

**Request for Early Warning and Urgent Action Procedure
to the
United Nations Committee on the Elimination of Racial Discrimination
by land users and land defenders of the
Secwepemc Nation**

**Re: the escalating violation of Indigenous rights and self-determination by Canada
August 6, 2018**

**Prepared with assistance of the
Indigenous Network on Economies and Trade
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This Early Warning and Urgent Action is submitted in light of the recent eviction of Indigenous Secwepemc land users and the arrest of land defender Kanahus Manuel from an ancestral Secwepemc village site on the route of the proposed Trans Mountain Pipeline in a provincial park in British Columbia, Canada. Under the auspices of the Secwepemc Women's Warrior Society and the Tiny House Warriors, Secwepemc land defenders and land users gathered on the site to hold ceremony, engage in our cultural practices, and exercise our collective rights, title, and jurisdiction over our unceded territory. Without the collective consent of the Secwepemc people, the Trans Mountain Pipeline—recently purchased by the Canadian government from Kinder Morgan Inc.—violates Indigenous law, Canadian constitutional law, international law protecting Indigenous peoples' rights, including to the free, prior and informed consent to development affecting our lands, territories, and resources. As has been made clear in previous reports and requests by CERD, this unfolding situation is indicative of a broader, ongoing context in which the Government of Canada is unwilling to address, establish, or respect Indigenous peoples' collective title to our lands or our territorial governance. The arrest, eviction, and ongoing criminalization of Secwepemc people who exercise title and jurisdiction on our lands not only constitutes racial discrimination, it demonstrates the readiness of British Columbia and Canada to contravene our Indigenous and human rights in favour of the pipeline. It is a prime example of Canada's failure to recognize and implement indigenous land rights, as already set out in previous early warning and urgent action submissions by Indigenous Peoples from the Interior of British Columbia, including the Secwepemc. These submissions still remain open and the committee's questions to Canada remain substantively unanswered. International oversight is urgently required.

1. Background to the issue

a. The proposed Trans Mountain Pipeline Expansion Project violates Indigenous, Canadian, and International law

The Trans Mountain Pipeline Expansion Project—which would carry diluted tar sands bitumen from Edmonton, Alberta to the Burnaby Terminal on British Columbia's west coast—does not have the free, prior and informed consent of the Secwepemc people. While there is much talk in the federal government about respecting Indigenous rights, the actions of the federal government under the leadership of Prime Minister Justin Trudeau to unilaterally approved the Trans Mountain Pipeline Expansion Project without Indigenous consent exposes a dire contradiction that puts our lands, waters, and rights at risk. After the corporate proponent, Kinder Morgan Canada Ltd., indicated it was too risky and likely to be economically unviable to continue with the project—in large part as a result of the uncertainty caused by Canada's failure to address and obtain Indigenous consent—Canada purchased the pipeline venture in a seemingly desperate effort to ensure it would proceed. Canada now relies on executive force in the form of the Royal Canadian Mounted Police (RCMP) to forcefully remove Indigenous peoples asserting their rights in the path of the pipeline.

On March 29, 2018, the Canadian government announced that it had reached an agreement with the project's proponent, Kinder Morgan Canada Ltd., to purchase the existing Trans Mountain Pipeline as well as the expansion project to twin it. In a letter to Neskonlith Indian Band (one of our Secwepemc communities) from Ian Anderson, President of Kinder Morgan Canada Ltd., it was clarified that “the Government of Canada is not acquiring the Trans Mountain pipeline assets directly. Rather, Canada is acquiring ownership of the Trans Mountain legal entities that own and operate the pipeline.” While it will continue to operate as Trans Mountain, this means that it is no longer a private corporate entity, but a public one. As the new owner of this public entity, the federal government of Canada took on direct responsibility for the violation of Indigenous rights, title, and jurisdiction posed by the pipeline. Its infractions against Indigenous rights are no longer committed by a private entity; rather, Canada is now acting directly to contravene its own laws, Secwepemc laws, and international laws that pertain to Indigenous consent and self-determination. International human and Indigenous rights obligations, as well as constitutional obligations, apply directly to Canada. Canada has also become the owner of the existing pipeline venture, which has as recently as May 2018 produced spills in our territory and as such is directly liable and has to be held accountable.

Our unceded territory, Secwepemcúl'ecw, is the largest Indigenous territory that the pipeline traverses, covering up to 518 km, or about half, of the pipeline route. Just two days before Canada announced its plans to buy the pipeline, on March 27, 2018, there was a spill at a Kinder Morgan pump station in Darfield, BC, within Secwepemcúl'ecw, releasing approximately 4.8 cubic metres or 4,800 litres of oil in our lands.

The pipeline bisects the lands and waters where we as Secwepemc peoples practice our right to hunt, fish, trap, pick berries, and sustain ourselves, rendering those rights vulnerable to the imminent threat of another spill. Traveling along the North Thompson River Valley and passing under the winding Thompson River at several points, any spill or leaks from the pipeline would immediately threaten the pacific salmon who spawn in the Thompson and larger Fraser River basins. The salmon and the rivers they inhabit have taken care of our people forever and we are obligated under Secwepemc law to protect them and our rivers for future generations. Further to that, its direct contribution to climate change already directly affects our land uses, compromising our salmon, berries, plant medicines, and game. For all of these reasons, it does not have our consent.

