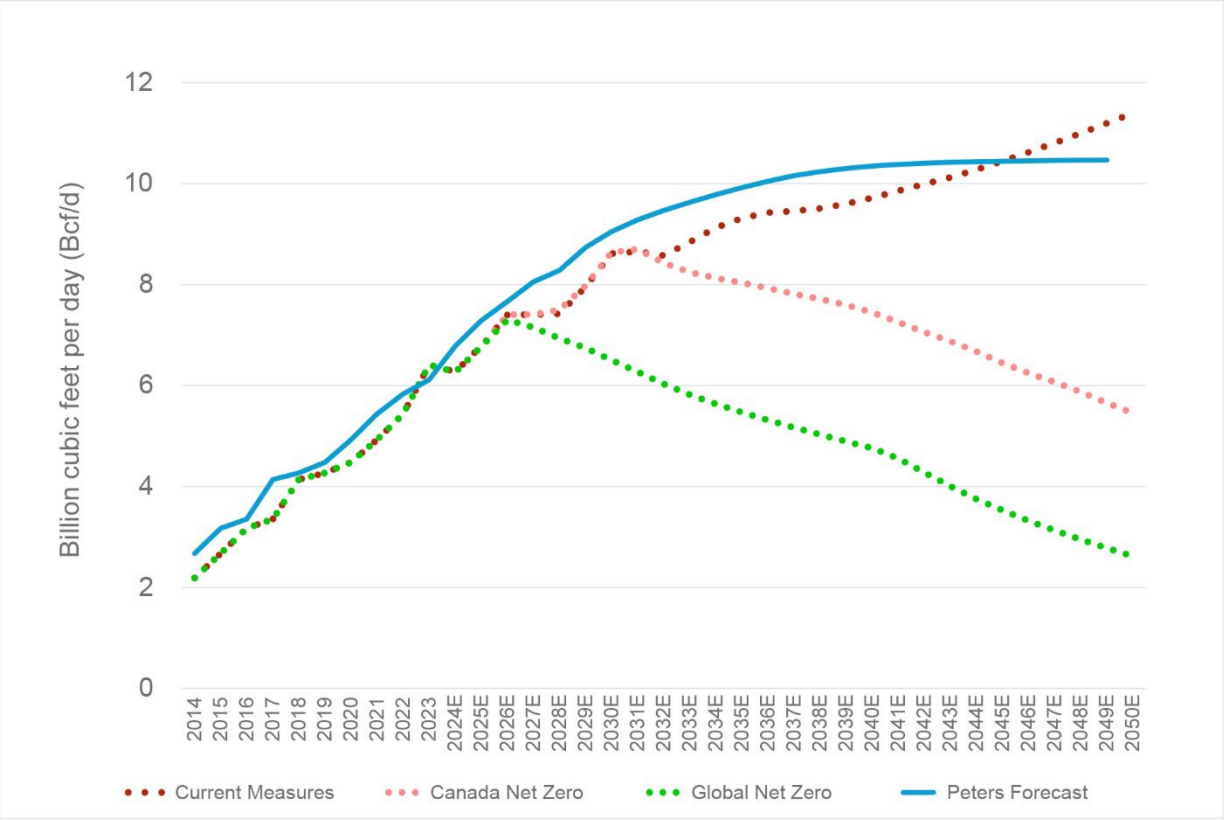
modestly strengthens the case for reasonable long-term availability of supply for the Project and supports the Commission's conclusion that the northeast BC Montney Formation is likely to provide adequate supply for the Project throughout its economic life.

Pouce Coupé submitted that projections of natural gas and liquids production in the northeast BC Montney Formation vary under the three different scenarios of the CER's EF2023. The three scenarios are Current Measures, Canada Net-Zero and Global Net-Zero which each reflects different levels of policy ambitions to reduce greenhouse gas (**GHG**) emissions. Pouce Coupé suggested that Current Measures scenario[43] best represents the current development trajectory out of the three EF2023 scenarios, as it aligns with producer-specific forecasts.

The Canada Net-Zero and Global Net-Zero scenarios have natural gas and liquids production projected to decline below today's levels by 2050. **Figure 3** provides the BC sales gas (equivalent to 'natural gas' in this Report) production projections in the three EF2023 scenarios as well as the Peters Forecast. **Figure 4** shows the total liquids production forecasted in the Peters Forecast, as well as the liquids production estimated by Peters based on the three EF2023 scenarios.

[43] See, for example, Figure 17 at https://www.cer-rec.gc.ca/en/data-analysis/canada-energy-future/2023-data-supplement/.

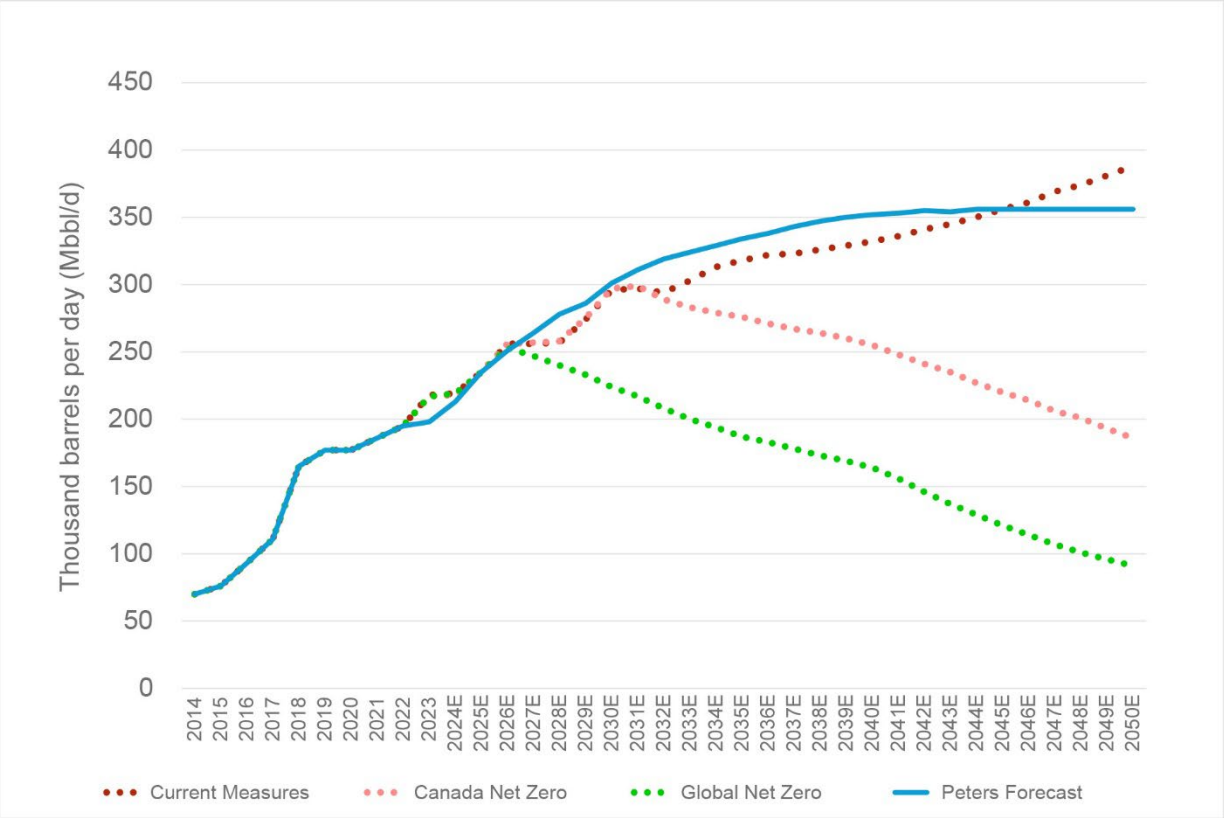
Figure 3 – Northeast BC Montney natural gas production:
Peters Report forecast and the CER 2023 Energy Future scenarios projections[44]



Source: Pouce Coupé, Response to IR No. 2, PDF pages 52-53 of 156, C32330-2

[44] This chart is based on 2023 production data along with CER Energy Future scenarios. Years with 'E' represent projected data.

Figure 4 – Northeast BC Montney Formation liquids production: Peters Forecast and Peters Report's estimations based on CER 2023 Energy Future scenarios



Source: Chart created using data from Pouce Coupé, Response to IR No. 2, Attachment 2.11-1, PDF pages 3-5 of 10, C32230-6.

The Commission finds that the Peters Forecast of natural gas and liquids production in the northeast BC Montney Formation is reasonable. The Commission notes that the EF2023 projections are based on a range of assumptions based on different outlooks for markets and policies, and so is the Peters Forecast. The Commission acknowledges that forecasts and projections are inherently uncertain. However, the Commission finds that the region's economic significance and established infrastructure support the case for the long-term availability of supply for the Project, despite the uncertainty, based on:

- the total marketable natural gas and NGL resources in the northeast BC Montney Formation;
- the competitiveness of the northeastern BC Montney Formation; and
- likely, sustained demand for natural gas and condensate in western Canada and export markets.

The Commission recognizes that recent developments of liquefied natural gas (**LNG**) export projects off BC's west coast have the potential to further drive natural gas and NGL production in the northeast BC Montney Formation. Pouce Coupé details that with momentum behind LNG

Canada Phase 2 and Ksi Lisims LNG, an additional 113 $10^6m^3/d$ (4 Bcf/d) of natural gas demand could emerge post-2030 beyond the approximately 297 $10^6m^3/d$ (10.5 Bcf/d) of natural gas supply projected in the Peters Forecast for the northeast BC Montney Formation as stated in the Peters Report.[45] Pouce Coupé further notes that if total northeast BC Montney Formation natural gas demand grows to approximately 411 $10^6m^3/d$ (14.5 Bcf/d) and NGL yields remain consistent, associated liquids volumes could increase proportionally, approaching 500 Mbbl/d (80 $10^3m^3/d$).

With respect to natural gas infrastructure, Pouce Coupé submitted that the northeast BC Montney Formation has an estimated 278 $10^3m^3/d$ (9.8 Bcf/d) of existing natural gas processing capacity, with a current throughput at 190 $10^6m^3/d$ (6.7 Bcf/d). Pouce Coupé also noted the Peters Forecast of natural gas production is consistent with the pipeline capacity of natural gas out of the region that is currently in-service or under construction. The Commission finds that upstream natural gas processing capacity, as well as natural gas pipeline capacity out of the region are consistent with and support the Peters Forecast for natural gas and NGLs. The Commission finds that Pouce Coupé's forecasts, current and future potential LNG developments, and actual production trends support reasonable availability of supply over the Project's expected economic life.

Finally, Blueberry River First Nations, in its letter of comment, submitted that the Project would drive and enable unknown amounts of upstream development. The Commission addresses this letter of comment in **Chapter 5**. For its assessment of forecasts as support for availability of supply, the Commission finds that any land disturbance restrictions associated with the 2023 BC Agreements[46] are not expected to materially impact the natural gas production forecast or the resulting supply of condensate for the Project. Pouce Coupé confirmed that the Peters Forecast of natural gas production accounts for the 2023 BC Agreements by ensuring alignment between forecasted volumes and the land disturbance restrictions. The Peters Forecast included pad site utilization and re-use of existing well pads and shows land surface disturbance at a maximum of almost 400 annual hectares (**ha**) in 2024, before decreasing each year out to 2065, increasingly below the annual surface disturbance allowance of 750 ha. Given that Peters freezes technology improvements and efficiency gains to 2024 levels to the end of the forecast, the land-disturbance forecast can be considered conservative.

However, the Commission notes that there is a degree of uncertainty with these production forecasts because of the 2023 BC Agreements. The Commission recognizes that Peter's pad site utilization analysis supports the forecasted development within the framework of the 2023 BC Agreements. The Commission also recognizes that NGLs, including condensate, are byproducts of northeast BC Montney Formation natural gas production, and that natural gas supply and market factors will drive natural gas production, the development of which is provincially regulated, and thus subject to not only provincial regulation, but also to the

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[45] LNG Canada Phase 2 is included in EF2023's Canada Net-Zero and Current Measures scenarios, but not in EF2023's Global Net-Zero scenario. Ksi Lisims is not included in any of EF2023's scenarios. Instead, EF2023 uses a generic 1 Bcf/d facility that comes online only in the Current Measures scenario.

[46] The Blueberry River First Nations Implementation Agreement and the Consensus Document are collectively defined as the "**2023 BC Agreements**" in this Report.

requirements of the regime that governs the 2023 BC Agreements. NGLs support the economic production of natural gas but do not necessarily drive natural gas production and resulting condensate production that may be transported on this Project.

3.1.2. Market demand will likely be sufficient to support the Project

The Commission finds that market demand would likely be sufficient to support the reasonable use of the Project over its economic life. This conclusion is supported by strong and sustained domestic demand for condensate as a diluent for Canadian heavy crude oil and bitumen production. Current domestic condensate supply is insufficient to meet current demand, with a significant portion of supply met through imports. This supply gap is expected to continue and widen over time. The Commission is of the view that the Project would be well-positioned to help meet this growing demand, especially considering projected increases in heavy crude oil and bitumen production and expanded oil-export capacity out of western Canada. Demand for propane and butane has also increased in western Canada with Alberta's growing petrochemical industry and increasing liquified petroleum gas (**LPG**) exports off BC's west coast. Additionally, the Commission finds that the necessary downstream infrastructure is in place to move products from the Project to markets, including extensive and growing pipeline and fractionation capacity in Alberta. Taken together, these factors support the conclusion that the market demand will be sufficient and that the Project would likely be reasonably utilized throughout its economic life.

3.1.2.1. Market analysis demonstrates that there is enough demand to absorb the additional volumes that the Project would transport

Condensate

The Commission finds that strong and sustained domestic demand for condensate as a diluent for heavy crude oil and bitumen is likely to continue over the Project's lifetime. In western Canada, condensate has primarily been used as a diluent for heavy crude oil produced in Alberta and Saskatchewan and bitumen produced from the Alberta oil sands. Pouce Coupé submits that demand for condensate is expected to increase over time due to newly constructed crude oil egress from projects such as Trans Mountain Expansion Project. It is reasonable to conclude that domestic markets can absorb the additional volumes transported by the Project because western Canadian condensate demand already exceeds supply, and this imbalance is expected to grow. Approximately 37 per cent of demand over the past two years was met through imports from the United States. This supply gap is expected to persist and widen, with forecasted shortfalls in domestic condensate supply reaching approximately 37 $10^3m^3/d$ (230 Mbbl/d) in 2024 and 52 $10^3m^3/d$ (330 Mbbl/d) by 2032. Incremental domestic condensate production from the northeast BC Montney Formation could reduce Canada's reliance on imports to help meet this growing demand. The evidence shows that global demand for

Canadian heavy crude oil is increasing and as a result, heavy crude oil production in Canada is expected to increase and lead to increased in demand for condensate as a diluent.[47]

Propane and butane

The Project is not planned to transport propane or butane, however, by transporting condensate that would otherwise be carried on the existing Pouce Coupé system (shown in **Figure 2**, above in **Section 1.2**), it could free up space on that system to transport more propane and butane. The Project, and any other pipeline egress additions like NorthRiver's NEBC Connector Project, would in combination transport a variety of liquids. This is beneficial as propane and butane production and demand is also forecasted to increase. With the existing Pouce Coupé system currently being used to full capacity, more capacity to transport propane and butane is also expected to be needed.

Western Canadian propane demand plus exports have steadily increased over the past decade. Petrochemical growth in Alberta has expanded recently with the Heartland Polymers plant becoming operational in Fort Saskatchewan and potential incremental west coast LPG export capacity has advanced through projects that are approved but waiting for final investment decisions. Fractionation capacity is limited in northeastern BC but is planned to continue expanding in Alberta. With increasing LPG exports, this would mean more NGL capacity out of BC would be required to move NGL mix for fractionation in Alberta. The Commission is of the view that these developments will likely keep western Canadian propane demand robust into the future and positively affect use of NGL capacity out of the northeast BC Montney Formation.

In addition, western Canadian butane demand plus exports have steadily increased over the past decade. Butane use as diluent has increased in western Canada. Given the reasonably balanced nature of the western Canadian butane market and the ability to export excess volumes as required, it is expected that market demand will absorb reasonable increases in fractionated volumes of butane from northeast BC Montney Formation production.

3.1.2.2. Sufficient infrastructure is in place to move products transported on the Project to downstream markets

The Commission finds that sufficient infrastructure is in place to move condensate and other NGLs from the Project to downstream markets. This view is informed by NGL fractionation capacity in Alberta and BC is estimated at approximately 80 $10^3m^3/d$ (500 Mbbl/d), including an additional 9 $10^3m^3/d$ (55 Mbbl/d) under construction and expected to be in service in the first half of 2026.

With respect to downstream NGL pipeline infrastructure, Pouce Coupé provided a list of existing pipeline infrastructure projects that show substantial capacity to take propane and butane from Gordondale to Fort Saskatchewan and condensate to Fort McMurray. Pouce Coupé also

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[47] For example, the Alberta Energy Regulator projects a 16 per cent increase in heavy crude production by 2033, from 3,410 Mbbl/d (542.1 $10^3m^3/d$) in 2023 to 3,952 Mbbl/d (628.3 $10^3m^3/d$), supported by expanded export capacity.

submitted that the total diluent pipeline capacity for oil sands use in Alberta is 311 $10^3m^3/d$ (1,958 Mbbl/d). The Commission is of the view that the condensate pipeline delivery system in Alberta serves as critical infrastructure for the oil sands industry, transporting diluent essential for thinning bitumen. The Commission finds that the Project would be supported by the existing, well-established downstream infrastructure, including pipeline systems and fractionation facilities, as well as the Project's alignment with the operational needs of this infrastructure.

3.1.2.3. Government climate change policies would still likely result in adequate availability of natural gas liquids for the Project

The Commission recognizes that the assessment of adequacy of supply and markets in relation to the Project has to rely on forecasts and projections of what supply and demand of various commodities will be into the future. Because the Project would be operated for 40 years, this assessment involves assumptions on parameters for decades to come. Climate policy, both domestic and global, represents a source of risk and uncertainty for the supply and markets of natural gas and NGLs. Given the evolving nature of climate policy, the landscape for natural gas and NGLs could look different in 10 to 20 years. Ultimately, it would be up to Pouce Coupé and producers to manage these risks going forward.

Supply impacts

The Commission finds that the supply of NGLs could be impacted by how climate change policy is to evolve in the future. The Commission considered the current climate policy environment and probed Pouce Coupé on the matter and finds that supply is likely to remain adequate for the Project. That said, climate policy may impact the future production of and demand for northeast BC Montney Formation natural gas and NGLs. The Commission recognizes that the extent and timing of these impacts remain uncertain, and their implications for supply and market conditions will depend on how policies are designed and implemented.

When prompted to evaluate the Peters Forecast, and the CER's EF2023 Current Measures, Canada Net-Zero, and Global Net-Zero production scenarios, Pouce Coupé showed that all scenarios follow a similar trajectory to 2026 before the Canada Net-Zero and Global Net-Zero scenarios show a decline in natural gas and NGLs production. The EF2023 Canada Net-Zero and EF2023 Global Net-Zero scenarios result in lower demand for both natural gas and NGLs in Canada given assumed Canadian policies. On the global level, EF2023 Canada Net-Zero and EF2023 Global Net-Zero scenarios reflect differing levels of global climate policies, through the use of differing assumptions for global hydrocarbon prices that reflect significantly varying levels of global demand of natural gas and NGLs. Since Canada's energy sector is integrated with global markets, and countries have varying ambitions in tackling climate change, there is uncertainty regarding future global demand for Canadian natural gas and NGLs in scenarios where Canada might reach net-zero but other nations might not.

If additional climate policies were to emerge, it is uncertain how they would affect production in the northeast BC Montney Formation. The Commission notes it is also uncertain how current

policies, such as the *One Canadian Economy Act*[48] or the *Canadian Net-Zero Emissions Accountability Act*[49], may affect production of and markets for natural gas and NGLs in Canada. The Commission acknowledges that scenarios in which Canada achieves net-zero GHG emissions by 2050 add uncertainty to supply and markets for the products shipped by the Project. However, the Commission is of the view that Pouce Coupé has adequately accounted for these risks in its analysis of the Project's economic feasibility.

The Commission finds that it is reasonable to use the EF2023's Current Measures Scenario, along with other scenarios from EF2023 as well as the Peters Forecast, to understand the breadth of potential pathways for future natural gas and NGL production. In this context, the Commission is satisfied with Pouce Coupé's argument that supply may be higher than the projections from EF2023's net-zero scenarios.

Markets impacts

The Commission finds that demand for natural gas and NGLs could be impacted by how climate change policy is to evolve in the future but will likely remain adequate for the lifetime of the Project. Domestic natural gas and NGLs production supplies domestic Canadian markets as well as export markets. Given these exports, Canadian natural gas and NGLs production are affected by global demand and policies, not just Canadian GHG policy. For instance, Pouce Coupé submits that the global demand for Canadian heavy crude is increasing, which in turn increases demand for condensate as a diluent. The Alberta Energy Regulator's 2024 heavy crude production outlook projects a 16 per cent increase (542 $10^3m^3/d$ [3,410 Mbbl/d] to 628 $10^3m^3/d$ [3,952 Mbbl/d]) by 2033, driven by expanded export capabilities and rising international demand.

In terms of getting more heavy crude production to market, the completion of the Trans Mountain Expansion Project has increased Canada's oil export capacity, enabling an additional 95 $10^3m^3/d$ (600 Mbbl/d) of heavy crude shipped from Alberta to markets in the United States west coast and in Asia. Pouce Coupé further details that in an evolving legal and policy scenario with increasingly stringent measures for emissions reductions, which may stagnate growth in heavy crude production, total condensate demand outstrips Western Canadian supply by upwards of 48 $10^3m^3/d$ (300 Mbbl/d). The Commission is of the view that the Project is likely to benefit from sustained demand for natural gas and NGLs, supported by increasing LNG and NGLs exports, and Canadian heavy crude production and expanded export capacity.

3.2. The agreements with shippers provide some support that the Project would be reasonably used over its economic life

The Commission finds that although the three transportation agreements between Pembina and its customers provide some evidence that the Project would be used at a reasonable level over its economic life, particularly in the short term, uncertainty limits the commercial support they

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[48] Full name is Bill C 5 - An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act (https://www.parl.ca/documentviewer/en/45-1/bill/C-5/first-reading)

[49] https://laws-lois.justice.gc.ca/eng/acts/c-19.3/fulltext.html

provide for the Project. On balance, the Commission finds that when considered alongside its supply and markets findings, both the agreements and their underlying basis—including the producer production forecasts and other facts and circumstances that led to these agreements— demonstrate the need for the Project.

On behalf of Pouce Coupé, Pembina secured three transportation agreements with customers that Pouce Coupé stated underpin the Project and support its economic feasibility. These consist of one take-or-pay firm contract (where the shipper pays tolls regardless of whether contracted volumes are transported) for 2 $10^3m^3/d$ (10 Mbbl/d) from Taylor, BC, to Pembina's Alberta facilities, and two dedication agreements requiring producers to enter into firm contracts for future production volumes. Under the dedication agreements, one customer committed to contracts for transportation from a specified geographical area of the northeast BC Montney Formation, while another committed to contracts for volumes from a specified multiphase development. To date, customers have initiated calls for firm capacity under the dedication agreements, with Pouce Coupé accommodating the initial tranche through the existing systems without requiring the Project. Following subsequent calls for firm service, total firm commitments under the dedication agreements have reached 4 $10^3m^3/d$ (23 Mbbl/d). Looking ahead, these three agreements, which have a collective volume-weighted average term of 10.9 years, are projected to drive significant capacity needs, based on customer production forecasts. Relying on the customer production forecasts, Pouce Coupé estimated that meeting demand from all three agreements would require 13 $10^3m^3/d$ (79 Mbbl/d) of firm service capacity by 2031. The Commission accepts that the existing Pouce Coupé systems do not have material available capacity for the additional firm contracts that may materialize from the dedication agreements.

In order to assess the degree of support that the three agreements provide that the Project would be reasonably used over its economic life, the Commission looked at the following:

- the nature of the dedication agreements;
- the competing views on the certainty provided by dedication agreements; and
- the underlying basis for the agreements and the circumstances that led to them.

In assessing the dedication agreements, the Commission observes that it is uncommon for companies to use dedication agreements to underpin federally regulated pipeline projects. In its argument, Tidewater Midstream and Infrastructure Ltd. (**Tidewater**) stated that only one other federally regulated pipeline project relied on dedication agreements, and that the circumstances of Pouce Coupé's Application significantly differ from that precedent. While dedication agreements may be uncommon, the Commission does not limit the types of commercial agreements that a proponent may rely on, so long as the agreements do not contravene applicable laws, regulatory requirements, statutory obligations, or the rights of shippers. However, different types of agreements may provide different levels of support for a project's need and economic feasibility.

Pouce Coupé provided expert evidence that the dedication agreements provide the same assurances as other commercial agreements such as a firm take-or-pay contract. The Commission disagrees with Pouce Coupé's expert witness, John Reed, and was persuaded by

Tidewater's submissions that some of the characteristics of the dedication agreements Pouce Coupé relied on in its Application make them less certain than take-or-pay contracts to demonstrate that shippers would use the Project. Specifically, the dedication agreements do not require firm commitment volumes to be directed to the Project. Those volumes could be transported on any of Pouce Coupé's pipelines or by other means available to Pembina. The dedication agreements also do not require shippers to call for firm service or require Pouce Coupé to honour a call for firm service. In the Commission's view, under the dedication agreements, customers have not made a direct financial commitment to the Project and it is not certain if firm commitments will materialize.

As a result, the Commission disagrees that, on their own, those dedication agreements ensure that significant volumes will be directed to the Project and provide a clear foundation that shippers will use the Project over the long term. However, while they do not provide the same certainty as take-or-pay contracts, the Commission is of the view that dedication agreements can provide some benefits for pipelines and shippers. For example, the Commission agrees with Pouce Coupé that dedication agreements provide producers with flexibility to adjust the specific timing and volumes of the firm commitments as their development plans progress.

Despite the uncertainty associated with the dedication agreements, the Commission still gives some weight to the agreements. In coming to the conclusion that the Project is likely to be used at a reasonable level over its economic life, the Commission considered the underlying facts and circumstances of the three agreements – including producer production forecasts, willingness of customers to enter into firm contracts, and the level of investment in the region – that support the supply forecasts, making it more likely that supply for the Project would materialize in the future. The Commission finds that the producers' proprietary production forecasts that informed Pouce Coupé's estimation of the expected capacity needed to fulfill Pembina's obligations under the agreements corroborate the supply forecasts discussed in **Section 3.1.1**. The Commission finds this evidence compelling because these production forecasts come from established producers who have a history of meeting production targets. The production forecasts are further bolstered by the fact that both customers who signed dedication agreements with Pembina have entered into firm commitments during the course of this hearing, in addition to the third customer who had already entered into a firm commitment. The customers' willingness to commit to firm contracts for future production further supports the reliability of the production and supply forecasts. Additionally, the Commission also gives some weight to Pouce Coupé's statement that producers have made substantial investments in the region and are expected to invest further in the immediate future. Such investment further supports development in the near term that aligns with or exceeds the supply forecasts. Each of these factors also make it more likely for the dedication agreements to result in additional firm commitments to Pembina.

Finally, as part of its reply evidence, Pouce Coupé filed letters of support from members of the Canadian energy industry that it stated highlight the importance of infrastructure development to support basin growth, ensure long-term competitiveness, and enable responsible resource development. Tidewater argued that the letters of support do not demonstrate commercial support for the Project and only one indicated it would be a shipper on the Project. The Commission is of the view that these letters show some level of general commercial support; however, the Commission gave low weight to the letters of support in its conclusion that the

Project is economically feasible because the letters do not represent shipper commitment to using the Project.

3.3. Economic regulation

A company must file the tolls for a project with the CER before charging tolls to shippers. Pouce Coupé has indicated that it will file the tolls and tariffs for the Project before beginning to operate the Project. While it is common for a company applying for a Certificate to file a tariff or a toll application prior to, or alongside its Certificate application, Pouce Coupé was not required to apply for or seek any relief directly related to its tolls and tariffs as part of the Application.

Some of the information commonly provided as part of a tolls and tariff filing can be helpful to the Commission and parties in understanding a project; however, the CER Act does not require this information to be included in a Certificate application, and the Filing Manual does not provide prescriptive guidance with respect to this type of information. Therefore, during the hearing, the Commission sought and received some information related to tolls and tariffs for the Project to understand the need for the Project, its commercial underpinnings, and how it would be operated and integrated with the existing Pouce Coupé and Pembina systems. The Commission considered the additional evidence Pouce Coupé provided in assessing the agreements with shippers in **Section 3.2**, availability of alternatives to the Project in **Section 3.4.1**, and Pouce Coupé's ability to finance the Project in **Section 3.5**.

In assessing the toll and tariff evidence, the Commission also identified some matters that remain potentially unclear due to the level of information provided in this hearing specifically on toll and tariff matters. These matters had no impact on the Commission's determinations, recommendations, and findings in this Report, related to the construction and operation of the Project.

The Commission notes the following as potentially unclear and needing further clarification in a future application for tolls and tariffs:

1. How toll revenue from all-in tolls would be shared among affiliates in all circumstances;
2. Whether there is potential for cross-subsidization of Pouce Coupé by its downstream affiliates through the use of all-in tolls;
3. What if any planned standalone tolls on the Project are, or should be, consistent with the tolls implied for service on the Project based on the difference between the all-in tolls for various receipt points across the three agreements; and
4. Whether there may be information asymmetry and whether shippers lack transparency into the availability of capacity and tolls offered to other shippers for similar services when negotiating with Pembina.

The Commission reminds shippers and interested parties that they may file a complaint with the CER at any time if a toll or tariff matter cannot be resolved through negotiations. Additionally, the CER Act requires pipeline companies to file all tariffs with the CER,[50] and the CER may evaluate those tariffs and any related documents for compliance with the CER Act. As defined in section 225 of the CER Act, a tariff means a schedule of tolls, conditions, classifications, practices, or rules and regulations applicable to the provision of service by a company, and includes rules respecting the calculation of tolls, and must be filed. The tariff in effect for a CER-regulated pipeline will always be the tariff on file with the CER.

3.4. This Project is likely to be reasonably used over its economic life when considering existing and planned pipeline capacity out of the region

The Commission finds that Pouce Coupé has made a credible case that, on a long-term basis, total liquids supply requiring egress out of the northeast BC Montney Formation area will likely be sufficient to support reasonable use rates of the Project, the existing Pouce Coupé pipeline system, and NorthRiver's approved but not yet in-service NEBC Connector Project. The Commission finds that, should the NEBC Connector Project proceed as planned, additional pipelines such as the Project would still be required to support likely production growth in the next decade. However, in the absence of the NEBC Connector Project and the Project, the need for additional transportation capacity would be immediate, as existing infrastructure in the region is currently operating at or near full capacity.

The Project has a proposed capacity of 19 $10^3m^3/d$ (118 Mbbl/d), primarily intended to transport condensate. Pouce Coupé confirmed it does not plan to transition the Pipeline from primarily condensate service for the duration of its economic life. Pouce Coupé further noted that, to preserve operational flexibility, it designs and constructs its pipelines to accommodate a variety of products, including NGLs and light crude oil, even if it is expected that a pipeline will generally only transport one product type.

Northeast BC currently has only one liquids system to carry propane, butane, condensate, and crude oil into Alberta: the existing Pouce Coupé pipeline system. This Project and NorthRiver's NEBC Connector Project[51] are both planned to transport various liquids from northeast BC to Alberta.

Pouce Coupé outlined the capacities of the existing and planned NGL mix and condensate pipeline transportation options out of the northeast BC Montney Formation, as shown in **Table 3-1**.

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[50] Section 227 of the CER Act states "A company must file each tariff it makes and any amendments made to a tariff, with the Regulator." And section 225 of the CER Act states "tariff means a schedule of tolls, conditions, classifications, practices or rules and regulations applicable to the provision of a service by a company, and includes rules respecting the calculation of tolls."

[51] Information on this Project is on REGDOCS at https://apps.cer-rec.gc.ca/REGDOCS/Item/View/4158245.

Table 3-1 – Capacities of existing and potential NGL mix and condensate transportation options

Infrastructure	Capacity	Status
Pouce Coupé's existing pipeline system	38 $10^3m^3/d$ (238 Mbbl/d)	In service
NorthRiver's NEBC Connector Project	16 $10^3m^3/d$ (98 Mbbl/d)	Regulatory approvals in place, positive final investment decision reached, not yet constructed or in service
Pouce Coupé's Taylor to Gordondale Pipeline Project	19 $10^3m^3/d$ (118 Mbbl/d)	Awaiting Governor in Council decision on CER recommendation

Source: Pouce Coupé's response to Commission IR No. 2, PDF page 47 of 156, C32230-2

If one or more additional pipelines come into operation, it could free up some space on the other existing pipelines to transport more of certain liquids. For example, if this Project comes into operation and ships condensate, it could free up space on the existing Pouce Coupé pipeline system to transport more propane and butane.

The Commission further finds that maintaining some spare capacity can support flexibility, market access, competition, and producer confidence. While recognizing the importance of the reasonable use of pipeline infrastructure, the Commission notes that Pouce Coupé would have the responsibility of managing its underutilization risk. The Commission is of the view that this risk is reduced through sufficient supply and markets, transportation agreements, and a lack of reasonable alternatives.

The Commission finds that the existing Pouce Coupé system with capacity of 238 Mbbl/d and the NEBC Connector Project with capacity of 98 Mbbl/d would not, on their own, provide sufficient capacity to meet the likely demand for the transportation of NGLs out of the northeast BC Montney Formation over the next decade. Pouce Coupé submitted that if both the Project with capacity of 118 Mbbl/d, and the NEBC Connector Project come online, there is a potential for up to 60 Mbbl/d of spare capacity between those projects and the existing Pouce Coupé system. During oral cross-examination, Pouce Coupé explained that, in 2050, if Pouce Coupé's existing pipeline system, NorthRiver's NEBC Connector Project, and the Project were operational, about 20 per cent [90 Mbbld] of the total capacity would be unused and considered 'spare capacity'.

The Commission is of the view that building capacity before it is urgently needed can help avoid the costs and other impacts of pipeline bottlenecks. When systems are full or close to full, even small issues like temporary outages or demand spikes can cause major price swings and weaken basin competitiveness. The Commission is also of the view that spare capacity can increase system reliability in certain circumstances. In a multi-pipeline corridor, having spare capacity can help manage planned maintenance, unplanned outages, or surges in volume. This flexibility can allow operators to reroute flows when needed and can reduce the risk of service disruptions.

Finally, the Commission is of the view that waiting until systems are full before building new capacity tends to be a higher-risk and more expensive approach. If investment only happens after constraints emerge, producers might not have sufficient egress capacity for their products to reach markets. Building slightly ahead of need, where there is a reasonable prospect of such need materializing, can give the basin opportunities to grow and potentially avoid market penalties while doing so. The Commission concludes that a non-proliferative and reasonable level of spare capacity could help support basin competitiveness and long-term value creation.

3.4.1. No other options are available that could transport the volumes that would otherwise be transported by the Project in an efficient and effective manner

The Commission finds that, while existing and proposed pipelines, trucking, and rail transportation options for NGLs from the northeast BC Montney Formation are available, these alternatives are not at this time sufficient in capacity nor efficient to fully meet the transportation needs for the volumes that would otherwise be transported by the Project. The Commission also evaluated additional alternatives, which are explained below, including:

- Transportation by Other arrangements,
- purchasing existing assets,
- the existing Pouce Coupé pipeline system, and
- other transportation options over which Pouce Coupé has no control.

No identified alternative would provide sufficient capacity to address the need for the Project based on supply projections. While Pouce Coupé indicated that some additional capacity could be achieved by using drag reducing agents or expanding some existing systems, these would not be sufficient to accommodate the forecasted supply.

In addition, while trucking and rail alternatives exist, they are constrained in terms of operational efficiency. The Commission is of the view that pipelines remain the most economically viable and operationally reliable mode of transportation for large volumes of NGLs between upstream production to markets and fractionation hubs in Alberta, such as Fort Saskatchewan and the oil sands in Fort McMurray.

Two potential alternatives Pouce Coupé considered in the Application were purchasing existing assets and arrangements for Transportation by Others. Transportation by Others arrangements are contractual arrangements that can be entered into by parties which can provide for entitlements to transport volumes on pipeline systems owned by other companies. Such companies may or may not be affiliates. Pouce Coupé stated that these two alternatives were not feasible because neither could accommodate both the volumes and product types which the Project would support.

Pouce Coupé indicated that it could accommodate some additional volumes on its existing Pouce Coupé's systems by expanding existing Pouce Coupé pipelines or through Pembina-

owned truck loading and unloading. However, if significant additional volumes for firm service materialized, there would likely not be sufficient capacity to meet demand.

The Commission considered that alternatives to the Project that are outside of Pouce Coupé's control, including the approved but not yet in service, NorthRiver NEBC Connector Project discussed in **Section 3.4**, would be unlikely to provide sufficient capacity to meet the forecasted supply in the future. The Commission finds that alternatives to the Project would be unlikely to provide sufficient capacity to negate the need for the Project in the long term in an efficient and effective manner and therefore do not represent viable alternatives to the Project.

3.5. Pouce Coupé is financially able to construct and operate the Project

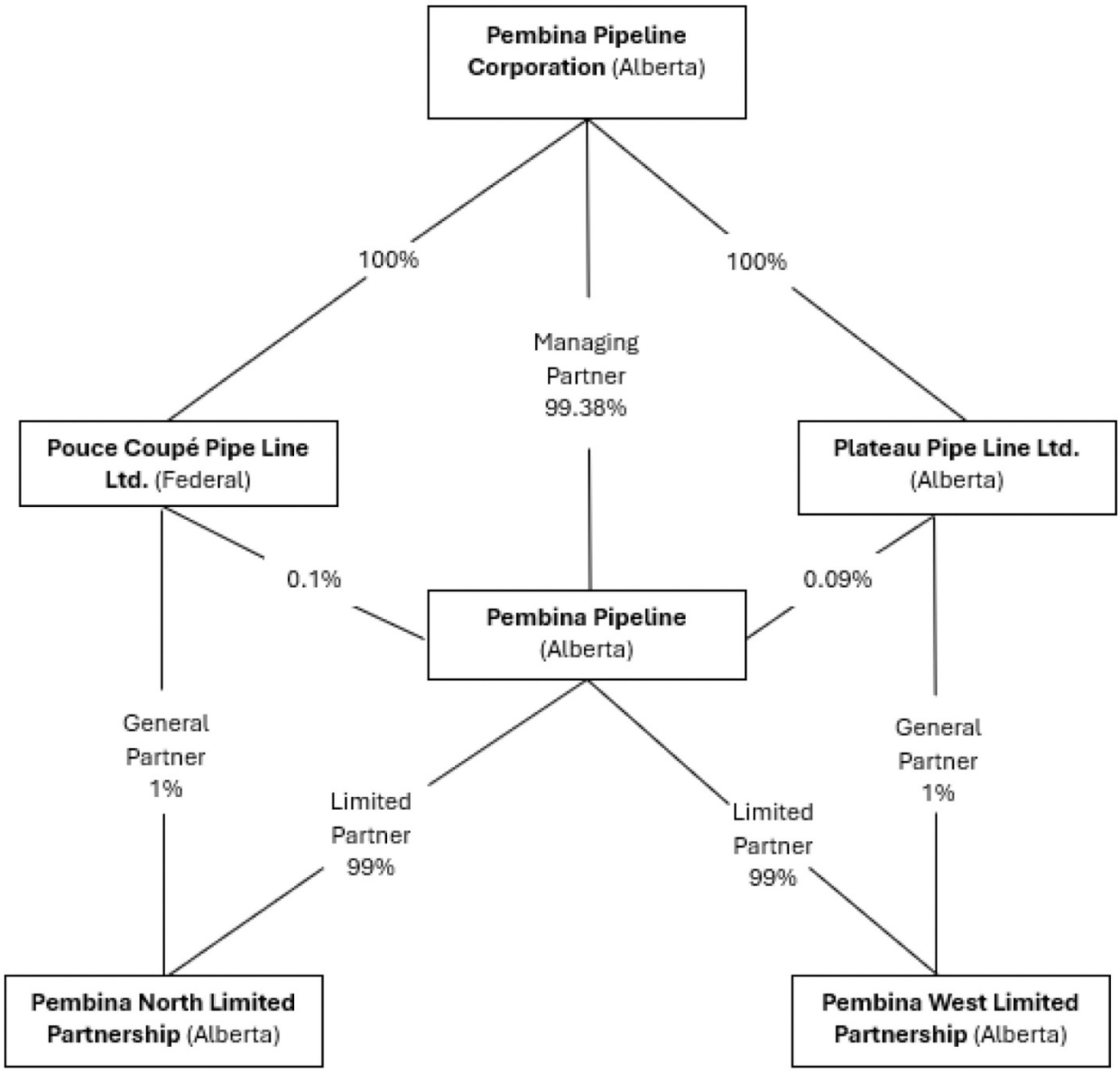
The Commission finds that Pouce Coupé has the ability to finance the Project during construction and operation of the applied-for facilities. Pouce Coupé must meet the Commission's requirements to set aside funds for the future abandonment of the applied-for facilities which would be the subject of a future and separate filing. The Commission has also recommended imposing conditions for financial resource requirements and abandonment funding.

3.5.1. Pouce Coupé has sufficient access to financing to construct and operate the Project

The Commission is persuaded that Pouce Coupé's access, through Pembina, to capital markets, liquidity, and strong financial position give it significant financial flexibility to fund unexpected construction costs of the Project that could arise and to sustain the Project's operations. Pouce Coupé estimated the capital cost of the Project to be $340.9 million (2024 dollars), and Pembina's financing for its projects is met through a mix of cash flows from operations, senior debt, subordinated capital, and the issuance of common shares. The Commission finds Pembina's debt ratings and capital structure to be acceptable to secure financing for the Project. Pembina's debt ratings are investment grade, and include a BBB (high) from DBRS Limited (Morningstar DBRS) and BBB from S&P Global Ratings, each signalling a stable outlook. The Commission is satisfied that Pembina's consolidated capital structure is also comparable to other industry participants who have been able to raise equity and debt to fund their projects.

The evidence demonstrates that Pembina supports the financing needs of its subsidiaries, including Pouce Coupé, in relation to the Project. Pouce Coupé is a wholly owned subsidiary of Pembina and the general partner of Pembina North Limited Partnership. Pouce Coupé does not hold an ownership interest in any physical assets; however, it is the applicant and the licensee of record for the Project. Pembina would operate the Project on behalf of Pouce Coupé, and ownership of the Project assets would be held by Pembina North Limited Partnership. **Figure 5** shows the corporate ownership structure of Pembina.

Figure 5 – Corporate ownership structure of Pembina



Source: Pouce Coupé Response to Tidewater Midstream IR No. 1, PDF page 18 of 18, C32943-15

Pembina is a provider of energy transportation and midstream service, including gas gathering and processing facilities, NGL fractionation capacity, cavern storage, export terminals, and rail terminal facilities. As of 31 December 2023, Pembina had CAD $137 million in cash, CAD $2.1 billion in undrawn credit, and over the past five years generated CAD $13.0 billion in cash from operations. The Commission is persuaded that Pembina's liquidity, ability to generate revenue, and access to capital is sufficient to finance the construction of the Project, sustain its operations, and absorb any cost variances and unexpected financial expenses.

3.5.1.1. Canadians, including Indigenous Peoples in Canada, will have an opportunity to indirectly participate in the financing of the Project

Under paragraph 183(2)(i) of the CER Act, the Commission must consider, among other factors, the extent to which Canadians will have an opportunity to participate in the financing of the Project. The Commission finds that Canadians, including Indigenous Peoples in Canada, would have an opportunity to participate in the financing of the Project, albeit indirectly. No participants identified specific potential harms resulting from the lack of opportunity to directly participate in the financing of the Project. Pouce Coupé is not currently exploring financing for the Project with Indigenous communities, although Pembina has previously demonstrated openness to Indigenous partnerships in other projects. Pouce Coupé did not explore and has not identified direct opportunities for Canadians to participate in the financing. However, Canadians may participate indirectly in the Project through the publicly traded securities of Pembina.

3.5.1.2. The Project is not expected to have significant negative impacts on commercial parties

The Commission finds that the Project is not expected to result in significant negative impacts to commercial parties. Commercial impacts may evolve over time and between projects based on the context of different hearings depending on what issues exist. The assessment of commercial impacts can include secondary impacts to parties with direct commercial interests, impacts on upstream or downstream markets and commercial parties within those markets, impacts on the transportation market that includes competing pipelines and duplication of facilities, and broader economic impacts such as those related to market power and economic efficiency. In the above sections of this Report, the Commission described some of the beneficial commercial impacts of the Project on parties using and connected to the Project, including those related to incremental egress capacity and the efficiency of pipeline transportation. In this proceeding, parties provided limited evidence identifying negative commercial impacts associated with the Project and the Commission finds that there was no compelling evidence regarding potential negative commercial impacts.

The Commission does not find that Pembina's market position would have significant negative commercial impacts on Tidewater Midstream as the owner and operator of the Prince George Refinery. Tidewater Midstream argued that negative impacts to competition could be caused by Pouce Coupé's marketing affiliates taking advantage of the unused capacity of the Project by purchasing liquids at a premium and shipping on the Project, effectively having Pembina's corporate entity paying only the variable costs of shipping on the Project. In Tidewater's view, this would distort the price of northeast BC crude oil to the detriment of the Prince George Refinery. Given the lack of evidence supporting Tidewater's argued commercial impacts, the Commission did not give this argument any weight.

3.5.2. Pouce Coupé would be able to fund the response to an uncontrolled or unintended release and is required to submit additional information for evaluation

The Commission is satisfied that Pouce Coupé is equipped with the financial means to ensure its capacity to manage potential risks and liabilities that could arise from accidents or malfunctions during the construction or operation of the Project, taking into account the financial support of Pembina, which provides resources to fulfill Pouce Coupé's approved financial resources plan for its existing pipelines.

Section 138 of the CER Act requires companies authorized to construct or operate a pipeline to maintain the amount of financial resources necessary to pay the amount of the applicable limits of liability. Pouce Coupé received Commission approval of its financial resources plan for its existing pipelines on 18 July 2019 (C00565).

Should the Project be approved and become operational, Pouce Coupé would change from Oil Class 2 to Oil Class 1 in the Major Absolute Liability Class and would require $1 billion in financial resources, up from its current $300 million requirement. Given the Project would significantly increase the amount of financial resources that Pouce Coupé would need to maintain, the Commission requires preliminary information on how Pouce Coupé would meet its increased absolute liability limit. Therefore, the Commission recommends imposing **Condition 27** (Financial resource requirements), which would require Pouce Coupé to file 90 days before starting operations, a plan that outlines how Pouce Coupé intends to meet its absolute liability limit under the requirements of section 138 of the CER Act and the *Pipeline Financial Requirements Regulations* once the Project enters operations. This would provide the Commission with an understanding of how financial resources would be fulfilled on the first day of operations.

This condition is distinct from the ongoing requirements of the CER Act and *Pipeline Financial Requirements Regulations* to maintain ongoing financial resources to meet the prescribed absolute liability limit, and does not relieve Pouce Coupé of its requirement to file a financial resources plan that details which active resources are in place to meet its absolute liability limit. A preliminary plan under Condition 27 requires Pouce Coupé to ensure that it has a plan to meet the significant increase in finance resources prior to entering operations, while the CER Act and *Pipeline Financial Requirements Regulations* require continuous compliance through appropriate maintenance of financial resources throughout the Project's operational life.

3.5.3. Pouce Coupé would be required to fund the Project's eventual abandonment and is required to submit additional information for review

Subsection 242(1) of the CER Act allows the Commission to order a company to take any measure it considers necessary to ensure that the company has the ability to pay for the abandonment of its pipeline and to pay any costs and expenses related to its abandoned pipeline. This includes being ordered to maintain funds or security. Pipeline companies regulated by the CER are required to provide financial guarantees or put money in trust to ensure adequate funds are available to pay for future pipeline abandonment.

The Commission is not deciding at this time how Pouce Coupé would meet its abandonment funding obligations because it is not yet required and was not requested by Pouce Coupé. Pouce Coupé asserted that the Project would operate for at least 40 years, with no specific plan to decommission or abandon the Pipeline since it would be influenced by future service requirements. It further stated it plans to use a trust to set aside abandonment funds.

The Commission considered the comments from Foothills First Nation and Horse Lake First Nation regarding abandonment funding obligations. Foothills First Nation highlighted the importance of responsible long-term planning for environmental and community impacts and urged Pouce Coupé to approach the requirement diligently to safeguard the environment for future generations. Horse Lake First Nation argued that abandonment costs should include costs incurred by First Nations to conduct their own assessments of abandonment work to ensure the area is put back to as close a natural state as possible. The Commission appreciates the time these nations took to submit comments regarding the potential condition, and notes that making decisions regarding the specific abandonment activities and costs related to them is not within the scope of this hearing. Those matters would be assessed and decided during future abandonment proceedings.[52]

Pouce Coupé stated that it would provide the CER a geospatial data file for the Project for the CER abandonment cost estimate calculation prior to the in-service date. The Commission finds that more specific timing is required because the CER abandonment cost estimate is required for the tolls that must be filed prior to the in-service date. For this reason, the Commission recommends imposing **Condition 5** (Abandonment cost estimate) which would require Pouce Coupé to file preliminary geospatial information for the Project within 15 days of the issuance of a Certificate, which would enable the CER to calculate the abandonment cost estimate in a timely manner.

[52] Information on pipeline abandonment can be found here: https://www.cer-rec.gc.ca/en/applications-hearings/pipeline-abandonment/. The Abandonment Cost Estimates and Set Aside and Collection Mechanism Review 2021 is the most recent example of a proceeding on abandonment cost estimates.

4. Project's effects on the environment, including cumulative effects

The Commission finds that the Project is likely to result in residual effects, including cumulative effects, on the environment. This chapter represents the Commission's environmental assessment of the Project which demonstrates how the Commission assessed the Project's environmental effects, including any cumulative environmental effects, for VCs.

4.1. Commission's method to assess the Project's effects on the environment

The Commission assessed the Project's effects on the environment by assessing the Project's effects on VCs, as set out in the CER Filing Manual (**Filing Manual**). The Commission considered Pouce Coupé's ESA, additional information that Pouce Coupé provided throughout the hearing, and all other participants' evidence, including oral Indigenous knowledge.

The Commission recognizes that the biophysical elements assessed in this chapter are integral to Indigenous Peoples' exercise of section 35 rights. As established in the Impact Assessment Agency of Canada (**IAAC**) guidance referred to in the Filing Manual, environmental conditions directly affect Indigenous Peoples' ability to exercise their rights. As a result, the Commission's findings in this chapter about the Project's effects on biophysical VCs also have implications for the Commission's assessment of the Project's effects on the rights of Indigenous Peoples (in **Chapter 5**).

The Commission recognizes that the Project is located within the area of Treaty 8 territory where the Supreme Court of British Columbia in *Yahey v. British Columbia* found that the cumulative impacts of industrial development had meaningfully diminished Blueberry River First Nations' ability to exercise its treaty rights.[53] As discussed in **Chapter 5**, the Commission considered the Court's findings in *Yahey* in its determination that existing cumulative effects on the rights of Indigenous Peoples in the Project area are high. Throughout this assessment, references to 'existing conditions' or 'baseline' should be understood within this context. In this chapter, the Commission applies standard environmental assessment methodologies, including consideration of cumulative effects, which recognize that incremental impacts in an area where cumulative effects to the environment and to Indigenous Peoples' rights are already high have different implications than in unimpaired areas. Likewise, in **Chapter 5** the Commission recognizes that adding impacts to territories where there are already high cumulative effects on rights requires careful consideration of how Project contributions could perpetuate these conditions.

The sections that follow provide the Commission's assessment for each VC, beginning with a discussion of the relevant current setting, followed by a summary of potential effects, an analysis of the adequacy of Pouce Coupé's proposed mitigation, and findings on the necessity of additional mitigation by way of conditions, and then the Commission's findings on any

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[53] *Yahey v British Columbia*, 2021 BCSC 1287 at para 1894.

remaining residual Project effects. This is followed by a discussion of the level of existing cumulative effects in the Project area and the Commission's findings on the total cumulative effects with the addition of the Project's residual effects, in combination with the residual effects from other projects and activities that have been or are reasonably foreseeable to be carried out within the appropriate temporal and spatial boundaries for a VC. Where the Commission considered additional mitigation to address the Project's contribution to cumulative effects, an explanation of the Commission's findings with respect to that mitigation is included. If the resulting level of total cumulative effects changed, an explanation is also included.

The Commission included in its assessment of the Project's effects on each VC, its conclusion about the significance of those effects, including total cumulative effects. **Appendix 3** describes the criteria, ratings, and considerations the Commission applied to determine significance.

In its assessment, the Commission considered the same spatial boundaries as Pouce Coupé's ESA. These include the Project Development Area, Local Assessment Area, and Regional Assessment Area. The ESA defines these terms as follows:

- Project Development Area (**PDA**) – Encompasses the anticipated area of physical disturbance associated with the construction and operation of the Project. The PDA is approximately 638.5 ha and encompasses:
    - Pipeline PDA: An approximately 89 km-long and 60 metre (**m**)-wide corridor which includes a 20m-wide RoW plus up to an additional 40 m for temporary workspace (**TWS**) to accommodate construction activities and safe vehicle and equipment movement. The PDA is wider than 60 m at select locations where the need for additional TWS has been identified to date. The existing Pouce Coupé Block Valve is included in the Pipeline PDA.
    - Taylor Tank Farm PDA: Includes the footprint of the existing facility site within the fenceline.
    - Project footprint: Smaller than the PDA and includes a 20 m-wide RoW (of which only 10 m would be subject to vegetation maintenance during operations), TWS, and temporary access. The Project footprint is the approximate area that would be directly physically disturbed during construction.
- Local Assessment Area (**LAA**) – Encompasses the local area in which Project-related effects (direct and sensory) are predicted to occur. The LAA encompasses the PDA and is specific to each VC.
- Regional Assessment Area (**RAA**) – The regional area within which potential cumulative effects are assessed. The RAA encompasses the PDA and the LAA and is specific to each VC.

4.2. Project's effects on soil and soil productivity

The Commission finds that the Project is likely to result in residual effects on soil and soil productivity during construction and operations, due to changes in soil quality and quantity resulting from vegetation removal and soil disturbance. The Commission expects that by

implementing Pouce Coupé's proposed mitigation measures and the Commission's conditions, these residual effects would be adverse, short-term, confined to the Project footprint, and of negligible magnitude. The Commission also finds that the total cumulative effects on soil and soil productivity are likely to be negligible, as discussed below.

4.2.1. Current setting of soils and soil productivity in the Project area

Pouce Coupé's assessment of potential effects on soil and soil productivity was bounded spatially by the PDA and included Project construction and operations. Pouce Coupé's assessment included a Soil Technical Data Report, which noted any relevant historical records of releases, well sites, facilities, landfills, storage tanks, and disposal sites, including their proximity to the PDA. Pouce Coupé said that it found no clubroot within the PDA.

Pouce Coupé considered changes to soil quality and quantity due to vegetation clearing, soil salvage, soil storage, and soil replacement. Pouce Coupé explained that the Project may affect soil quantity and quality through soil mixing, rutting, compaction, erosion by wind and water, terrain alteration, and disturbance and re-mobilization of existing contamination. Whitefish (Goodfish) Lake First Nation #128 shared concerns that the introduction of clubroot could result in the loss or disturbance of native plant communities.

The Commission finds that Pouce Coupé's proposed mitigation measures to address the Project's potential effects on soil are adequate because they reflect standard industry practices and avoidance measures. As summarized in Pouce Coupé's ESA and Environmental Protection Plan (**EPP**), these measures include conducting construction activities during frozen ground conditions where possible, stripping and storing topsoil away from subsoil on unstripped ground and applying erosion protection measures to soil stockpiles. Additionally, Pouce Coupé's Clubroot Management Plan would adequately address any risk from any pre-existing contamination encountered during construction or risk of pathogens, such as clubroot, being introduced to the PDA.

The Commission finds that, with the implementation of mitigation measures proposed by Pouce Coupé and the Commission's conditions, residual effects of the Project on soil quality and quantity are likely to occur and are predicted to be adverse. The Commission expects the duration of effects to be short-term, confined to the Project footprint, and of negligible magnitude.

4.2.2. The significance of residual effects on soil and soil productivity is negligible

The Commission finds that it is unlikely that the Project's residual effects on soil and soil productivity would act in combination with other projects or activities because of the limited PDA and the mitigation measures to be implemented by Pouce Coupé. The Commission finds that the Project would not contribute to total cumulative effects on soil and soil productivity because of the negligible Project residual effects. Accordingly, the Commission finds the Project's effects on soil and soil productivity to be of negligible significance. **Table 4-1** summarizes the Commission's findings on the Project's effects on soil and soil productivity.

Table 4-1 – Evaluation of significance of residual effects on soil and soil productivity

Soil and soil productivity		
Residual effects: • Change in soil quality and quantity		
Criteria	**Rating**	**Discussion**
Temporal extent	Short-term	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on soil and soil productivity would be short term in duration.
Geographic extent	Project footprint	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on soil and soil productivity would be limited to the Project footprint.
Magnitude	Negligible (adverse)	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on soil and soil productivity would be of negligible magnitude.
Cumulative effects	Negligible (adverse)	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, the Project would not contribute to total cumulative effects on soil and soil productivity because of the negligible residual effects of the Project.
Significance	Negligible (adverse)	The Commission expects that residual effects of the Project would be short-term, limited to the PDA, and of negligible magnitude. The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, the Project would not contribute to total cumulative effects and would be of negligible significance.

4.3. Project's effects on vegetation and wetlands

The Commission finds that the Project is likely to result in residual effects on vegetation and wetlands during construction and operations, due to changes to vegetation communities and species, and changes to wetland function. The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project would be adverse, short-term to long-term, local, and of low to medium magnitude. The Commission finds that the total cumulative effects on vegetation and wetlands would be medium to high and the overall significance of the Project effects to be medium, as discussed below.

4.3.1. Current setting of vegetation and wetlands in the Project area

Pouce Coupé assessed the potential effects of the Project on vegetation and wetlands within the PDA, the LAA, and the RAA. The LAA consisted of the PDA plus a 100-m buffer. The RAA included a 15-km buffer around the PDA. The assessment included effects from Project construction and operations. To assess potential effects, Pouce Coupé first carried out studies to determine what vegetation and wetlands are in the PDA, LAA, and RAA.

In BC, the Project would be located in the Boreal White and Black Spruce biogeoclimatic zone and Moist Warm subzone. Major tree species in this zone include coniferous trees such as lodgepole pine, black spruce, white spruce, and tamarack, and deciduous trees such as trembling aspen, balsam popular, and paper birch. Wetlands are relatively common in this zone, with bogs being the most common wetland type.

In Alberta, the Project would be located in the Dry Mixedwood Natural Subregion of the Boreal Natural Region, and the Lower Foothills Natural Subregion of the Foothills Natural Region. Tree species in these subregions include large deciduous stands of aspen with mixed understories of prickly rose, low-bush cranberry, beaked hazelnut, and Canada buffaloberry. On moister, richer sites, balsam poplar, aspen, and white spruce occur as pure or mixedwood stands, with shrub understories of red-osier dogwood, prickly rose, and other shrubs and forbs. In coniferous stands, feathermosses and horsetails are the predominant cover, while a diversity of herbaceous species provide cover in mixedwood and deciduous stands. Wetlands in the subregion are predominantly treed or shrubby fens.

Pouce Coupé's field studies identified vegetation cover in the LAA and PDA in BC and Alberta. In BC, the most common cover types are disturbed, with cultivation being the most abundant type. Other disturbances include roads and trails, oil and gas development, RoWs for pipelines and power lines, cutblocks, and urban and suburban development. The field studies identified native upland vegetation in the BC portion of the LAA, of which deciduous forest is the most abundant. There are no wetlands present on the Taylor Tank Farm PDA, while wetland, fluvial, and river land types were identified within the BC portion of the LAA and PDA. Wetlands on the BC portion of the Pipeline PDA include wooded bogs, shrubby swamps, and marshes.

In Alberta, the most common vegetation cover types identified are also disturbed, with tame vegetation and cultivation being the most abundant. Native upland vegetation includes coniferous, mixedwood, and deciduous forests, of which deciduous forest is the most common in the Alberta portions of the LAA and the Pipeline PDA. Wetlands were identified within the Alberta portion of the LAA and the PDA, including graminoid fens, wooded coniferous bogs, graminoid marshes, and wooded and shrubby swamps. The most common wetland type by area in the Alberta portion of the LAA and Pipeline PDA is wooded coniferous bog.

Pouce Coupé reported that there are no Old Growth Management Areas (**OGMA**) that overlap the PDA, but there are 2.6 ha of OGMA in the LAA in BC. OGMAs are established by the Province of BC to limit the removal of old growth forests to maintain a retention target. Pouce Coupé defined "old forest" as an abundance of large and old live trees, large dead trees, multi-storied canopies, and abundant downed wood. In BC, old forest comprises 24.6 ha of the

LAA and 3.6 ha of the PDA. In Alberta, old forest comprises 14.2 ha of the LAA and 3.6 ha of PDA.

Pouce Coupé identified four occurrences of ecological communities and plant species of conservation status in the BC portion of the LAA and PDA during field studies, and none in Alberta. There were no occurrences of plant species at risk that are listed in Schedule 1 of the SARA or the Committee on the Status of Endangered Wildlife in Canada Candidate List.

Pouce Coupé reported that vegetation species of socio-economic and traditional importance to Indigenous communities that are likely to occur within the RAA in both BC and Alberta (e.g., berries, fungus, medicines) include prickly rose, aspen, balsam poplar, low-bush cranberry, fireweed, wild red raspberry, dewberry, buffaloberry, hybrid spruce, northern gooseberry, strawberry, bracted honeysuckle, common horsetail, and cow parsnip. Pouce Coupé said that it found all of these species at more than 20 sites in the PDA, the LAA, and the RAA.

Pouce Coupé's field surveys identified eight occurrences of noxious weeds within the LAA and PDA for BC, and two within the LAA and PDA for Alberta. Pouce Coupé found no evidence of mountain pine beetle during field surveys in BC or Alberta.

To assess potential effects of the Project on vegetation and wetlands, Pouce Coupé considered changes in vegetation communities and species due to the loss or alteration from vegetation clearing, ground disturbance, and introducing weeds or pests. It also considered changes in wetland functions due to the loss or alteration of vegetation from clearing and ground disturbance or altering surface drainage patterns.

4.3.2. Project's effects on vegetation communities and species

The Commission finds that, with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on vegetation communities and species would be likely to occur and predicted to be adverse. The Commission expects these effects to be short-term to long-term in duration, extend from the Project footprint to the local area, and of low to medium magnitude.

Pouce Coupé explained that changes in vegetation communities and species may occur as a result of the loss or alteration of vegetation communities or plant species from vegetation clearing and ground disturbance. Changes may also occur as a result of altering vegetation communities through the introduction of weeds and the spread of forest pests.

Pouce Coupé submitted that the PDA is located adjacent to existing and approved pipeline RoWs for the majority (approximately 94 per cent) of its length. Pouce Coupé explained that routing the Pipeline adjacent to an existing linear corridor would allow for workspaces to be sited on previously disturbed lands and puts new disturbances in forest edge communities, which would avoid fragmenting undisturbed upland vegetation and wetlands, where possible. Pouce Coupé stated that it would maintain a minimum cleared RoW width of 10 m over the Pipeline during operations to satisfy CSA Z662 line of sight requirements and to carry out maintenance and integrity programs, such as visual aerial patrols, leak detection, and integrity digs.

Pouce Coupé estimated that the Project construction footprint, which includes the 20 m-wide RoW, TWS, and temporary access that would be disturbed during construction, would total 26.8 ha on undisturbed Crown land and 36.8 ha on undisturbed private land. The area of undisturbed Crown land, and of undisturbed private land, that would undergo vegetation maintenance on the 10 m-wide cleared RoW and not be allowed to naturally regenerate during operations, is approximately 6 ha and 6 ha, respectively.

Pouce Coupé submitted that, during Pipeline construction in BC, vegetation clearing, grading, and other activities would result in a temporary loss or alteration of up to:

- 63.8 ha (22.9 per cent) of forest;
- 1.7 ha (24.3 per cent) of native grassland;
- 6.1 ha (21.2 per cent) of wetlands and fluvial lands; and
- an increase of 71.6 ha (4.0 per cent) of disturbed land in the LAA.

All upland forest communities and native grassland communities in the PDA occur elsewhere in the LAA. During Pipeline construction in Alberta, vegetation clearing, grading, and other activities would result in a temporary loss or alteration of up to:

- 43.6 ha (28.2 per cent) of forest;
- 3.7 ha (23.7 per cent) of wetlands; and
- an increase of 47.3 ha (15.6 per cent) of disturbed land in the LAA.

Doig River First Nation submitted that during construction, the amount of disturbance within the PDA would increase by 183.18 ha to a total of 519.81 ha. Following construction, the permanent RoW that would exist during operation and maintenance would result in 173.44 ha of remaining land permanently disturbed in the PDA. The amount of land available within the LAA during construction and operations would also decrease after Project approval. During Project operations, while the Project RoW and post-construction reclamation activities would decrease the amount of disturbed lands, complete restoration of disturbed lands is not instantaneous. Doig River First Nation submitted that it can take several years for the landscape to fully recover to preapproval conditions.

Pouce Coupé submitted that although OGMAs are present in the LAA, none are intersected by the PDA and there are no anticipated effects on OGMAs from the Project. In BC, up to 3.6 ha of old forest in the PDA would be impacted by the Project which is 14.8 per cent of the LAA. This amount does not exceed any thresholds set by the Province of BC. In Alberta, up to 3.6 ha of old forest is in the PDA and would be impacted by the Project, which is 25.4 per cent of the LAA. There is no official protection or guidance for the conservation of old forest in Alberta.

Louis Bull Tribe shared that there are old growth forests in the Alberta portion of the Project area that have cultural significance to the community. Horse Lake First Nation recommended that removing old growth forest be avoided during Project construction.

Pouce Coupé stated that construction activities would likely result in the loss or alteration of 0.8 ha of vegetation communities of concern in the Pipeline PDA for BC. There would be no anticipated effects on plant species at risk in BC or Alberta because there are no known SARA-listed plant species at risk or critical habitat for those species in the RAA.

Pouce Coupé stated that many of the species identified for traditional use are common in plant communities found in the RAA, LAA, and PDA including species such as aspen, white and black spruce, bearberry, birch, blueberry, buffaloberry, cattail, choke cherry, cow parsnip, cranberry, fireweed, green alder, bracted honeysuckle, horsetail, Labrador tea, mint, stinging nettle, old man's beard, poplar, prickly rose, strawberry, and yarrow. Other species identified for traditional use may be less common or abundant, such as diamond willow fungus. Vegetation communities in BC and Alberta where traditional use species are present in the PDA, are relatively common in the LAA and RAA. Therefore, while there are likely to be effects on traditional use species through Project-related disturbances to certain vegetation communities, multiple other occurrences of most species are likely to be present in the LAA and RAA.

Driftpile Cree Nation shared concerns that clearing and construction would destroy plants traditionally used for food, ceremony, and medicine, and introduce invasive weedy species (from equipment) that would negatively impact traditionally significant plants. Driftpile Cree Nation recommended that the Project footprint be reduced as much as possible by narrowing the RoW and using existing disturbances.

Fred Didzena of Dene Tha' First Nation shared "And we did an environmental assessment with the North River one, and now we are doing another one with the Pouce Coupé Pipe Line. The right-of-ways are so, so much – so wide. And I think before North River, it was 600 feet wide, and now it is an additional at least 400 feet, so it is 1,000 feet wide".[54]

Pouce Coupé's ESA recognizes that diamond willow and diamond willow fungus are of significant importance to Kelly Lake First Nation's and Horse Lake First Nation's traditional way of life. The ESA also acknowledges Halfway River First Nation's recommendation that there be mitigation for Project effects on birch and diamond willow.

Louis Bull Tribe noted the importance of diamond willow fungus used traditionally as a protective aid, and in smudging ceremonies and purification rituals. Louis Bull Tribe also noted that there are very few clumps of willow trees that have the fungus and how ensuring the survival of the fungi heavily relies on the protection of willow habitats.

During the oral Indigenous knowledge sessions, Bruce Horseman of Horse Lake First Nation shared: "I remember back in the day going medicine picking with my grandparents, and it was a relatively short drive. And now it is basically – all we could find around our area is diamond willow fungus, which is starting to be short too now."[55]

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54 CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 290, PDF page 42 of 47, C33800-1

55 CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1620, PDF page 10 of 46, C33873-1

Also during the oral Indigenous knowledge sessions, Elder Betty Supernault of Saulteau First Nations shared concerns related to diamond willow:

> But be careful of the trees that you cut down. The first tree is the diamond willow. The diamond willow has a fungus that we use for medicinal purposes. […] Do not disrupt the medicinal items on the ground. And the diamond willow takes 20 years to grow back, the fungus to grow back, and when you cut down that tree, 20 years is a long time to rebuild it.[56]

Fernie May Garbitt of Saulteau First Nations shared:

> You know, there is a lot of disturbances, especially when there is new cuts. And when you are cutting down stuff, you are disturbing. And one of the – two of the tree species that we protect is diamond willow because it has the fungus on there, and that is what we smudge with. That is what we pray with.[57]

Pouce Coupé confirmed the presence of willow species during its rare plant and ecosystem surveys but did not record the precise location of diamond willow species. Pouce Coupé also noted that diamond willow fungus is generally only found on older, larger willows, on moist or wet sites, generally in low-lying areas. Pouce Coupé said that, although it did not record diamond willow fungus during surveys, it is aware, through Indigenous knowledge shared for the Project, of two diamond willow fungus occurrences within the Project RoW on Crown land in Alberta.

To address potential Project effects on vegetation communities and species, Pouce Coupé proposed in its ESA and EPP standard industry practices and avoidance measures, as well as resource-specific mitigation measures, that it would implement during construction and operations to minimize impacts to vegetation and wetlands. Pouce Coupé said it developed the Pipeline route with the objective of paralleling existing linear disturbances and minimizing areas of new disturbance. Pouce Coupé also said that it included mitigation measures, such as restricting construction activities to the approved construction footprint and minimizing workspaces in areas with plant species or ecological communities of conservation concern. Pouce Coupé stated that avoiding large sections of native vegetation was achieved by siting the Project on cultivated lands parallel to existing linear disturbances and due to the planned use of HDD crossing methods under the Peace, Kiskatinaw, and Pouce Coupé Rivers and the adjacent vegetated slopes. The Commission agrees that measures such as paralleling existing linear disturbances, restricting all construction activities to the approved construction footprint, reducing grubbing in sensitive areas, and using clean equipment and vehicles would limit ground disturbances and minimize vegetation loss and weed introduction, thereby reducing the Project's effects on vegetation and wetlands.

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[56] CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), paras 2056, 2062, PDF pages 11, 12 of 25, C33881-1

[57] CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), para 2087, PDF page 15 of 25, C33881-1

Pouce Coupé committed to reduce workspaces in areas with plant species or ecological communities of conservation concern, including old forest, to reduce disturbances, where practical Pouce Coupé also confirmed that through detailed design, it would continue to evaluate the need for TWSs in sensitive areas, such as old forest, and would look for opportunities to further reduce its impact in these areas. The Commission finds that, with the PDA parallelling existing linear features and Pouce Coupé's commitment to reduce the width of clearing in old forest where possible, the disturbance to soils would be reduced.

Pouce Coupé said that its mitigation measures for vegetation also apply to diamond willow species and diamond willow fungus. Pouce Coupé committed to conduct a survey of Crown lands to identify potential areas where diamond willow is present as part of its field-based vegetation survey. Once it has identified or confirmed these areas, Pouce Coupé would share their locations with interested communities so they may undertake harvesting prior to construction. Pouce Coupé also agreed to facilitate an Indigenous construction monitoring program where Indigenous construction monitors would be involved in flagging, staking, and fencing prior to clearing.

Pouce Coupé stated that it would restore the Project footprint, including areas of old forest, following construction, and it would use natural recovery as the primary revegetation strategy. On erosion-prone slopes and in riparian areas at watercourse crossings, Pouce Coupé would seed disturbed areas, as needed, with an appropriate seed mix following a review of site conditions (e.g., erodibility, soil texture, aspect, moisture conditions). Pouce Coupé said that it would not use natural recovery where erosion is a concern, where it proposes to plant trees or shrubs as part of streambank or riparian area reclamation, or at the request of a land manager or landowner.

Pouce Coupé also said that it believes that native communities can be successfully re-established and attain equivalent land capability on the PDA through natural recovery, and that this can be achieved in a similar timeframe as actively revegetated sites. Pouce Coupé stated that its confidence in the use of natural recovery on the PDA is founded on literature review and observations of the colonization and succession of native forest and wetland vegetation on similar transmission pipeline RoWs in the region.

Pouce Coupé said that, in its experience, the naturally occurring seeds and propagules remain intact and viable through following procedures for carefully salvaging the topsoil, segregating it from subsoil, minimizing admixing, keeping different types of topsoils separated (i.e., separating wetland topsoils from upland topsoils), and carefully replacing the topsoils promptly. In this way, in-situ vegetation that is native to, and adapted to, the locations would regenerate.

Greg Gauchier of Peavine Metis Settlement stated that "reclamation, to us, is doing our best efforts as a collaboration to return the land to how it was before we got there."[58] Casey Horseman of Horse Lake First Nation shared that it would like Pouce Coupé to reclaim the land to exactly how it was, "[s]o when you walk through there 25 years after it was reclaimed, you

[58] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 224, PDF pages 33-34 of 47, C33800-1

would never even know it was there because you are going to plant the same seeds, the same trees, everything that is identical so you would never know that it has up and changed on you."[59]

Pouce Coupé committed to continue to engage with interested Indigenous communities about reclamation measures in addition to natural revegetation on specific sites of interest to that community and, and to incorporate the changes into the EPP. Pouce Coupé committed to employ, after the start of construction, a change management process to capture additional reclamation measures.

Pouce Coupé said that it would undertake post-construction monitoring of natural recovery as part of its post-construction monitoring program. Pouce Coupé would identify any sites where natural recovery is not considered to be on a trajectory towards native community development and equivalent land capability, compared with undisturbed adjacent areas. Pouce Coupé would review these areas and implement strategies to address deficiencies. These strategies might include active revegetation (e.g., seeding, planting), where warranted. Driftpile Cree Nation recommended that Pouce Coupé create reclamation plans and procedures with input from First Nations, including opportunities for post-construction site visits.

Sucker Creek First Nation shared its view that any reclamation materials should be local to the Project area. Sucker Creek First Nation suggested that the best approach would be to separate out the seed bank of any cleared areas, so that those materials may be saved and then replanted in reclamation areas. Each location that is cleared as a result of the Project would have its own mix of vegetation, so there is no "one size fits all" list of materials. Sucker Creek First Nation said that it expects Pouce Coupé to work with its members to ensure that seed banks from the Project area are retained, including medicinal plants of particular importance to Sucker Creek First Nation. Sucker Creek First Nation also said that it expects Pouce Coupé's meaningful inclusion of Sucker Creek First Nation's environmental technicians during all the Project's phases would be critical to the use of appropriate reclamation materials in the Project's reclamation phase.

Representatives from Peavine Metis Settlement noted concerns of lifecycle involvement with the Project and Lynn Smith stated "I know we have the ability to bring a project back to its previous state or as close thereto of its previous state".[60] Both Peavine Metis Settlement and Saulteau First Nations suggested using their seed banks and native plant nursery for restoring the areas disturbed by the Project.

