



**NOVA Gas Transmission Ltd.  
2021 NGTL System Expansion Project**

**Stoney Nakoda Nations - Wesley First Nation  
Section 35 Rights Assessment Report for the  
2021 NGTL System Expansion Project**



**Prepared For:**  
Wesley First Nation

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**Date:** April 18, 2019

*Stoney Nakoda Nations – Wesley First Nation Section 35 Rights Assessment Report*

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Cover Photo: Stoney Nakoda Family Camp, Banff National Park, Alberta. MNP LLP/Bill Marsh

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## Key Findings

The *Stoney Nakoda Nations - Wesley First Nation Section 35 Rights Assessment Report for the 2021 NGTL System Expansion Project* was commissioned by Wesley First Nation to identify how the NOVA Gas Transmission Ltd. proposed 2021 NGTL System Expansion Project may adversely impact the rights of Stoney Nakoda Nations. Stoney Nakoda Nations hold rights under Treaty No. 7, the *National Resources Transfer Act, 1930* and maintain unextinguished Aboriginal Title as recognized and affirmed under Section 35 of the *Constitution Act, 1982*, collectively referred to as Section 35 Rights.

The purpose of the *Stoney Nakoda Nations - Wesley First Nation Section 35 Rights Assessment Report for the 2021 NGTL System Expansion Project* is to:

- provide information about how the 2021 NGTL System Expansion Project may adversely impact the ability of Stoney Nakoda Nations to exercise their Section 35 Rights;
- provide suggestions for appropriate accommodation measures for 2021 NGTL System Expansion Project-related adverse effects to the exercise of Stoney Nakoda Nations' Section 35 Rights;
- outline additional issues and concerns of the Stoney Nakoda Nations Consultation Office; and,
- document the exercise of Stoney Nakoda Nations Section 35 Rights through the identification of use of land and resources in the vicinity of the 2021 NGTL System Expansion Project

The *Stoney Nakoda Nations - Wesley First Nation Section 35 Rights Assessment Report for the 2021 NGTL System Expansion Project* identifies adverse effects to Stoney Nakoda Nations Section 35 Rights through changes to valued components chosen to represent the Section 35 Rights held by the Stoney Nakoda Nations using standard environmental assessment methodology. These Stoney Nakoda Nations valued components include:

- lands;
- harvesting; and,
- culture.

For the Stoney Nakoda Nations valued component of lands, the Study Team concluded, there will be a conversion of available lands (defined as unoccupied Crown lands) where Stoney Nakoda Nations' Section 35 Rights can be exercised to unavailable lands (defined as occupied Crown lands with a diminished priority right of access) for the exercise of Stoney Nakoda Nations' Section 35 Rights.

100% of the 2021 NGTL System Expansion Project Footprint will be unavailable for the exercise of Stoney Nakoda Nations' Section 35 Rights post-approval.

For the Stoney Nakoda Nations valued component of harvesting, the Study Team further concluded there will be an increase in Stoney Nakoda Nations avoidance behaviour for the exercise of Stoney Nakoda Nations' Section 35 Rights on lands in the Project Footprint and study areas.

For the Stoney Nakoda Nations' valued component of culture, the Study Team concluded there will be an increase in land inducing Stoney Nakoda Nations' avoidance behaviours for the exercise of Stoney Nakoda Nations' Section 35 Rights that will negatively impact culture.

For the Stoney Nakoda Nations' valued component of culture, the Study Team concluded, that there is a relationship between the amount of land available and the ability to transmit culture; therefore, the ability of Stoney Nakoda Nations' to transmit culture will be negatively impacted by the 2021 NGTL System Expansion Project.

The Study Team finds the perception that there is sufficient land available for the exercise of Stoney Nakoda Nations' Section 35 Rights is unsupported by the conclusions in this report. The 2021 NGTL System Expansion Project components of Grande Prairie West, Grande Prairie South, and Edson South are located almost entirely on lands unavailable or on lands that do not support the preferred means of exercising the Section 35 Rights held by Stoney Nakoda Nations.

## *Stoney Nakoda Nations – Wesley First Nation Section 35 Rights Assessment Report*

In addition to the above identified potential 2021 NGTL System Expansion Project effects, the Stoney Nakoda Nations Consultation Office identified additional concerns that remain outstanding.

Survey Participants from Stoney Nakoda Nations identified that the 2021 NGTL System Expansion Project intersects with sites and areas used for the exercise of Stoney Nakoda Nations' Section 35 Rights. This includes interactions with harvesting areas, ceremonial, and sacred sites and traditional family territories:

- 75 Stoney Nakoda Nations Land and Resource Use sites in Project Footprint;
- 76 Stoney Nakoda Nations Land and Resource Use sites in Local Study Area; and,
- 102 Stoney Nakoda Nations Land and Resource Use sites in Regional Study Area.

The Study Team notes the lack of site-specific evidence of land and resource use does not disprove the existence of Stoney Nakoda Nations' Section 35 Rights.

Stoney Nakoda Nations Consultation Office, Workshop Attendees and Interview Participants highlighted the connection between harvesting and ceremonial, and cultural events and activities. Animals, plants, berries, fish, trees and rocks and minerals all have a purpose in, and are important to, Stoney Nakoda Nations' culture. Each are used in various ceremonies and cultural events, medicines and healing, and in stories and teachings. Stoney Nakoda Nations' cultural practices and activities will be impacted without the ability to access lands including family territories and camp spots to exercise Section 35 Rights and without the ability to harvest animals, plants, berries, fish, trees and rocks and minerals.

The Report finds that there is a potential for other projects to interact with the 2021 NGTL Expansion Project and cause a cumulative effect on the landscape in Stoney Nakoda Nations' traditional territory. Based on concerns reported by Survey Participants and Stoney Nakoda Nations Consultation Office on the accumulation of development in Stoney Nakoda Nations traditional territory, the Report examines interactions between the 2021 NGTL System Expansion Project and other reasonably foreseeable projects occurring in the same area. The Study Team selected the Trans Mountain Expansion Project (one of the seven reasonably foreseeable projects identified) and analyzed the lands available prior to, and post, project approvals of both projects. The Study Team concluded that there will be a conversion of available lands for the exercise of Stoney Nakoda Nations' Section 35 Rights. The change in lands available post-Trans Mountain Expansion Project approval will lead to a decrease in lands available for the exercise of Section 35 Rights, thereby adding to the cumulative impacts experienced by Stoney Nakoda Nations'

It is the expectation of Stoney Nakoda Nations that the information contained in the *Stoney Nakoda Nations - Wesley First Nation Section 35 Rights Assessment Report for the 2021 NGTL System Expansion Project* will be used by NOVA Gas Transmission Ltd. and the National Energy Board to contribute to the identification and accommodation of potential adverse effects to Stoney Nakoda Nations Section 35 Rights arising from the construction and operation of the 2021 NGTL System Expansion Project.

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## Abbreviations and Acronyms

<b>AEP</b>	Alberta Environment and Parks
<b>Alberta Consultation Guidelines</b>	<i>Government of Alberta’s Guidelines on Consultation with First Nations on Land and Natural Resources Management, 2016</i>
<b>CEA Agency</b>	Canadian Environmental Assessment Agency
<b>CEAA 2012</b>	<i>Canadian Environmental Assessment Act, 2012</i>
<b>DID</b>	Digital Integrated Dispositions
<b>EA</b>	Environmental Assessment
<b>EPP</b>	Environmental Protection Plan
<b>ESA</b>	Environmental and Socio-Economic Assessment, term used by NEB to reference an EA under the NEB regulatory process.
<b>IR</b>	Indian Reserve
<b>km</b>	Kilometer
<b>LSA</b>	Local Study Area
<b>NEB</b>	National Energy Board
<b>NEB Act</b>	<i>National Energy Board Act, 1985</i>
<b>NGTL</b>	NOVA Gas Transmission Ltd
<b>NGTL 2021</b>	NOVA Gas Transmission Ltd 2021 Expansion Project
<b>NRTA</b>	<i>Natural Resource Transfer Agreement, 1930</i>
<b>OPS</b>	CEA Agency Operational Policy Statement
<b>Participants</b>	Stoney Nakoda Nations members who participated in the Survey
<b>PLAR</b>	Government of Alberta <i>Public Lands Administration Regulation, 2011</i>
<b>2021 Application</b>	NGTL 2021 Expansion Project Application filed June 20, 2018 with the NEB
<b>Project</b>	NOVA Gas Transmission Ltd 2021 Expansion Project
<b>Report</b>	<i>Stoney Nakoda Nations - Wesley First Nation Section 35 Rights Assessment Report</i>
<b>ROW</b>	Right-of-Way
<b>RSA</b>	Regional Study Area
<b>SARA</b>	<i>Species at Risk Act, 2002</i>
<b>Section 35 Rights</b>	Rights under Treaty No. 7 and the <i>National Resources Transfer Act, 1930</i> and recognized and affirmed under Section 35 of the <i>Constitution Act, 1982</i>
<b>SESA</b>	Socio-Economic Study Area
<b>SNN</b>	Stoney Nakoda Nations
<b>SNN Consultation Office</b>	Stoney Nakoda Nations Consultation Office
<b>Survey</b>	Survey conducted by Stoney Nakoda Nations Study Team
<b>TEK</b>	Traditional Ecological Knowledge
<b>TransCanada</b>	TransCanada Corporation



<b>Trans Mountain</b>	Trans Mountain Pipeline Expansion Project
<b>TLRU</b>	Traditional Land and Resource Use
<b>VCs</b>	Valued Components
<b>Workshop Facilitators</b>	Study Team members who facilitated the Stoney Nakoda Nations Workshop
<b>Workshop Attendees</b>	Stoney Nakoda Nations members who attended the Stoney Nakoda Nations Workshop

# 1. Introduction

## 1.1 Purpose of the Report

The *Stoney Nakoda Nations - Wesley First Nation Section 35 Rights Assessment Report for 2021* (“Report”) was commissioned by Wesley First Nation to identify how the NOVA Gas Transmission Ltd. (“NGTL”) proposed 2021 NGTL System Expansion Project (“NGTL 2021” or the “Project”) may adversely impact the rights of Stoney Nakoda Nations (“SNN”). SNN hold rights under Treaty No. 7, the *National Resources Transfer Act, 1930* (“NRTA”) and maintain Aboriginal Title as recognized and affirmed under Section 35 of the *Constitution Act, 1982* (hereafter referred to as “Section 35 Rights”).

The purpose of this Report is to:

- provide information about how the Project may directly and adversely impact the ability of SNN to exercise their Section 35 Rights;
- provide suggestions for appropriate accommodation measures for adverse Project effects to the exercise of Section 35 Rights;
- outline additional issues and concerns of the SNN Consultation Office; and,
- document the exercise of SNN Section 35 Rights through the identification of use of land and resources in the vicinity of the Project.

## 1.2 2021 NGTL System Expansion Project

The 2021 NGTL System Expansion Project Application (“2021 Application”), filed June 20, 2018 with the National Energy Board (“NEB”), identifies the following Project components:

- approximately 344 km of 1,219 mm (Nominal Pipe Size 48) pipeline loops in eight sections located in the Grand Prairie West, Grand Prairie South and Edson South Areas of the greater NGTL system;
- three compressor station unit additions and related components at the Nordegg Compressor Station, Didsbury Compressor Station and Beiseker Compressor Station locations;
- a control valve;
- mainline valve sites;
- launcher and receiver facilities to accommodate pipeline cleaning and in-line inspection;
- construction related temporary infrastructure such as access roads, borrow pits/dugouts and stockpile sites;
- a cathodic protection system;
- temporary access roads; and,
- miscellaneous works, such as pipeline warning signs and aerial markers (NGTL 2018a: i-iii).

Refer to Figure 1 for a map of Project components.

The purpose of NGTL 2021 according to the 2021 Application is “to increase NGTL System capability to transport gas from areas where supply is growing, and also to meet delivery requirements in areas where market demand is growing. Customers have signed long-term contracts for firm receipt and delivery transportation services that exceed capacity of the NGTL System beginning in 2021” (NGTL 2018b: 2-1).

### 1.3 Proximity of Stoney Nakoda Nations to the Project

Components of NGTL 2021 are located within SNN traditional territories. According to Rev., Dr., Chief John Snow, the oral history and traditions of SNN, including Wesley First Nation, teaches that the prairies, foothills and eastern slopes of the Rocky Mountains have always been home to SNN. Rev., Dr., Chief Snow described SNN traditional territory as extending from beyond the Brazeau River area in the north, south into Montana, east beyond the Cypress Hills of Saskatchewan, and west well into the British Columbia Interior (Snow 2005).

The Supreme Court of Canada in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69 characterized traditional territory as the “territories, over which a First Nation traditionally hunted, fished, and trapped and continues to do so today” (*Mikisew* at para 48).

The Supreme Court of Canada in *Tsilhqot’in v. British Columbia*, 2014 SCC 44 also recognized that the boundaries and extent of a traditional territories are fluid (at para 22). The population of the Indigenous nation, the availability of resources for ceremonial and economic purposes, and relations and agreements with neighbouring Indigenous nations all influenced the extent of the traditional territory (Canada 1996).

Components of NGTL 2021 are located within Treaty No.7. The boundaries of Treaty No.7 are shown on Figure 2.

All components of NGTL 2021 are located on lands subject to the *NRTA*.

Components of NGTL 2021 are also subject to Aboriginal Title held by SNN. In 2003 SNN commenced an action in the Alberta Court of Queen’ Bench (File No. 0301-19586). This action against Canada and Alberta is rooted in the history of SNN people and Canada. SNN seek declarations that they have unextinguished Aboriginal title and existing Aboriginal rights, as well as treaty rights. More specifically, SNN seek compensation from Canada and Alberta arising from their breaches of Aboriginal rights and title over SNN lands now located in Alberta.<sup>1</sup> Lands subject to SNN Aboriginal Title are shown on Figure 3.