Under Secwepemc law, our title and governance is territorial—that is, the Secwepemc people as a collective are the proper title holder and decision-making authority for all of Secwepemc lands and waters, not individual Indian bands whose federally-delegated authority is limited to Indian reserves, and who cannot provide the consent of the whole nation. Yet, the federal and provincial governments—as well as previous owner Kinder Morgan—have failed to engage with the Secwepemc collectively, as the proper title and rights holders. In so doing, Canada is in violation of Indigenous title, law, and jurisdiction, as well as the constitutional rights of Indigenous peoples.

Under Canadian Aboriginal Law, it is recognized that Aboriginal title is collectively held. It cannot be held by Indian bands, rather the proper Aboriginal Title and rights holder must be determined on the basis of the respective Indigenous laws and in most cases is the respective Indigenous nation.¹ The 2014 Supreme Court of Canada decision *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44, upheld a broad territorial concept of Aboriginal title, it found provincial and federal laws and policies to still be based on an unconstitutional site specific concept of Aboriginal title. Yet, Canada and BC have not changed their laws and policies and the proponent and the governments have conducted the whole approval process based on the unconstitutional site specific concept of Aboriginal title, so our territorial land uses and decision-making processes have not been taken into account and this also constitutes a violation of international law.

The Trans Mountain Pipeline Expansion Project violates all protocols of international law protecting Indigenous peoples' homelands and our right to consent to development in our territories. These protocols include:

- i. Article 1 of the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*, recognizing the right of all peoples to self-determination, including the right to manage their own resources;
- ii. Article 3 of the *United Nations Declaration on the Rights of Indigenous Peoples*, confirming Indigenous peoples' right to self-determination;
- iii. Article 32 of the *United Nations Declaration on the Rights of Indigenous Peoples*, recognizing Indigenous peoples' right to determine the development of their lands, and requiring State signatories to obtain their free and informed consent prior to the approval of any project affecting their lands, territories, other resources, particularly the development, utilization, or exploitation of mineral, water, or other resources;
- iv. General Recommendation No. 23 of the Committee on the Elimination of Racial Discrimination, protecting the rights of Indigenous peoples to own, develop, control, and use their communal lands, territories, and resources, and recognizing that all decisions directly relating to Indigenous peoples' rights and interests require their informed consent.

b. Previous attempts by CERD to have Canada address Secwepemc peoples' collective title, rights, and consent

The urgent matters here described in relation to the Trans Mountain Pipeline Expansion Project are situated within the larger context of Canada's historic and ongoing attempts to use federal and provincial policy to extinguish Indigenous peoples' collective title and rights, and to circumvent our internationally-protected free, prior and informed consent (FPIC). The specific efforts of Canada to extinguish the rights, title, jurisdiction, and consent of the Secwepemc Nation have been at issue before the Committee on the

¹ McNeil K, "Aboriginal Title and Indigenous Governance: Identifying the Holder of Rights and Authority," Presentation at Determining Access Conference, Thompson Rivers University, Kamloops, February 15, 2016.

Elimination of Racial Discrimination since at least 2009. We are deeply grateful that throughout these nine years, CERD has been entirely consistent in its requests and recommendations to the Government of Canada that it: implement in good faith Indigenous peoples' right to free, prior informed consent; end any policies that seek to extinguish our title and rights; and establish and respect our collective title over our territories.

In February 2009, the Indigenous Network on Economics and Trade (INET) worked together with four Indigenous Nations here in British Columbia, including the Secwepemc, to initiate an Early Warning and Urgent Action Procedure regarding Canada's actions and policies in relation to Aboriginal rights. Specifically at issue were Canada's Comprehensive Land Claims Policy and the British Columbia Treaty Commission (BCTC), both of which are explicit in their design to extinguish our collective Aboriginal title to our traditional territories, instead using a "modified rights" and "land selection" model. Through land selection, participating groups are made to release their larger territorial claims in exchange for much smaller parcels of "settlement lands," rather than recognizing broad territorial Aboriginal title as mandated by the Supreme Court of Canada and international human and Indigenous rights standards. Further, under both of these policy processes, the federal and provincial governments seek to negotiate with individual Indian Bands, and not Indigenous Nations as a whole, the proper title and rights holders.

Also at issue in this Early Warning and Urgent Action was the expansion of Sun Peaks Resort and municipality—a major corporate development in Secwepemc territory, which the Secwepemc people did not consent to. In order to quash our assertions of title and right to consent, the Province resorted to injunctions and enforcement orders to force Secwepemc land defenders out of the Sun Peaks Resort area.

