



Canada Energy
Regulator

Régie de l'énergie
du Canada

Suite 210
517 Tenth Avenue SW
Calgary, Alberta
T2R 0A8

517, Dixième Avenue S.-O.
bureau 210
Calgary (Alberta)
T2R 0A8

LETTER DECISION

File 3426221
5 December 2024

Deon Bridge
Enbridge Inc.
10175 – 101 Street NW
Edmonton, AB T5J 0H3
Email deon.bridge@enbridge.com

Kathleen Shannon
Enbridge Inc.
Suite 200, 425 – 1 Street SW
Calgary, AB T2P 3L8
Email kathleen.shannon@enbridge.com

Dear Deon Bridge and Kathleen Shannon:

**Westcoast Energy Inc.
Application for the Pointed Mountain Pipeline Abandonment Project
under subsection 241(1) of the *Canadian Energy Regulator Act*
Hearing Order MH-004-2022
Letter Decision and Order ZO-003-2024**

**Before: M. Chartier, Presiding Commissioner; T. Grimoldby, Commissioner;
S. Luciuk, Commissioner (dissenting in part)**

On 2 February 2022, Westcoast Energy Inc. (**Westcoast**) filed an application (**Application**) with the Canada Energy Regulator (**CER**) to abandon the Pointed Mountain pipeline (**Project**) pursuant to subsection 241(1) of the *Canadian Energy Regulator Act* (**CER Act**). Westcoast plans to abandon approximately 56 kilometres (**km**) of 508 millimetre (20 inch) pipeline located in an area that crosses the Yukon Territory, Northwest Territories, and British Columbia (**BC**). Westcoast said that the pipeline has been deactivated for many years, is no longer connected to the Westcoast pipeline system, and has no prospective future use.

1. Summary of the decision

The Commission of the CER approves Westcoast's Application to abandon in place the Pointed Mountain pipeline and issues attached Order ZO-003-2024, pursuant to subsection 241(1) of the CER Act to this effect. In its Application, Westcoast also requested an exemption to the CSA-Z662 oil and gas pipeline systems safety standard for permission to leave six test lead posts in place. The majority of the Commission denies this exemption. This exemption denial is without prejudice and Westcoast may reapply for it as guided by the reasons in this decision.

.../2

Following a summary of northern matters and the hearing process, this letter decision discusses the Commission's analysis and findings on consultation with Indigenous Peoples, matters related to Indigenous Peoples, as well as the appropriateness of abandonment methods, engineering, environment, safety, economics, socio-economic and lands matters in the sections below.

2. Background and northern matters

As the Project crosses from the Northwest Territories into the Yukon, the Commission has regulatory responsibilities under the CER Act as well as both the *Mackenzie Valley Resource Management Act (MVRMA)* and the *Yukon Environmental and Socio-economic Assessment Act (YESAA)*. The Commission has considered the relevant evidence in the context of these two acts and is satisfied that it has met its obligations under both Part 5 of the MVRMA and section 87¹ of the YESAA.

Yukon Environmental and Socio-economic Assessment Act

Under section 87 of the YESAA, the Commission cannot make a regulatory decision on the Project until a decision document(s) has been issued by a decision body for the portion of the Project located in the Yukon. The Yukon Environmental and Socio-economic Assessment Board (**YESAB**) produced evaluation reports for Westcoast's original scope (2022-0065) and amended scope (2023-0160). Westcoast filed two submissions with the CER:

- two decision documents (original scope) from the Yukon Government and Crown-Indigenous Relations and Northern Affairs Canada (22 January 2024); and
- a consolidated decision document (amended scope) from the Yukon Government and Crown-Indigenous Relations and Northern Affairs Canada (24 July 2024).

In accordance with subsection 87(3) of the YESAA, the Commission has considered the decision documents issued by the decision bodies (Yukon Government and Crown-Indigenous Relations and Northern Affairs Canada) under YESAA. The Commission is satisfied that the provisions of YESAA have been met and the Commission can proceed with its regulatory decision on Westcoast's Application.

Mackenzie Valley Resource Management Act

Under section 118² of the MVRMA, the Commission cannot make a regulatory decision until Part 5 of the Act has been satisfied. Westcoast applied to the Mackenzie Valley Land and

¹ Section 87 of the YESAA states: 87 (1) A federal independent regulatory agency must not require that a project be undertaken or take any action that enables a project to be undertaken until every federal decision body for the project and, in the case of the Canadian Energy Regulator, the territorial minister has issued a decision document in respect of the project under section 75, 76 or 77. (...)

(3) The Commission of the Canadian Energy Regulator must

(a) when it requires that a project be undertaken, take into consideration any decision document issued by a federal decision body or the territorial minister; and (b) when it issues an authorization to enable a project to be undertaken, take into consideration any decision document issued by a federal decision body or the territorial minister and provide written reasons to the decision body or the minister for any want of conformity.

² Section 118 of the MVRMA states that a licence, permit or other authorization required for carrying out a development shall not be issued under any federal, territorial, Tlicho or Deline law unless the requirements of this Part have been complied with in relation to the development.

Water Board (**MVLWB**) for a water licence and land use permit for the portion of the Project located in the Northwest Territories. Westcoast's Application triggered a preliminary screening under the MVRMA, in which the CER is a designated regulatory agency³. The requirements of the MVRMA were met through the following process steps:

- Pursuant to subsection 124(1) of the MVRMA, the Commission notified Westcoast that it is a designated regulatory agency (decision maker) under the MVRMA and initiated a preliminary screening (12 August 2022).
- The Commission notified the Mackenzie Valley Environmental Impact Review Board (**Review Board**) that it had received Westcoast's Application (24 August 2022).
- In accordance with Part 5 of the MVRMA, the MVLWB completed a preliminary screening for the whole Project. This broad focus allowed the Commission to adopt MVLWB's screening determination.
- Westcoast filed the MVLWB's preliminary screening determination for the Project on the hearing record (24 July 2024).
- Pursuant to subsection 124(4) of the MVRMA, the Commission adopted the MVLWB's preliminary screening determination and notified the Review Board (4 September 2024).
- The MVRMA requires that the Commission pause for 10 days following a preliminary screening. This allows other regulatory bodies to refer a project to environmental assessment even if the MVLWB determines that one is not necessary. In this case, the Project was not referred to an environmental assessment by either the referral bodies or the Review Board within the ten-day pause period.

The Commission is satisfied that it has met its obligations under Part 5 of the MVRMA and the Commission can proceed with its regulatory decision on Westcoast's Application.

3. The MH-004-2022 Hearing Process

In designing its hearing, the Commission set out a process that was fair and allowed for meaningful participation by all intervenors. During the hearing process, the Commission asked five rounds of information requests (**IRs**) to which Westcoast filed responses, and floated draft conditions so participants could review and provide their comments. The process also included steps for filing written evidence, reply evidence, and final written argument.

On 11 March 2022, Westcoast informed the Commission that it had received a statement of opposition from Acho Dene Koe First Nation, which was subsequently withdrawn on 6 April 2022. A few months later, on 23 September 2022, Liard First Nation filed a statement of concern with the CER, which was also later withdrawn on 21 November 2022. Nah?ą Dehé Dene Band filed a letter on 26 October 2022 informing the CER that they would not participate in the Commission's process and would instead participate in the MVLWB process.

On 15 November 2022, the Commission decided to hold a hearing for the Project and issued Hearing Order MH-004-2022. Although some First Nations had withdrawn their statements of

³ See section 111 of the MVRMA

concern, six⁴ Indigenous communities and a federal authority registered to participate in the Commission's hearing as intervenors. Therefore, the Commission decided to continue its hearing process.

On 29 December 2022, Westcoast asked the Commission to postpone the preliminary screening steps being carried out by the MVLWB, because they expected to file a Project amendment, which included work that would be subject to the preliminary screening requirements under the MVRMA.

Foothills First Nation requested late intervenor status on 28 February 2023 which the Commission granted in Ruling No. 2 on 8 March 2023, Westcoast later confirmed that Foothills First Nation subsequently withdrew from the hearing process on 24 July 2024.

In addition to Natural Resources Canada, the following Indigenous communities registered as intervenors (**Co-Intervening Nations**):

- Driftpile Cree Nation;
- Louis Bull Tribe;
- Sucker Creek First Nation; and,
- Whitefish Lake First Nation.

Westcoast filed a project update on 5 October 2023 and the Commission restarted its hearing process on 3 April 2024. At the same time, the Commission indicated that it would not conduct a preliminary screening and may, subject to its review of the MVLWB's preliminary screening decision, adopt the MVLWB preliminary screening, or defer to the MVLWB.

The Co-Intervening Nations filed joint comments on the preliminary screening and potential hearing steps on 27 October 2023 in which they requested that the Commission hold a one-day workshop about the Project's contributions to cumulative impacts. On 3 April 2024, the Commission indicated that it would not hold a cumulative effects workshop and provided an updated timetable of events for the remaining steps in the proceeding. The Commission stated that the written process could afford meaningful participation and address the Co-Intervening Nations' desired outcomes. The Co-Intervening Nations subsequently filed IRs to Westcoast as well as written evidence and responded to the Commission's IR to intervenors. No intervenors filed final argument; the hearing record closed on 12 September 2024 when Westcoast submitted a letter stating it would consequently not be filing final reply argument.

4. Assessment of Westcoast's Application

4.1 Consultation with Indigenous Peoples

4.1.1 Views of Westcoast

Westcoast stated that the approach set out in its Stakeholder and Indigenous Engagement Program included an early and continuing focus on Indigenous outreach and discussion. It requested and received a preliminary traditional territory analysis for the Project from the CER in the summer of 2020. Westcoast's engagement list includes 10 Indigenous communities and organizations identified as having known or asserted traditional territory in the Project area, or as having an interest in being engaged on the Project. Westcoast sent

⁴ McLeod Lake Indian Band filed a registration to participate but withdrew it before it was ruled on by the Commission.