Pouce Coupé stated that it does not consider that a stand-alone restoration plan for the Project is warranted. Pouce Coupé said that its ESA summarizes its proposed standard and enhanced mitigation measures, follow-up programs, and contingency plans. The EPP contains details of the post-construction monitoring program, which conforms to the CER's requirements, and supplemental assessments that Pouce Coupé would conduct in subsequent years to follow up on and close out restoration issues. Pouce Coupé said that it would participate in ongoing engagement to identify whether sites or features identified through community TLRU studies

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[59] CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1716, PDF page 25 of 46, C33873-1

[60] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 204, PDF page 29 of 47, C33800-1

warrant additional mitigation. If so, Pouce Coupé would include additional mitigation measures in the EPP and on the environmental alignment sheets.

The Commission finds that a condition is necessary to require Pouce Coupé to reclaim and restore the Project area in areas other than erosion-prone slopes and riparian locations in a more active manner, rather than relying entirely on natural recovery for vegetation. The Commission generally considers natural recovery, in which no biophysical manipulation or human intervention occurs, an acceptable form of vegetation restoration and agrees with Pouce Coupé that natural recovery has the potential to be successful over time for this Project.

However, the Commission received evidence from Indigenous Peoples that more needs to be done to return the land to what it was prior to Project construction, rather than simply relying on plant succession. The native vegetation communities on the PDA and the conditions on the RoW indicate that it may take decades for the forest to re-establish through natural recovery. Human intervention may accelerate the recovery of the Project footprint and assist in resuming the ecosystem's historic trajectory sooner. The Commission recognizes that diamond willow fungus, for example, is not merely a vegetation resource but a critical element for ceremonial and spiritual practices as a part of Indigenous Peoples' section 35 rights and interests. Its 20-year recovery period means disturbance may affect intergenerational knowledge transfer and cultural continuity. The Commission finds that standard reclamation measures are unlikely to restore diamond willow fungus to support these cultural values within timeframes that are meaningful for rights exercise in the Project area, in which existing cumulative effects on Indigenous Peoples' rights are already high.

The Commission therefore recommends imposing **Condition 6** (Reclamation and restoration plan), which would require Pouce Coupé to file a plan, for Commission approval, that explains how it would aim to reinitiate or accelerate the vegetative processes that have been arrested or delayed by the Project, including for TWS. The reclamation and restoration plan would identify the goals of restoration, such as restoring native vegetation species and riparian areas, and describing how activities would accelerate vegetation recovery. For the operational RoW, the Commission finds that maintaining a width of 10 m is reasonable so that Pouce Coupé can safely meet the requirements of CSA Z662. The plan should include details on the proposed maintenance activities and vegetation management plans for this area during operations.

The Commission considers vegetation restoration to be a long-term commitment and, ideally, the objectives are determined through consensus by all who are affected. For that reason, Condition 6 includes a requirement for Pouce Coupé to engage with potentially affected Indigenous People and incorporate, where possible, Indigenous knowledge into restoration planning and implementation.

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on vegetation communities and species are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be short-term to medium-term in duration (in areas where reclamation and restoration would occur) to long term (where woody vegetation would be managed during operations on the RoW, or where old forest is cut). The Commission expects that the geographic extent of effects on vegetation communities and species may extend from

the PDA into the local area due to edge effects associated with forest clearing or the potential for weeds to spread. The Commission expects that, given the relatively small area of predicted temporary loss or alteration of vegetation communities and species, the magnitude of Project effects would be low to medium.

4.3.3. Project's effects on wetland function

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on changes to wetland function are likely to occur and are predicted to be adverse. The Commission expects that these effects would be medium term to long term in duration, extend from the Project footprint to the local area and be of low magnitude.

Pouce Coupé explained that alterations to the wetlands during construction may occur through vegetation removal, trenchline excavation, and vehicle and heavy equipment movement. Wetland hydrology, hydrophytic vegetation, and hydric soils could be affected, including by altering water levels, flow, or quality; increasing erosion and sedimentation; or changing the abundance or distribution of vegetation communities or wildlife. Pipeline construction would result in the direct, temporary alteration of up to 4.2 ha of wetlands in BC and 3.7 ha in Alberta within the PDA.

Pouce Coupé stated that, where the Pipeline would cross through a wetland, its preferred crossing method is a horizontal directional drill (**HDD**), where feasible. Where HDD would not be feasible, a qualified professional would prepare a hydrological integrity plan that describes how the natural flow of the wetland would be maintained.

Pouce Coupé said that it would reclaim wetlands to their pre-construction topography and hydrological conditions following construction, with vegetation allowed to re-establish naturally (wetlands would not be seeded except if required for erosion control). Pouce Coupé anticipates wetland plant species to re-establish within the PDA following construction, except for the 10 m wide, cleared RoW during operations, which it would maintain free of trees and tall shrubs (but short vegetation, including short shrubs, would be allowed to re-establish). Pouce Coupé said that it expects wetlands disturbed by the Project to develop wetland characteristics beginning within one to three years following reclamation, including wetland hydrology, hydrophytic (water-loving) vegetation, and hydric soils.

Penny Berg from Saulteau First Nations stated that "when looking at the map provided at a community meeting, I see that there are six creeks, two rivers, and a wetland along the proposed pipeline. I would like to ensure the wetlands, waterfowl, fish are protected from disturbance or harm."[61]

Casimer Badger from Sucker Creek First Nation stated that "mint grows in heavily wetlanded area, and what we are finding in our area is that the roots are often black and moulded. So that

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[61] CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), para 2049, PDF page 10 of 25, C33881-1

is kind of – we have been noticing that happening a lot lately, so we have been having to kind of go out of our usual area to go and harvest these traditional plants."[62]

The Commission finds that Pouce Coupé's proposed mitigation measures would help to reduce the loss of vegetation and introduction of weeds as well as prevent the discharge of materials toxic to fish and other aquatic life. The mitigation measures include restricting all construction activities to the approved construction footprint, following the installation and crossing methods outlined in its Wetland Crossing Table in the EPP, and ensuring equipment is clean and free of soil or vegetative debris prior to use on site.

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on changes to wetland function are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be medium term to long term in duration depending on wetland type and for portions of the wetlands in the 10 m-wide cleared RoW, where vegetation height would be periodically managed. The Commission expects that the geographic extent of the effects on wetlands may extend beyond the Project footprint into the local area. The Commission expects that, given the small area of wetland intersected by the Project, the magnitude of Project effects would be low.

4.3.4. The significance of residual effects on vegetation and wetlands is medium

As described above, the Commission finds that the Project is likely to result in residual effects on vegetation and wetlands. With Pouce Coupé's implementation of its proposed mitigation measures and conditions the Commission finds necessary, the residual effects of the Project are expected to be adverse, short-term to long-term, local, and of low to medium magnitude. The Commission also finds total cumulative effects on vegetation and wetlands to be medium to high, and the overall significance of Project effects to be medium. As noted above, incremental impacts in an area where cumulative effects to Indigenous Peoples' rights are already high have different implications than in unimpaired areas. This was taken into account here in the significance finding for vegetation and wetlands, as well as in the assessment of impacts on rights of Indigenous Peoples in **Chapter 5**.

The Commission is of the view that existing environmental conditions reflect high cumulative effects on the environment from past and present projects and physical activities. Past and present projects and physical activities that have been or are being carried out have influenced the existing conditions for vegetation and wetlands.

Kikino Metis Settlement said it was concerned with the high levels of existing cumulative disturbance to the Crown lands in and around the Alberta portion of the proposed Project, levels similar to or in exceedance of those found on the within Blueberry River First Nations' traditional territory. Kikino Metis Settlement also submitted that, in the Green Areas in and around the PDA, 96.15 per cent of land is within 250 m of an industrial/anthropogenic disturbance.

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[62] CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), para 509, PDF page 33 of 37, C33815-1

Gabe Isadore of Driftpile Cree Nation stated: “And like I said, for medicinal plants and stuff, they are getting to be more disturbed, I guess, once going through with these pipelines and logging and whatever else is going through the area.”[63]

Fabian Grey of Whitefish Lake First Nation #459 stated: “The plants that we used to find are not there anymore. It is very hard to find even rat root in that area now. Certain types of medicines that we can't find in our area back home, but we harvest them in Spirit River.”[64]

Philip Joachim of Horse Lake First Nation stated: “Plants move when you have cornered them and you start crowding them. They move. And it takes a long time to find them again. I know a place where there was lots. Not today. I don't find any.”[65]

Pouce Coupé stated that pasture and other agricultural lands (38 per cent) are the largest component of this disturbance and include perennial crops and tame grassland. Pouce Coupé stated that the Project would be parallel and adjacent to existing and approved pipeline RoWs for approximately 94 per cent of its length. These existing and approved projects and activities have contributed to existing cumulative effects on vegetation communities. In total, the baseline RAA is 67.1 per cent sparsely vegetated or disturbed by anthropogenic activities with less than one third of the RAA comprising of native uplands (31.6 per cent) and wetlands or open water (1.3 per cent).

Pouce Coupé stated that the Project would remove 84.5 ha native vegetation communities out of a total of 17,317.9 ha in the RAA potentially affected by future development. The Project would thus represent 0.5 per cent of the overall predicted change in native vegetation in the RAA.

The Commission agrees that temporary loss of native upland vegetation communities by the Project would be reduced by routing parallel to and overlapping existing RoWs and easements and locating much of Project in cultivated lands. Reclamation measures listed in the EPP for the Project would be implemented to reduce Project-related effects.

The Commission has also considered the Province of BC’s Cumulative Effects Management Regime, new rules for oil and gas development in BC, as well as the Treaty 8 Planning and Mitigation Measures, which were drafted by the BC Energy Regulator (**BCER**) in collaboration with all BC Treaty 8 First Nations and apply to the Project. The Commission finds that with these mechanisms in place, the Project would not likely threaten the viability of native upland and wetland vegetation communities and species in the RAA in BC. Although there is no equivalent regime in Alberta, the Commission finds that with the implementation of mitigation measures, the viability of vegetation communities and species would also not likely be threatened. The Commission is of the view that reclamation and restoration measures for the Project would also reduce Project-related effects, and as a result, their contribution to cumulative effects.

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63 CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), para 377, PDF page 33 of 37, C33815-1

64 CER, OH-001-2024 Hearing Transcript Vol 3 (19 March 2025), para 593, PDF page 12 of 53, C33832-1

65 CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1758, PDF page 32 of 46, C33873-1

With respect to the change in vegetation communities and species, the Commission agrees with Indigenous Peoples that the current landscape where the Project is located has high existing cumulative effects and has been extensively altered by ongoing anthropogenic disturbance, including agriculture, forestry, oil and gas facilities, and linear developments, including roads, power lines, and pipeline corridors. With respect to changes to wetland function, the Commission also agrees that activities have reduced the area of wetlands in the RAA and have disturbed some of the wetlands that remain.

As discussed above, the Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on vegetation and wetlands are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be short term in duration for planted willows in riparian areas, which may only take a season to recover; medium term for wetland function and areas where reclamation and restoration would occur, which may take a few years to recover; and long term for vegetation on the maintained RoW and old growth forest, which could take centuries or more to return to their original state. The Commission expects that Project effects would be localized to the PDA but extend into the LAA due to edge effects associated with forest clearing or the potential for weeds to spread outside the PDA. Where areas would be disturbed, Pouce Coupé's mitigation measures, including reclamation, and the Commission's recommended **Condition 6** (Reclamation and restoration plan) would further reduce effects. The Commission expects that, given the relatively small area of predicted temporary loss or alteration of vegetation communities and species and wetlands, the magnitude of Project effects would be low to medium.

Based on the above, the Commission finds that the Project's contribution to the already medium to high level of cumulative effects on vegetation and wetlands would be low to medium, resulting in a medium to high level of total cumulative effects. The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, the Project's effects on vegetation and wetlands to be of medium significance. As noted above, incremental impacts in an area where cumulative effects to Indigenous Peoples' rights are already high have different implications than in unimpaired areas. This was taken into account here in the significance finding for vegetation and wetlands, as well as in the assessment of impacts on rights in **Chapter 5**.

Table 4-2 summarizes the Commission's findings on the Project's effects on vegetation and wetlands.

Table 4-2 – Evaluation of significance of residual effects on vegetation and wetlands

Vegetation and wetlands		
Residual effects: • Changes in native vegetation communities and in plant species of management concern • Changes to wetland function		
Criteria	**Rating**	**Discussion**
Temporal extent	Short-term to Long-term	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on vegetation and wetlands would be short term to medium term in duration (in areas where reclamation and restoration would occur) to long term (where woody vegetation would be managed during operations on the RoW, or where old forest is cut).
Geographic extent	Local	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on vegetation and wetlands would occur in the PDA but extend into the LAA due to edge effects associated with forest clearing or the potential for weeds to spread outside the PDA.
Magnitude	Low to Medium (adverse)	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on vegetation and wetlands would be temporary and low to medium in magnitude.
Cumulative effects	Medium to High (adverse)	The Commission finds that the Project's contribution to the already medium to high level of cumulative effects on vegetation and wetlands would be low to medium, resulting in a medium to high level of total cumulative effects.
Significance	Medium (adverse)	The Commission expects that residual effects of the Project on vegetation and wetlands would be short-term to long-term, local, and of low to medium magnitude. The Commission finds that while the Project's contribution to cumulative effects is low to medium it would contribute to existing disturbances to vegetation and wetlands in the Project area. The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, Project effects on vegetation and wetlands are of medium significance.

4.4. Project's effects on fish and fish habitat and water quality and quantity

The Commission finds that the Project is likely to result in residual effects on fish and fish habitat, and water quality and quantity during construction and operations, due to an increase in the risk of fish mortality, adverse changes in surface and groundwater water quality and quantity from instream construction, water withdrawal from hydrostatic testing, and vegetation clearing.

Following the implementation of Pouce Coupé's proposed mitigation measures, the use of trenchless crossing methods at most watercourses and the Commission's conditions, the Commission expects these residual effects to be adverse, short- to long-term depending on the type of riparian vegetation disturbed, local, and of low magnitude. The Commission also finds that the total cumulative effects on fish and fish habitat, and water quality and quantity are expected to be medium, and the overall significance of the Project is considered to be low, as discussed below.

4.4.1. Watercourse crossings are predicted to affect fish and fish habitat and water quality and quantity

The Commission finds that 20 of the 27 watercourse crossings for the Project would have minor to no residual effects on fish and fish habitat, and water quality and quantity, because Pouce Coupé's plans to use trenchless methods that would avoid or reduce effects, depending on whether or not vehicle access crossings are planned. For the remaining seven watercourse crossings, the Commission finds that the Project would have minor residual effects on fish and fish habitat, and water quality and quantity, because these watercourses are non fish bearing or have low habitat sensitivity and are expected to have no or low water during construction. Additionally, Pouce Coupé's mitigation measures would be capable of further reducing effects on all watercourses crossed by the Project.

The Project would cross 27 watercourses, including the Peace River, Kiskatinaw River, Pouce Coupé River, Six Mile Creek, Eight Mile Creek, Sweetwater Creek which was classified as a fish-bearing wetland, Saskatoon Creek and Seargent Creek. Many watercourse crossings along the Pipeline were dry or had very low water levels at the time of field assessments and had poor or unsuitable fish habitat quality. However, three watercourses that would be crossed by the Pipeline had good or moderate spawning habitat (i.e., the Pouce Coupé River, a tributary to the Peace River, and Eight Mile Creek). Pouce Coupé and Driftpile Cree Nation stated fish species documented to occur in the watercourses include Arctic grayling, walleye, northern pike, burbot, *Catostomus sp.* (sucker species), and various small-bodied fish species such as Cyprinids (minnow species). Pouce Coupé also explained that Western Arctic populations of bull trout, which is listed as a species of special concern under Schedule 1 of the SARA and is found in the Peace River, are unlikely to be found in watercourse crossings where instream construction is planned.

Louis Bull Tribe conducted a drone survey of watercourse crossings along the Project and observed valuable fish and wildlife habitat at the Pouce Coupé River, Kiskatinaw River, and Eight Mile Creek. Dene Thá' First Nation, Doig River First Nation, Duncan's First Nation, Horse Lake First Nation, Kelly Lake Cree Nation, Kikino Metis Settlement, Peavine Metis Settlement, and Saulteau First Nations stated that fishing occurs in the RAA, including in the Peace River, Kiskatinaw River, Pouce Coupé River (and tributaries), and Saddle Hills area. Kikino Metis Settlement reported fishing in the Pouce Coupé River and tributaries, and that small creeks contained big fish. Kelly Lake Cree Nation also reported that fishing occurs year round.

Pouce Coupé plans to complete 20 of the 27 watercourse crossings, including the Peace River, Kiskatinaw River, Pouce Coupé River, as well as all fish-bearing watercourses and the fish-

bearing wetland in BC, using trenchless methods such as HDD. Poucé Coupé also plans to complete a dugout crossing via HDD. Pouce Coupé indicated that it updated the Project design throughout the hearing to use trenchless methods at more watercourse crossings than originally planned in response to preferences and concerns identified by Indigenous communities, including Halfway River First Nation, Driftpile Cree Nation, Gift Lake Metis Settlement, Prophet River First Nation, Louis Bull Tribe, and Dene Tha' First Nation, and based on further engineering design.

Pouce Coupé is planning to use a trenched watercourse crossing method at one non-fish-bearing watercourse in BC and at six potentially fish-bearing watercourses in Alberta. For Alberta, Pouce Coupé said that it plans to use trenched crossing methods at these six watercourses because the crossings had little to no water present at the time of the field assessments, and because provincial regulations do not require a trenchless crossing for Class D watercourses. Despite the drier conditions, Pouce Coupé still considered these crossings potentially fish-bearing and committed to isolating the crossings if water was present and implementing mitigation measures for fish protection. Pouce Coupé also stated that vehicle crossings would not be required at some watercourses, including the Peace River, Kiskatinaw River, and Pouce Coupé River. Where vehicle crossings would be required, Pouce Coupé's proposed methods would include clear span bridges and snow fill.

Pouce Coupé stated that the LAA for fish and fish habitat and water quality and quantity is a range of 100 m to 500 m upstream of the crossing, and 100 m to 1.5 km downstream of the crossing (depending on the watercourse size). The RAA extends 15 km upstream from each crossing or the watershed boundary (whichever is less) to 15 km downstream. Pouce Coupé stated that Project effects from watercourse crossing construction include changes in fish habitat and fish mortality, changes in surface water quality and quantity, and changes in groundwater water quality and quantity from instream construction, and vegetation clearing.

Indigenous communities shared concerns about fishing and water quality, including during oral Indigenous knowledge sessions. Whitefish (Goodfish) Lake First Nation #128 shared that the Project's impact on fish and fish habitat could reduce the availability of fish in the Pouce Coupé watershed, particularly in Sergeant Creek. Pouce Coupé plans to install the Pipeline at both crossings of Sergeant Creek using trenchless methods and no vehicle crossing is needed.

Pouce Coupé included mitigation measures for watercourse crossings in the EPP. For trenched methods where water is present, the crossing would be isolated from flow. Mitigation measures include sediment and erosion control, and fish rescue within the work area. For trenchless methods, mitigation measures would include the appropriate placement of entry and exit pads, and the use of containment berms to reduce environmental impacts. Pouce Coupé stated that it would implement the mitigation measures from applicable Fisheries and Oceans Canada (**DFO**) codes of practice, conduct water quality monitoring, and plan to work within the fisheries least-risk windows. Pouce Coupé concluded that residual effects to fish and fish habitat and water quality and quantity would be adverse in direction, low in magnitude, extend to the LAA, short term to long term, and not significant. Therefore, Pouce Coupé stated that Project-related residual effects are unlikely to result in violating subsection 34.4(1) of the *Fisheries Act* for the death of fish or subsection 35(1) for causing the harmful alteration, disruption, or destruction (**HADD**) of fish habitat.

During operations, Pouce Coupé stated that it does not plan to carry out any physical disturbances at watercourse crossings; however, it would need to clear some vegetation to maintain the RoW. Pouce Coupé also expects operational activities that may affect watercourses, such as integrity digs, to be minimal. For operational vegetation clearing within riparian areas at watercourse crossings, Pouce Coupé explained that it would not conduct mechanical brushing within 30 m of a water body, and it would minimize manual clearing to no more than one third of the total woody vegetation.

During an oral Indigenous knowledge session, Walter White of Enoch Cree Nation commented on an issue he saw in the field on another project where sediment and erosion control at a watercourse crossing was inadequate for spring run-off. In response, Pouce Coupé added additional mitigation measures to the sediment and erosion control section for freshet in its updated EPP.

Halfway River First Nation and Louis Bull Tribe expressed preference for vegetation planting around watercourses such as willow. During an oral Indigenous knowledge session, Elder Betty Supernault from Saulteau First Nations stated:

> … And if you have to go through rivers and you have to interrupt – disrupt the area where you have to make the – go through with a pipeline, try to replant willow, for some – for starters. If you cut down a willow, you can actually push it down into the ground around the river to make it grow back, and that would grow good for the moose to eat.[66]

Pouce Coupé stated that its approach for riparian habitat is to “replace like with like,” which would involve live plant staking in locations where shrubs are present prior to construction. Pouce Coupé also committed to using riprap, which may nullify riparian re-establishment, only in circumstances with high erosion concerns.

Some Indigenous communities raised concerns about HDD crossings. In response to a recommendation from the British Columbia Métis Federation to conduct the HDD for the Peace River in the late fall/early winter during low water levels, Pouce Coupé stated that the specific timing for this crossing had not been determined, but that Crown land construction is expected to occur in the winter. Pouce Coupé also reiterated that the HDD crossing would avoid disturbing the bed and banks. Doig River First Nation stated that, in their experience, trenchless crossings can still lead to surface disturbance from temporary vehicle access requirements. Dene Thá’ First Nation and Driftpile Cree Nation also identified concerns, such as the potential for drilling mud releases. The potential for drilling mud release is discussed in **Section 4.8.1**, pertaining to accidents and malfunctions.

The Commission notes Pouce Coupé’s commitments for riparian restoration and the comments from Halfway River First Nation, Louis Bull Tribe, and Saulteau First Nations about replanting willow and finds that riparian restoration could also provide benefits to wildlife species such as moose in addition to fish habitat. The Commission also agrees with Doig River First Nation that trenchless crossings may cause some disturbance, and notes that Pouce Coupé proposed

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[66] CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), para 2058, PDF page 11 of 25, C33881-1

vehicle access at five of the 20 trenchless crossings (such as clear span bridges or snow fills). Therefore, the Commission considers **Condition 6** (Reclamation and restoration plan) necessary, which would require Pouce Coupé to submit a plan that includes details on reclamation and restoration planning for all disturbances to riparian habitat, including where vehicles would cross at both trenched and trenchless crossings.

ECCC stated that a draft watercourse crossing inventory condition for the proposed Westcoast Sunrise Expansion Pipeline project included detailed water quality information and suggested further detail is needed for this Project. The Commission agrees with Pouce Coupé that further details on water quality are not necessary for the watercourse crossing table in the EPP. The Commission is satisfied with the content of the watercourse crossing table, noting that substantive changes are not anticipated since watercourse field surveys have been completed, and trenchless crossing methods would be used, which reduces impacts on water quality. In response to Horse Lake First Nation's comments to include geographic coordinates, the Commission notes that Pouce Coupé has already included geospatial coordinates in its watercourse crossing tables in the EPP.

Pouce Coupé provided contingency crossing methods in the event the planned methods fail. For the Peace, Kiskatinaw and Pouce Coupé Rivers, as well as a number of smaller watercourses, such as Sergeant Creek, both the primary and contingency crossing methods are trenchless. However, for five other watercourses, while the planned method is trenchless, the contingency method involves a trenched crossing.

Pursuant to the Memorandum of Understanding between the CER and DFO[67] (March 2023), the CER must decide if a project is likely or unlikely to result in a HADD or death of fish. With the mitigation measures Pouce Coupé proposed, planned crossing methods, and habitat quality where instream work is planned, the Commission is of the view that HADD, death of fish, and impacts to aquatic species at risk are unlikely. However, trenched contingency crossing methods at planned trenchless locations have the potential to have additional effects on fish and fish habitat. The Commission notes, for example, that implementing the trenched contingency crossing method for crossing WC-05A (unnamed tributary to the Peace River) could result in HADD because the site contains good spawning habitat.

The Commission, therefore, considers necessary **Condition 26** (Contingency watercourse crossings), for circumstances in which Pouce Coupé needs to employ a contingency watercourse crossing method. Part a) of the condition would require Pouce Coupé to file location information and a rationale for any trenchless contingency crossing 14 days in advance. Part b) of the condition would require Pouce Coupé to file additional or updated fish and fish habitat information specific to trenched contingency crossing methods where the primary method is trenchless, 60 days in advance. The Commission accepts Pouce Coupé's suggestion to specify part a) of the condition should be for when new alignment or new lands are needed but was not persuaded to shorten the timing of part a) or b) because of the assessment time

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67 https://www.cer-rec.gc.ca/en/about/acts-regulations/other-acts/cooperative-agreements/memorandum-understanding-between-fisheries-oceans-canada-canada-energy-regulator-fisheries-act-species-risk-act-energy-infrastructure.html.

needed by the CER and due to concerns from Indigenous communities about contingency crossing methods.

In response to comments from Indigenous Peoples on the draft contingency watercourse crossings condition and concerns about trenched crossings, Condition 26 includes a requirement for Pouce Coupé to provide a summary of engagement that demonstrates how Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the contingency watercourse crossings in part b) of the condition.

4.4.2. Water withdrawal and release is predicted to affect fish and fish habitat and water quality and quantity

The Commission finds that water withdrawal and discharge for hydrostatic testing is likely to have adverse effects on fish and fish habitat and water quality and quantity. However, the Commission finds that Pouce Coupé's mitigation measures would be capable of reducing the residual effects to minor.

Pouce Coupé stated that temporary diversions (i.e., the withdrawal and release) of hydrostatic test water may cause a change in water quality and quantity, and fish and fish habitat, and a change in fish mortality risk. The Project EPP included mitigation measures for hydrostatic testing, including ensuring withdrawal sources have a sufficient amount of water, conducting water sampling, not transferring water between drainage basins, screening intakes, and reducing and monitoring erosion for released water.

ECCC also viewed the Project's hydrostatic testing water withdrawal and discharge as a potential risk to water quality and fish. ECCC submitted that, for a project that ECCC considered to be similar (Westcoast Sunrise Expansion Pipeline project), the Commission issued a draft condition for comment that required a hydrostatic pressure testing water withdrawal and discharge plan; however, no such requirement or condition was included in the draft conditions for this Project. ECCC suggested that a similar condition be added to the Project.

The Commission finds that a separate condition pertaining to hydrostatic testing for the Project is not necessary. This is because Pouce Coupé's proposed mitigation measures already provided in the EPP are adequate to reduce potential effects from hydrostatic testing water withdrawal and discharge, and Pouce Coupé also committed to complying with federal and provincial regulations and permits.

4.4.3. The significance of residual effects on fish and fish habitat and water quality and quantity is low

As described above, the Commission finds the Project is likely to result in residual effects on fish and fish habitat and water quality and quantity. Following the implementation of Pouce Coupé's proposed mitigation measures and conditions the Commission finds necessary, these residual effects are expected to be adverse, short-term to long-term, local, and of low magnitude.

The Commission finds that total cumulative effects, including from existing, the Project's, and reasonably foreseeable future projects and activities, on fish and fish habitat and water quality and quantity have a medium rating based on the evidence of Pouce Coupé and Project-specific evidence provided by Indigenous Peoples as described below. The Commission also finds that the contribution of the Project to cumulative effects would be low, due to the use of trenchless crossing methods, mitigation measures proposed, and conditions recommended.

Pouce Coupé stated that the landscape in the RAA has been fragmented by agriculture, forestry, and oil and gas development, including existing pipeline corridors. These activities have impacted water quality and quantity, and fish habitat, and increased fish mortality risks through land clearing, road crossings with culverts, and industrial water use. Pouce Coupé also listed a number of reasonably foreseeable projects and physical activities including the NorthRiver's NEBC Connector Project, BC Hydro's Site C Clean Energy Project and ongoing forestry activities. Pouce Coupé assumed that these other projects and activities would implement mitigation measures to avoid or reduce their effects on fish and habitat and water quality and quantity.

Pouce Coupé stated that existing cumulative effects can be rated as medium for fish and fish habitat because there are no known exceedances of sustainability measures for fish and fish habitat, and there are no known occurrences or critical habitat for SARA-listed threatened or endangered aquatic species in the RAA. As Pouce Coupé also explained, some riparian areas are intact, including large rivers, while some areas have been fragmented.

Indigenous Peoples raised numerous concerns about cumulative effects on fishing and water quality. For example, Horse Lake First Nation stated they are very concerned about the cumulative and direct impacts of industrial development on fish. Doig River First Nation provided information in its assessment about reduced water quality in the Peace River, which is crossed by the Project. Louis Bull Tribe conducted a Project-specific survey at watercourses that would be crossed by the Project and observed existing disturbances, including agricultural activities, at Sergeant Creek, McQueen Creek, Saskatoon Creek and the Peace River during their Traditional Land Use and Occupancy Study. Louis Bull Tribe also observed relatively intact vegetated areas or valuable habitat for fish and wildlife at the Pouce Coupé River, Kiskatinaw River and Eight Mile Creek.

The Commission is of the view that the Project's contribution to cumulative effects on fish and water would be limited because Pouce Coupé plans to use trenchless crossings for many watercourse crossings, including at all the specific watercourses mentioned by Indigenous communities. The Commission therefore finds that the Project's contribution to cumulative effects for fish and water would be low, but that total cumulative effects for fish and water would be medium. This was taken into account here, in the significance finding for water and fish, as well as in the assessment of impacts on rights in **Chapter 5**. **Table 4-3** summarizes the Commission's findings on the Project's effects on water quality and quantity and fish and fish habitat.

Table 4-3 – Evaluation of significance of residual effects on water quality and quantity and fish and fish habitat

Water quality and quantity and fish and fish habitat		
Residual effects • adverse changes in fish habitat • increase in the risk of fish mortality • adverse changes in surface and groundwater water quality and quantity		
Criteria	**Rating**	**Discussion**
Temporal extent	Short-term to Long-term	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, most adverse effects on water quality and quantity and fish and fish habitat to be short-term, such as increased fish mortality risk. However, effects on riparian vegetation could be longer term depending on the type of vegetation (i.e., trees would take longer to regenerate compared to shrubs and grasses).
Geographic extent	Local	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, adverse effects on water quality and quantity and fish and fish habitat to be localized within the LAA. Effects may extend downstream from the crossing location, depending on factors such as watercourse size.
Magnitude	Low (adverse)	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures, use of trenchless crossing methods and the Commission's conditions such as the reclamation and restoration plan condition (Condition 6), adverse effects on water quality and quantity and fish and fish habitat are expected to be of low magnitude.
Cumulative effects	Medium (adverse)	The Commission considered adverse total cumulative effects on fish and fish habitat, and water quality and quantity. While these cumulative effects were rated as medium because of existing disturbance, intact and fragmented riparian vegetation, and the fact there is no known occurrences or critical habitat for SARA-listed threatened or endangered aquatic species in the Project area, the Commission finds the Project itself would contribute a low amount.
Significance	Low (adverse)	The Commission expects most adverse effects on fish and fish habitat and water quality and quantity to be short-term, local, and of low magnitude. In the case of removing more mature riparian vegetation such as trees, the temporal extent of residual effects is expected to last into the long term. The Commission finds the Project contribution to cumulative effects to be low. With Pouce Coupé's implementation of its proposed mitigation measures and Commission's conditions, the significance of the Project effects would be low.

4.5. Project's effects on wildlife and wildlife habitat

The Commission finds that the Project is likely to result in residual effects on wildlife and wildlife habitat during construction and operations, due to changes to wildlife habitat, changes to wildlife movement, and increased mortality risk. The Commission expects that, with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project would be adverse, short-term to long-term, local to regional, and of low to medium magnitude. The Commission finds that the total cumulative effects on wildlife and wildlife habitat would be medium to high, and the overall significance of Project effects to be medium as discussed below.

4.5.1. Current setting of wildlife and wildlife habitat in the Project area

Pouce Coupé said it assessed potential effects on wildlife and wildlife habitat in the PDA, the LAA, and the RAA. The LAA consisted of the PDA plus a 1-km buffer and considered potential zones of influence and prescribed or recommended maximum setback distances for species at risk and species of management concern. The RAA included a 15-km buffer around the PDA. The assessment included both construction and operation of the Project.

As described in the vegetation section above, the Project is located within the Boreal White and Black Spruce Moist Warm biogeoclimatic subzone in BC and the Dry Mixedwood Natural Subregion of the Boreal Natural Region and the Lower Foothills Natural Subregion of the Foothills Natural Region in Alberta.

Pouce Coupé stated that distinctive features within the LAA are the Peace, Kiskatinaw, and Pouce Coupé River corridors, McQueen Slough, extensive areas of agricultural land and rural development, forest patches, small wetlands and watercourses, and linear feature development (road, pipelines, transmission lines). Within the LAA, the predominant land cover types are agriculture (including cultivated field, tame pasture, and grazed lands) and deciduous and mixedwood forest. Forest is dominant in the Alberta portion of the LAA and agriculture is dominant in the BC portion of the LAA.

Pouce Coupé identified important wildlife features and habitats within the LAA including mineral licks, bank swallow nesting colonies, stick nests, wildlife trees, wildlife trails, potential barn swallow nest locations, potential bat summer roosts, and potential bank swallow, fisher, and amphibian habitats. Pouce Coupé included these on its environmental alignment sheets for the Project where applicable and where specific mitigation measures would apply.

Pouce Coupé confirmed detection lists for the wildlife LAA and RAA, for bird species and mammal, amphibian and reptile species. At least 144 bird species were confirmed within the LAA, including local breeders, year-round residents, and spring and fall migrants. The assessment also confirmed 29 mammal species, two amphibian species, and one reptile species within the LAA.

Pouce Coupé identified eleven wildlife key indicators to focus the wildlife and wildlife habitat VC assessment: old forest bird community, grassland and shrubland bird community, wetland bird

community, Canada warbler, olive-sided flycatcher, common nighthawk, grizzly bear, moose, fisher, little brown myotis, and western toad. Each of the selected key indicators is either:

- a species or a species group that is at risk and likely to be vulnerable to potential Project effects;
- a species identified by Indigenous communities and other stakeholders as important to them and likely to be vulnerable to potential Project effects; or
- a species that can act as a surrogate for assessing potential Project effects on habitat for other species.

Pouce Coupé identified the following existing conditions within the LAA for the bird key indicators:

- 720.9 ha of effective mature and old forest bird community breeding habitat, which is 3.8 per cent of the LAA. Some members of the mature and old forest bird community may be present within the LAA all year.
- 744.2 ha of effective grassland and shrubland bird community breeding habitat, which is 3.9 per cent of the LAA. Some members of the grassland and shrubland bird community may be present within the LAA all year, while some are only present during the non-breeding season, and some are present only during the breeding season.
- 533.2 ha of effective wetland bird community breeding habitat, which is 2.8 per cent of the LAA. In general, members of the wetland bird community are unlikely to be present during the winter.
- 987.5 ha of effective Canada warbler breeding habitat, which is 5.2 per cent of the LAA. Canada warbler is not present within the LAA outside of the breeding season.
- 119.4 ha of effective olive-sided flycatcher breeding habitat, which is 0.6 per cent of the LAA. Olive-sided flycatcher is not present within the LAA outside of the breeding season.
- 496.2 ha of effective common nighthawk breeding habitat, which is 2.6 per cent of the LAA. Common nighthawk is not present within the RAA outside of the breeding season.

Pouce Coupé identified the following existing conditions within the LAA for mammal key indicators:

- 3,518.5 ha of effective moose winter foraging habitat and 1,562.8 ha of effective moose winter shelter habitat, which are 18.4 per cent and 8.2 per cent of the LAA, respectively. Moose is a wide-ranging species that is expected to use habitats within the LAA year round.
- 2,639.9 ha of effective fisher natal denning habitat, which is 13.8 per cent of the LAA. Fisher may be present within the LAA in any season.
- The availability of suitable grizzly bear foraging habitat is linked to the habitats modelled for the mature and old forest, grassland and shrubland, and wetland bird communities.

- The availability of suitable little brown myotis habitat during the bat active season is linked to the habitats modelled by the mature and old forest bird community (representing summer roosting habitat; and the grassland and shrubland and wetland bird communities (representing foraging habitat.

Pouce Coupé identified existing conditions within the LAA for the amphibian key indicator, the western toad, as 134.4 ha of effective western toad breeding habitat and 824 ha of effective western toad hibernation habitat, which would be 0.7 per cent and 4.3 per cent of the LAA, respectively western toad would be expected to use habitats within the LAA year round.

The north end of the LAA overlaps a federally designated polygon containing critical habitat, specifically hibernacula, for little brown myotis and northern myotis bat species. The Commission notes that ECCC has issued *Recovery Strategy for Little Brown Myotis (*Myotis lucifugus*), Northern Myotis (*Myotis septentrionalis*) and Tri-colored Bat (*Perimyotis subflavus*) in Canada*[68] for these species.

The LAA is adjacent to, but does not intersect, bank swallow critical habitat. However, Pouce Coupé detected several bank swallow colonies within the LAA, including in the banks of the Peace River. Pouce Coupé confirmed the presence of at least one barn swallow nest within the LAA and detected multiple potential barn swallow nest locations (i.e., anthropogenic structures) within the LAA, but none in the PDA. Pouce Coupé also identified two potential pileated woodpecker nest cavities in and near the Project footprint.

To assess potential effects of the Project on wildlife and wildlife habitat, Pouce Coupé considered changes in wildlife habitat, changes to wildlife movement, and increase in mortality risk due to the loss or alteration of habitat resulting from vegetation clearing, ground disturbance and sensory disturbances. Pouce Coupé also considered increased mortality risk due to the creation of physical barriers, vehicle-wildlife collisions and wildlife-life human conflicts resulting from Project-related works.

4.5.2. Project's effects on wildlife habitat

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on wildlife habitat are likely to occur and are predicted to be adverse. The Commission expects that these effects would be short-term to long-term in duration, extend from the Project footprint to the local area, with the possibility of extending into the regional area, and of low to medium magnitude. To arrive at this conclusion, the Commission considered evidence provided by Pouce Coupé and Indigenous Peoples.

Pouce Coupé explained that changes in wildlife habitat (including critical habitat and residences for species at risk) may occur as a result of the loss or alteration of habitat resulting from

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[68] https://www.registrelep-sararegistry.gc.ca/virtual_sara/files/plans/rs_LittleBrownMyotisNorthernMyotisTricoloredBat_e_proposed.pdf

vegetation clearing and ground disturbance. Changes in wildlife habitat may also occur as a result of sensory disturbances resulting from construction noise.

Pouce Coupé determined that construction of the Project is predicted to reduce effective breeding habitat in the LAA for the bird key indicator species as the following:

- mature and old forest bird community by 11.1 per cent;
- grassland and shrubland bird community by 23.7 per cent;
- wetland bird community by 1.7 per cent;
- Canada warbler by 6.5 per cent;
- Olive-sided flycatcher by 3.6 per cent; and
- Common nighthawk by 20.2 per cent.

Pouce Coupé determined that construction of the Project is predicted to reduce habitat in the LAA for mammal key indicator species as the following:

- effective moose winter foraging habitat within the LAA by 2.2 per cent and effective moose winter shelter habitat within the LAA by 2.7 per cent;
- grizzly bear foraging habitat in the Alberta portion of the LAA primarily through the indirect effects of construction-related sensory disturbance and, to a lesser extent, through direct effects from vegetation clearing and ground disturbance;
- effective fisher natal denning habitat within the LAA by 5 per cent (131.2 ha); and
- little brown myotis summer roosting habitat through the removal of trees.

Pouce Coupé determined that construction of the Project is predicted to temporarily reduce habitat in the LAA for the amphibian key indicator species, the western toad, by 3.2 per cent (4.3 ha) and hibernation habitat within by 9.8 per cent (80.7 ha).

Indigenous Peoples also provided evidence about wildlife and their habitat. Bruce Horseman from Horse Lake First Nation stated that “the changes I have noticed in my short period of time here is we used to hunt five, ten minutes away from our houses to be able to provide for our families. And just, for example, last year, I went hunting probably 30 times, and I never seen one bull moose. So we are having a tough time providing for our Elders, our families, community as a leader.”[69]

Doig River First Nation raised concerns with changes in wildlife health and noted reports of hadaa (moose) developing unusual growths and signs of contamination near oil wells and pipelines. Doig River First Nation also noted concerns with declines in wildlife populations, attributing this to habitat disruption and environmental degradation. The Commission notes that

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[69] CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1619, PDF pages 9-10 of 46, C33873-1

wildlife habitat supports not only species populations but also the exercise of harvesting rights in this area of Treaty 8. Indigenous Peoples' evidence that hunting now requires hours of travel for animals once found nearby, and evidence including observations of wildlife health deterioration, demonstrates how habitat fragmentation and quality degradation can directly impair the meaningful exercise of harvesting rights and food security for Indigenous communities.

Duncan First Nation raised concerns that activities during construction of the Project, such as vegetation clearing, excavation, grading, and other activities that result in alteration or loss of forest and wildlife and fish habitat could potentially contribute to wildlife decline, habitat loss, water and air pollution, and climate change. Kelly Lake Cree Nation noted that there was limited information regarding reptile hibernacula that may occur within the RAA. Driftpile Cree Nation recommended sensitive wildlife areas be avoided with input from First Nations and limiting construction to certain times of year to decrease impacts on wildlife.

In its ESA and EPP, Pouce Coupé proposed standard industry practices and avoidance measures, as well as resource-specific mitigation measures, that it would implement during construction and operations to minimize impacts to wildlife and wildlife habitat. Pouce Coupé also provided an updated EPP and updated mitigation tables to address concerns it heard throughout the hearing. Pouce Coupé included mitigation measures, such as maintaining appropriate wildlife habitat setbacks, restricting construction activities to the approved construction footprint, minimizing the removal of vegetation in wetlands and riparian areas as much as possible and conducting pre-construction surveys. The Commission agrees that measures such as maintaining setbacks and implementing the Wildlife Management Plan would help to reduce the loss or alteration of wildlife habitat, thereby reducing the Project's effects on wildlife and wildlife habitat. The Commission also finds that key mitigation measures for avoiding or reducing potential effect on vegetation communities and wetlands, as discussed in the vegetation section, would also reduce the potential effect on wildlife and wildlife habitat.

Pouce Coupé committed to complete pre-construction surveys for wildlife habitat features ('wildlife sweeps') including, but not limited to, mineral licks, dens, stick nests (including partially built), potential bat roosts and hibernacula, bank swallow burrows, barn swallow nests, and pileated woodpecker nest cavities, prioritizing areas with suitable habitat. In response to Kelly Lake Cree Nation's concern regarding reptile hibernacula, Pouce Coupé included additional mitigation measures such as developing a snake protection plan and creating artificial hibernaculum on Crown land adjacent to the Project footprint, if required.

Pouce Coupé also committed to nest sweeps prior to activities, based on the methods described in its Nesting Bird Management Plan. In the event an active bird nest is identified during a nest sweep, or discovered during construction, nest-specific mitigation measures may be required. Setbacks may be species- and site-specific; typical setback distances for migratory birds are 30-50 m with greater distances for wetland and sensitive species. Pouce Coupé explained that because pileated woodpecker nest cavities are protected year round until they have been deemed abandoned for 36 months, it would search mature and old forest within the revised footprint for active pileated woodpecker nest cavities, as well as the four locations identified by Sucker Creek First Nation and Whitefish Lake First Nation #459, to evaluate whether these are active pileated woodpecker nest cavities. If an active pileated woodpecker nest cavity is identified, the mitigation measures identified in the Wildlife Management Plan

would be applied. The Commission finds that Pouce Coupé's pre-construction surveys would help to confirm the location of wildlife habitat features, assess condition and activity status and apply the appropriate mitigation measures as included in its EPP and Wildlife Management Plan.

ECCC stated it does not recommend active nest searches, ongoing nest monitoring, or clearing vegetation within the nesting period. ECCC also recommended that works that could disturb or destroy nests be rescheduled and that setback distances and buffer zones be established on a case-by-case and that Pouce Coupé's mitigation measures align with ECCC's avoidance guidelines.[70]

The Commission finds that Pouce Coupé's Nesting Bird Management Plan, as part of the Project's Wildlife Management Plan, is informed by ECCC's guidelines, and includes a range of scenarios, including if vegetation clearing during the nesting period is unavoidable. The Commission finds that Pouce Coupé's commitments to manage its construction schedule to reduce overlap with sensitive timing windows, primary nesting periods, and restrictions, as well as active and overwintering periods for sensitive species, breeding birds, and amphibians, would help to minimize impacts to wildlife habitat, especially during periods wildlife is most sensitive.

ECCC recommended that activities be avoided in locations that may disturb bats during hibernation and maternal roosting periods when bats are most sensitive. In BC, maternity roosts are generally occupied from May 30 to September 20, and hibernation generally occurs from November 1 to April 1. In warmer years (or regions), bats may occupy maternity roosts by mid-March. ECCC recommended year-round monitoring to determine appropriate timing when late-season/winter bat activity is suspected ECCC further recommended that setback buffers be placed around active bat roost sites and hibernacula. For bats roosting in trees and rock crevices, ECCC recommended setbacks be applied to the entire maternity roost complex (roost area) and setbacks for hibernacula should apply to entire underground cave/mine networks.

While the Commission acknowledges Pouce Coupé's commitment to consider additional mitigation measures such as restoration and enhancement activities related to bat summer roosting habitat, it agrees with ECCC that restoration following Project completion is important for maintaining the long-term health of the bat populations. The Commission recommends imposing **Condition 6** (Reclamation and restoration plan), as explained in the vegetation and wetlands sections above, which requires Pouce Coupé to file a plan, for Commission approval, which also includes consideration of restoration of lost bat roosting habitat, such as planting native tree species that are known to be high value roosting sites for local bats.

To discharge its obligations under subsection 77(1) of the SARA, the Commission has consulted with the competent Minister, ECCC, and considered the impact on the critical habitat

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70 https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reducerisk-migratory-birds.html#toc3

of little brown myotis and northern myotis as discussed above. The Commission is of the opinion that:

- all reasonable alternatives to the activity that would reduce the impact on the species' critical habitat have been considered and the best solution has been adopted; and
- all feasible measures would be taken to minimize the impact of the activity on the species' critical habitat.

The Commission is of the view that impacts to critical habitat for little brown myotis and northern myotis are unlikely in light of avoidance via routing and the surveys required by **Condition 11** (Environmental Protection Plan). Furthermore, with the mitigation measures proposed by Pouce Coupé, and the conditions that would be imposed by the Commission, the impacts to little brown myotis and northern myotis would be minimized.

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of Project wildlife habitat are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be short-term in duration for species such as the common nighthawk to long-term for forest dependent species. The Commission expects that the geographic extent of Project effects on wildlife habitat would be confined to the local area for small ranging species such as songbirds and amphibians but might extend into the regional for wide-ranging species such as ungulates. The Commission expects the magnitude of Project effects would range from low for species with limited habitat within the Project footprint, to medium for mature and old forest species.

4.5.3. Project's effects on wildlife movement

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on changes to wildlife movement are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be medium term to long term in duration and extend from the Project footprint into the local area and of low magnitude.

Pouce Coupé explained that changes in wildlife movement may occur during construction as the open trench, spoil and topsoil piles and strung pipe could act as physical barriers. Construction would also result in increased traffic volumes which could result in changes in daily and seasonal movement patterns within the LAA and RAA. Changes in wildlife movement may also occur as a result of the clearing of upland forest habitat to widen the existing pipeline corridor.

Pouce Coupé indicated that under the planned Project schedule, vegetation clearing associated with Pipeline construction is expected to occur from Q2 2026 to Q2 2027. Pouce Coupé stated that this may affect movement of migratory species (e.g., songbirds) as this schedule overlaps the bird nesting period. Vegetation clearing may also affect movement of species that hibernate or enter torpor (e.g., little brown myotis, western toad) and species that are active during winter or late fall (e.g., moose, Canada lynx). In its ESA and EPP, Pouce Coupé proposed standard industry practices and avoidance measures, as well as resource-specific mitigation measures,

that it would implement during construction and operations to minimize impacts to the change in wildlife movement.

The Commission concludes that mitigation measures, such as providing gaps in windrows and limiting the amount of open trench, using multi-passenger vehicles, and implementing its Nesting Bird Management Plan would provide opportunities for wildlife species, including larger mammals to cross the RoW, limit the increase in traffic volumes, and avoid bird nesting periods. The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on changes in wildlife movement are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be medium-term in duration for wetland species and long-term for interior forest species where cleared forested habitat would be maintained as open RoW. The Commission expects that the geographic extent of Project effects on wildlife movement is limited to the Project footprint, with some sensory disturbances extending into the local area. The Commission expects the magnitude of the Project effect to be low.

4.5.4. Project's effects on wildlife mortality

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on changes to mortality risk are likely to occur and are predicted to be adverse. The Commission expects Project effects to be long term in duration, extend from the Project footprint into the local area and of low magnitude. The Commission's assessment considers mortality risks from construction activities, increased traffic and access, habitat edge effects, artificial lighting, and human-wildlife conflicts.

Pouce Coupé stated that construction activities such as vegetation clearing, grubbing, and ground disturbance may result in an increased mortality risk for birds if those activities occur during the region-specific nesting period or raptor nesting period. Vegetation clearing, grubbing, ground disturbance, and movement of machinery may also result in increased mortality risk for amphibians, bats, small mammals, and hibernating bears. There is also the potential for wildlife to become trapped in the pipeline trench or other excavations. Pouce Coupé acknowledged that creation of forest clearings and 'hard edge' habitats may result in increased predation risk for songbirds and small mammals due to increased opportunities for predators. These edge effects can persist beyond the construction phase, creating long-term changes to predation dynamics and patterns in the LAA.

Construction of the Pipeline would result in increased traffic volumes to Project construction sites, which Pouce Coupé stated could result in increased risk of collisions between mammals, birds, and amphibians and Project-related equipment and vehicles. Pouce Coupé committed to use existing access roads or trails for construction, and use multi-passenger vehicles where practical, to reduce the potential for wildlife-vehicle collisions. Pouce Coupé maintained that mortality risk associated with increased access is negligible for the Pipeline as it is parallel and contiguous with existing or approved pipeline RoWs for approximately 94 per cent of its length and is located within a fragmented landscape.

Indigenous communities provided evidence of concerns about increased access and associated wildlife mortality risks. Timber Bigfoot of Prophet River First Nation and Bruce Horseman of Horse Lake First Nation described how historical hunting areas have become depleted due to increased access, with members now traveling hours to find animals that were once nearby, demonstrating the cumulative effects of improved access on wildlife populations. Dene Tha' First Nation's Fred Didzena explained how linear disturbances create predation corridors, stating "it is a hay day for the predators" because "prevention of line of sight no longer exists. It is a free for all out there," highlighting how access features can increase wildlife mortality through enhanced predation opportunities. He also stated that Dene Tha' territory contains over 63,000 km of legacy cut lines that continue to affect wildlife movement and survival patterns.

ECCC noted that any additional artificial lighting may result in the increased risk of mortality and injury to migratory birds and bats due to collision with infrastructure. ECCC recommended that specific mitigation measures aimed at reducing the effects of artificial lighting on birds and bats be developed to reduce the risk of mortality or injury due to light attraction or disorientation. Pouce Coupé, however, noted that light is not expected to be a measurable contributor to Project-related change in mortality risk, primarily because construction activities and related lighting would be limited at night.

Pouce Coupé also identified potential for increased mortality risk related to human-wildlife conflicts, particularly with individuals attracted to human food and waste (e.g., black bears) and entanglement in construction materials. Pouce Coupé proposed implementing multiple mitigation measures to reduce these various mortality risks, including waste management protocols to prevent wildlife attraction, reducing the extent of open trench, creating sloped trench plugs to allow wildlife escape, amphibian salvage and installation of exclusion or drift fencing, use of existing access infrastructure where possible, and multi-passenger vehicle use to reduce traffic volumes.

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on the increase in mortality risk are likely to occur and are predicted to be adverse. The Commission expects that Project effects would be long-term because increased mortality risk may extend beyond the construction phase due to edge effects and predation risk changes. The Commission expects that the geographic extent of Project effects on increase in mortality risk is largely limited to the Pipeline PDA; however, a general increase in traffic is expected within the LAA and RAA during construction.

The Commission received Indigenous evidence that cumulative effects of increased access extend beyond immediate project footprints, particularly in territories already experiencing significant industrial pressures and existing high cumulative effects. The Commission expects the magnitude of Project effects to be low, while acknowledging Indigenous perspectives that even small additions to mortality risk have heightened significance in territories where wildlife populations enabling the continued exercise and practice of rights are already stressed.

4.5.5. The significance of residual effects on wildlife and wildlife habitat is medium

The Commission finds that the Project is likely to result in residual effects on wildlife and wildlife habitat. The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, these residual effects would be adverse, short-term to long-term, local to regional in extent, and of low to medium magnitude. The Commission also finds that the total cumulative effects on wildlife and wildlife habitat to be medium to high, and the overall significance of Project effects to be medium. The Commission's assessment considers the existing cumulative context, Project-specific contributions, and the combined significance of effects in an already impaired landscape.

Existing environmental conditions reflect cumulative effects on the environment from past and present projects and physical activities. Past and present projects and physical activities that have been or are being carried out have influenced the existing conditions for wildlife and wildlife habitat. The current landscape where the Project is located has high existing cumulative effects and has been extensively altered by ongoing anthropogenic disturbance including agriculture, forestry, oil and gas facilities, and linear development, including roads, power lines, and pipeline corridors. With respect to changes in wildlife habitat, Pouce Coupé stated that at current baseline case, the RAA is composed of 31.6 per cent native upland communities, including forests and shrublands. The RAA is composed of 67.1 per cent of existing anthropogenic disturbance, including 47.9 per cent agriculture. Pouce Coupé stated that in consideration of this disturbance, residual cumulative effects of past and present projects and physical activities have resulted in a high magnitude effect on the existing availability of wildlife habitat within the RAA.

Fred Didzena of Dene Tha' First Nation stated: "And what it means, "disturbance," is not only us. It is the animals that we try and live by – live with and consume. There is no other place that they can go also, and now we are seeing them disappear."[71]

Timber Bigfoot of Prophet River First Nation described the lasting nature of these cumulative impacts, stating:

> …[t]he impact of the animals that have been chased away that don't feel safe because of the noise and the amount of traffic and the people in the area, that could be for how many generations of those animals. The migratory bird species may never, ever come to visit those wetlands that have been destroyed or those river channels that have been invaded…[i]t completely changes the whole pattern of their travel.[72]

With respect to changes in wildlife habitat, the Commission finds that temporary loss or alteration of native upland vegetation communities from the Project would be reduced by routing the Pipeline parallel to and overlapping existing RoWs and other easements and locating much of the Project on cultivated lands. Reclamation measures listed in the EPP for the Project would

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71 CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), paras 289 & 291, PDF page 42 of 47, C33800-1

72 CER, OH-001-2024 Hearing Transcript Vol 4 (20 March 2025), paras 1148-1149, PDF pages 14-15 of 22, C33834-1

be implemented to further reduce Project-related effects. Reclamation and restoration measures for the Project would also reduce Project-related effects. Additional changes in native vegetation communities could result from forested areas being converted to agricultural use on privately held lands. Pouce Coupé also stated that due to other existing disturbances (primarily agriculture) forestry is not a large component within the RAA, with cutblocks covering only 0.7% of the RAA. However, past forest clearing associated with agricultural development was extensive and forestry activities have and will likely continue to contribute to change in vegetation communities, and thereby changes in bird communities and other wildlife within the RAA.

With respect to changes to wildlife movement, Pouce Coupé stated that physical and sensory barriers within areas of existing anthropogenic disturbance have altered and impeded wildlife movement in the RAA. Pouce Coupé stated that during Pipeline construction, the Project would contribute to cumulative effects on wildlife movement by introducing temporary physical obstructions (e.g., spoil piles, open trench, strung pipe), increasing gaps in forest cover through widening the existing pipeline and utilities corridor, and because it would generate noise that might deter wildlife from crossing the RoW or occupying habitat in the vicinity of construction activity. The Commission finds Pouce Coupé's mitigation measures to reduce cumulative effects on wildlife movement acceptable as they are based on best management practices and provincial guidance.

With respect to the increase in mortality risk, Pouce Coupé stated that increased traffic could result in increased mortality from vehicle-wildlife collisions. The Commission finds that the implementation of other mitigation measures, including reducing vehicle traffic, prohibiting firearms, site-specific setbacks and timing restrictions, would result in a low contribution to cumulative effects.

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on wildlife and wildlife habitat are likely to occur and are predicted to be adverse. The Commission expects the duration of effects to be short-term for species such as the nighthawk to long-term for forest dependent species, which may take longer to return to its original forest state. The Commission expects the effects would be localized to the PDA for small ranging species such as songbirds and amphibians and extend into the RAA for wide-ranging species such as ungulates.

The Commission expects that the magnitude of the Project's effects on wildlife and wildlife habitat would be low to medium. Although Pouce Coupé predicted changes to wildlife habitat loss within the LAA for grassland and shrubland bird community breeding habitat and common nighthawk breeding habitat to be 23.7 per cent and 20.2 per cent respectively, the changes would be due to the direct and indirect effects of Pipeline construction on tame pasture in the Alberta portion of the LAA. The Commission concludes that there is no expectation that the residual Project effects would cause or further contribute to the exceedance of a conservation-based threshold or threaten the long-term persistence or viability of a species at risk and species of management concern. The Commission finds that Pouce Coupé's design of the Project would help to reduce the Project's impacts on wildlife and wildlife habitat by paralleling existing linear features and minimizing areas of new disturbance where possible. Where areas would be disturbed, Pouce Coupé's mitigation measures, including reclamation,

and the Commission's recommended **Condition 6** (Reclamation and restoration plan) would further reduce effects.

Based on the above, the Commission finds that the Project's contribution to the already medium to high level of cumulative effects on wildlife and wildlife habitat would be low to medium, resulting in a medium to high level of total cumulative effects. The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, Project effects on wildlife and wildlife habitat to be of medium significance. As noted above, incremental impacts in an area where cumulative effects to Indigenous Peoples' rights are already high have different implications than in unimpaired areas. This was taken into account here in the significance finding for wildlife and wildlife habitat, as well as in the assessment of impacts on rights of Indigenous Peoples in **Chapter 5**.

Table 4-4 summarizes the Commission's findings on the Project's effects on wildlife and wildlife habitat.

Table 4-4 – Evaluation of significance of residual effects on wildlife and wildlife habitat

Wildlife and wildlife habitat		
Residual effects: • Change in wildlife habitat • Change in wildlife movement • Mortality risk		
Criteria	**Rating**	**Discussion**
Temporal extent	Short-term to Long-term	The Commission expects that that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on wildlife and wildlife habitat would be short term for species such as the nighthawk to long term for forest dependent species, which may take longer to return to its original forest state.
Geographic extent	Local to Regional	The Commission expects that that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on wildlife and wildlife habitat would be localized to the Project footprint for small ranging species such as songbirds and amphibians and extend into the regional area for wide-ranging species such as ungulates
Magnitude	Low to Medium (adverse)	The Commission is of the view that Pouce Coupé's design of the Project would help to reduce the Project's impacts on wildlife and wildlife habitat by paralleling existing linear features and minimizing areas of new disturbance where possible. Where areas will be disturbed, Pouce Coupé's proposed mitigation measures and the Commission's recommended Condition 6 (Reclamation and Restoration Plan) would help to further reduce effects. The Commission expects that that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, residual effects of the Project on wildlife and wildlife habitat would be low to medium in magnitude.
Cumulative effects	Medium to High (adverse)	The Commission finds that the Project's contribution to the already medium to high level of cumulative effects on wildlife and wildlife habitat would be low to medium, resulting in a medium to high level of total cumulative effects.
Significance	Medium (adverse)	The Commission expects that residual effects of the Project on wildlife and wildlife habitat would be short-term to long-term, occur on the PDA with possibly to extend into the RAA, and of low to medium magnitude. The Commission finds that, while the Project's contribution to cumulative effects is expected to be low to medium it would contribute to existing disturbances to wildlife and wildlife habitat in the Project area. The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, Project effects on wildlife and wildlife habitat of medium significance.

4.6. Project's effects on air quality

The Commission finds that the Project is likely to result in residual effects on air quality during construction and operations through the release of criteria air contaminants (**CACs**) from vehicles, dust, as well as smoke from any burning of cleared vegetation. The Commission determined that the majority of CAC emissions would occur during construction and, therefore, would be highest within the PDA and decrease with distance within the LAA. Following the implementation of Pouce Coupé's proposed mitigation measures, these residual effects are expected to be adverse, short-term, local, and of negligible magnitude during operations and low magnitude during construction, and, accordingly, of low significance. Additionally, the Commission finds that total cumulative effects on air quality from existing, Project, and reasonably foreseeable activities are rated low to medium (depending on the location of other activities in the area), and the Project is expected to contribute a low amount to these cumulative effects. Accordingly, the Commission finds the Project to be of low significance for air quality. The Commission's assessment considers emissions sources during construction and operations, Indigenous concerns about regional air quality, and the effectiveness of proposed mitigation measures.

Pouce Coupé stated that the Project may affect air quality during construction and operation through the release of CACs from vehicles used for construction, maintenance, and operation activities. Pouce Coupé explained that CACs, which are air pollutants that can harm human health, would include substances such as nitrogen oxides and diesel particulate matter. These CAC emissions from the operations of vehicles would occur intermittently and, therefore, the duration would be short term during construction and operations. Pouce Coupé also stated that Project effects on air quality during operation would be avoided because the new units at the Taylor Tank Farm would use electrical grid power.

Indigenous Peoples, including Kelly Lake First Nation, Buffalo Lake Métis Settlement, Dene Thá' First Nation, Duncan's First Nation, and Saulteau First Nation, expressed general concerns in their evidence about air quality and CACs in the region where the Project would be located. These concerns reflect the cumulative context of existing industrial development affecting air quality in their territories.

Pouce Coupé proposed standard industry practices, as well as specific mitigation measures in its EPP, that it would implement during construction, maintenance, and operations to reduce or avoid vehicle CAC emissions, dust, and smoke. Measures include reducing idling of equipment, maintaining equipment, reducing the dust levels by applying water or other dust control to gravel roads in proximity to residents and reducing speed, and limiting smoke production through burn pile sizes.

ECCC recommended that Pouce Coupé quantify the CACs released during construction and provide more information about the effectiveness of its proposed mitigation measures (e.g., whether Pouce Coupé would reduce idling using shutdown timers). ECCC also recommended that Pouce Coupé, where possible, equip all off-road machinery with Tier 4 certified engines. In response, Pouce Coupé explained that it expects that most equipment to be used during construction would meet the most stringent air emissions standard set by the Canadian *Off-road Compression-Ignition (Mobile and Stationary) and Large Spark-Ignition Engine Emission*

Regulations (i.e., Tier 4), such that the equipment would release fewer air emissions than equipment that does not meet this standard.

The Commission finds that Pouce Coupé's proposed mitigation measures are appropriate because they are capable of reducing CAC emissions, dust, and smoke from Project construction and operations. The Commission concludes that, with these measures in place, these emissions would be short-term and local, based on their sources. The Commission further finds that, with Pouce Coupé's proposed mitigation measures, the overall Project effects on air quality would be low in magnitude from construction and negligible in magnitude from operations, due to both the short-term and local nature of emissions mostly during construction, and the avoidance of CAC emissions during operations as a result of Pouce Coupé's use of electricity from the grid to power the new equipment at the Taylor Tank Farm. The Commission concludes that, with these mitigation measures in place, it is unlikely that Project-related activities would exceed any applicable regulatory requirements related to air quality.

While the Commission acknowledges that a requirement to use only Tier 4 equipment could further reduce air emissions during construction, it concludes that such a requirement, or a requirement to use specialized equipment (such as idle shutdown timers to reduce idling), could reasonably create additional limitations on Pouce Coupé's ability to hire local and Indigenous contractors due to a potential scarcity of equipment. The Commission recognizes the economic and relationship-building value of local and Indigenous-owned businesses being involved in the Project. As a result of potentially creating limitations in this regard relative to local and Indigenous contractors, the predicted low level of emissions from the Project, and the Commission's finding above that Pouce Coupé's proposed mitigation measures to reduce air emissions are appropriate, the Commission finds that it is not necessary to require Pouce Coupé to use only Tier 4 certified engines and specialized equipment.

Table 4-5 summarizes the Commission's findings on the Project's effects on air quality.

Table 4-5 – Evaluation of significance of residual effects on air quality

Air quality		
Residual effects adverse changes to air quality		
Criteria	**Rating**	**Summary reasons for ratings**
Temporal extent	Short-term	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, CAC emissions resulting from road dust, burn piles, and vehicle operation would occur over a short term and intermittently during construction and operations. Effects of CAC emissions from the Taylor Tank Farm during operation would be avoided through the use of grid power to drive the new equipment.

Geographic extent	Local	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, CAC emissions resulting from road dust, burn piles, and vehicle operation would be localized, based on their sources, mostly within the PDA during construction and decrease with distance within the LAA.
Magnitude	Low (adverse)	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, the overall Project effects on air quality would be low in magnitude for construction, due to both the short-term and local nature of emissions, and negligible in magnitude due to the absence of CAC emissions during operations from electric pumps and limited air emissions from operations and maintenance activities.
Cumulative effects	Low to Medium (adverse)	The Commission finds that the Project's contribution to total cumulative effects on air quality may vary and range from low to medium magnitude at any time, based on the Project's residual effects on air quality combined with the existing and reasonably foreseeable industrial and agricultural activities within the area.
Significance	Low (adverse)	The Commission finds that the residual Project effects on air quality are short term, local, of low magnitude, and, in the context of low to medium cumulative effects, of low significance.

4.7. Project's contribution to atmospheric greenhouse gases

The Commission finds that the Project would contribute a low amount of GHGs to the atmosphere during construction from construction equipment, clearing vegetation, burning, and decay, and a negligible amount during operations. With the implementation of Pouce Coupé's proposed mitigation measures and the recommended conditions, this residual effect on the atmosphere would be adverse, long-term, global, and of low magnitude. The Commission further finds that the overall significance of the Project's effects on the atmosphere from GHG emissions would be of medium significance, considering that GHGs have already reached critical thresholds globally. Thus, the Commission finds that total cumulative effects are high, but the Project's contribution to these GHG emissions are low. The Commission is of the view that the Project's contribution to atmospheric GHGs would not materially hinder Canada's ability to meet its climate change commitments to reduce GHG emissions.

4.7.1. Project's contribution to atmospheric greenhouse gases during construction

The Commission finds, based on Pouce Coupé's evidence, that the Project is predicted to contribute up to 69.3 kilotons carbon dioxide equivalent (**kt CO_2e**), or 0.002 per cent of

Canada's GHG emissions total, to the atmosphere during construction, mainly from land clearing and vegetation burning and decay. The Commission finds that this is a reasonable amount of GHG emissions for a project of this size and scope. With the implementation of Pouce Coupé's proposed mitigation measures and the recommended conditions, the effect of these GHGs on the atmosphere would be adverse, long-term, global, and of low magnitude.

Pouce Coupé indicated that the majority of the direct construction GHG emissions will be from land clearing and vegetation burning and decay. Pouce Coupé explained how it avoided some GHG emissions that would have resulted from clearing land by routing about 94 per cent of the Pipeline parallel to existing and approved linear disturbances, and locating the Project primarily on disturbed and private land. Pouce Coupé also proposed some mitigation measures that can reduce GHG emissions, including reducing equipment idling; lowering the number of vehicles used by using multi-passenger vehicles; salvaging timber; and allowing some areas that will be cleared of vegetation to regrow, thereby restoring some carbon sinks over time.

The Commission finds that these mitigation measures are appropriate for the Project. In particular, the Commission finds that salvaging timber is a key mitigation measure for reducing GHG emissions during construction because it would avoid biomass being burned or left to decay. Pouce Coupé was unable to provide an estimate of the amount of salvageable timber during the hearing, and committed to providing an estimate before starting construction. To reinforce Pouce Coupé's commitment to salvage timber, the Commission recommends that Pouce Coupé be required to include a timber salvage plan in its updated EPP before construction (**Condition 11**). The Commission also recommends imposing **Condition 34** (Quantification of construction-related greenhouse gas emissions), which would require Pouce Coupé to provide a quantification of actual construction-related GHG emissions after construction, including the actual amount of timber salvaged. The Commission has not included in the condition a requirement for Pouce Coupé to provide salvaged timber to Indigenous communities to use for cultural purposes, as suggested by Horse Lake First Nation, because provincial requirements, including regulations and forest tenures, govern what is done with salvaged timber. However, as Pouce Coupé noted, should Horse Lake First Nation wish to obtain access to the timber, the Commission encourages Horse Lake First Nation to discuss this with the relevant tenure holders.

Using guidance from the draft technical guide related to the Canada's *Strategic Assessment of Climate Change* (**SACC**), Pouce Coupé calculated direct GHG emissions from Project construction to be approximately 69.3 kt CO_2e. Pouce Coupé indicated that these emissions would be approximately 0.002 per cent of Canada's GHG emission total. The Commission finds these direct construction GHG emissions to be reasonable for a project of this size and scope. The Commission also notes Pouce Coupé's submission that its estimate of GHG emissions is likely to be conservatively high because it is based on the PDA, which is 638.5 ha, and larger than the Project construction footprint, which is 317.7 ha, and because it does not account for any reductions of emissions resulting from timber salvage.

Several Indigenous communities, such as Kelly Lake First Nation, Dene Thá' First Nation, Doig River First Nation, and Duncan's First Nation, raised general concerns about GHG emissions and climate change, including impacts to peat and droughts. In the absence of specific concerns

about the Project's contribution to GHG emissions during construction, the Commission finds that Pouce Coupé's avoidance and mitigation measures are appropriate.

The Commission has not included a requirement, as suggested by ECCC, for Pouce Coupé to quantify the Project's impacts on carbon sinks, based on the methodology presented in the SACC and technical guide. The Commission finds that it is not necessary for Pouce Coupé to quantify these impacts because, as discussed above, the Project's contribution to GHG emissions is predicted to be low in magnitude.

The Commission has also not included a requirement, as suggested by ECCC, for Pouce Coupé to file a GHG mitigation plan for the construction phase before starting construction. ECCC's rationale included alignment with the SACC, and the fact that another CER-regulated project (NorthRiver's NEBC Connector Project) included such a condition. The Commission is not persuaded that this condition is necessary for the Project because the SACC does not specify mitigation measures for construction emissions, the Commission finds that the Project is expected to contribute fewer GHG emissions and result in less land disturbance than the NEBC Connector Project, and that further mitigation measures to reduce GHG emissions beyond those already committed to by Pouce Coupé in the EPP would not be expected.

Finally, the Commission has not included a requirement for Pouce Coupé to offset direct construction GHG emissions for the following reasons:

- The Commission finds that GHG emissions from construction would be effectively reduced through Pouce Coupé's avoidance and mitigation measures, including reduced clearing and timber salvage.
- The Commission also considered Pouce Coupé's submission that there is currently no legislation requiring the offsetting of construction-related GHG emissions, thus finds it could pose an unreasonable challenge to Pouce Coupé at this time, given that there is no federal or provincial framework for offsetting GHG emissions from construction projects.

4.7.2. Project's contribution to atmospheric greenhouse gases during operations

The Commission finds, based on Pouce Coupé's evidence, that the Project is predicted to contribute approximately 0.04 kt CO_2e per year to the atmosphere during operations, or less than 0.001 per cent of Canada's annual GHG emissions total, from acquired energy to power electric pumps. The Commission acknowledges the proposed use of electric pumps and finds that the Project's contribution is a negligible amount when compared to Canada's overall annual contribution to atmospheric GHGs.

The Commission does not agree with Pouce Coupé's position that the Project would be net-negative for GHG emissions on the basis that the GHGs removed from the atmosphere by vegetation regrowth would cancel out the operational acquired energy GHG emissions. Instead, the Commission finds it appropriate to subtract from the Project's direct construction emissions the carbon uptake from vegetation regrowth. Allowing regrowth is a standard mitigation measure that would reduce the duration of the adverse effect caused by construction. If the Commission

were to accept that operational emissions could be mitigated by subtracting regrowth from vegetation removed during construction, Pouce Coupé may be able to avoid the need to file a net-zero plan for operational emissions. In the Commission's view, this outcome would not be appropriate because the regrowth would mitigate the impacts from construction, not from operations. Accordingly, the Commission does not agree with Pouce Coupé's suggestion to remove the requirement to account for vegetation regrowth in the calculation of direct GHG emissions from construction from **Condition 34** (Quantification of construction-related greenhouse gas emissions). The Commission did, however, add wording to clarify that the regrowth is "anticipated."

Because the Project would contribute to atmospheric GHGs during operations, the Commission considers it necessary for Pouce Coupé to develop a net-zero GHG emissions plan for operations. **Condition 38** (Net-zero greenhouse gas emissions plan for operations) would require Pouce Coupé to develop this plan within one year of starting operations, in accordance with the Filing Manual and the principles and objectives of the SACC.

In response to comments received from Indigenous Peoples, including Blueberry River First Nations and Kelly Lake Cree Nation, the Commission has included a requirement for Pouce Coupé to provide a summary of engagement that demonstrates how Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the net-zero plan in part e) of **Condition 38**.

4.7.3. Project's contribution to atmospheric greenhouse gases from development upstream of the Project

The Commission finds, based on Pouce Coupé's evidence, that GHG emissions from the production of NGLs, condensate, and crude oil upstream of the Project, which the Project may transport, can be conservatively estimated to be approximately 902 kt CO_2e/year for NGLs and condensate, and 2,093 kt CO_2e/yea for crude oil. Although Pouce Coupé followed the guidance from the SACC and its associated draft technical guidance, Pouce Coupé assumed that the upstream emissions would be entirely caused by the Project. The Commission was persuaded by other evidence from Pouce Coupé about upstream development and finds that these emissions are likely to occur even if the Project is not built, rather than resulting from the Project through induced development. This is because, as Pouce Coupé explained, the Pipeline would primarily transport condensates, which are a by-product of natural gas development in the northeast BC Montney Formation, and would occur with or without the Project, noting, as the Commission did in **Chapter 3**, that NGL support natural gas production but do not necessarily drive all that production.

Further information about upstream supply of crude oil and condensate is found in **Section 3.1** of this Report.

Table 4-6 summarizes the Commission's findings on the Project's effects on GHG emissions.

Table 4-6 – Evaluation of significance of residual effects on atmospheric GHGs

GHG emissions		
Residual effects • Increase in atmospheric GHG emissions		
Criteria	**Rating**	**Discussion**
Temporal extent	Long-term	The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, construction and operational GHG emissions would be short term. However, GHG emissions are expected to remain in the atmosphere for decades to centuries.
Geographic extent	Global	The Commission finds that GHGs in the atmosphere are a global phenomenon.
Magnitude	Low (adverse)	*Construction*: The Commission expects that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions (namely to include and implement a timber salvage plan in the EPP as noted in Condition 11), increases in GHG emissions during construction would be adverse and of low magnitude *Operations*: The Commission expects that with Pouce Coupé's use of electric pumps, increases in GHG emissions during operations would be negligible in magnitude from acquired energy emissions and operations and maintenance activities which can be addressed over time in the net-zero plan, as per Condition 38. Overall, considering both construction and operations, the Commission finds the magnitude of increases in GHG emissions to be low.
Cumulative effects	High (adverse)	The Commission finds that atmospheric GHGs have reached a critical threshold globally. However, the Project's contribution to the cumulative effect of increased GHG emissions would be low.
Significance	Medium (adverse)	Residual increases in GHG emissions are expected to be long-term, global, adverse and of low magnitude. While cumulative effects of GHG emissions are already high and adverse, given the Project would be adding a low magnitude of GHG emissions, the Commission concludes the significance overall is medium and adverse.