This Early Warning and Urgent Action prompted a letter from Fatimata-Binta Victoire-Dah, Chairperson of the Committee for the Elimination of Racial Discrimination to be sent to His Excellency Mr. Marius Grinius, Ambassador Extraordinary and Plenipotentiary, Permanent Representative, Permanent Mission of Canada to the United Nations Office at Geneva on 13 March 2009. It is clear Canada did not take this letter or the Chairperson's recommendations seriously, as they continue to go unaddressed and now similar human and indigenous rights violations are being conducted in the context of the next large scale project in Secwepemc territory. Canada has not sat down with the Indigenous peoples who raised these grave human rights concerns; the extinguishment and modified rights model continues to be the basis of both federal and provincial policies in regards to Indigenous peoples' lands; and, as we are now seeing with the Trans Mountain Pipeline Expansion Project, Canada is still using injunctions, enforcement orders and arrests as the means to deal with Indigenous rights issues instead of a mutually agreeable policy to remedy disputes over development and lack of Indigenous consent (see item 2 below).

After Canada's periodic review before CERD in February-March 2012, in response to strong Indigenous submissions, the Committee's concluding observations requested "the State party to implement in good faith the right to consultation and to free, prior and informed consent of Aboriginal peoples whenever their rights may be affected" and to "continue to seek in good faith agreements with Aboriginal peoples with regard to their lands and resources claims under culturally-sensitive judicial procedures, find means and ways to establish titles over their lands, and respect their treaty rights" (CERD/C/CAN/CO/19-20). Again, these recommendations have gone unanswered and unaddressed.

In April of 2016, members of the Secwepemc Nation and St'at'imc Nation of BC, together with INET, initiated another Early Warning and Urgent Action, in follow up to the previous one from 2009, regarding ongoing attempts by the governments of Canada and British Columbia to extinguish Aboriginal title. Once again, our central concern in this submission was the BCTC and the Comprehensive Land Claims Policy, whose efforts to dispossess us of collective title to our territory had escalated through the negotiation of a treaty with just four of the 17 bands that make up the Secwepemc Nation.

This resulted in a letter from Anastasia Crickley, Chair of Committee on the Elimination of Racial Discrimination addressed to Her Excellency Ms. Rosemary McCarney, Permanent Representative of Canada to the United Nations Office at Geneva on 3 October 2016. In this, the Committee requested that the Government of Canada provide information on:

- (a) Efforts made to ensure that representatives of all Secwepemc bands as well as representatives of the authorities of the Secwepemc Nation are involved or at least are consulted about negotiations that may affect the collective land rights and territory of the Secwepemc Nation, including those negotiations referred to above;
- (b) Measures to implement in good faith the right to free, prior and informed consent of the Secwepemc Nation and the St'at'imc Nation;
- (c) Steps taken to seek in good faith agreements with Secwepemc and St'at'imc peoples with regard to their lands and resources claims;

After Canada failed to provide substantive information on these matters, Ms. Crickley responded with a follow up letter on 17 May 2017, in which the Committee reiterated the above requests verbatim.

Finally, during Canada's periodic review last August 2017, a large contingent of Indigenous peoples travelled to Geneva to appear before CERD, including members of the Secwepemc Nation. We joined together with a coalition of Indigenous including others from Interior British Columbia, as well as Cree, Athapaskan, and Algonquin First Nations, to submit joint recommendations to ensure that Indigenous peoples are full decision-makers regarding our lands and resources. In this joint submission, we traced all of the ways that the Government of Canada continues to develop a unilateral legislative framework for Indigenous peoples without our consent, based on the assumption that it obtained underlying title to our land at the declaration of British Crown sovereignty—i.e. based on the colonial doctrines of discovery.

We were very happy to see our submission taken seriously and reflected in the Committee's *Concluding observations on the combined twenty-first to twenty-third periodic reports of Canada*, making it clear that Indigenous peoples should be recognized as having jurisdiction and that our free, prior and informed consent is required for all matters concerning our land rights. CERD concluded that it was "deeply concerned" about Canada's ongoing violations of Indigenous land rights. Specifically, it indicated that:

Violations of the land rights of indigenous peoples continue in the State party; in particular, environmentally destructive decisions for resource development which affect their lives and territories continue to be undertaken without the free, prior and informed consent of the indigenous peoples, resulting in breaches of treaty obligations and international human rights law.

Reiterating its previous recommendations from Canada's 2012 periodic review, the Committee also recommended that Canada:

- (a) Ensure the full implementation of general recommendation No. 23 in a transparent manner with the full involvement of the First Nations, Inuit, Métis and other indigenous peoples and with their free, prior and informed consent on all matters concerning their land rights;
- (b) Prohibit the environmentally destructive development of the territories of indigenous peoples, and allow indigenous peoples to conduct independent environmental impact studies;
- (c) End the substitution of costly legal challenges as post facto recourse in place of obtaining meaningful free, prior and informed consent of indigenous peoples;

As of yet, Canada has not demonstrated any intention of following these recommendations. Rather, through its purchase of the Trans Mountain Pipeline Expansion Project and the current pipeline assets and its efforts to criminalize and repress Indigenous peoples who exercise their free, prior and informed

consent in opposition the pipeline, Canada has moved decisively in the opposite direction. The situation has only become more acute.

c. Ongoing efforts by Secwepemc to assert Aboriginal title and rights and to raise Indigenous and human rights violations regarding the Trans Mountain Pipeline Expansion Project

During the regulatory process leading up to the approval of the Trans Mountain Pipeline Expansion Project, a number of Secwepemc entities participated in the regulatory process and made it clear that the proper title and rights holder through all of Secwepemcúl'ecw are the Secwepemc people collectively, who had not been engaged and did not provide our free, prior and informed consent. Since the project was approved, we have continued to make a strong and consistent effort to assert our title and rights and alert Canada to our lack of consent for the project.