Project information packages to these Indigenous communities and organizations as well as other stakeholders between 25 August 2021 and 5 November 2021. In addition, the Commission requires applicants to provide Indigenous Peoples with a letter from the CER that outlines its approach to Crown consultation for which the CER, through its Commission, is the final decision-maker.

Westcoast stated in its Application Engagement Program Summary that it would continue to work with any Indigenous communities that identify site-specific concerns or areas of interest that may require specific mitigation during the abandonment process. Westcoast also committed to discuss incorporating Traditional Land and Resource Use (**TLRU**) or traditional knowledge provided by Indigenous Peoples into project planning prior to construction.

Commission analysis and findings

The Commission is satisfied that Indigenous Peoples potentially impacted by the Project were adequately consulted. They had opportunities to raise their concerns regarding potential impacts to Indigenous and Treaty rights with Westcoast and directly with the Commission. Through its traditional territory analysis, the CER identified Indigenous communities having known or asserted traditional territories in the Project area. Considering the size and scope of the Project, Westcoast's completed and ongoing engagement activities, the consultation undertaken through the Commission's hearing and assessment process, and the consultation and engagement opportunities afforded by the northern processes, the scope of engagement and consultation activities is appropriate.

The Commission received sufficient information to assess the effects of the Project on the rights and interests of Indigenous Peoples pursuant to section 56 of the CER Act. The Commission's assessment is based on the information filed onto the record, including the Application, the Environmental and Socio-economic Assessment (**ESA**), statements of concern, the evidence filed by the Co-Intervening Nations and Westcoast's responses to those concerns.

The Commission notes the ongoing interest of both local Indigenous Peoples and the Co-Intervening Nations in the abandonment activities, construction monitoring, and post-construction environmental monitoring. The Commission recognizes the importance of involving Indigenous Peoples in the Project and reminds Westcoast of the value in establishing and maintaining strong relationships throughout the entire Project lifecycle. Therefore, and noting Westcoast's commitment to ongoing engagement with potentially impacted Indigenous Peoples, the Commission imposes **Condition 7** with respect to engagement with Indigenous Peoples. This condition requires Westcoast to file with the CER, at least 30 days prior to commencing any abandonment activities, an updated engagement summary, listing Westcoast's engagement activities with all potentially affected Indigenous communities and organizations since 28 May 2024. The summary must also include information on any concerns and comments raised by Indigenous communities and organizations, and how Westcoast intends to address any that are outstanding. The Commission also imposes **Condition 11** with respect to engagement with Indigenous Peoples. This condition requires Westcoast to provide updated engagement summaries since its submissions for **Condition 7** and up to the end of abandonment activities, and on or before 31 January following each of the first, third, fifth, and seventh complete growing seasons after completing final clean-up and reclamation.

4.2 Matters related to Indigenous Peoples

4.2.1 Views of Participants

Driftpile Cree Nation, Sucker Creek First Nation, and Whitefish Lake (Atikameg) First Nation are signatories of Treaty No. 8. Their known or asserted traditional territories are in central northern Alberta, including Lesser Slave Lake and its surrounding watershed. Louis Bull Tribe is a signatory of Treaty No. 6, whose known or asserted traditional territory is in central northeast Alberta. These traditional territories are not crossed by the proposed abandonment footprint. The Co-Intervening Nations explained however, that they travel outside of their ancestral territories to practice traditional activities and maintain their cultural existence, including into Treaty No. 8 territory.

In their joint comments regarding the preliminary screening and potential hearing steps, the Co-Intervening Nations emphasized that their participation in this hearing is with a view to providing important oversight to the Commission's review of the Project. In particular, they expressed concerns regarding the Project's potential to contribute to the cumulative effects in Treaty No. 8 territory. They submitted that they did not intend to overshadow or undermine the voices, interests, or jurisdictions of other Indigenous nations who may be more directly impacted by the Project. Instead, the Co-Intervening Nations submitted that their hope was to contribute to the growing role and influence of Indigenous perspectives in the review of regulatory applications. This includes applications for the abandonment of energy infrastructure, which effectively provide a final opportunity to ensure the lands and waterways affected by a project are appropriately protected and restored.

In addressing the preliminary screening test and whether to refer the Project for a further environmental assessment under the MVRMA, the Co-Intervening Nations:

- expressed concerns about the methods of abandonment;
- noted risks associated with abandoning in place;
- discussed mitigation measures and Project risks; and,
- concluded by raising a concern that the applicant has not yet proven that the Project poses no significant risk of environmental harm and that no mitigations are necessary.

Many of these concerns are included in a report titled *Pointed Mountain Cumulative Effects Review* authored by Solstice Environmental Management (**Solstice Report**) which each Co-Intervening Nation filed as evidence and which is discussed in section 4.5 - Environment.

The Co-Intervening Nations asked IRs of Westcoast concerning the specific issues they raised in the Solstice Report including on the risks of potential water conduit effects from abandoning pipe in place, vegetation restoration, and impacts to culturally modified trees. Here is a summary of their supporting affidavits and requests:

- Karl Giroux from Driftpile Cree Nation stated they want to have the opportunity to monitor the Project in its implementation and post-implementation phases to ensure it does not contribute to cumulative impacts on Driftpile Cree Nation's rights. The Driftpile Cree Nation wants to be involved in any projects occurring in Treaty No. 8 territory so they can ensure future generations can still practice their rights and that Driftpile Cree Nation's voice is heard, noted and respected there.
- Jonathan Wright from Sucker Creek First Nation explained their particular concern about the protection of culturally modified trees in Treaty No. 8 territory. Culturally modified trees are of great importance to the Sucker Creek First Nation

and would be lost if they were not consulted throughout the implementation and post-implementation monitoring phases of the Project. In addition, he noted his concern that the Project may limit the rights of Sucker Creek First Nation members to hunt moose and bison and to fish near the Project's area in northern BC.

- Shaleigh Raine from Louis Bull Tribe explained that their values center around medicine, and they believe industry has had significant cumulative effects on their medicines. She stated: “Our elders tell us that you cannot have clean land that produces medicines unless everything about the land is restored to its former state, as it was before the pipeline. For us, an area with a pipe in the ground is not cleaned and not reclaimed.”
- Fabian Grey from Whitefish Lake (Atikameg) First Nation stated that Whitefish Lake (Atikameg) First Nation members “harvest plants in the mountains and by rivers, but there’s contamination from pipelines themselves in the ground as well as from the pipeline’s right of way, due to wolves using the right of way as highways. This has impacts on the wildlife in the region.” In his view, it would take 5-10 years for traditional plants to return to the region of the Project, and that the revegetation plan would also have to deal with the problem of invasive plants.

4.2.2 Views of Westcoast

Westcoast acknowledged that the Project has the potential to adversely affect the rights and interests of Indigenous Peoples. However, Westcoast submitted that by implementing its planned mitigation measures and the Project-specific Environmental Protection Plan (EPP), the effects on TLRU activities and sites in the Project area would be low in magnitude and not significant. Westcoast submitted that once the physical abandonment activities are complete, the Project has potential to positively affect Indigenous rights and interests. It noted the existing pipeline easements would contribute to available Crown land and native vegetation would be able to repopulate the land.

To address the specific concerns raised by the Co-Intervening Nations, Westcoast stated that it had met with Driftpile Cree Nation, noting their interests and concerns and ensuring they were addressed in the Project EPP. Westcoast explained in its evidence that it has been working with local Indigenous Peoples to ensure monitoring will be in place and had offered capacity funding to Driftpile Cree Nation for a desktop TLRU study, which was not accepted. Considering Driftpile Cree Nation’s desire to monitor the Project, Westcoast stated this funding could be made available to review reports and the company could meet with local Indigenous monitors.

Westcoast stated that it recognizes the importance of culturally modified trees to Indigenous Peoples and supports Sucker Creek First Nation’s ability to exercise its rights. It referred again to the EPP, which explains that culturally modified trees identified in the vicinity of the Project will be flagged for avoidance, with signage included, and monitored during the abandonment activities. It has offered, and continues to extend the offer, for Sucker Creek First Nation to complete a desktop review of the Project, or monitor the Project through local Indigenous Peoples, who will be monitoring throughout the duration of the Project. Westcoast stated the monitors will help ensure that culturally modified trees are properly identified and protected. Sucker Creek First Nation is invited to provide locations of any culturally modified trees within the Project footprint not previously identified so they can be protected.

Regarding the issues of ground disturbance and the environmental impact of abandonment activities raised by Louis Bull Tribe, Westcoast stated it was continually engaging with Indigenous Peoples to minimize both. It noted that local Indigenous Peoples had identified these issues as a high priority, and that the Project methodology reflects these concerns. Westcoast referred to its EPP and the revegetation plan which would be part of its abandonment work, and its engagement with local Indigenous Peoples on plan development to ensure invasive species are minimized or avoided and appropriate plants and woody debris are used for successful revegetation.

To address Whitefish Lake (Atikameg) First Nation's concerns about ground contamination and the length of time for regrowth on the right-of-way (**RoW**), Westcoast explained that abandonment includes the treatment or removal of all known contaminated soil. Westcoast referred to the revegetation plans developed with input from local Indigenous Peoples, adding that natural regeneration is the preferred reclamation method to ensure that native and traditional plants return to the Project area. Westcoast will conduct post-construction environmental monitoring to ensure vegetation regeneration achieves equivalent land capability with adjacent areas and will invite local Indigenous Peoples to participate in the post-construction environmental monitoring program.