4.8. Project's effects on the environment in the event of accidents and malfunctions

The Commission finds that adverse effects on the environment could result from an accident or malfunction from construction or operations of the Project. The type and significance of the effects would depend on the circumstances, such as the volume and type of product released, the location of a spill, and which VCs or Project components are present. The Commission finds that Pouce Coupé has appropriately assessed various scenarios, and the Project design, mitigation, prevention, and response measures would effectively reduce the risks of accidents and malfunctions during construction and operations.

The Commission provides further analysis about general emergency management in relation to the Project in **Sections 7.1.3** and **7.3.3**.

4.8.1. Project's effect on the environment in the event of the release of drilling fluid

The Commission finds that the probability of the release of drilling fluid during the installation of watercourse crossings using trenchless methods (including HDD) is low and, if it were to occur, the consequences are reduced through Pouce Coupé's proposed preventative and response measures. Pouce Coupé explained that drilling fluid is primarily composed of bentonite, which is an inert, naturally occurring clay material, and may also include non-toxic additives. Pouce Coupé further explained that, if drilling fluid is released, it may result in various impacts to the environment, including increased turbidity in watercourses, which could adversely affect fish and fish habitat. Dene Thá' First Nation and Driftpile Cree Nation expressed concerns about the release of drilling fluid (which they referred to as "frac-outs").

The Commission finds that Pouce Coupé has adequately addressed the risks to the environment associated with the potential release of drilling fluid through preventative measures (e.g., evaluating the feasibility of HDD through studies), considering releases when locating the entry and exit points for HDDs, detection measures (e.g., monitoring set out in the Water Quality Monitoring Plan and monitoring annular pressure during drilling), and response measures in the event a release occurs (as set out in the Drilling Mud Release Contingency Plan).

Section 7.1.4 of this Report provides more information about the HDD feasibility studies that Pouce Coupé has conducted to date. To further reduce the risk of drilling fluid releases during watercourse crossing installation, the Commission finds necessary to impose **Condition 8** (Final horizontal directional drilling feasibility report), which would require Pouce Coupé to file final HDD feasibility reports. Additional details, including reasons for imposing that condition are provided in **Section 7.1.4**.

4.8.2. Project effect on the environment in the event of a release of product from the Pipeline

The Commission finds that the probability of the release of product from the Pipeline is low and, if a release were to occur, the potential consequences are reduced through Pouce Coupé's proposed preventative and response measures and Project design. Pouce Coupé explained that, if a release were to occur, it may affect various VCs through contamination, freezing, or a

fire or explosion if the product ignites. Indigenous Peoples shared concerns about Pipeline releases and contamination, including during the oral Indigenous knowledge sessions. These concerns included how releases may affect their use of lands and resources for traditional purposes.

The Commission finds that Pouce Coupé has adequately addressed the risks to the environment associated with the potential release of product from the Pipeline, both by reducing the probability of a spill and by reducing the potential consequences if a spill were to occur. Measures to reduce these risks include designing the Pipeline in accordance with engineering requirements (e.g., CSA Z662:23); incorporating product release considerations into the determination of valve types and locations; incorporating leak detection measures into Project design; preventive planning through the Integrity Management Plan; and planning for emergencies, including through contingency plans in the EPP and Pouce Coupé's commitment to implement Pembina's Emergency Management Program. The Commission also notes that the Project would primarily transport condensate, such that environmental impacts from a crude oil release are less likely to materialize.

Further information on integrity management, valves, and leak detection is found in **Sections 7.3.1**, **7.1.5**, and **7.3.2** of this Report, respectively.

4.9. The Commission recommends two general conditions to address the Project's effects on the environment

The Commission finds that two general conditions are necessary to address the Project's effects on the environment, one related to Pouce Coupé's EPP and the other related to post-construction monitoring. These general conditions are in addition to VC-specific conditions described in the sections above. The environmental effects assessed above occur within an area where cumulative effects to Indigenous Peoples' rights are already high. While environmental mitigation measures address biophysical impacts, the Commission recognizes that these measures alone may not sufficiently address contributions to cumulative effects on section 35 rights, where the exercise of those rights depends on biophysical elements. Mitigation measures to address the Project's impacts on the rights of Indigenous Peoples are discussed in **Chapter 5**.

First, the Commission considers it necessary to impose **Condition 11** (Environmental Protection Plan), which would require Pouce Coupé to file an updated EPP for the Project. In its EPP, Pouce Coupé identified for each VC standard industry practices and avoidance measures, as well as Project-specific mitigation, that it would implement during construction and operations to address potential effects. Pouce Coupé also explained in its EPP its approach to post-construction inspection and monitoring of the condition of the RoW after implementing final measures. Pouce Coupé filed an updated EPP in its reply evidence with commitments it made during the hearing. The Commission considers this condition necessary to ensure that Pouce Coupé includes in the EPP any updated mitigation that may result from further field surveys and through ongoing engagement with Indigenous Peoples.

Second, the Commission also considers it necessary to impose **Condition 40** (Post-construction environmental monitoring reports). Pouce Coupé committed to conducting post-construction monitoring following reclamation to monitor vegetation, soils, watercourse crossings, wetlands, and wildlife habitat, to assess the success of implemented mitigation measures. To confirm that Pouce Coupé is conducting post-construction monitoring as committed to, the Commission finds this condition necessary. This condition would require Pouce Coupé to file a report after each of the first, third, and fifth complete growing seasons after Project clean-up.

5. Matters related to Indigenous Peoples

The Commission's evaluation of the Project includes an assessment of matters related to Indigenous Peoples. The Commission assessed the potential effects of the Project, including any cumulative effects, on the rights of Indigenous Peoples (see **Section 5.1**). The Commission also considered Indigenous Peoples' interests with respect to health effects, heritage resources, social and cultural well-being, and employment and economy (see **Section 5.6**).

In addition to the duty to consult and accommodate discussed in **Chapter 2**, section 56 of the CER Act requires the Commission to consider potential impacts of the Project on Indigenous Peoples' rights under section 35 of the *Constitution Act, 1982*, when making a decision, an order, or a recommendation. When considering an application for a certificate, the Commission is also required by paragraph 183(2)(d) of the CER Act to consider the interests and concerns of Indigenous Peoples, including with respect to their current use of lands and resources for traditional purposes. Additionally, paragraph 183(2)(e) of the CER Act requires the Commission, when considering an application for a certificate, to consider the effects on the rights of Indigenous Peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*.

The Commission finds that existing cumulative effects on Indigenous Peoples' rights in the Project area are high and, with the addition of the Project's residual effects, total cumulative effects would be high (adverse). The Commission also finds that the Project's potential effects on the rights of Indigenous Peoples would be of high (adverse) severity.

Given the Commission's finding of potential high severity, the Commission is of the view that additional mitigation measures are necessary to accommodate Indigenous Peoples' rights that will or may be affected by the Project. The Commission would therefore impose the following two additional conditions (**see Section 5.7**)*:*

- **Condition 39** Offset Measures Plan; and
- **Condition 17** Indigenous Project Committee

The Commission's detailed analysis is provided in the sections below.

5.1. Understanding Indigenous rights in the Project area

The Project is located entirely within Treaty 8 territory and partially within the Blueberry Claim Area at issue in *Yahey v British Columbia*.[73] The Project area also intersects with the traditional territories and areas of interest of 36 Indigenous communities and organizations who participated in this proceeding. These participants include Treaty 8 and Treaty 6 First Nations,

[73] 2021 BCSC 1287.

Métis communities and organizations, and other Indigenous communities and organizations with rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.[74]

To assess the Project's effects on Indigenous and treaty rights, the Commission considered oral Indigenous knowledge, written evidence, and argument provided by Indigenous participants, evidence and argument provided by Pouce Coupé in its Application and subsequent filings, and the CCC submissions. The Commission recognizes that it assessed potential impacts of the Project on biophysical VCs and the rights of Indigenous Peoples in separate sections of the Report. However, the Commission acknowledges that all these components are interrelated, and did not consider them in isolation, as explained throughout the Report. The Commission considered all VCs when assessing impacts of the Project on the rights of Indigenous Peoples.

5.1.1. Treaty 8 rights

The Project is located within the boundaries of Treaty 8 in northeastern BC and northwestern Alberta. In Treaty 8, the Crown and signatory First Nations agreed that those nations "shall have right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered."[75] The Commission received evidence from multiple signatories to Treaty 8 who participated in the proceeding, including Dene Tha' First Nation, Driftpile Cree Nation, Doig River First Nation, Duncan's First Nation, Horse Lake First Nation, Prophet River First Nation, Saulteau First Nations, Sucker Creek First Nation, and Whitefish Lake First Nation #459. Blueberry River First Nations did not participate in the hearing but filed a letter of comment. Where these communities described their rights under Treaty 8, it is included below.

Blueberry River First Nations stated that in Treaty 8, the Crown promised it that there would be no forced interference with its way of life based on hunting, trapping, and fishing. Blueberry River First Nations' treaty rights are protected by section 35(1) of the *Constitution Act, 1982*.

Fred Didzena from Dene Tha' First Nation provided evidence regarding what Treaty 8 entitles its signatories to:

> So the recognition has to be that Treaty 8 should not be a background piece of paper that can be shaken to – for people to see. It was at the time – our leaders, their thoughts were that this was a momentous agreement, so they – they in good faith agreed to it in 1900 in Fort Vermilion… And no longer are we able to practise what, I guess I should say, Treaty 8 promised us, that we would do what we used to do with the promise that the treaties will not be – will not affect what we used to do. We continue to do what we used to do even though we have a treaty. That is not a – that is not the case anymore.[76]

Doig River First Nation submitted that Treaty 8 guarantees the right of the Indigenous signatories "to continue a way of life based on hunting, fishing and trapping, and promises that

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74 The *Constitution Act, 1982*, Schedule B to the Canada Act 1982 (UK), 1982, c 11.

75 Treaty No. 8 made June 21, 1899, and adhesions, reports, etc., online: https://rcaanc-cirnac.gc.ca/.

76 CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), paras 280 & 289, PDF pages 40 & 42 of 47, C33800-1

this way of life will not be forcibly interfered with."[77] Doig River First Nation submitted that its members hold rights under Treaty 8 and the *Natural Resources Transfer Act, 1930*[78] (**NRTA**), recognized and affirmed under Section 35 of the *Constitution Act, 1982,* also referred to as "Treaty and Aboriginal rights."[79]

Driftpile Cree Nation submitted that its members possess both inherent Indigenous rights and Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*. These rights include the rights to hunt, fish, trap, gather, and engage in ceremonial traditions. Driftpile Cree Nation members exercise their rights across its territory, which extends throughout and beyond the boundaries of Treaty 8.

Duncan's First Nation provided evidence that Treaty 8 included several promises from the Crown to Duncan's First Nation's ancestors, including:

a) the promise to provide provisions and benefits that included reserves and land for those preferring to live off-reserve;

b) the promise that Duncan's First Nation and their descendants could continue their traditional way of life and usual vocations of hunting, trapping, and fishing; and

c) the promise that the treaty rights be protected from settler abuses.

Treaty 8 also ensured Duncan's First Nation's rights to carry out practices and activities incidental to the meaningful exercise of the treaty rights in its traditional territory, including:

a) rights of unrestricted access to preferred lands, waters, and ecosystems;

b) travel rights throughout Duncan's First Nation's traditional territory;

c) rights to access culturally appropriate land and resources;

d) rights to participate in natural resource management;

e) rights to access, gather, and use various natural resources, including plants, berries, and clean water;

f) rights to establish, maintain, and access infrastructure like trails, cabins, and camps;

g) rights to access clean water for sustaining life in and around the traditional territory; and

h) rights to access and maintain sites for cultural education.

Halfway River First Nation provided evidence that as a Treaty 8 nation, it upholds its rights to access its traditional territory and continue traditional land use practices.

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77 Doig River First Nation, Written Argument, PDF page 11 of 23, C35634-1

78 The *Alberta Natural Resources Act*, SA 1930, c 21, Alberta, is also referred to as the Natural Resources Transfer Agreement.

79 Doig River First Nation, Treaty and Aboriginal Rights Impact Assessment Study, Written evidence impact assessment, PDF page 11 of 102, C33614-2

Bruce Horseman from Horse Lake First Nation provided evidence that the nation collectively holds:

> …inherent treaty and Aboriginal rights in relation to Northwest Alberta, Northeast BC, and historical Treaty 8 area. Horse Lake First Nation community members exercise these rights and continue to use lands and resources within Treaty 8 and Horse Lake First Nation's traditional area, ranging of cultural, sustenance, economical, spiritual, commercial, and other purposes. Horse Lake First Nation Elders, community members continue to exercise inherent and treaty and Aboriginal rights throughout Horse Lake First Nation territory today.[80]

Prophet River First Nation provided evidence that "as an Indigenous Nation in Canada, it possesses inherent rights to govern itself and its lands and territories, which rights exist notwithstanding the coexistence of the laws of Canada." Prophet River First Nation provided evidence that Treaty 8 guarantees to its First Nation signatories the right and ability to continue to exercise their traditional practices of hunting, trapping, and fishing, subject only to the Crown's exercise of its right to "take up" certain tracts of land "from time to time for settlement, mining, lumbering, trading or other purposes" and to impose restrictions on the exercise of those rights for conservation purposes."[81]

Fernie May Garbitt, from Saulteau First Nations, a signatory to Treaty 8, provided the following evidence:

> And I want to say that treaty rights are number 1 in my books. I have been taught, and it has been ingrained in me, that treaty rights are very powerful and, you know – and especially our treaty in the north here, in Treaty 8 BC. It is a unique treaty because it is called the peace treaty that was signed in 1914. And it was for government and industry to share the natural resources throughout that time.[82]

Sucker Creek First Nation is a signatory to Treaty 8 and provided evidence that its members possess both inherent Indigenous rights as well as Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*. These rights include the rights to hunt, fish, trap, gather, and engage in ceremonial traditions.

Whitefish Lake First Nation #459 is an adherent of Treaty 8 and provided evidence that its members possess both inherent Indigenous rights and Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982.* These rights include the rights to hunt, fish, trap, gather, and engage in ceremonial traditions.

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80 CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1615, PDF page 9 of 46, C33873-1

81 Treaty No. 8 made June 21, 1899, and adhesions, reports, etc., online: https://rcaanc-cirnac.gc.ca/.

82 CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), para 2084, PDF pages 14-15 of 25, C33881-1

West Moberly First Nations, Tse'khene (McLeod Lake) Indian Band, and Sturgeon Lake Cree Nation are also Treaty 8 signatories identified as potentially impacted by the Project who did not describe their rights under Treaty 8 on the record for this proceeding.

Pouce Coupé stated that, while Treaty 8 does not specifically mention practices such as gathering or cultural pursuits, Pouce Coupé understands these activities to be reasonably equivalent or incidental to the expressed Treaty 8 harvesting rights, and were a means of earning a livelihood before the signing of Treaty 8 that would continue in a similar manner after the signing of the treaty.

5.1.2. Inherent section 35 rights

Indigenous Peoples have inherent section 35 rights in the Project area. Pouce Coupé acknowledged that signatories to Treaty 8 may also assert section 35 rights additional to or distinct from, their treaty rights. For the part of the Project area in Alberta, Indigenous communities that did not sign Treaty 8, or later adhesions, also have constitutionally protected rights in the Project area under the *Natural Resources Transfer Agreement*[83] to take game and fish for food during all seasons of the year on unoccupied Crown lands and on any other lands to which they have a right of access. There are no equivalent agreements that apply to the part of the Project area in BC.

Although the Project is solely within Treaty 8 territory and does not overlap with Treaty 6 territory, the Commission received evidence from Treaty 6 signatories, such as Enoch Cree Nation, Louis Bull Tribe, O'Chiese First Nation, and Whitefish (Goodfish) Lake First Nation #128, who submitted concerns with the Project impacting their rights. Pouce Coupé acknowledged that some Treaty 6 communities may exercise rights like those specified under Treaty 8 in the Project area, based on areas of interest and under the terms of the *Natural Resources Transfer Agreement*. Pouce Coupé stated its understanding that practices such as trapping, gathering, or cultural pursuits are reasonably equivalent or incidental to Treaty 6 harvesting rights, and were a means of earning a livelihood before the signing of Treaty 6, that would continue in a similar manner after the signing of the treaty.

The Métis also have section 35 rights in the Project area. The Commission received evidence from several Métis organizations about potential impacts to their rights, including the Métis Nation of British Columbia, British Columbia Métis Federation, Otipemisiwak Métis Government, and member communities of the Metis Settlements General Council, such as Kikino, Peavine, and Paddle Prairie Metis Settlements.

The Alberta portion of the Project is located within Métis Harvesting Area A under the *Métis Harvesting in Alberta Policy*, which provides Métis individuals who might have harvesting rights under section 35 of the *Constitution Act, 1982*, the ability to fish, hunt, and trap for food in provincially designated areas. Among other requirements set out in the policy, recognized Métis harvesters are those with membership in the Otipemisiwak Métis Government (formerly Métis

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[83] The *Alberta Natural Resources Act*, SA 1930, c 21, Alberta, is also referred to as the Natural Resources Transfer Agreement.

Nation of Alberta), membership with a Métis Settlement, or a statutory declaration confirming self-identification. Métis harvesters recognized by the policy may hunt for food within their designated Métis Harvesting Areas, and fish for food on specified water bodies for which they acquire a Domestic Fishing Licence, subject to restrictions on the licence. Within their Métis Harvesting Area, a recognized Métis harvester may hunt and trap for food (i.e., excluding commercial trap lines), and within that area, a Métis harvester may hunt and trap on unoccupied Crown land and other land to which they have a right of access for hunting or trapping. There are no equivalent policies for Métis communities or organizations in BC and there are no provincially designated areas for Métis harvesting within the Project area in BC; however, this does not mean that Métis communities and organizations in BC do not have section 35 rights in the Project area. Métis organizations in BC provided evidence, directly or through the CCC, that they have broadly asserted rights in the Project area.

5.1.3. Community evidence on rights and impacts

The Commission finds that Indigenous Peoples currently use the lands in the Project area and adjacent to and further away from the Project area for traditional activities, including hunting, fishing, and gathering. Throughout the hearing, a number of Indigenous communities described their rights and how they exercise those rights. The Commission finds that Indigenous Peoples provided reliable, high-quality evidence of the impacts existing cumulative effects have on their rights in their TLRU studies and oral Indigenous knowledge sessions. The consistency of this evidence across 36 Indigenous communities, multiple methodologies, and diverse territorial contexts provides sufficient confidence to the Commission that it can be relied on for the purposes of regulatory decision making and the effects assessments involved for the Project.

Communities described how they exercise their various rights, such as the right to harvest, hunt, fish, trap, gather, and engage in ceremonial traditions. Several communities also indicated that they may access their territory for camping and recreational purposes, often used in conjunction with practicing traditional ways of life. A number of Indigenous communities described the foundational importance of healthy lands and resources to their ways of life, including Blueberry River First Nations, British Columbia Métis Federation, Doig River First Nation, Duncan’s First Nation, Enoch Cree Nation, Horse Lake First Nation, Kikino Metis Settlement, Paddle Prairie Metis Settlement, Saulteau First Nations, Louis Bull Tribe, Sucker Creek First Nation, and Whitefish (Goodfish) Lake First Nation #128.

Communities also described additional rights they hold, including the right to self-determination and self-government; the right to access, own, use, and benefit from the lands; the right to mobility across territory; and the right to freely practice, transmit, and maintain culture, languages, customs, spirituality, practices, and traditions. Communities also described the right to a land base to sustain their culture, existence, spirituality, and way of life.

The Commission received evidence from multiple Indigenous participants about how they exercise or practice rights in the Project area and on the lands adjacent to and further away from the Project area. Hunting and trapping areas, traditional medicine and plant harvesting areas, water bodies, and fishing areas were key concerns in the evidence received. Several sites of spiritual or cultural importance were also identified to intersect with the RAA, though

Indigenous participants indicated that cultural values and Indigenous knowledge transmission occur across the land at any site where they exercise or practice Indigenous and treaty rights. The Commission notes the importance of traditional medicines in the Project area, particularly diamond willow fungus.

Numerous communities shared Indigenous knowledge regarding how Indigenous and treaty rights are exercised or practiced in northeast BC and northwest Alberta, including:

While conducting fieldwork for the Project, Driftpile Cree Nation participants noted signs of various small and large game animals and fish species harvested by members of Driftpile Cree Nation.

Fred Didzena from Dene Tha' First Nation also provided evidence about impacts in northeastern BC:

> And right now, we – we did have to thank Pembina. They gave us some assistance, capacity, to do our environmental assessment. In their preliminary right now, there is about 140 locations that we have identified, and the more important ones are the existing right-of-way near Road 260. It highlights how the area is used for traditional hunting, whiskey jack berries and all that found on the right-of-ways that would be destroyed because they're – the tearing and all that that is going to happen.[84]

Driftpile Cree Nation also expressed concern for the effects of development on trapping practices and explained that the reduction of the width of the pipeline may maintain the habitat of the animals to stay in that area but makes it more challenging for members to gather the animals that they require. That is because in a trapping setting, most animals follow a route that they create themselves. Development makes a new route for animals to follow, which makes it more challenging for trappers to try to maintain their livelihood which has been passed on through tradition.

Duncan's First Nation reported ancestral and current occupation and use of lands and waters along the Pouce Coupé River, and that its members hunt in the Saddle Hills area. The community has also reported hunting and gathering plants in the vicinity of the Pouce Coupé River. Duncan's First Nation noted that the ability to hunt large game is vital to the community's central socio-economic and sociocultural needs in addition to individual, family, and community wellness and cohesiveness.

Kikino Metis Settlement stated that the Project is located within Métis Harvesting Area A, an area designated for harvesting purposes under Alberta's *Métis Harvesting in Alberta Policy*. The Crown lands around the Alberta portion of the Project have been used for decades by Kikino Metis Settlement members to exercise their constitutionally protected right to hunt, fish, and gather for subsistence purposes.

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[84] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 293, PDF page 42 of 47, C33800-1

- Walter White from Enoch Cree Nation shared as follows:

  > So when I go – every time I have been up to the Saddle Hills over the past number of years, I can see the changes immensely. It is not just from a few wells or pads here, the forestry. I have seen the changes that happen on the land, you know. The water has changed. The water flow has changed, you know, where the – where the rivers go and where the creeks flow into the little lakes. And the land is different. There is not the same – the medicines don't grow in the same places. You open it up, and the sun kind of bleaches some of the places. And medicines are starting to dry up. The animals are scared off from just the amount of traffic. It is still one of the best hunting and gathering places in Alberta, but for how long? And that will all change.[85]

- Whitefish (Goodfish) Lake First Nation #128 stated it is likely that its members are currently hunting for elk in the Project area and that the Project could disturb wildlife and wildlife habitat, thereby reducing the opportunities for hunting success and potentially infringing upon its treaty rights to hunt for food. Whitefish (Goodfish) Lake First Nation #128 stated that the primary activities of its members in the area of the Project are big game hunting and gathering a relatively rare diamond willow fungus which is used in ceremony and is highly prized by community members.
- Casey Horseman from Horse Lake First Nation provided evidence:

  > And for us, I can say that us three sitting here, we love the moose meat. We love the berries that we go pick, not only going out there hunting with our families and sharing the knowledge that we have and that are handed down to us, just being with them, you know, the family bond that we get when you are going out there into the bush. But if we have nowhere to go, how are we going to continue that, you know? That is a part of our life, you know, a part of our culture that has been handed down from generations and generations. Didn't matter where we came from, if we came from Tallcree, if we came from the States, anywhere, the First Nations would come together. They still bonded the same way when they hunted and they gathered, you know. We go out there and go picking berries, a bunch of us. Everybody is sitting around just like you seen us sitting here talking and laughing, right, telling the stories. They are good stories. And they are so strong. They come from your language, you know, just like anybody speaks their own languages no matter – I don't care where you come from. Your language is really important. You should know your language. If you don't know it, learn it. You know, there is all kinds of apps out there to learn your language. That is really important. It connects you to your heritage, right. The land is our heritage. It is really important to us.[86]

- Kelly Lake First Nation indicated that its traditional territory is accessed year round for hunting, harvesting, fishing, camping, and recreational purposes. Through engagement with Pouce Coupé, Kelly Lake First Nation located a hunter hideout within the Project

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85 CER, OH-001-2024 Hearing Transcript Vol 6 (22 March 2025), para 1888, PDF page 11 of 32, C33874-1

86 CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), paras 1711-1712, PDF page 24 of 46, C33873-1

footprint and noted that these sites are often used in conjunction with practicing traditional ways of life.

- Otipemisiwak Métis Government stated that fishing is of utmost importance to its Peace River Territory citizens and citizens who are registered harvesters with harvesting rights in Métis Harvesting Area A in Alberta. Otipemisiwak Métis Government also expressed concerns related to caribou conservation and potential noise pollution in the range of animal hearing, in particular for animals relevant to subsistence hunting such as moose and elk.
- Louis Bull Tribe Elders provided evidence that, in the past, the land was used as a pharmacy, and described how, in the fall, they would stock up on medicines for the winter months. Sometimes these harvested medicines would be traded with neighbouring Indigenous communities. Louis Bull Tribe Elders shared that, currently, the lands impacted by the Project are used for harvesting wood, which is used for building sweat lodges and burning for heat; gathering medicines; and subsistence harvesting of plants and animals. Louis Bull Tribe Elder Bert Bull expressed disappointment in the clearing of lands for pipelines, since there is already limited access to timber that Louis Bull Tribe can use to heat their homes.
- Prophet River First Nation stated that its members and ancestors (collectively all First Nations in northeast BC) have used all of northeast BC to hunt, fish, trap, and live since time immemorial. Therefore, as a general principle, one area is not more important than another in scale, but all areas are important to the same scale. The loss of even one area will impact Prophet River First Nation and other Treaty 8 nations' ability to exercise their treaty rights.

The tables in **Appendix 5** summarize the evidence provided by each Indigenous community during the hearing, including about their section 35 rights, their concerns about the Project and recommendations, as well as their proposed conditions to address the Project's impacts on their rights.

5.2. Assessment methodology

The Commission applied a six-step methodology, which is similar to the seven-step methodology the Commission shared early in the proceeding, to assess the Project's effects on Indigenous rights. This methodology integrates Filing Manual guidance, which the Commission considered in light of the evidence and methodologies proposed by Indigenous participants and the UN Declaration. The assessment recognizes the interconnection between rights, environmental effects, and socio-economic conditions, and considers both technical evidence and Indigenous knowledge.

5.2.1. The Commission's approach

This section outlines the methodology used by the Commission for assessing the Project's effects on the rights of Indigenous Peoples. The methodology is based on the guidance

provided in the Filing Manual,[87] which is specific to the CER's unique regulatory context, while having similarities with other rights assessment methodologies in Canada. The Commission also invited Indigenous participants to provide evidence on their views, processes, methodologies, and protocols regarding the Commission's rights assessment methodology through the hearing process.

Many aspects of the methodologies proposed or modelled by Indigenous Peoples to assess impacts to their rights are included in the methodology set out below, even if not perfectly aligned. The evidence that the Commission evaluated using the methodology encompassed a variety of points of view and values, including those of Indigenous Peoples. The Commission recognizes Indigenous Peoples as distinct peoples with unique worldviews, and highly values the evidence submitted by Indigenous participants in this proceeding, as it provided essential context for how the Project may impact the rights of Indigenous Peoples in their own words.

The rights assessment methodology used for this Project included the following six steps:

1. Describe the Indigenous and treaty rights of the potentially affected Indigenous Peoples in the Project area and how the rights are exercised or practiced in the Project area.
2. Determine the existing cumulative effects on the rights of Indigenous Peoples in the Project area.
3. Assess and determine the Project's potential effects on the exercise of Indigenous and treaty rights in the Project area before mitigation measures are applied.
4. Assess and determine what mitigation measures need to be implemented by Pouce Coupé to avoid, reduce, or eliminate potential adverse effects of the Project on the exercise of Indigenous and treaty rights, as well as any measures that would enhance or support the exercise of Indigenous and treaty rights in the Project area.
5. Assess and determine any residual Project effects on the exercise of Indigenous and treaty rights, including their contribution to existing cumulative effects, after Pouce Coupé implements its proposed mitigation measures and any conditions the Commission recommends.
6. Determine the severity of the Project's effects on the rights of Indigenous Peoples, taking into account the existing cumulative effects and the need, if any, for additional mitigation measures to accommodate rights that will or may be affected by the Project.[88]

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87 Found at https://www.cer-rec.gc.ca/en/applications-hearings/submit-applications-documents/filing-manuals/filing-manual/

88 **Appendix 4** provides details of the Commission's overall approach for criteria, ratings, and considerations used to evaluate the severity of Project effects on the rights of Indigenous Peoples.

In its assessment of impacts on rights, the Commission describes the temporal extent, geographic extent, and magnitude of different Project effects. The temporal extent of impacts is based in part on Pouce Coupé's anticipated timing for construction and operation of the Project, as follows:

- **Construction**: Construction is anticipated to begin in Q2 2026, pending regulatory approval, and continue until Q2 2027.
- **Operation**: Once operational, the Project lifespan is expected to be 40 years.

The geographic extent of impacts refers to the spatial area over which the Project-related effect is predicted to occur. The Commission considered the same spatial boundaries as those used in the Project ESA to assess potential Project-related effects on the rights of Indigenous Peoples. These spatial boundaries are specific to different activities and can vary between different VCs. The geographic extent for the Commission's assessment of Project-related effects on the rights of Indigenous Peoples ranged from the area directly disturbed by the Project (i.e., the Project footprint) to the RAAs of the supporting VCs (e.g., aquatic resources, vegetation and wetlands, wildlife and wildlife habitat) that provide the regional context for the predicted effects of the Project on the rights of Indigenous Peoples. The approximate area of these biophysical VCs is 318,303.2 ha. Some Indigenous participants, such as Doig River First Nation and O'Chiese First Nation, identified their own VCs in their evidence. These community-identified VCs did not address aquatic resources, vegetation and wetlands, and wildlife and wildlife habitat, but instead focused on existing disturbance to the land and cultural identity elements, among other elements included in their VCs. In using these geographic boundaries, the Commission makes no assessment between the value of the VCs identified by Pouce Coupé versus the VCs identified by Indigenous Peoples. Multiple Indigenous participants filed evidence that reflected their own spatial boundaries for assessment that did not use the spatial boundaries provided by Pouce Coupé, which the Commission also considered.

The magnitude of Project impacts refers to how much or how intensely the residual Project effects may influence interactions between the biophysical and human environment and the rights of Indigenous Peoples within the temporal and geographic extents of the assessment, including whether effects will be 'adverse' or 'positive'. The Commission combined its assessment of the TLRU VC and the rights of Indigenous Peoples to consolidate and reduce duplication of information.

The Commission considered specific articles of the UN Declaration to help it understand the Project's potential effects on Indigenous Peoples' rights. The Commission understands that the Project may affect these rights by affecting Indigenous Peoples' ability to:

- transmit cultural knowledge and continue cultural practices (articles 11,12, and 13);
- the ability to maintain knowledge systems and traditional practices (articles 13 and 25);
- maintain territorial rights and relationships (articles 25 and 32);
- exercise harvesting and subsistence rights (articles 25 and 32);
- maintain spiritual and ceremonial practices (articles 11, 12, and 25); and

- avoid negative community and intergenerational impacts related to rights (articles 11, 13, and 25.

The Commission received evidence from Indigenous participants about the methodology used to assess impacts to rights, including how communities might see the assertion of their rights as being challenged or threatened. O'Chiese First Nation, for example, disagrees with the idea that if an area is considered already disturbed, the previous disturbance should function as a defence that a project can go ahead with no additional impacts to the rights of Indigenous Peoples. O'Chiese First Nation provided in its evidence details about its experiences involving information about communities providing evidence about current uses of lands for traditional purposes, and it then being "weaponized" against those same communities if it is used to conclude that if an area isn't currently identified as "used", it is not, will not, or will never be used again. Doig River First Nation provided evidence on why it did not make a distinction between current and past use for the traditional land use information collected in its written evidence, because, in Doig River First Nation's view, frequency and timing of use do not impact the existence of a right. Doig River First Nation explained that its treaty and Aboriginal rights exist throughout the areas surrounding the Project and, as these rights have not been extinguished, Doig River First Nation has the right to access these areas at any time, regardless of current or past use.

5.2.2. Integration of rights assessment with environmental and socio-economic assessment

As part of its methodology to assess the Project's impacts on rights, the Commission considered evidence from Pouce Coupé and Indigenous Peoples about the environmental and socio-economic context in which Indigenous Peoples exercise their rights in the Project area. As explained below, the Commission does not accept Pouce Coupé's characterisation in its ESA of overestimation of adverse residual effects of the Project on Indigenous rights. The Commission also has concerns with Pouce Coupé's second re-evaluation of the ESA findings, particularly the fundamental shift in the conclusions about the Project's effects on Indigenous rights based on the reduction of Crown land used for the Project.

Pouce Coupé's ESA

Pouce Coupé filed an ESA as part of its Application in which it concluded that the Project's effects on the rights of Indigenous Peoples were anticipated to be significant. Pouce Coupé re-evaluated the findings in the ESA twice throughout the hearing process. In the first re-evaluation, which Pouce Coupé filed with its supplemental evidence, Pouce Coupé assessed effects of updates to the Project footprint and confirmed the ESA's initial findings. In the second re-evaluation (the **Stantec Supplement**), which Pouce Coupé filed with its reply evidence, Pouce Coupé updated the ESA's findings based on further refinements to the Project design undertaken in response to interests and concerns shared by Indigenous communities and additional mitigation measures, and concluded that the Project's effects on the rights of Indigenous Peoples were not anticipated to be significant.

Before filing the ESA as part of the Application, Pouce Coupé gave Indigenous communities and organizations identified as potentially impacted during early engagement five opportunities over six months to provide input into the VCs and ESA as they were being developed, and two opportunities to directly review and comment on the draft ESA. In particular, Indigenous Peoples were provided opportunities to comment on Pouce Coupé's assessment of the Project's effects on the rights of Indigenous Peoples, and on the community-specific information provided by Indigenous communities and that which Pouce Coupé gathered through publicly available information. Five communities provided feedback, which Pouce Coupé confirmed it incorporated into the ESA.

Pouce Coupé stated that it used the feedback provided by Indigenous communities to inform its assessment of effects on each applicable VC in the ESA, which informed its cumulative effects assessment. The engagement between Pouce Coupé and Indigenous Peoples on the Project, including updates to the ESA and EPP, is captured in the mitigation tables. Pouce Coupé stated that the mitigation tables represent over two years of back-and-forth engagement between Pouce Coupé and Indigenous communities, and it updated the tables and sent them to Indigenous communities for review multiple times throughout the hearing. The Commission finds that the mitigation tables are accurate, relevant, and reliable in so far as they represent issues and concerns raised by Indigenous Peoples directly with Pouce Coupé and the summaries of Pouce Coupé's responses to address them. Several Indigenous participants acknowledged the mitigation tables in their own evidence and corroborated the information Pouce Coupé provided.

Pouce Coupé said that, as part of its recognition-based approach to assessing Project effects on the rights of Indigenous Peoples, its ESA considered Indigenous interests to include any matters of importance identified by potentially affected Indigenous communities. Pouce Coupé asserted that it used a conservative assumption that the exercise or practice of Indigenous and treaty rights has the potential to occur on any accessible Crown lands and waters within the RAA Pouce Coupé used to assess the Project's impacts on the rights of Indigenous Peoples, and that resources or species identified as being present near the Project could be hunted, trapped, fished, or gathered by Indigenous communities, even if Indigenous communities did not identify specific sites, areas, or resources in relation to the Project. Pouce Coupé also acknowledged that the resources that support the meaningful exercise or practice of Indigenous and treaty rights are not spatially bound by land tenure and said that it assessed the potential effects of the Project on the Crown and private lands and waters that make up the whole of the PDA, LAA, and RAA.

Pouce Coupé stated that it considered the evidence filed in the *Yahey* decision in establishing the significance threshold for its assessment of the Project's effects on the rights of Indigenous Peoples. Pouce Coupé acknowledged that applicants for projects within the Blueberry Claim Area at issue in *Yahey* may conservatively consider the effects of the Project on the exercise or practice of Indigenous and treaty rights, including Indigenous land and resource use, to be adverse and significant, owing to significantly diminished baseline conditions. Pouce Coupé further stated that comparable assumptions may be drawn from the Blueberry River First Nations' evidence in *Yahey* and extended to other Treaty 8 First Nations and Indigenous communities with established and asserted rights, given the overlap and use of shared resources and lands in the northeast BC region.

However, Pouce Coupé did not apply the same significance threshold to rating the Project's effects on biophysical VCs that support the exercise or practice of Indigenous rights (i.e., aquatic resources, vegetation and wetlands, wildlife and wildlife habitat) and explained that its assessment of biophysical VCs used regulator-defined thresholds, including relevant species and habitat-based thresholds. As detailed in **Chapter 4**, Pouce Coupé's rating for existing cumulative effects is medium (adverse) for the biophysical VCs of vegetation and wetlands, wildlife and wildlife habitat, and fish and fish habitat. Pouce Coupé explained that it applied a medium rating because, while existing cumulative effects on biophysical resources are of concern to intervenors on this Project, these resources have not exceeded any regulator-defined biophysical sustainability measures, such as a wildlife species population threshold. Pouce Coupé's ESA concluded that there is no exceedance of any established or conservation-based thresholds for the resources required for the exercise or practice of Indigenous and treaty rights (i.e., no other significant effects were identified for the biophysical or socio-economic VCs assessed in the ESA).

Pouce Coupé also did not make separate significance determinations for its assessment of the Project's effects on Indigenous and treaty rights exercised or practiced within the Project area inside or outside the Blueberry Claim Area. As described above, the interconnectedness of environmental and socio-economic effects in relation to the exercise or practice of the rights of Indigenous Peoples leads to a flexible approach to ESA and rights assessment methodologies that allows for the specifics of a proposed project to be considered. Pouce Coupé explained that different environmental practitioners will use different methodologies to assess environmental and socio-economic effects, including cumulative effects, and there is no single methodology that has been prescribed in the Filing Manual. Pouce Coupé stated that the study area boundaries used in the ESA are consistent with those used in past ESAs that the Commission has accepted, and that they provide sufficient information to allow the Commission and interested parties to understand the effects (including cumulative effects) of the Project.

Pouce Coupé's ESA stated that, through Project design and with the application of mitigation measures, including those that may be required by the Blueberry River First Nations Implementation Agreement (**Implementation Agreement**), adverse residual effects and adverse residual cumulative environmental and socio-economic effects on the VCs that inform the exercise or practice of Indigenous and treaty rights, including Indigenous land and resource use, are predicted to be not significant. However, because of the *Yahey* decision, Pouce Coupé determined that existing cumulative effects on the exercise or practice of Indigenous and treaty rights are significant (adverse) for the BC portion of the routing. Pouce Coupé further concluded that, because the majority of the Project is proposed within the Blueberry Claim Area, which has, according to *Yahey*, a significantly altered baseline, and because Pouce Coupé conducted the assessment for the Project as a whole, adverse residual effects of the Project and adverse residual cumulative effects on the exercise or practice of Indigenous and treaty rights and Indigenous land and resource use, are significant. Pouce Coupé also stated that its assessment "conservatively overestimated" adverse residual effects of the Project on the rights of Indigenous Peoples, with consideration for the interconnectedness of the effects pathways that inform the exercise or practice of Indigenous and treaty rights and Indigenous land and resource use. Pouce Coupé stated that, with the implementation of a regional cumulative effects management regime that includes mitigation measures outlined in the Implementation

Agreement and the BCER's Treaty 8 Planning and Mitigation Measures, it is predicted that cumulative effects on the exercise or practice of Indigenous and treaty rights will be reduced. Pouce Coupé further stated that in its view, with mitigation, the contribution of the Project to residual cumulative effects is expected to be low.

In the Stantec Supplement, Pouce Coupé updated the ESA findings based on further refinements to the Project design undertaken in response to interests and concerns shared by Indigenous communities and additional mitigation measures and concluded that the Project's effects on the rights of Indigenous Peoples were not anticipated to be significant. Pouce Coupé submitted that the ESA "conservatively overstated" the Project's potential to contribute to cumulative environmental and socio-economic effects, including for aspects associated with the exercise or practice of Indigenous and treaty rights, because the Project PDA that Pouce Coupé used to evaluate the area over which the Project could have effects was bigger than the Project construction footprint, which more accurately reflects the area of direct disturbance by the Project. Pouce Coupé further submitted that the Project construction footprint reflects design refinements made after the ESA was prepared, including the reduction of the Project's use of Crown land in both BC and Alberta. Pouce Coupé concluded that, as a result of these design refinements and with Pouce Coupé's commitment to additional mitigation measures, residual Project effects and residual cumulative effects on the rights of Indigenous Peoples were not anticipated to be significant.

Evidence from Indigenous Peoples

Indigenous Peoples provided evidence about Pouce Coupé's ESA, which the Commission carefully considered. The British Columbia Métis Federation expressed to the CCC its concern that the ESA failed to meaningfully acknowledge or assess the Métis presence in the Project region. It emphasized that the omission of Métis-specific traditional knowledge, land use, and cultural interests constitutes a serious gap that must be addressed. In response, Pouce Coupé confirmed that all information provided by British Columbia Métis Federation has been incorporated, as appropriate, into the ESA and associated Project planning materials. Pouce Coupé stated that its understanding of how the Project may interact with British Columbia Métis Federation is provided in the mitigation tables and includes information shared through ongoing engagement, CCC reports, and a Project-specific TLRU Report completed by the community.

Driftpile Cree Nation, Sucker Creek First Nation, and Whitefish Lake First Nation #459 jointly indicated via the CCC's Early Engagement Report that Indigenous communities would benefit from more transparency on how impacts to rights are assessed and to what degree these impacts will be addressed. In response, Pouce Coupé stated that it recognizes the importance of understanding how rights are assessed and stated that it provided a table of VCs, the preliminary potential effects and effects pathways to be assessed, and a community-specific draft assessment of the rights of Indigenous Peoples from the ESA to Indigenous communities for review and comment.

Doig River First Nation, Sucker Creek First Nation, and Whitefish Lake First Nation #459 jointly submitted their concern that the ESA did not include: i) an analysis of historical and Project-specific impacts on the rights of Indigenous Peoples as compared to, for example, a pre-Treaty baseline; or ii) a detailed and transparent assessment of the Project's disturbance on previously

disturbed and undisturbed Crown and private lands. Saulteau First Nations submitted that baseline conditions should include pre-contact/colonization conditions, while Driftpile Cree Nation indicated that the cumulative effects assessment should consider both Crown and private lands. Additionally, Doig River First Nation submitted that Pouce Coupé should have used different study area boundaries for its assessment of cumulative effects, because it is important to consider the existing state of land beyond the Project footprint when assessing the effects of the Project on the rights of Indigenous Peoples.

Saulteau First Nations questioned how Pouce Coupé determined “significance” in its ESA and stated that it had not been offered the opportunity to define the term. In response, Pouce Coupé noted that it established a significance definition following the guidance of the Filing Manual. Pouce Coupé also noted that Saulteau First Nations had not provided it with any information defining significance in the context of an environmental assessment at any of the six opportunities to provide input into the development of the ESA that Pouce Coupé offered prior to filing the Application, or during the proceeding.

The Commission has concerns with Pouce Coupé’s ESA

The Commission has concerns with Pouce Coupé’s ESA, particularly its re-evaluated findings in the Stantec Supplement. First, the Commission does not accept Pouce Coupé’s characterization of overestimation of adverse residual effects of the Project. The Commission is of the view that while Pouce Coupé characterizes its use of a larger assessment area as 'conservative,' this characterization is not persuasive as the approach only addresses the technical footprint and not rights impacts. The evidence demonstrates that in territories with existing significant and high cumulative effects where further industrial developments are likely to continue, the relevant consideration is not the geometric size of the assessment area but the Project's contribution to ongoing cumulative effects that already affect the meaningful exercise of Indigenous rights. The Filing Manual's standard methodology does not address the unique considerations and obligations arising when development occurs in territories experiencing this significantly disturbed baseline upon which further industrial development appears likely to continue.

Second, in the Stantec Supplement, a fundamental shift occurred in Pouce Coupé’s assessment of effects on Indigenous rights, as compared to the ESA filed with the Application. The ESA found significant adverse effects based on the majority of the Project being located within the Blueberry Claim Area, where cumulative industrial development had already significantly diminished Treaty 8 rights exercise. The Stantec Supplement later concluded that effects would not be significant, primarily due to Project design modifications to avoid Crown land disturbance and by applying a revised interpretation of significance thresholds that distinguish between Crown and private land impacts within the same traditional territory.

The reversal in significance conclusions—from significant adverse effects to not significant—based on design changes that reduced Crown land disturbance in BC by seven ha, and in Alberta by 27 ha, in a 318-ha project, warrants careful scrutiny by the Commission. While the technical modifications proposed in the Stantec Supplement are measurable and well designed, the binary nature of the significance change and its apparent reliance on Crown versus private land distinctions raises concerns about methodology, legal and policy implications, and

assessment consistency and completeness for future developments and projects in areas of existing high cumulative impacts.[89]

In terms of methodological concerns, the binary shift from "significant" to "not significant" based primarily on land tenure (Crown versus private) may oversimplify complex cumulative effects relationships. The Commission received evidence on the hearing record from Indigenous participants that Indigenous Peoples are not necessarily limited to public lands to exercise their rights. Indigenous communities may exercise rights across both Crown and private lands, often making the distinction rather artificial from a rights impact perspective. While the Stantec Supplement concludes that the Project's individual contribution to impacts on rights would be low, the assessment may underestimate how incremental additions to an area in which there are already high existing cumulative effects could compound existing impacts regardless of land tenure. The Stantec Supplement focuses on construction-phase effects but may not fully account for operational-phase cumulative impacts over the 40-year project lifespan in an area of ongoing industrial development.

In terms of considerations about potential completeness of the assessment, while the Stantec Supplement acknowledges that avoidance behaviors may remain post-construction, its assessment may not fully account for how industrial development on private land can perpetuate deterrent effects on rights exercise. The Stantec assessment of "low contribution" to cumulative effects may not adequately consider how the Project being added to an area in which there are already high cumulative effects on rights can disproportionately affect remaining viable areas for rights exercise. The position in the Stantec Supplement against offset requirements may not reflect relevant jurisprudence and may not account for evolving policy and regulatory expectations regarding cumulative effects in similarly diminished areas. Stantec's approach would tend to create, if accepted, what functions as a "bright line" test where significance determination hinges on Crown land disturbance rather than total cumulative effects assessment on Indigenous rights exercise. The Stantec Supplement concludes that reducing Crown land disturbance in BC from 10.6 ha to 3.6 ha, and in Alberta from 67.4 ha to 40.1 ha (a change of only 7 ha and 27.3 ha, respectively, in a 318-ha project) was sufficient to completely reverse the significance determination from "significant" to "not significant." Contrasted with the Stantec approach where significance appears to be primarily determined by one single factor (Crown land avoidance) with boundaries between public and private lands as a primary consideration, the Commission's approach considers significance based on multiple factors, including cumulative effects, community concerns, and rights exercise impacts.

In terms of legal and policy concerns, the conclusion in the Stantec Supplement that the court's findings in *Yahey* about cumulative effects do not apply to private land within the Blueberry Claim Area represents a significant interpretation and conclusion that Pouce Coupé did not

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[89] The Commission acknowledges that Pouce Coupé uses the term "significant" in the context of the *Yahey* decision in the Blueberry Claim Area without a rating of low, medium, or high. The Commission understands that a finding of "significant" does not indicate a finding of "high" significance, and acknowledges that Pouce Coupé concluded that adverse Project-related impacts on the VCs that inform the exercise or practice of rights of Indigenous Peoples would not be significant if the Project was not majority located within the Blueberry Claim Area. A finding of "significant" in this case could mean impacts more akin to low significance.

support with any legal authority or regulatory precedent. The position that the Implementation Agreement requirements primarily apply to Crown lands may not align with the Implementation Agreement's broader cumulative effects management objectives within the entire Blueberry Claim Area. The Commission notes that Project impacts to biophysical elements on private lands may also affect the exercise of rights on public lands by affecting the resources upon which the exercise of those rights depends.

The Stantec Supplement's statements and conclusions noted above represent interpretive positions on complex legal and policy questions that extend beyond traditional environmental assessment scope and may benefit from broader stakeholder and regulatory input as well as legal support and judicial consideration. The Commission does not agree with the approach or conclusions and gives this evidence low weight in light of its concerns and findings above.

While the Commission does not agree with the methodology used in the Stantec Supplement and does not accept its conclusion that the Project's effects on Indigenous rights would be not significant, the Commission concludes that reduction of the use of Crown land for the Project can tend to help reduce the Project's direct effects on, and contributions to high existing cumulative impacts on, rights, especially where Indigenous Peoples primarily or only use Crown lands to exercise their rights. However, shifting parts of the Project from Crown to private land does not eliminate the Project's effects on the exercise of Indigenous rights because the Project's effects on biophysical resources on private lands can still affect the exercise of Indigenous rights on Crown lands.

5.3. Current conditions and high existing cumulative effects

The Commission finds that existing cumulative effects on the exercise of Indigenous rights in the Project area are high (adverse). The Supreme Court of British Columbia's decision in *Yahey* established that cumulative industrial development has already significantly diminished Treaty 8 First Nations' ability to exercise their treaty rights in the BC portion of the Project area. This existing context means that additional development, including this Project, contributes to an already critical situation where Indigenous Peoples report substantial challenges in maintaining their ways of life, transmitting cultural knowledge, and exercising their constitutionally protected rights.

The *Yahey* decision is relevant to the Commission's assessment of the Project's effects on Indigenous Peoples' rights because the portion of the Project in BC passes through the geographic area that the Court referred to when considering the question of whether Blueberry River First Nations' treaty rights had been infringed by cumulative development (i.e., the "Blueberry Claim Area"). The Court found that "[t]he cumulative effects of industrial development authorized by the Province [of BC] have significantly diminished the ability of Blueberry [River First Nations] members to exercise their rights to hunt, fish and trap in their territory as part of their way of life"[90] and that "there are not sufficient and appropriate lands in the Blueberry Claim

[90] *Yahey v British Columbia*, 2021 BCSC 1287 at para 1809.

Area to allow for [Blueberry River First Nations'] meaningful exercise of their treaty rights."[91] The Court further found that, in causing and/or permitting these cumulative effects of industrial development on Blueberry River First Nations' treaty rights, the Province of BC breached its treaty obligations, including its honourable and fiduciary obligations.[92]

In response to the decision, the Province of BC and some Treaty 8 signatory Indigenous communities worked together to establish mechanisms to address, and ultimately reverse, cumulative effects in Treaty 8 territory within northeast BC (the **BC Cumulative Effects Management Regime**). However, Pouce Coupé acknowledged that, "[s]ignificant residual and cumulative effects will remain until such time that lands within the [Blueberry] Claim Area are restored and enhanced to a condition that provides for the meaningful exercise or practice of Indigenous and treaty rights."[93]

Evidence provided by Pouce Coupé and Indigenous participants demonstrates that cumulative effects on the exercise of rights continue to be high in the BC part of the Project area, and are also high in the Alberta part of the Project area. Pouce Coupé also acknowledged that there are high existing cumulative effects on the exercise or practice of Indigenous and treaty rights in the BC portion of the Project area. Indigenous participants demonstrated through their evidence that existing cumulative effects are high for the entire Project area, including for the Alberta portion.

Pouce Coupé also submitted that agriculture and forestry are ongoing land use activities in the Project area that are likely to continue into the reasonably foreseeable future. Agricultural activities are largely on private land, but forestry activities by Weyerhaeuser Company Ltd. in Alberta and forestry operators in Timber Supply Areas 40 and 41 in BC are occurring on Crown land and will continue to occur in the future within the RAA. Pouce Coupé provided evidence that at the current baseline, there are approximately 100,634 ha of upland native vegetation in the RAA (also discussed in **Chapter 4**) and that future foreseeable projects and physical activities in the RAA, including the Project, are expected to result in a loss or alteration of approximately 17,318 ha of upland native vegetation in the RAA. This change is almost entirely due to forestry activities.

The majority of the Project is within BC and subject to the existing cumulative effects regime in place in that province. Pouce Coupé noted that the eastern end of the Pipeline includes approximately 8 km of RoW on forested Green Area Crown land in Alberta, representing less than 10 per cent of the entire route. The remainder of the route in Alberta and BC (8 km and 72.5 km respectively) is almost entirely on private freehold land largely used for cultivation and tame pasture.

The Commission understands that provincial boundaries can have little meaning in the context of Indigenous and treaty rights. However, there are differences in the policies and decisions between BC and Alberta regarding provincial land use planning since Treaty 8 was signed that can also be acknowledged as affecting the landscape and resulting in dissimilarities and

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91 *Yahey v British Columbia*, 2021 BCSC 1287 at para 1894.

92 *Yahey v British Columbia*, 2021 BCSC 1287at para 1894.

93 Pouce Coupé, Appendix 1-1 ESA Sections 10-18, PDF pages 430-431 of 520, C29302-5

inequalities between the provinces. Pouce Coupé argued that the portion of the route that crosses Green Area Crown land in Alberta has been subject to different historical land management and land use processes compared with the rest of the route in BC and thus may present a different set of existing cumulative effects for biophysical VCs and TLRU.

Pouce Coupé submitted that the Project area in Alberta is also subject to ongoing natural and anthropogenic processes and activities reflective of its managed forest setting, including:

- fire and pest outbreaks;
- forest harvesting;
- other industrial activities such as oil and gas development and operation;
- recreational use; and
- traditional use by Indigenous communities.

New industrial and infrastructure activities may be developed, including pipelines, facilities, highways, access roads, power lines, and forestry in the areas surrounding the Project. Pouce Coupé identified future pipeline projects in the RAA, including Plateau Pipe Line Limited's Birch to Taylor Loop; NorthRiver's NEBC Connector Project; Westcoast Energy Inc.'s Aspen Point Program, CS1B Compressor Station, and Connector Pipeline and Powerline; and Enbridge Inc.'s Frontier Project.

For the BC portion of the Project, Pouce Coupé identified that Indigenous Peoples had a reduced ability to practice TLRU due to the dominance of private agricultural land and relative lack of resources upon which TLRU depends (e.g., hunted and trapped species). The dominance of private land also means there is much more limited access to remaining TLRU sites and resources. Pouce Coupé highlighted that this area of BC is subject to significantly altered baseline conditions for the exercise or practice of Indigenous and treaty rights, as found in *Yahey*.

For the Alberta portion of the Project, Pouce Coupé identified that Indigenous Peoples had a reduced ability to practice TLRU on the western part of the Pipeline's route in Alberta due to the dominance of private agricultural land, where there is limited availability or access to sites and resources upon which TLRU depends. Pouce Coupé noted that there is a higher ability for Indigenous Peoples to practice TLRU on the eastern part of the Pipeline's Alberta routing due to the availability of Green Area Crown land that provides access to sites and resources upon which TLRU relies. Pouce Coupé highlighted that Indigenous communities in Alberta have raised concerns with respect to loss of access to lands resulting in fewer opportunities to meaningfully exercise their rights in the Project area. The Commission finds that Pouce Coupé's identification aligns with the evidence received from Indigenous participants, which emphasized the importance of Crown lands in the Alberta portion of the Project for exercising or practicing Indigenous rights.

Pouce Coupé rated existing cumulative effects as high (adverse) for TLRU, in recognition of the *Yahey* decision. These ratings align with Pouce Coupé's ESA findings for the subject VCs. Pouce Coupé stated that its ESA methodology departs from the "approach taken in the ESA

prepared for NorthRiver's NEBC Connector Project by focusing consideration of the implications of the *Yahey* decision on the assessment of potential Project and cumulative effects on the rights of Indigenous Peoples and verifying the baselines for subject VCs separately. Pouce Coupé noted that its approach is identical to the approach taken in the ESA for the Westcoast Energy Inc. Aspen Point Program, which the Commission approved in December 2024.

Indigenous Peoples provided evidence about the high level of existing cumulative effects (the combined effects of past, present, and reasonably foreseeable projects and activities) on their rights, and the negative impacts these developments have had on their territories, way of life, and culture. Indigenous Peoples mentioned the challenges associated with practicing or exercising their rights across BC and Alberta due to the anthropogenic disturbances to the land restricting access for Indigenous Peoples or making the environment unsuitable for the exercise or practice of rights.

Indigenous Peoples mentioned that existing agricultural conversion, residential development, linear development, and industrial activities (e.g., forest harvesting, and oil and gas development) within the RAA and within Treaty 8 territory have reduced the extent of accessible Crown lands available for accessing resources or areas, restricted access to areas of cultural importance and preferred areas, and changed conditions, such as air quality and noise, that may deter Indigenous land and resource users from accessing resources or areas for current use. Existing RoWs, cutlines, and other linear disturbances have also facilitated access to the area for recreational land users, which multiple Indigenous participants raised as a concern.

In relation to Crown to private land conversion effects, with 86 per cent of the Project on private agricultural land, the Commission received evidence about how land tenure compounds access restrictions. Casey Horseman of Horse Lake First Nation stated "the farmland that is there nowadays is affecting our treaty rights big time...we can't hunt because now it is considered private land."[94] O'Chiese First Nation submitted that requiring permission to access occupied Crown lands violates their inherent rights and natural laws. These tenure-based restrictions are permanent, making the Project's 40.1 ha disturbance of Crown land in Alberta particularly significant for rights exercise. While construction restrictions are temporary (12 months) and Pouce Coupé is not purchasing any Crown land to convert to private land for the Project, the effects of past private land conversion can restrict Indigenous Peoples' access to the resources involved in or required for the exercise of Indigenous and treaty rights, compounding the high existing cumulative effects on the environment which, in turn, can have impacts on the rights of Indigenous Peoples.

Blueberry River First Nations submitted that industrial development in the Montney Basin has negatively impacted their treaty rights. Blueberry River First Nations commented that it has experienced extensive industrial development in its territory, particularly from oil and gas activity. Blueberry River First Nations stated "[t]his industrial development proceeded without accounting for its cumulative effects on the exercise of our treaty rights. The pace, scale, and

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[94] CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1646, PDF page 13 of 46, C33873-1

manner of development in our territory ultimately forced us to go to court to have our treaty rights and way of life protected."[95]

The Commission was compelled by Blueberry River First Nations' submission, particularly as it pertains to the Peters Report discussed in **Chapter 3**. The Commission has determined that the Peters Report made several key assumptions about continued development in the northeast BC area that may not fully account for potential Indigenous rights impacts. When considering the Peters Report in the context of Blueberry River First Nations' concerns raised in their submission, the Commission finds that the report provides evidence supporting Blueberry River First Nations' concerns. The scale of development forecast shows continuous, intensive development for 40 years.[96] This potentially significant development could or may occur in the area as Blueberry River First Nations suggests, and there is a degree of uncertainty with the forecasts because of the 2023 BC Agreements. The Commission acknowledges this potentially significant development and it is a factor that the Commission considers in its analysis that follows regarding severity, proposed mitigations, and any further mitigation that the Commission may require to accommodate the rights of Indigenous Peoples.

Other Indigenous communities also expressed concerns regarding continued development in their territory. Duncan's First Nation provided evidence that the cumulative effects of industrial development have severely impacted Duncan's First Nation's territory and rights. The encroachment of industrial activities has led to significant environmental degradation, loss and fragmentation of lands, and the disruption of cultural practices that are integral to Duncan's First Nation's identity. Duncan's First Nation stated that provincial and federal government inaction has compelled it to bring a legal claim against the government of Alberta relating to the failure to address the cumulative effects that continue to threaten the Nation's survival. Duncan's First Nation also provided evidence about its efforts to address cumulative effects in its territory, including how in February 2025, it submitted a formal request to the Minister of Environment and Climate Change for a regional assessment of the Montney Basin and adjoining hydrocarbon basins in northwestern Alberta. Duncan's First Nation also provided evidence that, despite Duncan's First Nation raising concerns about cumulative effects multiple times, no Crown representative has engaged with Duncan's First Nation about the Project's potential to contribute to cumulative effects.

Duncan's First Nation expressed concern that activities during construction of the Project such as vegetation clearing, excavation, grading and other activities that result in alteration or loss of forest and wildlife and fish habitat could potentially contribute to wildlife decline, habitat loss, water and air pollution, and climate change. All of these impacts cumulatively make harvesting and other cultural practices more difficult for Duncan's First Nation community members. This in turn could affect Duncan's First Nation's ability to pass on traditional knowledge and cultural practices to future generations, which poses a serious threat to its culture, identity, and continued survival. Duncan's First Nation relies on water bodies for fishing and ceremonial practices and has already experienced adverse effects on water quality and availability for these cultural purposes. Duncan's First Nation continued that the "Project is proposed in an already-

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95 Blueberry River First Nations, Letter of comment, PDF page 2 of 5, C33621-1

96 Pouce Coupé, Peters Report dated April 2024, Application Appendix 3-1, PDF pages 30-33 of 246, C29302-17

compromised territory and DFN's ever-shrinking land base on which to exercise rights. The Project's direct, indirect, and cumulative impact contributions will make the situation worse — not better — for DFN community members."

Fernie May Garbitt of Saulteau First Nations provided evidence about the experience of cumulative effects from the perspective of a rightsholder, working with her Nation, participating in the process as a part of its governance structure and with knowledge of its protocols relative to these matters:

> And I want to say that, you know, no disrespect to the government, but you have allowed industry to rape and pillage our lands for many decades. And it is, you know – and our people have suffered in many ways. You know, our land has been taken away from us. You know, there is social impacts that are – impede on our people. So, you know – so all these stuff that, you know, the government should have done has – it has flawed us in a way.[97]

She further stated:

> You know, government and proponents have a good relationship always because it is economy. It is funding. It is what is good for the economy, what is good for the people. But, you know, I feel like the CER government needs to say no sometimes to some of these projects. We have enough pipelines in Treaty 8, BC, in the north. We have got enough, you know. And we – now we are having to deal with two pipelines back to back, and that is this pipeline and the Sunrise with Enbridge as well. And they were both submitted at the same – almost the same time, and now we are sitting here, and we are having to go through the process back to back with both these projects. And it is – I will tell you it is a lot of work.[98]

Louis Bull Tribe submitted that, despite the Project's proposed location within Treaty 8 territory, the Project area is regularly used by its members when exercising their rights. This is due to the near complete depletion of the ability of members to exercise their rights in Treaty 6 territory. Elders stated that the Project area is a highly valuable and well-used harvesting location, and that members maintain active year-round land use. Louis Bull Tribe submitted that as southern lands accessible for cultural practices become more scarce and depleted, more Indigenous people must travel further and further north for the exercise and practice of rights. This causes many areas and medicines like diamond willow fungus to become over harvested and it takes a long time for medicines to grow back. Indigenous People are forced to compete for dwindling cultural resources, causing many to become protective and secretive of their favourite harvesting locations.

Louis Bull Tribe stated that it is concerned about the increasing limitations on its ability, and the ability of other Indigenous nations, to meaningfully exercise their rights. The impacts of cumulative effects on Treaty No. 6 territory mirror the pace and scale of development within

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97 CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), para 2084, PDF page 14 of 25, C33881-1

98 CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), paras 2091-2092, PDF page 16 of 25, C33881-1

Treaty No. 8 territory, in which the Project is proposed. Louis Bull Tribe has intervened in this Project's hearing to ensure that what has happened in Treaty No. 6 territory does not also happen to Treaty No. 8 territory, which members rely on to exercise their rights. As well, Louis Bull Tribe seeks to ensure that the Project's impacts on its members' rights are avoided and mitigated and, if complete avoidance or mitigation is not possible, that the Project's residual contribution to cumulative effects is properly offset.

Louis Bull Tribe further noted the importance of water and the fact that the Project is proposed to be constructed and operated within a water system that is vital to Louis Bull Tribe's continued exercise and practice our people, because "the Government of Alberta passes along cumulative impacts to land use planning to address."[99]

The preliminary findings of Saulteau First Nations' TLRU study point out that members are finding it increasingly difficult to practice their Treaty Rights within their Territory due to issues around habitat fragmentation, contamination from industry, and the decreased abundance, health, and diversity of wildlife, conditions which have been accumulating over decades of development. While Pouce Coupé cannot singlehandedly address these concerns, Saulteau First Nations wishes for acknowledgement that this project is being built upon Saulteau First Nations Territory which is already experiencing an accumulated state not representative of Saulteau First Nations' definition of baseline or Saulteau First Nations' vision of an integrative state in which development can co-exist on the landscape with Rights intact. Saulteau First Nations' is currently participating in hearings such as these and working toward land use planning, post-*Yahey*, to address and define this for the future.[100]

Fred Didzena of Dene Tha' First Nation provided oral Indigenous knowledge, which included evidence about the challenges of cumulative effects from multiple industries over multiple years, stating that in Alberta, in the Nation's traditional territory,

> …close to where we are, 10 percent of all the oil wells in Alberta, oil and gas wells in Alberta is in our traditional territory. That is a lot. And we have over 63,000 kilometres of legacy cut lines from the 50s, 60s, 70s whereby they went down to clay so that they would have a base, a firm base. Nothing grows on those cut lines because of compaction. And those are the things that we are living with right now.[101]

Doig River First Nation provided evidence about historical impacts on their ability to exercise their treaty rights. Treaty No. 8 limited Doig River First Nation's ability to manage its resources including harvesting and trade. "Further, implementation of the Settlement Act in 1912 opened the Peace River region for European settlement. As the region was increasingly given over to agricultural development, the Danezaa Territory was eroded and [Doig River First Nation's] ability to harvest and maintain their seasonal round was greatly diminished".[102]

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99 CER, OH-001-2024 Hearing Transcript Vol 3 (19 March 2025), para 735, PDF page 32 of 53, C33832-1

100 Saulteau First Nations, Motion Chart, PDF page 3 of 17, C33157-1

101 CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 738, PDF pages 44 of 47, C33800-1

102 Doig River First Nation, Written Evidence Impact Assessment, para 1129, PDF page 20 of 24, C33614-2

Numerous Indigenous communities raised concerns regarding the impacts of industrial development on Indigenous land use. These included increased travel times to access traditional resources and disruptions to cultural practices. The Commission received submissions from Indigenous communities including Driftpile Cree Nation, Enoch Cree Nation, Horse Lake First Nation, Kelly Lake First Nation, and Peavine Metis Settlement.

Gabe Isadore from Driftpile Cree Nation shared:

> I will be talking about hunting in the area, harvesting. And it has been changing drastically over the last few years, a number of years. As my Elders are also talking about habitat change, it comes with the animals moving away, like George said, and it is getting harder and harder to find these animals….we travel further, and it is more and more – in order to get away from home, we travel further to go and harvest what we need.[103]

Walter White from Enoch Cree Nation stated:

> You know, we can't – I can't go and pick that medicine by the river because they built a tower there, a – there is housing there now. I just can't go in somebody's backyard and – because they planted by a lawn, and those berries aren't there anymore. I can't – so we have to go travel out more, and so now in – so we start going out west or whichever way you go, and then you start finding little patches of berries or these medicines or these roots that you are looking for. You have to travel further and further away.[104]

Bruce Horseman from Horse Lake First Nation submitted:

> Because I remember back in the day going medicine picking with my grandparents, and it was a relatively short drive. And now it is basically – all we could find around our area is diamond willow fungus, which is starting to be short too now. And to find any other medicines, we are travelling days.[105]

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[103] CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), paras 375-376 , PDF page 13 of 37, C33815-1

[104] CER, OH-001-2024 Hearing Transcript Vol 6 (22 March 2025), para 1992, PDF page 27 of 32, C33874-1

[105] CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1620, PDF page 26 of 47, C33873-1

Peter Joachim from Horse Lake First Nation said:

> The hunting is getting to be scarce too with this – all this activity of forestry and the oil industry where the access is so easy now. Where we had to travel, we called the tower, take two days to get there through wagons to an old seismic line. Now today, you could get there in, what, 45 minutes.[106]

Mark Anielski, a consultant for Kelly Lake First Nation, provided:

> In my work, I often try to calculate what that opportunity cost is – as I call them, opportunity costs – of additional effort to go further afield to hunt and fish and realize the treaty benefits which were meant – I guess the spirit was to enjoy, right, those lands and wildlife et cetera and so to try to calculate what is that marginal cost of extra fuel, extra travel distance, right, all that extra effort that resulted primarily because of the damages incurred in terms of industrial footprint or loss to wildlife habitat and integrity that have now precluded those benefits.[107]

Greg Gauchier from Peavine Metis Settlement stated:

> Now it is changing. But how do we quantify, how do we – how do we show that it has changed, and why it has changed? And can it be protected? Can it be put back in some way that it was that way back when my kokum would tell me the stories of where they fished and where they hunted and where they gathered and where they got their medicines.[108]

5.4. Project effects analysis

The Commission finds that the Project will impact the rights of Indigenous Peoples through four different effects pathways. The Commission further finds that, even with Pouce Coupé's proposed mitigation measures and the conditions the Commission finds to be necessary to reinforce those mitigation measures and commitments made by Pouce Coupé, there will be residual impacts.

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106 CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1635, PDF page 26 of 47, C33873-1

107 CER, OH-001-2024 Hearing Transcript Vol 9 (19 June 2025), para 3389, PDF page 61 of 101, C35247-1

108 CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 168, PDF page 26 of 47, C33800-1

5.4.1. Potential effects pathways

The Commission finds that there are four pathways through which the Project may affect Indigenous Peoples' rights. These pathways are described in **Table 5-1**:

Table 5-1 – Potential effects and effects pathways on the rights of Indigenous Peoples

Potential effect	Effect pathway
Change in the quality, quantity, or distribution of resources involved in or required for exercise of rights	• Alteration of the quality, quantity, or distribution of harvested resources (e.g., vegetation clearing that leads to a loss of medicinal and ceremonial plants and then leads to the disruption of cultural practices, water quality changes that leads to a loss of ceremonial water sources and then impacts spiritual practices, soil disturbance that alters plant communities and then impacts the availability of traditional food and medicine) • Alteration of habitat supporting harvested resources (e.g., habitat fragmentation that that reduces wildlife availability and then impairs harvesting rights) • Alteration of harvesting methods, timing, or seasonality • Sensory disturbance, which influences the conditions for use
Change in access to the resources used or required to exercise rights	• Alteration of access routes • Alteration of ability to travel to or through preferred use areas • Increased access by non-Indigenous harvesters or land users • Disruptions associated with Project workforce • Sensory disturbance, which influences the conditions for use or access
Change to specific areas of cultural importance where rights are exercised	• Alteration to harvesting, habitation, and cultural or sacred locations or areas • Sensory disturbance, which influences the conditions for use
Change to cultural traditions, laws, and governance systems that inform the manner in which rights are exercised	• Alteration of access to land • Alteration to cultural transference opportunities • Alteration to decision making abilities regarding land • Alterations to community conditions associated with Project workforce

These pathways reflect that the rights of Indigenous Peoples and biophysical and socio-economic elements are interconnected. The Commission acknowledges that, when assessing potential Project effects on the rights of Indigenous Peoples, there is overlap and interconnection between potential effects on the rights of Indigenous Peoples (e.g., hunting, trapping, fishing, and undertaking cultural pursuits), and potential effects on environmental and socio-economic VCs. **Table 5-1** above describes the potential effects and the effects pathways that the Commission considered in assessing the effects of the Project on the rights of Indigenous Peoples. A Project effect is a potential interaction between the Project and the biophysical and human environment. An effects pathway describes how the Project could affect one or more elements of the biophysical or human environment, which could in turn affect the

rights of Indigenous Peoples. The Project's effects on biophysical VCs are described in **Chapter 4**, and the Project's effects on socio-economic VCs are described in **Section 5.6** and **Chapter 6**. The Commission's findings about residual effects through each of these four pathways are explained in **Section 5.4.4** below, following the discussion on mitigation measures in **Section 5.4.3**.

5.4.2. Mitigation measures

This section describes Pouce Coupé's proposed mitigation measures, Indigenous Peoples' comments and recommendations on mitigation measures necessary to address the Project's impacts on their rights, as well as the Commission's recommendations as to which conditions it finds necessary to address impacts to Indigenous Peoples' rights. The mitigation measures discussed in this section are in addition to mitigation measures the Commission would impose to mitigate environmental impacts or other Project impacts, as discussed throughout this Report.

Pouce Coupé applied the mitigation hierarchy to address the Project's impacts on the rights of Indigenous Peoples

Pouce Coupé described how it applied the mitigation hierarchy to reduce the effects of the Project, as follows:[109]

- avoidance (e.g., siting the Project largely on private lands that are already disturbed, such as by agriculture; avoiding high value or sensitive areas or features identified in documents such as the Implementation Agreement, the Consensus Document, and BCER's Treaty 8 Planning and Mitigation Measures; avoiding disturbance to Crown lands available and suitable for the exercise or practice of Indigenous and treaty rights and Indigenous land and resource use to the extent possible);
- minimizing (e.g., by reducing overall Project footprint size through design measures, such as paralleling existing linear disturbances, using trenchless methods for most watercourse crossings, and using existing access);
- minimizing potential effects through Project-specific mitigation measures (e.g., by conducting additional pre-construction surveys for specific features and resources identified as culturally important by Indigenous communities, developing site-specific mitigation in response to engagement with Indigenous Peoples, and measures such as pre-construction harvesting for interested Indigenous Peoples); and
- restoration and reclamation (e.g., by applying an approach of replacing "like with like" for riparian vegetation and allowing 75 per cent of the Project construction footprint to naturally revegetate, be reclaimed [e.g., riparian areas on Crown land], or return to prior uses [e.g., agriculture]. Of the total Project footprint [318 ha], the area of undisturbed Crown land, and of undisturbed private land, that will undergo vegetation maintenance

[109] The mitigation hierarchy is discussed in further detail in **Chapter 4**.

on the 10 m-wide cleared RoW and not be allowed to naturally regenerate during operations is approximately 6 ha in BC and 6 ha in Alberta).

Pouce Coupé proposed mitigation measures in the Application to address the Project's effects on the rights of Indigenous Peoples and proposed additional mitigation measures and Project design updates throughout the hearing in response to concerns raised by Indigenous Peoples, as described below.

Mitigation measures Pouce Coupé proposed in the Application

Pouce Coupé used a standard mitigation measure to avoid potential impacts to the rights of Indigenous Peoples by routing the Project parallel to existing linear disturbance, as well as siting the Project to cross private agricultural land. Pouce Coupé explained how, compared to greenfield routing, paralleling tends to reduce habitat fragmentation and new edge creation, and also reduces risk to sensitive environmental and cultural resources. Concentrating development in common corridors can enable large patches of undisturbed "core" habitat to be avoided; such patches may be critical to the persistence of certain species, including many species at risk. Routing beside existing linear disturbances also tends to minimize impacts to other land uses such as agricultural or forestry operations, or to urban areas. By routing the Project adjacent to existing disturbances, Pouce Coupé is also able to reduce the new disturbance footprint by co-locating the TWS within areas of previous disturbance and using existing access developed by past developments. Co-locating facilities by paralleling also brings efficiencies and reduces disturbance during operations and maintenance by, for example, reducing the amount of operational access that has to be maintained compared to nonparallel routes. Pouce Coupé submitted that, by selecting this route, the Project will also not contribute to the fragmentation of previously undisturbed lands.