In an open letter sent to Prime Minister Justin Trudeau on November 26, 2016 (see Appendix 1) our late Secwepemc leader Arthur Manuel wrote:

Secwepemcúl'ecw, the land on which we live, eat, sustain our culture, practice our ceremonies, and exercise our rights, is the largest Indigenous territory that the Kinder Morgan Trans-mountain Pipeline expansion would cross... I would like to remind you that this pipeline requires the consent of the Secwepemc people. We do not accept that the federal government can make this decision unilaterally and without the prior informed consent of the Secwepemc people as the rightful titleholders... Canada is obliged to seek the consent of Indigenous Peoples on the Kinder Morgan Trans-mountain Expansion under its international human and Indigenous rights obligations.

To this day, there has been no substantive response to the letter by the Prime Minister's Office or the Canadian federal government. In January 2017, shortly after Manuel passed away, he was sent a form letter from the Prime Ministers Office that failed to address any of the specific content, assertions, or concerns presented in the original letter.

From June 2-4, 2017, members of our Secwepemc nation hosted the Secwepemcúl'ecw Assembly to collectively to affirm that we are rightful title holders and the decision-making authority on our lands. The outcome of this assembly was the historic *Secwepemc Peoples Declaration on Protecting Our Land and Water against the Kinder Morgan Trans Mountain Pipeline*. In this public declaration we again affirmed that we have never provided and will never provide our collective free, prior and informed consent to the Kinder Morgan Trans Mountain Pipeline Project, and irrevocably refuse its passage through our territory.

In October 2017, the Indigenous Network on Economies and Trade released *Standing Rock of the North: The Kinder Morgan Trans Mountain Pipeline Expansion Secwepemc Risk Assessment*, an in-depth examination of the historical, legal, economic, political, reputational, regulatory, and climate risks that undermine the valuations of both Kinder Morgan (KMI) and Kinder Morgan Canada (KML). In this report, our jurisdiction was again made clear, including solid evidence that the pipeline cannot be built without Indigenous consent.

On November 28, 2017, after we learned that Kinder Morgan had applied for a 1000-worker campsite for on 16 hectares of our lands where we harvest berries, the Secwepemc Women's Warrior Society released our *Women's Declaration Against Kinder Morgan Man Camps*. Man camps provide temporary housing to mostly non-Indigenous male workers in the resource sector. Reports show direct correlations between these camps and violence against women. As James Anaya, the former UN Special Rapporteur on the Rights of Indigenous Peoples, has noted "indigenous women have reported that the influx of workers into indigenous communities as a result of extractive projects also led to increased incidents of sexual

harassment and violence, including rape and assault.” In the midst of a national inquiry into missing and murdered Indigenous women, we rejected outright this threat to our peoples, our women, our two-spirits, our children, our lands, the wildlife, the salmon, the waterways. Today, more than 3,300 individuals and organizations have signed the declaration.

Finally, in September 2017 we launched the Tiny House Warriors, pledging to build ten tiny houses and placing strategically along the Trans Mountain Pipeline route. As of yet, we have build three tiny houses. Each tiny house provides housing to Secwepemc families facing a housing crisis due to colonial impoverishment, with the ultimate goal of re-establishing our village sites and asserting our jurisdiction and governance over our unceded territory. Since time immemorial, our warriors have been a crucial part of our governance system. Both the Secwepemc Women’s Warrior Society and the Tiny House Warriors are part of the resurgence of our Secwepemc governance.

2. Canada criminalizes Indigenous people for exercising internationally-protected rights, title, and jurisdiction

a. Arrests at Burnaby Mountain, Trans Mountain’s Jane/John Doe injunction, and the eviction of Camp Cloud

In the joint recommendations we presented to CERD during Canada’s periodic review last August 2017, we raised our concerns about the potential criminalization of Indigenous land and water defenders in regards to the Trans Mountain Pipeline Expansion Project, and the violations of Indigenous and human rights this would create. Unfortunately, our concerns have come to fruition.

Our relations from other Indigenous nations have also been asserting their title and consent, through legal, political, and direct action all along the pipeline route. This includes, most notably, our Coast Salish relations whose traditional territory encompasses the end of the pipeline at the Burnaby Terminal, where the oil is transferred to tankers for its transportation out of Canada through Coast Salish waters. Coast Salish activists and non-Indigenous supporters have been protesting at this site for many months. This includes through the establishment of Camp Cloud, an Indigenous-led media surveillance post and direct-action support centre, set up adjacent to the Burnaby Mountain Tank Farm.