SNN has six Indian Reserves (“IR”) including Stoney IR 142-143-144 and 142b, Bighorn IR 144a and Eden Valley IR 216. Components of NGTL 2021 are located within the vicinity of these SNN IRs. Specifically:

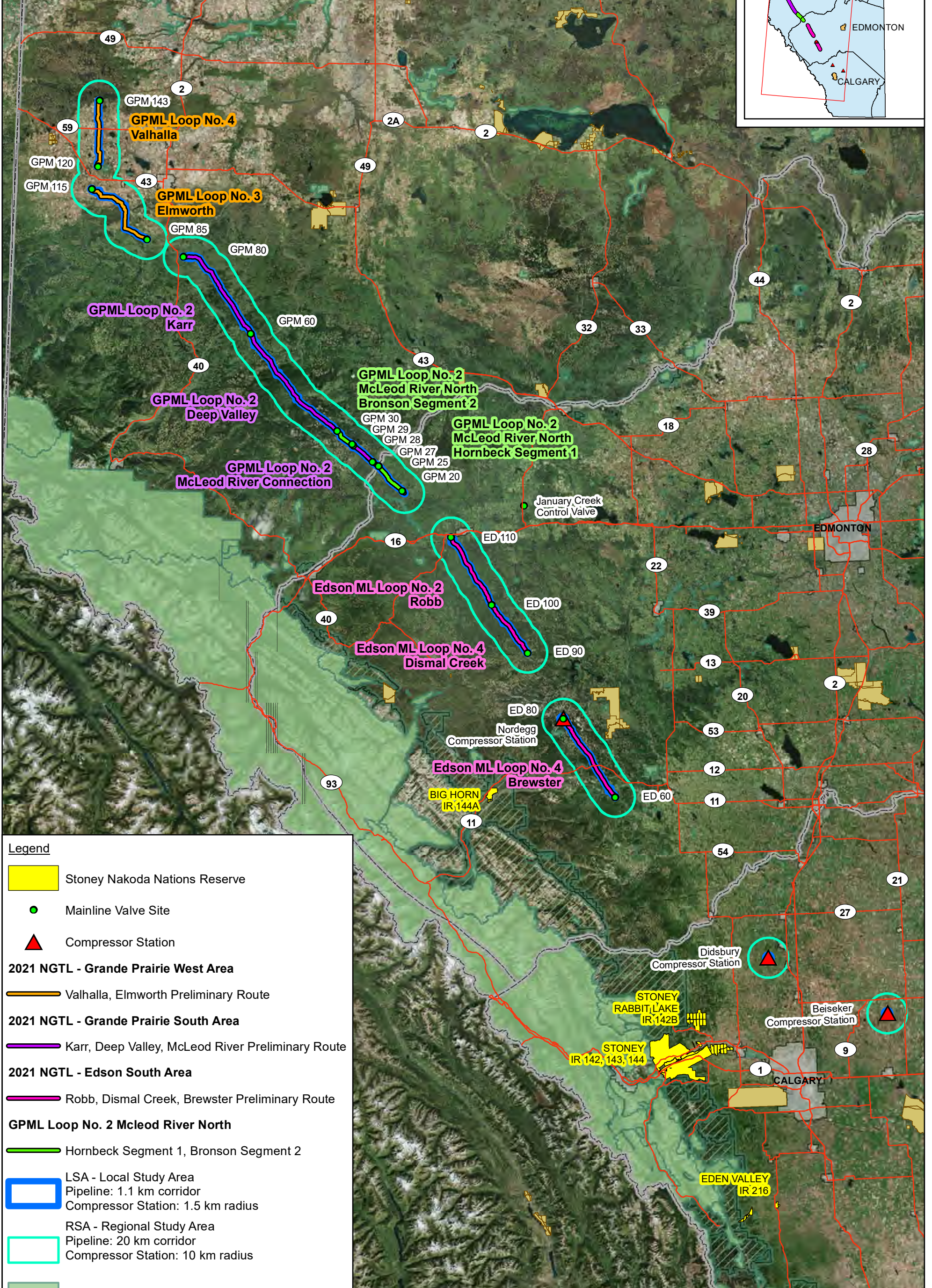
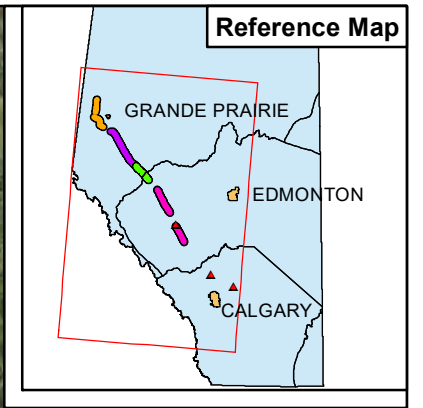
- The NGTL 2021 Brewster Section is located 47 km from Bighorn IR 144a;
- The NGTL 2021 Didsbury Compressor Station unit addition is located 54 km from Stoney IR 142-143-144 and 142b; and,
- The NGTL 2021 Nordegg Compressor Station unit addition is located 49 km from Bighorn 144a.

The proximity of NGTL 2021 to SNN IRs is shown on Figure 4.

The Study Team notes that proximity of the Project to SNN IR’s is only one factor used to show connection between the Project and SNN.

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<sup>1</sup> Statements made in this section reflect correspondence by Rae and Company.

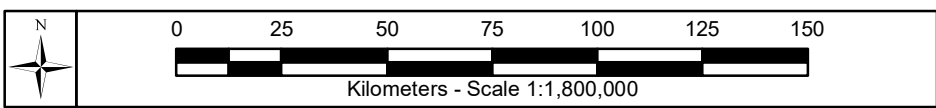


**Legend**

- Stoney Nakoda Nations Reserve
- Mainline Valve Site
- Compressor Station
- 2021 NGTL - Grande Prairie West Area**
- Valhalla, Elmworth Preliminary Route
- 2021 NGTL - Grande Prairie South Area**
- Karr, Deep Valley, McLeod River Preliminary Route
- 2021 NGTL - Edson South Area**
- Robb, Dismal Creek, Brewster Preliminary Route
- GPML Loop No. 2 McLeod River North**
- Hornbeck Segment 1, Bronson Segment 2
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Compressor Station: 1.5 km radius
- RSA - Regional Study Area  
Pipeline: 20 km corridor  
Compressor Station: 10 km radius
- Protected Area
- PLUZ - Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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 Coordinate System: NAD83 11N

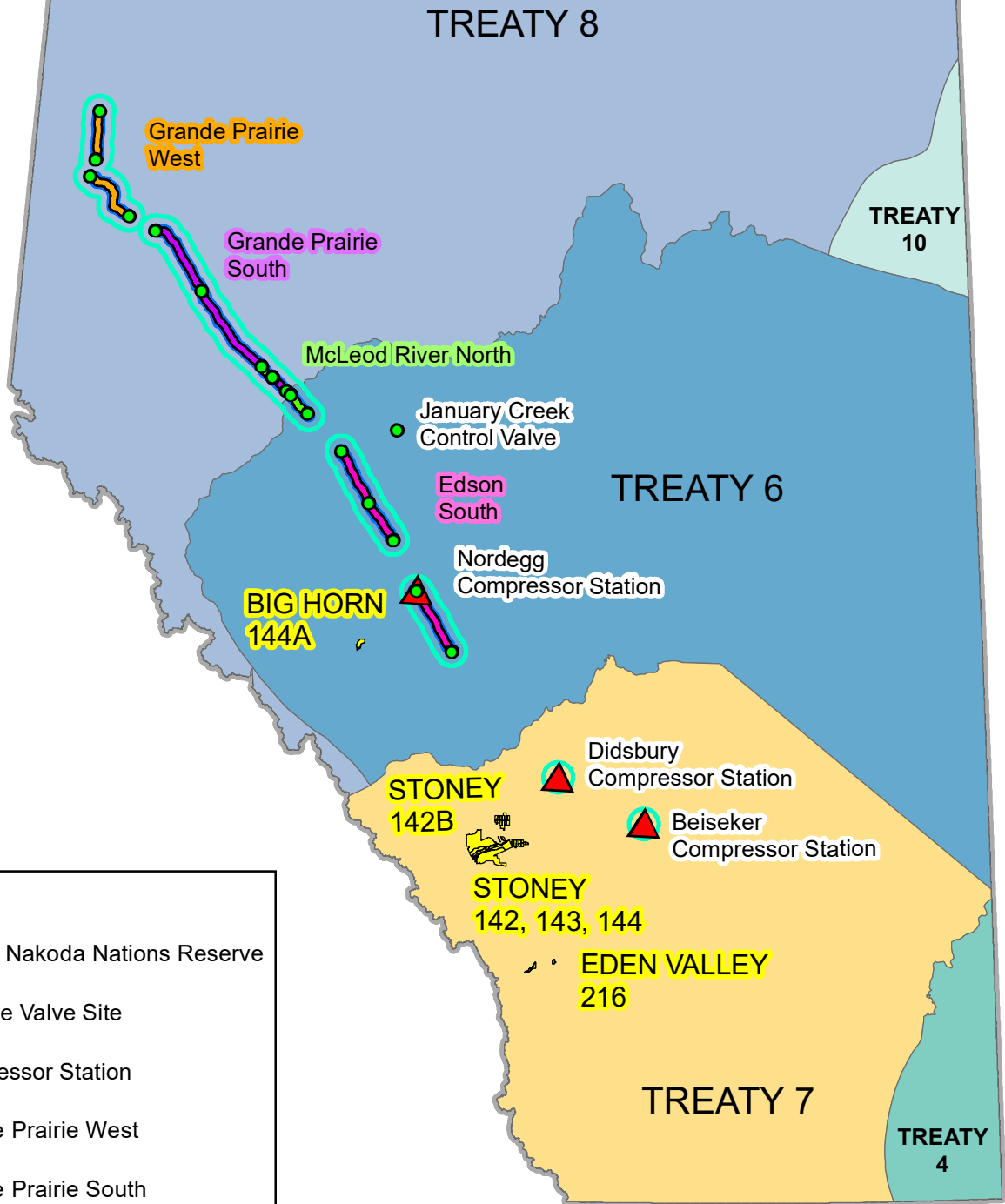
Prepared For: Wesley First Nation

Prepared By: MNP LLP









Figure: 1

**Wesley First Nation**

2021 NGTL System Expansion Project  
McLeod River North  
Treaty No. 7



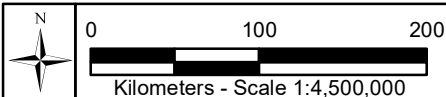
**Legend**

-  Stoney Nakoda Nations Reserve
-  Mainline Valve Site
-  Compressor Station
-  Grande Prairie West
-  Grande Prairie South
-  Edson South
-  McLeod River North
-  Treaty 7 (1877)

SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY

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Date: Feb 8, 2019

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Prepared For:

Wesley First Nation



Prepared By:

MNP LLP



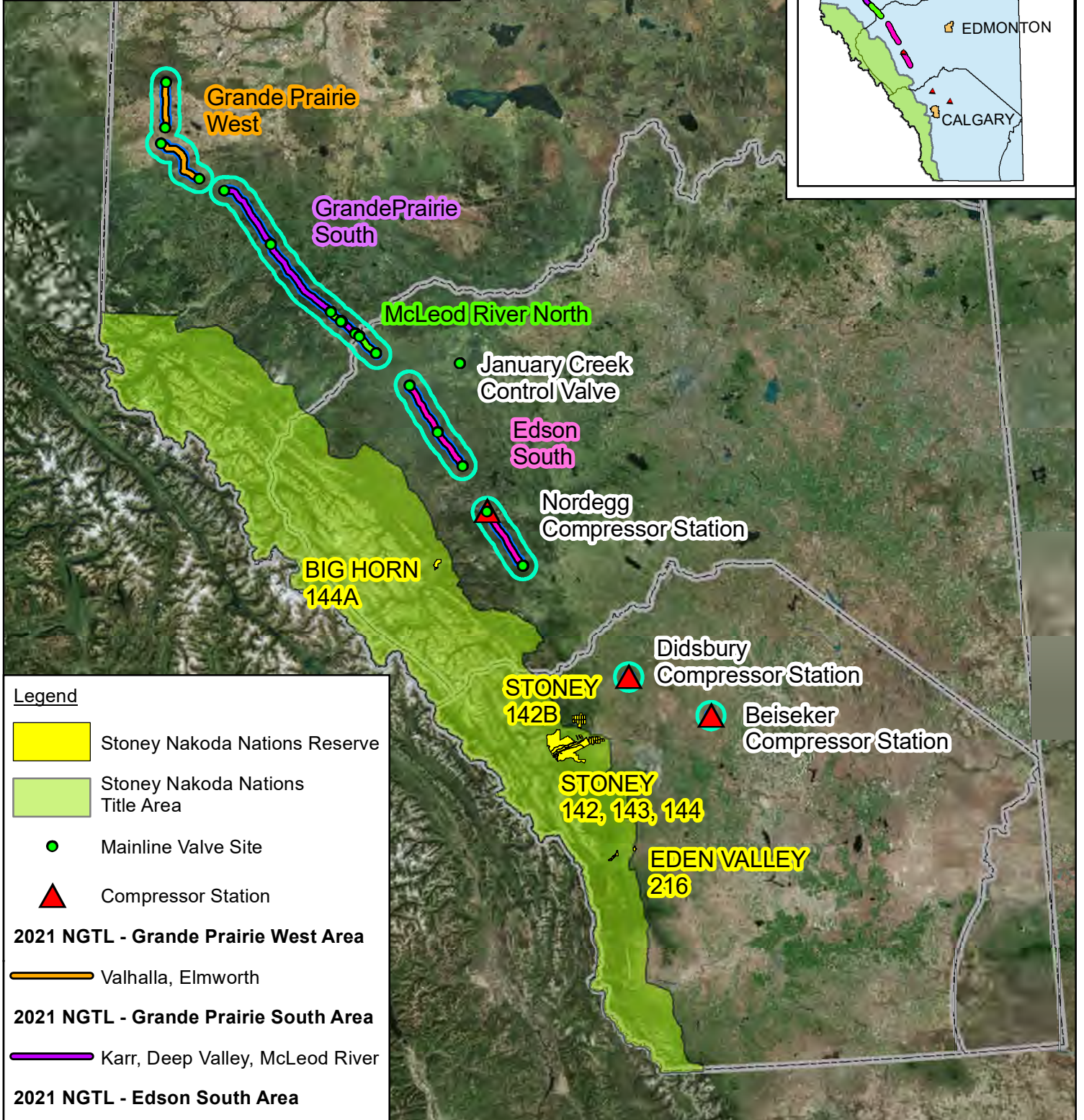
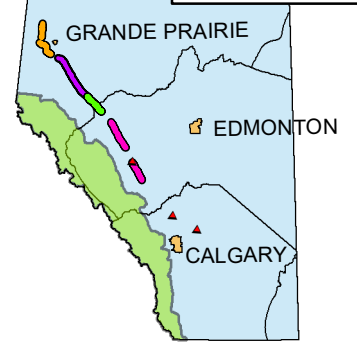
Figure:

