

Appendix B.23 – Splats’in First Nation

I – Background Information

Splats’in First Nation (Splats’in), sometimes referred to as Spallumcheen, is the southernmost Secwépemc (Shuswap) group in British Columbia (BC). Splats’in’s registered population is 897 (324 are living on their reserve, 72 are living on other reserves, and 498 are living off reserve). Splats’in has three reserves along the Shuswap River between Sicamous and Enderby, approximately 75 kilometres (km) north of Kelowna: Enderby Reserve No.2 (2,267 hectares [ha]), Salmon River (Splats’in) Reserve No.1 (1,559.3 ha), and Sicamous Reserve No.3 (78.9 ha). Splats’in asserts Aboriginal rights and title within their traditional territory.

Splats’in members speak the traditional language, Secwepemcstin. Splats’in is ethnographically recognized as part of the “Shuswap Lakes Division” of the Secwépemc or Shuswap people. The Shuswap River was an important transportation route to travel to other villages and food harvesting sites. The Secwépemc are part of the Interior Salish People, who were considered historically as a semi-nomadic trading society, gathering berries in the summer and hunting and fishing throughout the year.

Splats’in is party to the Secwépemc Nation protective *Writ of Summons*, which was filed in the BC Supreme Court on December 10, 2003, asserting Aboriginal title to a territory identified in the writ. Splats’in also submitted a Statement of Intent to the BC Treaty Commission in 1994 using the title ‘Spallumcheen Indian Band,’ and though accepted, the negotiation has not proceeded and is not listed on the BC Treaty Commission website.

II – Preliminary Strength of Claim Assessment

- The Project would see approximately 75 km of new right of way (RoW) built through Secwépemc’s asserted traditional territory. The existing and proposed RoW crosses through Secwépemc Nation traditional territory for approximately 350 km.
- The Project RoW does not enter into the Splats’in’s area of interest, located approximately 20 km away from that particular area. The RoW is 71 km from the nearest Splats’in reserve.

III – Involvement in the NEB and Crown Consultation Process

Given the nature and location of the Project, and the potential impacts of the Project on Splats’in’s Aboriginal Interests, the Crown is of the view that the legal duty to consult Splats’in lies at the middle portion of the *Haida* consultation spectrum. In consideration that the Project would not intersect with Splats’in’s asserted traditional territory, Splats’in was placed on Schedule C of the Section 11 Order issued by the Environmental Assessment Office (EAO). The consultation that was provided to Splats’in is described in Section III of this appendix and is consistent with the middle portion of the *Haida* spectrum.

Splats’in did not participate in the National Energy Board (NEB) review of the Project, did not submit an application for funding to the NEB, and has not responded to any Crown correspondence to date. The Major Projects Management Office (MPMO) offered Splats’in \$6,000 in participant funding for consultations following the close of the NEB hearing record. MPMO offered Splats’in an additional \$7,000 to support their participation in consultations following the release of the *NEB Recommendation Report*. Splats’in did not use these funding opportunities.

The Crown provided a first draft of this Report to Splats'in for review and comment on August 17, 2016. The Crown did not receive comments from Splats'in on the draft Report. A second draft of this Report

was provided to Aboriginal groups for review and comment on November 1, 2016. The Crown has not received comments from Splats'in.

IV – Summary of Key Splats'in Issues and Concerns Raised

Splats'in did not participate in the NEB review, nor have they communicated with the Crown. In reviewing the proponent's Aboriginal Engagement Log, Splats'in did not respond to the proponent's correspondence and they did not meet with them to the best of the Crown's knowledge.

The Crown is in receipt of an open letter sent to Prime Minister Justin Trudeau, Alberta Premier Rachel Notley, and BC Premier Christy Clark from a collective of Aboriginal groups, including Splats'in. This letter identifies interests and concerns related to Indigenous consent of the Project and the Project's consultation process.

Splats'in's Response to *NEB Recommendation Report*

No specific comments received on the *NEB Recommendation Report*.

V – Potential Impacts of the Project on Splats'in's Aboriginal Interests

A discussion of the Crown's approach to assessing Project impacts on Aboriginal Interests is provided in Section 2.4.3 of this Report. The Crown recognizes that areas within the asserted traditional territory of each Aboriginal group may be particularly important and valuable for specific qualities associated with traditional cultural or spiritual practices. These areas may also be used for traditional harvesting activities (e.g., hunting, trapping, fishing and gathering), by individual members or families.

It is the Crown's understanding that Splats'in did not participate in the NEB process and did not complete a traditional land and resource use study for the Project. The Crown has also not received any response from Splats'in to Crown correspondence to date. As a result, the Crown has limited information on the specific sites and resources used by Splats'in for traditional purposes that could be impacted by the Project.

The general direct and indirect effects of the Project on Aboriginal Interests, along with key mitigation measures, are described in Section 4.3 of the main body of this Report. As described in that section, routine Project-related activities are likely to result in low to moderate impacts on the lands, waters and resources that Aboriginal groups use to exercise their hunting, trapping, plant gathering, fishing, and other traditional activities. Short-term, temporary access disruptions to traditional activities are expected, although these impacts would be localized within the Project footprint for the pipeline and associated facilities. The distance of Splats'in's area of interest is located approximately 20 km from the Project area, which reduces the potential for Splats'in's exercise of Aboriginal Interests to be directly impacted by routine Project activities. In consideration of the information available to the Crown from the NEB process, the proponent's proposed mitigation measures and the recommended NEB conditions, as well as relevant proposed conditions of any Environmental Assessment Certificate issued by the Province, the Project is expected to result in a negligible impact on Splats'in's Aboriginal Interests.

A discussion of the potential impacts of a pipeline spill on Aboriginal Interests is provided in Section 4.3.6 of this Report. In consideration of this information and analysis, as well as information available to the Crown on Splats'in's Aboriginal Interests, and the distance of Splats'in's area of interest to the Project area, a pipeline spill associated with the Project could result in negligible to moderate impacts on Splats'in's exercise of Aboriginal Interests, depending on the characteristics and severity of the spill. The Crown acknowledges the numerous factors that would influence the severity and types of

effects associated with a pipeline spill, and that an impacts determination that relates the consequences of a spill to specific impacts on Aboriginal Interests has a high degree of uncertainty.

VI – Conclusions

The Crown understands the Project could adversely impact the ability of Aboriginal groups to use lands, waters and resources for traditional purposes. In respect of these findings, and based on the information available to the Crown about areas where Splats'in exercises Aboriginal Interests, the Crown expects that under the typical conditions for construction and operations, impacts of the Project on Splats'in would be negligible.

The Crown is supportive of consultation requirements provided by the NEB and EAO in the various conditions, which would support Splats'in's ongoing involvement and participation in the proponent's detailed Project planning including the development of site-specific measures or pipeline routing to ensure negligible impacts on Splats'in's Aboriginal Interests, as well as the involvement of Splats'in in emergency response planning activities.