Trans Mountain obtained an interlocutory court-ordered injunction in early March 2018 to thwart protestors from disrupting their work on the pipeline expansion. Starting in March 2018, Royal Canadian Mounted Police (RCMP) began to arrest protestors in Burnaby, including at the terminal and tank farm. On June 1, 2018, the injunction was expanded to enjoin anyone with notice of the injunction order from coming within five metres of any Trans Mountain, affiliate, contractor or subcontractor worksite. The order deems someone to have notice should they come within 10 metres of a warning sign indicating that the injunction exists. This essentially expanded the injunction to cover the whole province. The practice of applying for Jane/John Doe injunctions—i.e. geographically sweeping injunctions against unidentified protestors such as this one—violates Indigenous rights and jurisdiction. It impedes and criminalizes our ability to exercise our rights on the land, including our rights to use the land for hunting, fishing, and gathering medicines, and puts us in an extremely vulnerable position to get arrested for exercising our collective consent and jurisdiction.

As of 1 August 2018, 216 people had been arrested in Burnaby.

On 18 July 2018, the City of Burnaby issued an eviction notice to Camp Cloud, giving them 72-hours to leave, which they did not. The City of Burnaby is now seeking a court order to enforce the eviction notice and a hearing will take place on 10 August 2018.

It was this show of force in Coast Salish territories that triggered province-wide action and empowered RCMP and provincial authorities to target us as Secwepemc land defenders in Interior BC.

b. The eviction and arrest of Secwepemc land defenders

On July 7 and 8, 2018, members of the Tiny House Warriors and the Secwepemc Women's Warrior Society held an Indigenous traditional tattooing gathering and cultural event in solidarity with Secwepemc land defenders. This Nation-to-Nation gathering was attended by Indigenous people from across Turtle Island (North America). The gathering was held at an ancient Secwepemc village that once thrived on what is now the North Thompson River Provincial Park near Clearwater, BC, through which the Trans Mountain Pipeline is proposed to pass. There is evidence of more than three dozen pit houses in this area, traditional dwellings of Secwepemc people. Secwepemc oral histories and archaeological evidence confirms that our ancestors lived in the area since before the glaciers receded 10 thousand years ago. Over the course of the weekend, many ceremonies were held, and the three tiny houses were moved onto the site.

Ahead of the gathering, organizers informed the BC Parks Department of the Ministry of the Environment of our plans to hold this cultural and ceremonial event, making clear that we would manage the gathering according to our own protocol. The Regional Director of BC Parks agreed to close the park campground to public camping and day use from July 6-9, to reopen on July 10th. After communicating with Recreation Services Officer Mike Rowden, he confirmed in an email to gathering organizers:

“Based on our conversation, I will be instructing our Senior Park Ranger staff to take a low key approach to this weekend’s events, and allow your group to manage the organization within the Park. Our Rangers will check in with the Park Operator staff (Blackwell Park Operations Ltd.) periodically at the Park, and should you require our assistance contact the Park Operator staff and we will provide any assistance we can. BC Parks and the Park Operator are supportive of the Secwepemc Nation event for the purposes of cultural awareness, education and entertainment. Given the cultural history of the location we feel that it is quite appropriate that an event of this nature is occurring here. We do not want to make anyone uncomfortable at this event, and want you to have a successful Assembly this coming weekend.”

Further to that, on July 5th Judy Wilson, Chief of the Neskonlith Indian Band (Secwepemc) and Treasurer of the Union of BC Indian Chiefs (UBCIC) spoke with BC’s Minister of Environment and Climate Change Strategy, George Heyman, and Deputy Minister Mark Zacharias. After their call, the Deputy Minister provided a written summary via email of what they agreed were the overall objectives and operational guidance to Parks staff during the gathering: that two Park Rangers at a time would remain at the Visitors Centre to redirect the public; that Tourism Wells Grey would be assisting and advising the public; that the park operator would not be on site; etc. (see Appendix 2).

This is not what transpired. The presence of BC Parks together with RCMP violated this agreement and Secwepemc protocol and jurisdiction manage the event. In a letter to the Minister, BC Parks, RCMP Tk'emlúps Rural Detachment, and BC Premier John Horgan, UBCIC communicated their dismay at the BC Parks and RCMP presence, writing: “We realize that the RCMP operate separately from the Ministry of Environment. However, we are unclear as to why RCMP are involved at all and object to any RCMP or Parks presence. As outlined in our letter of July 5, the Secwepemc are managing the Gathering according to their own protocol” (see Appendix 2).

After this agreement was broken by BC Parks and RCMP, Secwepemc land defenders made the decision to remain on the site after the gathering concluded to reclaim and re-establish our ancestral village and peacefully block the planned route of the pipeline. The three tiny houses were placed in the proposed

pipeline's path, where they were used for traditional tattooing, housing and other cultural purposes, as part of the resurgence in Indigenous culture. Construction materials were moved to the site to begin construction on additional tiny houses. A press release went out to inform the public of our intention to revive our village and assert our rights and jurisdiction to oppose the pipeline in our unceded lands.