2

**Wesley First Nation**

2021 - NGTL System Expansion Project  
 McLeod River North  
 Stoney Nakoda Nations Title Area

**Reference Map**

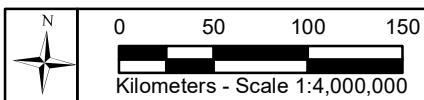


**Legend**

- Stoney Nakoda Nations Reserve
- Stoney Nakoda Nations Title Area
- Mainline Valve Site
- Compressor Station
- 2021 NGTL - Grande Prairie West Area**
- Valhalla, Elmworth
- 2021 NGTL - Grande Prairie South Area**
- Karr, Deep Valley, McLeod River
- 2021 NGTL - Edson South Area**
- Robb, Dismal Creek, Brewster
- GPML Loop No. 2**
- McLeod River North

SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY  
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Prepared For:  
 Wesley First Nation



Prepared By:  
 MNP LLP

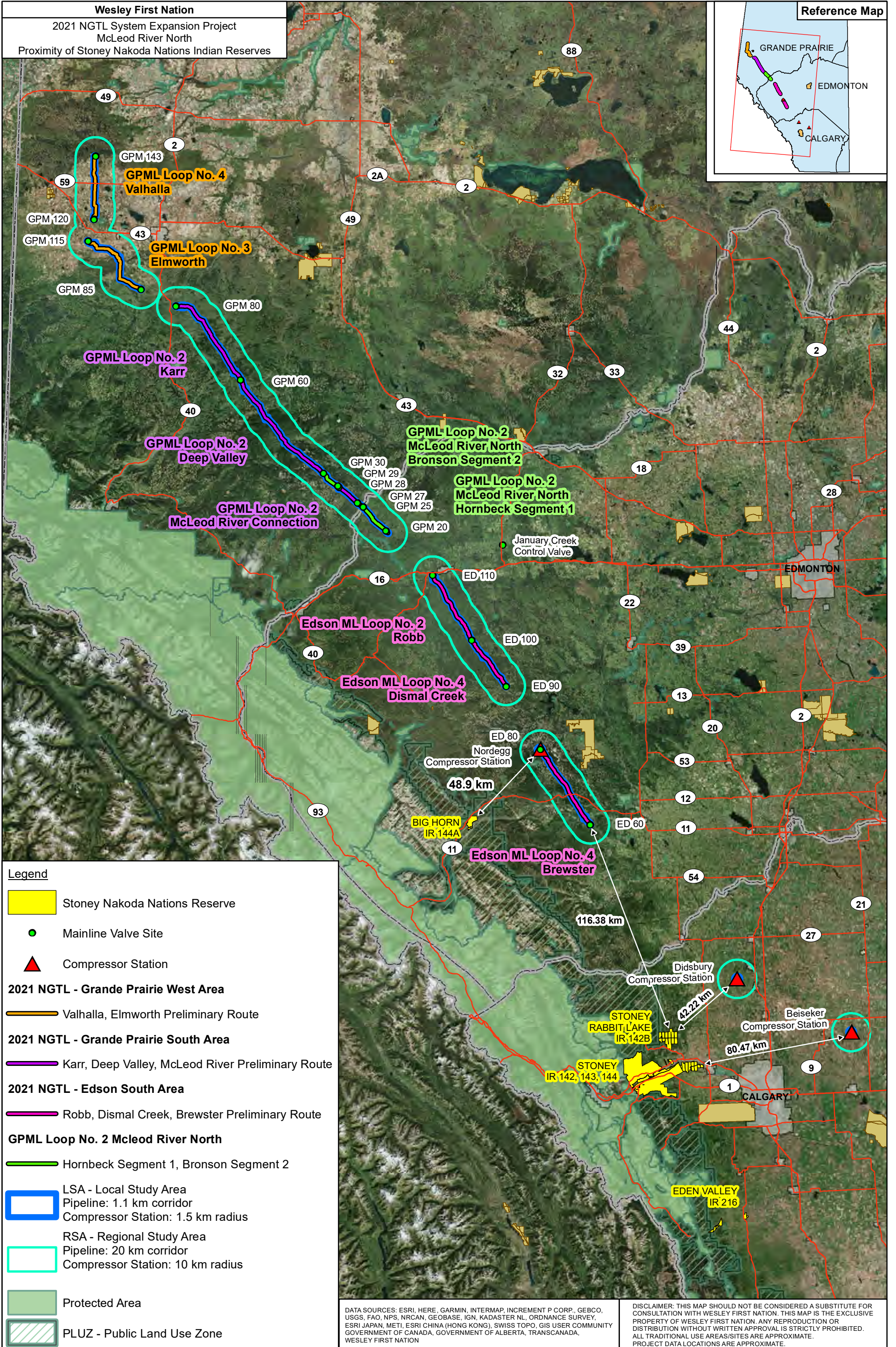
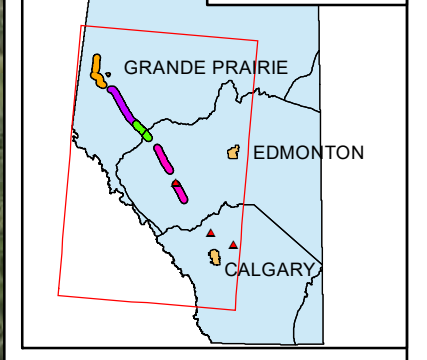


Figure:  
 3

**Wesley First Nation**

2021 NGTL System Expansion Project  
 McLeod River North  
 Proximity of Stoney Nakoda Nations Indian Reserves

**Reference Map**



**Legend**

- Stoney Nakoda Nations Reserve
- Mainline Valve Site
- Compressor Station

**2021 NGTL - Grande Prairie West Area**

- Valhalla, Elmworth Preliminary Route

**2021 NGTL - Grande Prairie South Area**

- Karr, Deep Valley, McLeod River Preliminary Route

**2021 NGTL - Edson South Area**

- Robb, Dismal Creek, Brewster Preliminary Route

**GPML Loop No. 2 McLeod River North**

- Hornbeck Segment 1, Bronson Segment 2

**LSA - Local Study Area**  
 Pipeline: 1.1 km corridor  
 Compressor Station: 1.5 km radius

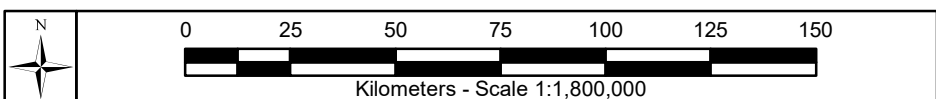
**RSA - Regional Study Area**  
 Pipeline: 20 km corridor  
 Compressor Station: 10 km radius

Protected Area

PLUZ - Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Prepared For: Wesley First Nation

Prepared By: MNP LLP

Figure: 4

## 1.4 Regulatory Framework for the Project

### 1.4.1 Federal Approvals Required for NGTL 2021

NGTL filed the 2021 Application with the NEB, one of the regulatory authorities for the Project, on June 20, 2018. The 2021 Application seeks a Certificate of Public Convenience and Necessity pursuant to Section 52 of the *National Energy Board Act, 1985* (“NEB Act”). Project applications pursuant to Section 52 of the *NEB Act* require a comprehensive Environmental and Socio-Economic Assessment (“ESA”) <sup>2</sup> and automatically trigger a public hearing. Furthermore, NGTL 2021 is deemed a designated project under *Canadian Environmental Assessment Act, 2012* (“CEAA 2012”), specifically Section 5(2), 6(a)(b), 7(a)(b) and 19(1). As such, the 2021 Application ESA will be prepared pursuant to the requirements under *CEAA 2012* along with the *NEB Act* (NGTL 2018a: ii-iii).

Under the *NEB Act* Section 77(1), Taking and Using Lands, “no company shall take possession of, use, or occupy lands vested in Her Majesty without the consent of the Governor in Council” [emphasis added]. Under Section 77(2) “a company may, with the consent of the Governor in Council and on such terms as the Governor in Council may prescribe, take, and appropriate for the use of its pipeline and works, so much of the lands of Her Majesty lying on the route of the line that have not been granted, conceded, or sold as is necessary for the pipeline, and also so much of the public beach, bed of a lake, river or stream, or the land so vested covered with the waters of a lake river or stream, as is necessary for making, completing and using its pipeline and works.”

The NEB, following the issuance of a notice of a public hearing on the Project on July 5, 2018, filed its Hearing Order on December 4, 2018 in which it has identified the List of Issues to be considered in the NEB public hearing process and the assessment of the Project (NEB 2018a). The List of Issues that are of interest to SNN include:

3. The potential commercial impacts of the Project, including potential economic impacts on Indigenous peoples.
5. The potential environmental and socio-economic effects of the Project, including cumulative environmental effects that are likely to result from the Project as set out in the NEB’s Filing Manual, as well as those to be considered under the Canadian Environmental Assessment Act, 2012 (see Appendix III).
6. The appropriateness of the general route and land requirements for the Project.
7. Project impacts of the Project on the interests of Indigenous peoples, including potential impacts on Indigenous and Treaty rights.
8. Potential impacts of the Project on owners and users of lands.
10. Contingency planning for leaks, accidents or malfunctions, during construction and operation of the Project.
11. Safety and security during construction and operation of the Project, including emergency response planning and third-party damage prevention.

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<sup>2</sup> Note: ESA is the term used by the NEB to describe an Environmental Assessment (EA).



12. The terms and conditions to be included in any recommendation or approval the Board may issue for the Project (NEB 2018a: Appendix II).

#### 1.4.2 Alberta Public Lands Act

Along with the 2021 Application to the NEB, NGTL is seeking the disposition of Crown lands from Alberta Environment and Parks (“AEP”) under the *Public Lands Act*, RSA 2000, c P-40. NGTL will also be responsible for following the consultation process in Alberta outlined in the *Government of Alberta’s Guidelines on Consultation with First Nations on Land and Natural Resources Management, 2016* (the “Alberta Consultation Guidelines”) and *Government of Alberta Proponent’s Guide to First Nation Consultation Procedures for Land Dispositions, 2016*.

#### 1.4.3 Government of Alberta Green and White Areas

In 1948 the Government of Alberta identified land-use based on “Green Area” and “White Area” boundaries which divided Alberta into two zones (Harvie and Mercier 2010) (see Figure 5). The White Area is designated as primarily privately-owned lands or fee simple lands used for agriculture, tourism and recreation, natural resource development, conservation and settlements. The Green Area is comprised of publicly owned, or Crown, lands that are primarily used for forestry operations, tourism and recreation, conservation, and natural resource development. The lands within the Green and White Areas are managed differently in accordance to the primary uses and ownership of the lands (Government of Alberta, Sustainable Resource Development 2007). For this Report, lands designated as White Area and not under *Public Lands Act* dispositions are assumed to be private.



Figure 5: Green and White Areas (Government of Alberta 2008)



Photo: 1 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

## 2. Background

### 2.1 Stoney Nakoda Nations

Comprised of three distinct nations, Chiniki First Nation, Wesley First Nation and Bearspaw First Nation, SNN are one of the northwestern most members of the Siouan language family. Members of SNN are the “people of the mountains” or *ȩyāñé Nakoda* (Stoney Nakoda First Nations n.d).

Presently, members of SNN reside primarily on SNN’s IRs 142-143-144 and 142b; Bighorn IR 144A; and Eden Valley IR 216. As of 2017, the population size of SNN was 5,664. Approximately 1,824 of the SNN population are Wesley First Nation members (Indigenous and Northern Affairs Canada 2017).

SNN are signatories to Treaty No.7, made on September of 1877 at Blackfoot Crossing (see Figure 3). Present at the Treaty No.7 signing was the four Chiefs of SNN (i) Chief Mas-Gwa-Ah-Sid, or Jacob Bearspaw; (ii) Chief Che-ne-ka, or John Chiniquay; (iii) Chief Ki-Chi-Pwot, or Jacob or Jonas Goodstoney; and, Chief Stamix-Osok, or Bull Backfat (Treaty No.7, 1877; see also Dempsey 1987). These Chiefs represented Chiniki First Nation, Bearspaw First Nation, and Wesley First Nation.

As described in *The True Spirit and Original Intent of Treaty No. 7* by Hildebrandt, Carter and First Rider (1996), signatory Indigenous nations understood Treaty No.7 to be a peace treaty; a commitment to end hostilities amongst themselves and towards settlers and a means of preserving their cultures and way of life. Signatory Indigenous nations did not understand Treaty No.7 to involve the surrender of lands which is to be the Crown’s interpretation of Treaty No.7. The understanding of signatory Indigenous nations that Treaty No.7 is a peace treaty and not a surrender of Aboriginal title is further evidenced by Action No. T-

340-99, a claim brought against Canada and Alberta by Indigenous signatories of Treaty No.7.<sup>3</sup> The claim pertains to the Plaintiffs (Treaty No.7 signatories) continued understanding of Treaty No. 7, that it was: (a) a treaty of peace, and that signatory Indigenous nations did not agree to cede Aboriginal title or rights to the lands and resources within Treaty No. 7; or, (b) that if signatory Indigenous nations' rights and Aboriginal title were ceded, a trust was formed where the Crown held the Treaty No. 7 territory and its resources in trust for the Plaintiffs. As the *NRTA* provides for the transfer of lands and resources from Canada to the provinces, the Plaintiffs argue that since the Crown held the Treaty No. 7 territory in trust for them, the Treaty No. 7 territory did not transfer to the Province under the *NRTA* (and therefore the Crown continues to hold the lands and resources in trust for the Plaintiffs) or alternatively, that in transferring its interest in the Treaty No. 7 territory, the Crown breached its fiduciary and trust obligations owed to the Plaintiffs (*Kainaiwa Nation, Peigan Nation, Siksika Nation, Tsuu T'ina Nation, Bearspaw Band, Chiniki Band, Wesley Band vs Her Majesty the Queen in Right of Canada and Her Majesty the Queen in Right of Alberta* 1999, Statement of Claim; Rae and Company 2019, personal communication).