Furthermore, the EPP documents specific mitigations including the participation of Indigenous Peoples with respect to vegetation plans, culturally modified trees, access and RoW requirements, and historical resources. In its evidence, Westcoast summarized the outcomes of in-person meetings with representatives of each of the Co-Intervening Nations and expressed its understanding of their interest in the Project area and concerns about potential cumulative impacts, reiterating its proposed mitigation measures. Westcoast submitted that the existing pipeline and associated facilities have not prevented members of the Co-Intervening Nations from traveling to the Project area to hunt, fish and gather. Westcoast also pointed out that the Co-Intervening Nations have not identified any potential impacts to Indigenous rights nor the location of specific impacts that have not already been identified by local nations and addressed in the ESA.

The remainder of Westcoast's reply evidence dealt with the Solstice Report from the Co-Intervening Nations on abandonment and mitigation methods. Westcoast also filed two letters of support from First Nations whose traditional lands are directly crossed by the abandonment Project footprint, Fort Nelson First Nation and Nahʔą Dehé Dene Band.

Commission analysis and findings

The Commission finds that the effects of the Project on the rights and interest of Indigenous Peoples are of low severity and can be effectively addressed and mitigated. The Commission finds that issuing an abandonment order under section 241 of the CER Act is consistent with section 35 of the *Constitution Act, 1982* and the honour of the Crown.

Westcoast has adequately addressed the Project-related issues and concerns raised by the Co-Intervening Nations, including the specific issues and requests raised in their affidavits.

The Commission considered Westcoast's EPP, and its commitment to update it, and proposed mitigation measures to minimize or eliminate the Project's potential effects on the rights and interests of Indigenous Peoples. The Commission recognizes that the Project activities will be on previously disturbed land. The Commission also considered Westcoast's original and supplemental ESAs, which acknowledged that the Project is in an area of high TLRU; the potential for the abandonment to allow the land and resources to return to a more

natural state; and that the Co-Intervening Nations have been able to hunt, gather, and fish in the Project area and abandonment in place does not appear likely to affect those practices.

The Commission is also satisfied with how Westcoast has engaged with local Indigenous Peoples to take part in construction and post-construction monitoring to ensure that Indigenous Peoples' issues and concerns are addressed. The Commission further notes Westcoast's offer to facilitate an information exchange between local First Nations and the Co-Intervening Nations which also contributes to identifying, addressing, and resolving issues and concerns.

4.3 Appropriateness of abandonment methods

4.3.1 Views of Westcoast

Westcoast indicated that it considered safety, potential environmental impacts, and current and prospective future land use in determining its abandonment approach. Westcoast determined that the above-ground infrastructure associated with the pipeline will be physically removed to pipeline depth and that buried piping, including watercourse and road crossings, will be abandoned in-place. Westcoast determined that abandonment in-place is the most appropriate method because the environmental disturbance that would be caused by excavation and disposal of the pipeline would be far greater and unwarranted for this remote, predominantly forested, and uninhabited Crown and private lands area. Physically removing the buried pipeline would require disturbing the vegetation and brush that has re-grown on the pipeline RoW, potentially impacting caribou, and other wildlife habitat. Westcoast further notes that this approach is consistent with the National Energy Board/Canada Energy Regulator Stream 3 of the Land Matters Consultation Initiative base case assumption for small-diameter pipe in undeveloped land use areas.

Westcoast stated that cathodic protection will no longer be maintained on the abandoned pipeline. As a result, accessible test lead posts and anode wiring will be removed to pipeline depth. Westcoast stated the corrosion process for piping that has been abandoned in-place is expected to be localized and can take hundreds to thousands of years to occur. For medium diameter piping, ground subsidence is considered tolerable even in the event of a full pipeline collapse. For this reason, Westcoast has determined that it is not necessary to provide any special treatment for road crossings. There are no railway crossings affected by the Project. Westcoast also assessed whether segmenting the pipeline to prevent the undesired transportation of groundwater from one watershed to another was required. The pipeline does not cross any watershed boundaries, so additional segmentation of the pipeline was deemed unnecessary.

Commission analysis and findings

The Commission finds that Westcoast's abandonment methods are appropriate. The Commission considered safety, potential environmental impacts and current and future land use, among other factors. The Commission is of the view that Westcoast's proposed treatment measures of isolation and segmentation of the pipeline are appropriate for reducing the following effects:

- risk of water conduit formation;
- ground subsidence due to the diameter of the pipeline; and,
- risk of pipe exposure.

The Commission notes that Westcoast has committed to long-term monitoring of the RoW and to addressing any issues that may arise where the pipeline has been abandoned in-place. The Commission finds that physically removing the above-ground infrastructure to pipeline depth and abandoning the buried piping in-place, including at watercourse and road crossings, is appropriate for the Project. The potential for water conduit formation, ground subsidence and pipe exposure are addressed in section 4.5 - Environment.

4.4 Engineering

4.4.1 Abandonment Activities

4.4.1.1 Views of Westcoast

Westcoast stated that the proposed activities will be carried out in accordance with clause 10.16.2 of the CSA Z662-23, Oil and Gas Pipeline Systems (**CSA Z662-23**).

Commission analysis and findings

The Commission is satisfied that the abandonment was designed in accordance with the requirements of the CSA Z662-23. This standard ensures safety and environmental protection for oil and gas pipeline systems and serves as the minimum industry requirement. Additionally, the abandonment activities will be conducted in compliance with the same CSA Z662-23 standard.

4.4.2 Cathodic protection and request for exemption

4.4.2.1 Views of Westcoast

Westcoast stated that cathodic protection will no longer be maintained on the abandoned pipeline. To monitor and test its cathodic protection system, Westcoast installed 22 test lead posts at locations along the pipeline. In the years since the pipeline was deactivated in 2016, six have become inaccessible due to vegetation growth. The remaining accessible test lead posts and anode wiring will be removed down to the pipeline depth. Any anode beds will be abandoned in place, allowing them to corrode naturally, thereby avoiding unnecessary environmental disturbances that would occur from their removal.

To avoid clearing, environmental disturbances, and the need to build an access road, Westcoast asked for relief from paragraph 4(1)(d) of the *Canadian Energy Regulator Onshore Pipeline Regulations* (SOR/99-294) (**OPR**), as related to clause 10.16.3 of the CSA Z662-23 and its applicability to the six test lead posts proposed to be abandoned in-place.

Commission analysis and findings

The Commission is satisfied with the reasons provided by Westcoast for why cathodic protection will no longer be maintained. Maintaining it on an abandoned pipeline is technically challenging and does not necessarily preserve the pipeline's integrity. Other than as noted below, the Commission is also satisfied with the removal of accessible cathodic protection components, in accordance with the requirements of the CSA Z662-23, which mandates the removal of all above-ground facilities.

The majority of the Commission denies Westcoast's request for relief from paragraph 4(1)(d) of the OPR as it relates to clause 10.16.3 of the CSA Z662-23 and the six test lead posts proposed to be abandoned in-place. In the majority view, Westcoast did not provide sufficient evidence and justification to support the request and did not meet its onus to demonstrate that the request should be granted.

Westcoast did not provide sufficient engineering evidence or analysis to support its exemption request. No detailed assessment was provided demonstrating that leaving the test lead posts in place poses an engineering risk – rather, Westcoast’s evidence was that there are no additional engineering risks to removing the above ground facilities.

Under CSA Z662-23 clauses 10.5 and 9, a company is required to maintain corrosion control and in so doing, verify at regular intervals the satisfactory operation of their cathodic protection systems and establish by surveys that their cathodically protected pipeline systems meet the cathodic protection criteria. Compliance with the CSA Z662-23 is intended to, among other things, ensure the safety and integrity of pipelines. The majority of the Commission is of the view that granting an exemption from the OPR requirements and the CSA standard without supporting evidence could be interpreted as detracting from these principles and is unwarranted in this instance.

The pipeline has been deactivated since 2016. The majority of the Commission notes that in the years since deactivation Westcoast only performed aerial patrols. Had field surveys been taken at regular intervals, the majority of the Commission expects that the vegetation would not have regrown to the extent that it did for the six test lead posts. The majority of the Commission does not accept that insufficient regrowth management constitutes facts or circumstances warranting an exemption from OPR requirements or the CSA standard. The majority of the Commission is of the view that the company did not establish, by way of its Application and evidence filed in response to IRs, that the environmental impacts or safety considerations in this case are abnormal, unusual or unique such that the requested relief should be granted.

The majority of the Commission expects that, as will be the case for the other 16 test lead posts being removed, abandonment activities for the six test lead posts can be carried out in accordance with applicable OPR requirements and CSA standards in a manner that is safe and minimizes the effects to the environment. The Commission also notes that this decision is on a without prejudice basis to Westcoast and that it may reapply for relief regarding the six test lead posts, as guided by the reasons in this decision.

However, the Commission’s minority would have granted the exemption for the six test lead posts. While the minority concurs that all companies are expected to maintain deactivated pipelines in accordance with applicable regulatory requirements, Westcoast’s monitoring program, including any related compliance issues, is not an issue directly before the Commission at this time. Westcoast has established, through its Application and evidence filed in response to IRs, that removal of the six test lead posts would now involve additional environmental impacts and safety considerations due to access issues. The preface⁵ in the CSA standard contemplates exceptions in appropriate circumstances. In the view of the minority, the location of the posts in relation to other abandonment activities, construction constraints and safety risks, and in particular, the environmental effects unique to this locale justify the requested exemption.

⁵ The preface of the CSA standard states: The requirements of this Standard are considered to be adequate under conditions *normally encountered* in the oil and natural gas industry. *Specific requirements for abnormal or unusual conditions are not prescribed*, nor are all details related to engineering and construction prescribed. It is intended that all work performed within the scope of this Standard meet the standards of safety and integrity expressed or implied herein, and that the requirements of this *Standard be applied with due regard to the protection of the environment*, which includes land, water, plant life, and animal life. Detailed requirements concerning the protection of the environment are not prescribed (*emphasis added*).