Without communicating with UBCIC or gathering organizers, and seemingly without a court order, BC Parks issued an eviction order to the Secwepemc land defenders at the park at 8:50pm on Thursday July 12th, listing the cause as "obstruction." And on the morning of Saturday July 14th, Kanahus Manuel, a leader with the Tiny House Warriors, member of the Secwepemc Women Warriors, was arrested at the gates of the park by RCMP and charged with mischief. While Manuel was detained, RCMP surrounded the site, while the rest of the Secwepemc people there—about 16 people, including families, land users, and two Elders—packed up the site and left. Manuel was released that afternoon, and the tiny houses and Secwepemc land defenders relocated to Blue River, BC, next to the site of the planned man camp.

At both sites—North Thompson River Provincial Park and at Blue River—we have been faced with racist backlash from local non-Indigenous people and media who have threatened us and approached us with a constant barrage of hate speech and white supremacist jargon. We are being surveilled by individuals who have not identified themselves to us who drive by our camp multiple times a day.

As Secwepemc people, we will continue to exercise our internationally-recognized rights, title, and jurisdiction to oppose the expansion and twinning of Trans Mountain Pipeline through our lands and waters. The law itself and the deployment of police forces must be an object of scrutiny in the protection of Indigenous rights. Canada's use of legal and police forces through civil action, arrests, and other penalties has become a national pattern used to repress Indigenous peoples, our rights, and jurisdiction. The use of incarceration is a long-term strategy to contain Indigenous rights within the carceral state, rather than see them asserted on the ground.

3. Recommendations

In light of the increased violations of our rights as Indigenous peoples, and the criminalization and repression of Indigenous land defenders, we request that the following urgent actions be taken:

- a. That CERD hold Canada accountable to implement General Recommendation No. 23 requiring States Parties to ensure Indigenous peoples are full decision-makers regarding issues relating directly to them, and that such decisions are not taken without their informed consent with specific reference to land and resource rights.
- b. That CERD hold Canada accountable to uphold Indigenous peoples' rights and decision-making authority by ceasing and cancelling construction of the Trans Mountain Pipeline through Secwepemcúl'ecw without the collective consent of the Secwepemc people.
- c. That CERD condemn the governments of Canada and British Columbia for criminalizing and discriminating against Indigenous people and repressing our jurisdiction, rights, and decision-making authority through the arrest and eviction of Secwepemc land defenders on our lands.
- d. That the CERD committee visit British Columbia to investigate the rights violations that have already occurred, monitor the situation as it continues to unfold, and report back to Canada and the Office of the High Commissioner of Human Rights with recommendations.

Attached: Open letter to Prime Minister Trudeau from Arthur Manuel (Appendix 1)
 Letter from UBCIC Re: RCMP and Parks Presence (Appendix 2)



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November 25, 2016

Prime Minister Justin Trudeau
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Fax: (613) 941-6900

Dear Right Honourable Prime Minister Justin Trudeau:

**OPEN LETTER regarding the: Proposed Kinder Morgan Transmountain Pipeline
Expansion through Secwepemc Territory**

I am writing you as the Spokesperson of the Indigenous Network on Economies and Trade (INET) and a member of the Secwepemc Nation in regard to the Kinder Morgan Expansion through Secwepemc Territory. Secwepemcúl'ecw, the land on which we live, eat, sustain our culture, practice our ceremonies, and exercise our rights, is the largest Indigenous territory that the Kinder Morgan Trans-mountain Pipeline expansion would cross, passing through 518 km of our territory.

I would like to remind you that this pipeline requires the consent of the Secwepemc people. We do not accept that the federal government can make this decision unilaterally and without the prior informed consent of the Secwepemc people as the rightful titleholders. Kinder Morgan has signed deals with a few Indian Band Councils¹ but neither the band councils nor Kinder Morgan have engaged with the Secwepemc people as the rightful titleholders. These agreements can only be made on behalf of their status as federal Indian Bands and do not represent the rightful titleholders. In fact, the agreements are made with Bands whose reserves cover less than 1% of the Secwepemc Territory along the existing Kinder Morgan Pipeline and they appear to be little more than cynical attempts to divide and conquer our people - as we have seen on so many other occasions.²

¹ With the of: the Simpcw, the Tk'emlups te Secwepemc and Whispering Pines Indian Bands. The only consultations with the Secwepemc people have been through the NEB process and the ministerial panel, both fatally flawed processes that failed to properly take into account our collectively held Aboriginal Title and Rights.

² This tactic that has been condemned by the world. Most recently, Anastasia Crickley, Chair of the UN Committee on the Elimination of Racial Discrimination (CERD) who questioned Canada in a October 3, 2016 letter about using "divide and rule strategies" within the Secwepemc Nation when attempting to negotiate a land claims agreement through the British Columbia Treaty Process.

In response, INET, along with a group of concerned Secwepemc people, has undertaken to organize a broad based action we are calling STOP for “Secwepemc Trans-mountain Oversight Plenary”. The purpose of this Plenary is to gather on the land in the spring of 2017 to discuss and decide on Kinder Morgan expansion through the Secwepemc Territory and then to collectively determine on a course of action.