As part of the mitigation measures for the Project, Pouce Coupé committed to adhere to the requirements of the BC Cumulative Effects Management Regime and to work with Indigenous communities not party to discussions with the Province of BC but who hold or assert rights in the Project area to identify and address outstanding issues. As new priority areas, interests, required mitigation measures, and restoration funding requirements are identified, Pouce Coupé committed to integrating the applicable requirements into Project planning. Pouce Coupé stated that, with the implementation of the BC Cumulative Effects Management Regime's restoration work, caps on new development, and mitigation measures for new disturbance, it expects existing cumulative effects in Treaty 8 territory in BC to decrease over time. Pouce Coupé did not provide a timeframe for when it might expect existing cumulative effects to be measurably reversed (decreased) within Treaty 8 territory in BC. Pouce Coupé provided evidence that it designed the Project with consideration for the caps on New Disturbance that may be required within the Blueberry Claim Area, and stated that it is not opposed to a condition requiring it to notify the CER that it has received a New Disturbance allocation under the *Treaty 8 Planning and Mitigation Regulation*, or an exception to the requirement. Pouce Coupé stated that it will also consider participation in regional cumulative effects initiatives as they are established.

Multiple Indigenous communities expressed concern that the BC Cumulative Effects Management Regime does not consider their views, including British Columbia Métis

Federation, Duncan's First Nation, Doig River First Nation, Foothills First Nation, Kelly Lake First Nation, Métis Nation British Columbia, and O'Chiese First Nation. In contrast, Prophet River First Nation provided evidence that "[t]he mitigation measures set out in the Implementation Agreement are currently the highest regulatory standard within Treaty No. 8 Territory for avoiding and mitigating the impacts of industrial development to the environment and to First Nations' rights." Prophet River First Nation further provided evidence that

> [t]he Commission should recommend that those measures be applied to the entire Project and its right of way, regardless of whether a particular site is located within or outside the Blueberry Claim Area. Such measures would ensure that the entire Project is held to the highest possible standard in its regulation and provide significant assurance to Prophet River First Nation] that the Project's contributions to cumulative impacts are likely to be adequately managed.

Other Indigenous participants expressed that Pouce Coupé's incorporation of the BC Cumulative Effects Management Regime measures could be improved by being applied to the Alberta portion of the Project as well as BC.

The Commission understands that the BC Cumulative Effects Regime applies to the lands and waters within Treaty 8 territory in BC generally. On this basis, in the Commission's view, any improvements to lands and waters impacted by development that are achieved through the BC Cumulative Effects Regime would be realized by all Indigenous Peoples who use those lands and waters to exercise their rights. The Commission recommends imposing **Condition 19** (New disturbance allocation), which would require Pouce Coupé to confirm, before it starts construction, that it has received a New Disturbance allocation or a waiver or modification from the requirement. Under the Province of BC's *Treaty 8 Planning and Mitigation Regulation*,[110] a company that applies for a provincial permit or authorization for an oil or gas project on Crown land must also obtain a "New Disturbance" allocation for that land, or a waiver or modification to the requirement. This requirement applies within the part of the Project area located in BC. The Commission recognizes that the effect of this requirement is to limit areas of Crown land within Treaty 8 territory in BC that are newly disturbed by development.

Pouce Coupé submitted that it would implement established general environmental protection measures and practices, along with Project-specific mitigation measures outlined in the EPP, to avoid or reduce potential effects on the rights of Indigenous Peoples and Indigenous land and resource use.

General mitigation and enhancement measures from Pouce Coupé's EPP

In addition to the mitigation measures in the EPP to address impacts to biophysical resources, Pouce Coupé committed to implement the following mitigation measures to reduce the potential adverse effects of the Project on the exercise or practice of Indigenous and treaty rights.

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[110] BC Reg 146/2023.

Prior to construction:

- Provide potentially affected Indigenous communities with the Project construction schedule and maps.
- As required by agreements, notify and work with Indigenous communities who have expressed an interest in harvesting plants along the RoW before construction to ensure safe access for these activities.
- Notify registered trappers at least 10 days prior to construction or as otherwise agreed to directly with Indigenous communities.
- Notify potentially affected stakeholders (e.g., guides and outfitters) and disposition holders two weeks prior to construction.
- Implement enhancement measures to support, improve, or provide benefit to the rights exercised by Indigenous Peoples in the Project area according to Pouce Coupé's policies and procedures. These measures commit Pouce Coupé to working with Indigenous Peoples to identify and support opportunities in training, education, employment, and community economic development. These measures also encourage diversity, inclusion, and fair employment and contracting.
- Maintain an updated list of Indigenous businesses and their capacity and capabilities for the Project. This will be done through engagement with Indigenous communities to collect, verify, and validate business information on an ongoing basis. In accordance with its Indigenous & Tribal Relations Policy, Pouce Coupé will develop an Indigenous Participation Plan for the Project. The Indigenous Participation Plan is intended to provide training, employment, and contracting opportunities for interested Indigenous groups potentially affected by the Project. The majority of opportunities for contracting and employment will occur in the construction phase of the Project; however, Pouce Coupé will seek to provide economic opportunities for local Indigenous communities throughout all phases of the Project, where possible.

Prior to land clearing and site preparation:

- Provide environmental inspection staff with relevant results of pre-construction surveys, if required, identifying known locations of environmentally sensitive or culturally important features (e.g., active nests, rare plants, amphibian habitat, and riparian zones). Flagging, fencing, signage, or other methods will be used to identify and protect particularly sensitive features in the field.
- Provide training and orientation to all Project-related personnel, including all visitors to the construction site and RoW prior to site entry. Pouce Coupé would develop an environmental orientation and cultural awareness training that would be delivered to ensure that all Project-related personnel, including all visitors to the construction site and RoW, are informed of Project-specific environmental requirements and sensitivities, before being allowed access to the Project site. The orientation would include the following:

- procedures that would be followed if an environmental feature and/or Project-related sensitivity is encountered;
- emergency response plan (**ERP**) procedures should an emergency, spill, accident, or unplanned event occur during construction;
- expectations for Project-related personnel behaviour and conduct during construction;
- information regarding health, safety, security and cultural sensitivity;
- information about wildlife concerns, including “bear awareness”, timing restrictions for sensitive wildlife and wildlife habitat; and
- information about access routes, vehicle and equipment cleaning prior to entry, and expectations regarding safe vehicle operation.

During construction:

- Restrict all construction activities to the approved construction footprint.
- Post signage to discourage unauthorized public access onto the construction footprint during construction.
- Restrict construction traffic to and from the site to approved access routes or consider alternative routes to reduce travelling near residences.
- Expect Project traffic to adhere to posted speed limits, traffic regulations, and road closure notices in BC and Alberta, as well as applicable Project-specific safety requirements.
- Where practical and applicable, use multi-passenger vehicles for the transport of crews to and from job sites to reduce the number of vehicles on local roads during construction.
- Prioritize the use of existing public roads, private roads, and industry roads (e.g., logging, oil and gas facilities).
- Take reasonable measures to control construction-related noise near residential areas.
- Reduce idling of equipment, where possible.
- Confirm all environmental features and check flag and signage before any proximity disturbances (e.g., topsoil stripping). Maintain the flagging and fencing during all phases of construction.
- Collect and dispose of all construction waste materials (hazardous and nonhazardous) and unrecyclable debris at an approved facility. Waste will not be disposed of in the trench.
- Prohibit Project personnel from hunting or fishing on the construction footprint and from harassing, feeding, collecting, or possessing wildlife species.

- Implement the measures to mitigate effects on the resources relied upon for the exercise and practice of Indigenous and treaty rights that are provided in the EPP.
- Undertake ongoing engagement with potentially affected Indigenous communities to follow up on any unanticipated issues or concerns.
- Monitor water quality (turbidity) during pipeline watercourse crossing construction where water is present at time of crossing. Pouce Coupé will engage with Indigenous communities on an updated draft of the Water Quality Monitoring Plan contained in the EPP before filing a revision with the CER.
- Apply a restoration approach of replacing “like with like”. In riparian areas, this may include live plant staking in locations where willows or other shrubs are present prior to construction that could be salvaged. Pre-existing shrubs or willows indicate that the habitat may be conducive to re-establishment with live staking.

Following construction:

- After the Pipeline has been buried, reclaim the Pipeline PDA and install rollback for access control, where applicable.
- Remove Project-related access restrictions following completion of construction.
- Allow vegetation to regrow across most of the construction footprint (aside from a 10 m-wide strip over the pipeline).
- Restrict activities associated with the operation of the Pipeline, when required, to the RoW.
- Limit activities during operation to infrequent, small-scale maintenance activities, such as integrity digs and vegetation management (i.e., approximately 10 m-wide area over the Pipeline), for which Pouce Coupé would submit notifications to the CER in accordance with the *Operations and Maintenance Guidelines*.
- Notify landowners and occupants in the event that there is a need for re-entry post-construction.

Pouce Coupé said that it does not expect any additional effects on land use during operation of the Pipeline, or any increases in sensory disturbance because of operation of the Pipeline. To reinforce Pouce Coupé’s commitment to facilitate pre-construction traditional plant harvesting, the Commission would impose **Condition 20** (Pre-construction harvesting report), which is intended to provide the Commission with confirmation to the extent possible that Pouce Coupé has addressed concerns regarding pre-construction harvesting and has where possible facilitated access for harvesting.

Project-specific mitigation measures

As one of Pouce Coupé’s key mitigation measures, traditional use sites or features that require site-specific mitigation will be incorporated into the EPP and environmental alignment sheets. As discussed in **Section 4.9**, the mitigation measures that Pouce Coupé will apply to the Project

would be outlined in the EPP, which is required to be filed with the CER prior to construction, pursuant to **Condition 11**. The inclusion of traditional use sites or features that require site-specific mitigation in the EPP and the environmental alignment sheets is a key mitigation measure for potential effects to the rights of Indigenous Peoples because, once a site or feature is identified and included in the EPP and environmental alignment sheets, Pouce Coupé can ensure that the necessary mitigation measures are implemented once construction activities begin. Pouce Coupé explained that the purpose of the environmental alignment sheets is to locate site-specific features of concern to Indigenous Peoples and the corresponding mitigation, as informed by the EPP's Resource Specific Mitigation Tables. The Resource Specific Mitigation Tables will correlate source information to the sites or features identified by potentially affected Indigenous communities, as applicable. Pouce Coupé noted that data reconciliation is ongoing, as additional field verification may be required, and will be available within the EPP filed prior to construction.

Pouce Coupé provided evidence that if Indigenous communities identify specific areas of cultural importance that have the potential to interact with Pipeline construction, Pouce Coupé would engage in discussions with the appropriate Indigenous communities regarding the development of site-specific mitigation measures. These could include avoiding a site by narrowing or rerouting the construction footprint, relocating the site or feature, or other measures as appropriate based upon the particular circumstances and discussion with the potentially affected Indigenous communities. Specific areas of cultural importance that require additional, site-specific mitigation would be included in the EPP filed prior to construction. Specific areas of cultural importance would not be directly affected by construction activities unless they occur in the PDA. In the event that Indigenous or traditional land use sites or features not previously identified are found on the construction footprint during construction, the Cultural Resource Discovery Contingency Plan would be implemented.

The Commission did not receive any evidence that there are specific sites of cultural importance that would be permanently altered or destroyed by the Project and is satisfied with the approach Pouce Coupé has taken to avoid or reduce the effects of the Project through its Project planning and engagement with Indigenous Peoples. The Commission acknowledges Pouce Coupé's commitment to discuss the development of site-specific mitigation measures with Indigenous communities, including the potential to reroute or narrow the construction footprint or relocate the site or feature of concern. The Commission finds the proposed mitigation to be appropriate for the scope and scale of the Project. The Commission also reminds Pouce Coupé of its commitment to consult with interested Indigenous communities before construction about the content of its cultural awareness training.

The Commission acknowledges that 21 community-led TLRU studies were completed and shared with Pouce Coupé to identify the specific features and resources of interest to communities, and to ensure that they are represented in the EPP and environmental alignment sheets to be protected during construction. The Commission finds that this process is an important step for Pouce Coupé to be able to identify additional modifications and mitigation measures that minimize the Project's potential to adversely affect the exercise of treaty and Indigenous rights. The Commission also acknowledges that most of the TLRU sites identified by Indigenous communities and organizations on the record for this proceeding either did not include specific locational data or were identified to be outside the RAA. The Commission notes

that Pouce Coupé requested further information from communities who provided evidence (both oral and written) of this type and received responses that were generally off the public record. Pouce Coupé committed to working with Indigenous communities and organizations to determine whether those sites shared on the record will, in fact, be affected by construction and, if so, what mitigation would be appropriate. As part of its ongoing operational responsibility, Pouce Coupé committed to continue to evaluate and assess additional TLRU information as it is made available by Indigenous communities and to document and address, where feasible, Indigenous knowledge information and related concerns identified by Indigenous communities. Pouce Coupé's engagement efforts, which included dialogue on the TLRU study scope, led it to propose mitigation measures for TLRU for the entirety of the Project area.

Pouce Coupé committed to continuing its engagement with Indigenous Peoples, including with respect to outstanding community-led TLRU studies. If the Project is approved, and prior to construction, the Commission would impose **Condition 13** (Outstanding Indigenous-led traditional land and resource use studies). The Commission is of the view that this condition would provide a necessary update on how Pouce Coupé has incorporated the Indigenous knowledge it has received into the Project and how Pouce Coupé has addressed any new concerns raised, including responses to specific recommendations made by Indigenous communities within the studies.

Evidence from Indigenous communities about mitigation measures to address the Project's effects on their rights

During the hearing, Indigenous communities provided evidence about the mitigation measures Pouce Coupé proposed in the Application, as presented below. Pouce Coupé responded to concerns raised with further explanations about its proposed mitigation measures, and by proposing updates to the Project design and additional mitigation measures, as discussed later in this chapter.

Doig River First Nation commented that relying on mitigation measures for impacts to the biophysical environment as proxies for mitigations to treaty and Indigenous rights stems from an inherent misunderstanding of Indigenous rights. Ineffective mitigation measures built for inaccurately assessed impacts result in unassessed residual effects, contributing to an incomplete cumulative effects assessment. Such inaccuracies and ineffective assessments have built up over time to result in arguments seen in the *Yahey* decision. Doig River First Nation "understands the *Yahey* decision to mean that Doig River First Nation's Treaty 8 rights have been infringed, and that further activity constitutes further infringement to these rights, it is Doig River First Nation's experience that the Commission does not see itself in breach and will continue to approve applications within Doig River First Nation Territory". Pouce Coupé responded that Doig River First Nation had multiple opportunities to review the mitigation tables provided by Pouce Coupé and correct the information contained within, either to Pouce Coupé directly or on the record for this proceeding. This includes information Pouce Coupé reported relating to Doig River First Nation's understanding of *Yahey* as it was shared with Pouce Coupé, and there is no evidence that Doig River First Nation contested any of the information in the mitigation table. Pouce Coupé further reported that Doig River First Nation "observed that standard mitigation measures will fail to address impacts and residual effects from the Project, just like they have failed to address impacts from all the projects that went before it." Pouce

Coupé did not provide a response to this concern. In **Section 5.7**, the Commission discusses the adequacy of Pouce Coupé's proposed mitigation measures.

O'Chiese First Nation submitted that, in its experience, "measures frequently identified by proponents to address violations to Inherent and Treaty rights do not effectively eliminate or reduce and control violations" and that "measures identified in the regulatory process are insignificant concessions that miss the mark."[111] O'Chiese First Nation provided an example of a measure frequently proposed by proponents and regulators that can exacerbate violations when implemented. Posting of signage is often undertaken by a proponent to discourage unauthorized public access to the project footprint as a measure to address the change in access to traditional resources or areas for current use. However, O'Chiese First Nation members will "avoid areas with signage for several reasons including the incompatibility of signs with the exercise of their Inherent and Treaty rights in accordance with our Natural Laws, safety concerns, and/or the fear of being charged or harassed".[112] Therefore, in O'Chiese First Nation's view, this measure ends up adding to the violation, rather than addressing it. O'Chiese First Nation emphasized the importance of accommodation measures being jointly identified and implemented between the proponent and the Nation, and between the Crown and the Nation. O'Chiese First Nation stated that it will look towards further engagement with Pouce Coupé and the Crown to identify measures that may be appropriate to address violations directly and proportionately. In the Commission's view, it is necessary to restrict access to portions of the Project area during Project construction for safety reasons, and to remove those restrictions to access, along with any related signage, following construction.

Doig River First Nation submitted that the draft conditions for the Project "undermine its land use planning processes, objectives, and outcomes, as well as provincial initiatives meant to address cumulative effects". Doig River First Nation further submitted that,

> [i]f the Commission looks to act in a way that supports reconciliation, then this must include the development of restoration goals in development with impacted Indigenous communities, and in consideration of provincial and community planning initiatives. In previous instances where the Commission has not adequately considered Indigenous knowledge and provincial directives, [Doig River First Nation] has experienced contributions to existing significant cumulative effects.[113]

The Commission considered all evidence, including from Doig River First Nation, when determining the conditions for the Project it considers necessary or in the public interest. In particular, the Commission has communicated in a number of conditions its expectation that Pouce Coupé continue to engage with interested Indigenous communities throughout the life of the Project, if a Certificate is issued.

Saulteau First Nations agreed with the CCC's suggestions to expand the proposed conservation-restoration offset condition to "include residual effects on Rights and Culture and

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111 O'Chiese First Nation, Written Evidence, PDF page 39 of 45, C33585-1

112 O'Chiese First Nation, Written Evidence, PDF page 39 of 45, C33585-1

113 Doig River First Nation, Comments on Draft Conditions, PDF page 2 of 31, C34879-1

to ensure the province of BC is included."[114] In **Section 5.7**, the Commission discusses mitigation measures it considers necessary, in addition to those proposed by Pouce Coupé, to address the Project's effects on the rights of Indigenous Peoples.

Pouce Coupé's updated Project design in response to concerns raised during the hearing

During the hearing, Pouce Coupé refined the Project design in response to concerns raised by Indigenous communities, including the following:

- At the time Pouce Coupé prepared the ESA, it anticipated 10.6 ha of Crown land in the PDA in BC to potentially be disturbed by the Project. This 10.6 ha included areas of undisturbed native vegetation potentially available and suitable for the exercise or practice of Indigenous and treaty rights and Indigenous land and resource use. During the proceeding, Pouce Coupé reduced Crown land in the BC portion of the Project construction footprint to 3.6 ha, all of which is within road allowances (most of which are previously disturbed). The revised Project footprint avoids use of Crown land in BC, excluding Crown-owned road allowances separating private land parcels.
- Pouce Coupé reduced Crown land disturbance in Alberta from 67.4 ha within the PDA used in the ESA to 40.1 ha within the Project construction footprint, 26.5 ha of which is forested. Operationally, only 9.1 ha of this Crown land will be maintained for pipeline integrity monitoring in Alberta (and is inclusive of both previously disturbed and undisturbed vegetation prior to construction). Low-growing native vegetation (early seral stage vegetation) will be encouraged to regrow in this area, while tall woody vegetation (e.g., late seral stage vegetation including trees) will be controlled.
- The required workspace has been reduced to 1.2 ha within areas of old forest located on Crown land in Alberta and held under an active Forest Management Agreement. Pouce Coupé is seeking additional refinements to the Project within this area that may result in further reduction of clearing required for construction.
- Pouce Coupé updated the method of watercourse crossings to trenchless methods and updated its vehicle crossings to clear-span structures at all fish-bearing streams in BC and avoided or narrowed disturbance to riparian vegetation in both BC and Alberta.
- Pouce Coupé removed log deck locations from old forest areas and shifted extra TWS for watercourse or wetland crossings away from old forest areas in several locations.
- With the advancement of data analysis from archaeological studies completed in 2024, modifications to the construction footprint have been made to avoid newly identified archaeological sites, where possible.

[114] Saulteau First Nations, Comments on T2G Potential conditions, PDF page 10 of 33, C34872-2

Pouce Coupé's additional mitigation measures proposed in response to concerns raised during the hearing

Pouce Coupé stated that it reviewed and considered all community concerns brought forward through its direct engagement, the hearing process, as well as through the CCC's activities in the context of Project planning and mitigation. Pouce Coupé's analysis of these concerns and how they have been or will be addressed has been recorded in mitigation tables that have been provided to Indigenous communities to ensure transparency and constructive dialogue. Pouce Coupé updated and shared the mitigation tables multiple times with Indigenous Peoples for review and verification throughout the development of the Project and the hearing process. Pouce Coupé stated that through this iterative engagement process, it identified additional modifications and mitigation measures that minimize the Project's potential to adversely affect the exercise of treaty and Indigenous rights.

The Commission notes that Pouce Coupé conducted additional 2025 field surveys in response to engagement with Indigenous Peoples, and it added mitigation to the EPP for specific features and resources identified as culturally important by Indigenous communities, including the following:

- Diamond willow stands: Pouce Coupé would update the list of diamond willow locations prior to construction with findings from the 2025 field surveys. Once areas are identified or confirmed, their presence would be passed on to interested communities so they may undertake harvesting prior to construction.
- Wildlife trails: Pouce Coupé would confirm the location, extent, and orientation of wildlife trails relative to the Project construction footprint during pre-construction surveys. If a well-defined wildlife trail is identified as crossing the Project construction footprint, site-specific mitigation measures would be evaluated.
- Potential pileated woodpecker nest cavities: In 2025, Pouce Coupé would evaluate the activity status of the locations identified by Indigenous communities and implement mitigation as outlined in Table 3 of the EPP.
- Mineral licks: Pouce Coupé would confirm the location, extent, and use characteristics of mineral licks during pre-construction surveys and implement mitigation as outlined in Table 3 of the EPP.

Necessary conditions to reinforce Pouce Coupé's mitigation measures and commitments

The Commission expects proponents to engage with Indigenous Peoples throughout the lifecycle of a project, including during construction and operation. The Commission recognizes Pouce Coupé's commitment to ongoing engagement with Indigenous Peoples and expects Pouce Coupé to abide by its commitments and be responsive to concerns raised. The Commission notes Pouce Coupé's commitment to ongoing efforts to engage with communities on how to reduce remaining impacts, either specifically for this Project or through support of community-led restoration initiatives occurring throughout the region.

To reinforce Pouce Coupé's commitment to provide capacity funding to support interested Indigenous communities and organizations in reviewing condition compliance filings, the Commission recommends imposing the following conditions:

- **Condition 7:** Pre-construction plan on support for Indigenous Peoples to review Pouce Coupé's condition filings; and
- **Condition 32:** Post-construction report on support for Indigenous Peoples to review Pouce Coupé's condition filings.

The Commission also heard from Indigenous participants who requested that Pouce Coupé provide them with copies of plans at the same time the plans are filed with the CER. The Commission notes that all condition filings are publicly accessible via the CER's online repository and encourages interested Indigenous communities and organizations to access any plans in which they have an interest through the CER's online repository. Considering the Commission's expectation that Pouce Coupé continues to engage with Indigenous Peoples and the Commission's requirement to demonstrate that Pouce Coupé has considered any input received from Indigenous Peoples about some condition filings prior to submission to the CER, the Commission is satisfied with Pouce Coupé's commitment to providing interested communities a link to all filed conditions for which they have requested a copy. The Commission expects that Indigenous communities who have expressed interest in filings for specific conditions on the record for this Project do not have to repeat themselves to Pouce Coupé or express interest in each specific filing for a condition that may require multiple filings.

The Commission heard many Indigenous Peoples indicate their desire to be involved in monitoring activities and programs related to Project construction and post-construction. Indigenous participants such as the British Columbia Métis Federation, Doig River First Nation, Duncan's First Nation, Driftpile Cree Nation, Louis Bull Tribe, Saulteau First Nations, Sucker Creek First Nation, Whitefish Lake First Nation #459, Whitefish (Goodfish) Lake First Nation #128 and Kikino Metis Settlement, also provided suggestions and strongly stated their interest in involvement with post-construction reclamation and restoration activities.

In response to the interest of potentially impacted Indigenous Peoples in being involved in monitoring the environmental effects on the Project in a meaningful way, Pouce Coupé stated it was in the process of developing an Indigenous Construction Monitoring Plan and an Indigenous Post-Construction Monitoring Plan. Pouce Coupé shared the Indigenous Construction Monitoring Plan with communities for feedback in May 2025 and stated that it would create the Indigenous Post-construction Monitoring Plan in Q1 2026 and share it with communities for feedback. The Commission notes that Pouce Coupé is including any Indigenous community on the Crown list as eligible to participate in the Indigenous Construction Monitoring Plan but, due to the number of Indigenous communities, Pouce Coupé can only accommodate one participant (and a back-up) per community. The Commission is also aware of Pouce Coupé's expectation that Indigenous communities would provide monitors who are familiar with the concerns and priorities of their communities, and who would communicate onsite mitigation adjustments prior to or during construction, in consultation with landowners and regulators, depending on the location of the concern or mitigation adjustment proposed. The Commission is of the view that these are appropriate expectations for monitors.

The Commission is of the view that monitoring by Indigenous Peoples is a meaningful opportunity for sharing and incorporating Indigenous knowledge in planning, pre-construction, construction, post-construction, and operational lifecycle activities of the Project. Involving Indigenous Peoples in project monitoring also provides verification capacity for field study information via Indigenous knowledge, confirms pre-construction baseline environmental information, integrates Indigenous knowledge into project activities, and assesses how Pouce Coupé implements mitigation measures as well as how effective those measures are. The Commission finds that monitoring by Indigenous Peoples in the context of the Project is an important measure for avoiding, reducing, and restoring Project-related effects on the rights of Indigenous Peoples. As such, and in addition to Pouce Coupé's commitment to involve Indigenous Peoples in construction and post-construction monitoring, the Commission would impose **Condition 12** (Plan for Indigenous Peoples' involvement in construction monitoring), **Condition 13** (Outstanding Indigenous-led traditional land and resource use studies) and **Condition 33** (Plan for Indigenous Peoples' involvement in post-construction monitoring).

Condition 12 (Plan for Indigenous Peoples' involvement in construction monitoring) would require Pouce Coupé to provide a summary and description of engagement and planning activities undertaken with Indigenous Peoples to develop opportunities for their participation in monitoring activities, and to describe how the results from that engagement were incorporated. It would also require Pouce Coupé to demonstrate that interested Indigenous communities and organizations had the opportunity to review and comment on the draft plan before Pouce Coupé submits it to the CER. The Commission expects Pouce Coupé to incorporate all concerns, issues, recommendations, or suggestions Indigenous Peoples have expressed about monitoring throughout engagement with Pouce Coupé on this Project, including those filed on the record, into the plan for Indigenous Peoples' involvement in construction monitoring, or provide a rationale for why not. To ensure the most up to date information is included in planning, the Commission also recommends imposing **Condition 13** (Outstanding Indigenous-led traditional land and resource use studies), requiring Pouce Coupé to file a summary of the status of any outstanding Indigenous-led studies and how it has incorporated information into its plans.

Condition 12 is connected to **Condition 11** (Environmental Protection Plan), and the Commission expects Pouce Coupé to update the initial description of the roles and responsibilities of Indigenous monitors during construction provided with **Condition 11** with the final description required in **Condition 12**. The EPP is an on-the-ground document intended to guide Pouce Coupé's field staff during construction, and the Commission is of the view that describing clear roles and responsibilities of Indigenous monitors within the EPP will help to ensure that the monitoring activities are meaningful.

Condition 33 (Plan for Indigenous Peoples' participation in post-construction monitoring) would require Pouce Coupé to incorporate the lessons learned from the construction monitoring experience, report on the results of the construction monitoring and how Pouce Coupé will address any ongoing issues, and describe how Pouce Coupé will communicate any issues identified by post-construction Indigenous monitors to the CER as part of the post-construction environmental monitoring reports.

In addition, the Commission considers **Condition 18** (Socio-economic effects monitoring plan) necessary, to confirm that Pouce Coupé has thoroughly documented how it would monitor the

Project's potential positive and adverse socio-economic effects, including on the rights of Indigenous Peoples, during construction. This condition would require Pouce Coupé to transparently and proactively analyze, monitor, and adaptively manage the intended and unintended socio-economic effects of the Project. The socio-economic effects monitoring plan should address all relevant socio-economic effects, including the effects of the Project on the rights of Indigenous Peoples. The Commission has not prescribed exactly which factors or indicators are to be monitored, the adaptive management thresholds for each indicator, or the mitigation measures to be implemented, to allow for Pouce Coupé to freely collaborate and develop this information specific to the predicted potential adverse residual effects, along with any residual effects proposed by Indigenous communities through engagement on the monitoring plan. The Commission recognizes the need for clear indicators that can be monitored by Pouce Coupé without violating workers' privacy or requiring unreasonable effort from third parties, such as government organizations and Indigenous communities; however, the Commission expects a clear explanation from Pouce Coupé justifying why any potential residual socio-economic effects proposed by Indigenous communities for monitoring cannot be incorporated. The Commission also expects the **Condition 18** submission to include matters of importance to Indigenous and non-Indigenous Peoples. One example that the Commission expects Pouce Coupé to consider for inclusion as a factor or indicator is triggering the Cultural Resource Discovery Contingency Plan.

The Commission also considers necessary **Condition 35** (Socio-economic effects monitoring final report) to promote accountability and ensure that the socio-economic effects monitoring plan is effectively implemented. **Condition 35** would require Pouce Coupé to report the results from the pre-construction socio-economic conditions relating to plans for Indigenous Peoples' employment, contracting, procurement, and training, disaggregated to the extent possible to protect privacy.

5.4.3. Residual effects assessment

The Commission is of the view that the Project would result in residual effects on the rights of Indigenous Peoples, even after implementing mitigation measures to avoid and reduce adverse effects, as well as enhancement measures to increase positive effects, of the Project.

The Commission assessed Pouce Coupé's proposed mitigation measures, including those proposed in response to specific concerns raised by Indigenous communities and reflected in Pouce Coupé's mitigation tables, and how these would apply to any resource or feature that may be present at the time of construction on either private or Crown lands. The Commission finds Pouce Coupé's mitigation and contingency plans for potential adverse effects on the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights to be acceptable. However, the Commission finds that the Project would have residual effects on the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights that contribute adversely to cumulative effects. The Commission's determinations about the Project's effects on rights through the four effects pathways are as follows:

- Project-related residual effects on the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights would be medium to long term, within the PDA to local in geographic extent, and of negligible to high (adverse) magnitude;
- Project-related residual effects on access to the resources used or required for the exercise of Indigenous and treaty rights would be medium to long term in temporal extent, within the PDA to local in geographic extent, and of negligible to high (adverse) magnitude;
- Project-related residual effects on specific areas of cultural importance where rights are exercised would be short to long term, within the PDA and extending to the LAA in geographic extent, and of high (adverse) magnitude within the context of existing high cumulative effects; and
- Project-related residual effects on Indigenous communities' cultural traditions, laws, and governance systems that inform the manner in which Indigenous and treaty rights are exercised would be short term to long term in temporal extent, local in geographic extent, and of high (adverse) magnitude.

The Commission's assessment of how the Project would affect Indigenous Peoples' rights through each of the four effects pathways, after mitigation measures are implemented, is in the sections below. The Commission was compelled by what Indigenous Peoples expressed about the challenges of passing down their way of life and culture to future generations, and considered the potential long-term effects of the Project in its assessment.

5.4.3.1. Change to the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights

The Commission finds that the potential Project-related residual effects on the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights would be medium term (for construction-phase sensory disturbance) to long term (i.e., beyond the operation phase, for example where vegetation is altered) in temporal extent, within the PDA to local in geographic extent, and of negligible to high (adverse) magnitude. These adverse residual effects are expected to be reversible over time. These Project-related residual effects are interconnected with the environmental effects of the project on soil and soil productivity (see **Section 4.2**), vegetation and wetlands (see **Section 4.3**), fish and fish habitat and water quality and quantify (see **Section 4.4**), wildlife and wildlife habitat (see **Section 4.5**), and air quality (see **Section 4.6**). Examples of this interconnectedness include:

- soil disturbance during construction alters plant communities, which then impacts the availability of traditional food and medicine;
- vegetation clearing for the RoW reduces medicinal and ceremonial plants, which then leads to the disruption of cultural practices;
- water quality changes lead to a loss of ceremonial water sources, which then impacts spiritual practices;

- open trench and topsoil piles during construction alter wildlife movement, which then leads to impaired harvesting rights; and
- air quality changes from burn piles and vehicle operation influence avoidance behaviour, which then lead to impaired harvesting rights.

Pouce Coupé submitted that the Project would temporarily alter approximately 84.5 ha of native upland vegetation in the RAA. Pouce Coupé noted that early seral vegetation communities could become established in less than 10 years, while other areas could take much longer, and up to 140 years to become old forest. Effective habitat for forest-dependent plant and wildlife species important to Indigenous communities, such as mushrooms, chaga, marten, fisher, and woodpecker, would require more time than a younger forest to reestablish.

The Project would also likely result in the direct loss or alteration of native vegetation and wildlife habitats during construction that support the exercise or practice of Indigenous and treaty rights, contributing to existing challenges for Indigenous Peoples even if of temporary duration. The Project would also be likely to cause short-term, reversible, indirect effects from sensory disturbance that may further alter the abundance and distribution of wildlife species involved in or required for the exercise of Indigenous and treaty rights.

Regarding the temporal extent, the Commission finds that the residual Project effects of changes to the quality, quantity, or distribution of resources would be medium term to long term. The Commission notes that construction activities would last for 12 months beginning in Q2 2026, pending regulatory approval, and continuing until Q2 2027. Once operational, the Project lifespan is expected to be 40 years. The Commission finds that localized, short-term, infrequent but regular reversible interactions are likely to occur as a result of maintenance activities required during operations that may change the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights.

The Commission is of the view that the Project's construction and, to a lesser extent, operation, will result in medium-term to long-term disturbance to Indigenous People's use of lands and resources for traditional purposes, including hunting, trapping, fishing, plant and medicine harvesting, and cultural and spiritual practices. During pre-construction, construction, and post-construction activities of the Project, these effects are anticipated to be temporary and reversible. However, these effects are likely to noticeably affect the exercise or practice of rights of Indigenous Peoples when human activity and sensory disturbance may change wildlife behaviour or influence Indigenous Peoples to temporarily avoid the area until construction is completed. Vegetation clearing activities are likely to result in long-term effects on biophysical resources involved in or required for the exercise of Indigenous and treaty rights, the spiritual qualities of which may not be able to be restored (i.e., they may be irreversible). Post-construction, operation, and maintenance activities are likely to intermittently impact the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights through infrequent, localized, and reversible sensory disturbances of short duration.

Regarding the geographic extent, the Commission finds that the residual Project effects of changes to the quality, quantity, or distribution of resources would include the Project footprint and be local (i.e., LAA) and may expand beyond those areas into connected traditional

territories where rights are exercised and practiced. Regarding magnitude, the Commission finds that the residual Project effects of changes to the quality, quantity, or distribution of resources involved in or required for the exercise of Indigenous and treaty rights would be negligible to high (adverse).

The Commission also received specific evidence of quantified territorial impacts from two Treaty 8 nations, Doig River First Nation (64.76 per cent disturbance in the PDA, with Project construction and operation bringing certain areas to 100 per cent disturbance) and Dene Tha' First Nation (high percentage of oil and gas infrastructure concentrations in their territory). The Commission also received quantified territorial impact evidence from Treaty 6 signatory Whitefish Lake (Goodfish) First Nation #128 (only 16 per cent intact and undisturbed Crown land in its traditional territory).

The Commission acknowledges Pouce Coupé's efforts to address potential Project effects and Project contributions to cumulative effects on the rights of Indigenous Peoples through avoidance, minimization, mitigation, and restoration or reclamation measures. In BC, this includes reducing direct disturbance to 3.6 ha of Crown land. In Alberta, 40.1 ha of Crown land will be impacted by the Project construction footprint, 26.5 ha of which is forested. As a result, the magnitude of residual effects in Alberta is rated as high. In other words, the ability to exercise rights in these areas would be substantially diminished during construction and, to a lesser extent, operation of the Project.

5.4.3.2. Change in access to the resources used or required for the exercise of Indigenous and treaty rights

The Commission makes three key findings with respect to access and resource use:

1. The Project would have residual effects on access to the resources used or required on for the exercise of Indigenous and treaty rights that contribute adversely to cumulative effects.
2. The construction and operation of the Project within and immediately adjacent to existing linear RoWs would likely change existing avoidance behaviours.
3. There would be high (adverse) Project-related residual effects on access to the resources used or required for the exercise of Indigenous and treaty rights, with specific impacts being:
    a) medium term to long term in temporal extent;
    b) within the PDA to local in geographic extent;
    c) of negligible to high (adverse) magnitude; and
    d) reversible over time.

The Commission's analysis addresses two primary access issues in making those findings:

1. temporary construction-related access restrictions necessary for safety; and

2. increased non-Indigenous access enabled by Project infrastructure.

The most significant findings relate to increased competition from non-Indigenous land users and the permanent nature of private land restrictions, which the Commission rates as high (adverse) in magnitude.

The evidence demonstrates that construction restrictions will impose 12-month safety limitations with temporary impacts of medium magnitude. The Project's creation of 89 km of new corridor infrastructure, combined with existing conditions where access developments have reduced travel time to hunting areas from two days to 45 minutes, results in permanent, high magnitude impacts from increased non-Indigenous access. Private land exclusion affects 86 per cent of the Project area where hunting is now prohibited, creating permanent high magnitude restrictions. Community avoidance patterns, exemplified by Doig River First Nation's 28,630 ha avoidance buffer during construction, represent long-term, high magnitude impacts on rights exercise.

Temporary construction-related access restrictions

The Commission finds that, due to the transient nature of pipeline construction, the PDA would likely not be occupied 100 per cent for the entire duration of the construction period. During construction, parts of the PDA will be temporarily unavailable and will not be accessible to Indigenous Peoples. Activities (like clearing, trenching, etc.) typically occur in smaller sections, moving from one end to the other. Pouce Coupé submitted that where there is no active construction or other identified safety risk (e.g., trenching, excavations), Indigenous Peoples would not be impeded from exercising their rights within the PDA. The Commission received evidence that even temporary restrictions on access during construction substantively diminishes Indigenous Peoples ability to exercise or practice their rights during construction.

The Commission finds that Project construction-related access restrictions are likely to be localized, short term, of multiple irregular event frequency until construction is complete, and reversible. For the portions of the construction footprint on the RoW where Indigenous Peoples have access (i.e., Crown land and private land where the landowner has granted permission), the construction phase is likely to result in localized, short term, multiple irregular event frequency, and reversible restrictions on the ability of Indigenous Peoples to access resources in a preferred manner, for example in keeping with *Ke Maah*, *Kaa-Ke-Chi-Ko-Moo-Nan*, *wahkohtowin* and other natural laws and ways of knowing.

The Commission finds that Project operation-related access restrictions are likely to be localized, short term, of multiple regular event frequency, and reversible. The Commission also finds that, after construction, the RoW and TWS areas within the PDA will require time for reclamation and restoration to occur. Pouce Coupé indicated that once construction, including reclamation, is complete, Indigenous communities would have unrestricted access to the permanently maintained 10 m-wide RoW. Pouce Coupé also submitted that it, and its parent company Pembina, are supportive of Indigenous land users actively conducting traditional activities within its operating RoWs.

In terms of community specific avoidance patterns, Doig River First Nation calculated that members will avoid 28,630 ha during construction and 20,427 ha during operations due to

Project impacts, with 64.76 per cent of the PDA already "disturbed." Their evidence acknowledged data limitations and that areas assumed undisturbed were identified as private agricultural land. Doig River First Nation also confirmed in evidence that their members would view Project areas as "less preferred" rather than completely avoided.

Doig River First Nation applied the Alberta Biodiversity Monitoring Institute's definition for "human footprint" in its definition of "unavailability". The human footprint definition is the "[v]isible alteration or conversion of native ecosystems," including all areas that have been altered for human use for extended periods of time and land that is periodically altered and reset to "earlier successional conditions by industrial activities."[115] Doig River First Nation used a construction PDA total area of 527.47 ha, and stated that 64.76 per cent, or 336.63 ha, of that total area is currently disturbed (i.e., 'prior to Project approval'). Doig River First Nation asserted that 67.85 per cent, or 117.68 ha of the operations PDA (175.93 total area) is currently disturbed.

Doig River First Nation stated that it used the measurements from Pouce Coupé's application (60 m-wide corridor for construction and a permanent 20 m-wide RoW for operations) for the spatial parameters of its study. Doig River First Nation confirmed that by its calculations, roughly 35 per cent of the PDA is currently undisturbed by the context of cumulative effects, and therefore available for the exercise of Doig River treaty and Aboriginal rights, whereas it calculated 64.76 per cent as disturbed. During construction, "all remaining 183.18 ha (of the PDA) would be converted to unavailable lands for the exercise of DRFN [t]reaty and Aboriginal rights." 100 per cent of the PDA would be occupied and during operation, the PDA will be narrowed to 20 m wide by 89 km long, for a total of 173.44 ha in area, and this amount of land will remain occupied during operation.

As Doig River First Nation's Proposed Offset Plan acknowledges, the Project is entirely within both the area discussed extensively in *Yahey*, where the Court found high existing cumulative effects and the "South Peace planning area" defined in the Proposed Offset Plan as an area containing "extensive industrial development and private lands, with very limited opportunities for members to safely and securely engage in traditional activities." Doig River First Nation submitted that "it is important for the existing state of land beyond the Project footprint to be considered when assessing Project impacts to [t]reaty and Aboriginal rights."

The Commission also received evidence from O'Chiese First Nation about their experiences of being restricted on the land can include having to ask permission to access Crown lands containing resources used or required for the exercise and practice of Indigenous and treaty rights is a violation of its inherent and treaty rights and natural laws. O'Chiese First Nation applies a "legal restrictions" framework, considering Crown land restricted when members cannot freely "build a fire, build a cabin, or fire a gun" according to their natural laws.

Pouce Coupé emphasized that the presence of an operating pipeline on Crown land largely does not limit the use of that land for the exercise or practice of Indigenous rights, provided

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[115] The Human Footprint definition is a biophysical definition of anthropogenic environmental disturbance. The Human Footprint definition also indicates that some human land uses, such as grazing, hunting, and trapping, are not yet accounted for in the human footprint analyses.

those activities do not include activities which could threaten the pipe and facilities within the RoWs (e.g., bringing vehicles over one ton onto the RoW without permission, digging deeper than 20 cm below the surface, or discharging firearms in close proximity to aboveground facilities and/or Pouce Coupé workers). Pouce Coupé maintained there are generally no restrictions on building a campfire or discharging firearms on or near an operating pipeline, and no concerns with building a cabin directly adjacent to an operating pipeline. The Commission acknowledges Doig River First Nation and O'Chiese First Nation and their evidence about their experience of these restrictions in the way that they describe above. While Pouce Coupé stated operators lack authority to limit RoW access except during active work, the Commission finds the Project adds to existing access restrictions in an already highly impacted area where O'Chiese has stated there are no identified thresholds for an acceptable level of lands available for rights exercise.

The Commission finds reasonable the concerns raised by Indigenous Peoples in this regard and finds that limitations to access to the lands on or near the Project area constitutes residual impacts of the Project on the rights of Indigenous Peoples. The Commission understands that during Project construction, where there is no active construction or other identified safety risk (e.g., trenching, excavations), Indigenous Peoples may be able to access the Project area to exercise their rights, but that many may choose not to do so for the reasons noted above. The Commission notes that following construction, the Project area would be available for land use traditional activities, but again, notes that some Indigenous Peoples would prefer not to exercise traditional activities near the Pipeline RoW. The Commission also accepts the Doig River First Nation avoidance pattern evidence as demonstrating how the Project adds to already substantial avoidance patterns in an area described as having "extensive industrial development and private lands, with very limited opportunities for members to safely and securely engage in traditional activities."

Pouce Coupé committed to adaptive management of access and to work with contractors and road authorities to address increased traffic concerns and, as mentioned above, it also committed to prioritizing the use of these existing roads (e.g., logging, oil and gas facilities). Pouce Coupé indicated that some new temporary access roads may be required for five of the nine valves while the remaining four valves can use most of the existing access roads.

There would be changes in access to resources during construction activities, which would last for 12 months beginning in Q2 2026, pending regulatory approval, and continuing until Q2 2027. The Commission finds that temporary limitations during construction activities on Indigenous and treaty rights are acceptable to allow for safe construction of the Project and ensure the safety of people, including workers and the public, but that it nevertheless impacts their rights.

Increased non-Indigenous access

With respect to increased non-Indigenous access to Crown lands that support the exercise or practice of Indigenous rights, the Commission finds that while the Project parallels existing disturbances for 94 per cent of its route, it would create specific new infrastructure that enables increased non-Indigenous access: 89 km of new cleared corridor, potentially new access roads for five of the nine valve sites, and a permanently maintained 10 m-wide strip for 40 years.

There would also be changes in access to resources during operations because of additional opportunities for non-Indigenous land users to access Crown lands. The Commission distinguishes between temporary and permanent access changes. While construction restrictions are temporary (12 months), the effects of increased non-Indigenous access represent permanent impacts on rights exercise. Additionally, there would be some existing access restrictions, such as within the fenced Taylor Tank Farm, that would not change after construction.

Peter Joachim of Horse Lake First Nation shared that existing industrial roads have already increased access to traditional areas, making hunting "scarce...where the access is so easy now."[116] Whitefish (Goodfish) Lake First Nation #128 confirmed "hunters on quads use the existing RoWs that would be adjacent to the Project." Duncan's First Nation specifically identified concerns about the Project providing increased access for non-Indigenous and non-local hunters. Driftpile Cree Nation's TLRU study explicitly linked the Project to enabling increased non-Indigenous access. Saulteau First Nations raised specific concerns about the Project's contribution to access issues in their territory. In this context where Indigenous harvesters already travel hours to find suitable lands, the Project's addition of access infrastructure to the remaining 14 per cent of Crown land may create disproportionate pressure. The Commission rates this as high magnitude because the Project's infrastructure directly contributes to substantially diminishing Indigenous Peoples' harvesting ease, patterns, and success in an area already experiencing significant or high cumulative effects.

The Commission’s findings on the change in access to the resources used or required for the exercise of Indigenous and treaty rights residual effects pathway does not preclude the consideration of how any change in access to the resources used or required for the exercise of Indigenous and treaty rights is likely to have long-term adverse effects on Indigenous Peoples under the “Change to an Indigenous community’s cultural traditions, laws, and governance systems” effects pathway. Residual effects of past, present, and reasonably foreseeable future projects and physical activities combined with the predicted residual effects of the Project may be further disproportionately distributed among potentially affected Indigenous Peoples, especially for members of Indigenous communities who have already experienced alienation and dispossession from areas throughout their territories or occupation areas.

5.4.3.3. Change to specific areas of cultural importance where rights are exercised

The Commission finds that the potential Project-related residual effects on specific areas of cultural importance where rights are exercised would be short term (for construction-phase sensory disturbance) to long term (i.e., beyond the operation phase, e.g., where vegetation is altered or where the perception of the land has changed) in temporal extent, within the PDA, extending to the LAA in geographic extent, and are of high (adverse) magnitude. The Commission finds that the Project will have residual effects on areas of cultural importance where rights are exercised that contribute adversely to cumulative effects.

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[116] CER, OH-001-2024 Hearing Transcript Vol 5 (21 March 2025), para 1635, PDF page 12 of 46, C33873-1

Regarding the temporal extent, the Commission finds that the residual Project effects of changes to specific areas of cultural importance would be short term (for sensory disturbance of wildlife and residual effects on fish and surface water quality and quantity) to medium term (where portions of the PDA will be allowed to regrow) to long term (where portions of the RoW will be maintained free of trees during operation and mature forests and plant communities will require time for regrowth). The Commission notes that Pouce Coupé expects construction activities to last for 12 months beginning in Q2 2026, pending regulatory approval, and continue until Q2 2027. The Commission accepts Indigenous Peoples' evidence that sensory disturbances would deter them from pursuing activities in areas of cultural importance during construction and operations. Once operational, Pouce Coupé expects the Project lifespan to be 40 years. Localized, short-term, infrequent but regular, and reversible interactions are likely to occur during maintenance activities during operations that may affect specific areas of cultural importance where rights are exercised.

Regarding the geographic extent, the Commission finds that the residual Project effects of changes to specific areas of cultural importance would be within the PDA to local (i.e., LAA). The Commission finds that the Project is likely to result in changes to specific areas of cultural importance through sensory disturbances within the PDA due to alterations to harvesting, habitation, or cultural or sacred locations or areas, and/or extending into the LAA and may expand into connected, traditional territories where rights are exercised and practiced.

Regarding magnitude, the Commission finds that the residual Project effects of changes to specific areas of cultural importance would be high (adverse). Indigenous participants explained the significance of many places across northeast BC and northwest Alberta. The Commission finds that the Montney Basin, the Saddle Hills area, and Métis Harvesting Area A are important and intersect with the Project's PDA, LAA, and RAA. The Commission finds that Briar Ridge and Pine River are important and within the RAA, and the Peace, Kiskatinaw, and Pouce Coupé Rivers, and Doig River First Nation's Enhanced Management Zone, are also important and are within the PDA and/or LAA of the Project.

The Commission further finds that the Project is likely to affect areas that are culturally important to Indigenous Peoples and, as a result, affect their cultural activities and intergenerational sharing of knowledge. The Commission recognizes the historical and cumulative impacts of development in the Project area and has considered the effects the Project may have on social and cultural well-being in detail below in **Section 5.6**.

5.4.3.4. Change to an Indigenous community's cultural traditions, laws, and governance systems

The Commission finds that the potential Project-related residual effects on Indigenous communities' cultural traditions, laws, and governance systems that inform the manner in which Indigenous and treaty rights are exercised would be short term to long term in temporal extent, local in geographic extent, and of high (adverse) magnitude. The Commission finds that the Project will have residual effects on Indigenous communities' cultural traditions, laws, and governance systems that contribute adversely to cumulative effects.

The Commission finds that the Project could result in changes to cultural traditions, laws, and governance systems that inform how Indigenous Peoples exercise their rights because the Project will alter access to land, cultural transference opportunities, decision-making abilities regarding land, and community conditions associated with the Project workforce.

The Commission heard through written evidence and oral Indigenous knowledge about how Indigenous Peoples' cultural identity, including their laws, cultural traditions, laws, and governance systems, are inherently connected to the lands upon which they exercise and practice their rights. The Commission recognizes the importance of these systems that are unique to each community and are crucial for maintaining cultural practices and ways of life.

Doig River First Nation shared qualitative Cultural Identity VC evidence in its rights impact assessment study. They explained that from a qualitative perspective, any change, either real or perceived by its members, to the preferred conditions within their traditional territory will alter Doig River First Nation's Cultural Identity and consequently, Doig River First Nation's ability to connect with *Ke Maah.* The Commission accepts Doig River First Nation's evidence regarding 'Real or Perceived Changes' as an indicator of its Cultural Identity VC under the "Change to an Indigenous community's cultural traditions, laws, and governance systems" effects pathway and interprets Doig River First Nation's avoidance evidence as relevant to the existing cumulative effects context.

Regarding the temporal extent, the Commission finds that the residual Project effects of changes to cultural traditions, laws, and governance systems would be medium to long term. As noted above, construction activities are expected to last for 12 months, a medium-term duration. Once operational, Pouce Coupé expects the Project lifespan to be 40 years. The Commission is of the view that localized, short-term, and infrequent but regular interactions are likely to occur during maintenance activities during operations and may affect cultural traditions, laws, and governance systems in ways that may not be reversible.

Regarding the geographic extent, the Commission finds that the residual Project effects of changes to cultural traditions, laws, and governance systems would be local (i.e., LAA) and possibly extending beyond these areas into connected traditional territories where rights are exercised and practiced. Regarding magnitude, the Commission finds that the residual Project effects of changes to cultural traditions, laws, and governance systems would be high (adverse).

5.5. Severity determination for impacts to Indigenous rights

The Commission finds that the Project's potential effects on the rights of Indigenous Peoples, taking into account high (adverse) total cumulative effects, would be of high (adverse) severity. The Commission applied a model of severity as a continuum to indicate the degree to which the rights of Indigenous Peoples may be affected by the Project.

Consistent with the IAAC's *Practitioner's Guide to Federal Impact Assessment*,[117] the low, medium, and high categories the Commission uses to rate severity are simply generic markers used to provide a relative approximation of the level of severity. Not all characteristics need to be met within one category — for example, in order for an outcome to be "high," only one or some of the criteria need to be met. Projects generally result in more than one impact. In order to develop measures to avoid or mitigate adverse impacts, and to inform potential mitigation measures to accommodate rights, the severity of all impacts identified in the assessment should be evaluated. To rate the overall severity of impacts on rights, the highest degree of severity is used. If one adverse impact is determined to be high in severity, then the overall impact of the project on rights is determined to be high in severity. Impacts may also be linked to a number of criteria. This assessment is meant to be conducted in a holistic manner.

A combination of the ratings, criteria, and general description can be taken together to determine the degree of severity of the effects of the Project on rights. The Commission expects proponents to mitigate effects on the rights of Indigenous Peoples according to the degree of severity. For example, if the Commission determines that the effects of the Project on the rights of Indigenous Peoples are of low severity, then the Commission could find that no additional mitigation measures are necessary. If the Commission determines that the effects of the Project on the rights of Indigenous Peoples are of high severity, then the Commission could find that additional mitigation measures are necessary.

In this instance of high total cumulative effects, the Commission finds the effects of the Project on the rights of Indigenous Peoples to be of high severity. Even with the application of Pouce Coupé's proposed mitigation measures and the Commission's recommended conditions, the Commission finds that the Project's potential effects on the rights of Indigenous Peoples, taking into account high (adverse) total cumulative effects, would be of high (adverse) severity. Based on the evidence and the context, the Commission finds that standard regulatory compliance and mitigation is not sufficient to address residual and cumulative effects contributions. Despite mitigation measures, the Project contributes to cumulative effects by adding incremental impacts to territories where rights continue to be impacted by high cumulative effects. As a result, proportional mitigation that accommodates the rights of Indigenous Peoples is warranted for those contributions and their impacts on those rights in this specific context.

Pouce Coupé defined a significant adverse residual effect on the rights of Indigenous Peoples as one that, following the implementation of avoidance, mitigation, and enhancement measures, may arise if:

- the Project causes or further contributes to an exceedance of an established or conservation-based threshold for the lands or resources required for the exercise or practice of Indigenous and treaty rights; and/or

[117] https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act.html

- the Project causes or further contributes to changes such that an Indigenous community's exercise or practice of Indigenous and treaty rights would be meaningfully impaired, even in instances where supporting VCs are not significantly affected.

Pouce Coupé explained that it contextually determines "meaningfully impaired" through any combination of the effect characterization attributes most applicable to one or more adverse residual or cumulative effect influencing the exercise or practice of rights, the concerns raised and status of the concerns, and the perspectives of Indigenous communities regarding their preferred conditions or thresholds for the exercise or practice of rights. Regarding the first part of Pouce Coupé's definition of "significant adverse residual effect," Pouce Coupé stated that there is no exceedance of any established or conservation-based thresholds for the resources required for the exercise or practice of Indigenous and treaty rights (i.e., no other significant effects were identified for the biophysical or socio-economic VCs assessed in the ESA). Regarding the second part of the definition, Pouce Coupé stated that Project-related effects may remain after mitigation is applied, but Pouce Coupé does not anticipate these residual effects to be significant, given its ongoing efforts to engage with communities on how to reduce remaining impacts, either specifically for this Project or through support of community-led restoration initiatives occurring throughout the region.

The Commission received evidence from Indigenous communities during this proceeding, those quoting *Yahey* and those speaking for themselves, describing their experiences of "death by a thousand cuts" or the "tyranny of small decisions." The Commission's finding takes into account the temporal and geographic extent of effects, the magnitude of the effects, and total cumulative effects on the rights of Indigenous Peoples.

Temporal extent

The Commission finds that the temporal extent of the Project's effects on the rights of Indigenous Peoples would be medium to long term. Construction is expected to last for 12-18 months, and the Project lifespan is expected to be 40 years. Once construction, including reclamation and restoration is complete, Indigenous communities would have access to the permanently maintained 10 m-wide RoW, with limited exceptions during operations for maintenance purposes. However, long-term effects may include impacts from operations and maintenance activities to harvesting, hunting, and trapping on the permanent RoW, and the perception of land health by Indigenous land users.

Geographic extent

The Commission finds that the geographic extent of the Project's effects on the rights of Indigenous Peoples would extend to the LAA and RAA, which overlaps the traditional territories of Indigenous communities. The Project's effects associated with clearing, construction activities, ground disturbance, and sensory disturbance extend into the LAA, RAA, and potentially beyond that extent, yet within Indigenous communities' traditional territories. The Project has the potential to change the quality, quantity, or distribution of resources, change access to the resources, change specific areas of cultural importance, and change an Indigenous community's cultural traditions, laws, and governance systems within this geographic area.

Magnitude

The Commission finds that the magnitude of the Project's effects on the rights of Indigenous Peoples would be high. During construction, parts of the PDA would be temporarily unavailable and may not be accessible to Indigenous Peoples. Where there is no active construction or other identified safety risk (e.g., trenching, excavations), Indigenous Peoples would not be impeded from exercising their rights within the PDA. However, the Commission acknowledges, as discussed in **Section 5.4.3.2**, that some Indigenous Peoples may still choose to avoid the Project area. Post-construction, the RoW and TWS areas within the PDA would require time for restoration to occur. Once construction, including reclamation and restoration is complete, Indigenous communities would have access to the permanently maintained 10 m-wide RoW, with limited exceptions during operations for maintenance purposes.

In BC, 3.6 ha of Crown land would be directly impacted by the Project construction footprint. In Alberta, 40.1 ha of Crown land would be directly impacted by the Project construction footprint, 26.5 ha of which is forested.

Total cumulative effects

The Commission finds that with the Project's contribution, the total cumulative effects of the Project on the rights of Indigenous Peoples would be high. The Commission's determination takes into consideration the context of existing high cumulative effects in the Project area. The Commission heard substantial concerns from Indigenous Peoples about the existing cumulative effects of development on their rights within and beyond the Project area. As a result, the Commission finds that total cumulative effects (i.e., the residual effects of the Project in combination with the effects of other past, present, and reasonably foreseeable projects and activities) would be high.

The Commission therefore finds that the Project's potential effects on the rights of Indigenous Peoples, taking into account high (adverse) total cumulative effects, would be of high (adverse) severity. Given the potential high severity of the effects of the Project on the rights of Indigenous Peoples, the Commission is of the view that additional mitigation measures are required to accommodate Indigenous Peoples' rights that would or may be affected by the Project. Prior to coming to its conclusion on the scope of the additional mitigation measures, the Commission also considered the impacts of the Project on the interests of Indigenous Peoples, to determine if further mitigation is also required to address impacts on those interests, as set out in **Section 5.6** below.

5.6. Interests and concerns of Indigenous Peoples

Indigenous communities raised important interests that, while perhaps not directly rights-based, often support and enable the exercise of rights and significantly affect their well-being. In this section, the Commission considers the Project's impacts on four specific interests (referred to as VCs in this chapter): health of Indigenous Peoples; heritage resources; social and cultural well-being; and employment and economy for Indigenous Peoples. Interests can be tied to rights because, for example, employment opportunities can enable community members to maintain presence on their traditional territories, while heritage protection preserves the physical

markers of Indigenous history. The Commission assessed these interests using the socio-economic framework in the Filing Manual while recognizing their interconnection with rights and the evidence on the record of the proceeding.

The Commission's assessment of other socio-economic VCs, including human health, human occupancy and resource use, navigation and navigation safety, infrastructure and services, and employment and economy are discussed in **Chapter 6**. This section also constitutes the Commission's analysis under paragraph 183(2)(e) of the CER Act for the health, social and economic effects, including with respect to the intersection of sex and gender with other identity factors as these factors pertain to Indigenous Peoples.

5.6.1. Methodology for interests assessment

To assess the Project's socio-economic effects, the Commission applied a VC-based approach, as set out in the Filing Manual.[118] The Commission considered in its assessment evidence provided by Pouce Coupé, including the ESA, as well as all evidence provided by Indigenous Peoples, including oral Indigenous knowledge.

The Commission's assessment of each VC includes:

- a high-level summary of the Commission's significance findings;
- a summary of the relevant contextual setting;
- a summary of the predicted effects of the Project;
- an analysis of the adequacy of Pouce Coupé's proposed mitigation measures and the need for any additional mitigation measures proposed by Indigenous Peoples, and whether the Commission finds that further mitigation is required by way of conditions on any potential Project authorizations;
- an analysis of any residual effects and the predicted cumulative effects of the Project; and
- a determination on the significance of any residual effects of the Project remaining following mitigation, including the significance of cumulative effects.

Appendix 3 describes the criteria, ratings, and considerations used in these significance determinations.

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[118] The Filing Manual assumes a VC-based approach to effects assessment where the application focuses on those biophysical or socio-economic elements, or a subset of those elements, that a project may affect and are of concern or value to the public and Indigenous Peoples. Applicants must identify VCs for which effects are predicted and explain why and how the applicant identified the VCs. Typically, applicants use a VC approach to focus the effects analysis on practical and representative components of the biophysical and socio-economic environment.

In its assessment, the Commission considered the spatial boundaries used in Pouce Coupé's ESA. These include the PDA, LAA, and RAA described in **Section 4.1**. To assess the socio-economic impacts of the Project, the RAA is broken down further into:

- **Biophysical RAA** – Within the vegetation and wetlands, wildlife and wildlife habitat, surface water, human occupancy and resource use, and rights of Indigenous Peoples RAA – this encompasses a 15 km radius from the Project.
- **Socio-economic RAA** – Within the employment and economy, infrastructure and services, and social and cultural well-being RAA – this aligns with Statistics Canada Census Division administrative boundaries (i.e., Peace River Regional District in BC; and Saddle Hills County, the Municipal District of Spirit River, and the County of Grande Prairie in Alberta).

The Commission's assessment considers cumulative effects predicted to result from the Project's residual effects in combination with the residual effects of other past, present, and reasonably foreseeable future projects or physical activities. In considering cumulative effects, the Commission considered the high existing cumulative effects context previously articulated and interpreted its assessment through the lens of the UN Declaration. Lastly, the Commission distinguished between direct effects and cumulative effects in terms of the assessments for each VC.

The Commission's assessment of the Project's effects on each VC includes its conclusion on the extent to which it considers effects to be significant. Significance is not a binary determination (e.g., significant or not significant) but considers the extent to which project effects are significant (e.g., low, medium, or high). The Commission's determination of significance includes many variables and is based on the specific project's setting and evidence, and considers the temporal extent, geographic extent, and magnitude of residual project effects in light of relevant cumulative effects and additional context. Effects on VCs are assessed and weighed by these different characteristics, which may result in different determinations on significance for similar projects.

5.6.2. Health of Indigenous Peoples

The Commission finds that, by applying Pouce Coupé's proposed mitigation measures and implementing the Project EPP, any residual Project effects on the health of Indigenous Peoples would be of low to medium (adverse) significance. The potential effects on the health of Indigenous Peoples would be adverse, short term to long term, extending from the PDA to the LAA in geographic extent, low to medium (adverse) in magnitude, and low to medium (adverse) in total cumulative effects, as discussed below.

5.6.2.1. Relevant setting for the health of Indigenous Peoples

The Commission's assessment of the health of Indigenous Peoples considered available health care services in the LAA and RAA, as well as Statistics Canada's health and social indicators, including perceived health, life satisfaction, and sense of belonging; substance use;

communicable disease; mental health; health risk factors (e.g., body mass index, diabetes, and high blood pressure); and crime and sexual assault.

In identifying and evaluating potential health effects that Indigenous Peoples might experience, the Commission considered Project-related activities, nuisances, and environmental changes that could potentially be sources of adverse human health effects and the potential human receptors of these effects. The definition of human health includes mental and social well-being and any adverse emotional or social stressors potentially resulting from the Project. Pipeline construction may affect biophysical resources, such as soil and soil productivity, and water quality and quantity, potentially leading to adverse effects on human health. Pipeline construction could affect soil productivity through a change in soil quality and terrain, or an encounter with pre-existing soil contamination. Pipeline construction activities may interact with surface and groundwater quality and quantity through trench water management. The Project may also create sensory disturbances for nearby residents and land users which could, in turn, affect human health.

5.6.2.2. Effects of the Project on the health of Indigenous Peoples

The Commission finds that the Project would have the potential to affect the health of Indigenous Peoples through two effects pathways. First, Project activities would affect biophysical resources, such as soil and soil productivity, and water quality and quantity, which could in turn affect the health of Indigenous Peoples. Second, Project activities could create sensory disturbances, such as noise, for Indigenous Peoples which could, in turn, affect their health.

The Commission's assessment of potential effects on the health of Indigenous Peoples was bound spatially by the combined geographic extents of the spatial boundaries for the assessment of soil and soil productivity (see **Section 4.2**), water quality and quantity (see **Section 4.4**), human occupancy and resource use (see **Section 6.2.1**), and rights of Indigenous Peoples (see **Sections 5.1 to 5.5**). The temporal boundaries for the assessment include both construction and operation phases.

Regarding the temporal extent, the Commission finds that the potential effects on the health of Indigenous Peoples would range from short term to long term. The health effects of the Project stemming from the biophysical effects and sensory disturbances from the construction and operation of the Project would occur over several months or years (e.g., impacts to soil and soil productivity; impacts to water quality and quantity; sensory disturbances from noise, dust, and traffic from construction activities) to the lifetime of the Project (e.g., some vegetation reclamation such as culturally significant trees; noise from the operation of the Taylor Tank Farm).

Regarding the geographic extent, the Commission finds that potential effects on the health of Indigenous Peoples would range from the PDA to the LAA because most Project effects would be limited to the Project footprint (e.g., impacts to soil quality and quantity; sensory disturbance from construction activities), but some could extend to the LAA (e.g., impacts to water quality and quantity; impacts to availability of medicinal plants or traditional food sources).

Biophysical resources

The Commission finds that the Project could lead to negative health effects on Indigenous Peoples, as a result of impacts to biophysical resources such as soil and soil productivity, and water quality and fish habitat.

As discussed above in **Section 4.2**, the Commission finds that the Project may affect soil and soil productivity through soil mixing, rutting, compaction, erosion by wind and water, terrain alteration, and the disturbance and re-mobilization of existing contamination. Those effects could have negative health effects on Indigenous Peoples.

As discussed in **Section 4.4**, the Commission finds that Pipeline construction is likely to affect surface water quality. These effects would be associated with temporary pulses of total suspended solids when isolation structures are installed and removed, and when installing temporary culvert and fill crossings for vehicles and equipment and when trenching at wetland crossings. Effects on surface water quantity may arise from the temporary diversion of hydrostatic test water, changes in natural flow patterns across the construction footprint, and trenched watercourse crossings. Those effects could impact Indigenous Peoples' right to fish, as well as negatively impact water quality, which if used as a water source could have negative health impacts on Indigenous Peoples.

For a detailed discussion on the potential effects the Project would have on soil and soil productivity and water quality and quantity, including Pouce Coupé's proposed mitigation measures, please refer to **Chapter 4**.

Sensory disturbance

The Commission finds that Indigenous Peoples may experience nuisance effects during construction, including localized increases in noise, dust, and traffic volumes, as well as visual disruption. Sensory disturbances are not expected to occur as a result of Pipeline operations, however there may be some operational noise from the Taylor Tank Farm facility.

Indigenous Peoples, including Driftpile Cree Nation, Kikino Metis Settlement, and Louis Bull Tribe raised concerns about sensory disturbances, such as changes to air quality, noise, and traffic during construction, all of which could have an impact on health. Some Indigenous Peoples explained how sensory disturbances could displace and disturb wildlife, making it more difficult to hunt and trap, which in turn affects the health and diet of community members.

Elder Patricia Marie Shortneck from Louis Bull Tribe shared concerns about the effects of industrial development on community members' ability to heal themselves in traditional ways by limiting their access to medicinal herbs.[119] Pouce Coupé acknowledged that sensory disturbances during construction could deter Indigenous land and resource users from accessing resources or areas within the LAA.

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[119] CER, OH-001-2024 Hearing Transcript Vol 3 (19 March 2025), paras 766-768, PDF page 37 of 53, C33832-1

Several Indigenous communities described that they rely on traditional foods for their survival and how industrial development has already disrupted their access to traditional food sources. For example, the Commission received the following evidence during oral Indigenous knowledge sessions from Dene Tha' First Nation, Driftpile Cree Nation, Louis Bull Tribe, and Saulteau First Nations:

Fred Didzena of Dene Tha' First Nation provided this evidence:

> … in conversations with our people, the more pressing aspects of the conversation is that there is no more moose, no more elk, no more deer, no more rabbits, and that really creates difficulty for us because we don't have the necessary capacity to go to the store and buy what we need to stay alive. It is not so much the idea of hunting as a recreation. We hunt because we want to stay alive. We try and get the animals because we want to live.[120]

George Chalifoux from Driftpile Cree Nation stated:

> And with the contaminants coming in through the area from the exposed pipeline or breakage of the pipeline, that is going to harm the habitat of the animals that rely on the plants to survive. And like everything else, it is a circle of life. An animal depends on another animal to maintain its health.[121]

> … with the logging industry coming around, being active most of this time, you guys have all known the wind speed is picking up drastically over the last century – well, decade, not century. In regards to that, back in the past, there was only selected logging. That was done to maintain the wind barrier. Now that the wind barrier is taken away, the wind has full capacity to come down on us a lot more, causing more disturbance on our landscape. This, in return, affects a lot of our traditional upbringing of our trapping, hunting, gathering, because now a lot of the environment that we lived on is being destroyed drastically by those industries that are coming through.[122]

Elder Bert Bull of Louis Bull Tribe submitted:

> Back in the days, I never even bought *moniyaw* food like cow, beef. We never used to buy those. We used to live on moose meat, elk, deer, prairie chickens. Now we don't see that. Now we are just, like, buying a lot of beef most of the time because the hunters can't kill anything now.[123]

Fernie May Garbitt of Saulteau First Nations said:

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[120] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 309, PDF page 45 of 47, C33800-1

[121] CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), para 373, PDF page 12 of 37, C33815-1

[122] CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), paras 440-441, PDF page 24 of 37, C33815-1

[123] CER, OH-001-2024 Hearing Transcript Vol 3 (19 March 2025), para 771, PDF page 38 of 53, C33832-1

> … you know, we go hunting every year, and we harvest our own moose. We package our own moose. We make our own burger. We are sustainable like that. We don't buy our meat in the grocery store. So, you know, those are the kind of things that – when we are talking about the land and treaty rights, those are some of the very things that we need still, you know, to harvest the moose, the elk, and the deer at certain times of the year. We don't do it year-round. We do it certain time of the year. And when we harvest those animals for food, we take everything. You know, we take it all. We utilize it, the hide, the head, you know. I love eating moose tongue. It is really good. It is like a delicacy.[124]

The Commission is satisfied with Pouce Coupé's proposed mitigation measures with respect to the Project's impacts on the health of Indigenous Peoples. With respect to the health of Indigenous Peoples, the Commission understands that Pouce Coupé is primarily relying on mitigation measures implemented for biophysical VCs such as soil and soil productivity, and water quality and quantity, as well as those that are tied to other socio-economic VCs, such as acoustic environment, human occupancy and resource use, and rights of Indigenous Peoples. For details about mitigation measures related to soil and soil productivity, and water quality and quantity, refer to **Sections 4.2 and 4.4** above. For information on human occupancy and resource use, see **Section 6.2.1** below, and for the rights of Indigenous Peoples, refer to **Sections 5.1 to 5.5** above.

The Commission finds that with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, the residual effects from the Project on the health of Indigenous Peoples will range from low to medium (adverse) in magnitude. This finding considers the health effects stemming from the biophysical effects findings for soil and soil productivity (i.e., no or negligible) and water quality and quantity (i.e., low adverse) which are described in **Chapter 4**. It also considers that some residual effects from sensory disturbances would be low in magnitude (e.g., effects from dust or traffic during construction activities), but that noise could be up to medium (e.g., noise from HDD activities could be noticeable by nearby receptors).

In addition, the Commission finds that Pouce Coupé's proposed mitigation measures to minimize sensory disturbances outlined in the EPP, including the Project Traffic Management Plan, best management practices, and the notification of potentially affected parties, offer reasonable layers of protection against the Project's contributions to sensory disturbances. With respect to the proposed mitigation related to noise during the operation of the Taylor Tank Farm facility, the Commission notes Pouce Coupé's commitment to implement the noise control mitigation to comply with regulatory requirements under the *British Columbia Energy Regulator Noise Control Best Practices Guideline*.

Pouce Coupé explained that it would minimize sensory disturbances, or noise emissions, through measures outlined in the EPP. Measures include ensuring that noise abatement equipment in machinery is in good order, applying dust control on the construction footprint and access roads, and informing stakeholders about the Project's anticipated effects and how they

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[124] CER, OH-001-2024 Hearing Transcript Vol 7 (24 March 2025), paras 2098-2099, PDF page 17 of 25, C33881-1

would be mitigated. To manage and control Project-related construction traffic and disturbance, Pouce Coupé stated that it would implement a Traffic Management Plan that includes access control measures (e.g., signage, road closures, restrictions).

Pouce Coupé submitted that it would address construction-related noise through the use of codified practices, proven mitigation measures, and best management practices. With respect to HDD construction noise, Pouce Coupé confirmed that it would consult with occupants of residences near HDD sites and would assess the noise mitigation measures required for each HDD location. Where inhabited residences may be directly impacted by the noise of the HDD construction activities Pouce Coupé may apply the following mitigation measures:

- restrict temporary casing installation and removal activities to daytime only, where necessary;
- lay the site out strategically, so that the temporary construction buildings are located between the equipment and the residences, when achievable;
- point the mufflers of the equipment away from the direction of the residences;
- use noise panels for further noise reduction, when deemed necessary; and
- use lower volume back-up alarms for nighttime activities only.

Pouce Coupé also stated that it is willing to consider site-specific noise mitigation if any Indigenous communities or landowners raise noise-related concerns associated with a specific site or receptor.

To mitigate operational noise from the pumps being added to the Taylor Tank Farm facility, Pouce Coupé would implement the noise control recommendations outlined in the Noise Impact Assessment completed for the Project to meet the permissible sound levels set out in the *British Columbia Energy Regulator Noise Control Best Practices Guideline*.[125] Following Pouce Coupé's implementation of mitigation at the Taylor Tank Farm facility, noise at nearby receptors is expected to decrease between 0.3 and 4.0 dB compared to baseline levels, and cumulative sound levels are expected to meet the permissible sound levels at the receptors for which the Taylor Tank Farm facility is the primary noise contributor.

Pouce Coupé committed to continue to engage with Indigenous communities to promote awareness of Project construction activities that will be undertaken, the construction schedule, and whom to contact with any concerns. Pouce Coupé committed to discuss specific disruption

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[125] In BC, noise for energy-related facilities is regulated through the *British Columbia Energy Regulator Noise Control Best Practices Guideline*. The Guideline permits specified sound pressure levels, (e.g., the sound level received at a specific location, attributable to energy industry facilities). These allowable limits are dependent on the population density, proximity to heavily traveled transportation routes (motor vehicles, rail, and aircraft), and other specified adjustments. The permissible sound level is the limit that the sound pressure levels emanating from the facilities in the study area plus the ambient sound level (i.e., the average background sound level not attributable to energy industry facilities) may not exceed over a specified period, as measured at specific locations of interest (i.e., the receivers). These receivers are located at the residences existing within 1500 m of the subject facility, or else at the 1500 m boundary from the subject facility.

or nuisance concerns with potentially affected Indigenous communities to implement appropriate mitigation to reduce or avoid site-specific effects.

The Commission is satisfied with Pouce Coupé's commitment to ongoing engagement with Indigenous communities and other local communities, including residents, municipal leaders, businesses, and recreational users. These efforts would help raise awareness of Project construction activities and schedule, and allow Pouce Coupé to discuss specific disruption or nuisance concerns in order to implement appropriate mitigation to reduce or avoid site-specific effects. The Commission finds the measures to minimize sensory disturbances appropriate. Pouce Coupé committed to evaluating noise impacts associated with HDD and to implementing appropriate mitigation measures as needed and stated that it would consider additional mitigation measures if requested by Indigenous communities during ongoing engagement.