While the decision to deny the exemption is without prejudice to Westcoast reapplying for this relief, the minority notes that Westcoast could also simply opt to clear vegetation and build construction roads to access these six test lead posts to remove them, leading to environmental disturbances and other risks that would be avoided by granting the exemption. These environmental disturbances would involve additional wetland and watercourse crossings as well as brushing and icing along more than 10 km of the RoW in an area that would not otherwise be accessed for the Project. In the view of the minority, these environmental disturbances, when considered in the context of the preface and intent of the CSA standard, would tip the balance and justify granting an exemption in this case.

4.5 Environment

The following subsections will address concerns raised by the Co-Intervening Nations and potential effects of the Project related to water conduit formation, pipeline exposure at watercourses, wildlife and wildlife habitat, soil contamination, and ground subsidence.

4.5.1 Water conduits

4.5.1.1 Views of Westcoast

Westcoast stated that water conduits may locally divert surface water or shallow groundwater and alter recharge to both surface water bodies and deeper groundwater resources. To prevent the formation of water conduits, Westcoast plans to segment (i.e., cut and cap) the pipeline at several locations along the RoW. In addition to the physical barrier of segmentation, the natural topography of the area will not allow for the movement of enough water to reduce areas of recharge or impact water quality or quantity if a conduit were to develop along the abandoned pipeline. Westcoast will segment the pipe by physically removing and capping the pipeline at Pointed Mountain (**PM**)-3, PM-4A, PM-7, PM-7A and use local peaks in elevation which prevent water flow from moving from one side of the peak to the other without positive pressure. As the pipeline follows the contours of the land, any water inside the pipeline would only flow until it reaches a rise in elevation. This will result in the 56 km pipeline being segmented into a minimum of 15 segments, with no segment longer than 7.85 km.

Westcoast also assessed the potential for a siphon effect to occur within the abandoned pipe. Westcoast determined the potential for a siphon to be extremely unlikely as an initial force by pump or suction would be required to get water sufficiently flowing in the abandoned pipeline to overcome elevation gains and internal friction.

Westcoast stated that filling portions of the line with inert material, as suggested by the Co-Intervening Nations in the Solstice Report (discussed below), will likely result in a greater environmental impact compared to the proposed segmentation plan. Specifically, to fill portions of the pipe with inert material, Westcoast would likely need to excavate additional areas along the pipeline to access the pipe for material injection. This would result in additional soil and vegetation disturbance. Further, to use inert fill material, such as sand, overburden and rock and a binding agent, as recommended by the Solstice Report, Westcoast would need to identify, excavate, and transport additional materials for the Project. This would significantly increase the environmental impacts and would delay reclamation and revegetation. Minimization of land disturbance has continually been identified as a high priority for local Indigenous Peoples, and the Project methodology reflects this priority.

Westcoast stated that cutting and capping pipelines is a common industry practice which is effective at preventing water conduits. Westcoast has considered at-risk features as well as

potential downstream features and does not see the potential for water conduit formation or the collapse of the pipe as warranting additional segmentation or filling of the pipeline. Westcoast acknowledges that monitoring does not prevent future, unforeseen issues from occurring and that the CER Act requires companies to continue to be liable for abandoned pipelines. Following completion of Westcoast's post-construction monitoring program, Westcoast will take appropriate measures to respond to any future unforeseen issues based on industry best practices and site-specific conditions and as required by the CER.

4.5.1.2 Views of participants

The Co-Intervening Nations identified, in the Solstice Report, concerns with Westcoast's proposed mitigation measures for preventing water conduits. In their view, the unknown potential for water conduits to form is concerning given the value of water resources in the face of climate change and considering the accelerated heating being experienced in northern Canada.

The Co-Intervening Nations raised concerns with the idea that the potential for water conduits to impact surface water quality and quantity is a negligible impact. Westcoast's justification that these concerns are invalid is based in the stated natural topography constraints where highpoints exist and the retention of the pipeline's integrity to resist corrosion. The Co-Intervening Nations stated that cutting and capping the pipeline in strategic locations instead of consistently along the pipeline, may pose a risk for water conduits to form once the pipe begins to corrode, conveying water and potential contaminants down-pipe. Potential for pipe exposures to progress within wetland areas from pipe buoyancy or those areas containing permafrost may result in the changes of the invert elevation with the ability to exacerbate the formation of water conduits.

The Co-Intervening Nations also stated that the potential for pipe segments to create a siphon effect once the pipe is corroded should be considered. A siphon effect could allow water to be conveyed across highpoints, further depleting and impacting water resources. The Co-Intervening Nations recommended the use of an inert material to fill the pipe that will be abandoned in-place (i.e., pastefill) which may reduce cumulative effects. Ingredients to create pastefill may be found locally on-site of the pipeline abandonment, alleviating the need for mix trucks in remote areas. Using an inert material to fill the pipeline would reduce the concerns for water conduits, pipe buoyancy and potential contaminants.

Commission analysis and findings

The Commission finds that Westcoast's methodology for segmentation of the pipe is appropriate for the Project. The Commission is of the view that by implementing Westcoast's pipe segmentation plan and long-term monitoring plan, any potential adverse environmental effects due to the formation of water conduits would be of low significance and the contribution to cumulative effects would be negligible.

Westcoast identified that the pipeline will be divided into 15 segments by both cutting and capping at the four physical work locations and using peak points along the natural topography to define the remaining segments. The Commission notes Westcoast's proposed pipe segmentation method is consistent with other abandonment projects and is satisfied that the segmentation of the pipe is expected to prevent the movement of water and any residual contamination through a conduit beyond a local scale. The Commission further notes that Westcoast has committed to undertake long-term monitoring of the RoW and address any issues that may arise due to the pipeline remaining in-place.

The Commission is of the view that the use of an inert substance to fill the pipeline is not required as the excavation of the inert materials and the additional access required would result in significant and unwarranted environmental disturbance along the RoW. To use an inert material, the materials either need to be excavated on site or trucked to the sites, and additional access points along the pipeline would be required. This work would increase the amount of clearing and excavation required to reach the depth of the pipeline for injection of the inert material. Additional vegetation brushing would be required for access to the pipeline, potential additional water use for construction of ice bridges, and the additional vegetation brushing would have the potential to affect several additional wildlife and/or species at risk. For pipeline abandoned in-place, water conduit formation is unlikely to occur in the short-term and could take decades to occur, if at all. However, should a water conduit form in the abandoned in-place pipe, the effects would be localized to the individual segment.

4.5.2 Pipeline exposure at watercourses

4.5.2.1 Views of Westcoast

Westcoast indicated that no new permanent access roads are required for the Project. Westcoast will access the physical abandonment sites using existing winter resource roads and temporary access roads along the Pointed Mountain RoW with ice bridges over the Petitot River, North Liard River, Kotaneelee River, La Biche River and the Liard River. Vegetation brushing will be required along the existing Pointed Mountain RoW and for the temporary access road. Brushing of vegetation that has regrown will be limited to only what is necessary to allow for safe access to the abandonment locations and completion of the work. Completing the work in winter will maintain the root structures and seed banks along the pipeline RoW, therefore the vegetation is expected to regenerate relatively quickly. The construction of ice bridges will not require additional brushing beyond that which is already planned. Westcoast has committed to implementing the applicable measures from the Fisheries and Oceans Canada (**DFO**) Code of Practice: Ice bridges and snow fills (2023) to protect the riparian zones.

Westcoast stated that exposed pipe will be removed at two watercourses (WC-27A and WC-36). The primary removal method involves cutting the exposed pipe well above the high-water mark on either side of the watercourse and pulling the pipe out from one side. If the pipe cannot be removed by pulling from outside of the watercourse bed and banks, instream work may be needed to remove the pipe. Instream work is included in the Application as a contingency plan, in the event it becomes necessary to excavate instream around the pipe, or to recontour the watercourse if the pipe pull causes slumping.

Bull Trout (Western Arctic population) are listed as a species of special concern on Schedule 1 of the federal *Species at Risk Act (SARA)* and have the potential to be present in watercourses WC-27A and WC-36. Westcoast's field work identified that there is no fall spawning habitat, and only marginal to unsuitable fish habitat within the surveyed reaches of the watercourses. No fish were captured at watercourse WC-27A and a low number of fish were captured at watercourse WC-36. Westcoast has planned for the work to be conducted during the winter and stated that these streams may be frozen to the ground. If water is flowing at the time of abandonment activities, Westcoast committed to conduct fish salvages, using qualified aquatic biologists, to reduce the potential for fish mortality from instream activities. Westcoast expects the entire pipe removal procedure could take up to 14 days to complete at each location, but any instream activities associated with the pipe removals are expected to be completed within one day. Westcoast stated that by implementing the Project's mitigation measures, the proposed work is not expected to have negative effects on Western Arctic Bull Trout.

Westcoast identified a large beaver dam at watercourse WC-36 which may impact proposed works. Multiple active beaver dams and beavers were identified throughout the assessed watercourse reach. Westcoast stated the exposed pipe is under the beaver dam, so there is a potential risk to the access crossing if the beaver dam is removed after installation. The large volume of water and complex woody debris cover likely will require more fish salvage effort.

For the beaver dam removal, Westcoast committed to following the applicable measures in the DFO Code of practice: Beaver dam breaching and removal, along with any conditions in the *Yukon Wildlife Act* permit. Prior to and during beaver dam removal activities, Westcoast will have a qualified professional on-site to monitor water quality, including temperature, suspended sediment and dissolved oxygen levels, within the impounded area(s) and in downstream habitat. Westcoast stated that the beaver dam will be removed gradually to allow water to be released in a controlled, stepwise manner, to limit sediment mobilization and the potential influence of differing water quality conditions.