## **2.2 The Crown's Geographic Limitations on Stoney Nakoda Nations Section 35 Rights**

With respect to the Crown's geographic limitations for the exercise of Section 35 Rights, Treaty No.7 states:

And Her Majesty the Queen hereby agrees with her said Indians, that they shall have right to pursue their vocations of hunting throughout the Tract surrendered as heretofore described, subject to such regulations as may, from time to time, be made by the Government of the country.... (Treaty No.7 1877)

During the historic Numbered Treaty-making process, Crown Treaty Commissioners did not require Indigenous leaders signing on behalf of their Indigenous nations to identify and declare their exclusive use areas or identify the extent of their traditional territories within the boundaries of their treaty prior to signing. Communal use of lands throughout the "tract surrendered" was promised by the Crown for use by all signatory Indigenous nations to "pursue their vocations of hunting" (Treaty No.7 1877). This clause was included in the text of the majority of the historic Numbered Treaties where the treaty area identified was for the use in common by all Indigenous nation signatories to that treaty including Treaty No.7.



Photo: 2 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

### **2.2.1 "Saving and Excepting" Lands Taken Up**

The Numbered Treaties (including Treaty No.7), in addition to outlining geographic limitations, included wording that specified the Crown's treaty right to "take up land."

...acting under the authority of Her Majesty and saving and excepting such Tracts as may be required or taken up from time to time for settlement, mining, trading or other purposes by Her Government of Canada; or by any of Her Majesty's subjects duly authorized therefor by the said Government. (Treaty No. 7 1877 [emphasis added])

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<sup>3</sup> Wesley First Nation, Chiniki First Nation, Bearspaw First Nation, Tsuu T'ina First Nation, Siksika First Nation, Peigan First Nation and Kainaiwa First Nation (Blood Tribe).

The total amount of land to be “taken up” by the Government of the country was not recorded in discussions for the Numbered Treaties; however, there are glimpses into the understandings of the parties to those treaties. The Supreme Court of Canada noted in *Mikisew* that the “language of the Treaty could not be clearer in foreshadowing change” (*Mikisew* at para 31).

As early as 1888, the Judicial Committee of the Privy Council identified that the issue of the total amount of unoccupied Crown land that could be taken up by the Crown was an issue unaddressed by treaties. In *Reference re: British North America Act, 1867, s. 109 (Ont.)*, [1888] J.C.J. No. 1 (*St. Catharines Milling and Lumber Co. v. R.*, 13 SCR 577, 1887 (SCC)):

There may be other questions behind, with respect to the right to determine to what extent, and at what periods, the disputed territory, over which the Indians still exercise their avocations of hunting and fishing, is to be taken up for settlement or other purposes, but none of these questions are raised for decision in the present suit. (*St. Catharines Milling* at para 16)

The Supreme Court of Canada outlined in *Grassy Narrows First Nation v. Ontario (Natural Resources)*, [2014] 2 SCR 447, 2014, the extent to which the taking up of land may infringe treaty rights:

Any taking up of land in the Keewatin area for forestry or other purposes must meet the conditions set out by this Court in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*. If the taking up leaves the Ojibway with no meaningful right to hunt, fish or trap in relation to the territories over which they traditionally hunted, fished, and trapped, a potential action for treaty infringement will arise. (*Grassy Narrows* at para 52)

The Study Team notes regulatory approval processes do not consider adverse affects to the exercise of rights from a proposed project throughout the entire traditional territory as contemplated by the courts in *Mikisew*. Regulatory approval processes are restricted to considering adverse effects resulting from a project within a defined spatial scope specific to that project. Therefore, the consequences of taking up of land from the approval of a project is not considered in a comprehensive way to ascertain whether a meaningful right to hunt, fish or trap remains post-approval.

### **2.2.2 National Resources Transfer Agreement, 1930**

When the prairie provinces were entered confederation, the Dominion government retained jurisdiction over public land and natural resources contrary to Section 92(5) of the *Constitution Act, 1867*. In 1930, the Provinces of Manitoba, Saskatchewan, Alberta, and the Government of Canada reached agreement over the transfer and administration of Crown lands within their respective provincial boundaries. The *NRTA*, known later as the *Constitution Act, 1930*, outlined conditions for the transfer of public or Crown lands to the provinces (Lambrecht 2013). Specifically, paragraph 12 of the *NRTA* outlined the agreement between the Province of Alberta and Canada:

In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that [provincial game] laws shall apply to the Indians ... provided however, that the said Indians shall have the right ... of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which [the] said Indians may have a right of access. (*Constitution Act, 1930*)

According to the Supreme Court of Canada, there were several changes to the scope and geographic limitations of treaty rights, including Treaty No.7 rights resulting from the passing of the *NRTA*. These changes include:

1. Signatory Indigenous nations to Treaties Nos. 6, 7, and 8 were not limited to exercising their treaty rights just within their respective treaty areas; the *NRTA* “widely extended the geographical area to include the whole of the province rather than being limited to the tract of land surrendered” (*R. v. Badger* [1996] 1 SCR 771 at para 3[b]).
2. The *NRTA* “eliminated the right to hunt for commercial purposes” and restricted the treaty right to harvest “for food” only (*Badger* at para 3[d]).



Photo: 3 . SNN Hunting Camp, Eden Valley  
AB. MNP LLP/Bill Marsh

Many signatory Indigenous nations in the prairie provinces dispute both the interpretation of the Supreme Court of Canada regarding application of the *NRTA*, as well as the *NRTA* itself.

The *NRTA* restated signatory Indigenous nations' right to exercise treaty rights "on all unoccupied Crown lands," mirroring language from Treaty No.7. Paragraph 12 of the *NRTA* also introduced the concept that there may be additional lands where Indigenous nations "may have a right" to exercise treaty and *NRTA* rights; that is, on lands, other than unoccupied Crown lands or lands taken up where Indigenous nations "may have a right of access."

### 2.2.3 Determining Lands Unavailable for the Exercise of Section 35 Rights

Beginning soon after the passage of the *NRTA*, Indigenous peoples across the prairie provinces began facing prosecutions under provincial laws for their attempts at exercising their Section 35 Rights on both occupied Crown and private lands. The Governments of Alberta, Saskatchewan, and Manitoba pursued convictions of Indigenous peoples for hunting on private or occupied Crown land starting in 1935 (see Appendix A for a list of those convictions).

Disputes centered on the interpretations of key concepts, including:

- What constitutes a "taking up" of lands, transferring available lands to inventory of unavailable lands?
- Is there a reliable test to use to identify available vs. unavailable land for the exercise of Section 35 Rights?
- What is the nature of the "visible, incompatible" test?

The Supreme Court of Canada has clarified these concepts, including how to determine if there is a right of access on lands other than unoccupied Crown lands. The Supreme Court of Canada restated in *Cardinal v. Attorney General of Canada* (1974) SCR 695 that the nature of the land use intended by the Crown would determine what was unoccupied and conversely occupied Crown land:

The accused was an Indian charged with carrying fire-arms on a game preserve. It was contended that he was protected by the proviso in the section, in that he was hunting on unoccupied Crown lands or on lands to which he had a right of access. Both arguments were rejected. It was held that "unoccupied" meant "idle" or "not put to use" and that *Crown lands appropriated for a special purpose were not unoccupied within the meaning of s. 12*. It was also held that the only right of access to the lands in question was merely the privilege accorded to all persons to enter the preserve without carrying fire-arms. (*Cardinal* at page 701 [emphasis added])

In 1980 the Supreme Court of Canada in *R v. Mousseau* (1980) 2 SCR 89, clarified that a public road constituted occupied Crown land set aside for a specific purpose and therefore unavailable for treaty hunting.

The Supreme Court of Canada also noted that it is an unworkable proposition to determine the suitability of a public road for the exercise of the right to hunt differentially along the length of that road, as Mr. Mousseau had argued that when cars were not present, a road was suitable for hunting. The Court noted that the road must be treated uniformly:

The right to hunt would vary with the locality and the particular stretch of road, with the time of day, volume of traffic, proximity of habitation and non-hunters, and many other factors. The right to hunt would rest upon the view one might take as to the danger of the hunting. The impracticability of such a test is patent. (*Mousseau* at page 99)

Decisions from the Supreme Court of Canada as well as lower court decisions identified that the exercise of Section 35 Rights can also be restricted when safety of people or property are at stake (*Myran v. R.*, [1976] 2 SCR 137, *R. v. Morris and Olsen* 2004 BCCA 121; *R. v. Yapput et al*, 2004, ONCJ 318; *R. v. McKenzie* 2006 SKPC 51). The courts clarified that the treaty right to hunt does not take precedent over the responsibility to ensure safe hunting practices.

In 1988, the Supreme Court of Canada determined in *R v. Horse* (1988) 1 SCR 187 that permission was required to access private land. The Supreme Court of Canada clarified that a private land owner can restrict hunting by Indigenous peoples at their discretion: “[i]n summary then the terms of the treaty are clear and unambiguous: the right to hunt preserved in Treaty No. 6 did not extend to land occupied by private owners” (*Horse* at para 50).

#### 2.2.4 Visible, Incompatible Use

In 1996, the Supreme Court of Canada in *Badger* reiterated language from the earlier *Mousseau* and *Horse* decisions related to access to lands for the exercise of Section 35 Rights and clarified that:

...the Indians have the right to hunt, trap, and fish, game and fish, for food at all seasons of the year on: (a) all unoccupied Crown lands; (b) any occupied Crown lands to which the Indians, or other persons, have right of access, by virtue of statute or common law or otherwise, for the purpose of hunting, trapping or fishing; (c) any occupied private lands to which the Indians have right of access by custom, usage, or consent of the owner or occupier, for the purpose of hunting, trapping, or fishing. (*Badger* at para 62)

*Badger* clarified that the treaty right to hunt for food may still be exercised on private lands without permission where there is no “visible, incompatible” use of private lands (*Badger* at para 54). *Badger* indicates that land under a visible use incompatible with the exercise of Section 35 Rights may be evidenced by:

- Cleared muskeg (*Badger* at para 23)
- Fences (*Badger* at para 53)
- Signs (*Badger* at para 63)
- Buildings, whether inhabited or not (*Badger* at para 68)
- Agricultural activity, cultivated, recently or not (*Badger* at para 63)
- Safety regulations (*Badger* at para 86)
- Conservation regulations (*Badger* at para 86)
- Range of a firearm (*Badger* at para 61)

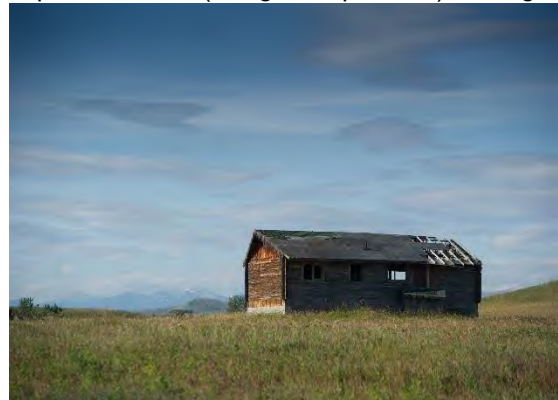


Photo: 4 SNN Hunting Camp, Eden Valley AB. MNP  
LLP/Bill Marsh

Therefore the “visible, incompatible” nature of occupied Crown land and private land is used by the Crown to determine whether or not Section 35 Rights are accessible to a signatory Indigenous nation on that land from their perspective.

Subsequent to *Badger* there have been several judicial cases that have applied the concept of “visible, incompatible” when ruling on the exercise of Section 35 Rights on private or occupied Crown lands. A recent example of one such case is *R v. Pierone*, 2018 SKCA 30.

In *Pierone*, the Saskatchewan Court of Appeal overturned a decision by the Queen Bench of Saskatchewan - *R. v. Pierone*, 2017 SKQB 171 which had ruled that Mr. Pierone should have known that the slough he was hunting on was private lands because there were farms in the vicinity. The Saskatchewan Court of Appeal in *Pierone* overturned the previous Queen Bench of Saskatchewan’s decision stating that the slough where Mr. Pierone was hunting could be determined, using *Badger* as a guide, as visibly compatible with Mr. Pierone’s treaty right to hunt despite being private lands:

There were no buildings near the slough or the quarter section of land upon which it sat, or in the immediate area. There were no fences. There were no posted signs. The remainder of the quarter section was cultivated land (a stubble field at the time) and had, thereby, been put to a visible, incompatible land use; but, the same cannot be said of the slough. It had not been farmed in a couple years, or since Mr. Pierone had moved to the area. On the evidence then, although the slough may have been used, *its use at the time was not incompatible* with the hunt as carried out by Mr. Pierone. (*Pierone* at para 43 [emphasis added])

### **2.2.5 Government of Alberta's Interpretation of Unavailable Lands**

In Alberta, the *Public Lands Act*, and the corresponding *Public Lands Administration Regulation*, Alta Reg 187/2011 (*PLAR*) provides clarification of what the Government of Alberta interprets as occupied Crown lands under a 'visible, incompatible use' where no right of access would exist for the exercise of Section 35 Rights.

Under the *Public Lands Act*, the Government of Alberta makes a distinction between a) "vacant public land" or unoccupied Crown land; b) "vacant disposition area" which can be understood to be occupied Crown land where development is not likely to occur for 90 days; and c) public lands under "formal disposition" (*Public Lands Act*). As described in *PLAR*, vacant public land and vacant disposition areas are considered the same until development activity occurs on the vacant disposition area. These formal dispositions are granted for a:

- (i) commercial trail riding permit,
- (ii) cultivation permit,
- (iii) easement,
- (iv) farm development lease,
- (v) grazing lease,
- (vi) grazing license,
- (vii) license of occupation,
- (viii) mineral surface lease,
- (ix) miscellaneous lease,
- (x) pipeline agreement,
- (xi) pipeline installation lease,
- (xii) surface material lease,
- (xiii) pipeline agreement,
- (xiv) pipeline installation lease<sup>4</sup> (*plar* 2011: part 1, section 0).