5.6.2.3. Significance of the Project's effects on the health of Indigenous Peoples taking into account cumulative effects

The Commission finds that, with the application of Pouce Coupé's proposed mitigation measures and the implementation of the Project EPP, any residual Project effects on the health of Indigenous Peoples would be of low to medium (adverse) significance. This finding takes into account the Commission's finding of low to medium (adverse) in total cumulative effects.

The Commission received evidence that the health of water directly impacts the health of other associated features and populations, such as soil and plant health, and subsequently the health of animals and humans who rely on those plants. Indigenous Peoples raised concerns about the health and safety risks of pollutants and other contaminants, leading to the reluctance of some Indigenous Peoples to consume game and other harvested foods, such as fish. Duncan's First Nation noted a rise in fish consumption advisories in many sub-watersheds within its territory, including on and downstream of the Peace River. Duncan's First Nation attributed this rise in fish consumption advisories to pulp mills, agricultural operations, and industrial and residential developments. Many Indigenous Peoples, including Driftpile Cree Nation, Horse Lake First Nation, Kelly Lake Cree Nation, Louis Bull Tribe, and Prophet River First Nation explained that water is sacred and that access to clean drinking water is of vital importance. However, due to fears of contamination from industrial activities, (e.g., sedimentation of groundwater, nearby use of herbicides and pesticides, potential leaks or spills), many reported that they consider water sources to be unsafe to drink, opting instead to buy bottled water. Additionally, some Indigenous Peoples, including Driftpile Cree Nation, Foothills First Nation, and Saulteau First Nations have observed an increase in diseases, such as cancer, in community members, and have attributed this increase to industrial development and contaminated food and water sources.

5.6.3. Heritage resources

The Commission finds that, after Pouce Coupé implements its mitigation measures, the Project is unlikely to have residual effects on heritage resources[126] within the PDA. The Commission finds that the potential effects on heritage resources would be adverse, short term in temporal extent, within the PDA in geographic extent, negligible to low in magnitude, and no or negligible in total cumulative effects. The Commission also finds that, with Pouce Coupé's application of its proposed mitigation measures and EPP, including the Cultural Resource Discovery Contingency Plan, and through Pouce Coupé obtaining permits from the appropriate provincial governments responsible for regulatory oversight of heritage resources, the Project's effects on heritage resources would be of negligible significance (as explained in **Section 5.6.3.3**).

5.6.3.1. Relevant setting for heritage resources

In BC, 18 archaeological sites are recorded within the Project footprint, and numerous recorded sites lie within a 2 km-wide buffer. In Alberta, no previously recorded heritage resource sites are present within or adjacent to the PDA. Pouce Coupé determined the existing conditions for heritage resources through desktop review of both the Alberta and BC portions of the Project. Pouce Coupé's desktop study included Indigenous knowledge specific to heritage resources within the PDA, where available. The results of the desktop studies were supplemented by field studies of the PDA. Pouce Coupé extended opportunities for participation in the field studies to Indigenous communities who indicated interest to Pouce Coupé at the outset of the field season.

The management of heritage resources falls under provincial jurisdiction. In BC, heritage resources are protected under the *Heritage Conservation Act*, and paleontological resources are protected under the *Land Act*. In Alberta, heritage resources are protected under the *Historical Resources Act*.

5.6.3.2. Effects of the Project on heritage resources

The Commission finds that there is potential for the Project to result in effects on heritage resources during the construction phase through the loss of or disturbance to materials, sites, or site contexts caused by ground disturbance during construction activities or through vandalism and unauthorized artifact or fossil collection. The Commission finds that, during the operations phase of the Project, there would likely be no additional effects on heritage resources because the primary effects (i.e., loss or disturbance to site contents or context) would be mitigated before or during construction. Secondary effects (i.e., vandalism or unauthorized collection) would be mitigated through worker education programs before the construction phase (e.g., environmental orientation) and the detailed recording of any surface sites judged to be at increased risk of vandalism because of increased human access.

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[126] Heritage resources include cultural, historic, archaeological, and paleontological resources, and can include pre-contact and post-contact features.

Based on the evidence, the Commission finds that potential Project effects on heritage resources would be short term because they are only likely to occur as isolated irregular events during the construction period. The Commission also finds that the potential effects on heritage resources would be limited to the PDA in geographic extent, as that is where ground disturbances would occur.

Pouce Coupé stated that potential effects to heritage resources were evaluated on an individual, site-specific basis developed through scientific assessment of heritage value and Indigenous concern. Pouce Coupé acknowledged that, for Indigenous communities, the loss of information from heritage resource sites affected by the Project could hinder the reconstruction of past human activities at the site-specific level and at the level of broader cultural and temporal reconstruction. Pouce Coupé stated that provincial authorities consider the concerns of Indigenous Peoples identified during the consultation process relative to site-specific mitigation, as part of their evaluation of heritage value.

Indigenous communities raised concerns associated with heritage resources, including the potential for spiritual, burial, cultural, and historical sites to be disturbed, destroyed, or damaged. Duncan's First Nation noted that even if Indigenous sites of significance are not physically destroyed, proximity to industrial activity could compromise their cultural integrity and use. Sucker Creek First Nation and Whitefish Lake First Nation #459 stated that the preservation of these sites is essential for maintaining cultural heritage and for the transfer of knowledge to future generations. The Commission also received evidence from Whitefish Lake First Nation #459 that inadequate protection and preservation measures for heritage resources could adversely impact Indigenous and treaty rights.

Pouce Coupé submitted that under the relevant provincial regulatory regimes, it has implemented a robust program to identify, avoid, and (where necessary) mitigate impacts to archaeological and heritage resources in consultation with Indigenous communities. Pouce Coupé stated that it would be available to discuss its work in these areas should any Indigenous communities request further clarity on those programs.

Pouce Coupé explained that its preferred mitigation for impacts to heritage resources is avoidance of known sites through Project redesign or the implementation of alternative construction methods such as HDD. If avoidance is not practical, construction monitoring, or controlled excavation of sites or portions of sites, may contribute to the scientific knowledge base for the provincial archaeological and palaeontological record. During construction, flagging, fencing, signage, or other methods would be used to identify and protect particularly sensitive features in the field, including culturally important features.

The Commission recognizes that during construction it is possible that Pouce Coupé may encounter previously unidentified heritage or cultural resources (also known as chance finds) that are historically or culturally important. The Commission is satisfied with Pouce Coupé's commitment to involve Indigenous Peoples in monitoring construction activities, as required in **Condition 12** (Plan for Indigenous Peoples' participation in construction monitoring), and that Pouce Coupé would implement its Cultural Resource Discovery Contingency Plan, which outlines how chance finds on the Project would be managed.

If previously unknown heritage resource sites are identified during Project construction activities, Pouce Coupé would follow the Cultural Resource Discovery Contingency Plan and would apply mitigation measures, as required by the appropriate provincial governments. Mitigation measures may include detailed site recording, collection of artifacts or fossils, measures identified through additional Indigenous engagement, controlled mitigative excavation, and/or monitoring during construction activities. Pouce Coupé also has a Chance Find Protocol for Fossil Discoveries that would apply to palaeontological resources. The protocol includes measures such as having developers report any fossils found on their site to the BC Fossil Management Office and taking photographs and recording the location of any fossils found.

The Commission finds that Pouce Coupé's proposed mitigation measures, along with its implementation of the Project EPP and the Cultural Resource Discovery Contingency Plan, and its acquisition of permits from the relevant provincial regulators, would likely prevent any residual effects on heritage resources. As a result, the Commission also concludes that the Project would be unlikely to contribute to cumulative effects on heritage resources in the Project area.

The Commission finds that many measures proposed by Indigenous Peoples throughout the hearing process to mitigate potential Project effects on heritage resources are sufficiently addressed by Pouce Coupé's proposed mitigation measures, including the Cultural Resource Discovery Contingency Plan. These measures include the recommendations for collaboration and input from Indigenous Peoples on the development of a chance find protocol; monitoring by trained Indigenous environmental monitors during all phases of construction; applying buffer zones; and contacting Indigenous communities as early as possible in the event a culturally significant site is found. Additionally, the updated EPP required by **Condition 11** (Environment Protection Plan) must include measures for maintaining a list of TLRU and heritage sites, including locations and related mitigation measures. The Commission is satisfied with Pouce Coupé's commitment to fulfilling all provincial requirements for field assessment and mitigation in relation to the Project, which may include additional assessment or mitigation of newly discovered sites arising from these field assessments, and any required construction monitoring, or chance find notifications.

Furthermore, the Commission is satisfied that Pouce Coupé demonstrated sufficient engagement with Indigenous Peoples regarding heritage resources and provided opportunities for participation in environmental and archaeological fieldwork. to communities who indicated interest at the outset of the field season. Representatives were engaged as monitors and/or field technicians, and participated in field surveys, assessment of archaeological potential, and systematic subsurface inspection for archaeological resources, at their discretion. Additionally, training, such as pipeline safety and ground disturbance tickets, were funded by Pouce Coupé and facilitated by Pouce Coupé's environmental consultant, where required.

Pouce Coupé stated that it would continue to refine its construction plans to avoid known heritage resources. With the advancement of data analysis from archaeological studies completed in 2024, Pouce Coupé modified the construction footprint to avoid newly identified archaeological sites, where possible. Pouce Coupé also stated that, if any new areas or locations of heritage value identified through ongoing engagement are anticipated to be altered

by the Project, it would collaborate with affected Indigenous communities to determine appropriate mitigation measures.

The Commission acknowledges that for the portion of the Project in Alberta, the Alberta Ministry of Arts, Culture, and Status of Women granted approval with conditions under the *Historical Resources Act* on 20 December 2024. For the portion of the Project in BC, the Commission notes that further archaeological field studies were undertaken in 2025. The Commission is of the view that any Project-specific mitigation, as required by the appropriate provincial authorities, are either currently reflected in the EPP, or would further be reflected in future revisions to the EPP. The Commission expects that relevant site-specific mitigation measures with respect to heritage resources would also be reflected in the construction environmental alignment sheets, which form part of the EPP, and which Pouce Coupé and its contractors are required to follow during construction.

Based on the above, the Commission finds that the Project's effects on heritage resources would be negligible to low (adverse) in magnitude. This finding considers Pouce Coupé's proposed mitigation measures, including early identification of sites, monitoring of construction activities by Indigenous Peoples, and Pouce Coupé's engagement with Indigenous Peoples and appropriate provincial authorities on appropriate mitigation measures.

5.6.3.3. Significance of the Project's residual effects on heritage resources taking into account cumulative effects

The Commission finds that total cumulative effects for heritage resources range from none to negligible (adverse). The Commission anticipates that after Pouce Coupé implements its mitigation measures, the Project is unlikely to have residual effects on heritage resources within the PDA. Further, given the limited temporal and geographical extent, the Commission does not expect any interactions with reasonably foreseeable projects and activities.

In making its determination on significance for heritage resources, the Commission considered the temporal extent, geographic extent, and magnitude of residual Project effects, while taking into account any relevant cumulative effects and additional context. The Commission finds that Pouce Coupé's application of its proposed mitigation measures and EPP would sufficiently address any residual effects within the Project area. In the event of chance finds during construction, the Cultural Resource Discovery Contingency Plan and Pouce Coupé's adherence to requirements from the applicable provincial heritage regulator would appropriately address these unexpected occurrences. Based on all the above, the Commission finds the Project's effects on heritage resources will be of negligible (adverse) significance.

5.6.4. Social and cultural well-being

The Commission finds that the Project is likely to result in residual effects on social and cultural well-being, including both positive and adverse. The Commission finds that these potential effects would be short term to medium term in temporal extent, range from the LAA to national in geographical extent, range from low (adverse) to low (positive) in magnitude, and high (adverse) in total cumulative effects. The Commission finds that after Pouce Coupé implements

its mitigation measures and EPP, as well as the Commission's recommended conditions, any residual Project effects on social and cultural well-being would include both adverse and positive effects, all of which would be of medium (adverse) significance (as explained in **Section 5.6.4.3**). As discussed below, these effects are in the context of existing high cumulative effects.

5.6.4.1. Relevant setting for social and cultural well-being

Social and cultural well-being is influenced by social, economic, and environmental conditions, which are complex and interconnected. There are many intricate connections between conditions that contribute to living conditions and social relationships, which then have an influence on mental health outcomes, risk behaviours, health status, and mortality. Factors such as social and community networks, employment status and work environment, access to health care and other infrastructure and services, and general socio-economic and environmental conditions, can influence social and cultural well-being.

Pouce Coupé analyzed academic, government, and industry literature to determine possible positive and negative Project effects on social and cultural well-being. Pouce Coupé's assessment of social and cultural well-being focused effects arising from Project-related population growth, presence of out-of-region temporary workers and worker interactions with local residents, potential interactions amongst people of different identity factors within the workforce, and increased employment and contracting opportunities for local and regional residents. Pouce Coupé's assessment also considered: risk behaviours; communicable disease; family dynamics and social connectedness; mental health; cultural well-being; and community safety.

5.6.4.2. Effects of the Project on social and cultural well-being

For social and cultural well-being, the Commission's assessment of potential Project effects is bound spatially by the PDA, and the LAA is refined to capture the maximum area within which Project effects can be predicted or measured with a reasonable degree of accuracy, which for social and cultural well-being are those communities where Project workers would reside and use infrastructure and services. In this case, the main communities anticipated to be affected by the Project are Dawson Creek, Fort St. John, and Taylor in BC, and Grande Prairie in Alberta. The temporal boundaries for social and cultural well-being include both construction and operations phases.

In assessing social and cultural well-being impacts on Indigenous Peoples, the Commission considered the UN Declaration as interpretive context, particularly Articles 11, 13, and 25. These articles recognize Indigenous Peoples' rights to practice cultural traditions (Article 11), transmit their histories and languages to future generations (Article 13), and maintain their distinctive spiritual relationships with traditionally owned or occupied lands and waters (Article 25). This framework aligns with the holistic understanding of well-being expressed by Indigenous Peoples throughout this proceeding, where social, cultural, spiritual, and economic dimensions are fundamentally interconnected.

The Commission finds that the Project has the potential to affect social and cultural well-being through a number of pathways. Specifically, Project-related population growth may change the demographics of nearby communities or disrupt the social setting (a negative effect); Project-related employment opportunities may contribute to increases in individual and household income (a positive effect); and potential changes to working conditions may contribute to individual, family, and community well-being (positive or negative effects). Additionally, the Commission finds that the Project may affect the cultural activities and well-being of Indigenous Peoples through changes or loss to their connections with the land, opportunities for harvesting, and access to traditionally used areas (negative effects).

The Commission finds that the Project may have positive social and cultural effects for local Indigenous Peoples as the Project may increase opportunities for local employment. For instance, economic activity from employment and Project expenditures on local Indigenous businesses are expected to provide positive effects during the construction period. However, the Commission finds that positive effects from Project-related employment and income would disproportionately affect the social and cultural well-being of white, male sub-groups in the LAA/RAA because of the male-dominated workforce of the construction and oil and gas industries. As a result, Indigenous Peoples are less likely to receive positive effects from the Project. If a Certificate is issued for the Project, the Commission would expect Pouce Coupé to adhere to its diversity and inclusion goals, which value employee diversity and govern organizational compliance with laws concerning discrimination and equal opportunities in order to enhance employment opportunities and a diverse workforce. See **Section 5.6.5** for further discussion on employment and economy for Indigenous Peoples.

The Commission finds that the Project may negatively impact the social and cultural well-being of Indigenous Peoples because the Project may result in changes to the environment, a perceived altered sense of place and connection to the land, avoidance of traditional areas, and an interruption to cultural continuity, traditional harvesting, and other activities. Additionally, the social and cultural well-being of Indigenous Peoples may be affected by an increase in out-of-region workers. Given that the majority of the workforce is likely to be male and non-Indigenous, there is potential that the Project's construction workforce and activities may disproportionately affect sub-groups of the population, such as Indigenous Peoples, with particular concern for marginalized populations such as Indigenous women, girls, and two-spirited people, who have historically been adversely affected by transient workers.

Some Indigenous communities, including Enoch Cree Nation, Métis Nation British Columbia, O'Chiese First Nation, and Saulteau First Nations, raised concerns regarding increased rates of violence as a result of an influx of out-of-region workers from similar projects. Violence against Indigenous women and girls and the issue of missing and murdered Indigenous women and girls were of noted concern. Concerns about harassment, community safety, and feeling unsafe while out on the land were also raised. Pouce Coupé acknowledged the seriousness of these concerns and stated that it is committed to continuing to engage with and learn from the experiences of Indigenous communities to ensure that the Project takes appropriate measures to address the issue of missing and murdered Indigenous women and girls. Pouce Coupé submitted there would be a relatively small workforce, as well as measures to mitigate potential adverse impacts of the Project workforce on local communities.

With respect to the concerns of increased rates of violence, harassment, and discrimination of women and minority populations within Indigenous communities, the Commission reminds Pouce Coupé of its commitment to work with its contractors to create and establish clear guidelines for behaviour in accordance with company policies and regulatory requirements. The Commission expects that all interactions between Indigenous Peoples and workers of companies with federally regulated facilities will be based on mutual respect, which means that companies should be committed to a goal of zero incidents of harassment, discrimination, or racism. The Commission further expects that Pouce Coupé and its prime contractor will enforce these policies to ensure safe and harassment-free work environments.

Indigenous Peoples, including Kikino Metis Settlement, Peavine Metis Settlement, Sucker Creek First Nation, and Whitefish Lake First Nation #459, also explained how their cultural well-being and ways of life rely on access to healthy lands and waters. During their oral Indigenous knowledge session, Lynn Smith from Peavine Metis Settlement described the importance of water:

> For us, we need to know that that – when they are done the project, that that water is still livable for all human life and for all wildlife for the plants. It has to be livable. So turbidity and flow rate is not good enough.[127]

Lynn Smith also said:

> At the end of the day, our ask is that when a project is completed, like, absolutely completed with the regrowth, that we could sit down with the leaders of that project, maybe government leaders, us, and let's have a glass of water from the stream downstream of that project. Then that is when we could say we have done something good.[128]

Article 13 of the UN Declaration recognizes the right of Indigenous Peoples to "transmit their histories, languages, oral traditions, philosophies, writing systems and literatures to future generations." The Commission finds that cumulative industrial development has created conditions where this fundamental right has become increasingly difficult to exercise in this area.

Kikino Metis Settlement stated that cumulative effects from industrial development have made it increasingly difficult for Indigenous Peoples to maintain and pass down their traditional knowledge, practices, culture, and way of life. Many Indigenous Peoples, including Duncan's First Nation, Doig River First Nation, and Enoch Cree Nation, also explained how the sustainability of their cultural identity – including their language, economy, and spirituality – depends on access to undeveloped lands. Duncan's First Nation expressed concern that they are being disconnected from the lands that are central to their identity and that this disconnection can lead to loss of language, oral history, and traditional knowledge. The

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[127] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 89, PDF page 15 of 47, C33800-1

[128] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 205, PDF page 31 of 47, C33800-1

Commission received evidence from Saulteau First Nations that impacts to the ability to practice and transmit cultural values can create gaps in knowledge, even within a single lifetime.

During their oral Indigenous knowledge session, Fred Didzena of Dene Tha' First Nation described the impacts and consequences of not being able to transfer knowledge to younger generations:

> And we do have to now start recording our oral history because some of our – there is a language divide starting now with our Knowledge Keepers and our children. Many of our Knowledge Keepers are Dene speakers only, and our children now growing up are only English-speaking. So the loss is happening. And for us to continue to state our case, we need to be able to transfer information. It is getting more and more difficult for us to do that now … And the traditions that we used to have are being fractured by such things as the – as the comments "in the national interest." We are losing our identity because of that, because the oral traditions that we have speaks to the land, and we need to be there in order to pass it on. But with all the disturbances out there, we don't really have any place to go.[129]

During their oral Indigenous knowledge session, Nick Anderson of Whitefish Lake First Nation #459 described how cumulative effects from industrial development have changed the land and their ability to pass on traditions:

> I had a conversation with an Elder that uses the land, he camps there, and he has been there for quite a few years. I want to say over two decades. And he told me that he had gone to the area, and some of the places where he used to hunt is unrecognizable because of the clearing, the pipelines, the right-of-ways, and the hi-grade roads. Lots of traffic in there. And he said if he were to bring his friends or his, like, parents, if they were still alive, that they wouldn't even recognize the area to date. And that brings me to a point where if there is no land to use, how are we going to pass on our tradition when we are losing land right now in the area where I actually - - me and Fabian, we brought our worker to pass on knowledge, to teach him how to hunt, to skin a moose, to harvest for our community.[130]

Some Indigenous communities, including Duncan's First Nation, Kikino Metis Settlement, Sucker Creek First Nation, and Whitefish Lake First Nation #459, also identified how their connection to and use of the land is important for their mental and spiritual health, and said that existing and potential Project impacts may disrupt their enjoyment of cultural sites. Enoch Cree Nation and Louis Bull Tribe described experiences of solastalgia[131] as a result of cumulative effects from industrial development.

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[129] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), paras 286, 287, PDF page 41 of 47, C33800-1

[130] CER, OH-001-2024 Hearing Transcript Vol 3 (19 March 2025), paras 588-589, PDF page 11 of 53, C33832-1

[131] Solastalgia refers to a form of emotional or existential distress caused by negatively perceived environmental change.

During their oral Indigenous knowledge session, members from Driftpile Cree Nation discussed *wahkohtowin*, which as Karl Giroux described, is a Cree term that explains how everything is connected and related (e.g., the animals, the air, the water), and how changes to the environment impact them:

> And when you come to a time in your life when you are seeing that changing, the landscape changing, and you see how it impacts you as a person, it is saddening to see that. It is disheartening, and actually, it is almost like, you know, your stomach hurts deep within. Your spirit mourns when you see that change.[132]

During their oral Indigenous knowledge session, Timber Bigfoot from Prophet River First Nation explained the importance of the environment for their cultural well-being:

> One thing I hear a lot of the time is 'What is more important? Is that lake more important? Is that river more important? Are the elk more important? Is the moose more important?' Everything is important. Everything is life, not just for our people, but for everything and everyone.[133]

Pouce Coupé provided examples of its mitigation and enhancement measures specific to changes in social and cultural well-being in its ESA. These include:

- engage business and communities to enhance business and employment opportunities;
- procure goods and services from local and Indigenous businesses;
- implement and enforce a drug and alcohol use policy;
- implement code of conduct and Indigenous awareness training;
- adhere to provincial public health standards;
- make available an employee and family assistance program for employees and encourage contractors to have similar plans available for their employees and contractors; and
- implement and enforce a workplace harassment policy.

Pouce Coupé also stated that its mitigation measures related to sensory disturbances and human occupancy, and resource use would also apply to the cultural well-being of Indigenous Peoples. Further, to enhance economic contributions to local communities, Pouce Coupé's enhancement measures related to employment and economy would apply here as well.

Pouce Coupé stated that its proposed mitigation and enhancement measures would reduce potential adverse effects and enhance beneficial effects of the Project. Pouce Coupé, its employees, and its contractors are required to adhere to Pembina's policies and procedures that encourage safety, responsibility, integrity, diversity, inclusion, and fair employment, to foster

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[132] CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), para 396, PDF page 15 of 37, C33815-1

[133] CER, OH-001-2024 Hearing Transcript Vol 4 (20 March 2025), paras 1126, PDF page 11 of 22, C33834-1

the well-being of Pouce Coupé's workers and nearby communities. Pouce Coupé stated that measures would be taken for those who do not adhere to the codes of conduct, rules, and other policies and procedures.

Pouce Coupé stated that the implementation of policies on respectful behaviour, harassment-free workplace, and Indigenous relations would reduce the potential for adverse Project-related effects on members of identified sub-groups. Pouce Coupé and Pembina have a zero-tolerance policy regarding workplace violence and harassment and require all contractors to implement policies that meet or exceed Pouce Coupé's policies. All reports of workplace violence and harassment would be investigated fully in adherence with Pouce Coupé's internal policies. Contractors that do not have an equivalent or more stringent policy will follow Pouce Coupé's policies during Pipeline and facility construction. Pouce Coupé explained that the Code of Conduct and harassment policies are intended to promote a high degree of integrity and reduce adverse worker interactions in the communities. To reduce disruption of community life by temporary workers and Project activities, Pouce Coupé and its contractors would establish clear guidelines for behaviour. These guidelines would align with company policies and regulatory requirements, including a Health, Safety & Environment Policy; Code of Ethics Policy; Community Relations Policy; Indigenous and Tribal Relations Policy; and Respectful Workplace Policy. These rules would also prohibit the possession of firearms and illegal drugs, and address many other concerns, including alcohol consumption. In addition, Pouce Coupé would continue to consult with Indigenous communities, residents, landowners, and business owners regarding their concerns.

Pouce Coupé has also committed to conduct cultural awareness training for the Project, which would include a section on missing and murdered Indigenous women and girls. This would raise awareness of the safety concerns of Indigenous Peoples, particularly regarding Indigenous women and girls. Additionally, Pouce Coupé stated that it would welcome ongoing input from potentially affected Indigenous communities in the development of the cultural awareness program.

Additionally, in support of social and cultural well-being, Pouce Coupé identified a series of mitigation measures from the Implementation Agreement that discusses specific provisions around minimum setbacks from First Nations' cabins, campsites, and other areas of significance (e.g., mineral licks, wallows, cultural trails), as well as specifications for new pipeline RoWs (e.g., access management measures, line-of-sight mitigations).

Pouce Coupé submitted that mitigation measures, such as providing Indigenous communities with the Project construction schedule and maps, clearly delineating areas that have access restrictions during construction, and removing Project-related access restrictions following clean-up and reclamation, are expected to largely address potential effects on access to the resources or areas used or required for the exercise of Indigenous and treaty rights. Following reclamation, Project-related access restrictions would be lifted.

Pouce Coupé advised that the socio-economic commitments and mitigation measures outlined in its EPP would be monitored during construction through Pembina's environmental inspection program, by the construction management team or the stakeholder engagement team, as applicable. The environmental inspectors, their designates, or stakeholder engagement team

members would work onsite or be available during construction to monitor activities for compliance with regulatory commitments and mitigation measures, as outlined in the EPP. Pouce Coupé explained that socio-economic commitments and mitigation measures not included in the EPP would be monitored during construction by Project assignees, such as project management, construction management, and stakeholder engagement teams. Project assignees for the socio-economic commitments and mitigation measures not included in the EPP would work directly with the general or prime contractors during construction to monitor activities for compliance.

Pouce Coupé committed to continue ongoing engagement with Indigenous communities, local residents, municipal representatives, businesses, and recreational users to promote awareness of Project construction activities that would be undertaken, the construction schedule, and whom to contact with concerns. Pouce Coupé also stated that it would discuss concerns with nearby communities, potentially affected Indigenous communities, and other stakeholders, to implement appropriate mitigation to reduce or avoid site-specific effects.

Pouce Coupé noted that the identified residual effects on social and cultural well-being have the potential to interact cumulatively with the residual effects of past, present, and reasonably foreseeable future projects and physical activities. Cumulative effects on some effects pathways for social and cultural well-being, such as the conditions required for the exercise or practice of Indigenous and treaty rights, are considered in the ESA and include an assessment of factors that may cause disruptions to land users, loss of tranquility and relationship with the land, and a diminished sense of physical and psychological well-being.

Several Indigenous communities provided evidence of community solutions and capacity building. For example, Peavine Metis Settlement discussed their environmental expertise capacity building efforts and partnership with the Northern Alberta Institute of Technology, as well as their data sovereignty approaches. They described how their approach braids Western science with traditional knowledge and could benefit not only their own community, but other communities, as well as industry and governments. Greg Gauchier of Peavine Metis Settlement said:

> And projects like this enable us to go out into the field, collect our data, put it into a format that can be looked upon in later years. The data can be compared with others – other areas, what worked, what didn't work, and you will see in time that the system that we are trying to enact will benefit us, benefit industry, and benefit government. Because like I say, consultation should be, and I am hoping that it is, a collaboration of all the shareholders in this – in these projects.[134]

The Commission is satisfied with Pouce Coupé's proposed mitigation measures to address impacts to social and cultural well-being. As a part of the CER's regulatory oversight of the Project, the Commission would impose **Condition 18** (Socio-economic effects monitoring plan). This condition would require Pouce Coupé to provide a plan for monitoring potential positive and adverse socio-economic effects of the Project during construction. The Commission expects this

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[134] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), para 177, PDF page 27 of 47, C33800-1

plan to include factors and methods related to the concerns raised regarding social and cultural well-being.

As another part of the CER's lifecycle oversight of the Project into the post-construction and operations phases, the Commission would also impose **Condition 35** (Socio-economic effects monitoring final report), which would require Pouce Coupé to provide the results of its socio-economic monitoring plan, including a summary of how Project-related changes in community health and cultural well-being affected Indigenous Peoples. A broader discussion regarding these conditions is found in **Section 5.4.2**. The Commission finds that, with the recommended conditions in place, Pouce Coupé has the necessary corporate policies and programs to address concerns related to social and cultural well-being.

5.6.4.3. Significance of the Project's effects on social and cultural well-being taking into account cumulative effects

Taking into account the Commission's finding of high existing cumulative effects on Indigenous rights in the area, and that the Project would have a mix of positive and negative effects, as discussed above, the Commission finds high (adverse) total cumulative effects for social and cultural well-being.

The Commission finds that, because of the high existing cumulative effects, standard mitigation measures are not sufficient. The Commission addresses the need for further mitigation in **Section 5.7** below. For its part, Pouce Coupé stated that no additional mitigation measures are proposed for the Project to address potential cumulative effects; however, it would continue to communicate and engage with local communities with respect to scheduling, so they may prepare for upcoming employment opportunities and any influx of out-of-region workers into communities in the LAA/RAA. However, one example in support of the Commission's finding that standard mitigation is not sufficient is Saulteau First Nations' explanation that a pipeline RoW impacts the mental, emotional, and spiritual health and well-being of its members, as it is a constant reminder that their territory has been modified without their consent.

In making its determination on significance for social and cultural well-being, the Commission considered the temporal extent, geographic extent, and magnitude of residual Project effects, while taking into account relevant cumulative effects and additional context. Based on all the above, and Pouce Coupé's implementation of its mitigation and enhancement measures, along with its implementation of the EPP, and its use of the Commission's recommended conditions, the Commission finds that the Project's effects on social and cultural well-being would be of medium (adverse) significance.

5.6.5. Employment and economy for Indigenous Peoples

The Commission finds that, after Pouce Coupé implements its mitigation and enhancement measures, and the Commission's conditions, including an Indigenous Project Committee which is described below in **Section 5.7**, the Project is likely to have positive residual effects on employment and economy for Indigenous Peoples. The Commission finds that these potential effects would be short term to medium term in temporal extent, LAA to national in geographic

extent, medium (positive) in magnitude, and high (adverse) in total cumulative effects. Accordingly, the Commission finds that any residual Project effects on employment and economy would be of medium (positive) significance (as explained in **Section 5.6.5.3**).

5.6.5.1. Relevant setting for employment and economy for Indigenous Peoples

Assessment setting and the UN Declaration

The Commission's assessment of potential effects on employment and economy for Indigenous Peoples considered the same PDA, LAA, and RAA as the assessment of the social and cultural well-being, and infrastructure and services VCs, which are discussed in **Section 5.6.4** and in **Chapter 6**, respectively. The temporal boundaries for employment and economy for Indigenous Peoples include both construction and operation phases.

In assessing the effects of the Project on employment and economy for Indigenous Peoples, the Commission applied the UN Declaration as interpretive context. Articles 3, 5, 20, and 21 in particular are concerned with: Indigenous Peoples' right to self-determination and economic development (Article 3); their right to maintain and strengthen their distinct economic institutions (Article 5); their right to be secure in their traditional means of subsistence and to freely pursue economic development (Article 20); and their right to improvement of economic and social conditions, including employment and vocational training (Article 21). These articles provide interpretive context informing the Commission's understanding of economic impacts beyond market-based employment, to include traditional economies and self-determined economic development.

Current employment statistics

In 2021, there were 9,510 Indigenous people in the labour force in the LAA/RAA. Of the Indigenous labour force, 8,080 were employed and 1,405 were unemployed. The participation rate for the Indigenous population in the LAA/RAA (67.5 per cent) was above the provincial averages for the total population in BC (63.3 per cent) and slightly below that in Alberta (68.0 per cent).

Traditional economy context

The assessment of employment and economy for Indigenous Peoples relies on existing employment and economic conditions, and distribution of economic activity, as well as key Project information (e.g., procurement plans, hiring and training programs) as indicators of where and to whom Project effects are likely to accrue. Additionally, the Commission's assessment of employment and economy for Indigenous Peoples occurs within areas where traditional economies have been significantly disrupted by industrial development. Community evidence indicates that subsistence economies are under stress. For example, Fred Didzena of Dene Tha' First Nation stated that:

> The employment rate in our communities is about 83 per cent unemployed. And that in itself says a lot because we don't have the wherewithal to drive to a town one hour away to buy the necessities to stay alive as we don't have the money for gas, nor do we have

> money to buy those things. And it is getting worse and worse because the cost is increasing by leaps and bounds. And for us to say, “Oh, another pipeline. Oh, it is going to give us jobs,” for how long? One winter? Two winters? … Somebody thought up the idea, “Oh, okay, maybe we will have a museum for First Nations artifacts, cultural things, and all that.” We don't need that. We need livelihood, capacity to be able to stay alive. You can't eat a museum.[135]

This context benefits from an assessment that considers both market-based benefits and Indigenous economic relationships. Evidence from Indigenous communities indicates that meaningful economic participation requires consideration of economic participation opportunities alongside project-specific employment opportunities for Indigenous Peoples.

5.6.5.2. Effect of the Project on employment and economy for Indigenous Peoples

Pouce Coupé stated that it anticipates that Pipeline construction would require an average workforce of 275 workers between Q2 2026 and Q4 2027 that would peak at approximately 330 workers for a three-month period from July to September 2026. For the Taylor Tank Farm facility upgrades, Pouce Coupé stated it anticipates that it would require an average workforce of 20 workers between Q2 2026 and Q4 2026 that would peak at approximately 40 workers in July 2026. Pouce Coupé expects that the Project workforce would use both local and non-local labour, with 20 per cent of the Project's workforce comprising local residents, and 80 per cent non-local labour.

Pouce Coupé stated that the number of non-local construction workers for the Project would be moderated by measures to increase local, diverse, and Indigenous hires from within the LAA/RAA, as a first priority, and elsewhere in Alberta and BC, as a second priority. Pouce Coupé stated that it recognizes the importance of encouraging and enabling local, diverse, and Indigenous participation in the Project.

In an effort to enhance economic contributions to local communities, Pouce Coupé committed to the following measures:

- Engage local businesses and communities early to identify employment and business opportunities.
- Engage with interested Indigenous communities to provide information on Project participation.
- Work with prime contractors to ensure qualified Indigenous businesses and individuals are considered for goods and services subcontracts.
- Provide support and resources to Indigenous communities to increase their ability to participate in Project activities and to support their long-term goals for skills development and training.

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[135] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), paras 310, 313, PDF pages 45-46 of 47, C33800-1

- Require prime contractors to submit an Indigenous, Diverse and Local Participation Plan that outlines the processes that it would follow to facilitate productive opportunities for qualified and competitive local Indigenous businesses and people on the Project.

Pouce Coupé submitted that employment opportunities are expected to follow existing baseline employment patterns in the construction and oil and gas industries and, given that the Indigenous population represents 11.3 per cent of the LAA/RAA labour force, the Project would likely employ more non-Indigenous than Indigenous persons.

Pouce Coupé also submitted that it is committed to supporting equitable access to jobs, training, and education opportunities, as well as to working with Indigenous communities to gain long-term sustainable benefits from economic development projects. Additionally, Pouce Coupé stated that it is aware that there may be barriers to Indigenous women participating in the labour force and that it remains committed to addressing any barriers or issues raised during the consultation process, where appropriate and feasible. Further, Pouce Coupé is aware that there may be barriers to Indigenous businesses, including women-owned businesses, benefiting from business opportunities on the Project. Pouce Coupé stated that it would work collaboratively with Indigenous communities to help identify initiatives that may help to remove barriers to participation in economic opportunities on the Project.

Pouce Coupé also committed to the following measures related to the employment of Indigenous Peoples:

- Pouce Coupé is committed to discussing potential economic participation in the Project to help build reciprocal business relationships with Indigenous communities, including engaging contractors to uphold commitments to maximize participation of local Indigenous services on the Project, where possible.
- Pouce Coupé is committed to supporting Indigenous businesses in the procurement process and would strongly encourage the prime contractors to follow up with unsuccessful bids.
- Pouce Coupé is committed to maintaining an updated list of Indigenous businesses and their capacity and capabilities for the Project. This would be done through engagement with Indigenous communities to collect, verify, and validate business information on an ongoing basis.

Some Indigenous communities, including Enoch Cree Nation and Saulteau First Nations, expressed their interest in economic inclusion, including revenue sharing. The Commission received evidence from members of Saulteau First Nations during their oral Indigenous knowledge session about their “bottom-up formula” for revenue-sharing agreements and how revenue sharing would help fund their capacity-building programs and invest in their youth and education. Pouce Coupé stated that its engagement with Indigenous communities included some high-level discussion about equity partnerships, largely relating to other initiatives such as Cedar LNG and Chinook Pathways. Pouce Coupé explained that it is not currently exploring partnership, equity ownership, or revenue sharing opportunities with respect to the Project, or Project financing opportunities with Indigenous Peoples, and that its focus on Indigenous

economic inclusion for the Project reflects the priority placed on contracting, subcontracting, and opportunities for Indigenous-owned businesses, as expressed by Indigenous communities through its engagement.

Pouce Coupé stated that it engaged with Indigenous communities regarding economic and training opportunities on the Project and is committed to continuing this engagement and implementing an Indigenous Participation Plan developed with input from communities. Pouce Coupé also sought business lists from Indigenous communities to begin identifying Indigenous businesses that match required services on the Project. Pouce Coupé stated that this process is aimed at increasing Indigenous opportunities and participation and will continue in collaboration with communities and with the Project's prime contractor, once selected.

Pouce Coupé also provided Indigenous communities with Project mapping, tentative Project procurement and construction timelines, and contact information for Indigenous economic development questions related to the Project. Additionally, upon request, Pouce Coupé will provide community support to assist Indigenous vendors that may require assistance with requests for proposals and requests for quotes. Pouce Coupé's Indigenous economic development team will support communities with procurement services. Both Pouce Coupé and its prime contractor (once selected) will make further outreach efforts to community Indigenous skills and employment training departments to source individuals and services to be considered on the Project. Pouce Coupé will advise all contractors engaged for the Project to reach out to relevant Indigenous skills and employment training departments to maximize Indigenous opportunities.

Pouce Coupé would award economic development opportunities to Indigenous businesses and partnerships from communities potentially impacted by the Project through the appropriate supply chain policies, including consideration of proximity to the Project footprint and distribution of economic benefits between communities. Pouce Coupé explained that anticipated opportunities for Indigenous Peoples' employment, contracting, and procurement would occur primarily during the construction phase of the Project and would include, but not be limited to, opportunities to participate in the prime contractor work for the Pipeline and facilities, along with various sub-contracted service opportunities to construct the Pipeline and facilities. Pouce Coupé said that it expects meaningful subcontracting opportunities on the Project, and that procurement planning would ensure significant Indigenous subcontracting.

Pouce Coupé also initiated engagement with Indigenous communities to gauge interest in the Indigenous Construction Monitoring Program and to develop an Indigenous Construction Monitoring Plan. Pouce Coupé stated that, subject to the results of engagement, it expects the plan to be complete in early 2026 and will encourage Indigenous participation in the construction phase of the Project. Certification would be an option for monitors and would be available through the University of Northern British Columbia and its Environmental Monitoring online certificate. Pouce Coupé also intends to develop a Post-Construction Indigenous Monitoring Plan, which would be informed by feedback from communities and the implementation of the Indigenous Construction Monitoring Program. In addition to increasing oversight and transparency on the Project, these programs would offer employment and training opportunities for Indigenous monitors to monitor their community's environmental priorities

during and after construction. Refer to **Section 5.4.2** for a detailed discussion of monitoring by Indigenous Peoples.

A number of Indigenous communities, including Blueberry River First Nations, Dene Tha' First Nation, Doig River First Nation, Driftpile Cree Nation, Enoch Cree Nation, Kelly Lake First Nation, Louis Bull Tribe, Peavine Metis Settlement, Saulteau First Nations, Sucker Creek First Nation, and Whitefish Lake First Nation #459, expressed desire for long-term and meaningful opportunities for employment, procurement, training, or other capacity-building programs. Louis Bull Tribe members also expressed their desire to ensure meaningful participation and long-lasting employment opportunities for their youth. The Commission received evidence from Karl Giroux of Driftpile Cree Nation during their oral Indigenous knowledge session about how capacity-building programs and funding agreements can benefit Indigenous communities:

> One of those ways we have been successful is using these agreements for that leverage to make sure – and we are proud of the fact that we are able to build a healing lodge on our Nation through these types of agreements. So we had proponents put forward dollars to make that a reality, to bridge that gap, the historic gap that we have, the issues that are still plaguing us from the residential school era. So we are proud of the fact through these dollars we have a very successful healing lodge that graduates six to seven people every three months. And we are breaking that trauma.[136]

Pouce Coupé submitted that, in addition to providing employment opportunities on its Project, it contributes to numerous Indigenous training and employment programs and initiatives through its parent company, Pembina, including a job shadowing program. Pouce Coupé explained that Pembina also sponsors multiple Indigenous scholarship opportunities through its Community Investment Program and existing relationship agreements. Pouce Coupé listed several organizations that Pembina partners with to support Indigenous training initiatives in the Project area. Pouce Coupé additionally listed over 65 organizations and projects that received support from Pembina's Community Investment Program in 2024, which includes several Indigenous communities involved in this hearing process. Pouce Coupé stated that the Community Investment Program is guided by Pembina's Community Relations Policy, which is focused on giving back to the Indigenous communities that are impacted by operations. Pouce Coupé works to build lasting and mutually beneficial relationships and engage with Indigenous communities on potentially affected operations and more broadly over the lifecycle of all operations. In April 2025, Pouce Coupé's Indigenous Engagement Advisor emailed Indigenous communities involved in the Commission's hearing for the Project to ask whether they had any upcoming community initiatives in 2025 that Pouce Coupé could support as part of its Community Investment Program.

Pouce Coupé provided details on the mitigation and enhancement measures specific to changes in employment and economy in the ESA. Key mitigation related to the employment and economy for Indigenous Peoples includes:

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[136] CER, OH-001-2024 Hearing Transcript Vol 2 (18 March 2025), paras 422-423, PDF page 21 of 37, C33815-1

- Engage businesses and communities early to enhance employment and business opportunities associated with the Project.
- Procure goods and services, where appropriate, from local and Indigenous businesses.
- Follow existing practices of encouraging local and Indigenous content based on previous experience from operating in the area, and through engagement with Indigenous communities, landowners, regulators, and stakeholders.
- Engage with interested Indigenous communities and businesses to provide information on how they may participate in Project opportunities. Pouce Coupé will also work with prime contractors to enable qualified and competitive local Indigenous businesses and individuals to be considered for goods and services subcontracts.
- Implement an Indigenous contractors' database, which Pouce Coupé will use and share with its prime contractors.
- Provide support and resources to Indigenous communities to increase their ability to participate in Project activities and to support their long-term goals for skills development and training.
- The prime contractor will submit an Indigenous, Diverse and Local Participation Plan to Pouce Coupé that outlines the processes that it will follow to facilitate productive opportunities for qualified and competitive local Indigenous businesses and people on the Project.
- Adhere to diversity and inclusion goals, which value employee diversity and govern organizational compliance with laws concerning discrimination and equal opportunities.
- Adhere to Pembina's Supplier Code of Conduct to respect the people and communities affected by the Project.

Additionally, Pouce Coupé stated that the prime contractor will be directed and advised to report on Indigenous sub-contracting and employment metrics to Pouce Coupé on a monthly basis, throughout the construction phase of the Project. Pouce Coupé will work to maximize Indigenous contracting opportunities through prime contractor and subcontractor services during the request for proposal and request for quote processes. On request, Pouce Coupé's Indigenous Economic Development and Supply Chain representatives will share specific Indigenous employment and contracting metrics as they relate to that community during the construction phase of the Project.

Based on the evidence, the Commission finds that the Project's potential positive effects on employment and economy for Indigenous Peoples would be short term to medium term in temporal extent, because opportunities for employment, contracting, procurement, and training would likely be highest during the construction and post-construction phases. Once in operation, the opportunities to participate would be reduced. The Commission also finds that potential effects on employment and economy for Indigenous Peoples would range from the LAA to national in geographic extent, because individuals, businesses, and communities within BC and Alberta would benefit from employment, contracting, and training opportunities. Additionally, Pouce Coupé confirmed that qualified and competitive Indigenous Peoples and Indigenous-

owned businesses would be considered for employment, contracting, and procurement opportunities.

The Commission finds that the socio-economic benefits related to the construction phase of the Project, through direct, indirect, and induced employment, and contract and procurement opportunities, would benefit Indigenous communities. Based on the evidence, the Commission finds that the Project's positive effects would be medium in magnitude, because benefits related to the construction phase of the Project, through both direct and indirect employment, contracting, and procurement, would likely have moderate benefits for the Indigenous Peoples and communities that are involved. Further, there are additional opportunities for Indigenous Peoples to benefit long term from the Project through training initiatives and programs, including certification options for monitors.

The Commission is also of the view that Pouce Coupé has established appropriate mitigation measures to reduce the negative impacts of the Project on employment and the economy for Indigenous Peoples, and appropriate enhancement measures to increase the positive impacts. Pouce Coupé has made commitments to maximize Indigenous employment and contracting that will become binding if the Project is approved. Pouce Coupé stated that it recognizes the importance of encouraging and enabling local, diverse, and Indigenous participation in the Project and that it intends to target the use of local workers and subcontractors as much as possible for the Project. If a Certificate is issued for the Project, the Commission would expect Pouce Coupé to fulfill its commitments made throughout this hearing to hire and train qualified Indigenous Peoples, and to procure from Indigenous-owned businesses, where possible.

The Commission acknowledges the interest expressed by some Indigenous communities to enter into agreements with Pouce Coupé regarding the potential economic benefits related to the Project. The Commission encourages Pouce Coupé to continue its engagement efforts with these interested Indigenous communities regarding this matter. The Commission expects Pouce Coupé to provide information concerning Project-related employment, contracting, and procurement opportunities to Indigenous communities in a clear, transparent, and culturally appropriate manner, well in advance of the start of Project activities. The Commission encourages Pouce Coupé to ensure that prime contractors send requests for proposals and requests for quotes to Indigenous communities with enough time for them to prepare their bids, and to consider direct award contracts to Indigenous Peoples as appropriate.

If a Certificate is issued for the Project, the Commission expects Pouce Coupé to make meaningful efforts to hire, train, and procure from Indigenous Peoples who are qualified, or could be qualified through training, to work on the Project. For this reason, the Commission would impose **Condition 10** (Plan for employment, contracting, procurement, and training for Indigenous Peoples), which outlines the Commission's expectations regarding employment, training, and procurement opportunities made to Indigenous Peoples.

The Commission received comments from several Indigenous communities, including Métis Nation of British Columbia, Kelly Lake Cree Nation, and Kikino Metis Settlement, on this proposed condition suggesting that the plan should establish targets for the employment of Indigenous Peoples. In the past, the Commission has generally refrained from holding proponents to specific hiring and procurement thresholds with respect to the employment and

contracting of Indigenous Peoples. Although the Commission understands the interest for increased participation of Indigenous Peoples, there is not enough evidence before the Commission to determine what the acceptable thresholds would be, what the implications could be for imposing specific thresholds, and how they could be effectively enforced. Furthermore, conditions must be within the control of the proponent, and neither the Commission nor Pouce Coupé can mandate participation by Indigenous Peoples in any aspect of the Project. The Commission has therefore decided not to impose specific hiring and procurement thresholds. The Commission is of the view that Pouce Coupé's proposed mitigation and enhancement measures, including the requirement for its prime contractor to report monthly on Indigenous sub-contracting and employment metrics throughout the construction phases of the Project, are sufficient to help create opportunities for Indigenous Peoples on the Project.

As part of the CER's lifecycle oversight of the Project into the post-construction and operations phase, the Commission would also impose **Condition 35** (Socio-economic effects monitoring final report). This condition would require Pouce Coupé to provide the results of its employment, contracting, procurement, and training efforts with respect to Indigenous Peoples.

5.6.5.3. Significance of the Project's effects on employment and economy for Indigenous Peoples taking into account cumulative effects

The Commission finds that total cumulative effects for employment and economy for Indigenous Peoples is high (adverse) when traditional economies are taken into consideration. For Indigenous Peoples, traditional economies have been significantly disrupted by industrial development, as it relates to the employment and economy VC. The Commission recognizes that, while Project employment and contracting opportunities can provide important benefits, they cannot fully mitigate the Project's contributions to impacts on economic self-sufficiency through traditional means in areas such as this with existing high cumulative effects. As mentioned in the Dene Tha' First Nation evidence, temporary employment – 'One winter? Two winters?'[137] – does not mitigate the Project's contributions to the severed relationship between Indigenous Peoples and their traditional economic systems in such impacted areas.

Starting from a context of high existing cumulative effects, the Commission finds that direct economic benefits to Indigenous Peoples are of medium positive significance. The Commission finds that there are high adverse cumulative impacts on traditional economies, based on the evidence of diminishment of asserted traditional economic means of subsistence in heavily disturbed lands. In these areas, there is significantly diminished access to traditional resources, with reduced quantity and availability, as well as diminished quality of those resources. With Pouce Coupé's mitigation and enhancement measures, and the Commission's recommended conditions, the Commission finds the significance to be in the range of medium (positive).

In making its determination on significance for employment and economy for Indigenous Peoples, the Commission considered the temporal extent, geographic extent, and magnitude of

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[137] CER, OH-001-2024 Hearing Transcript Vol 1 (17 March 2025), paras 310, 313, PDF pages 45-46 of 47, C33800-1

residual Project effects while taking into account relevant cumulative effects and additional context, (e.g., impacts on the traditional economies of Indigenous Peoples in the Project area).

5.7. Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project

In **Section 5.5**, the Commission found that the Project's potential effects on the rights of Indigenous Peoples would be of high (adverse) severity. As a result, the Commission finds that additional mitigation measures are necessary to accommodate the rights and mitigate impacts to the interests, which are interconnected with the rights, of Indigenous Peoples affected by the Project. Given that the Project would operate within territories where there are already high adverse cumulative impacts on Indigenous rights and the interconnected interests, standard mitigation alone is insufficient. The Commission therefore would impose **Condition 17** (Indigenous Project Committee) and **Condition 39** (Offset measures plan) to further mitigate residual impacts to rights and the Project's contributions to the high existing cumulative effects landscape, such that those rights are further accommodated where Pouce Coupé's proposed mitigation is not sufficient in this particular context, with a view to enabling the continued exercise and practice of rights.

The Commission provided potential conditions to participants for discussion and exploration at a CER workshop, and also provided scheduled opportunities for written comments, consistent with the practice that has developed for including these steps in Commission proceedings. On 29 April 2025, Procedural Update No. 8 (C34395) provided 40 potential conditions organized into categories (overarching, before construction, during construction, and after operations), adding to the formation of a basis within the Commission's process for structured participant input.

The virtual conditions workshop held 13-14 May 2025 was attended by 24 registered participants, including multiple Indigenous communities and organizations. CER staff presented on conditions and lifecycle oversight, while Pouce Coupé explained its approach to managing conditions. The participants provided written comments on potential conditions through 28 May 2025.

All conditions the Commission recommends in this Report have been informed by submissions from participants and the totality of the evidence on the record. The Commission's practice of providing opportunities for participants to comment on potential operational and technical conditions, especially where they may impact the safety of people and property, is well-supported by applicable case law.[138] While the law does not require pre-disclosure to parties of exact wording for all possible conditions, the Commission's practice of seeking comments within its process on the List of Issues and potential conditions, as described above, any of which may reasonably contemplate or ground potential conditions, provides appropriate procedural fairness and opportunities for participants to have input on the matters involved.

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[138] See Flamborough (Town) v Canada (National Energy Board), [1987] FCJ No 460 (FCA).

Indigenous Participation Committee

The Commission would impose **Condition 17**, requiring Pouce Coupé to establish an Indigenous Project Committee to provide oversight and participation in Project activities. This condition directly responds to multiple Indigenous communities' requests for meaningful involvement in Project-specific oversight throughout its lifecycle, consistent with articles 25 and 32 of the UN Declaration, which address Indigenous Peoples' right to maintain territorial relationships and requirements for consultation, cooperation, and mitigation for development projects.

The Indigenous Project Committee condition addresses multiple Indigenous communities' requests for meaningful involvement in the Project, including:

- oversight mechanisms for cumulative effects management from Blueberry River First Nations and Doig River First Nation;
- capacity for field assessments and monitoring participation from Horse Lake First Nation;
- involvement in field validation and cultural knowledge integration from Kelly Lake First Nation;
- rights-based monitoring with cultural integration from Saulteau First Nations;
- enhanced Indigenous participation with extended timelines from Duncan's First Nation, Louis Bull Tribe, Samson Cree First Nation, and Whitefish Lake First Nation #459 (joint submission);
- participation throughout all project phases from Prophet River First Nation; and
- ongoing decision-making role in traditional territories from O'Chiese First Nation.

The committee structure provides a place for Project-related participation and involvement for Indigenous nations and communities that Pouce Coupé engaged with in relation to the Project, which express interest in participating. The scope of the committee's functions and responsibilities would be developed through mutual agreement between Pouce Coupé and committee participants, and may include oversight responsibilities and protocol advice for culturally sensitive areas, reviewing Indigenous monitoring updates relative to **Condition 12**, and providing advice and recommendations to Pouce Coupé on offset methodologies and implementation relative to **Condition 39**.

The committee is intended to operate beginning in the pre-construction period through the first year of operations, with operating expenses covered by Pouce Coupé. It may be extended after the first year of operations by mutual agreement between the committee and Pouce Coupé. Implementation of this condition can be modified through mutual agreement between Pouce Coupé and the committee to address unforeseen or changed operational, or technical circumstances. This approach provides flexibility for the parties to determine and create their relationship, as mutually agreed for the life of the Project.

Offset Measures Plan

The Commission would also impose **Condition 39**, requiring an offset measures plan to address the Project's contribution to cumulative effects on Indigenous rights. Multiple Indigenous communities requested offsets to address Project impacts on their rights and territories:

- Doig River First Nation submitted a comprehensive offset plan including both environmental and cultural components, aimed at valuation of compensation based on proposed offset ratios and estimated land values. The cultural offset component reflects a natural capital approach, with Doig River First Nation proposing establishment of a trust to hold funds contributed by Pouce Coupé. Doig River First Nation stated that establishing an Indigenous-led restoration economy is a priority and an important element for managing cumulative effects, and that the cultural offset is designed as funding from industrial developers to pay for legacy disturbance restoration to address the time lag between impacts and when environmental offsets can be implemented.
- Kelly Lake Cree Nation stated that, when considering the mitigation hierarchy for addressing negative effects, part of that consideration involves instances where compensation may be a measure required to fully address effects.
- Whitefish Lake First Nation #459 stated in engagement with Pouce Coupé that there should be economic accommodations for impacts, not economic reconciliation, referencing its experience with Trans Mountain as an example for economic benefits, and that it expects economic accommodation from the Crown and/or the proponent.
- O'Chiese First Nation raised financial offsets and recommended that mitigation measures, including financial compensation, should address effects to inherent and treaty rights and should be specific to each Indigenous nation. Two potential accommodation measures were identified as a starting point: (1) offsetting land disturbances and legal restrictions through the setting aside of other lands meeting the conditions required by O'Chiese First Nation in accordance with natural laws; and (2) offsetting land disturbances and legal restrictions through financial compensation or other benefit frameworks to be identified collaboratively with O'Chiese First Nation.
- Duncan's First Nation, Louis Bull Tribe, and Whitefish (Goodfish) Lake First Nation #128 also emphasized the need for regional assessment and cumulative effects management in the Peace River area.

The Commission notes that Pouce Coupé, in its written argument, quoted the Commission's decision in the Edson Mainline Expansion Project (**Edson**) proceeding (C09740) to argue that "offsets are in the nature of compensation" and that awarding compensation for Indigenous rights impacts is outside the Commission's authority.[139] The Commission finds that this is a misapplication of its holding in Edson. In the Edson passage, the Commission distinguished an application for damages under Part 6 of the CER Act and an application for a project

[139] Pouce Coupé, Written argument, paragraph 58(b), PDF page 21 of 32, C35443-2

authorization. This reflects a distinction between retrospective compensation for historical harms and damages, and prospective accommodation measures to enable continued rights exercise. While it remains the case that the Commission cannot award damages for past or historical wrongs, the Commission can impose forward-looking offset and accommodation measures, including those with financial components, that address a project's residual impacts as well as its contribution to cumulative effects, to enable the continued exercise and practice of rights.

The Commission's 2023 NEBC Connector Project decision (C26744) demonstrates harmony with the Edson holding and properly applies it in the post-*Yahey* context. The offset funds conditioned in that decision were imposed under sections 56 and 183 of the CER Act to address the project's contribution to ongoing and future cumulative effects, as well as to enable the continued exercise and practice of rights in a cumulative effects context. They were not imposed to remedy past or historical harms unrelated to the project by way of compensation or damages award, including under Part 6 of the CER Act.

Pouce Coupé's interpretation of the Commission's finding in Edson, if accepted, would essentially render the Commission powerless to fulfill its required statutory obligations under sections 56 and 183 of the CER Act to consider and address adverse effects on Indigenous rights in circumstances where proposed mitigations and measures alone might prove insufficient from the perspective of the Crown's duty to consult on and potentially accommodate Project impacts to section 35 rights.

The Commission finds that restoration-based offsets are necessary, given the Project's contribution to cumulative effects in an area where there are already high adverse cumulative impacts on the rights of Indigenous Peoples. The Project would directly impact 40.1 ha of Crown land in Alberta, and 3.6 ha of Crown land in BC. The Commission received extensive evidence that remaining Crown lands are disproportionately important for the exercise of Indigenous and treaty rights. As a result, additional impacts to Crown land can have significant effects on the ability of Indigenous Peoples to exercise their rights.

The offset measures plan must address impacts to the operational RoW in Alberta and BC, using minimum offset ratios of 4:1 for undisturbed Crown land, 2:1 for disturbed Crown land, 0.75:1 for undisturbed private land, and 0.5:1 for disturbed private land. The plan must incorporate Indigenous knowledge and engagement, with the Indigenous Project Committee providing advice and recommendations on approaches. The offset measures should aim to restore native vegetation that provides wildlife habitat and supports TLRU activities, with a preference for restoration in Treaty 8 territory, including culturally significant plants aimed at enabling the continued exercise and practice of Indigenous and treaty rights.

The Commission acknowledges that, even with these additional conditions, the Project would contribute to cumulative effects in an area where Indigenous rights have already been significantly impacted. These conditions provide necessary mitigation to accommodate those impacted rights, but cannot eliminate all effects on the rights of Indigenous Peoples. The Commission has balanced the need for meaningful accommodation with proportionality to the Project's scale.

6. Health, social, and economic effects of the Project

The Commission considered the Project's effects on the VCs of human health, human occupancy and resource use, infrastructure and services, navigation and navigation safety, and employment and economy using the same methodology set out in **Section 5.6.1** above. In doing so, the Commission evaluates the health, social, and economic effects, including with respect to the intersection of sex and gender with other identity factors, set out in paragraph 183(2)(c) of the CER Act.

The health of Indigenous Peoples, heritage resources, social and cultural well-being, employment and economy specific to Indigenous Peoples, as well as TLRU and the rights of Indigenous Peoples, are discussed in **Chapter 5**.

6.1. Health effects of the Project

The Commission finds that, by applying Pouce Coupé's proposed mitigation measures and implementing the Project EPP, any residual Project effects on human health would be of low (adverse) significance. The potential effects on human health would be adverse, short term to long term in temporal extent, extending from the PDA to the LAA in geographic extent, low to medium (adverse) in magnitude, and low to medium (adverse) in total cumulative effects, as discussed below.

6.1.1. Relevant setting for effects on human health

The Commission's assessment of human health considered available health care services in the LAA and RAA, as well as Statistics Canada's health and social indicators, including perceived health, life satisfaction, and sense of belonging; substance use; communicable disease; mental health; health risk factors (e.g., body mass index, diabetes, and high blood pressure); and crime and sexual assault.

In identifying and evaluating potential health effects, the Commission considered Project-related activities, nuisances, and environmental changes that could potentially be sources of adverse human health effects and the potential human receptors of these effects. Pipeline construction may affect biophysical resources, potentially leading to adverse effects on human health. The Project may also create sensory disturbances for nearby residents and land users which could, in turn, affect human health.

Working conditions are also a social determinant of health and may influence family and community well-being. Working conditions may include employment security, physical conditions, work pace and stress, working hours, and opportunities for self-expression and individual development at work. Working conditions may also affect physical and mental health conditions, which are associated with poor coping mechanisms such as substance abuse. Additional adverse effects may include poor family health and changes in relationships.

Statistics Canada health and social indicators indicate that residents in the LAA and RAA have a high degree of overall life satisfaction, in line with provincial averages, and have lower perceived mental and physical health levels than provincial averages. The differences from provincial averages vary by indicator, sex of respondent, and province. The levels reported are typical of northern, resource-based communities in Alberta and BC.

6.1.2. Effects of the Project on human health

The Commission finds that the Project has the potential to affect human health through two effects pathways. First, Project activities could affect biophysical resources, such as soil and soil productivity, and water quality and quality, which could in turn affect human health. Second, Project activities could create sensory disturbances to nearby residents and land users, which could, in turn, affect human health. Additionally, working conditions can impact human health, which the Commission also addresses in this section.

The Commission finds that the potential effects on human health would range from short term to long term in temporal extent. The health effects of the Project stemming from the biophysical effects and sensory disturbances from the construction and operation of the Pipeline and the upgrades to the Taylor Tank Farm facility, would occur over several months or years (e.g., impacts to soil and soil productivity; impacts to water quality and quantity; sensory disturbances from noise, dust, and traffic from construction activities) to the lifetime of the Project (e.g., noise from the operation of the Taylor Tank Farm). The Commission also finds that potential effects on human health would range from the PDA to the LAA in geographic extent because most Project effects would be limited to the Project footprint (e.g., impacts to soil quality and quantity; sensory disturbance from construction activities), but some could extend to the LAA (e.g., impacts to water quality and quantity).

Biophysical resources

The Commission is of the view that the Project may affect soil and soil productivity through soil mixing, rutting, compaction, erosion by wind and water, terrain alteration, and disturbance and re-mobilization of existing contamination, and, as a result, have adverse health effects on the local population. The effects on surface water quality from Pipeline construction would be likely to occur and are associated with temporary pulses of total suspended solids when isolation structures are installed and removed, and when installing temporary culvert and fill vehicle/equipment crossings and trenching at wetland crossings. Effects on surface water quantity may arise from the temporary diversion of hydrostatic test water and trenched watercourse crossings. For a detailed discussion on the potential effects the Project would have on soil and soil productivity and water and water quality, including Pouce Coupé's proposed mitigation measures, please refer to **Chapter 4**.

Sensory disturbance

The Commission finds that landowners and land users would experience some nuisance effects during construction, including localized increases in noise, dust, and traffic volumes, as well as visual disruption. For a detailed discussion on the Project's contribution to sensory disturbances, including Pouce Coupé's proposed mitigation measures, please refer to **Section 5.6.2.2**.

Working conditions

The Commission finds that working conditions may affect the physical and mental health for local residents who have secured Project-related employment. Changes in Project-related income and working conditions may affect individual health and family relationships, both positively and negatively. Income contributes to the quality of health factors, such as providing opportunities to live in safe housing, affording nutrient dense food, and participating in educational opportunities. However, there is a possibility that risky drinking and other forms of substance abuse may increase as a result of higher incomes associated with employment by the Project as well.

Mitigation measures to address effects of the project on human health

The Commission finds that, with Pouce Coupé's implementation of its proposed mitigation measures and the Commission's conditions, the residual effects from the Project on human health would range from low to medium (adverse) in magnitude. This finding considers the health effects stemming the biophysical effects findings for soil and soil productivity (i.e., no or negligible) and water quality and quantity (i.e., low adverse) which are described in **Chapter 4**. It also considers that some residual effects from sensory disturbances would be low in magnitude (e.g., effects from dust or traffic during construction activities), but that noise could be up to medium (e.g., noise from HDD activities could be noticeable by nearby receptors).

The Commission is satisfied with Pouce Coupé's proposed mitigation measures to address impacts on human health. The Commission is also satisfied with Pouce Coupé's commitment to continue to engage with residents, municipal representatives, businesses, recreational users, and Indigenous communities regarding any concerns and to discuss appropriate mitigation measures to reduce or avoid site-specific concerns. For details about mitigation measures related to soil and soil productivity, and water quality and quantity, refer to **Sections 4.2** and **4.4**. For information on human occupancy and resource use, see **Section 6.2.1**, for mitigation measures related to sensory disturbances, see **Section 5.6.2.2**, and for mitigation measures related to the rights of Indigenous Peoples, refer to **Sections 5.4.2** and **5.7**.

To promote safe and healthy working conditions, Pouce Coupé said that it would provide training and orientation to all Project-related personnel, including visitors to the construction site and RoWs (prior to site entry). Pouce Coupé, its employees, and contractors are required to adhere to Pembina's policies and procedures that encourage safety, responsibility, integrity, diversity, inclusion, and fair employment, to foster the well-being of Pouce Coupé's workers and nearby communities. Other mitigation measures Pouce Coupé would implement to help reduce impacts to human health include:

- Coordinating with emergency response services in the area (including RCMP, ambulance, and fire departments).
- Providing training for personnel in emergency first aid. Have vehicles suitable for the transport of injured workers available on site or access to medi-evacuation services.
- Implement and enforce a drug and alcohol use policy.

- Make available an employee and family assistance program for employees.

In addition, Pouce Coupé committed to continue to engage with residents, municipal representatives, businesses, recreational users, and Indigenous communities to promote awareness of Project construction activities that will be undertaken, the construction schedule, and who to contact with any concerns. Pouce Coupé will discuss specific disruption or nuisance concerns with nearby communities, potentially affected Indigenous communities, and stakeholders, to implement appropriate mitigation to reduce or avoid site-specific effects.

6.1.3. Significance of the Project's effects on human health taking into account cumulative effects

The Commission finds that, with the application of Pouce Coupé's proposed mitigation measures and the implementation of the Project EPP, any residual Project effects on human health would be of low (adverse) significance. In making its determination on significance for human health, the Commission considered the temporal extent, geographic extent, and magnitude of residual Project effects, while taking into account the Commission's finding of low to medium (adverse) total cumulative effects and additional context.

6.2. Social effects of the Project

The Commission considered the following VCs when assessing the social effects of the Project: human occupancy and resource use; navigation and navigation safety; and infrastructure and services.

6.2.1. Human occupancy and resource use

The Commission finds that the Project's potential effects to human occupancy and resource use would be medium to long term in temporal extent, within the LAA in geographic extent, low to medium (adverse) in magnitude, and low (adverse) in total cumulative effects. With the application of Pouce Coupé's proposed mitigation measures, the Commission assigns a rating of low (adverse) significance to any residual Project effects on human occupancy and resource use (as explained in **Section 6.2.1.2**).

This section assesses the effects of the Project on general patterns of human occupancy and resource use in the study area, including effects on agriculture, commercial forestry and timber harvesting, oil and gas, other industrial activities, hunting, fishing and trapping, and recreation. The Commission recognizes that Indigenous Peoples have distinct rights, cultural practices, and knowledge systems. For that reason, the Commission has conducted a separate assessment of the effects of the Project on the rights of Indigenous Peoples, including TLRU (see **Chapter 5** for additional details).

6.2.1.1. Relevant setting for human occupancy and resource use

The Commission's assessment of Project's potential effects on human occupancy and resource use considered change in existing land use patterns and opportunities for land use. The assessment included past and present projects and physical activities that have influenced the baseline conditions for human occupancy and resource use.

Future pipeline projects in the RAA have been identified (Plateau Pipe Line Limited's Birch to Taylor Loop; NorthRiver's NEBC Connector Project; Westcoast Energy Inc.'s Aspen Point Program, CS1B Compressor Station, and Connector Pipeline and Powerline; and Enbridge Inc.'s Frontier Project). Project construction will not overlap temporally with these pipeline projects. In addition, forestry activities by Weyerhaeuser Company Ltd. in Alberta and by forestry operators in Timber Supply Areas (**TSAs**) 40 and 41 in BC are occurring and will occur in the future within the RAA. Agriculture is also an ongoing land use, largely on private land. Pouce Coupé said that it anticipates that there will be cumulative effects arising from reasonably foreseeable projects, including hunting, trapping, fishing, and other recreational activities. The Pipeline crosses 111 private land parcels and 18 parcels of Crown land. The Taylor Tank Farm facility upgrades and associated workspace will be located within the existing Taylor Tank Farm facility, on lands owned or leased by Pouce Coupé, and no new lands are required.

The Pipeline LAA includes lands that are used for commercial forestry and timber harvesting, oil and gas activities, agriculture (grazing and cultivation), non-consumptive recreation (e.g., all-terrain vehicle and snowmobile use, camping) and hunting, fishing, and trapping. The Taylor Tank Farm facility PDA is comprised nearly entirely of disturbed land (98 per cent). The Project PDA does not overlap water bodies such as ponds and lakes; however, the Pipeline PDA overlaps several watercourses. No parks, protected areas, recreation-related dispositions, designated hiking or snowmobiling trails, or campgrounds will be affected by Project construction. The Project PDA and LAA do not overlap any mapped non-motorized recreation areas in the BC or Alberta portion of the Pipeline PDA.

Pipeline construction is planned for Q2 2026 through Q2 2027. The hunting season in the Project area generally runs from late August through February, the trapping season generally runs October through May, while the fishing season is generally from June through October.

Effects of the Project on human occupancy and resource use

The Commission finds that the potential effects on human occupancy and resource use would range in temporal extent from medium term to long term. The Commission also finds that potential effects on human occupancy and resource use would range from the PDA to the LAA, as the effects of Pipeline construction would be restricted to either the PDA or the LAA. Effects within the PDA are anticipated to be where ground disturbances would occur, and the effects within the LAA include land used for commercial forestry, timber harvesting, oil and gas activities, cultivated land, non-consumptive recreation, and hunting, fishing, and trapping.

The Commission finds that the Project would have the potential to affect human occupancy and resource use by two pathways:

- Project activities could result in loss of access to, or alteration to, the use of land for agriculture, including grazing, forestry, oil and gas or other industrial uses, hunting, trapping or fishing, and non-consumptive recreation; and
- Project activities could disrupt or disturb land users, including individuals or groups using land for hunting, trapping, and fishing because of dust and noise emissions and access restrictions arising from increased traffic local roadways.

Regarding changes in the use of land, Pouce Coupé said that the agricultural land in the Pipeline PDA would be temporarily unavailable for agricultural activities, including grazing and cultivation, during construction, which is expected to occur from Q2 2026 to Q2 2027. The Alberta and BC portions of the Pipeline cross land used for forestry. During construction, parts of the PDA would be temporarily unavailable for forestry, and construction activities may temporarily affect industrial users if construction disrupts access near third-party facilities. In addition, parts of the PDA would be temporarily unavailable for hunting, trapping, and fishing during construction, which overlaps hunting, trapping, and fishing seasons.

Regarding disturbances to land users, Pouce Coupé stated that residents and people using the area near the Taylor Tank Farm facility for hunting, trapping, fishing, and recreation might experience some nuisance effects during construction, including localized increases in noise, dust, and traffic volumes, as well as visual disruption. Pouce Coupé also said that, given that new infrastructure for the Taylor Tank Farm facility upgrades would be located within the existing fenced and graveled facility, and the existing access road would be used during construction and operation, it does not anticipate effects on agriculture or forestry.

The Commission assessed potential effects on human occupancy and resource use by using the following boundaries. Spatially, the Commission applied the same PDA, LAA and RAA as for vegetation and wetlands, wildlife and wildlife habitat, and surface water. Temporally, the Commission considered the boundaries for human occupancy and resource use by including both construction and operation phases.

The Commission finds that the potential effects on human occupancy and resource use would range in temporal extent from medium term to long term. The effects from construction of the Pipeline and upgrades to the Taylor Tank facility and the effects from operation of the Pipeline would be medium term in temporal extent because they will occur over months and following reclamation, Project-related access restrictions will be lifted. The noise from operation of the Taylor Tank facility would be long term in temporal extent as it is expected to last over the lifetime of the facility which would be expected to be in-service for 40 years.

The Commission also finds that potential effects on human occupancy and resource use would range from PDA to LAA, as the effects of Pipeline construction would be restricted to the PDA where ground disturbances will occur, and the LAA includes land used for commercial forestry, timber harvesting, oil and gas activities, cultivated land, non-consumptive recreation, and hunting, fishing, and trapping. The Commission acknowledges Pouce Coupé's efforts to address specific Project-related concerns raised by landowners, occupants, land and industrial users during Pouce Coupé's engagement activities for the Project. The Commission considered Pouce Coupé's proposed standard and Project-specific mitigation measures to manage the

impacts on human occupancy and resource use, including change in land use, access restrictions, and sensory disturbance, and is of the view that these measures can effectively mitigate potential impacts on human occupancy and resource use.

To mitigate the potential effects of construction activities on oil and gas and other industrial users at the Taylor Tank Farm, all foreign lines and cables will be marked and labelled using underground utility location services and flagging and signage will be used at overhead power lines to alert equipment operators of hazards. Pouce Coupé confirmed that it will obtain all crossing permits as required, and it will conduct all work near adjacent pipelines and utilities in compliance with applicable requirements and guidelines.

Pouce Coupé submitted that, during its engagement with landowners, some of the concerns raised about the proposed route were about crossing a landowner's property or affecting a landowner's activities. Pouce Coupé submitted that, in response, it either re-routed segments of the Pipeline to avoid the landowner's property or changed the location of the Pipeline segment within the Pipeline corridor to better accommodate the landowner's activities.

Pouce Coupé submitted that activities associated with operating the proposed Pipeline, when required, would be restricted to the RoW and will be limited to infrequent, small-scale maintenance activities such as integrity digs and vegetation management. Pouce Coupé does not expect Pipeline operations to result in any changes to land use or to increase sensory disturbance.

6.2.1.2. Significance of the Project's effects on human occupancy and resource use taking into account cumulative effects

The Commission finds that, with the application of Pouce Coupé's proposed mitigation measures, residual Project effects on human occupancy and resource use are likely to occur and are predicted to be low (adverse) to medium (adverse) in magnitude, depending on land use types in the Project area. While the effects of the Project on recreational use are expected to be low (adverse) because the Project does not cross any parks, protected areas, or non-tenured land uses, the effects on agricultural and industrial land use, forestry, hunting, trapping and fishing may have greater impact, such as access restrictions, loss of land, or change in resource availability and therefore are expected to be medium (adverse). The Commission also finds that the total cumulative effects on human occupancy and resource use would be low (adverse) and overall significance of the Project effects on human occupancy and resource use is low.

6.2.2. Navigation and navigation safety

The Commission finds that the Project's potential effects on navigation and navigation safety would be short term in temporal extent, within the PDA to the LAA in geographic extent, low (adverse) in magnitude, and low (adverse) total cumulative effects. With the application of Pouce Coupé's proposed mitigation measures, including the proposed HDD for all navigable watercourses, the Commission finds that any residual Project effects on navigation and navigation safety would be of low (adverse) significance (as explained in **Section 6.2.2.3**).