Westcoast stated the removal of the beaver dam will increase connectivity between upstream and downstream habitat, as it will remove an obstacle to fish migration. Removing the exposed pipe section will also ensure the pipe does not impede fish movement. Westcoast committed to having a fish salvage crew on-site during removal of the exposed pipe to capture and relocate any fish that may become stranded. Westcoast stated that long-term monitoring of the RoW will continue, and any potential exposures discovered at other watercourse crossings will be addressed.

4.5.2.2 Views of participants

The Co-Intervening Nations identified that there are many tributaries and wetlands present along the pipeline abandonment Project area, and many are in proximity of diverse fish-bearing waters, such as the Liard River and the tributaries west of Fisherman Lake. The proposed access plans prescribe vegetation brushing of riparian areas for vehicle and equipment crossings, including ice crossings developed through continual icing. There are also instream works for the physical removal of the exposed pipe segments located at PM-4A and PM-7A. The Co-Intervening Nations noted that the waters within the Project area may support Bull Trout, a species of special concern listed on Schedule 1 of SARA. They also noted that threats to the Western Arctic Bull Trout are listed as degraded and fragmented habitat, as a result from impacts, including but not limited to, oil and gas development and transportation infrastructure development.

The Co-Intervening Nations raised concerns that potential impacts from increased siltation and rising temperatures could be accelerated by the proposed pipeline abandonment through instream work and the various crossings proposed. Further, removing the beaver dam on top of the pipe exposure at PM-7A may further degrade fish habitat and future pipeline exposures in watercourses may pose direct barriers to small-bodied fish present during times of low flow in channelized systems. They were also concerned about cumulative effects to aquatic resources due to the proposed Project, considering climate change, which may further strain water availability and quality, including changes to surface water temperature and subsequently dissolved oxygen levels. Co-Intervening Nations recommended that physically removing the pipe at watercourse crossings should be considered to prevent future adverse effects such as fish barriers. The physical removal will result in increased disturbance of watercourses and associated riparian areas but the benefit of the removal to aquatic species at risk, such as Bull Trout, and the establishment of necessary habitat offsets and restoration may potentially outweigh the negative effects of the disturbance.

Commission analysis and findings

The Commission finds that with the implementation of Westcoast's proposed mitigation measures and contingency instream work plans, any potential adverse effects on fish and fish habitat and the removal of the beaver dam at watercourse WC-36, including cumulative effects, would be of low significance.

The Commission notes that no instream work is associated with the vegetation brushing for the temporary access road or the excavation work at the physical abandonment sites. However, instream work is planned for watercourses WC-27A (PM-4A) and WC-36 (PM-7A) respectively, to remove exposed pipes.

The results of Westcoast's fish surveys identified marginal to unsuitable fish habitat at watercourse WC-27A and confirmed no spawning habitat was present for fall spawning fish species. Westcoast noted that there is potential for watercourse WC-27A to be frozen to the ground at the time of pipe exposure removal. The Commission is satisfied that Westcoast's proposed mitigation measures for fish and fish habitat are appropriate to protect the aquatic resources within watercourse WC-27A.

The Commission notes Westcoast's identification of a large beaver dam at watercourse WC-36, and the multiple active beaver dams identified throughout the assessed reach. The presence of multiple active beaver dams makes it unlikely that the watercourse will be frozen to the ground at the time the work is scheduled. The Commission acknowledges Westcoast's commitment to adhere to the DFO Code of Practice for Beaver Dam Removal, however notes that winter construction is not within the fisheries protection timing window for watercourse WC-36.

The Commission is of the view that removing the beaver dam in the winter has the potential for adverse effects to fish and fish habitat. This includes the removal of overwintering habitat for fish and the potential for sedimentation of fish habitat downstream of the beaver dam. However, the Commission finds that Westcoast's commitments to adhering to the removal measures identified in DFO's Code of Practice for Beaver Dam Removal (e.g., removing the dam gradually to control flows and prevent sediment from being released downstream and prevent fish stranding), and the use of fish salvages, should minimize the potential for adverse effects.

The Commission is aware that, if the beaver dam is confirmed to be active, the beavers will have to be trapped and removed prior to beaver dam removal. Removing beavers during the winter has the potential to cause mortality as the beaver cannot relocate and its food cache is typically located underwater within the beaver pond. The Commission understands that for Westcoast to remove the beaver dam and any beavers a permit is required under the *Yukon Wildlife Act*. The YESAB Report, filed by Westcoast on 24 July 2024, identifies the removal of the beaver dam in the winter as having the potential to cause significant adverse effects on the beavers. The YESAB Report's terms and conditions included a requirement for the beaver dam removal to occur within the fisheries protection window (i.e., not during the winter), unless otherwise determined by the Yukon Government – Department of Environment. This recommendation was then imposed by the decision bodies under the YESAA as term and condition 6 of their consolidated decision document. It requires Westcoast to contact the Yukon Government – Department of Environment and, if required, DFO, to discuss the timing of the beaver dam removal and any conditions that may be required to conduct the activity. The Commission notes Westcoast's commitment to follow the terms and conditions in the YESAB Report, which were also included in the YESAA decision documents, and is of the view that following any timing requirements and conditions

identified in the *Yukon Wildlife Act* permit for beaver dam removal will minimize the potential adverse effects on the beavers.

The Commission imposes **Condition 6** – Updated Environmental Protection Plan. **Condition 6** requires Westcoast to file an updated EPP that describes all environmental protection procedures, mitigation measures and commitments that will be implemented to avoid or minimize potential adverse environmental and socio-economic effects during the abandonment activities. **Condition 6** must also include the terms and conditions and recommendations included in the decision documents issued by decision bodies under the YESAA for the Project, including any additional mitigation measures required to support the terms and conditions.

Pursuant to the [2023 Memorandum of Understanding](#) between the CER and DFO, the CER reviews project activities and refers to DFO any works that would likely result in harmful alteration, disruption or destruction to fish and fish habitat, and therefore require authorization under paragraph 35(2)(b) of the *Fisheries Act*. The Commission therefore imposes **Condition 5**, which requires Westcoast to file finalized site-specific watercourse information within 45 days of receiving the Abandonment Order. This includes site-specific watercourse information for watercourses WC27A, WC-36 and the six test lead posts (AGM#2L, AGM #3L, AGM#11L, AGM#12L, AGM#13R, AGM#15R).

The Commission finds that removing the pipeline at all watercourse crossings and associated riparian areas is not required. The Commission is of the view that removing the pipeline at all watercourse crossings and associated riparian areas would require access to the entire length of the pipeline RoW. This would require additional vegetation brushing along the RoW which may increase the potential effects on vegetation, wildlife species and their habitat as well as the fish and fish habitat at each of the watercourse crossings. The Commission is satisfied with Westcoast's commitment to conduct long-term monitoring of the RoW and address any future pipe exposures, should they occur, at the time of discovery.

4.5.3 Wildlife and wildlife habitat – birds

4.5.3.1 Views of Westcoast

Westcoast describes the RoW as being in varying stages of successional regeneration through upland, wetland and riparian areas, and portions of the RoW have been influenced by heavy bison use. In general, the RoW is dominated by regenerated shrubs and pole sapling trees. Some anthropogenic disturbance land cover remains, including cleared (i.e., previously disturbed areas dominated by tame/agronomic graminoid and herbaceous vegetation species) and disturbed (i.e., areas maintained clear of vegetation such as access roads).

Westcoast conducted a reconnaissance field survey and documented the following wildlife species or their signs:

- black bear;
- red squirrel;
- wood bison;
- moose;
- deer species;
- hairy woodpecker;
- downy woodpecker;
- American redstart;

- osprey;
- red-breasted nuthatch;
- Bohemian waxwing;
- white-winged crossbill;
- black-capped chickadee;
- American goldfinch;
- pine siskin;
- peregrine falcon;
- Say's phoebe;
- tree swallow;
- unidentified warbler and sparrow species; and
- two amphibians (wood frog and western toad).

Westcoast stated that the Project is in the Bird Conservation Region 6 which has a primary nesting window of May 5th to August 9th. This primary nesting window is when the majority (90 per cent) of migratory birds will be breeding and nesting in the area.

Westcoast has scheduled the work over the winter months, which avoids the primary nesting window for migratory birds. Winter work allows for minimal disturbance techniques to be implemented and vegetation brushing for access along the pipeline RoW will be kept to a minimum (i.e., brushing of coniferous vegetation that has regrown will be limited to only what is necessary to allow safe access of equipment and completion of work). As such, seed banks along the RoW can be maintained and vegetation is expected to regenerate relatively quickly.

Westcoast considered the potential impact from vegetation brushing and access during its ESA, including the potential impact on wildlife. Westcoast expects the vegetation loss due to brushing to be limited in extent and it is expected to regenerate to current conditions relatively quickly (medium-term) following abandonment activities. Mitigation measures identified included pre-construction surveys that identify environmental features, such as dens and will either flag, fence-off, or sign the feature prior to construction. Westcoast has been working with local Indigenous Peoples to ensure local monitoring will be in place and expects those monitors to be involved in pre-construction surveys.

Westcoast stated its EPP includes a Wildlife Discovery Contingency Plan which provides measures to implement in the event a wildlife feature or wildlife species of concern is discovered before construction as well as during construction. These include measures such as:

- narrowing down the proposed area of disturbance and protecting the site using fencing or clearly marking the site with flagging;
- informing users of access restrictions in the vicinity of the fenced or flagged sites;
- suspending work in the immediate vicinity;
- notifying the Environmental Inspector, and if warranted, notifying the appropriate regulatory authorities; and/or,
- having a qualified biologist/environmental specialist develop an appropriate mitigation plan and visit the site.