Entry to lands under formal disposition requires the consent of the formal disposition holder (Government of Alberta 2012:3). No right of access exists for the exercise of Section 35 Rights for public lands under most formal dispositions without the permission of the owner or occupier as under the *Petty Trespass Act, 2000*, every person who: "without the permission of the owner or occupier of land enters on land when entry is prohibited" is therefore subject to a fine of \$2000 for the first offence and \$5000 for the second offence (*Petty Trespass Act 2000*: Section 2).

Any person found committing a trespass to which this Act applies may be apprehended without warrant by any peace officer, or by the owner or occupier of the land on which the

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<sup>4</sup> Listed twice in PLAR

trespass is committed, or the servant of, or any person authorized by the owner or occupier of the land, and may be forthwith taken before the nearest judge of the Provincial Court or justice of the peace to be dealt with according to law. (*Petty Trespass Act 2000*: Section 4)

Grazing leases, grazing licenses, cultivation permits, and farm development leases while not subject to the *Petty Trespass Act, 2000*, are often subject to the *Public Lands Act Recreational Access Regulations* Alta Reg 228/2003 which also requires the permission of the disposition holder for entry.

While unclear in its direction on the concept of “visible, incompatible” use of Crown lands, the *Government of Alberta Sustainable Resources Development Lands Division Standard Operating Procedure, Guide to Applying PLAR in the Context of Aboriginal Peoples’ Rights (2018)* references the following Government of Alberta document, *Hunting by Treaty Indians in Alberta (2016)* which reiterates the concept of “visible, incompatible” use of Crown lands and states that:

In general, if the public has unrestricted access to an area of public land for hunting purposes, an Indian person would have access for hunting for food on that same land. Indians may hunt for food on lands that are not being put to any other use that is visibly incompatible with hunting, as decided on a case-by-case basis. The presence of fences, signs, fields, buildings, domesticated animals or indications of farming or industrial activities all suggest uses that are “visibly incompatible” with hunting. The safety of persons, livestock and domestically raised animals will be of primary importance. For example, unless permission to hunt has first been obtained, Indians may not hunt on:

- Lands being actively used for mining, lumbering or other *industrial purposes*,
- Lands that are fenced, posted or cultivated,
- Lands containing buildings which may be used or occupied,
- Lands where livestock or domestically raised animals may be present (Government of Alberta 2016:1 [emphasis added])

Once a disposition to use Crown land for commercial purposes is granted, the third-party commercial rights holder, such as an industry proponent, has the “the right to occupy and use the Lands” including the right to conduct works, maintenance, or other activities (AER Disposition No. PIL140697: 341), which exclude the lands from public use, including the exercise of Section 35 Rights.

Permission is not sought nor is it required by the industry proponent from Indigenous nations prior to conducting activities allowed for under the disposition granted to it by the Crown.

Additionally, *The Government of Alberta’s Guidelines on Consultation with First Nations on Land and Natural Resource Management*, (Government of Alberta 2014) (*Alberta Consultation Guidelines*) states that consultation with Indigenous nations is not triggered on occupied Crown lands with existing dispositions issued under the *Public Lands Act*. According to the *Alberta Consultation Guidelines*, consultation may not be triggered where no “new lands or novel impacts to existing lands” are proposed (Government of Alberta 2014: Appendix B1). In other words, the Aboriginal Consultation Office does not trigger consultation on Crown lands that are the subject of existing dispositions.



Photo: 5 SNN Family Camp, Banff AB. MNP  
LLP/Bill Marsh



**2.2.6 Available vs. Unavailable Lands**

For the purposes of this Report, lands classified by the Study Team as available or unavailable for the exercise of Section 35 Rights are as follows:

Lands Available for the Exercise of Section 35 Rights	Lands Unavailable for the Exercise of Section 35 Rights
Crown land without Crown authorizations	Crown land with Crown authorizations
Crown land with Crown authorizations where a statute allowing for the exercise of activities related to Section 35 Rights	Land under a visible use incompatible with the exercise of activities related to Section 35 Rights <sup>5</sup>
Private land where permission has been specifically obtained <sup>6</sup>	Private lands <sup>7</sup>

Table 1: Lands Available and Unavailable for the Exercise of Section 35 Rights

**2.2.7 “No Meaningful Right”**

Treaty No.7 outlines the intent of the Crown that once unoccupied Crown, or available, lands were “taken up” by the Crown these lands would no longer be available for the exercise of Section 35 Rights. Many signatory Indigenous nations do not share this interpretation.

A meaningful right to hunt, as clarified for the Ojibway by the Supreme Court of Canada in *Grassy Narrows*, requires access to lands on which the right to hunt can be exercised. The Supreme Court of Canada in *Mikisew* also noted the Crown must turn its mind to the total inventory of lands available to a signatory Indigenous nation:

In the case of Treaty No. 8, it was contemplated by all parties that “from time to time” portions of the surrendered land would be “taken up” and transferred from the inventory of lands over which the First Nations had Treaty rights to hunt, fish and trap, and placed in the inventory of lands where they did not...

The language of the Treaty could not be clearer in foreshadowing change. Nevertheless, the Crown was and is expected to manage the change honorably (*Mikisew* at para 30 and 31)

The Supreme Court of Canada in *Grassy Narrows* reiterated that the taking up of land under Treaty No. 3 may have a limit, in that:

Not every taking up will constitute an infringement of the harvesting rights set out in Treaty 3. This said, if the taking up leaves the Ojibway *with no meaningful right to hunt, fish or trap in relation to the territories over which they traditionally hunted, fished, and trapped*, a potential action for Treaty infringement will arise. (*Grassy Narrows* at para 52, [emphasis added]).

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<sup>5</sup> The Study Team notes lands under a visible use incompatible with the exercise of Section 35 Rights could not be identified for this Report and is not used in the calculation of unavailable lands.

<sup>6</sup> The Study Team notes private land where permission has been specifically obtained is defined under the category of available lands for this Report; however, private land where permission has been specifically obtained could not be identified for this Report and is not used in the calculation of available lands.

<sup>7</sup> The Study Team notes this Report uses the proxy of White Area for the identification of private lands

Identifying the amount of available lands is critical for the understanding of whether a meaningful right remains for that Indigenous nation. The Study Team recognizes the exercise of Section 35 Rights for Indigenous nations in Canada is location specific; that is, “more significantly for aboriginal people, as for non-aboriginal people, location is important” (*Mikisew* at para 47).

Ensuring there is sufficient land available for the continued meaningful exercise of Section 35 Rights in the area where SNN historically exercised such rights and continues to do so today is an objective of SNN. Ensuring there is consideration of whether there are sufficient available lands remaining supporting preferred conditions for the continued meaningful exercise of Section 35 Rights is a necessary step for the Crown in a duty to consult process.

The Supreme Court of Canada in *R. v. Sparrow*, [1990] 1 SCR 1075, 1990 also identified a suitable framework that requires an identification of the community’s (and not individual) preferred means of exercising Section 35 Rights. The B.C. Court of Appeal in *Morris and Olsen* made clear, and as references in *R. v. Morris*, [2006] 2 SCR 915, 2006 SCC 59, preferred means of exercising a Section 35 Right is determined by reference to the community as a whole, and not by reference to individuals within that community.

### **2.2.8 Accommodations for Adverse Effects to Section 35 Rights**

The Supreme Court of Canada has identified the duty to consult contains two distinct processes: the identification of adverse effects to Section 35 Rights and if appropriate, the accommodation of such rights. Once adverse effects to Section 35 Rights are identified, the determination of appropriate accommodation measures is required. The suite of accommodation measures available to eliminate, reduce or control identified adverse effects may take a variety of forms, such as economic measures and measures to offset effects to biophysical components.

The Crown’s duty to both consult on and accommodate effects to Section 35 Rights of Indigenous nations is a constitutional imperative (Bankes 2017). Accommodation should result in achieving substantive outcomes and should not only be procedural (Arthur and Pape 2005; Potes 2006; Sossin 2010). The Supreme Court of Canada identified meaningful consultation must identify project related effects to Section 35 Rights and appropriate accommodation to those effects (*Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 SCR 511, 2004 SCC 73).

In other words, accommodation of project adverse effects to Section 35 Rights is equally important as identifying the effects themselves.

According to the Supreme Court of Canada in *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, [2017] 1 SCR 1069, 2017 SCC 40:

Bearing this in mind, the consultation that occurred here fell short in several respects. First, the inquiry was misdirected. While the NEB found that the proposed testing was not likely to cause significant adverse environmental effects, and that any effects on traditional resource use could be addressed by mitigation measures, the consultative inquiry is not properly into environmental effects per se. Rather, it inquires into the impact on the right. No consideration was given in the NEB’s environmental assessment to the source — in a treaty — of the appellants’ rights to harvest marine mammals, nor to the impact of the proposed testing on those right (*Clyde River* at 45).

Similarly, according to the Supreme Court of Canada in *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018 FCA 153:

Meaningful consultation is not simply a process of exchanging information. Where, as in this case, deep consultation is required, a dialogue must ensue, and the dialogue should lead to a demonstrably serious consideration of accommodation. The Crown must be prepared to make changes to its proposed actions based on information and insight obtained through consultation (*Tsleil-Waututh* at 564).

However, without a concrete framework for identifying appropriate accommodation measures for impacts to Section 35 Rights it is often the case that projects receive approval without proper consideration and accommodation to Section 35 Rights ever occurring (Mainville 2001). In these situations, Indigenous nations' only platform to protect their Section 35 Rights becomes the courts. If an Indigenous nation chooses to access the courts to advocate for and protect their Section 35 Rights it can lead to costly delays, substantial project modifications and even project cancellation (Potes 2006 and Newman 2014).

### **2.2.9 Compensation for Adverse Effects Under the NEB Act**

The NEB provides the following definition of mitigation:

In respect of a project, the elimination, reduction or control of the adverse environmental effects of the project and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means (NEB Filing Manual: Glossary of Terms).

The *NEB Act* contemplates compensation of adverse effects to land owners and users and provides the following key definition:

A company shall, in the exercise of the powers granted by this Act or a Special Act, do as little damage as possible, and shall make full compensation in the manner provided in this Act and in a Special Act, to all persons interested, for all damage sustained by them by reason of the exercise of those powers (*NEB Act 2017: 75*).

This definition is further elaborated upon in the NEB Filing Manual which states:

the 'owner' is not restricted to the fee simple owner or to freehold lands. An owner may include any interest in, or possession of land, such as the fee simple owner, Aboriginal title<sup>8</sup>, the administrators of Crown and public lands and occupants of land. The interest held may be registered or unregistered (NEB Filing Manual 2017: viii).

This definition is used to determine who Section 86-103 of the *NEB Act* is applicable to for a proposed project (*NEB Act 2017: 85*). Section 86-103 provide details on the process companies must follow to acquire lands using land acquisition agreements and arbitration tribunals should a land acquisition agreement not be reached.

As stated above in Section 1.3, SNN has an ongoing action in the Alberta Courts against the Government of Canada and the Government of Alberta related to SNN's understanding of its unextinguished Aboriginal title. As explored in *Tsilhqot'in* Indigenous nations with Aboriginal title may require the Crown "to reassess prior conduct in light of the new reality in order to faithfully discharge its fiduciary duty to the title-holding group going forward" (at para 92). The Study Team understands this to mean that the Crown may be responsible for cancelling project approvals on lands where there is Aboriginal title if the project was approved without consent and the continuation of the project may impact the Aboriginal title (Adkins, Gary, MacNab and Nettleton 2016: 9).

Section 86 of the *NEB Act* indicates that a company may not acquire lands through a lands acquisition agreement unless the agreement includes:

- Compensation by lump sum, annual or periodic payments (*NEB Act 2017: 86(2)(a)*);
- A 5-year review period to assess amount of compensation payable (*NEB Act 2017: 86(2)(b)*);
- Compensation for damages incurred during project operations or abandoning phases (*NEB Act 2017: 86(2)(c)*);

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<sup>8</sup> Aboriginal title is a subset of Section 35 Rights.

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- Indemnification from “all liabilities, damages, claims, suits and actions” as a result of project operations or abandoning phases. Except those resulting from gross negligence or misconduct by the owner (*NEB Act 2017: 86(2)(d)*);
- Restriction to the use of land to the project component specified to be required unless consent is obtained by land owner for addition uses of the land (*NEB Act 2017: 86(2)(e)*); and,
- Any other matters related to lands acquisition (*NEB Act 2017: 86(2)(f)*).

A version of such agreement drafted by NGTL for land acquisition related to the Project can be found in Appendix 11 of the 2021 Application.

Should a land acquisition agreement not achieved between the company and the owner due to a disagreement on compensation matters, an arbitration process can be requested by either party. Compensation matters will be determined by an Arbitration Committee who, where applicable, consider several key factors including:

- The market value of lands (*NEB Act 2017: 97(1)(a)*);
- Loss of use of lands by owner (*NEB Act 2017: 97(1)(c)*);
- Adverse effect on the remaining lands of an owner (*NEB Act 2017: 97(1)(d)*);
- Expected project-related nuisances, inconveniences and noise (*NEB Act 2017: 97(1)(e)*);
- Damage to lands acquired by company (*NEB Act 2017: 97(1)(f)*);
- Project-related loss or damage to livestock, personal property or movable (*NEB Act 2017: 97(1)(g)*);
- Difficulties related to relocation of owner or owner’s property. *NEB Act 2017: 97(1)(h)*.

The Study Team notes that the legislative process related to land acquisitions outlined in the *NEB Act* could be used to determine appropriate compensation or accommodation for impacts to SNN including matters associated with the exercise of Section 35 Rights often thought as intangible such as impact to culture (Adkins, Gray, MacNab, and Nettleton 2016).

The Study Team notes Indigenous nations are not afforded the same opportunity for dispute resolution as provided to other land rights holders under the *NEB Act*. SNN is currently unable to participate in the above legislative process to determine appropriate accommodation from Project impacts to their Section 35 Rights.

The Study Team notes that the above described legislative process in the *NEB Act* and related resolutions and agreements are required to occur prior to project approval.