6.2.2.1. Relevant setting for navigation and navigation safety

The Commission's assessment of potential effects on navigation and navigation safety was bounded spatially by the same PDA, LAA, and RAA as the human occupancy and resource use VC. The temporal boundaries for the assessment of navigation and navigation safety included both construction and operation phases.

The Pipeline PDA crosses numerous watercourses and water bodies, only one of which is listed in the *Canadian Navigable Waters Act* – the Peace River. However, the public right to navigate applies to all navigable watercourses and water bodies, including non-listed waters. Pouce Coupé evaluated the watercourses to be crossed by the Project PDA for navigability using criteria outlined in its ESA, which it adapted from Transport Canada's previous *Minor Waters User Guide*.[140] All watercourses crossed are considered unlikely to be navigable near the proposed watercourse crossing location, except for the Peace River, Kiskatinaw River, Pouce Coupé River, and Saskatoon Creek, which are likely to be navigable. The PDA for the Taylor Tank Farm facility does not intersect any watercourses or water bodies.

6.2.2.2. Effects of the Project on navigation and navigation safety

The Commission finds that the construction of the Pipeline has the potential to temporarily affect navigation at crossings of navigable waterways, but that the Taylor Tank Farm facility upgrades will not alter navigation or navigation safety. Pouce Coupé submitted that all four potentially navigable watercourses will be crossed by a trenchless crossing method, HDD, to avoid instream disturbance. Crossings will meet the *Canadian Navigable Waters Act Minor Works Order* section 21 requirements for placement of guiding cables on the watercourse bed during trenchless crossings, therefore avoiding effects on navigation during construction. Signs will be posted upstream of navigable watercourse crossing locations to warn boaters of potential disruptions and safety concerns. No new access crossings of these watercourses are planned. Standard mitigation measures included in Pouce Coupé's EPP require contractors to notify Pouce Coupé a minimum of 48 hours before starting water crossing construction. At selected watercourses, site-specific watercourse crossing plans will be required along with a list of all necessary equipment and materials.

6.2.2.3. Significance of the Project's effects on navigation and navigation safety taking into account cumulative effects

The Commission finds that the Project's potential effects on navigation and navigation safety would be short term in temporal extent and limited to the Pipeline construction phase. The Commission also finds that the effects arising from HDD crossing of navigable watercourses (TWS and HDD entry and exit points) will be limited to the PDA with some effects extending to the LAA. Substantially, within the temporal and geographic extents the Commission finds that the Project effects on navigation and navigation safety will be low (adverse) in magnitude, given that all navigable watercourses will be crossed by using HDD,

[140] https://publications.gc.ca/site/eng/357425/publication.html

and low (adverse) total cumulative effects. With the application of Pouce Coupé's proposed mitigation measures, including the proposed HDD and the plan to install upstream warning signs for all navigable watercourses, the Commission finds that any residual Project effects on navigation and navigation safety would be of low (adverse) significance, and these effects are not expected to change or cause disruption of present use of navigable waters.

6.2.3. Infrastructure and services

The Commission finds that the Project's potential effects on infrastructure and services would be medium term in temporal extent, within the PDA in geographic extent, low to medium (adverse) in magnitude, and with low (adverse) total cumulative effects. With the application of Pouce Coupé's proposed mitigation measures, and the implementation of the EPP, the Commission finds that any residual Project effects on infrastructure and services would be of low (adverse) significance (as explained in **Section 6.2.3.3**).

6.2.3.1. Relevant setting for infrastructure and services

The Commission's assessment of infrastructure and services relies on existing local and regional infrastructure and services, including private dwellings and commercial accommodations, utilities, recreational facilities, police and emergency response, health services and facilities, and transportation infrastructure and traffic, as well as Project information on additional demand associated with changes in population and demographics within the communities where Project workers reside. The assessment includes both construction and operation phases of the Project.

Pouce Coupé said that, where possible, the assessment draws upon the most recent 2021 federal census for baseline population and demographic data. There are 93 hotels, motels, short-term rentals, camping, and RV sites in the LAA/RAA, with about 54 per cent located in Alberta and 46 per cent located in BC. The majority of these establishments regularly host temporary workforces associated with resource-based, highway and other construction projects, comprising a substantial portion of their room-stay business.

Police services throughout the LAA/RAA are provided by the RCMP. Fire protection services in Alberta are provided by the County of Grande Prairie, Saddle Hills County and Spirit River. In BC, fire protection services are provided by Peace River Regional District, Dawson Creek and Fort St. John. Ambulance services in Alberta are provided by Alberta Health Services, while in BC they are provided by BC Ambulance Service. Health care services in the LAA/RAA are managed by Alberta Health Services for Alberta LAA/RAA communities and BC's Northern Health Authority for the BC LAA/RAA communities.

Pouce Coupé submitted that staffing challenges and capacity constraints are present in health services and facilities in the LAA/RAA. While the Alberta Health Services' North Zone can accommodate the workforce's potential health needs in Alberta, BC's Northern Health is currently working at full capacity with an acute shortage of medical personnel. An increase in demand will put additional demands on the already strained capacity. Any additional increase in demand for health services and facilities could lead to adverse effects on the capacity to deliver,

and the quality of these services in the LAA/RAA. The Project will collect construction debris and other waste materials for disposal at landfill sites in the nearby communities of Grande Prairie, Dawson Creek, and Fort St. John. In Grande Prairie, industrial project waste is handled by private enterprises. The Peace River Regional District has three landfills, 15 transfer stations, and 10 community waste bin sites which service Fort St. John, Taylor, and Dawson Creek, also within the LAA/RAA communities of Dawson and Fort St. John.

The Project is accessed from the south via Highway 49, which runs east-west between Gordondale and the BC-Alberta border. Highway 49 runs west from Alberta to Dawson Creek, which then turns into Highway 2, going south to Pouce Coupé and Highway 97 going north to Fort St. John. Access to the Pipeline would follow Highway 97, north of Dawson Creek connecting to Taylor, BC.

6.2.3.2. Effects of the Project on infrastructure and services

The Commission finds that the Project has the potential to affect infrastructure and services through multiple pathways, including:

- the Project's transient workforce could draw on temporary commercial accommodations (e.g., hotels, motels, campgrounds, or recreational vehicle sites), potentially affecting the availability for local residents and tourists;
- the Project and Project workforce could place additional demands on water and wastewater systems and solid waste management systems;
- the Project workforce could place additional demands on recreational facilities, potentially affecting the availability and use and enjoyment of recreational facilities by local residents and tourists;
- the Project could place additional demands on emergency response services, potentially affecting levels of service provided to local residents;
- the Project and Project workforce could place additional demands on health services and facilities; and
- the transportation of Project construction materials, equipment, and workers could place increased demands on transportation infrastructure to access Project work sites, which could affect traffic volumes and result in increased maintenance costs.

The Commission finds that potential effects on infrastructure and services would be medium in temporal extent because the demand on infrastructure and services by the increased population would likely to be the highest during construction. Once in operation, it is unlikely that the temporary workforce will remain in the local communities, therefore no additional demand on infrastructure and services is anticipated. The Commission also finds that the potential effects on infrastructure and services would be in the RAA in geographical extent as the effects would likely to occur within those communities where the Project will rely on infrastructure and services and where Project workers reside and use infrastructure and services. Substantially, within the temporal and geographic extents, the Commission finds that most of the Project effects on infrastructure and services will be low (adverse) in magnitude given the availability of

commercial accommodation. Some residual effects, such as effects on health services, and transportation infrastructure, would be medium in magnitude, because some subpopulations may experience challenges assessing certain infrastructure and services.

The Commission's assessment of potential effects on infrastructure and services was bounded spatially by the same PDA, LAA, and RAA as the social and cultural well-being, and employment and economy VCs. The temporal boundaries for infrastructure and services include both construction and operation phases.

Pouce Coupé indicated that it estimated potential effects on infrastructure and services by calculating the additional demand associated with population change of workers in the LAA/RAA and the direct Project requirements compared to available capacity for infrastructure and services. Pouce Coupé identified the interactions and potential effects on infrastructure and services resulting from Project construction activities as increased demand for commercial accommodations, utilities, recreational facilities, police and emergency response, health services and facilities, and transportation infrastructure and traffic.

Pouce Coupé submitted that, with an average of 275 workers during pipeline construction, it estimates that 80 per cent of workers will be non-local, and approximately 220 non-local workers would require temporary commercial accommodation for the duration of the construction period. When the pipeline construction workforce peaks at 330 workers between July and September 2026, approximately 264 non-local workers would require accommodation during the three-month period. During pipeline construction peak, the number of non-local workers would represent approximately 0.2 per cent of the total population of the LAA/RAA. Pouce Coupé plans for the non-local pipeline construction workforce to reside in temporary commercial accommodation in the following communities: Grande Prairie and surrounding area (10 per cent), Dawson Creek (40 per cent), Fort St. John (40 per cent) and other areas in LAA/RAA (10 per cent). In these communities, Pouce Coupé plans for 50-80 per cent of the non-local workforce to reside in hotels, motels, and short-term rentals, and the remainder to stay in campgrounds. No work camps would be built to support Project construction.

The construction of the Taylor Tank Farm facility upgrades would require an average workforce of 20 workers between Q2 2026 and Q4 2026 that would peak at approximately 40 workers in July 2026. Following Pouce Coupé's assumptions regarding local and non-local workforce, it is estimated that there would be 16 non-local workers and 4 local workers on average. At its peak, there would be 32 non-local workers and 8 local workers. The average number of non-local workers would represent approximately 0.01 per cent of the total population of the LAA/RAA of 161,301 people in 2021. At its peak, the Taylor Tank Farm facility upgrades non-local workforce would represent 0.02 per cent of the total population of the LAA/RAA. The non-local workforce for construction of the Taylor Tank Farm facility upgrades is expected to reside in temporary commercial accommodation in Taylor (90 per cent) and the wider area (10 per cent), in hotels, motels, or campgrounds.

Pouce Coupé concluded that, given that the number of non-local workers represents a small proportion of the total LAA/RAA population, commercial accommodations, utilities, recreational facilities, emergency response services, health services and facilities, and transportation infrastructure are expected to have sufficient capacity to accommodate the number of workers.

Pouce Coupé anticipates limited demand for additional staff during operation of the Pipeline and the Taylor Tank Farm facility upgrades. Pouce Coupé predicted that no population effect is likely during operation and, therefore, there are no expected changes in demand for community infrastructure and services within the LAA/RAA.

Pouce Coupé submitted that it would implement mitigation measures to reduce effects on the demand for community infrastructure and services, including developing a Traffic Management Plan, providing training for personnel in emergency first aid, providing access to medical evacuation services, and developing and implementing an ERP to address field health services, emergency call-out procedures, fire response plans, and coordination with emergency response services in the area (including RCMP, ambulance, and fire services). The Traffic Management Plan would include a communication strategy to manage changes in road use and access, with appropriate signage being posted in advance of and during construction, to let road users know about any access restrictions. Other mitigation measures include installation of proper construction signage at work sites, roads, and temporary access crossings; consolidation of heavy load transportation to reduce effects on residents; scheduling major equipment moves outside of peak travel hours and school bus travel times; and adhering to mandated noise limits and all posted speed limits. Increased traffic and construction would likely create dust that Pouce Coupé would mitigate through dust control measures.

Pouce Coupé indicated that, where practical and applicable, multi-passenger vehicles would be used to transport work crews from designated marshalling points to worksites. Pouce Coupé said it would also notify all landowners and occupants of construction schedules prior to construction and would re-notify the directly affected landowners and occupants in the event that there is a need for re-entry post-construction.

To alleviate the demand on regional health facilities, Pouce Coupé would provide training for personnel in emergency first aid and medical services at work sites as per the regulatory requirements for health and safety. It would also engage with local, municipal, Alberta Health Services, and BC Northern Health officials as needed to identify and manage potential Project-related healthcare service demands and issues prior to and during construction.

To reduce the incidence of fire-related accidents and emergencies, Pouce Coupé would develop and implement an ERP to address field health services, emergency call-out procedures, fire response plans, and other concerns. Pouce Coupé will ensure the worksite has the appropriate firefighting equipment in accordance with applicable regulations, and all motorized equipment would be required to carry a fully charged fire extinguisher. To prepare municipalities for potential Project-related demand for fire services, Pouce Coupé would coordinate with emergency response services in the area (including RCMP, ambulance and fire services).

Pouce Coupé submitted that during its engagement with potentially affected Indigenous communities, stakeholders, landowners, and environmental regulators, several landowners expressed concerns about construction traffic affecting public road use. Pouce Coupé committed to continue ongoing engagement with local residents, municipal representatives, businesses, recreational users, and Indigenous communities to promote awareness of Project

construction activities that will be undertaken, the construction schedule, and who to contact with concerns.

The Commission finds sufficient Pouce Coupé's commitment to develop and implement a Traffic Management Plan to provide guidance for pipeline construction traffic along the Project RoW and associated access routes with the intent to reduce impacts during pre-construction, construction, and post-construction phases of the Project. Therefore, the Commission does not consider it necessary to impose a separate condition with respect to access and traffic management.

6.2.3.3. Significance of the Project's effects on infrastructure and services taking into account cumulative effects

The Commission finds that with the application of Pouce Coupé's proposed mitigation measures, the implementation of the EPP, any residual Project effects on infrastructure and services would be low (adverse) in total cumulative effects and of low (adverse) significance. Given the evidence on the record and the mitigation and management measures proposed, the Commission is satisfied that the community infrastructure and services affected by the Project, including commercial accommodation, highways, utilities, emergency and health services, would be capable of absorbing additional demands of the temporary workforce during the construction phase.

6.3. Economic effects of the Project

When considering the economic effects of the Project, the Commission considered the economic effects on people, businesses, and the economy. The economic effects of the Project on people considered the employment and economy VC, as set out in the Filing Manual. See **Section 5.6.5** for a discussion on employment and economy for Indigenous Peoples. See **Chapter 3** for discussions on economic effects of the Project on businesses and the economy.

The Commission finds that after Pouce Coupé implements its mitigation and enhancement measures and the Commission's conditions, the Project would likely have positive residual effects on employment and economy. The Commission finds that these potential effects would be short term to medium term in temporal extent, LAA to national in geographic extent, medium (positive) in magnitude, and low to medium (positive) in total cumulative effects. Accordingly, the Commission finds that any residual Project effects on employment and economy would be of low (positive) significance (as explained in **Section 6.3.3**).

6.3.1. Relevant setting for employment and economy

The assessment of employment and economy relies on existing employment and economic conditions and distribution of economic activity, as well as key Project information (e.g., procurement plans, hiring and training programs) as indicators of where and to whom Project effects are likely to accrue.

The total labour force of the LAA/RAA was estimated at 89,470 persons in 2021. Of the total labour force in the LAA/RAA in 2021, 80,180 were employed and 9,295 were unemployed. Similar to the provincial average, women in the LAA/RAA represented a greater proportion of total employment in health care and social services and retail trade, whereas men represented the majority of those employed in mining, quarrying, and oil and gas extraction and construction.

Employment in the oil and gas subsector tends to create a ripple effect of increased employment in other sectors of the economy. Pouce Coupé estimated that every direct job created in the oil and gas subsector typically creates two indirect jobs in businesses that sell to oil and gas producers, and three “induced” jobs in sectors where oil and gas workers spend their money, such as accommodation and food services, retail, education, and medical services.

6.3.2. Effects of the Project on employment and economy

The Commission finds that the Project would generate employment, contracting, procurement, and training opportunities, including for local and Indigenous communities, as well as generate contributions to gross domestic product (**GDP**) and government revenue. Employment opportunities would be generated through both direct employment by Pouce Coupé, and through Project capital and operating expenditure, which would generate direct, indirect and induced employment opportunities.

The Commission finds that potential effects on employment and economy would be short-term to medium-term because opportunities for employment, contracting, procurement, and training would likely be highest during the construction phase. Once in operation, the opportunities to participate would be reduced. The Commission also finds that potential effects on employment and economy would range from the LAA to national in geographic extent as individuals, businesses, and communities within BC and Alberta would benefit from employment, contracting, and training opportunities.

The Commission’s assessment of potential effects on employment and economy is bound spatially by the same PDA, LAA, and RAA as the social and cultural well-being, and infrastructure and services VCs. The temporal boundaries for employment and economy include both construction and operation phases.

Pouce Coupé stated that it anticipates that construction of the Pipeline would require an average workforce of 275 workers between Q2 2026 and Q4 2027 that would peak at approximately 330 workers for a three-month period from July to September 2026. For the Taylor Tank Farm facility upgrades, Pouce Coupé stated it anticipates it would require an average workforce of 20 workers between Q2 2026 and Q4 2026 that would peak at approximately 40 workers in July 2026. Pouce Coupé expects that the Project workforce would use both local and non-local labour, with 20 per cent of the Project's workforce comprising local residents, and 80 per cent non-local labour. Pouce Coupé stated the number of non-local construction workers for the Project would be moderated by measures to increase local, diverse, and Indigenous hires from within the LAA/RAA, as a first priority, and elsewhere in Alberta and BC, as a second priority. Pouce Coupé stated it recognizes the importance of encouraging and enabling local, diverse, and Indigenous participation in the Project.

During construction, the Project is estimated to directly generate $67.5 million of GDP in BC and $36.5 million in Alberta. The total economic impact to GDP (direct, indirect, and induced) in BC is estimated to be approximately $112.1 million, $69.9 million in Alberta, and $29.9 million in the rest of Canada. During operation, Project expenditure is estimated to generate total annual GDP contributions (direct, indirect, and induced) of $1.9 million across Canada, of which $1.1 million is estimated to be in BC and $0.8 million is estimated to be in Alberta. During construction, employment impacts (direct, indirect, and induced) from the Project are estimated to be 1,872 person-years of labour across Canada. Total annual employment impacts (direct, indirect, and induced) of the Project during operations are expected to be approximately 8 person-years, evenly split between BC and Alberta.

Pouce Coupé stated that, in general, the amount of economic activity and employment that would accrue to businesses, communities, or groups of people is a function of the capacity of these groups (e.g., educational attainment, labour force conditions) to engage directly and competitively with the Project or elements in the associated value chain at a point in time. As such, the degree to which potential effects accrue to specific communities or subgroups of the population within the LAA/RAA is subject to uncertainty and Project effects are not likely to accrue uniformly across sub-populations (e.g., men, women, Indigenous, non-Indigenous) or geographies (e.g., LAA/RAA and BC/Alberta overall).

Pouce Coupé submitted that, while the degree to which employment opportunities for the Project would be filled by men or women is subject to uncertainty, it is expected to follow existing baseline employment patterns in the construction and oil and gas industries. For example, given that those employed in the construction industry (78 per cent of industry workforce) and mining, quarrying, and oil and gas industry (84 per cent of industry workforce) are typically male, the Project would be likely to employ more male than female workers. Given that the Indigenous population represents 11.3 per cent of the LAA/RAA labour force, the Project would likely employ more non-Indigenous than Indigenous persons.

Pouce Coupé provided examples of its mitigation and enhancement measures specific to changes in employment and economy in the ESA. Key mitigation includes:

- Engage businesses and communities early to enhance employment and business opportunities associated with the Project.
- Procure goods and services, where appropriate, from local and Indigenous businesses.
- Follow existing practices of encouraging local and Indigenous content based on previous experience from operating in the area, and through engagement with Indigenous communities, landowners, regulators, and stakeholders.
- Engage with interested Indigenous communities and businesses to provide information on how they may participate in Project opportunities. Pouce Coupé would also work with prime contractors to enable qualified and competitive local Indigenous businesses and individuals to be considered for goods and services subcontracts.
- Adhere to diversity and inclusion goals, which value employee diversity and govern organizational compliance with laws concerning discrimination and equal opportunities.

- Adhere to Pembina's Supplier Code of Conduct to respect the people and communities affected by the Project.

Based on the above, the Commission finds that the Project effects would be medium (positive) in magnitude since benefits related to the construction phase of the Project, through both direct and indirect employment, contracting, and procurement, would likely have moderate benefits for the people and communities that are involved. The Commission finds that total cumulative effects for employment and economy would range from low to medium (positive) because the total cumulative effects of employment and economy generate benefits for people and communities.

The Commission finds that the Project would benefit local, regional, provincial, and national economies, and finds that the socio-economic benefits related to the construction phase of the Project, through direct, indirect, and induced employment, and contract and procurement opportunities, would benefit local and Indigenous communities, as well as workers from other areas of Alberta and BC. The Commission is satisfied with Pouce Coupé's evidence of these Project benefits to employment and the economy, and notes that participants did not provide evidence to the contrary. The Commission is also of the view that Pouce Coupé has established appropriate mitigation and management measures to reduce negative impacts of the Project on employment and the economy, and enhancement measures to increase the positive impacts. To further encourage the positive impacts to the Canadian economy, the Commission recommends imposing **Condition 30** (Canadian participation in engineering and construction). Condition 30 would require Pouce Coupé to file a report detailing the extent to which Canadians and Canadian companies had an opportunity to participate in the engineering and construction of the Project.

6.3.3. Significance of the Project's effects on employment and economy taking into account cumulative effects

In making its determination on significance for employment and economy, the Commission considered the temporal extent, geographic extent, and magnitude of residual Project effects while taking into account relevant cumulative effects and additional context. Based on all the above, and Pouce Coupé's implementation of its mitigation and enhancement measures and the Commission's recommended conditions, the Commission finds the Project's effects on employment and economy would be of low (positive) significance.

7. Pouce Coupé can construct and operate the Project safely

The Commission finds that Pouce Coupé can construct and operate the Project safely because:

- the design of the Pipeline and facilities meets applicable safety requirements;
- the construction methods and oversight for the Project meet applicable safety requirements; and
- the plans and programs for the operation of the Project meet applicable safety requirements.

Some of the safety requirements considered by the Commission which are applicable to the Project include the following:

- the *Canadian Energy Regulator Onshore Pipeline Regulations* (**OPR**), including sections 10, 16, 17, 27, 37, and 40;
- the standard CSA Z662:23 Oil and Gas Pipeline Systems (**CSA Z662:23**), including clauses 3.1.1, 4.3.7, 4.4, 4.13, 4.22, and 10.2.9; Table 8.1; and Annex E;
- the Filing Manual, including section A.1.2; and
- Pembina's applicable technical specifications, including Pembina's Technical Specifications for the Construction of Pipelines ESS 00.03.001.

The Commission's assessment evaluates compliance with these requirements and other regulatory and technical requirements that are not explicitly referenced through this chapter.

7.1. The design of the Pipeline and facilities meets applicable safety requirements

The Commission finds that the design of the Pipeline and facilities meets applicable safety requirements. The detail of the Commission's finding is provided from **Section 7.1.1** to **Section 7.1.5** below.

7.1.1. The Project design and materials meet applicable safety requirements

The Commission finds that the Project design and materials, including material specifications (e.g., pipe type, wall thickness, and grade), depth of cover, and coating, are appropriate for their intended use and meet the requirements of the OPR, the *CSA* Z662:23 standard, and other associated standards such as the American Society of Mechanical Engineers' codes and standards. The Commission reminds Pouce Coupé of its commitment to design the Project in accordance with Pembina's applicable technical specifications. The Commission recognizes that companies may need to adjust and adapt piping specifications from the preliminary design throughout the final design and construction phases. For this reason, the Commission recommends imposing **Condition 29** (Technical specification updates), as described below, to enable further oversight of the as-built design and materials before the Project's in-service date.

Pouce Coupé provided the types, compositions, specifications, and applicable testing methods of the products that the Pipeline and related components will transport. The composition of these products will meet the specifications listed in **Table 7-1**.

Table 7-1 – Product specifications

Parameter	**NGL Mix** (propane plus [C3+] and butanes [C4])	**Condensate** (C5+)	**Crude oil**
Specific gravity	0.530 – 0.679 kg/m^3	0.650 – 0.775 kg/m^3	0.799 – 0.876 kg/m^3
Reid Vapour pressure (**RVP**)	< 1000 kPag at 37.8°C (ASTM D1267)	< 103 kPaa at 37.8°C (ASTM D6377)	< 95 kPaa at 37.8°C (ASTM D6377)
Viscosity	-	< 2.0 cSt at 7.5°C	< 20 cSt at 10°C

Source: Pouce Coupé, Application, Sections 3.1 and 7.6, PDF pages 54 and 94, respectively (C29302-1)

Pouce Coupé said that it plans to design and construct the Pipeline portion of the Project for the transportation of both LVP and HVP products. However, Pouce Coupé would not transport HVP products on the Pipeline at this time, but would be able to transport HVP products in the future if and when it applies for and receives Commission approval of the modifications that would be necessary for the safe transportation of HVP products on the facilities at the Taylor Tank Farm.

The Commission finds that the proposed pipe wall thickness for the Pipeline segments meets the CSA Z662:23 location factor requirements, which will appropriately address the risk of leaks and ruptures. Pipe wall thickness refers to the thickness of the metal used to make the pipe. In general, thicker pipe walls are less likely to be punctured or damaged if they are accidentally struck. They also provide more resistance to pipeline operating pressure and potential integrity imperfections or defects like those caused by corrosion, cracking, and geotechnical and hydrotechnical issues. Clause 4.3.7 of CSA Z662:23 outlines the pressure design criteria related to location factors for CER-regulated steel pipes. The clause includes requirements for pipe wall thickness based on different ‘class locations’, ranging from 1 to 4. Generally, higher risk areas, such as densely populated regions, are classified as Class 2 to 4 locations and require thicker pipe walls. Because the Project is in a primarily undeveloped area, it would typically call for a Class 1 HVP location factor. However, Pouce Coupé has committed to constructing the entire Pipeline so that it meets both the criteria for a Class 2 location factor for HVP products and a location factor for LVP products that applies to designated geographical areas described in clause 4.3.7.4 of CSA Z662:23. The Commission is satisfied with Pouce Coupé’s commitment to exceed the location factor requirements of CSA Z662:23.The Commission finds that Pouce Coupé’s plan for depth of cover over the Pipeline is appropriate because it aligns with *Pembina’s Technical Specifications for the Construction of Pipelines ESS 00.03.001*, and meets or exceeds the requirements set out in CSA Z662:23. Depth of cover is an important consideration for pipeline safety because it helps protect the pipeline against third-party damage, scour, and external loads like those that can be present at road and railway crossings. Pouce Coupé proposed the following minimum depth of cover for the Pipeline components:

- 1.2 m along the Pipeline route (except for road and watercourse crossings);
- 1.5 m for road crossings; and
- 1.8 m for watercourse crossings (with defined beds and banks).

Pouce Coupé said it would continue to evaluate the need for more depth of cover at some locations, such as certain watercourse crossings. The Commission expects Pouce Coupé to maintain a minimum 1.5 m depth of cover for the Pipeline section to be installed on the south floodplain of the Peace River to reduce the risk of the south bank of the Peace River from migrating.

The Commission finds that Pouce Coupé's design and location of the Taylor Tank Farm facilities, and Pouce Coupé's plans for the construction, installation, and operation of those facilities, are appropriate because they are in accordance with the OPR and CSA Z662:23, and they align with Pouce Coupé's plans to transport only LVP products. Pouce Coupé confirmed that, should the need to transport HVP products arise in the future, it will apply for Commission approval of the necessary facility modifications.

During the hearing, Saulteau First Nations requested that Pouce Coupé increase the size of the Pipeline to accommodate more product. They said they would prefer to see one large disturbance rather than multiple small disturbances. The Commission's consideration of alternatives to this Project was discussed above in **Section 3.3.1**.

Pouce Coupé provided details on the piping materials including the approximate lengths and wall thicknesses and stated that final pipe lengths would be confirmed after the detailed design process is complete. The Commission is aware that piping specifications often change during pipeline project implementation. Such changes often occur between preliminary design, final design, and the construction of pipeline projects. To provide flexibility and to help reduce potential unnecessary variance requests for minor changes in technical specifications, the Commission recommends imposing **Condition 29** (Technical specification updates). This condition would require Pouce Coupé to file with the CER, concurrently with its leave-to-open application under section 213 of the CER Act, any technical specification updates for the Project components listed in the Application. Condition 29 would ensure the Commission is aware of and, if necessary, can take appropriate measures related to any technical updates that Pouce Coupé may make up until the end of Project construction.

Pouce Coupé also confirmed that the Pipeline will be designed to accommodate inline inspection tools (smart pigs), as well as regular cleaning and scraping pigs.

7.1.2. The design of the Pipeline and facilities meets applicable safety requirements related to terrain

The Commission finds that the Pipeline route appropriately considers terrain-related hazards and that the design of the Pipeline and facilities meets applicable requirements related to terrain. Pouce Coupé provided evidence of studies and assessments it carried out to identify and avoid potential geotechnical, hydrotechnical, and geophysical hazards along the Pipeline

route (e.g., landslide, slope instability, bank erosion, scour, channel degradation, avulsion, soil and rock related, archaeological, and seismic hazards). These studies and assessments included desktop map reviews, Ortho imagery, LiDAR aerial imagery, and previous geotechnical investigations. Pouce Coupé stated that it considered other routing options including the Taylor to Kiskatinaw option and the option to avoid Dawson Creek, which are described in the Application at Section 6.2.1 Pipeline Route Selection. The proposed route has a greater level of certainty regarding geohazard risk and parallels existing linear disturbances for almost its entire length. The Commission expects that Pouce Coupé's completed and planned site-specific assessment and mitigation activities would address potential remaining geotechnical, hydrotechnical and geophysical hazards and would meet safety requirements, including those in clause 4.22 of the CSA Z663:23 and section A.1.2 of the Filing Manual.

The Commission finds that Pouce Coupé completed a satisfactory assessment of potential soil risks along the RoW. Pouce Coupé stated that it estimated the slopes at each soil inspection site and supplemented those estimates with publicly available maps to assess soil risk ratings. Soil risk ratings help identify potential hazards like erosion, landslides, and water-related issues that might pose a threat to the pipeline, local communities, or the environment. Pouce Coupé indicated that it was aware of areas of potential terrain instability outside of the PDA, along the Peace River, Kiskatinaw River and Pouce Coupé River. Pouce Coupé said it would use trenchless methods, such as HDD, to cross these rivers. Pouce Coupé further said that a third-party engineering company will study critical open cut crossings to inform how the crossings are designed, including depth of cover and bank restoration.

Saulteau First Nations expressed concerns about acid rock drainage which can result from disturbing shallow and potentially acid-generating bedrock. Pouce Coupé responded that, based on the initial assessments (including an aerial imagery review and soil survey), shallow bedrock is unlikely to be encountered during construction, except in deeply incised river valleys. At those specific river crossings, where there is a small likelihood of encountering bedrock, Pouce Coupé proposed installing the Pipeline using HDD methods which would substantially minimize surface bedrock disturbance. Pouce Coupé said that, if it identifies a need to disturb bedrock (within conventional trenching depths) either before or during construction, it will engage a qualified professional to develop a mitigation and management plan that addresses risks and mitigation measures associated with potentially acid-generating rock and metal leaching. While Pouce Coupé confirmed that it does not expect to encounter shallow bedrock during construction, it acknowledges that further assessments are needed to finalize and mitigate geotechnical, hydrotechnical, and geophysical hazards along the RoW.

The Commission finds it is necessary to recommend **Condition 8** (Final horizontal directional drilling feasibility report) which would require Pouce Coupé to file a final HDD feasibility report 90 days prior to starting any HDD on the Project. The Commission recognizes that assessing geotechnical, hydrotechnical, and geophysical hazards along the RoW to select the most effective crossing methods, like HDDs, involves ongoing reassessments. These reassessments involve multiple information sources, including field investigations, throughout the Project's preliminary design, detailed design, and construction phases. The Condition 8 report would demonstrate that Pouce Coupé has completed the necessary reassessments and appropriately considered and proposed mitigation measures to address geotechnical, hydrotechnical, and geophysical hazards along the RoW. Condition 8 would require Pouce Coupé to ensure that it

performs its final design studies and integrates the results to identify or validate (as applicable), and mitigates any additional geotechnical, hydrotechnical, and geophysical hazards before starting any HDDs on the Project. These final design studies and a proper integration of their results would reduce the risk of an unsuccessful Pipeline installation at HDD crossing locations.

7.1.3. The Project design appropriately considers natural events

The Commission is satisfied that the Project's design appropriately considers natural events related to weather, climate, and the environment because the design of the Project (as discussed in **Section 7.1.1** above) reduces the risk of failures from natural events. The Commission finds that the Project design would be at low risk from climate change because of the use of trenchless crossings and an increased minimum depth of cover beyond what would be required by CSA Z662:23 at some higher risk feature locations, as well as Pouce Coupé's emergency response measures for protection against flooding, erosion and fires.

Pouce Coupé identified several natural events that could impact the Project, including extreme temperatures, heavy precipitation, flooding, lightning, snow and ice events, high winds, wildfires, and earthquakes. Potential impacts on the Project from these events include infrastructure damage and significant schedule changes. Pouce Coupé completed geotechnical, hydrotechnical, and geophysical assessments to determine appropriate primary and contingency construction methods for the Pipeline (as discussed in **Sections 7.1.2** and **7.1.4**). These assessments involved hydrologic analysis, hydraulic analysis, scour analysis, and setbacks at the Pipeline watercourse crossings. Pouce Coupé stated that the results of these assessments will be integrated into the crossing designs and minimum depth of cover determinations (including in the floodplain areas).

Weather events involving lightning can cause fault conditions on power lines, which can induce unwanted electrical current into the Pipeline where it crosses or parallels power lines. The induced electrical current may create the risk of electrical shock to anyone who contacts any portions of the electrified Pipeline or components. As explained in **Section 7.1.4** below, Pouce Coupé committed to conduct appropriate studies to assess and mitigate this risk.

Finally, Pouce Coupé explained that the buried Pipeline is unlikely to be affected by wildfires, but the aboveground facilities at the Taylor Tank Farm are at higher risk of being affected by wildfires because they are close to forested areas. Pouce Coupé provided mitigation for fire prevention, emergency response measures, and committed to having a fire contingency plan. Pouce Coupé explained that Pembina, which would operate the Pipeline on behalf of Pouce Coupé, successfully employed its emergency management process for the 2023 wildfires in the area. Refer to **Section 7.3.3** for more information about emergency management, including managing potential wildfires.

7.1.4. The design of the crossings for the Pipeline meets applicable safety requirements

The Commission finds that the design of the crossings for the Pipeline meets the applicable requirements of the OPR and the CSA Z662:23 because the completed and planned design

activities will identify and mitigate potential hazards at the crossings along the Pipeline route. However, the Commission is of the view that Pouce Coupé must complete additional detailed investigations before and during Pipeline construction, and that further follow up on the feasibility of HDD is necessary.

Crossings are locations where a pipeline crosses under or over linear features like watercourses, roads, railways, or power lines. Pouce Coupé submitted that the Pipeline route would cross sensitive features, including watercourses and roads, but would not cross or share RoWs with any railways. Pouce Coupé also submitted that the Pipeline route would cross or parallel high voltage power lines. Pouce Coupé stated that it identified the watercourse crossings for the Pipeline through a desktop review and that it will field-verify them prior to construction. The technical design, including the construction method, of each crossing would depend on the type of crossing (i.e., what the Pipeline is crossing) and crossing-specific characteristics, such as the width, location, condition, and presence of sensitive features.

The Pipeline would cross 27 watercourses (i.e., those features that have defined bed and banks), as well as several drainage features. The majority of these watercourses would be crossed with trenchless methods. With respect to the remaining watercourses, Pouce Coupé stated that, typically, it would use trenched crossing methods (e.g. either an open cut or an isolated method) depending on the watercourse flow conditions at the time of construction. Isolation methods, such as using dams and pumps or flumes, divert flow around or across a construction zone to allow trench excavation, pipe installation, and backfilling to occur away from flowing water. Pouce Coupé explained that it would use an open-cut method if flow is not present at the time of construction (i.e., dry or frozen to the bottom), and it would use an isolation method for watercourses with open water or flow under ice that can be handled by isolation equipment. Pouce Coupé said that it may use a trenchless crossing method if it encounters unexpected flow conditions, or if the water volume cannot be managed with isolation equipment. At select locations, including all fish-bearing watercourses in BC, a trenchless crossing method will be the primary crossing method due to site-specific conditions, sensitivity, and construction timing.

The method of trenchless installation depends on the size of the crossing and the local topography. Smaller crossings may use a typical HDD (i.e., a generic HDD design) or horizontal directional bore (which uses smaller drilling equipment). Those trenchless approaches are common for installing pipes of this size at shorter crossings. More complex watercourse crossing methods (as determined by length, terrain, or geotechnical conditions) would be completed by HDD. In its EPP, Pouce Coupé identified HDD as the primary installation method for 21 crossing sites.

The Commission finds that Pouce Coupé's routing and design choices reduce environmental disturbance. This includes employing trenchless installation as the primary crossing method at confirmed fish-bearing watercourses and selecting an HDD installation method on steep slopes south of the Peace River, allowing Pouce Coupé to reduce the amount of required clearing and accommodate landowner requests.

Clause 4.22 of the CSA Z663:23 says that pipelines may be installed by directional drilling provided that the following four conditions are satisfied:

- A feasibility assessment is completed to assess the suitability of subsurface conditions.
- The drill path is designed with due consideration given to the location and type of all subsurface features influencing installation operations.
- An assessment is made to determine the risk associated with an accidental release of drilling fluids from the drilling annulus and an appropriate mitigation plan is prepared.
- For steel pipe, longitudinal stresses during installation do not exceed the specified minimum yield strength of the pipe.

As described in **Section 7.1.2** above, ongoing reassessments of hazards and selecting the most effective crossing methods involves multiple information sources, including field investigations, throughout the Project's design and construction phases. The Commission understands that because of that, the list of sites that Pouce Coupé initially selected for HDD installation and contingency construction methods may change. For this reason, the Commission recommends imposing **Condition 8** (Final horizontal directional drilling feasibility report).

Pouce Coupé further said that, where the Pipeline route would cross or parallel high voltage current power lines, Pouce Coupé would conduct electrical interference studies to identify any impacts to the Pipeline and determine necessary mitigation. The Commission expects that Pouce Coupé would comply with the requirements of CSA Z662:23's clause 4.13 *Requirements for pipelines in proximity to electrical transmission lines and associated facilities*. Therefore, Pouce Coupé would complete all necessary assessments about potential effects of normal and upset operations of high voltage power lines on the Pipeline. In addition, Pouce Coupé would implement any required mitigation measures to eliminate the potential safety risks for the Pipeline and the public, including the following:

- determining safe separation distances between power lines and the Pipeline;
- completing Pipeline coating stress voltage mitigation; and
- addressing shock hazards (for workers or the public) associated with contacting the Pipeline or connected equipment under fault conditions on the power lines, including unfavourable weather conditions such as lightning.

The Commission also expects Pouce Coupé to adequately consider and implement all third-party recommendations about the Project's geotechnical, hydrotechnical, and geophysical assessments, as applicable. These include:

- the Hydrotechnical Report, dated 2 June 2025, by Chenbao Hydrotechnical Engineering;
- the Desktop Geohazard Route Assessment, dated 5 June 2025, by Thurber Engineering Limited;
- the Desktop Terrain Assessment, dated 4 June 2025, by Thurber Engineering Limited;
- the Geotechnical Review for Proposed Kiskatinaw River Crossing HDD, dated 2 June 2025, by BGC Engineering; and

- the HDD feasibility reports filed as part of Pouce Coupé's reply evidence.

The Commission considered the comments on the potential condition for a final HDD feasibility report submitted by Doig River First Nation, Kelly Lake First Nation, and Blueberry River First Nations. Indigenous communities requested that consultation be required as part of the condition, that additional requirements such as a separate ESA or application could be required where impacts could be significant, and additional funding to reassess impacts to their rights. As discussed in **Section 7.1.2**, the Commission has added part d) to Condition 8 in response to these comments regarding engagement and consultation.

In addition, as further described in **Section 4.4.1**, the Commission has recommended **Condition 26** (Contingency watercourse crossings). Condition 26 would require Pouce Coupé to file contingency plans with the CER, the details of which would depend on the type of contingency method that would be used. The Commission is of the view that the requirements of parts b) and c) of Condition 26 would address some of the comments received regarding the assessment of additional impacts and requests for consultation. The Commission has also recommended **Condition 7** (Pre-construction plan on support for Indigenous Peoples to review Pouce Coupé's condition filings), which would require Pouce Coupé to provide adequate support to Indigenous Peoples to review its condition filings prior to and during construction. Under this condition, Pouce Coupé would also notify interested Indigenous communities when documents for a condition they are interested in are filed with the CER.

If a primary HDD method fails, Pouce Coupé will implement the appropriate predetermined contingency plan. As specified in Condition 8, Pouce Coupé must file both the primary and contingency plan for every planned HDD site, at least 90 days before starting the HDD. The CER would evaluate the feasibility based on the information provided, assess identified concerns, request additional information from Pouce Coupé, if needed, and impose additional conditions (if necessary) to address identified issues before Pouce Coupé can start the HDD construction.

7.1.5. The valve locations and spacing meet applicable safety requirements, but the risk assessment for the Project does not yet demonstrate that the design meets the requirements of section 10 of the OPR regarding the crossing of railway or paved roads

The Commission finds that the Project's valve types and locations meet applicable requirements, including the OPR and CSA Z662:23 (including clause 4.4). The Commission also expects that the completed and planned activities related to valve placement along the Pipeline, as described by Pouce Coupé in its Application will comply with the OPR and CSA Z662:23, including clause 4.4. However, because ongoing assessments and adjustments to valves will be required by Pouce Coupé before Pipeline construction begins, the Commission would impose **Condition 14** (Report on valve locations and spacing) to further oversee valve types and locations. More details on Condition 14 are provided below.

The CSA Z662:23 clause 4.4.4 requires a company, in determining the number and spacing of sectionalizing valves to be installed, to demonstrate the suitability of valve spacing, and for the analysis to include factors, as applicable, including the following:

a) nature, type, characteristics, volume, discharge rate, properties, and amount of service fluid released due to repair and maintenance blowdowns, leaks, or ruptures;

b) time to detect a release and to blowdown or drain down an isolated section; and

c) time to access and close a sectionalizing valve.

Valves are installed on pipelines to stop the flow of product and mitigate impacts in the event there is a leak or rupture. Valves are placed at certain intervals, as well as at strategic locations, like slopes and watercourses.

Pouce Coupé committed to install three different types of valves: automated (i.e., remote controlled) valves, check valves, and manual valves. Pouce Coupé stated that the Project's proposed valve types and locations are based on the requirements and considerations stipulated in CSA Z662:23, clause 4.4 (including clause 4.4.9 and its note 2). Pouce Coupé said that it based its valve type selection and placement on outflow and overland modeling assessments which demonstrated the effectiveness and suitability of the automatic and manual operation valves. Valves would be installed at nine locations along the Pipeline route, as shown in **Table 7-2**:

Table 7-2– Valve location and type

No.	Valve location	Valve type	To be installed with a check valve
1	West Doe Creek	Automated valve	Yes
2	Taylor Tank Farm	Automated valve	No
3	Tower Block Valve	Automated valve	No
4	Parkland Block Valve	Automated valve	No
5	West Dawson Block Valve	Automated valve	No
6	West Pouce Coupé River Block Valve	Automated valve	No
7	Pouce Coupé Block Valve	Automated valve	No
8	South Peace River	Manual valve	Yes
9	East Pouce Coupé River	Manual valve	Yes

As indicated in Table 7-2 above, Pouce Coupé proposed to install certain valves, including both manual valves, with a check valve. Pouce Coupé stated that those check valves will be installed downstream of their respective watercourse crossings and on terrain with increasing elevation. Therefore, in the event of a rupture, the check valve would close automatically within seconds

because of the backward pressure and flow from the downstream side of the check valve, preventing flow towards the upstream side of the check valve (i.e., towards the watercourse).

Pouce Coupé said that it determined that manual valves are suitable for two locations: the South Peace Block Valve and East Pouce Coupé River Block Valve sites. Those manual valves would be installed with check valves that, in the event of a rupture, would close automatically within seconds because of the backward pressure from product flow. Pouce Coupé said that from the moment an emergency is declared, both manual valves along the Project could be accessed and closed manually within 1.5 to three hours, depending on travel conditions at the time. Pouce Coupé would send an operator to the site to physically close the manual valve to confirm the isolation of the Pipeline segment. Pouce Coupé said that manually operated valves at the two selected locations are suitable for the Project and meet the requirements of the CSA Z662:23, clause 4.4.7 related to HVP products, because a failure in these locations would not be considered an extraordinary hazard. Pouce Coupé clarified that, in comparison, it would take approximately three minutes to close an automated valve once a shutdown is initiated. Pouce Coupé further provided evidence (including outflow modeling) demonstrating that it is not necessary to replace these two manual valves with automated ones because doing so would result in negligible upstream outflow changes in case of a leak or rupture. In addition, automated valve installation would require access to electrical power sources and a larger footprint.

The Commission is satisfied with Pouce Coupé's completed assessment about manual valves installed with check valves and their selection for both the South Peace Block Valve and East Pouce Coupé River Block Valve sites. The Commission finds that, based on the information available at the time of the assessment, these manual valves with check valves would meet the requirements of the CSA Z662:23, clause 4.4, Valve location and spacing.

Pouce Coupé explained that its valve installation approach addresses the applicable factors in CSA Z662:23, and that Pouce Coupé considered the following information in its analysis:

- the service fluids (i.e., HVP and LVP products); the safety and reliability of the Pipeline under operating parameters;
- pipeline diameter and pressure;
- class location designation;
- installing new valves adjacent to existing assets (to limit the footprint of the sites and reduce the requirement for additional site access roads);
- areas that will have the least disturbance to potential sensitive areas (e.g., crop fields, forests, wetlands);
- location of major watercourses;
- location of HDDs and other locations with heavy wall pipe;
- nearby inhabitants;
- access to power for automated valves;
- continuity of service;

- elevation profile;
- operational flexibility (e.g., the time required to access and close the valve);
- future development;
- adverse conditions; and
- extraordinary hazards.

To determine where the valves should be placed, Pouce Coupé considered a worst-case product release scenario and calculated the potential release volumes at 30-m intervals along the centreline of the Pipeline. The purpose was to determine how much product could be released if there was an incident. In its analysis, Pouce Coupé used the example of an opening on the bottom of the pipe, that was the same size as the Pipeline's internal diameter, which would be a serious and highly unlikely event (i.e., the worst-case scenario). In this scenario, Pouce Coupé estimated that 759 bbl (120.7 m^3) of crude oil or 1,285 bbl (204.3 m^3) of C5+ condensate would be released before the Pipeline could be shut down.

As explained in **Section 7.1.1** above, Pouce Coupé would construct the entire Pipeline to meet the criteria for a Class 2 location factor for HVP products and use pipes with heavy wall thickness at HDD sites (including five sites within the Peace River valley). Pouce Coupé submitted that installing thicker pipes will provide increased mechanical strength, lower the probability of leaks and ruptures along the Pipeline route, and complement the valve locations, thereby reducing the need to install additional valves.

Pouce Coupé also committed to completing an assessment of the valve locations and types prior to construction. Pouce Coupé said that it continues to consider modifications to the Project design to address relevant and reasonable concerns raised by Indigenous communities, landowners, and stakeholders. Therefore, Pouce Coupé would continue to evaluate and refine valve design right up to, and potentially during, construction to ensure it meets the requirements of CSA Z662:23, clause 4.4.

Given the planned evaluations and refinements, the Commission finds it necessary to follow up on Pouce Coupé's final assessment for valve types and locations and recommends **Condition 14** (Report on valve locations and spacing). This condition would require Pouce Coupé to submit, before starting construction, its final evaluation results demonstrating that the planned valve locations will comply with both:

- CSA Z662:23 clause 4.4.4 regarding the list of factors that a company must consider when determining the number and spacing of sectionalizing valves to be installed; and
- CSA Z662:23 clause 4.4.9 (including the definition in its Note 2), requiring that valves be installed on both sides of major water crossings and at other locations appropriate for the terrain in order to limit damage from accidental discharge.

With respect to the risk assessment for the Project, the Commission finds that Pouce Coupé did not submit sufficient information to demonstrate that the Pipeline would meet the requirements of the applicable regulations and standards. As explained below, the Commission finds that

additional evaluation of a documented risk assessment for the Project is necessary before Pipeline construction starts, to confirm that the Project would be operated safely. Pouce Coupé committed to completing a documented risk assessment to comply with section 10 of the OPR relating to HVP pipelines, and to submitting a summary before Pipeline construction, if requested. The Commission finds that additional evaluation is necessary, before Pipeline construction begins, to confirm that Pouce Coupé would install pipe with adequate wall thicknesses at railway and paved road crossings along the route so that the Pipeline would be operated safely. Section 10 of the OPR requires a company, when situating an HVP pipeline in a Class 1 location that is within 500 m of the RoW of a railway or paved road, to develop a documented risk assessment to determine the need for heavier wall design.

Consistent with Pouce Coupé's commitment to complete a documented risk assessment after the Project's approval (but before construction), the Commission recommends imposing **Condition 15** (Documented risk assessment regarding high vapour pressure products). Condition 15 would require Pouce Coupé, at least 45 days before starting Pipeline construction, to file a documented risk assessment with the CER that complies with section 10 of the OPR. This condition would help increase transparency and clarify the timing for when Pouce Coupé must develop and submit the documented risk assessment.

7.2. The construction methods and oversight for the Project meet applicable safety requirements

The Commission finds that the construction methods and oversight for the Project meet applicable safety requirements. The safety requirements applicable to Project construction include the OPR (including sections 16 and 17) and CSA Z662:23 (including Table 8.1). The Commission's assessment evaluates compliance with these requirements. Pouce Coupé committed to construct the Project using accepted industry practices in alignment with the OPR, CSA Z662:23, and the company's technical manuals and specifications. The Commission has examined proposed construction aspects and methods including:

1. physical construction methods including trenching and installation;
2. testing and commissioning procedures; and
3. the safety oversight framework detailed in subsequent sections.

The Commission finds that Pouce Coupé's proposed strength test pressures for the Pipeline are acceptable. The test pressures align with Request for Interpretation 33124 regarding CSA Z662:23, Table 8.1. While the standard requires minimum strength test pressures of 125 per cent of maximum operating pressure for Class 1 locations and 150 per cent for Class 2-4 locations, the CSA Group's interpretation allows 125 per cent of maximum operating pressure for Class 1 and 2 locations, and 140 per cent for Class 3 and 4 locations. Pouce Coupé would apply these interpreted standards during hydrostatic testing.

Before placing the Project into service, Pouce Coupé would need to file an application for leave to open under subsection 213(1) of the CER Act. This regulatory checkpoint ensures all construction is complete and conditions are satisfied before operations commence.

7.2.1. The construction methods and standards meet applicable safety requirements

Meeting applicable requirements, codes, and industry standards enables proper Project construction and supports its future safe operation.

Pouce Coupé said that it would install the Pipeline in a single trench using excavators or a ditch wheel (trenchers) in long, flat open stretches. Open trench installation would follow the procedures described in the EPP. The ditch would be excavated to ensure that the Pipeline has the required minimum depth of cover along its entire length. Where access to the excavation is required, a safe ditch profile would be maintained with access and egress points.

Pouce Coupé said that, after the Pipeline is installed, it would be cleaned using pipeline inspection gauges (i.e., pigs) and brushes to remove construction debris. The entire Pipeline, including pipes, valves, risers, and prefabricated assemblies, would undergo hydrostatic pressure testing (i.e., hydrotesting) according to CSA Z662:23. Water for the hydrotest would be drawn from permitted sources and, after use, would be disposed of along the RoW in accordance with the applicable regulatory requirements.

The Commission finds that Pouce Coupé's proposed strength test pressures for the Pipeline are acceptable because they are based on an officially approved interpretation of the CSA Z662:23 testing criteria. Pouce Coupé stated that it would pressure test the Pipeline in alignment with the Request for Interpretation[141] 331-24 regarding CSA Z662:23, Table 8.1, published by the Petroleum and Natural Gas Industry Systems. The Commission is of the view that the proposed test pressures would demonstrate whether the Pipeline has sufficient strength for safe operation under the planned operating conditions.

7.2.2. The joining program for the pipe and piping components will have to meet applicable safety requirements

The Commission finds that the Project's joining program must be reviewed before construction begins to confirm that the Pipeline and facilities would be operated safely.

Pouce Coupé said that the joining program and non-destructive examination (**NDE**) would comply with the requirements of the OPR and CSA Z662-23. Pouce Coupé also said that it plans to manually weld the individual pipe joints and that all welds would undergo an NDE and, once validated, would be coated to prevent corrosion. An independent third party would conduct an NDE on all Project welds.

Section 16 of the OPR requires "a company to develop a joining program in respect of the joining of pipe and the components to be used in the pipeline" and requires that a company must "submit it to the Regulator when required to do so." Pouce Coupé said it intends to

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[141] CSA Group defines a request for interpretation as follows: "An interpretation is a written clarification of the meaning of a provision of a CSA standard, provided by the responsible Technical Committee in response to a written request for an interpretation." Anyone (individual or company) may submit requests for interpretation of CSA Group standards.

complete the joining program for the Project, in consultation with its contractor, before construction. The Commission considers it necessary to recommend **Condition 16** (Joining program), which would require Pouce Coupé to file its joining program for the Project at least 45 days before starting to join the pipe and components. This condition would provide the information necessary to verify that the Project welding and associated activities meet the applicable codes, standards, and regulatory instruments. It would also help evaluate how the Project's NDE will comply with section 17 of the OPR and associated CER requirements.

7.2.3. Pouce Coupé's approach to construction safety is sufficient to address applicable hazards through appropriate planning and response measures

The Commission finds that Pouce Coupé's approach to construction safety, including programs, processes, and safeguards, are sufficient to address potential construction-related hazards and protect workers and public safety. This conclusion is based on the evidence filed by Pouce Coupé, including detailed construction safety planning and the company's overarching safety program included in the Application. The Commission also notes that Pouce Coupé's management system includes both safety management and damage prevention as mandatory protection programs, consistent with the OPR.

Pouce Coupé has committed to a Project-specific construction safety approach in which the prime contractor will be responsible for day-to-day safety at the worksite. Pouce Coupé also committed to implementing Pembina's overarching safety program for the Project. The Commission reminds Pouce Coupé that, while the role and responsibilities of a "prime contractor" are established under provincial jurisdictions, Pouce Coupé would still be held responsible for meeting all requirements and conditions under the CER Act. This includes ensuring the effective management of specialized contractors retained outside the scope of the prime contractor contracts.

To ensure accountability, the prime contractor would be contractually obligated to Pouce Coupé to implement and adhere to Pouce Coupé's safety expectations and applicable regulatory requirements. These obligations would include developing and executing site-specific safety and ERPs, performing hazard assessments, ensuring worker orientation and competency verification, and the timely reporting and investigation of all incidents and near misses. Safety performance would be tracked using defined metrics, and any safety issues would be documented and addressed through Pouce Coupé's corrective action process and broader management system, as outlined in Pembina's safety program.

Pouce Coupé said that the broader Pembina safety program supports the Project-specific approach and follows a "Plan-Do-Check-Act" continuous improvement model. Contractor safety management processes would support Pouce Coupé's efforts to ensure that work is performed in a manner that is consistent and compatible with its standards, expectations, and business objectives.

With respect to access to the Project area, the Commission acknowledges that Pouce Coupé has limited power to restrict access to the public, including Indigenous Peoples, on Crown lands, except where required to ensure safety of the public and workers. Pembina's overarching safety program for the Project would aim to ensure the safety of its workers, contractors, and

the public. Pouce Coupé's prime contractor will post signage to clearly denote Project access roads and discourage unauthorized public access during construction. Pouce Coupé and its prime contractor would continually monitor this signage during construction. Pouce Coupé stated that it would engage with Indigenous Peoples to raise awareness among Indigenous community members of what activities are allowed to occur on pipeline RoWs, which may also lessen the amount of "self-policing" Indigenous Peoples practicing or exercising their rights may feel obliged to do. This is addressed further in **Section 5.4.3.2**.

The Commission is satisfied with Pouce Coupé's safety-related filings to date, including its commitments regarding construction safety. The Commission recognizes, however, that Pouce Coupé's Project-specific construction safety manual and contractor site-specific safety plans would not be available until the later stages of Project planning. The Commission would therefore impose **Condition 9** (Construction safety manual) for Pouce Coupé to file its Project-specific construction safety manual. This filing would allow the CER to verify the adequacy of the safety measures in place before construction starts. Additionally, to monitor ongoing construction environmental, socio-economic, safety, and security issues, and to track key performance indicator trends, the Commission would impose **Condition 24** (Construction progress reports), which would require Pouce Coupé to submit monthly construction progress reports. These indicator trends would support oversight activities by providing insight into project safety performance and enabling timely corrective actions.

The Commission also would impose **Condition 25** (High-potential near misses), which would require Pouce Coupé to report high-potential, near-miss events. The Commission is of the view that the timely notification of events with potentially serious consequences would allow the CER to follow up and ensure that the root causes are addressed and recurrences are prevented.

7.3. Pouce Coupé's plans and programs for the operation of the Project meet applicable safety requirements

The Commission finds that Pouce Coupé's operational plans and programs meet applicable safety requirements. The safety requirements applicable to Project construction include the OPR (including sections 27, 37, and 40) and CSA Z662:23 (including Annex E, clause 3.1.1, and clause 10.2.9). The Commission's assessment evaluates compliance with these requirements.

Pembina would operate the Project on behalf of Pouce Coupé using its established Operating Management System (**OMS**), which the Commission finds addresses the required operational safety elements such as the integrity management programs, pipeline control and leak detection systems, and emergency response capabilities. The OMS provides an operational framework and functions as a continuous improvement system focused on safety and environmental protection, with established policies, processes, and procedures governing planning, implementation, checking, and corrective action. The system includes change management protocols to ensure facility modifications are properly reviewed, approved, communicated, and documented before implementation.

The integrity management program addresses long-term asset reliability and hazard prevention. The pipeline control system, operating from Pembina's 24/7 Sherwood Park Control Centre,

provides real-time monitoring and leak detection capabilities. The emergency management program demonstrates preparedness for potential incidents through pre-positioned resources, established control points, and scalable response protocols. **Sections 7.3.1**, **7.3.2**, and **7.3.3** below detail the Commission's findings about how Pouce Coupé committed to apply relevant plans and programs of the OMS to meet applicable safety requirements during the Project's operation.

7.3.1. The integrity management program meets applicable requirements

The Commission finds that the integrity management program meets the applicable requirements of the OPR and CSA Z662:23. Section 40 of the OPR requires companies to develop, implement, and maintain an integrity management plan that anticipates, prevents, manages, and mitigates conditions that could adversely affect safety or the environment. Clause 3.1.1 of the CSA Z662:23 requires that operating companies develop and implement a documented safety and loss management system for the Pipeline system that provides for the protection of people, the environment, and property.

Pouce Coupé said that Pembina's Asset Integrity Program (which is part of Pembina's OMS) includes the Facilities Integrity Management Program, which covers all mechanical equipment, including pressure equipment, facility piping, storage tanks, storage tubes, and over-pressure protection systems. The program ensures that the design, construction, operation, and abandonment of all mechanical equipment follow generally recognized industry best practices and meet regulatory requirements. Pembina's Asset Integrity Program also includes the Pipeline Integrity Management Program, which is applicable to all Canadian transmission and gathering pipelines owned and operated by Pembina and its affiliates. Its objective is to assure the safe operation of all pipelines, demonstrate compliance with all jurisdictional and corporate requirements, provide a system for continuous improvement, and assist in optimizing runtime.

Section 27 of the OPR requires companies to develop, regularly review, and update as required, operation and maintenance manuals that provide information and procedures to promote safety, environmental protection, and efficiency in the operation of the pipeline. In addition, paragraphs 37 (a) and (b) of the OPR respectively requires companies to develop and implement a pipeline control system that:

- comprises the facilities and procedures used to control and monitor the operation of the pipeline; and
- records historical pipeline operation data, messages and alarms for recall.

Pouce Coupé said that, after construction, the Pipeline would be inspected with an in-line inspection caliper tool to ensure the inside of the Pipeline is free of defects, such as ovalities, dents, bulges, pipe expansions, and buckling. Pouce Coupé would repair any defects discovered at this stage by integrity dig replacements with pre-tested pipe. Through the Pipeline Integrity Management Program, Pouce Coupé would schedule operational in-line inspections by assessing known pipeline hazards, including the following:

- external corrosion;
- internal corrosion;
- stress corrosion cracking;
- manufacturing defects;
- third-party damage or external interference;
- geotechnical hazards;
- hydrotechnical hazards;
- seismic;
- incorrect operations;
- equipment failure; and
- construction threats.

Pouce Coupé said that the Project's operational activities would also involve the following:

- **RoW inspection**: an aerial patrol every two weeks and an annual patrol by air, all-terrain vehicle, truck, boat, or foot;
- **vegetation management**: conducted on an as-required basis to maintain the RoW clear of large vegetation over the trench; and
- **pipeline and facility operations**: will include cleaning, maintenance, and testing.

The Commission finds that Pouce Coupé has appropriately considered issues related to integrity threats to the Pipeline and the facilities during their entire lifecycle. If Pouce Coupé implements the Facilities Integrity Management Program and the Pipeline Integrity Management Program as intended, the Commission is of the view that these programs would reduce the risk of Pipeline or facility failures, and, in the unlikely event of a failure, reduce the impact.

7.3.2. The leak detection system meets applicable requirements

The Commission finds that the leak detection system for the Project meets applicable requirements of the OPR and CSA Z662:23. The paragraph 37 (c) of the OPR requires companies to develop and implement a pipeline control system that includes a leak detection system that, for oil pipelines, meets the requirements of CSA Z662:23 and reflects the level of complexity of the pipeline, the pipeline operation, and the products transported. Annex E of CSA Z662:23 provides the requirements for sales quality liquid hydrocarbon pipeline leak detection. In addition, clause 10.2.9 of CSA Z662:23 provides additional precautions for pipeline systems transporting HVP hydrocarbons. Pouce Coupé committed to design and monitor the Pipeline with the intent of preventing leaks and failures. Pouce Coupé said the Pembina Sherwood Park Control Centre operates 24 hours per day, seven days per week, to monitor and control pipeline pressure and flows through a supervisory control and data acquisition (**SCADA**) system. Pouce Coupé also said that the Project's metering station at the Taylor Tank Farm would also be part of the leak detection system, in addition to custody transfer.

Pouce Coupé confirmed that the Project's SCADA and leak detection systems would include both internal and external leak detection methods. The Project's leak detection system would have two internal leak detection methods:

i) Computational pipeline monitoring for LVP products, which uses the Pipeline Monitor application to detect leaks by tracking volume changes. The application monitors the imbalance between receipt and delivery meters, and tracks linepack compensation (i.e., the rate of packing and unpacking the line during known transients, including startups, shutdowns, and flow rate changes). The control centre operator is alerted if the imbalance on a pipeline exceeds the alarm limits and thresholds set for leak detection.

ii) Real-time transient model methods for HVP products, which uses the Synergi Pipeline Simulator application to calculate the hydraulic and thermal conditions at different points along a pipeline through computer simulation. The model's results are compared to field data to identify unexpected anomalies that might indicate an imbalance or slack condition.

The Project would include the following two external leak detection methods:

i) The vapour sensing method, which would include using hydrogen sulfide and lower explosive limit detectors in the pump building at the Taylor Tank Farm. The hydrogen sulfide detectors would sound an alarm if elevated levels of hydrogen sulfide are detected. The lower explosive limit detector would issue an alert if an explosive level of hydrocarbon is detected. In addition to local alarms, remote alarms would be sent to Pembina's control centre through SCADA.

ii) The visual detection method would be used across the Project. Pouce Coupé would conduct an on-site inspection of the facilities within the Taylor Tank Farm facility pump weekly and conduct an on-site inspection of block valve sites at least twice a year. Pouce Coupé would also conduct an aerial patrol twice a month with fixed wing aircraft, and annually with a helicopter.

Pouce Coupé also said that it would regularly evaluate its leak detection systems to verify their reliability, sensitivity, accuracy, and robustness. Pembina's control centre has a Segment Imbalance Quick Analysis and Evaluation procedure for analyzing leak alarms. This procedure has a maximum analysis period of 15 minutes for 5-minute and 1-hour leak alarms (i.e., for large leaks), and a maximum analysis period of eight hours for 24-hour leak alarms. The pipeline controller, the technical lead, and the shift lead would be authorized to shut down the Pipeline, if the root cause of the leak alarm is not determined after the maximum analysis period has elapsed.

Pouce Coupé said that, based on Pembina's operating experience, Pembina's leak detection program is fit for purpose and is appropriate to protect both the public and the environment. Pouce Coupé also said that in case of oil release, it would address any emergency scenario through the scalable Emergency Management Program of Pouce Coupé's parent company, Pembina. Pembina has a comprehensive Emergency Management Program which outlines desired response outcomes and target response times in case of oil leak or rupture.

Louis Bull Tribe expressed concerns about the impact a potential spill and the resulting contamination would have on their traditional activities and cultural resources. They said that appropriate spill prevention measures should be in place throughout Pipeline construction and

maintenance. Louis Bull Tribe specifically expressed concerns about a potential spill in the Peace River, due to the ecological impact and the difficulty in accessing the contaminated areas for remediation. During oral Indigenous knowledge sessions, Bruce Horseman of Horse Lake First Nation expressed concerns about pipeline monitoring and about how a pipeline blowout would affect their drinking water underground. They stated that Pouce Coupé needs better reporting and communications to neighbouring areas on the procedures for inspecting pipelines and for emergency plans.

The Commission is of the view that the leak detection measures and monitoring activities described above, the imposition of **Condition 36** (Performance metrics of the leak detection system) as described below, in addition to the commitments described in **Sections 7.2** and **7.3.1** regarding the Project construction and the Project's integrity management program, would work together to provide appropriate leak prevention and mitigation identified as concerns by Indigenous participants. The Commission is of the view that those concerns are adequately addressed through Pouce Coupé's commitments and the conditions recommended by the Commission.

Annex E.8.1 of CSA Z662:23 states that "the operating company shall identify the metrics that will be used to monitor the performance of the leak detection system. These metrics shall be selected to meet the objectives of the leak detection strategy and shall include consideration of sensitivity, reliability, accuracy, and robustness. The expected performance of each system for each metric shall be defined." Pouce Coupé said that it did not currently have the field real-time data required to perform a leak sensitivity study that generates performance indicators, such as the accuracy, reliability, and sensitivity metrics, for the internal leak detection methods. Should Pouce Coupé build and operate the Pipeline, Pouce Coupé would conduct leak sensitivity tests and provide the performance metrics to the CER.

The Commission recommends imposing **Condition 36** (Performance metrics of the leak detection system), which would require Pouce Coupé to file the outstanding performance metrics within six months after starting operations. The Commission expects operating companies to develop, implement, and periodically evaluate their leak detection strategy for their pipelines, as required in the CSA Z662:23, Annex E.1.2. The purpose of the leak detection strategy is to ensure methods are implemented to ensure the timely detection of a service fluid release to support appropriate pipeline control and emergency response actions. The Condition 36 filing would allow the CER to evaluate whether the sensitivity, reliability, accuracy, and robustness of each internal leak detection method meet the predetermined objectives of the leak detection system.

7.3.3. Pouce Coupé's emergency planning is appropriate based on the nature and the location of the Project

The Commission finds Pouce Coupé's emergency response planning to be appropriate. The Emergency Management Program is designed to be scalable to address emergency scenarios of varying magnitudes and severity based on the risks identified through Pembina's hazard identification and risk assessment process. Response personnel and equipment are stationed throughout Pembina's operating areas and are available at any time to respond quickly to an

emergency. Pembina stores spill response equipment in Fort St. John, BC, and Grande Prairie and Grovedale, Alberta, that could be deployed to respond to a spill along the Pipeline. In addition, if necessary, Pembina can supplement its response resources, including personnel and equipment, through mutual aid or emergency response service agreements with several organizations and third-party vendors. Pembina also has 29 existing control points in the Project area. These are pre-identified locations where responders can set up equipment to intercept, contain, and recover spilled products. Each control point has detailed information about spill response tactics specific to that location so that response equipment can be deployed efficiently to limit or prevent the product from migrating. As part of the Emergency Management Program, Pembina would identify the need for any additional control points according to its Control Point Management and Review Process.

The Commission is of the view that Pouce Coupé has taken reasonable steps to ensure that, through its emergency plans and overarching emergency management program, it would anticipate, prevent, mitigate, and manage conditions during an emergency that could impact the environment, property, and the safety of workers or the public. Pouce Coupé has addressed emergency response planning, commitment to staff training, completion of a Hazard Identification and Risk Assessment, use of established emergency programs, and facilitation of a full-scale exercise for the Project in regard to emergency preparedness. Pouce Coupé also committed to apply Pembina's existing Emergency Management Program and its ERPs. Pouce Coupé explained that this program and its plans were developed in alignment with applicable regulatory standards, including the OPR and CSA Z246.2 *Emergency Preparedness and Response for Petroleum and Natural Gas Industry Systems*.

Indigenous Peoples raised concerns about potential significant impacts from spills. The Commission is satisfied with Pouce Coupé's emergency plans, which include both spill prevention and spill response measures, such as pre-planned control points and equipment caches, as well as valve configuration and leak detection that would limit potential spills or releases into the Peace, Kiskatinaw, and Pouce Coupé rivers. In addition, the combination of manual and automatic valves would reduce the vulnerability of the Pipeline to cyber or physical threats by diversifying control options and response tactics if there is a release of product.

Indigenous Peoples shared concerns about the potential for significant impacts from other emergency incidents such as pipeline ruptures, leaks, fires, and potential malfunctions. The Commission recommends imposing **Condition 28** (Emergency procedures manual), which would require Pouce Coupé to file ERPs 21 days before starting operations, to demonstrate that it has plans in place for responding to and managing emergency incidents of any kind. The Commission also recommends imposing **Condition 37** (Emergency response exercise), which would require Pouce Coupé to complete an emergency response exercise within one year of starting operations, to allow for Pouce Coupé to train and demonstrate its ability to adequately respond to an emergency.

The Commission heard questions and comments from Paddle Prairie Metis Settlement, Horse Lake First Nation, Kelly Lake First Nation, Whitefish Lake First Nation #128, Foothills First Nation, and ECCC regarding emergency response aspects to be addressed in the ERPs. The Commission is of the view that the ERPs should include information such as:

- incident management procedures and roles;
- specific tactical response options and pre-determined control points;
- natural hazards mitigation and response measures;
- internal and external notification procedures;
- external agency involvement;
- response resources;
- public safety and environmental protection options; and
- area user contact information.

The ERPs are also supplemented by additional plans, including fire and security contingency plans, that provide detailed tactical plans to manage specific incidents. In addition, the emergency response exercise would provide first responders and Indigenous Peoples who participate or observe, the opportunity to learn more about Pouce Coupé's ERPs, how the company's response would unfold and be organized, and how certain external parties would assist and be incorporated into a pipeline response. External participants and observers attending the exercise could provide feedback to Pouce Coupé, such as unique area or community attributes to help improve response plans and be more prepared and aware of Pouce Coupé's response capabilities and processes.

Finally, Pouce Coupé stated that it would implement Pembina's Community Awareness and Emergency Response Program to establish and maintain liaison activities, public education, and first responders continuing education for those potentially impacted or involved during a pipeline incident. Pembina's Emergency Management Team coordinates with Pembina's Indigenous Engagement Team to engage with communities and address their questions and areas of interest regarding emergency management and provide relevant information. Notifications of an incident would be issued using preferred methods (phone call or automated notification) to communities within or with traditional territory within the emergency planning zone. Communication would continue throughout the emergency via the Liaison section at the Incident Command Post. These initiatives are all part of Pembina's emergency management program and allow for in-person or virtual engagement, cross-training, and feedback opportunities, including updating community notification procedures as appropriate. These initiatives also meet regulatory requirements under the OPR regarding public awareness, agency liaison, and responder continuing education programs. This makes it an appropriate emergency management program for Pouce Coupé to implement and use.

8. Conclusion

The Commission finds that the potential benefits of the Project outweigh its potential burdens, such that the Project is in the public interest. To reach this determination, the Commission considered and weighed the conclusions it reached throughout this Report, which include the following:

- the Crown's duty to consult and accommodate is met in relation to the Commission's recommendation under CER Act subsection 183(1), as explained in **Chapter 2**;
- there is a need for the Project, as demonstrated by sufficient supply, existing market demand for NGLs, and limited alternative transportation options available, as explained in **Chapter 3**;
- the Project is likely to result in residual effects on the environment, including cumulative effects, after the implementation of mitigation measures, as explained in **Chapter 4**;
- the Project is likely to result in residual effects on the rights of Indigenous Peoples, including cumulative effects, after the implementation of mitigation measures. These residual and cumulative effects which will contribute to already high cumulative effects on the rights of Indigenous Peoples in the Project area, necessitating the full suite of conditions the Commission recommends be attached to the certificate which include additional mitigation measures the Commission set out that go beyond the measures proposed by Pouce Coupé, as explained in **Chapter 5**;
- the Project is likely to result in health, social, and economic effects, some of which will be positive, after the implementation of mitigation measures, as explained in **Chapter 6**; and
- Pouce Coupé has demonstrated that it can build and operate the Project in a way that protects the safety and security of people, property, and the environment, as explained in **Chapter 7**.

As explained in **Chapter 5**, the Commission recognizes that the Project would result in effects to Indigenous Peoples' rights in a geographic area in which cumulative effects to these rights are already high. The Commission set out a comprehensive set of conditions which includes additional mitigation measures it considers necessary to accommodate these rights. With this comprehensive set of conditions, the Commission is of the view that the benefits of the Project outweigh its burdens. Accordingly, the Commission recommends that the GIC direct the Commission to issue a certificate subject to the conditions set out in the Report.

9. What happens next?

9.1. The Governor in Council process

After the Commission submits its Report to the Minister of Energy and Natural Resources (**Minister**), section 186 of the CER Act requires that the GIC do one of three things:

1) refer the recommendation or any of the conditions back to the Commission for reconsideration;
2) direct the Commission, by order, to issue a Certificate for the Pipeline or any part of it and to make the Certificate subject to the conditions set out in the Report; or
3) direct the Commission, by order, to dismiss the application for a Certificate.

If the GIC issues an order, it must do so within 90 days after the Commission submits the Report, unless the Minister grants an extension. The GIC also has the authority to amend or add conditions for a Certificate.[142] If the GIC issues an order directing the Commission to issue a Certificate, the Commission must comply within seven days after the day the order is issued.[143]

If the Commission issues a Certificate at the GIC's direction, Pouce Coupé cannot yet construct and operate its Project. Two key steps must be completed first: the Commission must approve the detailed route of the Pipeline, and Pouce Coupé must comply with all pre-construction and pre-operations conditions. Both steps are described below.

9.2. Detailed route approval process

If the Commission issues a Certificate for the Project, the next step is for Pouce Coupé to apply for Commission approval of the plan, profile, and book of reference (**PPBoR**) for the Project, which determines the detailed route of the Project. This step applies to the entire Project route, except any parts of the Project that the Commission exempted from the PPBoR requirements in an order issued under section 214 of the CER Act. These parts of the Project are described in **Section 1.5**. These PPBoR documents provide details about the exact location of a project, as described below:

- **Plan and profile** – a drawing of the pipeline as seen from above (aerial view) and from the side (profile view). The plan and profile drawings show the exact proposed location where a pipeline (and related facilities) would cross parcels of land along its route.

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142 *Gitxaala Nation v Canada*, 2016 FCA 187 at para 168.

143 CER Act, subsection 186(5).

- **Book of reference** – a document that identifies the lands proposed to be taken for a project, and the names of the owners and occupants of those lands. It also shows the dimensions of the RoW needed for the pipeline.

Pouce Coupé must publish notice of its PPBoR in a publication in the area in which the lands are situated and serve a notice on each owner of lands that Pouce Coupé proposes to acquire, lease, take, or use for the Project. Landowners have 30 days after the notice is served, and land users (e.g., leaseholders, tenants, Indigenous Peoples) have 30 days after the date of the last publication of notice, to file a statement of opposition with the CER.