It deeply concerns us that the Kinder Morgan Expansion would be along the North Thompson River Valley and would pass under the winding Thompson River at several points. Any leakage would immediately threaten the pacific salmon who spawn in the Thompson and Fraser River basins. It is not surprising that most Secwepemc people are in complete solidarity with the Water Protectors from Standing Rock North Dakota. Our waters are also sacred. The salmon and the rivers they inhabit have taken care of our people for centuries and we are obligated as Secwepemc people to protect the Thompson River system for future generations.

We also take seriously the issue of climate change and wonder how you could possibly give approval to this pipeline if you yourself are serious about transition to a low carbon industry. Canada cannot afford and does not need any expansion in pipeline capacity and further GHG emissions if we hope to reduce the current damage to the planet.

I am attaching a map outlining the boundaries of Secwepemc Territory which the existing Kinder Morgan pipeline bisects, with the proposed Kinder Morgan Trans-mountain Expansion along the same route. It is important to point out that the first Kinder Morgan pipeline was not approved by the Secwepemc people because we were outlawed under the Indian Act from organizing around our land rights from 1926 – 1951. Canada appears to want to ignore us again. Nevertheless, Canada is obliged to seek the consent of Indigenous Peoples on the Kinder Morgan Trans-mountain Expansion under its international human and Indigenous rights obligations.

The Secwepemc people convening the Plenary on Kinder Morgan Trans-mountain Expansion will keep your office apprised of our decision after we gather together on the land in the spring of 2017. We expect Canada not to proceed with any approvals or decisions regarding the proposed Kinder Morgan Trans-mountain Expansion until hearing from the Secwepemc people on this matter.

Yours truly,

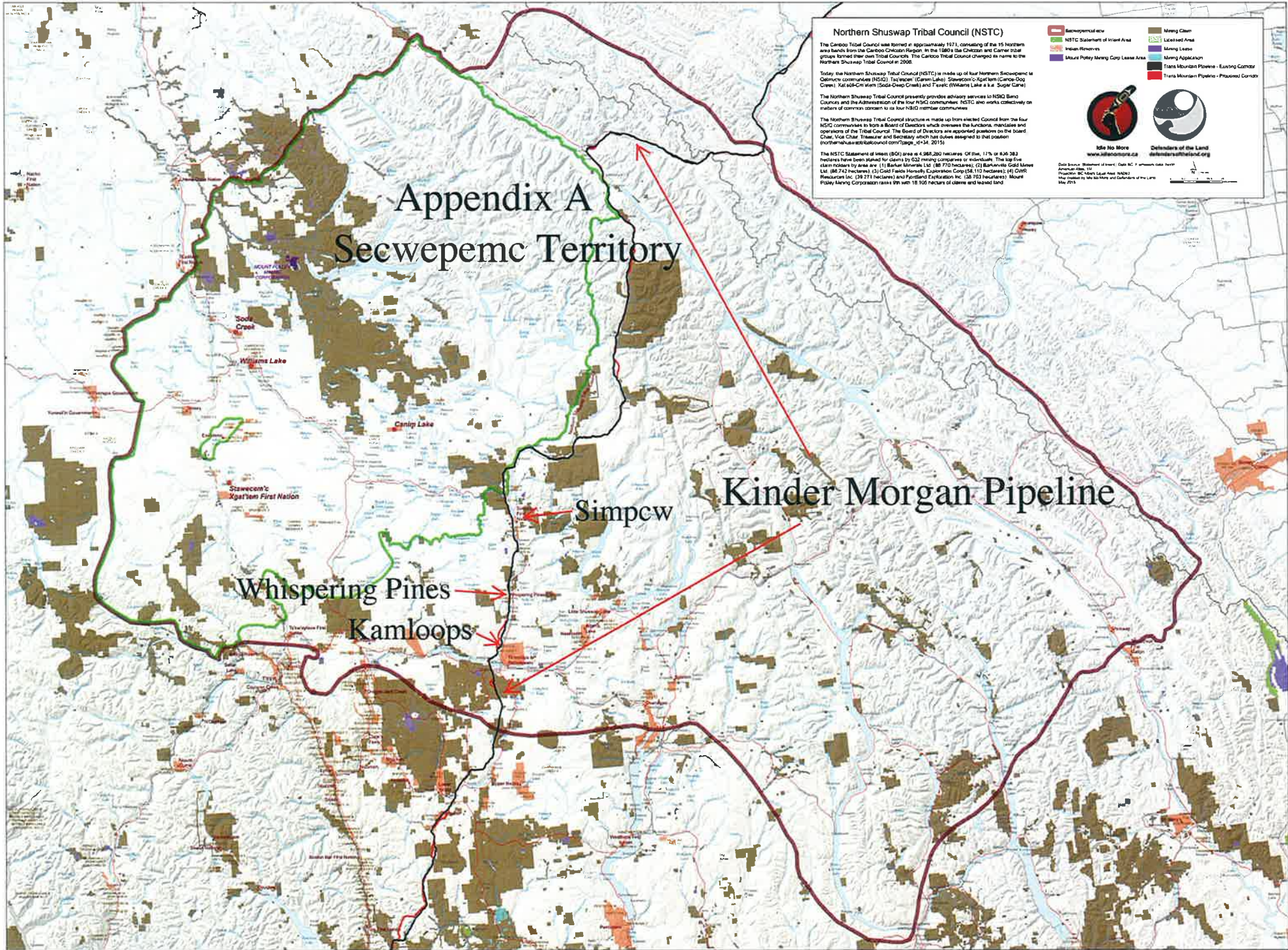


Arthur Manuel

Encl.