Westcoast has committed that the Project will adhere to the requirements set out in applicable federal environmental legislation and regulations, including the *Migratory Birds Convention Act*.

4.5.3.2 Views of participants

The Co-Intervening Nations stated that there is potential for the reduction of bird habitat and a potential increase in bird mortality. The vegetation brushing and access requirements may directly remove nesting sites, impacting primary and secondary cavity-nesters. Under the *Migratory Birds Convention Act* and associated regulations, pileated woodpecker cavities are protected year-round. Permission for nest removal may be granted once the nest is registered with Environment and Climate Change Canada (ECCC) and three consecutive years have passed without a migratory bird occupying the nest. Westcoast's ESA lists the pileated woodpecker as a species that could occur within the area of the Project but does not address the potential presence of cavity nests that may be encountered.

The Co-Intervening Nations noted that nest sweeps, which are often used by industry, are not a mitigation measure recognized by ECCC. As a result, the potential for project induced mortality or nest failure due to sensory disturbance has not been accounted for. The Project may result in cumulative effects with existing human disturbances resulting in the direct loss of migratory birds and their offspring. The Project does not consider impacts resulting from the proposed vegetation brushing for access. The cumulative effects can be addressed by completing wildlife sweeps with an adequate search effort by qualified individuals including Indigenous land users, and identifying and marking wildlife features, such as pileated woodpecker cavities well in advance of tree removal.

Commission analysis and findings

The Commission finds that with the implementation of Westcoast's proposed mitigation measures and Wildlife Discovery Contingency Plan, any potential adverse effects on migratory birds and their nests would be of low significance and the contribution to cumulative effects would be negligible.

Westcoast has scheduled the proposed brushing activities for the winter months, outside of the primary bird nesting period, which is expected to minimize impacts to migratory birds and their offspring. The Commission notes the Co-Intervening Nations identified the pileated woodpecker as a species whose nest is protected year-round and can be impacted by the winter vegetation brushing for temporary access for the Project. The Commission also notes Westcoast's overview of the vegetation state along the RoW, potential for the pileated woodpecker to occur in the Project area and reference to its Wildlife Discovery Contingency Plan which includes mitigation measures to be implemented in the event a nesting cavity is discovered. Westcoast also committed to conducting pre-construction surveys and either flag, fence-off, or sign the environmental feature prior to construction. The Commission notes that the Co-Intervening Nations identified a similar wildlife sweep methodology to be conducted well in advance of tree removal to address potential cumulative effects on migratory birds.

The Commission reminds Westcoast of its requirement to adhere to applicable federal environmental legislation and regulations which include the *Migratory Birds Convention Act*. The Commission expects Westcoast to refer to ECCC's [Guidelines to Avoid Harm to Migratory Birds](#) when finalizing its mitigation measures for migratory birds.

4.5.4 Wildlife and wildlife habitat – NT-1 caribou range and boreal caribou

4.5.4.1 Views of Westcoast

Boreal caribou are listed as a Threatened Species under Schedule 1 of the SARA. Westcoast stated the Pointed Mountain Pipeline RoW is within the western edge of the NT-1 Caribou Range for approximately 26.5 km in the Northwest Territories (**NWT**). PM-1, PM-3, and PM-4 are located within the NT-1 Caribou Range. This area is considered critical habitat, as it may contribute to achieving the target of 65 per cent undisturbed habitat needed for self-sustaining boreal caribou populations. The remaining undisturbed critical habitat in NT-1 is estimated to be at 65 per cent, which is the target amount for all boreal caribou populations. Anthropogenic disturbance in the NT-1 Caribou Range is relatively low and is estimated to be around 9 per cent.

While the Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada for the Period 2012-2017⁶ indicates the overall population trend is declining, the integrated risk assessment for the NT-1 Caribou Range is listed as self-sustaining (i.e., the range has the capacity to maintain a local population of boreal caribou). The NT-1 Caribou Range population is estimated to be between 6,000 to 7,000 animals.

Westcoast conducted field studies along the RoW where physical abandonment activities would take place. No boreal caribou or signs of their presence were observed at the sites. Westcoast stated that a representative of Acho Dene Koe First Nation commented that caribou have not been observed in the Project area in recent years and suitable habitat is scarce, as other wildlife (e.g., wood bison) have utilized the RoW.

Westcoast stated that during its field studies, wood bison were observed while travelling along the RoW between all NWT locations (PM-1, PM-2, PM-3, and PM-4), all Yukon locations (PM-6 and PM-7) and British Columbia locations (PM-8, PM-9, and PM-10). Evidence of heavy use of the pipeline RoW by wood bison was observed in the NWT, Yukon, and BC. This heavy use included vegetation disturbance such as trails, tracks, wallows, and grazing/scat.

Due to the scarcity of potential caribou habitat (e.g., presence of wood bison along the RoW) and lack of caribou observations in the area where abandonment activities are proposed, Westcoast concluded that the relative importance of the area for boreal caribou can be considered low. Therefore, Westcoast stated that it is anticipated that there will be no net loss of undisturbed habitat in the NT-1 Caribou Range because of the Project.

Westcoast indicated the RoW is currently in varying stages of successional regeneration as it passes through upland, wetland and riparian areas, and portions of the RoW have been influenced by heavy bison use. In general, the pipeline RoW is dominated by regenerated shrubs and pole sapling trees. Some anthropogenic disturbance land cover remains, including cleared (i.e., previously disturbed areas dominated by tame/agronomic graminoid and herbaceous vegetation species) and disturbed (i.e., areas maintained clear of vegetation such as access roads).

⁶ Environment and Climate Change Canada (ECCC). 2017b. Report on the Progress of Recovery Strategy Implementation for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population in Canada for the Period 2012-2017. Species at Risk Act Recovery Strategy Series. Environment and Climate Change Canada, Ottawa. ix + 94 pp.

Westcoast considered the potential impact from vegetation brushing and access during its environmental and socio-economic assessment, including the potential impact on wildlife. Westcoast has scheduled the work over the winter. Winter work allows for minimal disturbance techniques to be implemented and brushing for access along the pipeline RoW will be kept to a minimum. This method allows for the seed banks along the RoW to be maintained. Westcoast expects the vegetation loss due to brushing to be limited and is expected to regenerate to current conditions relatively quickly (medium-term) once the abandonment activities are complete.

Westcoast assessed the potential for increased mortality risk to caribou due to vegetation brushing on the RoW, as this activity can create improved conditions for predator movement. However, Westcoast noted the habitat along the RoW in its current condition does not have adequate revegetation to minimize effects associated with predator efficiency on linear corridors.

Westcoast has committed to implementing mitigation measures to reduce sensory disturbance as much as practical. For example, equipment will be well maintained (e.g., mufflers), unnecessary idling will be avoided, and Project personnel will be prohibited from snowmobile use outside of the Project footprint. In addition, for winter abandonment activities, an early-in/early-out approach will be used to reduce sensory disturbance to caribou by initiating activities as early as ground conditions allow in the winter and working expeditiously to limit late winter activities.

Westcoast's EPP includes mitigation measures to minimize potential effects to caribou movement and mortality risk in consideration of the overlap of physical abandonment activities with winter sensitive timing periods. With the implementation of mitigation measures in the EPP, Westcoast expects this effect pathway to be avoided or mitigated to negligible levels.

Westcoast said its assessment of effects on caribou habitat takes a precautionary approach. Although positive effects are anticipated because of habitat improvement after the removal of infrastructure, other factors considered include:

- the time lag for habitat (vegetation regeneration) to improve;
- the current status and trend of the NT-1 caribou population;
- the current use of the RoW by wood bison; and,
- the small, adverse residual effect associated with short-term sensory disturbance.

Overall, the residual effect is conservatively rated as neutral, though it may be positive overall.

Active habitat restoration would require remobilization of equipment during non-frozen conditions and could result in additional disturbance to the regenerating pipeline RoW, not to mention the difficulties in access. Segments of the pipeline RoW that could benefit from additional restoration are heavily occupied by bison. Areas that are not occupied by bison are on a trajectory to natural regeneration. Westcoast is of the view that the best approach is to encourage natural restoration and allow the pipeline RoW to continue progression on a successional trajectory to re-establish vegetation cover consistent with the surrounding landscape.

Westcoast stated the use of grass seed within the NT-1 Caribou Range following physical abandonment will likely be limited geographically to locations of ground disturbance (e.g., physical abandonment sites) where there is a risk of erosion or weed introduction and

spread. The existing pipeline RoW outside of these physical abandonment locations will not be seeded, since no disturbance to the soil is anticipated.

4.5.4.2 Views of participants

The Co-Intervening Nations said that the Project requires brushing of the existing alignment and additional brushing for access and raised concern that Westcoast's ESA states that the Project will not result in additional linear corridors. The Co-Intervening Nations are of the view that, due to the partial re-establishment of vegetation along the RoW, a linear corridor may be re-established. The disturbance to the revegetated RoW may have effects on wildlife, post-construction.

The Co-Intervening Nations raised concerns that the preferential use of the existing pipeline RoW by wood bison and the re-establishment of a linear corridor may result in habitat avoidance by boreal caribou and other wildlife that may use the area. The establishment of additional access routes due to the Project may also provide opportunistic egress routes for predators of boreal caribou, such as grey wolves. The Co-Intervening Nations were concerned that Project impacts may result in cumulative effects when considering impacts from increased forest fires and permafrost thaw leading to reductions in boreal caribou populations.