If no one files a statement of opposition, the Commission may approve a PPBoR. If a landowner or land user files a valid statement of opposition, the Commission must hold a public hearing to determine whether to approve a PPBoR, to determine the best possible detailed route of the Pipeline and the most appropriate methods and timing of its construction. If the Commission approves a PPBoR, it can impose additional conditions, if necessary. It is important to note that, in a PPBoR hearing, the Commission does not revisit its recommendation for a Certificate.

9.3. Condition compliance

Before a company can start construction on a project, it must comply with all the pre-construction conditions of that project's Certificate and orders. Similarly, before a company can start operating its project, tit must comply with all pre-operations conditions. The CER verifies compliance with conditions through a process called 'condition compliance'.

Conditions help to ensure that projects can be constructed, operated, and ultimately abandoned in a safe manner that protects the public, the environment, and the rights and interests of stakeholders and Indigenous Peoples. The CER monitors and enforces a company's compliance with all conditions imposed, throughout the Project's lifecycle, regardless of whether compliance with a condition is subject to Commission approval.

The CER is a lifecycle regulator, which means that it regulates projects from the application stage through to their abandonment and, where applicable, after abandonment. Unless the Commission directs otherwise, a company is legally required to satisfy all conditions imposed for its project. The CER has various tools available to it to encourage and require compliance with conditions (and other legal requirements under the CER Act and its regulations). For more information on the CER's condition compliance and enforcement tools, see the CER's Compliance and Enforcement webpage.[144]

[144] https://www.cer-rec.gc.ca/en/safety-environment/compliance-enforcement/index.html

Appendix 1 – Timetable of Events

This Timetable of Events summarizes how the Commission laid out the hearing process but does not list all filings or those directed at a single participant, for example responses to motions to compel. The oral hearing steps are highlighted in blue.

Hearing step (responsible participant(s) in **bold**)	Date(s) or deadline
Pouce Coupé files Project Notification	4 December 2023
CCC notifies Indigenous Peoples that it received the Project Notification; provides information about Crown consultation, the hearing process, and funding for early engagement activities; and seeks preliminary comments about the Project and the CER's engagement process	6 December 2023
CER notifies Pouce Coupé of its planned early engagement with municipalities, landowners, and the public	22 December 2023
CER notifies Pouce Coupé of its planned early engagement sessions with the public	20 February 2024
CCC files its Early Engagement Report	5 April 2024
CER files its Summary of Issues reflecting the issues, interests and requests the CER heard through its early engagement activities	5 April 2024
Pouce Coupé files Project application	23 April 2024
Commission issues IR No. 1 to Pouce Coupé	23 July 2024
Commission directs Pouce Coupé to serve and publish notice of public hearing, opens the registration to participate process, and provides information about participant funding for the hearing and the comment process on completeness	26 July 2024
Pouce Coupé files responses to Commission IR No. 1	13 August 2024
Indigenous Peoples on the Crown list and Louis Bull Tribe file written comments on completeness	14 August 2024
Pouce Coupé files reply comments on completeness	21 August 2024
Commission issues its completeness determination, list of participants, draft list of issues, and draft timetable of events	27 September 2024
Intervenors and the CCC file comments on the draft List of Issues and draft Timetable of Events	7 October 2024
Pouce Coupé files comments on the draft List of Issues and draft Timetable of Events	15 October 2024
Commission issues IR No. 2 to Pouce Coupé	28 October 2024
Pouce Coupé files responses to Commission IR No. 2	13 November 2024
CCC files an update to the Crown List, to add Prophet River First Nation	14 November 2024
Commission issues Hearing Order	21 November 2024
Pouce Coupé files supplemental evidence	27 November 2024
CCC files second submission	11 December 2024
Intervenors and CCC file IRs to Pouce Coupé	11 December 2024

Hearing step (responsible participant(s) in **bold**)	Date(s) or deadline
Indigenous intervenors file notice of intent to provide oral Indigenous knowledge	18 December 2024
Pouce Coupé files responses to intervenor and CCC IRs	6 January 2025
Commission issues IR No. 3 to Pouce Coupé	8 January 2025
Pouce Coupé files responses to Commission IR No. 3	22 January 2025
Intervenors and CCC file motions to compel full and adequate responses to IRs	24 January 2025
Pouce Coupé files responses to motions to compel full and adequate responses to IRs	31 January 2025
Intervenors and CCC file reply on motions to compel full and adequate responses to IRs	7 February 2025
Intervenors file written evidence, affidavits, and, if applicable, *curricula vitae* for experts	28 February 2025
Commenters file letters of comment	
Oral Indigenous knowledge sessions held in-person in Grande Prairie, Alberta	17-24 March 2025
Pouce Coupé, CCC, and intervenors adverse in interest to each other file IRs to intervenors on their evidence (including oral Indigenous knowledge clarification questions) and to CCC on its submissions	4 April 2025
Commission issues IR No. 4 to Pouce Coupé	7 April 2025
Commission issues confidential IR No. 5 to Pouce Coupé	
Commission issues IR No. 4 to NorthRiver Midstream NEBC Connector GP Inc.	
Pouce Coupé files responses to Commission IR No. 4	16 April 2025
Pouce Coupé files responses to confidential Commission IR No. 5	
NorthRiver Midstream NEBC Connector GP Inc. files responses to Commission IR No. 4	
Intervenors and CCC file responses to IRs from Pouce Coupé, other intervenors, and the CCC	17 April 2025
Pouce Coupé, intervenors, and CCC file motions to compel full and adequate responses to IRs	25 April 2025
Commission issues draft conditions for comment	29 April 2025
Intervenors and CCC file responses to motions to compel full and adequate responses to IRs	2 May 2025
Pouce Coupé, intervenors, and CCC file reply on motions to compel full and adequate responses to IRs	7 May 2025
Virtual workshop on draft potential conditions	13-14 May 2025
Intervenors and CCC file comments on draft conditions	29 May 2025
CCC files third submission	2 June 2025
Pouce Coupé files comments on potential conditions and reply evidence	5 June 2025
Prophet River First Nation files TLRU study	9 June 2025

Hearing step (responsible participant(s) in **bold**)	Date(s) or deadline
Pouce Coupé files evidence in reply to Prophet River First Nation's TLRU study	12 June 2025
Pouce Coupé, intervenors, and CCC participate in oral cross-examination	17-18 June 2025
Pouce Coupé files written argument	3 July 2025
Intervenors and CCC file written argument	17 July 2025
Pouce Coupé files written reply argument	24 July 2025
Oral summary argument	5 August 2025

Appendix 2 – Conditions

No.	Conditions	Cert.	Order
1.	**Condition compliance** Pouce Coupé must comply with all of the conditions contained in this [Certificate/Order], unless the Commission otherwise directs.	X	X
2.	**Design, location, construction and operation** Pouce Coupé must cause the approved Project to be designed, located, constructed, and operated in accordance with the specifications, standards, commitments made, and other information referred to in its application or in its related submissions.	X	X
3.	**Environmental protection** Pouce Coupé must implement or cause to be implemented all of the policies, practices, programs, mitigation measures, recommendations, procedures, and commitments made for the protection of the environment included in or referred to in its application or in its related submissions.	X	X
4.	**Instrument expiration (sunset clause)** This **[Certificate/Order]** will expire on **[three years after the date that this [Certificate/Order] is granted]** unless construction in respect of the Project has started by that date.	X	X
5.	**Abandonment cost estimate** Pouce Coupé must file with the CER, **within 15 days after the issuance of the Certificate**, preliminary Project geospatial information, to allow the CER to calculate an abandonment cost estimate. The information must be filed in accordance with the most recent format and directions. Current instructions are found in Procedural Direction No. 4 of the 2021 Review of Abandonment Cost Estimates and Set-Aside Mechanisms (C19143).	X	
6.	**Reclamation and restoration plan** Pouce Coupé must file with the CER for Commission approval, **at least 90 days before starting construction**, a Project-specific reclamation and restoration plan to be applied to Crown lands that are within the Project footprint and that are disturbed by Project construction. The plan must include: a) the overall goal(s) and measurable objectives of the plan, including: i) the ecological or site-specific reference points/sites to which the proposed reclamation and restoration will be planned and measured to; ii) a demonstration of how the restoration activities on the Project footprint will accelerate vegetation recovery, including how restoration of lost habitat, such as bat roosting habitat has been considered; and iii) a discussion of how the goals and measurable objectives were influenced by engagement with Indigenous Peoples, including a shared understanding of the terms ‘reclamation’ and ‘restoration,’ or an	X	X

explanation for why no shared understanding could be reached;

b) an overview of the clearing and land disturbance anticipated to occur from Project construction, and of planned vegetation maintenance activities during operations, including estimation of the areas to be cleared, disturbed, and maintained on Crown land;

c) a description of the ecological units into which the Project footprint is divided for the purpose of applying different techniques and intensity of reclamation and restoration efforts, including the following:

    i) a description of each unit, including its location, features, sensitivities, spatial extent, and fit in the Local Assessment Area;

    ii) maps or environmental alignments sheets showing the location and extent of each unit; and

    iii) a rationale for dividing the Project footprint into these units, including how information from Indigenous Peoples influenced the division or an explanation for why information from Indigenous Peoples was not used to determine the division, and any potential changes (including decision-making criteria) that may be necessary to finalize the units;

d) for each unit, a description of:

    i) the site-specific reclamation and restoration measures, including the intensity of efforts, to be implemented, with rationales for those measures and intensity of efforts, taking into account the features, sensitivities, and landscape context of the unit, as described in c) above;

    ii) the quantifiable targets and performance metrics for each measure to be implemented, including species composition, community structure, and any specific reference points or sites;

    iii) any potential implementation challenges and feasible solutions;

    iv) a schedule outlining when measures will be initiated and completed; and

    v) a description of how site-specific information from Indigenous Peoples related to reclamation and restoration influenced each element in d);

e) a description of how the units outlined above in part c) and the measures outlined above in part d):

    i) will achieve Pouce Coupé's commitments made during the hearing, including site-specific commitments such as to "replace like-for-like" in areas where willows or other shrubs are present prior to construction that could be salvaged at riparian areas disturbed by the Project in both Alberta and BC; and

    ii) were influenced by engagement with Indigenous Peoples and their attributed suggestions regarding reclamation and restoration, such as the potential for mounding, seed banking, species used, and sourcing reclamation and restoration materials from Indigenous-owned nurseries;

f) a description of how Pouce Coupé will monitor the progress of the reclamation and restoration measures to ensure that the above goals, measurable objectives, and quantifiable targets are being achieved, including descriptions of:

    i) any adaptive management that may be necessary; and

    ii) how Pouce Coupé is planning for the involvement of potentially impacted Indigenous communities and organizations in reclamation and restoration monitoring, or how that involvement will be addressed in Condition 33*;*

g) the plan for filing progress reports, including any necessary adaptive management,

	to the CER (e.g., through the post-construction environmental monitoring report required by Condition 40) and providing it to interested parties, and Indigenous communities and organizations; h) an explanation of how Pouce Coupé will transition site-specific information in the plan into operational procedures (such as Pouce Coupé's operations and maintenance manual, and the environmental protection program required under the *Canadian Energy Regulator Onshore Pipeline Regulations* (**OPR**)); and i) an engagement summary demonstrating that Pouce Coupé provided appropriate government authorities and interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: i) a description and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale for why not.		
7.	**Pre-construction plan on support for Indigenous Peoples to review Pouce Coupé's condition filings** Pouce Coupé must file with the CER for Commission approval**, at least 90 days before starting construction**, a plan that describes Pouce Coupé's approach to the provision of support to Indigenous Peoples to review its condition filings prior to and during construction, which includes, but is not limited to, the following information: a) a list of Indigenous communities and organizations who have been or will be offered funding to support their review of condition filings for the Project including the date(s) the offer or offers were or will be made; b) a list of the conditions which Indigenous communities and organizations expressed an interest in receiving notice to review, during or after the hearing; c) confirmation that Pouce Coupé will notify interested Indigenous communities and organizations when a filing for a condition they are interested in is filed with the CER; d) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not.	X	X
8.	**Final horizontal directional drilling feasibility report** Pouce Coupé must file with the CER, **at least 90 days before starting construction of any horizontal directional drilling (HDD) for the Pipeline**, the final HDD feasibility report based on detailed design assessments, including the information from field investigations. The report must include the following updated information: a) the list of HDD and associated borehole locations, including the kilometre post location of each; b) the list of identified geotechnical, hydrotechnical, and geophysical hazards along the right-of-way (**RoW**), their associated risks and risk ratings, and the kilometre post location of each. Specify the mitigation measure(s) to reduce each risk (as necessary) and the risk rating after mitigation of each hazard; c) a summary of the execution plan and drilling fluid management plan that	X	

	contractors will follow for each HDD location, including: i) the cross-section drawing that shows information such as the drill path and arc radius, exit and entry points and angles, casing requirements, no drill zones, borehole information and interpreted soil stratigraphy, and depth below thalweg, as applicable; ii) the reaming and product pipe pullback details; iii) an explanation of how the fitness-for-service of the Pipeline segment will be maintained during installation, including consideration of factors such as pipe longitudinal stresses versus its specified minimum yield strength, pipe coating, and potential mechanical damage; iv) any other identified challenges and potential mitigation measures (as applicable); v) a contingency plan for each HDD location describing what will be done in case the primary construction method fails. The plan should include identification of potential risks and associated mitigation measures; and d) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not.		
9.	**Construction safety manual** Pouce Coupé must file with the CER, **at least 60 days before starting construction**, a Project-specific construction safety manual, pursuant to section 20 of the OPR. This manual must include: a) the safety-related responsibilities of Pouce Coupé's managers and supervisors; b) the safety-related responsibilities of the prime contractors' managers and supervisors, or those of any specialized contractor directly retained by Pouce Coupé; c) a description of the method or program established by Pouce Coupé to fulfill its responsibilities under sections 18 and 19 of the OPR; d) any special conditions, as referred to in paragraph 18(1)(a) of the OPR, associated with construction, and any special safety practices or procedures necessitated by the conditions or features specific to the construction, as referred to in paragraph 18(1)(b) of the OPR ; e) the safety practices and procedures to be followed during construction; f) position(s) of the person(s) with suitable qualifications responsible for supervising and performing inspections during Project construction; g) position(s) of the person(s) within Pouce Coupé accountable for ensuring that contractors adhere to established safety performance requirements; h) positions of the persons authorized to halt a construction activity, as required by paragraph 18(1)(d) and subsection 18(2) of the OPR; i) Pouce Coupé's policy for the internal classification and reporting of hazards, incidents, and near misses, and the process for reporting on such matters; and j) the methodology used to ensure that employees and other persons working with or on behalf of the company are competent (i.e., have sufficient expertise, knowledge, and training) to carry out their assigned tasks.	X	X

10.	**Plan for employment, contracting, and procurement for Indigenous Peoples** Pouce Coupé must file with the CER for Commission approval, **at least 60 days before starting construction**, a plan for Project-related employment, contracting, and procurement for Indigenous Peoples. This plan must include the following: a) an outline of Pouce Coupé's completed and upcoming sourcing events schedule, including dates and a description of any requests Pouce Coupé has received to provide community support to assist Indigenous vendors with requests for proposals and/or requests for quotes documentation for the sourcing events; b) a description of the methods and dates chosen to promote Pouce Coupé's sourcing events, including raising awareness of the support Pouce Coupé is offering (e.g., business-readiness workshops, support for documentation assistance for Indigenous vendors); c) a summary of Pouce Coupé's engagement methods and the outcome of its engagement efforts, including the sourcing events that have occurred as well as those performed by its contractors, with all Indigenous Peoples who express an interest regarding potential Project-related employment, contracting, and procurement opportunities for Indigenous Peoples. The summary must demonstrate that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: i) a description of the results of engagement with Indigenous Peoples regarding employment, contracting, and procurement opportunities; ii) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and iii) if any results were not incorporated, a rationale as to why not. d) a description of the measures that Pouce Coupé has used or will use to maximize anticipated opportunities for Project-related employment, contracting, and procurement for Indigenous Peoples; e) a description of the contractor oversight measures that Pouce Coupé will use to ensure that its contractors adhere to Pembina's Code of Conduct, Code of Ethics Policy, Indigenous and Tribal Relations Policy, Supplier Code of Conduct, Respectful Workplace Policy, and any other applicable policies; f) a copy of Pouce Coupé's Indigenous Participation Plan for the Project that includes any Indigenous Economic Development Plan; and g) confirmation that the results of the plan for employment, contracting and procurement for Indigenous Peoples will be reported on in Condition 35 with disaggregated data where possible while respecting privacy considerations.	X	X
11.	**Environmental Protection Plan** Pouce Coupé must file with the CER, **at least 60 days before starting construction**, an updated Environmental Protection Plan (**EPP**) specific to Project construction. The EPP must include: a) all commitments and mitigation measures for the Project, including: i) measures that were included in the application, including the EPP filed with the application and subsequent EPP updates, as well as any additions or revisions from the OH-001-2024 proceeding record, including procedures, specifications, and any site-specific plans, and the criteria for implementing these procedures; ii) an updated watercourse crossing table;	X	X

iii) an updated list of traditional land and resource use (**TLRU**) and heritage sites identified in relation to the Project, and a summary of mitigation measures that Pouce Coupé will implement to reduce or eliminate, to the extent possible, Project effects on those sites;

iv) updated environmental alignment sheets, which include all features, including heritage, paleontology, and TLRU sections, and narrowing of the Project construction footprint at riparian areas; and

v) mitigation measures for areas of culturally important vegetation, including locations selected for mitigation, preferred mitigation for each site, and procedures for facilitating pre-construction harvesting by Indigenous Peoples;

b) contingency plans and management plans, including:

i) an updated Wildlife Management Plan that includes:

1. species-specific survey methods for pre-construction wildlife surveys, including references to best practices and confirmation that the survey methods satisfy applicable regulatory requirements;

2. survey methods for breeding bird nest surveys in the event of vegetation clearing or topsoil removal during the restricted period for non-migratory birds protected under provincial jurisdiction and for migratory birds protected under federal jurisdiction, including references to best practices and confirmation that the survey methods satisfy applicable regulatory requirements;

3. a description of mitigation measures for breeding birds found during daily surveys, as recommended by a qualified biologist and informed by Environment and Climate Change Canada's Guidelines to avoid harm to migratory birds (or its replacement) and other applicable regulatory requirements;

4. survey methods for little brown myotis and northern myotis in the event clearing activities occur during suitable roost periods, including references to best practices and confirmation that the survey methods satisfy regulatory requirements;

5. a description of mitigation measures for little brown myotis and northern myotis found during the surveys, as recommended by a qualified biologist;

6. a description of site-specific and species-specific mitigation measures to reduce direct and indirect Project effects on wildlife species at risk and species of cultural importance and their habitats.

ii) a wetlands mitigation plan that includes all site-specific mitigation measures for all wetlands that will be impacted by the Project;

iii) a riparian mitigation plan that includes all site-specific mitigation measures for disturbance to riparian vegetation from the Project, including measures to reduce adverse effects from potential riprap installation;

iv) an updated water quality monitoring plan for both trenchless and trenched crossings;

v) a sediment and erosion control plan;

vi) a timber salvage plan;

	vii) reference to the reclamation and restoration plan, which is required under Condition 6; and viii) a description of Pouce Coupé's initial expectations of the roles and responsibilities of Indigenous Peoples participating in construction monitoring, with confirmation the roles and responsibilities will be updated in accordance with the Condition 12 filing once approved and if applicable, c) the following information: i) a description of how the EPP was developed, including a description of how Pouce Coupé considered available and applicable Indigenous knowledge and results from community-specific TLRU studies in developing the plan, and how such information was integrated into the plan or, if this information was not integrated, an explanation as to why not; ii) a description of how the EPP will be implemented during construction, including a description of the roles and responsibilities of the prime contractor, any subcontractors, and Project assignees with respect to monitoring activities for compliance to the EPP during construction; iii) a description of how Pouce Coupé will conduct its contractor oversight, including how inspections, monitoring, training, and competency will be ensured for the Project; and iv) an explanation of how site-specific information in the EPP will be transitioned into operational procedures (such as Pouce Coupé's operations and maintenance manual, and the environmental protection program required under the OPR); and d) a revision log of the updates made to the EPP, the location in the EPP where each revision is found, a justification for each revision, and references to the source(s) resulting in each revision (e.g., commitments made as a result of consultation on the EPP and/or references from the OH-001-2024 proceeding record).		
12.	**Plan for Indigenous Peoples' involvement in construction monitoring** Pouce Coupé must file with the CER for Commission approval, **at least 45 days before starting construction**, a plan describing Indigenous Peoples' participation in monitoring activities during Project construction including pre-construction activities. Activities may include monitoring the Project's potential adverse effects on the rights of Indigenous Peoples, the environment, heritage resources, and areas related to TLRU in and around the Project Development Area. This plan must include: a) a summary of Pouce Coupé's engagement with potentially affected Indigenous Peoples in relation to developing opportunities for their participation in construction monitoring activities; b) a demonstration that interested Indigenous communities and organizations had the opportunity to review and comment on the plan before filing it with the CER, including; i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not. c) a description of how existing Indigenous community-based monitoring programs were integrated into the plan; d) a description of how Pouce Coupé considered available and applicable Indigenous knowledge and results from specific Indigenous-led TLRU studies when	X	X

	developing the plan, and how such information was integrated into the plan; e) a list of Indigenous communities and organizations who have reached an agreement with Pouce Coupé to participate in monitoring activities and the nature of their role in monitoring; f) a list of Indigenous communities and organizations who have expressed an interest in, but have not yet reached an agreement with Pouce Coupé to participate in, monitoring activities, an explanation as to why such agreements have not yet been reached, and a description of how their views and concerns have been or will be incorporated into or accommodated by the plan; g) a description of the anticipated training and participation requirements, and potential certifications for, the monitors, including on Pouce Coupé's Cultural Resource Discovery Contingency Plan; h) the scope, methodology, frequency, and justification for monitoring activities to be undertaken by Pouce Coupé and each participant identified in e), including identification of the elements of construction and the geographic locations that will involve monitors; i) a description of the roles and responsibilities of Indigenous monitors with respect to monitoring activities during construction; j) a description of how Pouce Coupé will use and incorporate the information gathered through the monitors' participation and apply it to the Project; k) a description of the method(s), form(s), and timeframe(s) in which Pouce Coupé will provide the information gathered through the monitors' participation to potentially affected Indigenous Peoples; l) confirmation that Pouce Coupé has provided or will provide this plan to each of the relevant contractors involved in construction; and m) a description of Pouce Coupé's contractor oversight measures to ensure their adherence to the plan for Indigenous Peoples' involvement in construction monitoring.		
13.	**Outstanding Indigenous-led traditional land and resource use studies** Pouce Coupé must file with the CER, **at least 45 days before starting construction**, a report on any outstanding Indigenous-led studies for the Project (i.e., studies that were not filed in the hearing but have since been completed, and studies that remain to be completed). The report must include: a) a summary of the status of all outstanding Indigenous-led studies, including the expected completion date for each study. If the study will not be completed before construction, explain why not; b) a description of how Pouce Coupé has integrated information from any Indigenous-led studies received after the OH-001-2024 proceeding, or justification for why Pouce Coupé has not integrated this information into the Project; c) a description of any concerns, issues, or recommendations raised by potentially affected Indigenous Peoples through the studies regarding potential effects of the Project, including on their current use of lands and resources, and d) an explanation of how Pouce Coupé has addressed or will address the results of these studies and, for any results that Pouce Coupé will not address, an explanation for why not; e) for any Indigenous-led studies not completed before construction, a description of how Pouce Coupé will identify and mitigate potential effects of the Project on the community's current use of lands and resources; and	X	

	f) a description of how Pouce Coupé has incorporated any changes to the Project as a result of the Indigenous-led studies, particularly into plans required by other relevant conditions for the Project (and identify those plans).		
14.	**Report on valve locations and spacing** Pouce Coupé must file with the CER, **at least 45 days before starting construction**, a report on valve locations and spacing on the Pipeline. The report must include: a) a summary of final assessments Pouce Coupé has committed to complete regarding the placement and location of sectionalizing valves along the Pipeline, considering all relevant factors, including those listed in Clauses 4.4.4 and 4.4.9 of CSA Z662:23, to demonstrate that the valves' installation will result in minimizing adverse effects of potential product releases on the operation of the Pipeline, and will maximize the security of the Pipeline, safety of people, and protection of the environment; b) an updated Figure 2 filed in response to Commission Information Request No. 4.52 (C34305-4), showing *No Valve Baseline Outflow and Final Valve Configuration Outflow*; and c) a list of the final valve types and locations (including kilometre posts) along the Pipeline.	X	
15.	**Documented risk assessment regarding high vapour pressure products** Pouce Coupé must file with the CER, **at least 45 days before starting construction of the Pipeline**, a documented risk assessment regarding high vapour pressure (**HVP**) products pursuant to the requirements set out in section 10 of the OPR. Where the Pipeline is to be situated in a Class 1 location and within 500 metres of the RoW of a railway or paved road and carries HVP products, Pouce Coupé must document a risk assessment that must determine the need for heavier wall design, and include the following information: a) the kilometre post location(s), pipe specifications at each location, and the rationale for the selection of each pipe specification. Indicate if changes to pipe specifications (i.e., from those provided in the Project application) are required; b) the risk factors considered, including: i) Pipeline diameter and operating pressure; ii) HVP fluid characteristics; iii) topography; and iv) traffic type and density on the railway or paved road; and c) the mitigation measures to address the risk factors identified in b), as necessary. Explain the risk rating after implementation of these measures.	X	
16.	**Joining program** Pouce Coupé must file with the CER its joining program for the Project, **at least 45 days before starting the joining of pipe and the components to be used in the Pipeline**, pursuant to section 16 of the OPR.	X	X
17.	**Indigenous Project Committee** Pouce Coupé must establish an Indigenous Project Committee (**committee**) for the Project. The purpose of the committee is to provide a forum for Pouce Coupé and Indigenous Peoples to discuss and develop opportunities and activities for ongoing oversight and meaningful participation in Project construction and post-construction		

	activities, as well as to provide advice and recommendations relative to the other conditions noted below. The committee should be composed of Indigenous nations and communities that Pouce Coupé engaged with in relation to the Project that express interest in participating. Pouce Coupé must file with the CER, **at least 30 days before starting construction**, an update on the status of the measures set out below, incorporating any input received from interested and participating communities. a) The scope of the committee's functions and responsibilities related to the Project should be developed through mutual agreement between Pouce Coupé and the committee, and may include: v) oversight responsibilities and protocol advice for culturally sensitive and sacred areas further to the Cultural Resource Discovery Contingency Plan; vi) reviewing Indigenous monitoring updates provided relative to Condition 12 and providing advice to Pouce Coupé in relation to Indigenous Monitoring; and vii) providing advice and recommendations to Pouce Coupe on offsets relative to Condition 39; b) the committee is intended to operate beginning in the pre-construction period and through the first year of operations, with: i) the operating expenses of the committee to be covered by Pouce Coupé; and ii) extension by agreement between the committee and Pouce Coupé after the first year of operations. c) Implementation of this condition may be modified through mutual agreement between Pouce Coupé and the committee to address unforeseen or changed operational or technical circumstances. If any such modifications are made, Pouce Coupé must file an update with the CER **within 14 days from the date the modifications were mutually agreed to**. d) Pouce Coupé must file with the CER: i) **no later than 12 months after starting construction activities**, a report summarizing the membership and activities of the committee; and ii) **no later than 15 months after starting operations**, a final report on the committee, summarizing the activities and outcomes of the committee.		
18.	**Socio-economic effects monitoring plan** Pouce Coupé must file with the CER for Commission approval, **at least 30 days before starting construction**, a plan for monitoring the residual adverse and positive socio-economic effects of the Project during construction predicted in Sections 14 and 15 of the ESA. This plan must: a) describe the socio-economic effects that will be monitored and the justification for doing so considering the scope and scale of the Project, including specific indicators, and any identified thresholds for the following: i) change in employment and economy; ii) change in demand for community infrastructure and services; iii) change in human health; iv) change in social and cultural well-being;	X	X

	v) change to the quality, quantity, or distribution of resources involved in or required for exercise of rights; vi) change in access to the resources used or required to exercise rights; vii) change to specific areas of cultural importance where rights are exercised; viii) change to cultural traditions, laws and governance systems that inform the manner in which rights are exercised; and ix) any additional residual socio-economic effects proposed by Indigenous or local communities which will also be monitored in addition to those predicted in the ESA; b) how Pouce Coupé proposes to monitor these socio-economic effects, including methods, timing, data collection, review, and reporting; c) who is responsible for monitoring, including roles and responsibilities; d) how Pouce Coupé will respond should an identified threshold be exceeded, including adaptive management processes and responses; e) how any available and applicable Indigenous knowledge informed the plan; f) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not; and g) a description of the planned engagement during construction with potentially affected Indigenous Peoples, landowners, communities, local and regional authorities, and service providers.		
19.	**New disturbance allocation** Pouce Coupé must file with the CER, **at least 30 days before starting construction**, confirmation that it has acquired an allocation of New Disturbance or a waiver or modification for the Project, in accordance with the *Treaty 8 Planning and Mitigation Regulation*, BC Reg 146/2023, as amended.	X	X
20.	**Pre-construction harvesting report** Pouce Coupé must file with the CER, **at least 15 days before starting construction**, an engagement report related to pre-construction harvesting by Indigenous Peoples. The report must include a summary of Pouce Coupé's approach to facilitating pre-construction harvesting by Indigenous Peoples within the Project footprint on Crown lands, including: a) a list of the measures Pouce Coupé has implemented to facilitate pre-construction harvesting in the Project area, and confirmation that those measures have been or will be included in the EPP (required by Condition 11); b) a summary of all issues, concerns, and recommendations raised by Indigenous Peoples regarding pre-construction harvesting for TLRU purposes; and c) an explanation of how Pouce Coupé has addressed or will address issues, concerns, and recommendations and, for any concerns that Pouce Coupé will not address, an explanation as to why not.	X	X

21.	**Plan for training opportunities for Indigenous Peoples** Pouce Coupé must file with the CER for Commission approval, **at least 15 days before starting construction,** a plan for training opportunities for Indigenous Peoples. This plan must include: a) a summary of Pouce Coupé's engagement methods and the outcome of its engagement efforts, including those performed by its contractors, with all Indigenous Peoples who express an interest regarding potential Project-related training opportunities. The summary must include: i) a description of how training opportunities are promoted, as well as the results of engagement with Indigenous Peoples regarding training opportunities; ii) an engagement summary demonstrating that Pouce Coupé provided appropriate government authorities and interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: 1. a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and 2. if any results were not incorporated, a rationale as to why not; b) a description of the anticipated Project-related training opportunities for Indigenous Peoples and the measures that Pouce Coupé will use to enable them to take advantage of such opportunities; and c) confirmation that the results of the plan for training for Indigenous Peoples will be reported on in Condition 35 with disaggregated data where possible while respecting privacy considerations.	X	X
22.	**Commitments tracking table** Pouce Coupé must: a) file confirmation with the CER, **at least 15 days before starting construction**, that a commitments tracking table is posted on its Project website listing all commitments made by Pouce Coupé, including all commitments made to Indigenous Peoples, in its Application, and otherwise made by Pouce Coupé on the OH-001-2024 proceeding record, including references to: i) the documentation in which the commitment appears (for example, the Application, responses to information requests, permit requirements, condition filings, or other); and ii) the estimated timelines associated with the fulfillment of each commitment; b) update the status of the commitments in its commitments tracking table described in a) on its Project website and file confirmation of these updates with the CER: i) every six months until commencing operations; and ii) every six months until the end of the fifth year following the commencement of operations; and c) maintain at its construction office during the construction phase of the Project: i) the commitments tracking table listing all Pouce Coupé's regulatory commitments and their completion status; ii) digital or online copies of any permits, approvals, and authorizations issued by federal, provincial, and other authorities, which include	X	X

	environmental conditions or site-specific mitigation or monitoring measures; and iii) any subsequent variances to permits, approvals, or authorizations in c) ii).		
23.	**Construction schedule** Pouce Coupé must file with the CER, **at least 15 days before starting construction**, a detailed construction schedule that identifies major construction activities. Pouce Coupé must notify the CER of any modifications to the schedule as they occur.	X	X
24.	**Construction progress reports** Pouce Coupé must file with the CER, **on a monthly basis after starting construction until construction is complete**, a construction progress report. Each report must include: a) information on the activities carried out during the reporting period; b) any environmental, socio-economic, safety, and security issues, and any issues of non-compliance; c) the measures undertaken to resolve each issue and non-compliance; and d) information on safety key performance indicator trends (e.g., hazard identification reports, near-miss reports, cumulative total and contractors' recordable injury rates and/or frequency, total and contractor lost time injury rates and/or frequency, total and contractor preventable motor vehicle incident rates and/or frequency), and respective benchmarks set by Pouce Coupé.	X	X
25.	**High-potential near misses** During construction, Pouce Coupé must file with the CER, **within 72 hours after discovering a high-potential near-miss** (i.e., an event where a reasonable and informed person would determine that under slightly different circumstances, there would have been a high likelihood of serious injury or death to a person), a preliminary incident report that includes: a) the date of the event and when it was discovered; b) the location of the event; c) a description of the event; and d) the immediate corrective action taken by Pouce Coupé.	X	X
26.	**Contingency watercourse crossings** Pouce Coupé must file with the CER the following: a) For each fish-bearing watercourse crossing where Pouce Coupé proposes to use a **contingency crossing method that is trenchless and requires a new alignment or new lands**, Pouce Coupé must file the following information **at least 15 days before starting construction of the contingency crossing**: i) confirmation of the contingency crossing method that Pouce Coupé will use; ii) the location of the crossing, including a map showing entry and exit points, and the geospatial coordinates; iii) the rationale for that method and location; and iv) a summary of the differences between the primary and contingency crossing methods, locations, and effects. b) For each fish-bearing watercourse crossing with a planned trenchless method where Pouce Coupé proposes to use a **contingency crossing method that is**	X	X

	trenched, Pouce Coupé must file the following information **at least 60 days before starting construction of the contingency crossing**: i) confirmation of the contingency crossing method that Pouce Coupé will use; ii) the location of the crossing, including a map; iii) the rationale for that method and location; iv) a summary of the differences between the primary and contingency crossing methods, locations, and effects; v) detailed crossing-specific design drawings or reference to applicable standard drawings; vi) photographs upstream, downstream, and at the crossing location (including Global Positioning System [Universal Transverse Mercator] or latitude/longitude coordinates) that are dated and labelled appropriately, with the instream and riparian habitat clearly shown; vii) a description of the fish species present upstream, downstream, and at the crossing location, and an indication of whether fish spawning is likely to occur within the immediate area and downstream; viii) a description of the riparian habitat present upstream, downstream, and at the crossing location, and how it may be altered, disrupted, or destroyed by the crossing and associated works; ix) the planned timing and duration of construction relative to the fisheries window of least risk or restricted activity period; x) the site-specific mitigation and habitat enhancement measures to minimize impacts, including the bank stabilization method(s) proposed; xi) a description of any potential residual effects, including any long-term effects on fish and fish habitat; xii) an explanation of whether the contingency crossing is likely to result in a harmful alteration, disruption, or destruction of fish habitat or death of fish (as defined by the *Fisheries Act*); and xiii) a description of how Pouce Coupé has considered available and applicable Indigenous knowledge and results from community-specific TLRU studies in developing the contingency watercourse crossing, and how such information was integrated or, if this information was not integrated, an explanation as to why not; and c) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the contingency watercourse crossings filing before filing it with the CER, including: i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the filing, and ii) if any results were not incorporated, a rationale as to why not; and d) Pouce Coupé must file with the CER, **within 30 days after starting operations**, confirmation that no other contingency crossings were implemented other than those described in filings under a) or b) above.		
27.	**Financial resource requirements** Pouce Coupé must file with the CER, **at least 90 days before starting operations**, a financial resource plan for review that outlines the financial resources which Pouce Coupé will have in place to meet its absolute liability limit when the Project starts operating, under	X	

	the requirements of section 138 of the *Canadian Energy Regulator Act* and the *Pipeline Financial Requirements Regulations*, and that follows the guidance contained in the associated Pipeline Financial Requirements Guidelines.		
28.	**Emergency procedures manual** Pouce Coupé must file with the CER, **at least 21 days before starting operations**, one hard copy and one electronic copy of its emergency procedures manual(s) and related or updated plans for the Project, pursuant to section 32 of the OPR.	X	
29.	**Technical specification updates** Pouce Coupé must file with the CER, **concurrently with its leave to open application under section 213 of the *Canadian Energy Regulator Act***, any technical specification updates for the Project components listed in the Application. Technical specification updates are limited to differences in pipe length, diameter, wall thickness, grade, or material, that do not impact any other aspect of the Project, as approved.	X	X
30.	**Canadian participation in engineering and construction** Pouce Coupé must file with the CER**, within 30 days after starting operations**, a report detailing the extent to which Canadians and Canadian companies had an opportunity to participate in the engineering and construction of the Pipeline.	X	X
31.	**Condition compliance reporting by the accountable officer** Pouce Coupé must file with the CER, **within 30 days after starting operations**, confirmation that the Project was constructed in compliance with all applicable conditions in this **[Certificate/Order]**, and commitments filed in response to Condition 22. If Pouce Coupé cannot confirm compliance with any of these conditions or commitments, then Pouce Coupé must include details as to why it cannot confirm compliance. This filing must include a statement confirming that the signatory to the filing is the accountable officer of Pouce Coupé, appointed as accountable officer pursuant to section 6.2 of the OPR.	X	X
32.	**Post-construction report on support for Indigenous Peoples to review Pouce Coupé's condition filings** Pouce Coupé must file with the CER, **within 30 days after starting operations**, a final report on Pouce Coupé's provision of support to Indigenous Peoples to review its condition filings during the pre-construction and construction phases of the Project, which includes but is not limited to, the following information: a) a list of interested Indigenous communities and organizations who received capacity funding to support their review of condition filings during the pre-construction and construction phases; b) a list of the conditions in which interested Indigenous communities and organizations expressed an interest in receiving notice to review; c) the date that Pouce Coupé filed with the CER each filing relevant to the condition(s); d) the date that Pouce Coupé notified interested Indigenous communities and organizations and provided a link to the filing on the public record; e) either: i) a list of interested Indigenous communities and organizations who have been offered or who have signed a new Project-specific capacity funding	X	X

	agreement to support the review of condition compliance filings in the operations phase; or ii) or a description of how Pouce Coupé will ensure that interested Indigenous Peoples are able to review operations-phase condition filings; f) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the report before filing it with the CER, including; i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the report; and ii) if any results were not incorporated, a rationale as to why not.		
33.	**Plan for Indigenous Peoples' involvement in post-construction monitoring** Pouce Coupé must file with the CER, **within 60 days after starting operations**, a plan describing Indigenous Peoples' participation in monitoring the status of reclamation through the first five full growing seasons on the Project on Crown lands and freehold lands where a landowner has expressly requested Indigenous monitoring. The plan must include: a) a description of lessons learned from the plan for Indigenous Peoples' involvement in construction monitoring (Condition 12) and the influence those lessons had in the design of the post-construction monitoring plan; b) a list of ongoing issues and/or locations identified by Indigenous construction monitors (required in Condition 12) which require ongoing monitoring; c) a description of how monitoring activities will be conducted and how participants will communicate their findings to both Pouce Coupé and their community; d) a schedule for Indigenous post-construction monitoring activities including the frequency of monitoring activities and the rationale supporting that frequency; e) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including: i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the report; and ii) if any results were not incorporated, a rationale as to why not; and f) an outline of how issues identified by post-construction Indigenous monitors will be communicated to the CER as part of the post-construction environmental monitoring reports (Condition 40).	X	X
34.	**Quantification of construction-related greenhouse gas emissions** Pouce Coupé must file with the CER, **within 90 days after starting operations**, a quantitative assessment of the actual direct greenhouse gas emissions generated from Project construction, including from all temporary infrastructure and RoW preparation. This assessment must include the following information: a) the methodology Pouce Coupé used for the assessment, including the sources of greenhouse gas emissions, assumptions, and methods of estimation related to: i) vehicle and equipment use; ii) fuel consumption; iii) land clearing, taking into account timber salvage; and iv) anticipated reduction due to later regrowth of vegetation on areas cleared during construction;	X	X

	b) the total direct greenhouse gas emissions generated from Project construction after implementing mitigation measures; and c) a comparison and discussion of the total direct greenhouse gas emissions calculated in b) with the emissions predicted in Pouce Coupé's Application and its related submissions, including how the direct greenhouse gas emissions could have been further mitigated.		
35.	**Socio-economic effects monitoring final report** Pouce Coupé must file with the CER, **within 90 days after starting operations**, a socio-economic effects monitoring final report for the Project that includes: a) a summary of the results and adaptive management measures from the socio-economic effects monitoring plan (Condition 18); b) a discussion on how monitoring and adaptive management has enhanced positive effects and minimized adverse effects, including results of the Project-related employment, contracting, procurement, and training including for Indigenous Peoples, disaggregated to the extent possible; c) a description of how engagement activities and any available and applicable Indigenous knowledge contributed to the effectiveness of the plan in mitigating adverse residual effects and demonstrating that interested Indigenous communities and organizations had an opportunity to review and comment on the plan before filing it with the CER; i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not; and d) a 'review and learn' discussion of Pouce Coupé's experience with Condition 18 and how the condition could be improved in future.	X	X
36.	**Performance metrics of the leak detection system** Pouce Coupé must file with the CER, **within six months after starting operations**, the field validation results for the Pipeline's leak detection system, including the following performance indicators for each internal leak detection method (technology) under steady-state, transient, shut-in, and degraded operating conditions: a) sensitivity; b) accuracy; c) reliability; and d) robustness. The filing should indicate how the field validation results demonstrate that the objectives of the leak detection system are met.	X	
37.	**Emergency response exercise** a) Pouce Coupé must, **within one year after starting operations**, conduct a full-scale emergency response exercise simulating a full-bore rupture / line break to evaluate the implementation of its emergency management program. b) Pouce Coupé must file with the CER, **at least 90 days before the date of the exercise required in a)**: i) the date of the exercise; ii) the location of the exercise;	X	

	iii) the objectives of the exercise; iv) a description of the scenario; v) the criteria that Pouce Coupé will use to measure success; vi) names of organizations that will be invited to participate in or observe the exercise; and vii) names of Indigenous Peoples that will be invited to participate in or observe the exercise. c) Pouce Coupé must file with the CER, **within 90 days after completing the exercise in a)**, an after-action report.		
38.	**Net-zero greenhouse gas emissions plan for operations** Pouce Coupé must file with the CER, **within one year after starting operations**, a net-zero greenhouse gas emissions plan outlining its proposed actions to achieve net-zero greenhouse gas emissions by 2050 for the operating Project, including from maintenance activities. This plan must include: a) an estimate of annual operational emissions, including indirect emissions from electricity consumption as a result of the upgrades to the Taylor Tank Farm facility, but not including a reduction due to regrowth of vegetation on areas cleared during construction; b) a description of strategies Pouce Coupé will use to reduce, avoid, and/or offset emissions to achieve net-zero greenhouse gas emissions for the Project by 2050, and an explanation of how these strategies will contribute to achieving net-zero greenhouse gas emissions by 2050 for the Project's operational emissions; c) an update on any best available technologies and best environmental practices that Pouce Coupé will implement in relation to the Project; d) a description of how Pouce Coupé proposes to periodically update the plan to reflect any changes to applicable provincial and federal legislation and policies regarding net-zero greenhouse gas emissions that apply to ongoing Project operations; and e) a description of how engagement activities and any available and applicable Indigenous knowledge contributed to the effectiveness of the plan in mitigating adverse residual effects and demonstrating that interested Indigenous communities and organizations had an opportunity to review and comment on the plan before filing it with the CER; i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not.	X	X
39.	**Offset measures plan** Pouce Coupé must file with the CER for Commission approval, **within one year after starting operations**, an offset measures plan. The plan must include: a) the goals and measurable objectives, including: i) the overall goal of offsetting the area of the operational RoW (i.e., the 10-m wide area of the Pipeline RoW that will undergo vegetation maintenance during operations) on disturbed and undisturbed lands in Alberta and BC; ii) a preference for restoring native vegetation in Treaty 8 territory, including culturally significant plants, aimed at improving the exercise and practice of Indigenous and treaty rights; and	X	

iii) a discussion of how the goals and measurable objectives were influenced by engagement with Indigenous Peoples, including the Indigenous Project Committee (Condition 17);

b) a description of how the principles of offsets were followed by Pouce Coupé, including but not limited to permanence, effectiveness, and additionality;

c) the methodology used to quantify offsets, including:

i) offset ratios, calculated using a starting point of:

1. 4-to-1 for undisturbed Crown land,
2. 2-to-1 for disturbed Crown land,
3. 0.75-to-1 for undisturbed private land, and
4. 0.5-to-1 for disturbed private land;

ii) justification of offset ratios, including an assessment of temporal, spatial, and delivery risk multiplier, and any deviations from the starting points noted in c(i) above;

iii) a reduction in total offsets for any overlap of the operational RoW with New Disturbance as referenced in Condition 19, if an allocation of New Disturbance is acquired for the Project; and

iv) the rationale and supporting evidence for the methodology;

d) quantification of the offsets determined for the Project, using the methodology in part c);

e) a description of the offset measures that will be completed for the Project, including as appropriate:

i) a description of restoration offset measures that will be implemented by Pouce Coupé, including:

1. maps and environmental alignment sheets showing offset locations;
2. the spatial extent of each offset location and an evaluation of habitat type and quality at and adjacent to the location;
3. the quantifiable targets and performance metrics for each offset measure to be implemented;
4. an explanation of how the measures and locations will provide wildlife habitat and support TLRU activities; and
5. an explanation of how the measures and locations meet the principles of conservation offsets; and/or

ii) a description of funded restoration offset measures to be carried out by a third party, including an explanation of the mechanisms to ensure successful implementation; and/or

iii) a description of alternative offset measures, which may include financial contributions, that satisfy the goals of this plan, including an explanation of why restoration offset measures were not possible and how the alternative offset measures will be implemented;

f) a plan for monitoring and reporting on offset success, including a discussion on potential necessary adaptive management; and

g) an engagement summary demonstrating that Pouce Coupé provided appropriate government authorities, the Indigenous Project Committee (Condition 17), and interested Indigenous communities and organizations an opportunity to review and comment on the plan before filing it with the CER, including:

	i) a description of and justification for how Pouce Coupé incorporated the results of its engagement into the plan; and ii) if any results were not incorporated, a rationale as to why not.		
40.	**Post-construction environmental monitoring reports** Pouce Coupé must file with the CER, **on or before 31 January after each of the first, third, and fifth complete growing seasons after completing final clean-up of the Project**, a post-construction environmental monitoring report. Each report must include: a) a summary of the methodology for monitoring and the criteria for success of the measures within the EPP and the reclamation and restoration plan (required by Conditions 11 and 5, respectively), as well as any modified methodology or criteria Pouce Coupé used, with rationales; b) the monitoring results inclusive of post-construction monitoring conducted by Indigenous Peoples through Condition 33, and an analysis of those results, with documentation and photographic evidence, including discussion on the effectiveness of the implemented mitigation and reclamation measures; c) a description of any unexpected outcomes, deviations from plans, ineffective mitigation activities, corrected reclamation trajectories, and failures in access control, including the location(s) of each, as well as planned corrective measures with a schedule and ongoing monitoring plan; d) if goals and measurable targets stated in the reclamation and restoration plan (required by Condition 5) have not been achieved or there are issues identified with respect to the success of the measures implemented by the fifth-year report, a reporting schedule for monitoring progress towards those goals and measurable targets, as well as corrective actions to meet them; e) an engagement summary demonstrating that Pouce Coupé provided interested Indigenous communities and organizations an opportunity to review and comment on the report before filing it with the CER, including: i) a description of and justification for how Pouce Coupé has incorporated the results of its engagement into the report; and ii) if any results were not incorporated, a rationale as to why not; and f) a summary of Pouce Coupé's engagement with appropriate government authorities.	X	X

Appendix 3 – Significant effects evaluation criteria used in evaluating environmental and socio-economic effects

Criteria	General description	
	Ratings	**Definition of ratings**
Temporal extent	*How long will residual Project effects last?* • Rating denotes total duration of residual[145] Project effects, including the time for the affected component to recover or return to baseline (unless permanent). • Discussion might include which stage(s) of the Project lifecycle (e.g., construction or operations) interactions are expected (including the duration of such interactions and whether they occur once or multiple times or continuously), the duration of the effects resulting from those interactions, recovery/return times, and reversibility (e.g., whether, and if so how long, it might take for a species to return or for people to resume undertaking an activity), sensitivity regarding duration (e.g., if a social or cultural effect extends for a generation, might it become permanent), sensitivity regarding timing (e.g., does an effect occur during a critical stage in the life-cycle of a species, or at a critical time in the year for undertaking activities), uncertainties, etc.	
	Short-term	Days – weeks – few months
	Medium-term	Many months – years
	Long-term	Decades – permanent
Geographic extent	*How large an area will be influenced by residual Project effects?* • Rating denotes the general area within which residual Project effects are expected to influence the biophysical and human environment, or the undertaking of activities, recognizing that assessment areas may vary depending on the affected component being considered. • Discussion might include how well the areas used in the assessment align with areas important to affected components (e.g., what are the ranges of populations of wildlife species, or the relevant areas for undertaking an activity), the importance of the areas affected (e.g., critical habitat for species, preferred areas for activities, area of high unemployment where jobs or infrastructure will be added), uncertainties, etc.	
	Project footprint	Area directly disturbed by the Project (e.g., right-of-way (**RoW**), temporary workspace (**TWS**), access roads)
	Local	Local assessment area (e.g., within [150 m or 1 km] of Project footprint)
	Regional	Regional assessment area (e.g., within [15 km] of Project footprint, or within same watershed)

[145] 'Residual' Project effects are the effects after mitigation measures to avoid, reduce or offset adverse Project effects, and enhancement measures to increase positive Project effects, are taken into account.

	National or Global	Beyond the regional assessment area
Magnitude	*How substantial are residual Project effects within the temporal and geographic extents?* • Rating denotes how much or how intensely the residual Project effects influence the biophysical and human environment, or the undertaking of activities, within the temporal and geographic extents, including whether 'adverse' or 'positive'. This may represent, for example, the level of damage or of improvement, the concentration of pollution added or removed, the proportion disrupted or benefited, etc. • Discussion might include sensitivities or responsiveness of affected components, how much quality of life is affected, how magnitude might vary between different stages of the project lifecycle, comparison to natural or normal variability, comparison to relevant sustainability thresholds, standards and targets, the likelihood of mitigation measures to successfully reduce adverse effects or of enhancement measures to increase positive effects, other uncertainties, etc.	
	No or negligible	No or negligible residual Project effects
	Low	Slight effects (e.g., affects only a few individuals of a species or community; individuals commonly adapt or become habituated; if adverse, effects are easily manageable)
	Medium	Moderate effects (e.g., affects numerous individuals; noticeably affects resource or parties involved)
	High	Substantial effects (e.g., if adverse, includes substantial harm, loss, stress or displacement; e.g., if positive, includes substantial benefits or opportunities)
Cumulative effects	*If relevant, what are the total cumulative effects (i.e., the residual effects of the Project in combination with the effects of other past, present and reasonably foreseeable projects & activities)?* • Rating denotes total cumulative effects, including whether 'adverse' or 'positive' • Discussion might include extent to which Project effects overlap or combine with effects of other projects & activities, how total cumulative effects could vary over time and space, comparison to relevant sustainability measures, the Project's relative contribution to total cumulative effects, uncertainties, etc.	
	No or negligible	No or negligible total cumulative effects
	Low	Total cumulative effects raise no or minor concerns / benefits
	Medium	Total cumulative effects raise concerns / benefits and (if adverse) prompt cautionary measures (e.g., species designated as 'special concern')
	High	Total cumulative effects raise substantial concerns / benefits (e.g., if adverse, total cumulative effects have reached or passed sustainability measures, resulting in species designated as 'threatened' or 'endangered'; undertaking of activities is substantially diminished)

<table>
<tr><td>Additional context</td><td colspan="2">If relevant, what are other important socio-economic and environmental contexts (not already discussed above) within which the Project effects will occur?
Rating not applicable (n/a) given the varied and narrative nature of context
Discussion might include specific circumstances, customs or aspirations of a community; the vulnerability of social systems; the ability to adapt to workforce influxes; etc.</td></tr>
<tr><td rowspan="4">Significance</td><td colspan="2">Considering the temporal extent, geographic extent, and magnitude of residual Project effects, and considering these in light of relevant cumulative effects and additional context, how significant are the effects of the Project?
Rating denotes the significance of the effects of the Project, including whether ‘adverse’ or ‘positive’
Discussion might include whether the precautionary principle was applied to address uncertainties, etc.</td></tr>
<tr><td>No or negligible</td><td>No or negligible Project effects.</td></tr>
<tr><td>Low</td><td>If adverse, effects are easily managed and widely accepted by society; of little concern. If positive, effects provide limited benefits.</td></tr>
<tr><td>Medium</td><td>If adverse, effects raise concerns but remain below environmental, regulatory, or social standards or tolerance; expected to impact quality of life but normally accepted by society; despite adverse effects, activities can continue in a reasonably similar or modified way. If positive, effects provide some meaningful benefits.</td></tr>
<tr><td>High</td><td>If adverse, effects are generally not accepted by society; beyond environmental, regulatory or social standards or tolerance; impacts quality of life resulting in lasting stress; substantially affects practices or customs; inconsistent with accepted land use plans; generally, if total cumulative effects are high (adverse) unless magnitude is no or negligible or positive. If positive, effects provide substantial and broad net-gain.</td></tr>
</table>

Appendix 4 – Criteria, ratings, and general description for determining severity of effects on the rights of Indigenous Peoples

Criteria	General description	
	Ratings	**Definition of ratings**
Temporal extent	*How long will Project effects last?* • Rating denotes total duration of residual Project effects (i.e., adverse or positive effects after mitigation and enhancement measures are considered), including the time for the exercise of rights to recover or return to baseline (unless permanent). • Discussion might include which stage(s) of the Project lifecycle (e.g., construction or operations) interactions are expected (including the duration of such interactions and whether they occur once or multiple times or continuously), the duration of the effects resulting from those interactions, recovery/return times, and reversibility (e.g., whether and, if so, how long it might take for Indigenous Peoples to resume undertaking activities and exercising their rights), sensitivity regarding duration (e.g., if the effects on the exercise of rights extend for a generation, might it become permanent), sensitivity regarding timing (e.g., does an effect occur during a critical stage in the life-cycle of a species, or at a critical time in the year for exercising rights), uncertainties, etc.	
	Short-term	Days – weeks – few months
	Medium-term	Many months – years
	Long-term	Decades – permanent
Geographic extent	*How large an area will be influenced by Project effects?* • Rating denotes the general area within which residual Project effects are expected to influence the rights of Indigenous Peoples, recognizing that assessment areas may vary depending on the specific rights being considered. • Discussion might include how well the areas used in the assessment align with areas important for the rights of Indigenous Peoples (e.g., what is the location of the community's traditional or treaty territory, or the relevant areas for the exercise of rights), the importance of the areas affected (e.g., critical habitat for species, preferred areas for activities), uncertainties, etc.	
	Project footprint	Area directly disturbed by the Project (e.g., RoW, TWS, access roads)
	Local	Local assessment area (**LAA**) (e.g., within 150 m or 1 km of Project footprint)

	Regional	Regional assessment area (**RAA**) (e.g., within 15 km of Project footprint, or within same watershed)
	National or Global	Beyond the RAA
Magnitude	*How substantial are Project effects within the temporal and geographic extents?* • Rating denotes how much or how intensely the residual Project effects influence the rights of Indigenous Peoples, within the temporal and geographic extents, including whether 'adverse' or 'positive'. • Discussion might include sensitivities or responsiveness of Indigenous Peoples to exercise their rights, how much quality of life is affected, how magnitude might vary between different stages of the project lifecycle, the likelihood of mitigation measures to successfully reduce adverse effects or of enhancement measures to increase positive effects, other uncertainties, etc.	
	No or negligible	No or negligible residual Project effects
	Low	Slight effects (e.g., minimal disruption to the exercise or practice of rights, the exercise of rights would continue in the same or similar manner as before; if adverse, effects are easily managed)
	Medium	Moderate effects (e.g., affects numerous individuals; noticeably affects the rights of Indigenous Peoples, effects have a moderate likelihood of occurring within areas of preferred use or known areas for the exercise of rights)
	High	Substantial effects (e.g., if adverse, the exercise of the right is substantively diminished or lost; the effect has a high likelihood of occurring within areas of preferred or exclusive use or known areas for the exercise of rights; if positive, includes substantial benefits or opportunities)
Cumulative effects	*What are the total cumulative effects (i.e., the residual effects of the Project in combination with the effects of other past, present, and reasonably foreseeable projects & activities)?* • Rating denotes total cumulative effects, whether 'adverse' or 'positive' • Discussion might include extent to which Project effects on the rights of Indigenous Peoples overlap or combine with effects of other projects and activities, how total cumulative effects could vary over time and space, comparison to relevant sustainability measures, the Project's relative contribution to total cumulative effects, uncertainties, etc.	
	No or negligible	No or negligible total cumulative effects
	Low	Total cumulative effects raise minor concerns / benefits
	Medium	Total cumulative effects raise concerns / benefits and (if adverse) prompt cautionary measures (e.g., the project affects one of only a few culturally important areas where rights can still be practiced in a preferred manner)

	High	Total cumulative effects raise substantial concerns / benefits (e.g., if adverse, total cumulative effects have reached or passed community thresholds, laws, or norms; the exercise of rights is substantially diminished)
Severity	*Considering the temporal extent, geographic extent, and magnitude of residual Project effects, and considering these in light of relevant cumulative effects and additional context, how severe are the effects of the Project on the rights of Indigenous Peoples?* • Rating denotes the severity of the effects of the Project, including whether 'adverse' or 'positive' • Discussion might include whether the precautionary principle was applied to address uncertainties, etc.	
	No or negligible	No or negligible Project effects.
	Low	If adverse, effects are easily managed and widely accepted by Indigenous Peoples; effects allow continuation of exercise of rights in an identical or almost identical way.
	Medium	If adverse, effects raise concerns but remain below environmental, regulatory, or social standards or tolerance; expected to impact quality of life but generally accepted by Indigenous Peoples; effects allow continuation of exercise of rights in a reasonably similar or modified way.
	High	If adverse, effects are beyond environmental, regulatory, or social standards or tolerance; incompatible with reconciliation or the meaningful practice of rights by Indigenous Peoples; generally, if total cumulative effects are high (adverse) unless magnitude is negligible or positive.

Appendix 5 – Community-specific tables

This Appendix presents community-specific summaries of the knowledge, concerns, and recommendations shared by Indigenous communities and organizations who participated in the hearing process for the Project. The information contained in these tables reflects the generous contribution of time, knowledge, and expertise from Elders, Knowledge Keepers, land users, and community representatives who honoured the Commission with their perspectives, traditional knowledge, and lived experiences. This Appendix supplements the information from Indigenous peoples already contained throughout this recommendation report and has been integral to the Commission's analysis and findings as it relates to the Project.

We recognize that these summaries, while comprehensive, represent only highlights of the rich and detailed submissions received and cannot capture the full depth, nuance, and significance of what was shared. Each community brought forward unique concerns based on their distinct relationships with the land, their rights, and cultural practices. We have endeavored to present this information respectfully, understanding that we have been entrusted with knowledge shared to help inform our decision-making as it pertains to the Project and the lands and waters that hold essential and profound meaning for these communities and their rights and interests. We encourage readers to engage with the complete hearing record, including both written transcripts and audio recordings, to gain a better understanding of each community's perspectives and the detailed considerations they brought forward.

The evidence summarized below was received either directly from each Indigenous community, from Crown Consultation Coordinator (**CCC**) submissions, or where those were not available, from Pouce Coupe's evidence or submissions resulting from its engagement and dialogues with communities.

As'in'l'wa'chi Ni'yaw (Kelly Lake Cree Nation)

A. Context for participation

Kelly Lake Cree Nation has asserted section 35 rights within the Project area, it "has never surrendered Aboriginal Rights and Title to our territory and continues to be active land-users".

B. Effects of the Project on Indigenous and treaty rights

Kelly Lake Cree Nation explained that, because it did not sign Treaty 8, it was not restricted to a reserve by the *Indian Act* and its members were therefore able to trap throughout the Territory without interference from other Indigenous trappers. With the introduction of the oil and gas industry in the Territory in the 1950s and the subsequent opening of the area to development of various means, the community faced various challenges to their way of life. Kelly Lake Cree Nation expressed its community members should be involved in the Project to provide their *wahkohtowin*, discharge their cultural responsibilities in relation to wildlife, protect environmentally sensitive areas and inform on culturally specific mitigations such as regarding the Pouce Coupé River.

Kelly Lake Cree Nation chose a TLRU study area for the Project that extended beyond the Project's spatial boundaries by 35 km in all directions. Based on the results of the study, it submitted concerns about the impact the Project might have on its rights, including:

- Protection and preservation of traditional and culturally significant areas in Kelly Lake Cree Nation Territory, including burial sites, graveyards, spiritual areas, and culturally modified trees.
- Environmental disturbance has the potential to alter wildlife habitat, displacing populations and jeopardizing hunting, trapping and harvesting practices.
- Industrial development, major extractive industries, and the growing intensity of the cumulative impacts of large-scale energy projects on Kelly Lake Cree Nation's ability to engage in traditional land use and other cultural practices.

C. Key recommendations and conditions of Kelly Lake Cree Nation

Recommendations and conditions	Discussed in Commission Report
• Integrate Free, Prior and Informed Consent principles into Pouce Coupé's consultation approach	2.1 The duty to consult and accommodate was met through the hearing process
• Environmental and Cultural Monitors should be present for all stages of the proposed Project	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33

Blueberry River First Nations

A. Context for participation

Blueberry River First Nations did not participate in this hearing but provided a letter of comment. Blueberry River First Nations is a signatory to Treaty 8 and is of Dane-zaa and Cree ancestry with territory located in northeastern BC. Blueberry River First Nations stated that its treaty rights are protected by section 35(1) of the *Constitution Act, 1982* and that the Project, which is located within its territory, will likely impact its members' treaty rights.

B. Effects of the Project on Indigenous and treaty rights

Blueberry River First Nations signed the Implementation Agreement with the Province of BC on 18 January 2023. In addition to the impacts of construction and operation of the Pipeline on its treaty rights, Blueberry River First Nations expressed concern about the associated upstream impacts of the Project, which will transport up to 118,000 barrels per day if used for condensate or 90,000 thousand barrels per day if used for crude oil, largely, if not entirely, from within its

territory. Blueberry River First Nations is concerned that the increased volume is likely to require additional well sites to increase production within the core of the Blueberry River First Nations Claim Area.

C. Key recommendations and conditions of Blueberry River First Nations

Recommendations and conditions	Discussed in Commission Report
• Associated upstream development within the Blueberry River First Nations' Claim Area must be accounted for in the CER's assessment of cumulative impacts to Blueberry River First Nations' rights.	3.1 Sufficient supply and market demand of natural gas liquids support the need for the Project 3.2 The agreements with shippers provide some support that the Project would be reasonably used over its economic life
• The Crown must ensure that the incremental capacity from the Project, along with other currently proposed and recently approved mid-stream projects in Blueberry River First Nations' Claim Area, will not require more New Disturbance than allowed for under the annual New Disturbance caps set under the Implementation Agreement.	3.1 Market demand of natural gas liquids support the need for the Project 3.2 The agreements with shippers provide some support that the Project would be reasonably used over its economic life Condition 19
• Would like to receive copies of Pouce Coupé's condition filings.	5.4 Project effects analysis 5.5 Severity determination for impacts to Indigenous rights 7.1 The design of the Pipeline and facilities meets applicable safety requirements Conditions 7 and 32
• Engagement and consultation regarding impacts to rights due to HDD and contingency watercourse crossings	4.4 Project's effects on fish and fish habitat and water quality and quantity 7.1 The design of the Pipeline and facilities meets applicable safety requirements Conditions 8 and 26

British Columbia Métis Federation

A. Context for participation

The British Columbia Métis Federation described itself as a representative body for Métis communities across the province of BC and affirmed its role as a legitimate and essential voice in the consultation process. It is a non-profit association that seeks to support and promote the well-being of Métis communities and its members

B. Effects of the Project on Indigenous and treaty rights

British Columbia Métis Federation underscored that Project failure would have serious socio-economic impacts on Indigenous communities and emphasized the importance of addressing this concern. British Columbia Métis Federation repeatedly expressed interest in Métis-specific employment, procurement and contracting, and warned that “any framework that indirectly prioritizes one group over others erodes the foundational principles of reconciliation and equity” and may result in “inequities in procurement and participation”.

C. Key recommendations and conditions of British Columbia Métis Federation

Recommendations and conditions	Discussed in Commission Report
• Apply all mitigation and economic participation measures derived from the Implementation Agreement in a manner that does not preclude or disadvantage other Indigenous communities. • Pouce Coupé should work directly with British Columbia Métis Federation partner communities to ensure access to training programs, culturally appropriate procurement policies, and business development supports for Métis entrepreneurs.	5.6 Interests and concerns of Indigenous Peoples Condition 10
• Impose a binding regulatory condition to require the inclusion of Indigenous-submitted knowledge and input, including Métis traditional knowledge, into final Project plans and mitigation strategies. • Create an accountability mechanism to verify that this knowledge is properly incorporated and monitored throughout the Project lifecycle.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Socio-economic effects monitoring plan to include disaggregated data for Métis communities and indicators relevant to Métis cultural and economic well-being. • Directly engage British Columbia Métis Federation and its partner communities in the selection of indicators, data collection, and evaluation processes.	5.6 Interests and concerns of Indigenous Peoples Conditions 18 and 35

• Include planting of specific vegetation species of interest during reclamation. • Complete HDD crossing of the Peace River in late fall/early winter, as the river is extremely low during these months.	4.3 Project's effects on vegetation and wetlands 4.4 Project's effects on fish and fish habitat and water quality and quantity Conditions 6 and 8
• Develop a formal engagement plan between British Columbia Métis Federation and Pouce Coupé.	5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 17

Buffalo Lake Métis Settlement

A. Context for participation

Buffalo Lake Métis Settlement is one of eight settlements operating under the Alberta *Metis Settlement Act*. Pouce Coupé noted that the eight settlements are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy* that provides Métis people the ability to fish, hunt and trap for food in designated areas.

B. Effects of the Project on Indigenous and treaty rights

Buffalo Lake Métis Settlement stated that they are a community that is active in utilizing natural resources in a sustainable manner that allows them to continue their Métis traditions. During the site visit, one Buffalo Lake Métis Settlement Elder noted that they would hunt near the Alberta portion of the RoW, around the Peace Region and Spirit River areas.

Elders also shared that vast amounts of land were being acquired and kept by Hutterite colonies and other land developers, noting that the cumulative effects from Crown land sales to private ownership can dramatically reduce Buffalo Lake Métis Settlement's access to its traditional lands. Buffalo Lake Métis Settlement noted that they encountered private landowners during the site visit, which it considers a cumulative impact, as the land is not only developed by agriculture and oil and gas sectors but private land ownership which also impacts hunting and gathering activities.

Buffalo Lake Métis Settlement's key concerns for this Project include but are not limited to air and noise pollution, potential loss of animals and their habitat, potential loss of medicinal plants, and water pollution.

C. Key recommendations and conditions of Buffalo Lake Métis Settlement

Recommendations and conditions	Discussed in Commission Report
• Maintain open lines of communication between Buffalo Lake Métis Settlement land users and Pembina representatives.	5.6 Interests and concerns of Indigenous Peoples 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 17
• Require extra capacity at all levels to support governance and community decision making. • Expand Indigenous support programs to include capacity for cultural activities and possible support for construction of in-community facilities to carry out those activities. • Consider investments into Indigenous youth science, technology, engineering and mathematics education for their community.	5.6 Interests and concerns of Indigenous Peoples 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 17

Cadotte Lake Métis Nation

A. Context for participation

Cadotte Lake Métis Nation is one of the oldest Métis communities in Western Canada, whose members actively exercise their rights throughout the Peace River region.

B. Effects of the Project on Indigenous and treaty rights

Cadotte Lake Métis Nation indicated that the Saddle Hills area is an important hunting area for the community. It is concerned with potential cumulative impacts on the Saddle Hills area and the expansion of upstream developments in the area impacting its ability to harvest.

Cadotte Lake Métis Nation stated that the Project would be located within and traverse its Traditional Territory and would potentially impact its rights and the lands, waters, and resources that its families rely on. Cadotte Lake Métis Nation shared information with the CCC that identified where its contemporary use and occupancy values are concentrated and overlap with the Project area. These values include, but are not limited to hunting, trapping, fishing, gathering

plants and medicines, travel and habitation locations and important sites where cultural activities occur.

Cadotte Lake Métis Nation shared the following concerns with the CCC:

- cumulative effects – changes to landscape and ability to harvest;
- cumulative effects assessment;
- offsets in Alberta;
- standards of Project's review; and
- inexperience from Pouce Coupé in a cross-jurisdictional regulatory environment.

C. Key recommendations and conditions of Cadotte Lake Métis Nation

Recommendations and conditions	Discussed in Commission Report
No recommendations or conditions were submitted on the hearing record	Not applicable

Dene Thá First Nation

A. Context for participation

Dene Thá First Nation is a signatory of Treaty 8 and comprises three distinct communities (Bushe River, Meander River, and Chateh) in northwest Alberta. Dene Thá First Nation holds Treaty 8 rights to hunt, trap, and fish within the Project area.

B. Effects of the Project on Indigenous and treaty rights

Dene Thá First Nation identified that there "is no more moose, no more elk, no more deer, no more rabbits". Dene Thá First Nation stated this creates difficulty because its members do not have the necessary capacity to go to the store and buy what they need to stay alive. It is not so much the idea of hunting as recreation, rather its members hunt for subsistence. Dene Thá First Nation also stated that its members are losing their fishing areas, and that members have nowhere else to go to exercise their rights.

C. Key recommendations and conditions of Dene Thá First Nation

Recommendations and conditions	Discussed in Commission Report
• Should monitor the entire Project or be part of subcontracting.	5.5 Severity determination for impacts to Indigenous rights Conditions 10, 12 and 33

• Route Project under animal trails instead of cutting through them.	4.5 Project's effects on wildlife and wildlife habitat
• Reclaim leases, legacy cut lines, and other disturbance areas.	4.3 Project's effects on vegetation and wetlands Condition 6
• Cross the Peace River through HDD.	4.4 Project's effects on fish and fish habitat and water quality and quantity Condition 8

Doig River First Nation

A. Context for participation

Doig River First Nation is a signatory to Treaty 8. It submitted that Treaty 8 guarantees the right of the Indigenous signatories "to continue a way of life based on hunting, fishing and trapping, and promises that this way of life will not be forcibly interfered with." Doig River First Nation further submitted that its members hold rights under Treaty 8 and the *Natural Resources Transfer Agreement*[146], recognized and affirmed under section 35 of the *Constitution Act, 1982,* also referred to as "Treaty and Aboriginal rights".

In October 2023, Doig River First Nation filed a judicial review of BC's decision to carry out the Implementation Agreement and sought an order that the Province of BC "refrain from authorizing activities pursuant to the terms of the Blueberry Agreement that have the potential to adversely affect Doig's treaty rights without Doig's consent until appropriate accommodation measures have been put in place".

B. Effects of the Project on Indigenous and treaty rights

As part of the Consensus Document[147], Doig River First Nation identified Enhanced Management Zones and Deferral Areas for additional protection, as well as the land near K'ih Tsaa?dze Tribal Park and Petersen's Crossing. K'ih Tsaa?dze Tribal Park is located approximately 40 km northeast of Fort St. John, BC and Peterson's Crossing is located on the banks of the Beatton River approximately 12.5 km west of Doig River 206.

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146 Also referred to as the *Alberta Natural Resources Act*, SA 1930, c 21, Alberta.

147 The Treaty 8 Consensus Document outlines a collaborative approach to land and resource planning including various initiatives to meet the BC Crown's obligations to uphold the constitutionally protected rights of Treaty 8 First Nations (Pouce Coupé, Appendix 1-1 ESA, PDF page 27 of 520, C29302-5).

Doig River First Nation raised numerous issues throughout the proceeding, including:

- Concerns regarding the methodology of environmental and social assessment used, including using biophysical impacts and mitigations as a proxy for assessing, or addressing, impacts to rights of Indigenous Peoples.
- Concerns regarding standard mitigations, which Doig River First Nation stated would fail to address impacts and residual effects from the Project.
- Concerns regarding various steps of the Commission's hearing process, which Doig River First Nation submits compound into mischaracterized findings of significance, and subsequent conditions of approval and recommendations specified by the Commission fall short of any meaningful mitigation for Project-related impacts to its Indigenous and treaty rights.
- Doig River First Nation recommended an Indigenous offset plan to manage cumulative impacts on treaty rights from the Project.
- Concerns with respect to the cumulative effects of current and past projects, including changes to Doig River First Nation ways of life and changes to the landscape (i.e., lack of moose, rabbit and caribou, availability of and access to known berry patches, restrictions on access areas, quantity and quality of water, health of wildlife).
- Concerns with respect to the degrading state of the environment and the ability to transmit knowledge.

Doig River First Nation submitted that the Court in *Yahey* recognized that the Blueberry River First Nations' Claim Area included territory of some other First Nations in the region, including Doig River's territory in the eastern portion of the Claim Area. Doig River First Nation stated that its rights are similarly impacted by the cumulative effects within Treaty 8 found to be infringing Blueberry River First Nations' treaty rights, as Doig River First Nation's members also experience an inability to meaningfully exercise their rights. Doig River First Nation stated its members are sometimes required to exercise their rights in areas outside their preferred means because of the extensive development and the existence of pipelines in areas with traditional land use. Doig River First Nation stated the Project, if approved, would contribute to further diminishment of preferred means.

C. Key recommendations and conditions of Doig River First Nation

Recommendations and conditions	Discussed in Commission Report
• The rights referenced in the UN Declaration[148] "demonstrate that working within UNDRIP as a reconciliatory process requires supporting the self-determination of Indigenous peoples, including protection of their relationships with their territories, their distinctive way of life and their well-being. Doig River submits that this is the spirit and intent of UNDRIP".	2.1 The duty to consult and accommodate was met through the hearing process
• Will not provide its free, prior and informed consent unless suitable offsets are required as a condition.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 39
• The CCC convening meetings and collecting information from Indigenous communities does not constitute meaningful consultation if the learnings from those meetings do not result in tangible outcomes and/or conditions that might aid in the management of cumulative effects and impacts to Aboriginal and treaty rights.	2.1 The duty to consult and accommodate was met through the hearing process
• An Indigenous offset plan should be developed to manage cumulative impacts on treaty rights from the Project. • In the context of a legally declared and unresolved Treaty infringement and the application of the UN Declaration as a framework for reconciliation, the public interest requires that no further industrial development be authorized without corresponding, meaningful actions to reverse the existing infringement. Accordingly, offsets for restoration activities should be required as a condition of any certificate issued for the Project. • Submits that environmental offsets for restoration activities, as included in Doig River First Nation's Proposed Offset Plan, are not compensation. Offsets are part of the mitigation hierarchy and restoration involves tangible activities that can be monitored, reported on and made subject to any additional stipulations ordered by the Commission.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

[148] This Report uses UN Declaration throughout to refer to the *United Nations Declaration on the Rights of Indigenous Peoples*. However, where communities have used 'UNDRIP', the Commission has used this term in these tables.