c.c. Chairman Dave Archambault II, Standing Rock Sioux Tribal Council
Grand Chief Stewart Phillip, Union of BC Indian Chiefs

Shuswap Nation Tribal Council (SNTC)
Northern Secwepemc te Qelmucw (NStQ)
Secwepemc People
National Chief Perry Bellegarde, Assembly of First Nations
Regional Chief Shane Gottfriedson, BC Assembly of First Nations
Defenders of the Land
Treaty Alliance
Aboriginal Title Alliance
Tsleil-Waututh Nation Sacred Trust



OUR LAND IS OUR FUTURE

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July 7, 2018

Honourable John Horgan
Premier, Province of British Columbia
Via email only: premier@gov.bc.ca

Honourable George Heyman
Minister of Environment and Climate Change
Strategy
Via email only: ENV.minister@gov.bc.ca

Adrian Wynnyk
BC Parks staff
Via email only: Adrian.wynnyk@gov.bc.ca

Vladimir Gat
BC Parks, Senior Ranger- Northern Forests
Thompson Caribou Region
Via email only: Vladimir.gat@gov.bc.ca

Rebecca Munro
RCMP Tk'emlúps Rural Detachment
Via email only: Rebecca.munro@rcmp-grc.gc.ca

RE: RCMP and Parks Presence at Secwepemc Cultural Spiritual Gathering

Dear Premier Horgan, Minister Heyman, Mr. Wynnyk, Mr. Gat, and Ms. Munro:

Further to our letter of July 5, we are writing to object to the persistent, unwanted, and un-needed presence of Park Rangers and RCMP at the Secwepemc Cultural Spiritual Gathering taking place this weekend on July 7th and July 8th at the North Thompson River Provincial Park. On behalf of the Secwepemc organizing the Gathering, we request:

1. Park Rangers and RCMP to stay at the Information Centre and not go near the entrance area to the campground or near the park.
2. Park staff and RCMP to stay inside the forestry office, not to come outside or come across the road to the Park, and not to interfere or interact with anyone headed to the Gathering.

On July 5th, Chief Judy Wilson spoke with Minister Heyman and Deputy Minister Mark Zacharias, who provided a summary of the overall objectives and operational guidance to Parks staff regarding the

Secwepemc cultural and traditional arts event. A written summary was provided after the conversation via email and is provided here for clarity regarding the mandate that Minister Heyman has provided:

- Four Park Rangers (two at a time, in two shifts) will be assigned to the Wells Gray Information/Visitor Centre (in Clearwater about a 30 minute drive from the event) from 0800 Friday until 2130 Sunday to redirect the public to alternate campsites.
- There is a provincial government office across the highway from the entrance of the North Thompson Provincial Park that houses government staff from the ministries of Forests, Lands and Natural Resource Operations and Environment and Climate Change Strategy (BC Parks and the Conservation Officer Service). BC Parks and Conservation Officer Service staff are scheduled to be working in the building this weekend and their contact details will be provided to the event organizers.
- Signs will be posted at the campground entrance in advance of the event, advising of a park closure from June 6-9th. The event is over on the 8th but the Park Operator will need the 9th to ready the site for the next day. Signs will also be posted on Highway 5 leading up to North Thompson Park that will advise visitors of the park closure and direct them to the Information/Visitor Centre in Clearwater.
- Tourism Wells Gray (the destination marketing agency) and Information Wells Gray (the agency which operates the Information Centre) are supporting and advising the public and tourism operators in the area.
- The Wells Gray Information/Visitor Centre will be open from 0900 – 1800 during the event and will be the main source of public information for campers wishing to arrange alternative accommodation (First Come First Serve campers). The Rangers stationed here, along with centre staff, will assist visitors that were planning on staying in North Thompson River Park find alternative accommodation.
- The park operator will not be on site to provide services during the event.
- BC Parks would shortly be contacting the event organizers to provide contact information for key provincial staff.

Given the above plan, we were surprised to learn of both a Parks presence as well as an RCMP presence.

We realize that the RCMP operate separately from the Ministry of Environment. However, we are unclear as to why RCMP are involved at all and object to any RCMP or Parks presence. As outlined in our letter of July 5, the Secwepemc are managing the Gathering according to their own protocol.

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Robert Chamberlin
Vice-President



Kukpi7 Judy Wilson
Secretary-Treasurer

CC: Don Bain, Special Advisor to the Premier