That being said, on November 15, 2018 the NEB in Filing A95736 released conditions under which the Manitoba-Minnesota Transmission Project would be approved. The approval included Condition 22: The development and implementation of a Crown Land Offset Measures Plan (the Plan) which outlines how the permanent loss of Crown lands available for traditional use by Indigenous peoples resulting from the Manitoba-Minnesota Transmission Project will be offset or compensated:

Manitoba Hydro must file with the Board, 30 days prior to commencing operations, a Crown Land Offset Measures Plan (the Plan) that outlines how permanent loss of Crown lands available for traditional use by Indigenous peoples resulting from the Project will be offset or compensated for. The Plan must include:

- A. A description of site-specific details and maps showing the locations where Crown land is no longer available for traditional use as a result of Project activities at Dorsey Converter Station and the transmission tower locations, as well as any other locations;
- B. A list of the offset or compensation measures that will be implemented to address the permanent loss of crown lands identified in a) above;
- C. An explanation of the expected effectiveness of each offset measure described in b);

- D. The decision-making criteria for selecting specific offset measures that would be used and under what circumstances;
- E. A schedule indicating when measures will be implemented and the estimated completion date(s); and,
- F. Summary of consultation by Manitoba Hydro with any impacted Indigenous communities and with relevant provincial and federal authorities regarding the Plan (NEB 2018b: 187).

This requirement demonstrates how the NEB considers adverse project effects to Section 35 Rights. If adverse project effects cannot be avoided, eliminated or fully reduced, they must be accommodated through financial controls.

*An Overview of Aboriginal and Treaty Rights and Compensation for their Breach*, by Justice Robert Mainville (2001) identifies six legal principles for determining economic accommodation to impacts to Section 35 Rights:

- A. Compensation is to be determined in accordance with a methodology that takes into account the principles of fiduciary law;
- B. Relevant factors in determining compensation include the impacts on the affected Aboriginal community and the benefits derived by the Crown and third parties from the infringement;
- C. Compensation is to be determined in accordance with federal common law and will thus be governed by rules that apply uniformly throughout Canada;
- D. Compensation is generally the responsibility of the Crown but may, in appropriate circumstances, be assumed by third parties;
- E. Compensation may be provided through structured compensation schemes or through a global monetary award; and,
- F. Compensation is normally to be awarded for the benefit of the affected Aboriginal community as a whole (Mainville 2001: 128).



Photo: 6 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

### 3. Study Methodology

The 2021 Application “considers the potential effects of the Project on the environment and humans in the context of defined spatial and temporal boundaries” (NGTL 2018b: 1-4). The Study Team notes that the 2021 Application did not specifically consider potential effects of the Project on SNN’ Section 35 Rights.

As stated, the purpose of the Report is to:

- provide information about how the Project may directly and adversely impact the ability of SNN to exercise their Section 35 Rights;
- provide suggestions for appropriate accommodation measures for adverse Project effects to the exercise of Section 35 Rights;
- outline additional issues and concerns of the SNN Consultation Office; and,
- document the exercise of SNN Section 35 Rights through the identification of use of land and resources in the vicinity of the Project.

### 3.1 Methodology Comparison

In order to fulfill the objectives of this Report, the Study Team followed NGTL’s Environmental Assessment (“EA”) methodology where possible. Table 2 illustrates commonalities and departures from NGTL’s stated methodology outlined in the 2021 Application.

2021 Application:		SNN Report:	
Valued Components	<p>The 2021 Application determined “the environmental and socio-economic VCs<sup>9</sup> and related key indicators that may interact with the Project” (NGTL 2018b:14-4).</p> <p><u>The NGTL VCs are:</u></p> <ul style="list-style-type: none"> <li>• Vegetation</li> <li>• Water quality and quantity</li> <li>• Fish and fish habitat</li> <li>• Wetlands</li> <li>• Wildlife and wildlife habitat</li> <li>• Species at Risk or Species of Conservation Concerns</li> <li>• Acoustic environment</li> <li>• Human occupancy and resource use</li> <li>• Heritage resources</li> <li>• Navigation and navigation safety</li> <li>• Traditional land and resource use</li> <li>• Social and cultural well-being</li> <li>• Human health</li> <li>• Employment and economy</li> <li>• Accidents and malfunctions</li> </ul>	<p>The Study Team in consultation with SNN determined SNN VCs and related key indicators that may interact with the Project to represent changes to SNN Section 35 Rights.</p> <p><u>The SNN VCs are:</u></p> <ul style="list-style-type: none"> <li>• Lands</li> <li>• Harvesting</li> <li>• Culture</li> </ul>	

<sup>9</sup> Valued Components

2021 Application:		SNN Report:	
Spatial and Temporal Boundaries	<p><u>2021 Application spatial boundaries:</u></p> <ul style="list-style-type: none"> <li>• Project Footprint 75 m wide, narrowed to 42 m within the Little Smoky Caribou Range (43.9km of ROW), plus the area within each compressor station unit addition fence line;</li> <li>• Local Study Area (“LSA”) 1.1 km wide corridor centered over the centerline with expansion to 2 km at nine water crossings<sup>10</sup> and a 50 m radius from proposed fence line of compressor station unit additions); and</li> <li>• Regional Study Area (“RSA”) 10 km on either side of the pipeline centerline and 10 km radius from proposed fence line of compressor station unit additions (NGTL 2018b: 4-2 and 19-1).</li> </ul>	<p><u>Report spatial boundaries:</u></p> <ul style="list-style-type: none"> <li>• <b>Project Footprint</b> 75 m wide narrowed to 42 m within the Little Smoky Caribou Range (43.9km), plus the area within each compressor station unit addition delineated by the shapefiles provided by NGTL on May 1, 2018;</li> <li>• <b>LSA</b> 1.1 km wide corridor centered on the Project Footprint centerline with expansion to 2 km at nine water crossings and a 50 m radius from the proposed fence lines of compressor station unit additions delineated by the shapefiles provided by NGTL on September 27, 2018; and</li> <li>• <b>RSA</b> 10 km on either side of the Project Footprint centerline and 10 km radius from proposed fence line of compressor station unit additions delineated by the shapefiles provided by NGTL on September 27, 2018.</li> </ul>	
	<p><u>2021 Application temporal boundaries:</u></p> <ul style="list-style-type: none"> <li>• <b>Construction:</b> Activity period during which there are physical disturbances in the Project Footprint. Anticipated to begin Q2 2020 till end of Q1 2021 (NGTL 2018b: figure 2.6-1).</li> <li>• <b>Operation and maintenance:</b> The in-service date is expected to be April 2021 (NGTL 2018b: 2-6). The Project lifecycle was not identified or considered in the 2021 Application.</li> </ul>	<p><u>Report temporal boundaries:</u></p> <ul style="list-style-type: none"> <li>• <b>Construction:</b> Activity period during which there are physical disturbances in the Project Footprint. Anticipated to begin Q2 2020 till end of Q1 2021 (NGTL 2018b: figure 2.6-1).</li> <li>• <b>Operation and maintenance:</b> Due to limiting factors including data availability, time, and budget constraints the Study Team has applied the precautionary principle (CEAA JRP 2015: 46) and assumed the maximum potential effect from construction to apply to the Project lifecycle.</li> </ul>	
Baseline Conditions	<p>The 2021 Application describes “the existing environment and socio-economic conditions that represent the baseline conditions in which the Project will be constructed and operated” (NGTL 2018b: 14-4).</p>	<p>The Report describes baseline conditions for each SNN VC.</p>	

<sup>10</sup> Wapiti River, Smoky River, Latornell River, Simonette River, Deep Valley Creek, Little Smoky River, McLeod River, Pembina River, and North Saskatchewan River” (NGTL 2018b: 19-1).



2021 Application:		SNN Report:	
<b>Residual Effects</b>	<p>The 2021 Application assessed “the potential effects of the Project relative to the baseline conditions. Assessment of Project effects includes identifying the potential effects, the application of mitigation measures, identifying any residual effects, and determining the significance of any residual effects” (NGTL 2018b: 14-4).</p> <p>“Mitigation measures are implemented to avoid or reduce potential adverse effects on key indicators” (NGTL 2018b: 4-10).</p> <p>Residual effects are predicted to occur when a change resulting from a project alters the baseline conditions. Mitigation can sometimes avoid or reduce potential adverse effect. Where mitigation reduces but does not avoid the effect, a residual effect is predicted to occur. For any adverse effects that remain after the application of feasible mitigation, a residual effect is identified and assessed. The criteria used to describe and evaluate the predicted effects are direction, geographic extent, magnitude, duration, frequency and reversibility (NGTL 2018b: 4-10).</p>	<p>The Report assesses Project-related effects relative to the baseline conditions. Assessment of Project effects includes identification of potential effects, the consideration of the 2021 Application ESA mitigation measures, and the application of accommodation measures and characterizes residual effects.</p> <p>The Study Team defines accommodation measures using the NEB Filing Manual definition of mitigation as the elimination, reduction or control of the adverse effects of the Project and includes restitution for any damage through replacement, restoration, compensation or any other means (NEB Filing Manual Glossary of Terms 2017).</p> <p>The Study Team defines “eliminate” as avoiding or completely removing the identified effect. The Study Team defines “reduce” as making the identified effect smaller in size or scope; effect is not eliminated. The Study Team defines “control” as reducing an identified effect; effect is not eliminated; the remaining effect is managed or offset.</p> <p>The Study Team concurs with the identification of residual effects and criteria used to describe and evaluate predicted effects used by NGTL (see Appendix B) with the exception of duration which the Study Team defines as:</p> <ul style="list-style-type: none"> <li>• Short-Term (&lt;1 Seasonal Round or 1 yr)</li> <li>• Medium-Term (&gt;1 Seasonal Rounds or 1 yr)</li> <li>• High-Term (20+ years or equivalent to a generation)</li> <li>• Permanent (unlikely to recover to baseline conditions)<sup>11</sup></li> </ul>	
<b>Likelihood</b>	<p>Likelihood is a measurement of whether or not the effect is likely to occur (NGTL 2018b: 4-28).</p>	<p>The Study Team used the same criteria to describe likelihood as the 2021 Application ESA.</p>	
<b>Confidence</b>	<p>Prediction of confidence refers to the degree of certainty of the residual effect prediction and associated evaluation of determination of significance (NGTL 2018b: 4-29).</p>	<p>The Study Team used the same criteria to describe prediction of confidence as the 2021 Application ESA.</p>	

<sup>11</sup> The Study Team deviated from NGTL’s definition of duration to better align with SNN worldviews and the exercise of SNN Section 35 Rights.

2021 Application:		SNN Report:
<b>Cumulative Effects</b>	The 2021 Application conducted a “cumulative effects assessment for the Project in combination with past, present and reasonably foreseeable projects and activities” for all residual effects. (NGTL 2018b: 14-4).	The Study Team was unable to complete a cumulative effects assessment for the Report due to the lack of information on reasonably foreseeable projects and activities.
<b>Monitoring and Follow-up</b>	The 2021 Application identified “any follow-up and monitoring programs that will be undertaken to evaluate the effectiveness of planned mitigation and address environmental issues identified during Project operation” (NGTL 2018b:14-4).	The Report includes suggestions for follow-up or monitoring programs to ensure effective mitigation by NGTL of negative Project-related effects on SNN Section 35 Rights.

Table 2: Methodology Differences 2021 Application

### 3.1.1 Determination of Significance

The Study Team has no control or confidence that suggested accommodation measures will be applied, therefore a significance determination was not completed as part of this Report.

### 3.2 NGTL-Selected Valued Components

The Study Team notes that SNN was not consulted on the selection of the 2021 Application VCs.

As stated above, the Study Team notes that the NGTL VCs do not specifically identify or assess effects of the Project to SNN Section 35 Rights.

### 3.3 Selection of Stoney Nakoda Nations Valued Components

SNN VCs were identified to characterize the potential Project impacts to SNN Section 35 Rights. SNN VC selection was made based on several key criteria including:

- Degree of importance to SNN;
- High probability to be directly or indirectly impacted by the Project;
- Ability to be measured and monitored in relation to the Project; and,
- Availability of sufficient baseline information.

#### 3.3.1 Stoney Nakoda Nations Valued Component Workshop

On July 23 and 25, 2018, VC Workshops were held in Morley, Alberta, and Bighorn, Alberta with SNN members including SNN elders, community members, and SNN Consultation Office representatives (“Workshop Attendees”).

The VC Workshops began with a broad overview of NGTL 2021 and provided Workshop Attendees with a summary on the SNN VC selection process proposed by the Study Team.

The Study Team posed several guiding questions to the Workshop Attendees to capture general concerns or values that may be used to select SNN VCs. The questions posed to the Workshop Attendees included:

- What makes SNN unique?
- How could the Project in your traditional territory change this?

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- What are your concerns about the Project related to your Section 35 Rights?

Responses by Workshop Attendees were documented and grouped into themes by the Study Team. Not all issues and concerns raised at the VC Workshop met the criteria used by the Study Team to select SNN VCs as shown in Table 5.