• A condition requiring environmental offsets would include the number of hectares to be offset for restoration in accordance with the relevant ratio. The condition would not include reference to costs. Doig River First Nation's Proposed Offset Plan only included values as an example of what restoration could cost. • Pouce Coupé's refusal to commit to restoration offsets is a failure to comply with the spirit and intent of the UN Declaration which requires supporting the self-determination of Indigenous peoples, including protection of their relationships with their territories, their distinctive way of life and their well-being. It is also a violation of its own Indigenous and Tribal Relations Policy that purports to recognize and respect the spirit and intent of the UN Declaration. The context of the Project area, in relation to the decision in *Yahey*, is unique and requires an equally unique response to begin reversing the infringement. • In the unique context of the ongoing Treaty infringement, investments in restoration via an offset condition should be required of any additional industrial project authorized in the Claim Area. This is particularly sound policy in the case of the Proposed Project, where the Company Group *(consisting of Pembina Pipeline Corporation and its subsidiaries, Pouce Coupé and Plateau Pipe Line Ltd.)* has contributed to the cumulative effects that have led to the current state of affairs. Project proponents cannot be permitted to rely on incremental project development, sliding baselines for impact assessments, and corporate structuring to avoid responsibility for area-wide legacy impacts.	
• Concerned about contingency methods and how this may change the assessment of Project impacts on Doig River First Nation's Treaty and Aboriginal rights	4.4 Project's effects on fish and fish habitat and water quality and quantity 7.1 The design of the Pipeline and facilities meets applicable safety requirements Conditions 8 and 26

Driftpile Cree Nation

A. Context for participation

Driftpile Cree Nation is a signatory to Treaty 8. It submitted its members possess both inherent Indigenous rights as well as Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*. These rights include the rights to hunt, fish, trap, gather, and engage in ceremonial traditions. Driftpile Cree Nation members exercise their rights across Driftpile's territory, which extends throughout and beyond the boundaries of Treaty 8.

B. Effects of the Project on Indigenous and treaty rights

Driftpile Cree Nation raised concerns regarding accidental releases from the Project, which is the “main concern” that Driftpile members have for all pipeline development. Driftpile Cree Nation stated that any release from the Project would significantly impact wildlife, fish, vegetation, surface waters, soil, etc., and those impacts would also significantly impact its members’ ability to meaningfully exercise their Treaty No. 8 rights in the Project area. Driftpile Cree Nation has concerns regarding the Project’s direct effects on its members’ ability to exercise their Treaty 8 rights in the Project area. It also identified that the Project’s construction and operation may lead to the loss of vegetation including traditional medicines, wildlife habitats, and fish habitats within the Project area. Any of these consequences of the Project’s construction and operation would be direct impacts to Driftpile Cree Nation’s Treaty 8 rights.

- Driftpile Cree Nation expressed concern that clearing of the Project’s RoW and construction of the Project would lead to direct disturbance and destruction of habitat for traditionally significant wildlife, fish resources, and plants traditionally used for food, ceremony and medicine.
- Driftpile Cree Nation stated that clearing and construction would result in sensory disturbances for wildlife and could introduce invasive weedy species that would negatively impact traditionally harvested plants in the Project area.
- Ongoing clearing of the Project’s RoW could impact fish habitats as well as traditionally consumed plant resources due to the runoff from the spraying of herbicides. Therefore Driftpile Cree Nation’s members are unlikely to harvest berries or medicines in areas thought to be contaminated by herbicides.
- Additionally, Driftpile Cree Nation stated that maintaining the Project’s RoW would lead to increased predation of moose and other wildlife by wolves.
- Driftpile Cree Nation also expressed concerns for impacts from industry on the land, noting that the importance of clean water and that care for water as a resource is important and needs to be considered.

Driftpile Cree Nation seeks to ensure that the Project’s impacts on its members’ rights are avoided or mitigated and, if complete avoidance or mitigation is not possible, that the Project’s residual contribution to cumulative effects is appropriately offset.

C. Key recommendations and conditions of Driftpile Cree Nation

Recommendations and conditions	Discussed in Commission Report
• Develop a protocol for accidental discoveries of occupancy sites and areas, and an Access Management Plan, with First Nations. • Avoid and buffer sensitive wildlife areas, occupancy sites, all fish bearing water courses and water bodies, based on input from First Nations.	4.3 Project’s effects on vegetation and wetlands 4.4 Project’s effects on fish and fish habitat

• Create vegetation screens to break up lines of sight to protect wildlife from poachers and wolves. • Provide First Nations with an opportunity to hold a ceremony on the RoW pre- and post-disturbance. • Create reclamation plans and procedures with input from First Nations including opportunities for postconstruction site visits. • Have trained First Nations environmental technicians on site during all phases of clearing and construction and provide them with authority to issue stop-work orders. • Develop monitoring programs with First Nations for wildlife, water quality, fish, and vegetation, and involve First Nations fully in monitoring during construction and operation. • Consider a 5–10-year monitoring plan for the Project which could incorporate agreements between Pouce Coupé and Indigenous communities to support Project accountability and long-term community benefits.	and water quality and quantity 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 6, 11, 12, 17 and 33
• Proposed that cumulative effects are best managed through creating regional and sub-regional plans designed to support the meaningful exercise of Section 35 rights, built upon Section 35 rights-based indicators and thresholds as defined by Driftpile Cree Nation, in keeping with the principles of shared jurisdiction as contemplated by the UN Declaration.	5.5 Severity determination for impacts to Indigenous rights

Duncan's First Nation

A. Context for participation

Duncan's First Nation is a signatory of Treaty 8 and continues to use the Saddle Hills region, also known as the Saddle Hills Hunting Grounds, for a range of sustenance, livelihood, cultural, and spiritual purposes. The Saddle Hills area is intersected by the Alberta portion of the Project.

Duncan's First Nation asserts that the promises and obligations embedded in Treaty 8 must guide all decisions regarding this Project and its future operation.

B. Effects of the Project on Indigenous and treaty rights

Duncan's First Nation states that the Project is proposed in an already-compromised territory and ever-shrinking land base on which to exercise rights. The Project's direct, indirect, and cumulative impact contributions would make the situation worse — not better — for its community members.

Duncan's First Nation stated that potential impacts on its community members from the proposed Project include, but are not limited to: alteration or loss of wildlife and fish habitat, wildlife displacement, water and air pollution, climate change, perceptions of land health and ability to engage in cultural practices, and increasing human access to its Traditional Territory during the construction and operation phases of the pipeline.

The Project could contribute to further exploration and industrial activity in the Montney Basin. In addition, Duncan's First Nation anticipates that the negotiated agreement between BC and Blueberry River First Nations as a result of the *Yahey v British Columbia* decision may chill development in northeastern BC, leading to increased activity in northwestern Alberta. This potential increase in activity could pose additional risks to Duncan's First Nation's lands and rights, as there are currently no initiatives in Alberta to manage cumulative effects in this region. Duncan's First Nation submits that the Project should not be seen or assessed as an isolated infrastructure development, but rather as part of an expanding energy infrastructure network within the Montney Basin. Even if some or all of these impacts are expected to be temporary, they are still significant and must be mitigated and accommodated.

Duncan's First Nation submitted that it is crucial that the Project brings a net gain to its traditional territory, instead of a net loss. Any further development must not exacerbate the challenges Duncan's First Nation has outlined but instead contribute positively to the restoration and preservation of its Traditional Territory. This approach is essential to uphold the rights and promises made under Treaty 8, ensuring that Duncan's First Nation can exercise their inherent, Aboriginal and treaty rights and continue their way of life.

C. Key recommendations and conditions of Duncan's First Nation

Recommendations and conditions	Discussed in Commission Report
• Additional measures beyond Project-specific measures are needed to meet the Crown's constitutional obligations to protect Duncan's First Nation's ability to meaningfully exercise their Treaty 8 rights. Consequently, additional measures are needed to ensure the Project does not further constrain Duncan's First Nation's ability to meaningfully exercise their treaty rights in their Traditional Territory.	5.1 Understanding Indigenous rights in the Project area 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Submits the CCC did not meaningfully engage in two-way dialogue, failed to engage with Duncan's First Nation in its submissions beyond reiterating DFN's stated concerns, and failed to discuss and develop recommendations and potential mitigation and accommodation measures during the Commission-hosted Virtual Conditions Workshop.	2.1 The duty to consult and accommodate was met through the hearing process
• The Commission should adopt the following measures to accommodate Project impacts on Duncan's First Nation's rights and ensure the remaining land in its Traditional Territory is sufficient to support the meaningful exercise of treaty rights: o more effective offsetting measures for the Draft Preliminary and Final Offset Measures Plans for the Project under [potential conditions floated as*]* Condition 6 and Condition 34, similar to	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to

those reflected in the NEBC Connector Project's Offset Plan, such as: ▪ clearly defined offset goals, co-developing offset ratio with participating Indigenous groups, and an offset methodology that includes a comprehensive assessment, scenario development, and analysis of the Project's impacts, how the current land use conditions that limit Duncan's First Nation Treaty 8 rights and cultural practices, how the project will influence mid-stream development, and how all gas pipelines approved and proposed between 2015 and 2025 will influence mid-stream development. o the Offset Plan should include site-specific (e.g., seismic line restoration) and regional (e.g., habitat enhancement) measures, and require Pouce Coupé to submit annual public reports on the progress, outcomes, and Duncan's First Nation's feedback on the Offset Plan. o add an Indigenous-led offset principle to the Draft Preliminary and Final Offset Measures Plans provide capacity funding to support Indigenous Nations' participation. • funding to support restoration projects and land securement.	the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• The Commission should recommend a regional assessment of cumulative effects under the *Impact Assessment Act* to assist in accommodating the Project's residual cumulative impacts on Duncan's First Nation's rights and culture. • The Commission should support Duncan's First Nation's request to the Minister of Environment and Climate Change under the *Impact Assessment Act* that a regional assessment of the Project area be carried out, or if the Impact Assessment Agency of Canada declines Duncan's First Nation's request, the Commission should submit its own recommendation.[149]	5.3 Current conditions and high existing cumulative effects 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

East Prairie Métis Settlement

A. Context for participation

East Prairie Métis Settlement is one of eight settlements operating under the Alberta *Metis Settlement Act*. Pouce Coupé noted that the eight settlements are 'recognized Métis harvesters'

[149] The Commission notes that on 14 August 2025, the Minister of Environment and Climate Change decided that a regional assessment of the Montney Formation is not warranted under the *Impact Assessment Act*.

under the Government of Alberta's *Métis Harvesting in Alberta Policy* that provides Métis people the ability to fish, hunt and trap for food in designated areas.

B. Effects of the Project on Indigenous and treaty rights

East Prairie Métis Settlement shared their interest in participating in monitoring activities during Project construction.

C. Key recommendations and conditions of East Prairie Métis Settlement

Recommendations and conditions	Discussed in Commission Report
No recommendations or conditions were submitted on the hearing record.	Not applicable

Elizabeth Métis Settlement

A. Context for participation

Elizabeth Métis Settlement is one of eight settlements operating under the *Alberta Metis Settlement Act*. Pouce Coupé noted that the eight settlements are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy* that provides Métis people the ability to fish, hunt and trap for food in designated areas. The CCC identified Elizabeth Métis Settlement for notification on the Crown List.

B. Effects of the Project on Indigenous and treaty rights

Elizabeth Métis Settlement raised concern regarding impacts on fish species and fish habitat within the Peace River and the associated dam.

C. Key recommendations and conditions of Elizabeth Métis Settlement

Recommendations and conditions	Discussed in Commission Report
No recommendations or conditions were submitted on the hearing record.	Not applicable

Enoch Cree Nation

A. Context for participation

Enoch Cree Nation (*maskêkosihk*) is a Cree speaking community and a signatory of Treaty 6.

B. Effects of the Project on Indigenous and treaty rights

Enoch Cree Nation reported that its ability to practice traditional land use has been challenged over time due to the residual impacts of historic and ongoing land use changes. They shared

with the CCC their concern about the overdevelopment of Treaty 6 Territory specifically and Alberta in general.

Enoch Cree Nation shared the following impacts and concerns with the CCC:

- capacity constraints;
- CER regulatory Process and hearing participation;
- cumulative effects, offsetting measures and regional offset plans;
- loss of Crown land;
- mental health and solastalgia;
- safety and well-being;
- baseline studies;
- economic inclusion and employment, including revenue sharing and participation;
- Indigenous monitoring;
- Duty to Consult, the UN Declaration, Truth and Reconciliation Commission (TRC), and free prior and informed consent (FPIC);
- restoration and reclamation;
- water and riparian areas; and
- jurisdictional matters and landscape level impacts.

C. Key recommendations and conditions of Enoch Cree Nation

Recommendations and conditions	Discussed in Commission Report
• Protection of the Saddle Hills area	5.4 Project effects analysis
• The Project will drive further production activities in the area, which lacks an integrated landscape and regional planning process that involves Indigenous Peoples in that planning.	3.1.1.1. Forecasts for growing natural gas liquids production support the availability of supply for the Project over its economic life 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests

	of Indigenous Peoples affected by the Project Conditions 17 and 39
• The Crown, both provincial and federal, is ultimately responsible for adequately addressing existing cumulative impacts.	5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Maintain clear engagement and communication on how this and any future project may impact Indigenous rights to land use. • Seek consent from Indigenous Nations for the inclusion of Traditional Ecological Knowledge studies from past projects, online searches, etc. • Fieldwork informing the ESA should be completed with the participation of representatives from potentially affected Indigenous communities. • In-depth consideration of the Project's contribution to cumulative effects, or appropriate baselines for measuring cumulative effects. • Provide a detailed Offsetting Plan for identified Project impacts in order for Enoch Cree Nation to properly assess and identify residual impacts from the Project prior to its approval. • Pouce Coupé and the Crown should find a way to assess, understand, and address compounding impacts, as it is not the responsibility of Nations to conduct the work without funding. • Protect and restore Crown land for future generations and continued use. • To resolve cumulative impacts, engage in active restoration of previous developments, such as old seismic lines, RoWs and well sites. • Both the Crown and Pouce Coupé action reconciliation and decolonization by recognizing that cumulative effects and associated mitigation measures need to be applied at a landscape level rather than through treaty-specific contexts.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 6, 12, 17, 33 and 39
• Baseline values should be taken from before land encroachment of agriculture (in Treaty 6) and logging development (in Treaty 8) (e.g., ca. 1950). • The collection of Traditional Knowledge should occur and be collected throughout all seasons. • Require fulsome sector-wide consultation at the landscape level (e.g., number of well sites required to service the Project).	5.2 Assessment methodology Condition 13
• Develop measures for discouraging further traffic on travel routes in conjunction with Enoch Cree Nation. • Training or continued education for subcontractors on Indigenous awareness on cultural uses of Crown Land. • Pouce Coupé to provide notice to Enoch Cree Nation if cultural flags or prints are flagged for removal along the RoW, or near the Project.	5.4.3.2. Change in access to the resources used or required for the exercise of Indigenous and treaty rights

Typically tied to white poplar trees (e.g., quaking aspen) on Crown land. • Limit access to the general public on construction and Project access roads. • Develop an access management plan in conjunction with Enoch Cree Nation. • Pouce Coupé should ensure Enoch Cree Nation is on the immediate and direct notification list for communities notified about spills or incidents.	Condition 11
• Pouce Coupé should have an Enoch Cree Nation Knowledge Holder on site during construction to give direction on minimizing Project impacts to animal harvesting. • Pouce Coupé should study Project impacts on game activity and continue monitoring after construction. Best practices should be developed and implemented in conjunction with Enoch Cree Nation. • Minimize the creation of additional linear disturbances that would improve visibility and access to the Project area by non-First Nations hunters.	4.5 Project's effects on wildlife and wildlife habitat 5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33
• The main study (i.e., baseline data collection; field surveys) and follow-up mitigation measures (i.e., monitoring) are done in the spring to late summer to assess the medicines and food plants accurately (e.g., when the plants display identifiable characteristics). • Have an Enoch Cree Nation Knowledge Holder on site during construction to give direction on minimizing impacts to important plant harvesting areas. • Allow Enoch Cree Nation members to harvest plants before they are impacted by construction. • Avoid Project impacts to areas with high concentrations of harvestable plants.	5.5 Severity determination for impacts to Indigenous rights Conditions 11 and 20
• Study open cut areas of water crossings given the potential for long term effects on plants and restoration. • Develop and implement a water quality monitoring program in collaboration with Enoch Cree Nation. • Notify Enoch Cree Nation of Kiskatinaw River crossing methods. • Study Project impacts on ground water flow and continue monitoring after construction in collaboration with Enoch Cree Nation.	4.4 Project's effects on fish and fish habitat and water quality and quantity 5.5 Severity determination for impacts to Indigenous rights Conditions 8 and 26
• Proponents and governments support the Nation through engagement, consultation, coordinated efforts, partnerships, sharing of information, FPIC, support for healing, prevention and education, justice and accountability, data collection/ research, transparent reporting, and overall accountability. • Proponents and governments undertake deliberate consideration and active steps to fulfill the Calls to Action. These protocols and actions require Indigenous Peoples' capacity, knowledge integration, monitoring and accountability, information sharing, etc. and that	5.6 Interests and concerns of Indigenous Peoples 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of

interconnectedness means interactions and actions have added benefits and impacts through other areas. • Fund additional capacity building abilities (logistics, analysis, coordination, management, etc.) or Project-specific funded roles. • Consultation and coordination of cultural events (pow-wows, sun dances, etc.) for Indigenous populations, including youth.	Indigenous Peoples affected by the Project Conditions 12, 17 and 21

Fishing Lake Métis Settlement

A. Context for participation

Fishing Lake Métis Settlement is one of eight settlements operating under the *Alberta Metis Settlement Act*. Pouce Coupé noted that the eight settlements are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy* that provides Métis people the ability to fish, hunt and trap for food.

B. Effects of the Project on Indigenous and treaty rights

Fishing Lake Métis Settlement identified wildlife areas that occur at the Pipeline crossing of the Peace River. It expressed concern regarding cumulative effects. Fishing Lake Métis Settlement requested that the information shared with the CCC be kept confidential. Fishing Lake Métis Settlement does not anticipate that this Project will affect wildlife in the area given the level of disturbance, road traffic, homesteads and activity already occurring in the region.

C. Key recommendations and conditions of Fishing Lake Métis Settlement

Recommendations and conditions	Discussed in Commission Report
• Ensure the Pipeline is installed at proper depths and can cross the river without causing any disturbance to aquatic wildlife.	4.4 Project's effects on fish and fish habitat and water quality and quantity Conditions 8 and 27
• Harvest natural seeds from the area so they can plant the natural seed back to the land.	4.3 Project's effects on vegetation and wetlands

Foothills First Nation

A. Context for participation

Foothills First Nation, also known as Foothills First Nation Heritage Society, is a Cree speaking non-status Indigenous organization. It represents non-status Indians of Kelly Lake in tandem with another group from the community, the Kelly Lake Cree Nation Society. The Society aims to protect the traditional territories and the language of Foothills First Nation, support self-

government and political advocacy, and implement land claim settlement agreements. Foothills First Nation has asserted section 35 rights within the Project area.

B. Effects of the Project on Indigenous and treaty rights

Foothills First Nation noted that while the extent of Project-specific impacts may be limited, the Project would also contribute to the overall taking up of lands within its territory and would add to existing cumulative effects on culturally significant resources including wildlife, berries, medicines, fish, and water.

Foothills First Nation shared the following impacts and concerns with the CCC:

- limited opportunities to meaningfully participate in proponent-led Indigenous monitoring;
- water contamination and cumulative effects related to water contamination;
- road accidents and traffic safety;
- climate change;
- community health and wellbeing;
- financial and capacity support; and
- TLRU studies.

Foothills First Nation relayed that many of its members are supportive of pipeline projects, based on the potential for economic benefits in the form of jobs and contracts for their members and families. Foothills First Nation stated that these benefits help offset effects on the environment and the community.

C. Key recommendations and conditions of Foothills First Nation

Recommendations and conditions	Discussed in Commission Report
• Include of at least one representative from each Indigenous community in the Proponent's Indigenous monitoring plan or program.	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33
• Incorporate robust fluid containment mitigations, including backup systems, to reduce the risk and severity of spills or containment failures.	7.3 Pouce Coupé's plans and programs for the operation of the Project meet applicable safety requirements Condition 11
• Temporarily disturbed areas should be restored with native vegetation and allowed to regenerate naturally.	4.3 Project's effects on vegetation and wetlands

	Condition 6
• Cumulative impacts by the industry can be reduced by: o limiting footprint; o following existing disturbances; o avoiding important places or species; o noise reductions; o mechanical rather than chemical vegetation maintenance; and o managing traffic effectively to protect people and wildlife.	4.3 Project's effects on vegetation and wetlands 5.4.2 Mitigation measures 5.6 Interests and concerns of Indigenous Peoples
• The land uses and sacred sites identified by all Indigenous communities within traditional lands and territories potentially affected by the Project should be respected.	5.6 Interests and concerns of Indigenous Peoples 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 11 and 17

Gift Lake Métis Settlement

A. Context for participation

Gift Lake Métis Settlement is one of eight settlements operating under the Alberta *Metis Settlement Act*. Pouce Coupé noted that the eight settlements are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy* that provides Métis people the ability to fish, hunt and trap for food in designated harvesting areas.

B. Effects of the Project on Indigenous and treaty rights

Gift Lake Métis Settlement raised a concern regarding its traditional land being used by industry for financial benefit and community members losing their way of life. This includes the potential for its spiritual, burial, and historical sites being disturbed, destroyed, or damaged. Gift Lake Métis Settlement also indicated that there would be no traditional knowledge left for future generations if everything is destroyed or damaged. Gift Lake Métis Settlement also raised concerns related to air, noise, vegetation, water, and soil being polluted and its impact on wildlife and the community members.

During their site visit, Gift Lake Métis Settlement noted that the Project would parallel existing roads/RoWs and noted that little harvesting could occur in their survey area because of ecological impacts from farmers' fields, loss of native plants, and clear cutting.

C. Key recommendations and conditions of Gift Lake Métis Settlement

Recommendations and conditions	Discussed in Commission Report
• More active engagement was required before the Project application was filed and they should have been more fulsomely engaged. • Pipelines should be monitored everywhere in its TLRU areas for the lifecycle of a project and could be examined monthly or once every few months. • Recommended signage for hunters during the Project as the area is used for hunting and harvesting. • Requested participation as a monitor during the construction phase.	5.2 Assessment methodology 5.4.2 Mitigation measures 5.5 Severity determination for impacts to Indigenous rights Conditions 11 and 12
• Report all leaks or spills and wildlife sweep records back to Indigenous communities. • Pouce Coupé should implement a zero-impact strategy for all surrounding natural habitat.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment 7.3 Pouce Coupé's plans and programs for the operation of the Project meet applicable safety requirements
• Seasonal draws be available on the Project map. • Identified an ephemeral draw during a site visit that should be protected with silt fences.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment Condition 11

Halfway River First Nation

A. Context for participation

Halfway River First Nation is a Dane-zaa (Beaver-speaking) community. As a Treaty 8 Nation, Halfway River First Nation upholds its rights to access its traditional territory and continue traditional land use practices.

B. Effects of the Project on Indigenous and treaty rights

Halfway River First Nation shared the following Project-related concerns with the CCC:

- cumulative impacts;
- mitigations to protect flora, fauna and habitat;
- restoration;
- offsets;
- capacity constraints; and
- impacts to wildlife habitat.

Halfway River First Nation stated that narrow RoW corridors would better accommodate wildlife, and that reducing a project footprint after construction via such things as protecting wildlife trails during and after construction would help maintain treaty rights for future generations. Halfway River First Nation stated that Pouce Coupé should assess and address cumulative impacts, including the increase of linear corridors, and should include inviting Indigenous communities to fully participate. Halfway River First Nation advised Pouce Coupe that it did not support offsetting as a way of addressing cumulative effects.

C. Key recommendations and conditions of Halfway River First Nation

Recommendations and conditions	Discussed in Commission Report
• Review by Halfway River First Nation of management and mitigation plans related to vegetation, wildlife, wetlands and reclamation.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.5 Severity determination for impacts to Indigenous rights Conditions 6 and 11
• Forest distribution should consider the healthy range of young, mid, and old growth. Forest patch size and intact forest hectares distribution must be retained at a minimum of 65 per cent or greater land base in the surrounding area. • Mitigate for birch and diamond willow.	4.3 Project's effects on vegetation and wetlands 4.9 The Commission recommends two general conditions to address the Project's effects on the environment Condition 11
• After 3-5 years, assess if the natural regrowth of the RoW has been successful, and if not replant only plants previously documented to be there pre-disturbance.	4.3 Project's effects on vegetation and wetlands Condition 40

• No permits should be allowed in an area with greater than 15 per cent of wetland disturbance. Roads crossing through all classes and sizes of wetlands must follow a written plan for maintaining the natural flow of water.	4.4 Project's effects on fish and fish habitat and water quality and quantity
• Where possible, pipelines should bore under waterways or avoid them altogether. • Proper cleaning of construction and salvage equipment must be done, monitored, and enforced to protect the aquatic habitat health.	4.4 Project's effects on fish and fish habitat and water quality and quantity 4.9 The Commission recommends two general conditions to address the Project's effects on the environment 7.1 The design of the Pipeline and facilities meets applicable safety requirements Conditions 8 and 26
• Include a commitment for offsets in BC in the Final Conservation Offset Measures Plan. The appropriateness of offsets must be developed in consultation with affected First Nations.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Require Indigenous-led monitoring programs with funding and data-sharing commitments.	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33

Horse Lake First Nation

A. Context for participation

Horse Lake First Nation is part of the Athabaskan Beaver linguistic group and a signatory to Treaty 8. Horse Lake First Nation is affiliated with the Western Cree Tribal Council that also includes Duncan's First Nation and Sturgeon Lake Cree Nation.

B. Effects of the Project on Indigenous and treaty rights

Horse Lake First Nation stated that they have interest and continue to exercise their inherent and Treaty and Aboriginal Rights in the Project area. Its Elders identified that the Project area was of moderate traditional use rating as they have strong connection to the land today and it is integral to the identity and way of life.

Horse Lake First Nation stated that they continue to use the Gordondale area for traditional uses, such as camping, hunting and gathering; however, Elders have noted that industrial activity in the area has been an issue as many of the roads in the area have gates that block access for Horse Lake members trying to exercise their rights.

Horse Lake First Nation indicated that traditional plant uses included food, fuel, medicine, and for ceremonial purposes. They also stated that herbs and medicine need to be protected as Nation members are forced to travel further to harvest them as a result of cumulative impacts from industrial development close to Horse Lake First Nation.

Horse Lake First Nation noted that the Project's impact on freshwater is of significant concern to them as is the impact of the Project on freshwater streams and the ability for Horse Lake First Nation to have clean potable water in the future. Additionally, fishing continues to be an important way of life and Horse Lake First Nation members expressed concern about the cumulative and direct impacts of industrial development on fish.

C. Key recommendations and conditions of Horse Lake First Nation

Recommendations and conditions	Discussed in Commission Report
• Offsets should be based on direct kilometres of RoW impacted by the Project.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Add latitude and longitude of each watercourse crossing to the HDD final report and EPP.	4.4 Project's effects on fish and fish habitat and water quality and quantity Conditions 8 and 11

• Provide a list of Project-related employment contracting or procurement opportunities to Indigenous communities in advance of Project activities. • Direct award contracts should be provided to Indigenous communities with the capacity to complete the required work. • The prime contractors need to send out Request for Proposals to Indigenous communities with a minimum of two-weeks' notice to allow adequate time to prepare bids and costing.	5.6 Interests and concerns of Indigenous Peoples Condition 10
• No herbicides should be used to eliminate any weeds within the proposed Project footprint.	4.3 Project's effects on vegetation and wetlands
• Merchantable timber should be processed and hauled to the nearest Indigenous Nation for cultural use purposes.	4.7 Project's contribution to atmospheric greenhouse gases Condition 11
• Protect and preserve diamond willow habitats to ensure the survival of diamond willow fungus.	4.3 Project's effects on vegetation and wetlands 4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.4 Project effects analysis Condition 11

Kelly Lake First Nation Society

A. Context for participation

Kelly Lake First Nation is based in the community of Kelly Lake, situated along the BC and Alberta border. It is a registered society incorporated under the *British Columbia Societies Act*. Its traditional territory encompasses the entirety of the Project in BC and Alberta.

Kelly Lake First Nation's Elders and Traditional Knowledge Holders hold strong cultural and spiritual ties and values to the land provided by the Creator.

B. Effects of the Project on Indigenous and treaty rights

Kelly Lake First Nation indicated that its traditional territory is accessed year-round for hunting, harvesting, fishing, camping, and recreational purposes. It stated that, during its review, no campsites were found. However, a hunter's hideout was located within the Project footprint.

Through its engagement with Pouce Coupé, Kelly Lake First Nation noted that these sites are often used in conjunction with practicing traditional ways of life.

Kelly Lake First Nation identified the following concerns:

- heavy traffic and construction would have a significant impact on water quality and the entire ecosystem;
- a potential reduction in water levels and quality of drinking water;
- a reduction of water and water quality is likely to affect traditional use activities; and,
- Project's effects on the natural rhythm of the ecosystem, and its ability to regenerate after construction is unknown.

C. Key recommendations and conditions of Kelly Lake First Nation

Recommendations and conditions	Discussed in Commission Report
• Fair compensation for ecological and traditional use losses.	5.5 Severity determination for impacts to Indigenous rights
• Stronger consultation and negotiation frameworks.	2.1 The duty to consult and accommodate was met through the hearing process
• Indigenous-led economic and environmental initiatives. • Strengthening economic and social wellbeing for Kelly Lake First Nation members.	5.6 Interests and concerns of Indigenous Peoples
• Emphasize the need for fair economic compensation, Indigenous-led environmental restoration, stronger consultation processes, and sustainable resource management.	5.3 Existing context and cumulative effects 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 17
• Kelly Lake First Nation stated that the following five UN Declaration articles are of relevance: Article 1, Article 2, Article 19, Article 29, Article 31.1.	2.1 The duty to consult and accommodate was met through the hearing process 5.4 Project effects analysis

• Need registered trappers to be notified 21 days prior to construction to allow trappers to complete necessary activities rather than 10 days notification.	5.4.2 Mitigation measures Condition 22
• Engagement and consultation regarding impacts to rights due to HDD and contingency watercourse crossings.	2.1 The duty to consult and accommodate was met through the hearing process 4.4 Project's effects on fish and fish habitat and water quality and quantity 7.1 The design of the Pipeline and facilities meets applicable safety requirements Conditions 8 and 26

Kelly Lake Métis Settlement Society (Apetokosan Nation)

A. Context for participation

Kelly Lake Métis Settlement Society, traditionally known as *Otipemisiwak Ayesinowak,* is a not-for-profit organization advocating for Aboriginal rights and the pursuit of economic and social benefits stemming from development for Apetokosan Nation members.

B. Effects of the Project on Indigenous and treaty rights

Kelly Lake Métis Settlement Society shared with the CCC their concerns related to socio-economic opportunities and impacts on waterways. It stated that it is comfortable with Pouce Coupé's proposed mitigations for water and highlighted the importance of keeping waterways clean to protect the environment and community health.

Kelly Lake Métis Settlement Society identified moose licks outside of the PDA (no exact location was provided) and advocated for measures that minimize impacts on moose populations.

Kelly Lake Métis Settlement Society strives to revitalize the community, with a focus on current and future community planning (e.g., housing), and the creation of economic opportunities that allow members to work locally without needing to relocate (e.g., to Grande Prairie).

C. Key recommendations and conditions of Kelly Lake Métis Settlement Society

Recommendations and conditions	Discussed in Commission Report
No recommendations or conditions were submitted on the hearing record.	Not applicable

Kikino Métis Settlement

A. Context for participation

Kikino Métis Settlement is one of eight settlements operating under the Alberta *Metis Settlement Act*. Pouce Coupé noted that the eight settlements are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy* that provides Métis people the ability to fish, hunt and trap for food. Although the Alberta government officially named the settlement Lake Colony No. 7, the residents of the Settlement chose the name Kikino—which means "our home"—in Cree, in 1941.

Given the strong ancestral connections between Kikino Métis Settlement members to other parts of central and northern Alberta, many Settlement members are recognized rights-holders in multiple harvesting areas, including Harvesting Area A which encompasses the Alberta portion of the Project.

B. Effects of the Project on Indigenous and treaty rights

Kikino Métis Settlement has previously expressed concern about impacts to its rights during the construction phase and requested the construction schedule so that members can visit the land and harvest prior to construction. It raised concerns about how existing cumulative effects impact its rights, and how the incremental effects of the Project may contribute to those impacts on its rights. The Crown lands surrounding the Alberta side of the Project, as well as the wider Métis Harvesting Areas A and D, are both disturbed to a similar or greater extent than the Blueberry River First Nations' traditional territory that was the foundation for the *Yahey* decision.

Kikino Métis Settlement raised concerns about paralleling existing approved linear disturbances as a mitigation measure to avoid or reduce Project-related effects on land users and resources. It stated the CER should be responsible for conducting research on the effectiveness and impacts of this practice on wildlife, wetlands, and Indigenous rights.

C. Key recommendations and conditions of Kikino Métis Settlement

Recommendations and conditions	Discussed in Commission Report
• Produce progress reports for reclamation and restoration plan detailing the actual impacts to the environment, and involve Indigenous monitors in the development of progress reports. • Include accountability measures developed with Indigenous peoples, and an adaptive management plan, in the reclamation and restoration plan if reclamation and restoration is not achieved as described.	4.3 Project's effects on vegetation and wetlands 5.5 Severity determination for impacts to Indigenous rights Condition 6
• Ensure offset plans are Indigenous-led to ensure the integration of Indigenous Knowledge and ensure benefits ultimately accrue not simply to the habitat but to the ability of Indigenous peoples to exercise their rights in the Project area.	5.5 Severity determination for impacts to Indigenous rights

• The Proponent and CER should fund an Indigenous-led workshop to discuss any Offset Plan, and the recommendations from this workshop should provide the foundations for the final plan. • Require an offset plan for the Alberta portion of the Project as a condition for any Project approval	5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Ensure Pouce Coupé and the CER work safely, respectfully, and in a culturally appropriate way with the Settlement so the proposed Project meaningfully advances political/legal, socioeconomic, and cultural reconciliation for Kikino Métis Settlement and its members.	5.4.2 Mitigation measures 5.6 Interests and concerns of Indigenous Peoples 7.3 Pouce Coupé's plans and programs for the operation of the Project meet applicable safety requirements
• Pouce Coupé should work collaboratively to develop mitigation measures and explore socio-economic and environmental monitoring opportunities for Kikino Métis Settlement.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 12, 17, 18 and 33
• The CER, as the representative of the Crown, work with Kikino Métis Settlement and other potentially-affected Indigenous Nations and communities in Alberta to address the lack of meaningful measures and programs in place to mitigate, offset, and reverse the incremental and cumulative effects to Indigenous rights from the Alberta side of the Project. • Raised concerns about paralleling existing approved linear disturbances as a mitigation measure to avoid or reduce Project-related effects on land users and resources and stated the CER should be responsible for conducting research on the effectiveness and impacts of this practice on wildlife, wetlands, and Indigenous rights.	5.4.2 Mitigation measures 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Recommended including a stand-alone condition to monitor the rights of Indigenous Peoples.	5.4 Project effects analysis

• Propose an Indigenous Rights Protection Program to be co-developed with the potentially affected Indigenous Peoples on the Alberta side of the proposed Project.	5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

Louis Bull Tribe

A. Context for participation

Louis Bull Tribe is a signatory of Treaty 6 and submitted it collectively holds inherent Indigenous rights as well as Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.

B. Effects of the Project on Indigenous and treaty rights

Louis Bull Tribe is primarily concerned with the Project's pipeline integrity and possible contamination of "[…] the environment, vegetation, and wildlife". It stated that spills from pipelines are inevitable and have significant impacts on both the environment and traditional land use, but with appropriate preventative measures this concern can be mitigated. Its Elders and land users have advised the Louis Bull Tribe consultation office of concerns relating to cumulative effects and increased development proposed in the Upper Athabasca Region such as oil and gas, agriculture and forestry.

Louis Bull Tribe stated the Crown land surveyed in the Project area contains numerous wildlife and vegetation species which are of traditional cultural value to Louis Bull Tribe, and that the Project's construction and operation would put those resources at risk.

C. Key recommendations and conditions of Louis Bull Tribe

Recommendations and conditions	Discussed in Commission Report
• Protect and preserve diamond willow habitats to ensure the survival of diamond willow fungus.	4.3 Project's effects on vegetation and wetlands Condition 11
• At waterway crossings, avoid vegetation clearing where possible by using HDD and by developing crossings along existing linear disturbances with minimal RoW widening. • At the Sergeant Creek West crossing, improve bank stabilization with natural vegetation. • At the McQueen Creek crossing, actively re-naturalize as much as possible.	4.4 Project's effects on fish and fish habitat and water quality and quantity Conditions 8 and 11

• At the Peace River crossing, if vegetation clearing is required, avoid disturbing existing nesting sites, avoid the use of riprap along the ravine walls, and limit disturbance to the tops of banks to avoid additional disturbance within the ravine.	
• An Offset Measures Plan is necessary in the context of the legal framework that applies to the Project.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 39
• Reclamation efforts using native plant species are crucial.	4.3 Project's effects on vegetation and wetlands Condition 6
• Appropriate spill prevention measures are required throughout Pipeline construction and maintenance, particularly in the Peace River to address potential impacts of spills on traditional activities and cultural resources.	7.3 Pouce Coupé's plans and programs for the operation of the Project meet applicable safety requirements Condition 11
• Emphasized the need for regional assessment and cumulative effects management in the Peace River area.	5.3 Current conditions and high existing cumulative effects 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project

The Manitoba Métis Federation

A. Context for participation

The Manitoba Métis Federation is the National Government of the Red River Métis, an Indigenous collectivity and Aboriginal People within the meaning of section 35 of the *Constitution Act, 1982*. It is mandated to promote, protect, and advance the collectively held Aboriginal rights of the Red River Métis throughout and beyond the Province of Manitoba. The Red River Métis citizens and harvesters rely on and use the lands, waters, and resources within their traditional territory throughout the Province of Manitoba and elsewhere within the historic Northwest, to exercise their constitutionally protected rights and to maintain their distinct Red River Métis customs, traditions, and culture.

B. Effects of the Project on Indigenous and treaty rights

The Project would be located within the National Homeland of the Red River Métis, which extends from the Rocky Mountains in the west to northwestern Ontario in the east, and has the potential to impact Red River Métis rights, claims, and interests.

C. Key recommendations and conditions of the Manitoba Métis Federation

Recommendations and conditions	Discussed in Commission Report
Identify areas and features of interest or importance for Red River Métis. Work with the Manitoba Métis Federation to revise the EPP to describe targeted mitigation measures to minimize impacts.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.5 Severity determination for impacts to Indigenous rights Condition 11
Contract Manitoba Métis Federation representatives as Environmental and Cultural Monitors.	5.5 Severity determination for impacts to Indigenous rights Conditions 10 and 12

Métis Nation British Columbia

A. Context for participation

Métis Nation British Columbia represents Métis people in BC and is mandated to develop and enhance opportunities for Métis communities by implementing culturally relevant social and economic programs and services. It advocates for consultation with government and industry

where actions and activities on provincial and federal Crown lands have the potential to infringe on Métis rights and land use.

B. Effects of the Project on Indigenous and treaty rights

Métis Nation British Columbia expressed concern for the Project's impact on Indigenous Peoples living in the area. For example, there are towns in BC where the hotels are filled with pipeline workers and thus when Indigenous folks need to stay there to visit a medical facility or their family, there are no rooms or the prices have skyrocketed. It also inquired how the Project intends to ensure safety for women and girls during influx of (predominantly male) workers.

Métis Nation British Columbia shared with the CCC concerns related to:

- cumulative effects;
- offsets and offsets planning;
- baseline studies and data in the application and ESA;
- jurisdictional differences;
- inclusion of Indigenous knowledge; and
- mental health and community health impacts.

C. Key recommendations and conditions of Métis Nation British Columbia

Recommendations and conditions	Discussed in Commission Report
• Pouce Coupé should provide updates on employment, contracting and procurement for BC and Alberta, including describing opportunities for Indigenous Peoples and local businesses.	5.6 Interests and concerns of Indigenous Peoples 6.3 Economic effects of the Project Conditions 10, 18 and 35
• Minimum targets for employment, contracting, and procurement for BC versus Alberta, with preference for companies in close proximity to proposed work locations.	5.6 Interests and concerns of Indigenous Peoples
• An update on Project-related employment, contracting and procurement that includes a description of opportunities for Indigenous peoples and local businesses, including the minimum percentage of Indigenous-owned or Indigenous-affiliated businesses that will be employed, contracted, or procured from.	5.6 Interests and concerns of Indigenous Peoples Condition 10
• Pouce Coupé should provide a plan describing Indigenous Peoples' participation in construction, construction monitoring, and post-construction monitoring activities.	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33

• A plan describing how Indigenous Peoples and local communities will benefit through the construction and post-construction phases. This may include money made available for community grants, direct benefits to local businesses, and the provision of reliable internet services.	5.6 Interests and concerns of Indigenous Peoples Conditions 10, 18 and 35
• Consider the effects of proposed works on private land and Crown land that is already previously disturbed, and offset these effects. Planning also must consider unconventional impacts such as changes in noise levels, re-disturbance of RoW, and impacts to Indigenous culture, and mitigation of those impacts (e.g., support culture camps).	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project 6.1 Health effects of the Project Conditions 11, 17 and 39
• Seek consent from Indigenous Nations for the inclusion of Traditional Ecological Knowledge studies from past projects, online searches, etc.	5.6 Interests and concerns of Indigenous Peoples
• Provide a detailed Offsetting Plan for identified Project impacts for Métis Nation British Columbia to properly assess and identify residual impacts from the Project prior to its approval.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

O’Chiese First Nation

A. Context for participation

O’Chiese First Nation is a signatory to Treaty 6 and holds collective Inherent and treaty rights that are affirmed and protected under Treaty 6 and section 35 of the *Constitution Act, 1982.* It uses the term “Inherent rights” for their Aboriginal/Indigenous rights. It is the only Anishinabek Nation in Alberta, which is an important component to O’Chiese First Nation’s culture and history. O’Chiese First Nation's values and beliefs are distinct and rooted within its inherent and treaty rights. It is guided by *Kaa-Ke-Chi-Ko-Moo-Nan*, the O’Chiese First Nation Great Binding

Law (Natural Laws). It operates under its own distinct set of legal principles and laws that have been in place since time immemorial, which it understands and expects to be protected as part of its Inherent and treaty rights.

O'Chiese First Nation stated its members hold Inherent and Treaty rights on all unoccupied Crown lands or other lands to which there is a right of access throughout Treaty 6 territory and the province of Alberta. Any time that its members' ability to freely access these lands and resources for the exercise of their Inherent and Treaty rights in accordance with Natural Laws is impeded, this is a violation to their Inherent and Treaty rights.

O'Chiese First Nation takes the position that the Government of Alberta and the Government of Canada have continuously approved projects without proper consideration to cumulative impacts and violations to its Inherent and Treaty rights or thresholds for treaty infringement.

B. Effects of the Project on Indigenous and treaty rights

O'Chiese First Nation stated that if a project creates conditions or features that are not preferred and/or are incompatible with Natural Laws, its members will elect to avoid these areas whenever possible while exercising their Inherent and Treaty rights. Conversely, if a project decreases or eliminates conditions or features that are preferred or required in accordance with Natural Laws, that will also trigger avoidance behaviours by its members exercising their rights.

O'Chiese First Nation noted its Inherent and Treaty rights encompass all aspects of way-of-life including culture, lands and resources, livelihood, education, well-being, language, governance, and stewardship. It indicated that the Project is likely to create impacts to each of these aspects in various ways, which must all be assessed, considered, and addressed within this regulatory process. It noted its deep, important cultural connections with the lands and resources, and that it has seen the harm caused by human activity, including species at risk, water contamination, climate change, etc. New disturbance is anticipated for the entire length of the pipeline, and thus an expansion of the existing RoW to a width wider than currently exists. Development such as this creates deep and lasting scars on landscapes and impedes the ability for O'Chiese First Nation to live in accordance with its Natural Laws and to exercise its inherent and Treaty rights as it has since time immemorial.

O'Chiese First Nation stated that the Project as proposed would:

- violate lands and resources which are important to O'Chiese First Nation to preserve and protect;
- convert land into lands that are incompatible for O'Chiese First Nation's exercise of Inherent and Treaty rights in accordance with Natural Laws; and
- create disturbance to wildlife, fish, and vegetation resources and their habitats, which would lead to a decline in availability of culturally critical resources required by O'Chiese First Nation for the continued exercise of Inherent and Treaty rights and its way of life.

Through engagement with the CCC, O'Chiese First Nation advised that the Project may impact areas of historical importance.

C. Key recommendations and conditions of O’Chiese First Nation

Recommendations and conditions	Discussed in Commission Report
• Offset land disturbances and legal restrictions through the setting aside of other lands in accordance with Natural Laws. • Offset land disturbances and legal restrictions through financial compensation or other benefit frameworks to be identified collaboratively with O’Chiese First Nation.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39
• Ensure mitigation measures do not inadvertently cause additional violations to Inherent and Treaty rights and interests. • Accommodation measures be jointly identified and implemented between the proponent and the Nation and the Crown and the Nation.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 17
• No details were provided around whether the proponent or the CER would be applying equal consultation conditions or requirements to all Indigenous nations impacted by the Project. • All affected Nations on both sides of the border should be consulted the same way and receive equal treatment in this regulatory process. • Apply any conditions or steps required under the Blueberry Claim Area to the entirety of the Project, no matter which side of the border the Project activity or the impacted Nation may reside.	2.1 The duty to consult and accommodate was met through the hearing process 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

Otipemisiwak Métis Government

A. Context for participation

Otipemisiwak Métis Government (formerly known as Métis Nation of Alberta) is the authorized body to represent the collective Indigenous rights, claims, and interests of the Métis within Alberta. The Otipemisiwak Métis Government Consultation Department is seized by the importance of ensuring Métis rights under section 35 of the Constitution are respected and accommodated in the Alberta portion of the Project Area, as this is within a known harvesting area for Citizens of the Métis Nation within Alberta. The Project would intersect with and would be located within the Peace River Territory and Districts 13 (Grande Prairie Métis District) and 14 (Peace River Métis District). The Project would also intersect with and be located within Métis Harvesting Area A.

The Otipemisiwak Métis Government Constitution outlines the rights that the Métis Nation within Alberta hold and may exercise, including, but not limited to:

- the right to self-determination and self-government; the right to a land base to sustain its existence, identity, culture, language, and way of life;
- the right to own, access, use, and benefit from Métis lands, the Territories, and lands and resources of the Métis Nation Homeland;
- the right to harvest resources of the Métis Nation Homeland in keeping with the customs, practices, and traditions of the Métis Nation within Alberta and Otipemisiwak Métis Government laws to benefit and sustain Métis families, the communities of the Territories, and the Métis Nation within Alberta as a whole;
- the right to mobility throughout the Métis Nation Homeland;
- the right to speak, transmit, and ensure the vitality of the languages of the Métis Nation within Alberta; and
- the right to practice, transmit, and ensure the continuation and evolution of the spirituality, customs, practices, and traditions of the Métis Nation within Alberta without harassment, discrimination, or persecution.

B. Effects of the Project on Indigenous and treaty rights

The Project would intersect with and be located within the Peace River Territory and Districts 13 (Grande Prairie Métis District) and 14 (Peace River Métis District). The Project would be located within the Grizzly Bear Support Zone and would also intersect with and be located within Métis Harvesting Area A.

C. Key recommendations and conditions of Otipemisiwak Métis Government

Recommendations and conditions	Discussed in Commission Report
• Ensure habitat of grizzly bears and other species is minimally impacted within the project footprint, and if disturbance will occur, provide offsets to other areas within grizzly habitat and range within the region.	4.5 Project's effects on wildlife and wildlife habitat 5.5 Severity determination for impacts to Indigenous rights Condition 11
• The application includes a long-term monitoring plan and socio-economic assessment, informed by and codeveloped with Métis citizens and Elders from Grande Prairie Métis District 13.	5.5 Severity determination for impacts to Indigenous rights
• An offset condition must "explicitly state that "undisturbed" land used to calculate offsets must include the undisturbed lands affected by the entire construction footprint, not just the right of way." • Create a plan regarding offsets for areas within Harvest Area A that may be impacted by the Project. • Rehabilitate carefully chosen sites to directly support the exercise of Indigenous rights.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 6, 17 and 39
• Require a mitigation plan for disturbance of harvesting areas and areas within the Project RoW that may impact the growth and habitat of medicinal plant species.	4.3 Project's effects on vegetation and wetlands 5.4 Project effects analysis Conditions 11 and 20

Paddle Prairie Métis Settlement

A. Context for participation

Paddle Prairie Métis Settlement is one of eight Métis Settlements in Alberta and is a member of the Métis Settlement General Council, operating under the Alberta *Metis Settlement Act.* The eight settlements, including Paddle Prairie Métis Settlement, are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy*. Paddle Prairie Métis

Settlement stated that their intention remains to support safe, equitable, and culturally respectful project development that safeguards the wellbeing of the Métis peoples and the environment upon which their way of life depends.

B. Effects of the Project on Indigenous and treaty rights

The Paddle Prairie Métis Settlement stated it is directly impacted by the Project as its footprint impacts their traditional land use area and overlaps the Peace River, which is a primary water body for the Settlement. The Peace River flows along the eastern side of the Settlement and any contamination will affect community members. The Peace River and the surrounding environment was an integral part of its traditional lands.

The Peace River, which would be crossed by the Project, is essential to Paddle Prairie Métis Settlement for traditional harvesting, spiritual practices, and cultural identity. The cumulative environmental effects of industrial development continue to limit access to lands, waters, and species critical to the Settlement's way of life. It is concerned about HDD under the Peace River.

Paddle Prairie Métis Settlement maintains its belief that consultation remains insufficient, which it stated is supported by its own draft internal assessments conducted by its field monitors in June 2025. It stated these internal assessments further reinforce the concerns it has shared previously regarding Project-related effects, and it has identified potential risks to culturally significant (edible, medicinal, and ceremonial) plant species and wildlife.

Paddle Prairie Métis Settlement requested the Commission to adopt the Settlement's recommended revisions to the draft conditions and ensure that Project approvals are conditional on rights-based implementation practices. It relies on *CER Act,* section 56 (1) to assert that mitigation must be developed in collaboration with affected rights holders.

C. Key recommendations and conditions of Paddle Prairie Métis Settlement

Recommendations and conditions	Discussed in Commission Report
Paddle Prairie Métis Settlement recommended the following revisions to potential conditions: • Co-development and approval processes with Métis Settlements for all Indigenous-specific conditions. • Co-develop the EPP with Paddle Prairie Métis Settlement. • Require training, funding, and meaningful roles in the Indigenous Monitoring Plan. • Explicitly fund technical advisory support for Paddle Prairie Métis Settlement in the Indigenous review support condition and require a two-way feedback loop on results.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.5 Severity determination for impacts to Indigenous rights 7.1 The design of the Pipeline and facilities meets applicable safety requirements

• Subject harvesting reports to CER approval and include Indigenous-defined criteria for success.[150] • List Paddle Prairie Métis Settlement as a required participant in emergency response exercises, with notification and inclusion protocols tied to the Settlement's consultation process. • Include a Métis-specific socio-economic and health impact assessment as a standalone condition. • Apply all conditions under both s.183 and s.214 instruments to ensure they are enforceable at every stage of the Project.	7.3 Pouce Coupé's plans and programs for the operation of the Project meet applicable safety requirements Conditions 7, 11, 12, 33 and 37
• Include agreements and funding provisions to guarantee active participation. • Include funded technical advisory support and iterative engagement. • Require joint Indigenous-CER emergency response planning. • Require a health and cultural impact study specific to Métis communities. • All Indigenous-facing plans be subject to both CER approval and third-party review.	5.5 Severity determination for impacts to Indigenous rights 7.3 Pouce Coupé's plans and programs for the operation on the Project meet applicable safety requirements

Peavine Métis Settlement

A. Context for participation

Peavine Métis Settlement is one of eight settlements that are 'recognized Métis harvesters' under the Government of Alberta's *Métis Harvesting in Alberta Policy.* As such, its members may hunt, trap and fish for food in designated areas.

B. Effects of the Project on Indigenous and treaty rights

Peavine Métis Settlement expressed concerns for the health of the Peace River, both during installation and throughout operation. It is located only one hour away, and a lot of fishing occurs there. Any incidents that occur at the Peace River, from this Project and others, will be on the doorstep of Peavine Métis Settlement.

Peavine Métis Settlement expressed concern regarding a large patch of birch trees and chaga within the Project area and requested it be avoided or preserved, with opportunities to harvest prior to construction. It also expressed interest in providing seeds and seedlings natural to the area with the potential to be used as a local food source, including trees, berries, other foliage and fauna. It recommended collaboration with Indigenous communities closer to the Project area to discuss what vegetation is important to revegetate or replant.

[150] The report required to be filed for Condition 20 relates to the engagement conducted by Pouce Coupé relating to pre-construction harvesting but does not require Pouce Coupé to report on harvesting by Indigenous Peoples.

Peavine Métis Settlement shared with the CCC its ongoing initiatives, including its “2 Billion Tree” project and progress toward establishing a regional seed collection and storage facility. The facility is intended to support the use of local and culturally relevant species in reclamation activities.

Peavine Métis Settlement stated that reclamation processes are important and that baseline assessments should inform reclamation practices, and the land reclaimed to its prior state.

C. Key recommendations and conditions of Peavine Métis Settlement

Recommendations and conditions	Discussed in Commission Report
• Work collaboratively with Indigenous communities on reclamation plans and reclamation efforts	4.3 Project’s effects on vegetation and wetlands Condition 6
• Partner on initiatives such as a seed storage facility to preserve important plant species for future generations.	4.3 Project’s effects on vegetation and wetlands
• Involve the community in selecting plant species for reclamation and use lower-growing, fire-resistant native plants and shrubs, including berry species, which are both ecologically suitable and culturally meaningful.	4.3 Project’s effects on vegetation and wetlands
• Involve Indigenous communities in Pouce Coupé’s environmental monitoring. • Create an evolving, evergreen proponent monitoring plan that can accommodate emerging issues and adapt over time. • Develop a “third body” model, where monitors can work independently alongside the proponent’s consultants without being subsumed under external firms.	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33
• Use a long-term and flexible approach to assessing and addressing socio-economic impacts. • Develop a socio-economic monitoring plan that includes community-specific data and allows for long-term tracking of both direct and indirect Project impacts.	5.5 Severity determination for impacts to Indigenous rights Conditions 18 and 35
• Develop a partnership model wherein trained individuals are employed directly by the community between project phases to contribute to long-term capacity and economic resilience and support the retention of skilled community members, partially supported by Pouce Coupé.	5.6 Interests and concerns of Indigenous Peoples Condition 10
• Establish a notification system that alerts Indigenous communities of any incidents in real time. Have community members participate in safety training sessions held within their traditional territory.	7.3 Pouce Coupé’s plans and programs for the operation of the Project meet applicable safety requirements Condition 37

Prophet River First Nation

A. Context for participation

Prophet River First Nation is a signatory to Treaty 8. Its members possess both inherent Indigenous rights as well as Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982*. These rights include the rights to hunt, fish, trap, gather and engage in ceremonial traditions.

B. Effects of the Project on Indigenous and treaty rights

Prophet River First Nation expressed concern that the Project's contributions to the cumulative effects of industrial development will further limit its members' ability to exercise their rights in their traditional territory. It seeks that the Project's impacts to its members' rights be avoided, mitigated, and, where necessary, offset.

C. Key recommendations and conditions of Prophet River First Nation

Recommendations and conditions	Discussed in Commission Report
• Conduct year-round surveying to fully capture the wildlife in the area.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment
• Apply mitigation measures found in the Implementation Agreement to the full Project rather than only those portions of the Project located within the Blueberry River First Nations' Claim Area.	5.6 Interests and concerns of Indigenous Peoples 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 39
• The Commission's recommendation must reflect the current legal standards concerning the implementation of the UN Declaration, inclusive of the need to secure free, prior and informed consent from Prophet River First Nation.	2.1 The duty to consult and accommodate was met through the hearing process 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

Saulteau First Nations

A. Context for participation

Saulteau First Nations is a signatory of Treaty 8. The entire Project would be within Treaty 8 territory; however, the Pipeline would not cross through priority areas identified in the Consensus Document signed with Saulteau First Nations.

B. Effects of the Project on Indigenous and treaty rights

Saulteau First Nations shared that their most pressing concern regarding pipeline projects is the environmental impact. The construction and maintenance of pipelines disrupts wildlife migration patterns, reduces biodiversity, and degrades the natural environment that sustains traditional

hunting, fishing, and harvesting practices. They indicated factors that would be impacted by the Project, such as:

- their ability to continue and practice their way of life;
- their Treaty 8 right to hunt, fish, gather; and
- the spiritual connection to the land ceremonies, without interference of industry development.

Saulteau First Nations stated the environment is very important to "continue to have fresh clean drinking water, healthy native vegetation, healthy populations of wildlife and amphibian's ecosystem". They are dedicated to ensuring their treaty is upheld and the environment is protected and preserved for future generations to come. They expressed concern with the trees cut down during the Project lifecycle and warned Pouce Coupé to be careful of the diamond willow which has fungus used for medicinal purposes. It takes 20 years for the tree and the fungus to grow back. They reported that the expansion of industrial activity into its traditional territory has negatively impacted native plants and habitats such as berry bushes and medicines, which are often replaced by grass seeds during reclamation work.

Saulteau First Nations repeatedly emphasized their concerns regarding ongoing issues related to Missing and Murdered Indigenous Women and Girls (MMIWG), procurement, local benefits, and contractor selection, and traffic and road safety. Members also emphasized that they would like to see their leadership focus on protecting wildlife and wildlife habitat features including dens, moose licks, and beaver dams, ensuring proper reseeding of native species, avoiding the destruction of traplines and Crown land and blocking access along RoWs to deter increased access by non-Indigenous land-users.

C. Key recommendations and conditions of Saulteau First Nations

Recommendations and conditions	Discussed in Commission Report
• Saulteau First Nations Treaty Rights and Environmental Protection Office should be involved in all stages of the proposed Project in relation to ecological restoration, from initial site assessments to monitoring and reclamation to ensure that the environment is returned to a pre-development baseline. • Saulteau First Nations should be: o invited to assess the land regardless of whether the studies take place on private land or existing areas of disturbance; o invited in the next field season due to their expertise of the land; o involved within its consultation area which extends to the BC border; o involved with monitoring activities throughout construction and the lifecycle of the Project; o involved in discussions about mitigation measures during the pre-assessment stages out on field with proponents' environmental companies.	5.4 Project effects analysis 5.5 Severity determination for impacts to Indigenous rights 5.6 Interests and concerns of Indigenous Peoples 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project

	Conditions 6, 12, 17 and 33
• Data on animal collision fatalities should be collected and reported on to help sustainably manage animal populations.	4.5 Project's effects on wildlife and wildlife habitat Condition 11
• Require investment back into the communities in way that improves quality of life. • Concerned that oil and gas companies receive revenues while land users are left with the long-term impacts of habitat loss.	5.6 Interests and concerns of Indigenous Peoples
• Want avoidance first; if this cannot be achieved, then the Nation wants mitigation measures in place. • Existing infrastructure should be used where possible. • Blocking sightlines is a key initiative to be taken to reduce existing impacts to its members' hunting and trapping values. • Traplines should be avoided so that machinery during construction does not scare animals and so tree stands and animal habitats remain intact. • Water is sacred, and water features that are to be crossed or are discovered, should be properly avoided or mitigated.	4.5 Project's effects on wildlife and wildlife habitat 4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.5 Severity determination for impacts to Indigenous rights Conditions 8 and 11

Sturgeon Lake Cree Nation

A. Context for participation

Sturgeon Lake Cree Nation is a Cree-speaking community and a signatory of Treaty 8. It is affiliated with the Western Cree Tribal Council along with Duncan's First Nation and Horse Lake First Nation.

B. Effects of the Project on Indigenous and treaty rights

Sturgeon Lake Cree Nation expressed concerns regarding socio-economic and cumulative impacts of the Project.

C. Key recommendations and conditions of Sturgeon Lake Cree Nation

Recommendations and conditions	Discussed in Commission Report
Monitoring is important for the community	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33

Sucker Creek First Nation

A. Context for participation

Sucker Creek First Nation is a signatory to Treaty 8. Its members possess both inherent Indigenous rights as well as Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982.* These include the rights to hunt, fish, trap, gather, and engage in ceremonial traditions. Sucker Creek First Nation's land base, Sucker Creek 150a, is approximately 234 km east of the Project.

B. Effects of the Project on Indigenous and treaty rights

Sucker Creek First Nation members exercise their rights in the vicinity of the Project. It seeks to ensure that the Project's impact on its members' rights is avoided or mitigated and, if complete avoidance or mitigation is not possible, that the Project's residual contribution to cumulative effects is appropriately offset.

C. Key recommendations and conditions of Sucker Creek First Nation

Recommendations and conditions	Discussed in Commission Report
• An Offset Measures Plan is necessary in the context of the legal framework that applies to the Project.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 39

• Establish buffer zones around key wildlife habitat features including leks, nests, dens, houses, and prominent wildlife corridors. • Use existing trails, disturbed areas, or already compacted sites for access and construction activities. • Flag the mineral lick to prevent potential disturbance or destruction. • Conduct surveys, including a wildlife sweep, ahead of clearing and ground disturbance to identify key wildlife areas. Buffer these areas to prevent disturbance to the active biodiversity habitat.	4.5 Project's effects on wildlife and wildlife habitat 4.9 The Commission recommends two general conditions to address the Project's effects on the environment Condition 11
• Include the Nations' monitors in all stages of reclamation activities to ensure that traditional ecological knowledge is integrated into restoration efforts and that culturally important sites are appropriately protected and rehabilitated. • Monitoring opportunities need to be more meaningful, with opportunities moving away from "watching" and towards "inspecting".	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33
• Include additional measures aimed at offsetting the Project's impacts to Sucker Creek First Nation's rights and traditional way of life by providing opportunities to its members.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 39
• Safeguard streams (including dry streambeds) with appropriate buffer zones to prevent contamination and protect water quality. • Ensure that sediment settling basins are of adequate size to compensate for excess sediment run-off and erosion (i.e., storm water run-off, misdirected drainage). • An erosion and sediment management plan should be in place during construction and operation of the Project. • Any in-water work must minimize the disturbance to the watercourse.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment Conditions 8 and 11
• Replant the species present, ideally by saving seeds and laying down the existing vegetation as a seedling bank from the cleared area to promote natural regeneration with local species. • Seed banks from the area to be cleared, especially those supporting native and culturally harvested plant species such as common Labrador tea (*Rhododendron groenlandicum*), are separated along the length of the proposed pipeline.	4.3 Project's effects on vegetation and wetlands

• Prohibited noxious and noxious weed species should be removed as they are observed and best practices to limit the introduction of seeds of invasive species should be used. Hand and mechanical weed control methods should be prioritized to prevent damage, with a strict prohibition on chemical spraying to maintain the integrity of the natural vegetation. • Vegetation clearing must respect the native and traditional-use plant species and preserve trees that may offer wildlife habitat (snags, cavities, flaking bark) wherever possible, as long as they do not pose a safety risk. • Understory vegetation must be left intact as much as possible to preserve culturally important plants. • Minimize tree and vegetation removal along the banks of streams and water bodies. • Avoid sensitive timing windows for wildlife when clearing vegetation and limit ground disturbance.	4.3 Project's effects on vegetation and wetlands 4.9 The Commission recommends two general conditions to address the Project's effects on the environment Condition 11

Tse'khene (McLeod Lake) Indian Band

A. Context for participation

McLeod Lake Indian Band (Tse'khene) are Athapascan-speaking people known as "people of the rocks," and are signatories to Treaty 8.

B. Effects of the Project on Indigenous and treaty rights

Hunting is an important part of McLeod Lake Indian Band culture, and the traditions, knowledge, and sets of values that are practiced are passed down through generations. They reported that disturbance of lands would place further constraints on their ability to hunt and provide food throughout the community. In particular, they noted that other projects had created poorly managed access roads being used in unintended ways. Further, the Kiskatinaw River is one of the few water sources open for First Nation land uses and travel in the area.

McLeod Lake Indian Band shared the following Project-related concerns with the CCC:

- cumulative effects and offset planning;
- Kiskatinaw River protection;
- beavers and beaver habitat; and
- future abandonment in place of the pipeline under the river causing damage to the riverbed and aquatic life.

C. Key recommendations and conditions of McLeod Lake Indian Band

Recommendations and conditions	Discussed in Commission Report

• Avoid beaver habitat.	4.5 Project's effects on wildlife and wildlife habitat Condition 11
• Use aerial crossings at the Kiskatinaw River. • Guardians should be assigned for the Kiskatinaw crossing to monitor potential adverse effects on wildlife. • Place wildlife cameras on both sides of the river to monitor any changes in behaviors or travel routes (trails) both before construction, during and after.	4.4 Project's effects on fish and fish habitat and water quality and quantity 4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.5 Severity determination for impacts to Indigenous rights Condition 12
• Upgrading crossing structures (i.e., replacing culverts with clear span bridges) may be beneficial to reducing the potential for interactions.	4.4 Project's effects on fish and fish habitat and water quality and quantity
• Water roads to suppress dust and contamination from traffic. • Reduce speed to prevent auditory disturbance to peaceful enjoyment.	4.9 The Commission recommends two general conditions to address the Project's effects on the environment 6.1 Health effects of the Project Condition 11
• Habitat offsetting and enhancement required, to be determined through engagement with McLeod Lake Indian Band.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 17 and 39

West Moberly First Nations

A. Context for participation

West Moberly First Nations are a Dane-zaa (Beaver) and Cree speaking community and a signatory to Treaty 8.

B. Effects of the Project on Indigenous and treaty rights

West Moberly First Nations continues to maintain a traditional lifestyle, relying on subsistence activities such as hunting, trapping, and fishing. The Pine River is defined as a critical hunting area for West Moberly First Nations. The mouth of the Pine River is within the RAA for the Project, while the Peace River would be crossed by the Pipeline through HDD.

The Peace River and its tributaries, along with the Pine River, are areas in which West Moberly First Nation harvests berries. The Peace River valley has historically played an essential role in the transmission of cultural skills and values and is still considered an important harvesting and teaching area.

C. Key recommendations and conditions of West Moberly First Nations

Recommendations and conditions	Discussed in Commission Report
No recommendations or conditions were submitted on the hearing record.	Not applicable

Whitefish (Goodfish) Lake First Nation #128

A. Context for participation

Whitefish Lake First Nation #128 is a signatory of Treaty 6. As a Treaty 6 First Nation, its members have carried out its way of life within its traditional territories for centuries.

Whitefish (Goodfish) Lake First Nation #128 takes the position that the Governments of Alberta and Canada have infringed Treaty 6 by authorizing land uses that significantly diminish its Aboriginal and Treaty rights protected by the *Constitution Act, 1930* and section 35 of the *Constitution Act, 1982*. It is in this context that the nation participates in the OH-001-2024 hearing.

B. Effects of the Project on Indigenous and treaty rights

Whitefish (Goodfish) Lake First Nation #128 highlighted their concern for potential impacts on caribou and caribou habitat. It sees the declining population of boreal caribou as an example of unchecked disturbance to its treaty right to harvest throughout Alberta and supports the deep concern that cumulative impacts to treaty rights are not being proactively addressed. Cumulative impacts on its Aboriginal and treaty rights remain a major concern. Whitefish (Goodfish) Lake First Nation #128 stated that the Project's impact on fish and fish habitat could reduce the availability of fish for its fishermen in the Pouce Coupé watershed, particularly in

Sergeant Creek, which could negatively affect the exercise of its treaty rights to fish for food in the Project area. The Project would likely result in the loss or disturbance of native plant communities, listed plant species and ecological communities, and the introduction of the invasive species clubroot and other weeds.

C. Key recommendations and conditions of Whitefish (Goodfish) Lake First Nation #128

Recommendations and conditions	Discussed in Commission Report
• Provided comments on the role of the CCC, including that it did not meaningfully engage in two-way dialogue with Whitefish (Goodfish) Lake First Nation #128 and did not adequately develop recommendations, mitigations, and accommodations during the virtual conditions workshop.	2.1 The duty to consult and accommodate was met through the hearing process
• Specific articles of the UN Declaration *(*Article 32.2, Article 32, Article 43*)* apply to the Project assessment and would help the CER in determining if the obligations under the UN Declaration, the duty consult, and the honour of the Crown have been met.	2.1 The duty to consult and accommodate was met through the hearing process
• Monitoring should address cumulative effects and impacts that may result from the Project. • Emphasized the need for regional assessment and cumulative effects management in the Peace River area.	5.3 Current conditions and high existing cumulative effects 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 12, 17 and 33
• Recommended an additional 13 conditions to address its concerns regarding critical protections for Aboriginal and treaty rights: ○ Pre-construction: Quality Management Plan; Indigenous Skills and Business Capacity Inventory, Training and Education Monitoring Plan; Technical Working Group – Terms of Reference; Archaeological and Heritage Assessment; Traditional Land Use Investigation Report; Plan for Indigenous Group Participation in Construction Monitoring; Heritage Resources and Sacred and Cultural Sites. ○ During construction: Indigenous, local, and regional employment and business opportunity monitoring reports; Notification and reporting on emergency response exercises; Groundwater monitoring program.	5.5 Severity determination for impacts to Indigenous rights 5.6 Interests and concerns of Indigenous Peoples Conditions 10, 12, 13, 18, 21, 33, 35 and 37

○ Post-construction: Community Benefits Program progress reports; Reports on engagement with Indigenous groups – operations.	
• Recommend that any offset conditions address impacts on disturbed and undisturbed Crown lands, using the net gain approach modeled by the NEBC Connector Project's Offset Plan. • Measures to offset the impacts of a Project must expressly respond to impacts to Aboriginal and treaty rights. • The principles guiding the Offsetting Plans should include considerations to address disruptions to Aboriginal and treaty rights, including: hunting, fishing, harvesting, gathering, knowledge transmission, and cultural continuity (as described by the CCC). • Recommend a substantially increased offset ratio be applied and stated that "If Canada is serious about meeting its commitments as a treaty partner then it must address cumulative impacts to Aboriginal and treaty rights: effective offsetting measures are one way to do this."	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 17 and 39

Whitefish Lake First Nation #459

A. Context for participation

Whitefish Lake First Nation #459 is an adherent of Treaty 8 and submitted that its members possess both inherent Indigenous rights as well as Aboriginal and treaty rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982.* These rights include the rights to hunt, fish, trap, gather, and engage in ceremonial traditions.

B. Effects of the Project on Indigenous and treaty rights

Whitefish Lake First Nation #459 stated the Project, Gordondale, and Saddle Hills County areas are within its traditional territory. Its members expressed that their section 35 rights are not taken into consideration when pipelines are built and treaties are not being upheld due to the depletion of traditional plants, medicinal plants, and the animals that eat those plants, including moose and elk. Whitefish Lake First Nation #459's presentation of its oral Indigenous Knowledge highlighted its deep interest in monitoring industrial development, like the Project, throughout its whole lifecycle, "[…] from when the project starts [to] when the project ends." In the oral Indigenous Knowledge session, community member Nick Anderson expressed his concerns that the Project area, as with previous projects in Whitefish Lake First Nation #459's territory, would not be properly restored in a way that is conducive to its members' use for the purpose of exercising their rights.

C. Key recommendations and conditions of Whitefish Lake First Nation #459

Recommendations and conditions	Discussed in Commission Report
• There should be economic accommodations to impacts, not economic reconciliation, like Whitefish Lake First Nation #459's experience with Trans Mountain as an example for economic benefits. • Economic accommodation is expected from the Crown and/or the Proponent.	5.6 Interests and concerns of Indigenous Peoples
• The BC regulatory regime arising from the *Yahey* decision should also apply in Alberta, since the cumulative effects noted in that decision are also present in Alberta.	5.3 Existing context and cumulative effects 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Condition 39
• The Commission should recommend conditions that facilitate Whitefish Lake First Nation #459's direct, meaningful involvement in monitoring and oversight of the Project through all the Project's phases, especially in regard to clearing of vegetation and re-vegetation in the Project area.	4.3 Project's effects on vegetation and wetlands 5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 12, 17 and 33
• In-depth consideration of the Project's contribution to cumulative effects, or appropriate baselines for measuring cumulative effects. • An Offset Measures Plan is necessary in the context of the legal framework that applies to the Project. • It is crucial for Pouce Coupé to thoroughly address the Nation's concerns and provide a transparent response to the mitigation measures proposed in this report. Active dialogue and responsiveness to the Nation's feedback are necessary for ensuring that the Project aligns with their cultural, environmental, and traditional values.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project

	Conditions 17 and 39
• Establish buffer zones around key wildlife habitat features including leks, nests, dens, houses, and prominent wildlife corridors. • Use existing trails, disturbed areas, or already compacted sites for access and construction activities. • Flag the mineral lick to prevent potential disturbance or destruction. • Conduct surveys, including a wildlife sweep, ahead of clearing and ground disturbance to identify key wildlife areas. Buffer these areas to prevent disturbance to the active biodiversity habitat.	4.5 Project's effects on wildlife and wildlife habitat 4.9 The Commission recommends two general conditions to address the Project's effects on the environment 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 11 and 17
• Include the Nation's monitors in all stages of reclamation activities to ensure that traditional ecological knowledge is integrated into restoration efforts and that culturally important sites are appropriately protected and rehabilitated. • Monitoring opportunities need to be more meaningful, with opportunities moving away from "watching" and towards "inspecting".	5.5 Severity determination for impacts to Indigenous rights Conditions 12 and 33
• Facilitate Whitefish Lake First Nation #459's participation in monitoring, planning and oversight of implementation measures to avoid or mitigate impacts of the Projects to the rights of Whitefish Lake First Nation #459 and its members, and provide additional measures aimed at offsetting the Project's impact to Whitefish Lake First Nation #459's rights and traditional way of life.	5.5 Severity determination for impacts to Indigenous rights 5.7 Additional mitigation measures to accommodate the rights and mitigate impacts to the interests of Indigenous Peoples affected by the Project Conditions 12, 17, 33 and 39
• Safeguard streams (including dry streambeds) with appropriate buffer zones to prevent contamination and protect water quality. • Ensure that sediment settling basins are of adequate size to compensate for excess sediment run-off and erosion (i.e., storm water run-off, misdirected drainage). • An erosion and sediment management plan should be in place during construction and operation of the Project. • Any in-water work must minimize the disturbance to the watercourse.	4.4 Project's effects on fish and fish habitat and water quality and quantity 4.9 The Commission recommends two general conditions to address the Project's

	effects on the environment Conditions 11 and 26
• Replant the species present, ideally by saving seeds and laying down the existing vegetation as a seedling bank from the cleared area in an effort to promote natural regeneration with local species. • Seed banks from the area to be cleared, especially those supporting native and culturally harvested plant species such as common Labrador tea (*Rhododendron groenlandicum*), are separated along the length of the proposed pipeline.	4.3 Project's effects on vegetation and wetlands Condition 6
• Prohibited noxious and noxious weed species should be removed as they are observed and best practices to limit the introduction of seeds of invasive species should be used. Hand and mechanical weed control methods should be prioritized to prevent damage, with a strict prohibition on chemical spraying to maintain the integrity of the natural vegetation. • Vegetation clearing must respect the native and traditional-use plant species and preserve trees that may offer wildlife habitat (snags, cavities, flaking bark) wherever possible, as long as they do not pose a safety risk. • Understory vegetation must be left intact as much as possible to preserve culturally important plants. • Minimize tree and vegetation removal along the banks of streams and water bodies. • Avoid sensitive timing windows for wildlife when clearing vegetation and limit ground disturbance.	4.3 Project's effects on vegetation and wetlands Condition 11