The Co-Intervening Nations had the view that linear corridor restoration should include the roughing of the RoW and the planting of woody species, which would reduce the potential for predator egress routes and alter the lines of sight within the disturbance area. This restorative approach would accelerate the recovery of the disturbance to the late successional forest type surrounding much of the pipeline.

Commission analysis and findings

The Commission finds that with the implementation of Westcoast's proposed mitigation measures and Wildlife Discovery Contingency Plan, any potential adverse effects on caribou, including any cumulative effects would be of low significance.

The NT-1 Caribou Range has the 65 per cent undisturbed habitat threshold identified in the Recovery Strategy for Boreal Caribou that is required to support a self-sustaining caribou population, and the NT-1 caribou population is currently considered to be a self-sustaining population. The habitat along the RoW in the NT-1 Caribou Range is currently being used by a population of wood bison. Based on the results of Westcoast's field study and confirmed through local Indigenous knowledge from a representative of the Acho Dene Koe First Nation, the wood bison's use of the RoW has degraded the habitat quality of that area for caribou.

It appears to the Commission that any kind of active restoration work along the RoW, including the suggestion of roughing of the RoW and planting woody tree species for caribou, would best be conducted during the summer months. This could result in additional environmental disturbance by accessing the RoW during that time and conducting the restoration work. Based on confirmed local knowledge from a representative of the Acho Dene Koe First Nation, suitable caribou habitat is scarce in the Project area as wood bison have utilized the RoW. Caribou have not been observed in the Project area in recent years. The Commission expects that continued use of the RoW by wood bison would degrade some or all of any caribou habitat restoration work that would be completed for the Project. The Commission has considered this knowledge and evidence and finds that the best approach is to encourage natural restoration and allow the pipeline RoW to continue to

progress on a successional trajectory to re-establish vegetation cover consistent with the surrounding landscape. In further consideration of this knowledge and evidence and the current status of the NT-1 caribou range and its population, the Commission has not recommended the inclusion of any caribou habitat restoration conditions for the Project.

Westcoast identified that the current state of the RoW is in varying stages of successional regeneration depending on the land use (i.e., upland, wetland and areas used by wood bison). The vegetation varies from regenerating shrubs to regenerating sapling pole forests, wetland and regenerating sapling pole forests with coniferous tree species. With respect to predators on the RoW, Westcoast has stated that the current state of the vegetation does not impede the efficiency of a predator in the area. The Commission is of the view that the Project is not creating additional access to the RoW. No new permanent access has been proposed, and the proposed abandonment sites will be accessed using existing roads and RoW. The access along the RoW consists of brushing of regenerating vegetation. Brushing of the vegetation sets back the time lag of re-vegetation, and a resulting potential residual effect on caribou habitat exists for the medium term. Due to the location of the Project, once the pipeline is abandoned, the natural regeneration of the vegetation is expected to be unimpeded for the long-term.

The Commission notes Westcoast's commitment to monitor the Project footprint for a period of five years following clean-up to ensure that the vegetation is on a successional trajectory to re-establish vegetation cover that is consistent with the surrounding landscape over time. To ensure the Project footprint (including the entire pipeline RoW) has reached or is on track to reach equivalent land capability, the Commission imposes **Condition 10. Condition 10** requires Westcoast to monitor the Project footprint and provide Reclamation Reports to the CER after the first, third, fifth and seventh complete growing seasons following the completion of abandonment activities. The Commission considered Westcoast's request to amend the condition to ending after the fifth complete growing season. However, the Commission finds, in light of the shorter growing seasons in the NWT and the Yukon, that seven growing seasons would be more appropriate for the Project location.

4.5.5 Soil contamination

4.5.5.1 Views of Westcoast

Westcoast conducted a search of the Federal Contaminated Sites Inventory, the Yukon Contaminated Sites Inventory, the BC Environmental Remediation Sites Database, and the Government of Canada's NWT Contaminated Sites List which did not identify any known contamination along the RoW. However, a diesel spill was reported in 2018 at PM-1 (Pointed Mountain Launcher) located at Kilometre Post 0.00.

Westcoast completed a Phase I Environmental Site Assessment at locations where associated pipeline infrastructure will be removed. The results indicated that a Phase II Environmental Site Assessment was warranted to confirm the presence of contaminants of potential concern in the subsurface at Sites PM-1, PM-6, PM-7, PM-8, PM-9, and PM-10. Westcoast confirmed that a Phase II Environmental Site Assessment was completed at each of these sites and soil contamination was found at both sites PM-1 and PM-7. Westcoast has filed three Notices of Contamination with the CER for the Project: REM-0193, REM-2018-034 and REM-2021-061. These three sites were identified as areas of potential concern for the Phase I Environmental Site Assessment. Westcoast confirmed that remediation of these three sites is planned to be conducted in conjunction with the abandonment work activities for the Project. Westcoast confirmed that contaminated soil encountered during physical abandonment activities will be addressed in accordance with the requirements set out in the CER Remediation Process Guide. Westcoast stated its EPP includes mitigation and

procedures for what to do when known and previously unidentified contaminated soils and water are encountered along the RoW.

Westcoast noted that the pipeline was previously cleaned of all residual product, coated with corrosion inhibitor, and physically isolated from any sources of upstream pressure prior to deactivation. Westcoast also noted that, according to a paper by Det Norske Veritas⁷ (2010), metals released from the pipeline body are generally not considered a potential environmental risk in terms of the degradation of pipe material.

4.5.5.2 Views of participants

Whitefish Lake (Atikameg) First Nation identified that its members harvest certain plants in the mountains and by rivers, but there's contamination from the pipeline itself in the ground as well as from the pipeline RoW, due to wolves using the RoWs as highways.

Commission analysis and findings

The Commission is satisfied that Westcoast's mitigation measures and procedures identified in the EPP for contaminated soils and contaminated water are appropriate to protect the environment. The Commission finds that any adverse effects on soil would be of low significance with negligible contributions to cumulative effects.

With respect to the concern raised by Whitefish Lake (Atikameg) First Nation regarding pipelines in the ground being considered contamination, the Commission notes that the pipeline was previously cleaned of all residual product, coated with corrosion inhibitor and physically isolated from any sources of upstream pressure prior to deactivation. Metals released from the pipeline body are generally not considered a potential environmental risk in terms of degradation of pipe material. The Commission is of the view that the risk for effects related to the pipe being a contaminant to the environment is low.

The Commission notes Westcoast's commitment to monitor the Project footprint for a period of five years following clean-up. The Commission imposes **Condition 10. Condition 10** requires Westcoast to monitor the Project footprint and provide Reclamation Reports to the CER after the first, third, fifth and seventh complete growing seasons following the completion of abandonment activities. The reports should also confirm that all contamination identified has been remediated to the appropriate federal or applicable territorial or provincial criteria.

4.5.6 Ground subsidence

4.5.6.1 Views of Westcoast

According to Westcoast, studies indicate any pipeline left in place is expected to result in long-term corrosion leading to full pipeline collapse and subsequent ground subsidence. However, studies conclude that full pipeline deterioration is unlikely along its entire length. In addition, the magnitude of ground subsidence for pipelines up to 323.9 mm (12¾ inches) in diameter is considered negligible, and for pipelines larger than 304 mm (12 inches) in diameter is expected to be within tolerable ranges. The Project consists of NPS 20 (508 mm) outside diameter pipe and therefore would be included in "within tolerable ranges".

⁷ Det Norske Veritas. 2010. Pipeline Abandonment Scoping Study. Prepared for the National Energy Board, Calgary, Alberta. i + 85 pp.

Westcoast indicated that frost heave may increase uplift on an abandoned pipeline due to the reduction of heat from the surrounding soil compared to an operating pipeline. However, frost heave is generally experienced within the top 120 cm of soil that freezes perennially. Westcoast stated that the pipeline was constructed with a minimum depth of 0.9 m (1.2 m at watercourse crossings). Westcoast noted that there are no railway crossings, or other locations that are considered highly sensitive to subsidence along the Project footprint. Westcoast stated that the buried pipeline is expected to be stable over the long-term; ground subsidence from eventual corrosion or pipeline collapse is not expected to affect the physical environment.

Westcoast said that the most appropriate risk mitigation measure is periodic monitoring of the pipeline RoW for indicators of an effect on the physical environment so that action can be taken to mitigate impact should an effect occur. Westcoast committed to conducting long-term monitoring of the Pointed Mountain Pipeline. Westcoast stated that should future, unforeseen issues be identified, Westcoast will be responsible for taking appropriate measures to respond to the specific issue based on industry best practices and site-specific conditions and as required by the CER.

Commission analysis and findings

The Commission is satisfied that Westcoast's mitigation measures and planned long-term monitoring of the RoW are appropriate to protect the environment from ground subsidence. The Commission finds that any adverse environmental effects associated with ground subsidence from the collapse of the pipeline would be of low significance with negligible contributions to cumulative effects.

Westcoast indicated that ground subsidence due to corrosion or full pipeline collapse is unlikely for medium diameter pipelines, but if pipeline collapse was to occur it would be localized and intermittent in occurrence. The Commission notes that the top of the pipeline has a minimum depth of 0.9 metre soil coverage, while pipe at watercourse crossings has a minimum depth of 1.2 metre of soil coverage. This means the majority of the 508 millimetre (20 inch) pipeline is below the 120 centimetres of soil that freezes yearly and therefore should result in a low risk of frost heave. In addition to Westcoast's commitment for long-term monitoring, Westcoast committed to taking the appropriate measures to respond to future unforeseen issues based on industry best practices and any site-specific conditions from the Commission. The Commission will retain jurisdiction of the pipeline that is abandoned in-place.