SNN Concern	Concern Details	Meets Selection Criteria	Rationale for Inclusion	
Decrease in available lands	Workshop Attendees expressed concern with the decrease in lands available for the exercise of SNN Section 35 Rights.	Able to measure and monitor change	<input checked="" type="checkbox"/> <u>VC Lands:</u> There are geographic limitations to the exercise of Section 35 Rights. Available lands are required for the exercise of Section 35 Rights.	
		High degree of importance to SNN		<input checked="" type="checkbox"/>
		Available baseline data		<input checked="" type="checkbox"/>
		High probability for Project interaction		<input checked="" type="checkbox"/>
Decrease in quantity of quality lands	Workshop Attendees reported seeing significant physical changes to lands.	Able to measure and monitor change	<input checked="" type="checkbox"/> <u>VC Harvesting:</u> Taking into account SNN's preferred means of exercising Section 35 Rights is important criteria set by the Supreme Court of Canada.	
		High degree of importance to SNN		<input checked="" type="checkbox"/>
		Available baseline data		<input checked="" type="checkbox"/>
		High probability for Project interaction		<input checked="" type="checkbox"/>
Continued ability to Harvest	Workshop Attendees identified a change in harvesting conditions related to the Project as a concern. Workshop Attendees notes that changes to harvesting conditions would lead to a decrease in ability to preferentially harvest.	Able to measure and monitor change	<input checked="" type="checkbox"/> <u>VC Harvesting:</u> Taking into account SNN's preferred means of exercising Section 35 Rights is important criteria set by the Supreme Court of Canada.	
		High degree of importance to SNN		<input checked="" type="checkbox"/>
		Available baseline data		<input checked="" type="checkbox"/>
		High probability for Project interaction		<input checked="" type="checkbox"/>
Impact on Sacred and Ceremonial sites	Workshop Attendees reported being concerned with the effect development has	Able to measure and monitor change	<input checked="" type="checkbox"/> <u>VC Culture:</u> The ceremonial activities undertaken by SNN members are necessary to maintain the cultural identity of SNN. Preferred areas (including	
		High degree of importance to SNN		<input checked="" type="checkbox"/>

SNN Concern	Concern Details	Meets Selection Criteria	Rationale for Inclusion
	on Sacred and Ceremonial sites.	Available baseline data	sacred and ceremonial sites and SNN family territories) are necessary to undertake activities by SNN members to maintain the cultural identity of SNN.
		High probability for Project interaction	
Impacts to Cultural Activities	Workshop Attendees reported being concerned that Project activities may disturb the ability of SNN members to prepare for and participate in cultural activities.	Able to measure and monitor change	<p><u>VC Harvesting:</u> Taking into account SNN's preferred means of exercising Section 35 Rights is important criteria set by the Supreme Court of Canada.</p> <p><u>VC Culture:</u> The ceremonial activities undertaken by SNN members are necessary to maintain the cultural identity of SNN. Preferred areas (including sacred and ceremonial sites and SNN family territories) are necessary to undertake activities by SNN members to maintain the cultural identity of SNN.</p>
		High degree of importance to SNN	
		Available baseline data	
		High probability for Project interaction	
Knowledge Sharing	Workshop Attendees reported development impacting ability to share knowledge, skills, and culture with younger generations by restricting access to lands and effects to harvesting activities.	Able to measure and monitor change	<p><u>VC Culture:</u> The ceremonial activities undertaken by SNN members are necessary to maintain the cultural identity of SNN. Preferred areas (including sacred and ceremonial sites and SNN family territories) are necessary to undertake activities by SNN members to maintain the cultural identity of SNN</p>
		High degree of importance to SNN	
		Available baseline data	
		High probability for Project interaction	
Impacts to family territories	Workshop Attendees reported that Project activities and development may remove or reduce the amount of preferred land available to Family Clans of the SNN in their traditional family territories.	Able to measure and monitor change	This concern was determined by the Study Team to be an important consideration in the development of mitigation measures for the Project but was not appropriate to be selected as a VC. However, the Study Team considers this in development of suggested accommodation measures
		High degree of importance to SNN	
		Available baseline data	
		High probability for Project interaction	
	Workshop Attendees	Able to measure and monitor change	This concern was determined by the Study Team to be an

SNN Concern	Concern Details	Meets Selection Criteria		Rationale for Inclusion
SNN Protocols or Natural Laws	discussed that Project activities and developments may conflict with or prevent completely members of the SNN to adhere to rules and etiquettes related to harvesting, ceremony, and accessing sacred sites of family territories.	High degree of importance to SNN	<input checked="" type="checkbox"/>	important consideration in the development of mitigation measures for the Project but was not appropriate to be selected as a VC. However, the Study Team considers this in development of suggested accommodation measures.
		Available baseline data	<input type="checkbox"/>	
		High probability for Project interaction	<input checked="" type="checkbox"/>	
Contamination of harvested resources	Workshop Attendees reported being concerned with animal, vegetation and water resources harvested no longer available in quality and quantity as historically seen by SNN.	Able to measure and monitor change	<input type="checkbox"/>	This concern was determined by the Study Team to be an important consideration in the development of mitigation measures for the Project but was not appropriate to be selected as a VC. However, the Study Team considers this in development of suggested accommodation measures.
		High degree of importance to SNN	<input checked="" type="checkbox"/>	
		Available baseline data	<input type="checkbox"/>	
		High probability for Project interaction	<input checked="" type="checkbox"/>	
Health	Workshop Attendees reported being concerned about developments impacts on health of SNN members.	Able to measure and monitor change	<input type="checkbox"/>	Health is a VC already selected by NGTL in the 2021 Application ESA. To avoid duplication the Study Team made the determination to not include this component as a VC.
		High degree of importance to SNN	<input checked="" type="checkbox"/>	
		Available baseline data	<input type="checkbox"/>	
		High probability for Project interaction	<input checked="" type="checkbox"/>	
Economic Compensation	Workshop Attendees expressed frustration with having to bear the adverse effects of the Project without compensation.	Able to measure and monitor change	<input type="checkbox"/>	The Study Team determined that there was not sufficient information available to select this component as a VC. However, the Study Team considers this in development of suggested accommodation measures.
		High degree of importance to SNN	<input checked="" type="checkbox"/>	
		Available baseline data	<input type="checkbox"/>	
		High probability for Project interaction	<input checked="" type="checkbox"/>	

SNN Concern	Concern Details	Meets Selection Criteria		Rationale for Inclusion
Inclusion in Reclamation and Monitoring	Workshop Attendees expressed desires to be included in reclamation planning and monitoring.	Able to measure and monitor change	<input type="checkbox"/>	This concern was determined by the Study Team to be an important consideration in the development of mitigation measures for the Project but was not appropriate to be selected as a VC. However, the Study Team considers this in development of suggested accommodation measures.
		High degree of importance to SNN	<input checked="" type="checkbox"/>	
		Available baseline data	<input type="checkbox"/>	
		High probability for Project interaction	<input type="checkbox"/>	
Accidents	Workshop Attendees reported being concerned with the potential for accidents and the repercussions.	Able to measure and monitor change	<input type="checkbox"/>	This concern was determined by the Study Team to be an important consideration in the development of mitigation measures for the Project but was not appropriate to be selected as a VC.
		High degree of importance to SNN	<input checked="" type="checkbox"/>	
		Available baseline data	<input type="checkbox"/>	
		High probability for Project interaction	<input checked="" type="checkbox"/>	

Table 3: SNN VC Selection Rationale

The following SNN VCs met the criteria identified by the Study Team and were selected for study:

- **SNN VC of Lands**

- Indicator: change in legal restriction resulting from the application of a Crown disposition leading to a decrease of available lands for the exercise of Section 35 Rights (hectare and %).

The exercise of Section 35 Rights has geographic limitations and is not legally permitted on all types of land according to the Crown. Therefore, changes in legal restriction of Crown land causing a decrease in available lands for the exercise of Section 35 Rights is an important consideration.

- **SNN VC of Harvesting**

- Indicator: change in SNN Hunting Avoidance Behaviours.
- Indicator: change in SNN Gathering Avoidance Behaviours.

For the purposes of this Report, the activities of hunting and gathering are used as representative activities for the exercise of Section 35 Rights related to harvesting.

The Study Team to assess changes to SNN Hunting and Gathering Avoidance Behaviours posed questions to Participants who identified as hunters and/or gatherers related to both physical attributes they avoid and conditions they prefer for the exercise of their Section 35 Rights (hunting and gathering).

SNN Avoidance Behaviours can be understood as aversion to conditions or attributes. For example, a person preferring to choose a quiet place over a noisy place would avoid noisy places. For this Report SNN Avoidance Behaviours are defined as an action or a choice to avoid non-preferred conditions or attributes for harvesting or cultural activities. SNN Avoidance Behaviours are compiled from Participants and reflect the non-preferred conditions or attributes that detract from the meaningful exercise of SNN Section 35 Rights.

Considering SNN's preferred means of exercising Section 35 Rights or lands under a visible use incompatible with SNN Section 35 rights is an important criterion set by the Supreme Court of Canada (*Badger*).

SNN Preferred Conditions are defined by the Study Team as physical attributes (real or perceived) associated with land or resources that are preferred by SNN for the exercise of Section 35 Rights. Preferred means can be understood as, if faced with a choice of options, the option that would be preferentially chosen over another available option. For example, a person tending to choose a quiet place over a noisy place prefers a quiet place. For this Report, SNN preferred conditions are defined as preferred species and/or preferred conditions necessary for meaningful exercise of Section 35 Rights. SNN Preferred Conditions are compiled from SNN Survey Participants ("Participants") and reflect preferred conditions required for the meaningful exercise of SNN Section 35 Rights.

- **SNN VC of Culture**

- Indicator: change in SNN Culture Avoidance Behaviours.
- Indicator: change in ability to transmit SNN culture.

For the purposes of this Report, cultural activities including ceremony, cultural events and sacred sites will be used as a representative activity for the exercise of Section 35 Rights and calculations for change in SNN Culture Avoidance Behaviours.

The ceremonial activities undertaken by SNN members are necessary to maintain the cultural identify of SNN. Preferred areas (including sacred and ceremonial sites and SNN family territories) or lands not under a visible use incompatible with SNN Section 35 rights are necessary to undertake activities by SNN members to maintain the cultural identify of SNN

The Study Team, to assess changes to SNN Culture Avoidance Behaviours, posed questions to Participants who indicated that they attend ceremonies, cultural events and visit sacred sites related to both physical attributes they avoid and conditions they prefer for the exercise of their Section 35 Rights related to culture.

The Study Team, to assess changes in ability to transmit SNN culture posed questions to Participants related to the SNN culture and the transmission of SNN culture.

### **3.3.2 Baseline Data Collection**



Photo: 7 SNN Hunting Camp, Eden Valley AB. MNP LLP/Bill Marsh

The SNN Survey ("Survey") was developed for the collection of baseline data related to the SNN VCs. The Survey, using structured and semi-structured interview techniques, was designed using Survey Monkey®, a web-based survey platform used to collect and analyze data (Bernard 2006). SNN Consultation Office reviewed and provided comments on the draft Survey.

The Survey was administered in-person and designed to be filled out by hand during the interview. Where required, a SNN interpreter was present to provide Stoney-English interpretation.

The Study Team administered Surveys to 43 Participants. Participants were provided with an honorarium for their time.

#### **3.3.2.1 Participant Selection**

SNN members identified as potential Participants were invited to take part in the interviews by the Consultation Officers for Chiniki First Nation, Bearspaw First Nation, and Wesley First Nation and the SNN Consultation Office. SNN members were selected as Participants using purposive sampling methods. Purposive sampling involves the identification of subpopulations that are of interest, harvesters and

ceremonial participants in this case, and recruits as many of these individuals as possible (Bernard 2006:190). The Consultation Officers identified potential Participants and invited them to take part in the interviews. Interview methods that use purposive sampling and recruit through personal invitation to known individuals, and chain-referral methods, generate non-random (non-probability) samples. Non-random samples are the preferred method of sampling when a study is labour intensive, requires critical or key information and experiences, and participants are from a hard to find or are part of a hard to identify population (Bernard 2006).

The Study Team in conjunction with the SNN Consultation Office established the following purposive sampling criteria:

- Member of SNN
- Identifies as at least one of the following:
  - Hunter
  - Trapper
  - Fisher
  - Gatherer
  - Ceremonial participant
  - Camper
- Over the age of 18

Between August 1 and September 20, 2018, the Study Team administered the interviews at:

Location	Date
Banff National Park, Stoney Indian Days	August 1 and 2, 2018
Kootenay Plains, near Bighorn IR 144A	August 14-16, 2018
Eden Valley Ranch	August 28-30, 2018
SNN IR 142, 143, 144	September 6 and 7, 2018
SNN IR 142, 143, 144	September 12 and 13, 2018
SNN IR 142, 143, 144	September 19 and 20, 2018

Table 4: SNN Survey Completion Dates

### 3.3.2.2 Survey Questions

In the Surveys, Participants were asked to identify harvested species and their associated natural laws and protocols. Participants were also asked a series of related questions about their participation in camping, ceremonies, and visiting sacred sites.

Participants were then asked to identify their preferred and avoided conditions for exercising their Section 35 Rights including whether or not they preferred to harvest or participate in cultural and ceremonial activities in the presence of noise, contamination, the presence or absence of other people, and evidence of industrial activity.



Participants were also asked to identify their avoidance behaviours for hunting, gathering, and ceremonial, cultural and sacred sites by indicating how close to or far from different types of developments (e.g., pipelines, oil and gas facilities, active logging), and lands or leases (e.g., private lands, protected areas) the Participant exercised their Section 35 Rights. For each development and land type Participants were given a choice between the following distances:

- On the development or land to 100 meters
- Next to the development/land: at least 100m (1-minute walk),
- At least 250m (2-minute walk)
- At least 500m (5-minute walk)
- At least 1km (10-minute walk)
- At least 2 km (20-minute walk)

The Study Team contends that safety concerns, enforcement activities, real or perceived surveillance from conservation authorities, and land and lease holders, as well as regulations and limitations on the exercise of Section 35 Rights contributes to avoidance behaviours on a broad range of development and land types. Further, the Study Team has also observed that Indigenous harvesters may perceive that licenses or permits are necessary to carry out the exercise of Section 35 Rights, such as hunting where such limits do not exist. In effect, Indigenous harvesters have learned to “self-police” their activities and may be limiting their exposure to land types or conditions where the possibility of a safety concern or confrontation with enforcement exists.

At the end of the Survey, Participants were shown maps of the Project. Participants were then asked to identify if they exercised their Section 35 Rights including hunting, trapping, fishing, gathering, and ceremonial and cultural activities in the RSA. This land and resource use information was recorded and mapped according to the methodology established in this Report.

#### 3.3.2.3 Informed Consent and Confidentiality

Each Participant was provided information on the Project and read the consent form requesting permission to use the data collected before the interview commenced. The consent form further outlined that the information shared during the Survey remained the sole property of the Participant and SNN.

The consent form also explained that all Participants are intended to remain anonymous. Prior to data entry, the Study Team assigned each Participant a number code (e.g. 2SN or 9SN) and all quotes or observations taken from Participants were attributed to the assigned number code. Permission was also requested from Participants to allow for voice recordings, used by the Study Team to ensure all valuable information was accurately captured and included in data analysis. See Appendix C for copy of the consent form used by the Study Team.

#### 3.3.2.4 Data Entry

The Study Team completed 43 Surveys<sup>12</sup>. Of the 43 Surveys that were completed, all 43 were included in the sample. Surveys could be excluded if:

- The Survey was incomplete, or the Participant did not enter any data other than basic demographic information.
- The Study Team did not feel the information was reliable or the Participant was unable to answer the preponderance of questions.

None of the Surveys were excluded based on these criteria.