4.6 Safety

4.6.1 Views of Westcoast

In its Application, Westcoast outlines plans to manage typical safety hazards during abandonment activities through established measures including the Enbridge Safety Manual, a project-specific safety plan and field level hazard assessments. Additionally, Westcoast notes that, considering safety, environmental impacts, and land use, it will remove above-ground pipeline infrastructure to a pipeline depth while abandoning buried piping, including crossings under watercourses and roads, in-place. Warning signs will be installed at segment endpoints and at crossings to mark the abandoned pipeline.

Commission analysis and findings

The Commission is satisfied that safety hazards for the abandonment activities can be mitigated through standard measures including but not limited to the Enbridge Safety Manual

and Field Level Hazard Assessment. The Commission Imposes **Condition 8** requiring Westcoast to submit to the CER at least 30 days before starting abandonment activities:

- a project-specific safety plan or construction safety manual (taking into account that all test lead posts must be removed therefore requiring a plan for safe access and emergency response);
- the Enbridge safety manual;
- a project-specific risk register;
- a project execution plan; and,
- any additional safety or hazard identification documents intended for use during the project.

4.7 Economics and finance

4.7.1 Views of Westcoast

Westcoast estimated the cost of the Project in October 2023 to be \$56.2 million in 2023 dollars including a contingency of \$7.9 million (in 2023 dollars). Westcoast confirmed that funding is available, and the Project will initially be internally funded by Westcoast. Westcoast stated that it intends to file a subsequent application for approval to withdraw funds from its Gathering and Processing Abandonment Trust on a cost-reimbursable basis once the Project has been executed and the actual costs are known. Westcoast stated that it does not expect environmental issues to arise post-abandonment. If, however, any future remediation or repair is required, the costs associated with this work are expected to be funded either internally or through the Gathering and Processing Abandonment Trust or other mechanism approved by the Commission. The pipeline has been deactivated for many years and is no longer connected to Westcoast's pipeline system and Westcoast has determined that there is no prospective future use for it. The Project will have no impacts on existing customers or service on the Westcoast pipeline system and no impact on rate base or tolls.

Commission analysis and findings

The Commission is satisfied that Westcoast has sufficient funds to carry out the abandonment work. The Commission notes that the abandonment of the pipeline is not expected to have a direct impact on service or tolls for existing shippers or service. The Commission finds the toll and service impacts reasonable as the pipeline has been deactivated for many years and is not connected to Westcoast's pipeline system.

Condition 9 requires Westcoast to file final abandonment costs within 90 days of the completion of abandonment activities. The Commission reminds Westcoast that, should there be a change to the inputs into its Abandonment Cost Estimates, it must notify the Commission. This includes any costs arising from environmental issues or post-abandonment activities for which Westcoast may seek subsequent cost-reimbursement.

4.8 Public engagement, socio-economics, and lands

4.8.1 Views of Westcoast

Public engagement

Regarding general public engagement, subsection 24(2) of the CER Act requires Westcoast to publish a notice of the proposed abandonment in newspapers serving the areas near the proposed Project. Westcoast published a notice on 7 and 9 February 2022; however, it was published only in English. Westcoast subsequently corrected this oversight and republished in both French and English to comply with the *Official Languages Act* requirements in Fort Nelson News on 15 June 2022, Yukon News on 17 June 2022, and NWT News/North on 20 June 2022. The published notice gave information on how to file statements of opposition or requests for a hearing with the Commission within the 30-day deadline. In addition, Westcoast confirmed that it completed its commitment to serve notice within 72 hours of filing the Application on the potentially impacted Indigenous communities and other stakeholders (including landowners and land users) for the Project.

As noted in Section 4.1, Westcoast carried out both a stakeholder and Indigenous engagement program for the Project. Westcoast sent Project information packages to potentially affected Indigenous communities and organizations as well as other stakeholders between 25 August 2021 and 5 November 2021. Westcoast stated that no rights holders or stakeholders raised issues or concerns apart from Indigenous communities.

Socio-economics

Westcoast expects known potential socio-economic effects arising from the Project to be effectively mitigated by standard environmental protection and monitoring measures. Westcoast stated its Archaeological Impact Assessment (**AIA**) fieldwork was complete, but that the assessments from each territorial authority were still pending.

Lands

Westcoast stated that 99 per cent of the pipeline is located on remote provincial and territorial Crown land, and one per cent on private land held by Westcoast. Its Indigenous and stakeholder program included the following landowners and land users:

- 10 Indigenous communities and organizations;
- 8 registered trapline holders and trapper/guide outfitter associations;
- 13 government authorities at both the provincial/territorial and regional levels;
- 3 potentially affected industry members; and,
- 4 landowners (one Crown, one industry member).

Westcoast stated no additional permanent land would be required for the Project, and that the physical abandonment activities would take place within the existing RoW and temporary workspace at nine site locations. It noted all Project land falls within the 'Non-agricultural, no future development anticipated' land use category, that it plans to retain its land rights for the pipeline, and, following abandonment, the pipeline RoW and leases will be subject to monitoring. Westcoast originally anticipated the physical abandonment activities would be conducted from November 2022 to July 2023 with an estimated peak workforce of up to 25 people at one time. The workforce would be housed in an existing industrial camp. The 5 October 2023 Project Update added two more site locations and rescheduled all physical abandonment activities to the winter of 2024-25. The revised estimated peak workforce is

now up to 120 people, who would be housed in two additional construction camps. Westcoast plans to use either existing facilities or to equip already cleared sites for use as work camps. On 16 August 2024, Westcoast delayed its proposed construction timing by one year.

In its Engagement Program Summary, Westcoast documented Acho Dene Koe First Nation's request that artifacts be returned upon completion of examination, and Liard First Nation's submission to the Government of the NWT regarding the archaeological permit for the Project. Westcoast indicated that it advised Acho Dene Koe First Nation it would follow appropriate government guidance regarding the destination of artifacts and notify them of the process, and that its consultant invited Liard First Nation to participate in archaeological field studies. Westcoast also recorded that it would provide Liard First Nation a summary from their summer 2021 archaeological field program on request.

Commission analysis and findings

The Commission is satisfied that Westcoast properly notified stakeholders potentially impacted by the Project and Westcoast's engagement program was appropriate given the size and scale of the Project, ensuring potentially impacted landowners and land users had opportunity to raise any issues or concerns. The Commission is also satisfied that Westcoast has identified and appropriately addressed the socio-economic impacts associated with the Project. Westcoast's abandonment activities will take place on previously disturbed lands. The Commission is of the view that, given the size and scale of the Project, and with the proposed mitigations in place, the Project is not likely to cause any significant socio-economic effects.

The Commission is satisfied that Westcoast has demonstrated that it has taken steps to acquire the required AIA approvals ahead of physical abandonment activities. Further, the Commission is of the view that the proposed Project's potential impacts to heritage resources will be minimized considering Westcoast's planned mitigation measures and its commitment to ongoing Indigenous engagement.

On 24 July 2024, Westcoast filed the MVLWB Notice of Preliminary Screening and the YESAB Evaluation Report. The first filing shows Archaeological Impact Assessment Permits have been completed and acceptance letters were issued. The second filing (YESAB's Evaluation Report) recommends to other decision bodies that the Project may proceed. However, YESAB's Evaluation Report expresses concerns about heritage resources at page 64: "Although it appears that the Proponent will notify Indigenous Peoples upon discovery of a heritage resource given that they indicate they will work with Indigenous groups to develop a mitigation plan, it is unclear if this is the case." Accordingly, YESAB has recommended an Indigenous Peoples notification condition on this portion of the Project requiring Westcoast to contact Liard First Nation, Ross River Dena Council, and the Acho Dene Koe First Nation if a heritage resource is discovered. This latter recommendation was then imposed by the decision bodies under the YESAA as term and condition/recommendation 8 of their original decision documents and as term and condition 7 of their consolidated decision document.

Of the Indigenous communities identified as having known or asserted traditional territory in the Project area, Acho Dene Koe First Nation and Liard First Nation filed statements of concern, with the former explicitly identifying heritage resources as an area of concern. While they withdrew their objections after further engagement with Westcoast, they are also two of three Indigenous Peoples listed in the YESAA decision documents' condition 8 (of the original individual decision documents) and condition 7 (of the consolidated document) that need to be notified if a heritage resource is discovered on the Yukon portion of the Project. The Commission has imposed **Condition 6**, requiring an updated EPP that includes all

terms and conditions and recommendations included in the decision documents under the YESAA. This condition further demonstrates how the Commission has considered any decision document issued under the YESAA in accordance with section 87 of the YESAA.

5. Conclusion

The Commission approves the abandonment in-place of the Project and issues the attached Order ZO-003-2024 to this effect. The majority of the Commission denies the exemption request from the CSA-Z662-23 regarding the six test lead posts. This exemption denial is without prejudice and Westcoast may reapply for it as guided by the reasons in this decision. The Commission reminds Westcoast that it continues to be responsible for meeting all legislative requirements with respect to the abandoned pipeline, including those under the OPR.

The Commission directs Westcoast to serve a copy of this letter and the attached order on all interested parties.

Yours sincerely,

Signed by

Ramona Sladic
Secretary of the Commission

Attachment

cc: Ignatius Yankey, A/Director, Energy Mines and Resources – Geothermal and Petroleum Resources, Yukon, Email ignatius.yankey@yukon.ca
Aparna Verma, Chief Operations Officer, Energy Mines and Resources – Oil and Gas Resources Branch, Yukon, Email Aparna.verma@yukon.ca
Robin Bradasch, Regional Director General, Yukon, Crown-Indigenous Relations and Northern Affairs Canada, Email robin.bradasch@rcaanc-cirnac.gc.ca
Watson Lake Designated Office, Yukon Environmental and Socio-economic Assessment Board, Email WatsonLake.do@yesab.ca
Kathy Racher, Executive Director, Mackenzie Valley Land and Water Board, Email kracher@mvlwb.com