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<sup>12</sup> Of the 43 Interviews, 16 Participants were members of Bearspaw First Nation, 10 Participants were members of Chiniki First Nation and 17 Participants were members of Wesley First Nation.

Survey answers were entered manually into an online version of the survey using data streaming and question logic built into the Survey Monkey® platform. Following this entry, the Study Team transcribed selected qualitative information contained within the interviews using interview recordings. As noted above, to ensure Participant confidentiality, Participants were assigned a number code that was then used throughout the data entry, quote transcription and the Report. Participants were referred to by their assigned number code rather than by their name.



Photo: 8 SNN Family Camp, Banff AB. MNP  
LLP/Bill Marsh

### 3.3.3 Data Analysis

Data analyzed for the Report was derived from a variety of publicly available sources and private data sets including the AltaLIS Ltd.'s Digital Integrated Dispositions (“DIDs”), Surveys, mapping data identified by Participants, previously collected mapped data provided by SNN, and the 2021 Application. (Refer to Table 6 for a list of datasets accessed by the Study Team for data analysis of lands with Crown authorizations).

The scale for the land and resource use maps was set at 1:1,800,000 to allow for an extent where the RSAs and LSAs are defined.

#### 3.3.3.1 Lands Unavailable for the Exercise of Section 35 Rights

Lands with Crown authorizations are defined for this Report as Crown lands under a third-party or Crown disposition. These lands along with private lands held by fee simple land holders<sup>13</sup> have been moved from the inventory of lands where Indigenous nations have an unrestricted right of access to exercise their Section 35 Rights (i.e. unoccupied Crown land) to the inventory of lands where they can no longer exercise these rights without permission or where their right of access is now diminished in priority compared to other rights holders. For the purpose of this Report, these Crown lands now under disposition are referred to as Crown authorizations.

Crown authorizations include all public land that is the subject of a legislative instrument under the *Public Lands Act* that conveys an estate or interest sufficient to enable the holder of the disposition to exclude persons from entering on public land, including:

- Orders (Orders-in-Council; Ministerial Orders; Directors Orders);
- Notifications and Sell-back Agreements;
- Reservations and Notations (Dispositions and Holdings);
- Leases, licenses, permits, agreements, authorizations and approvals (collectively known as dispositions).

The application of the *Public Lands Act* conveys an interest or priority access to a third-party disposition holder, in this case NGTL, and can restrict or limit SNN access to the Project Footprint during construction and operations. Crown authorizations also refers to lands in Alberta that are within the legislative competence of the Alberta Legislature under any other enactment that may lead to a restriction on the exercise of Section 35 Rights, including the designation of public roads, road allowances, conservation and protected areas.

It is assumed, that where the disposition is silent on the exercise of specific activities related to Section 35 Rights (for example, hunting or gathering), then those right(s) do not have priority over the stated purpose of the disposition. For example, Saskatoon Mountain and Aurora Natural Area are under a Crown authorization that expressly allows for hunting activities. The same Crown authorization is silent on trapping, gathering, fishing, and ceremonial activities. It is assumed, for the purposes of this Report, that hunting, and camping are permitted activities that are not subject to diminished priority while all other activities are

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<sup>13</sup> As represented by the Government of Alberta White Area for this Report.

subject to restrictions and diminished priority. An analysis of private lands and Crown authorizations attempts to identify an adverse Project effect by quantifying the amount of unavailable lands in the vicinity of the Project.

For the purpose of this Report, private lands and Crown authorizations includes lands under private ownership, provincial Crown lands, federal Crown lands, including IRs, railways, national parks, and military bases, and other lands under Federal control. These lands are considered unavailable for the exercise of Section 35 Rights. Crown land not under Crown authorizations is considered available.

This Report seeks to identify the amount of available lands that will be made unavailable for the exercise of SNN Section 35 Rights by the Project. This information is relevant for a consideration of Project effects.

For the purposes of this Report, the activities of hunting and gathering will be used as representative harvesting activities for the exercise of SNN Section 35 Rights. Restrictions for hunting are identified as a prohibited activity for many provincially mandated parks and protected areas including provincial recreation areas, natural areas, and provincial parks. Protected areas intersecting the RSA that restrict the activity of hunting include:

	Protected Area	Activities Allowed and Prohibited
<b>Natural Areas in RSA</b>	<b>Saskatoon Mountain Public Recreation Area</b>	<b>Hunting is allowed;</b> Primitive weapons only (shotgun, muzzle loader, bow)
	<b>Aurora Natural Area</b>	<b>Hunting is allowed</b>
<b>Provincial Recreation Area in RSA</b>	<b>Big Mountain Creek</b>	<b>Hunting is prohibited;</b> Allowed geocaching, fishing, group use, hiking, OHV riding, and snowmobiling
	<b>Hornbeck Creek</b>	<b>Hunting is prohibited;</b> Allowed geocaching, camping, fishing and swimming
	<b>Wolf Lake West</b>	<b>Hunting is prohibited;</b> Allowed geocaching, camping, canoeing/kayaking, fishing, hiking, power boating and swimming
	<b>Jackfish Lake</b>	<b>Hunting is prohibited;</b> Allowed camping, canoeing/kayaking, fishing, group use, mountain biking, OHV riding, ice fishing and snowmobiling
	<b>Chambers Creek</b>	<b>Hunting is prohibited;</b> Allowed camping, fishing, hiking, mountain biking and OHV riding
	<b>Chambers Creek Group Camp</b>	<b>Hunting is prohibited;</b> Allowed geocaching, fishing, group use, hiking, mountain biking and OHV riding
	<b>Horburg</b>	<b>Hunting is prohibited;</b> Allowed camping, canoeing/kayaking, fishing, hiking, mountain biking, OHV riding and snowmobiling

Protected Area		Activities Allowed and Prohibited
Public Land Recreation Area in RSA	Hornbeck Cross Country Skiing	Hunting is prohibited; Allowed geocaching, Camping, Fishing and Swimming

Table 5: Protected Areas Intersecting the Project RSA

### 3.3.3.2 Land and Resource Use

Composite base maps used during the interviews were created by the Study Team. The base maps focused on the lands surrounding the Project components and were set at a scale of 1:1,800,000 to allow for an extent where the RSA and LSA was visible. These black and white maps were used during interviews.

These base maps were used to document the exercise of the Participants Section 35 Rights (e.g. hunting, fishing, gathering, ceremonial and sacred sites, camps, burial sites, campsites, trails/travel routes etc.), as well as areas where Participants know family members have exercised their rights and locations that are suitable for the exercise of Section 35 Rights (i.e. sites such as moose licks or berry habitat). All sites that a Participant visited within their lifetime are considered a current use site. Sites visited by family members in the past were identified as past use sites (Tobias 2000).

### 3.3.4 **Creation of the Maps- Private Lands and Crown Authorizations**

A calculation was conducted in ArcGIS 10.6 to approximate how much of the total area in the Project Footprint, LSA and RSA is unavailable for the exercise of Section 35 Rights. Table 6 outlines the different developments and land designation types that can be found in the RSA and how they may limit the exercise of SNN Section 35 Rights.

Table 6 also lists the datasets that were publicly available and/or accessible. Analysis of the land available for the Project Footprint, LSA and RSA during construction were created using this data. For each of the areas of concern, calculations were conducted to determine how much of the total land area is unavailable land under Crown authorizations<sup>14</sup> or private ownership<sup>15</sup>. To achieve this, the Crown authorizations and White Area datasets were merged into one shapefile, dissolved (to prevent double counting of overlapping features) and clipped to the Project Footprint, LSA and RSA. The resulting area of unavailable lands was compared to the total land area to ascertain the percentage of unavailable land.

The data derived from AltaLIS Ltd.'s DIDs layer is current as of November 19<sup>th</sup> 2018. For land based activities, the total area of the Project Footprint, LSA, RSA does not include waterbodies.

<sup>14</sup> For the construction phase, this includes temporary field authorizations for TWS, camps, and laydown yards.

<sup>15</sup> The Study Team notes because of the difficulty and expense involved in locating and digitizing private lands, the White Area was used a proxy to identify private lands.

<b>Development or Land Designation Type</b>	<b>Section 35 Rights Restricted by Development/Land Designation</b>	<b>Dataset</b>	<b>Data Source</b>
<b>Primary Roads or Highways</b>	All rights	National Road Network	Natural Resources Canada, Government of Canada
<b>Secondary Roads (paved and unpaved)</b>	All rights	National Road Network	Natural Resources Canada, Government of Canada
<b>Lease Roads</b>	All rights	DIDs	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Airstrips</b>	All rights	Access Polygon	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Pipeline Right-of-Way (below ground)</b>	All rights	DIDs	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Pipeline Facilities (including compressors/meter stations and risers)</b>	All rights	DIDs	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Power Lines</b>	All rights	Access Polygons Powerline Arc	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Conventional Oil and Gas Facilities</b>	All rights	Access Polygons	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Sand and Gravel Pit</b>	All rights	DIDs Access Polygons	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Pulp Mill</b>	All rights	Access Polygons	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Electricity Generation Site</b>	All rights	DIDs Access Polygons	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
<b>Structures and Dwellings</b>	All rights	DIDs Access Polygons	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta

Development or Land Designation Type	Section 35 Rights Restricted by Development/Land Designation	Dataset	Data Source
Private Land – Cropland and Pasture	All rights	Landcover - GeoBase	Natural Resources Canada
Provincial Parks and Protected Areas	Hunting allowed in Saskatoon Mountain and Aurora Provincial Recreational Area  All other rights subject to limitation	Parks and Protected Areas	Alberta Parks
IRs Other than SNN	All rights	IRs	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
Town	All rights	Municipal Boundary	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta
Campground	All rights	DIDs	AltaLIS Ltd., Alberta Data Partnerships Ltd., Government of Alberta

Table 6: Crown Authorizations – Datasets in the RSA Representing Crown Authorized Land

### 3.3.5 Creation of the Maps – Avoidance Zones

In addition to identifying unavailable lands, another assessment was conducted to spatially represent and approximate the area that extends beyond the unavailable lands where Participants report avoiding in the exercise of their Section 35 Rights.

3.3.5.1 Creation of Avoidance Zones

Participants were asked during the Survey how far from certain developments or land designation types they felt comfortable exercising their Section 35 Rights. SNN avoidance behaviour distance for each development or land type was identified by calculating the average distance or mean of the distances selected by the Participants for that development or land type. For example, Participants were asked how close/far from primary roads or highways they preferred to hunt. The Participants answered:

<b>Example Avoidance Zone Calculation:</b>								
<b>Q: How far/close do you like to hunt from a pipeline right-of-way under construction?</b>								
<b>Development Type</b>	On the development or under a 1-minute walk	At least a 2-minute walk (~250m)	At least a 5-minute walk (~.5km)	At least a 10-minute walk (~1km)	At least a 20-minute walk (~2km)	N/A	Sub-total (in x m)	Mean (Subtotal/# of respondents*)
<b>Pipeline right-of-way under construction</b>	1	0	1	4	24	0	52500	1750m

Table 7: Example of How SNN Avoidance Behaviours are Calculated \*Number of Respondents is 30

Based on the above information, the average or mean distance Participants preferred to avoid a pipeline right-of-way (“ROW”) under construction is 1,750 metres when hunting.

It is important to note that while Participants were asked how far they would stay from a wide range of lands and development types (i.e. pipeline facilities, structures, pad sites) only those development types for which shapefiles could be obtained in the RSA and LSA are shown in the maps; therefore, these calculations likely underrepresent the amount of land that is unavailable or avoided by Participants.

To spatially represent and approximate the amount of lands that Participants indicated were avoided for the exercise of Section 35 Rights, appropriately sized buffers were created in ArcMap 10.6 defined by development type for the activity of hunting, gathering and culture (See Section 5 and 6). A calculation was conducted for each buffer set to illustrate how much land, in addition to the land already under Crown authorizations, is avoided by SNN.

**3.3.6 Creation of the Maps – Land and Resource Use**

The documentation and mapping of land and resource use information collected during the interviews was physically controlled by the Study Team. Where applicable, the sites were marked on a base map and were given a feature number which corresponded with the notes taken.

Polygons were predominantly used to record use information for several reasons; while not exact, they allow for the Participants to represent a lifetime of experience in a short interview format. Polylines were used to document travel routes or animal migration routes. All polygons and polylines are considered approximate as field verification was not completed as part of the Report.

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The shapefiles each contained an associated attribute table which was used to document information specific to each mapped site, including:

<b>Attribute Table Field Name</b>	<b>Details</b>
Project	NGTL 2021
Interview Date	The date the interview took place (dd/mm/yyyy).
Nation	Identifies nation that participant belongs to.
Participant	The participants name.
Name Code	Alpha-numeric code assigned to participant.
Berry Gather	Y or N if site is related to berry gathering.
Cultural	Y or N if site is related to sacred or ceremonial sites.
Habitation	Y or N if site is related to habitation or camping.
Hunting	Y or N if site is related to hunting.
Plant Gather	Y or N if site is related to plant gathering.
Travel Route	Y or N if site is related to a travel route.
Fish	Y or N if site is related to fishing.
Moose	Y or N if site is related to hunting moose.
Elk	Y or N if site is related to hunting elk.
Caribou	Y or N if site is related to hunting caribou.
Deer	Y or N if site is related to hunting deer.
Walleye	Y or N if site is related to fishing walleye.
Trout	Y or N if site is related to fishing trout.
Grayling	Y or N if site is related to fishing grayling.
Huckleberry	Y or N if site is related to gathering huckleberries.
Blueberry	Y or N if site is related to gathering blueberries.
Medicine	Y or N if site is related to gathering medicine.
Fungus	Y or N if site is related to gathering fungus.



Attribute Table Field Name	Details
Rat Root	Y or N if site is related to gathering rat root.
Grizzly Bear	Y or N if site is related to hunting grizzly bear.
Jackfish	Y or N if site is related to fishing jackfish.
Family Territory	Y or N if site is related to family territory.
Saskatoon Berry	Y or N if site is related to gathering Saskatoon berries.
General Gathering	Y or N if site is related to general gathering.
Sage	Y or N if site is related to gathering sage.
Sheep	Y or N if site is related to hunting sheep.
Trapline	Y or N if site is related to trapping.
Raspberry	Y or N if site is related to gathering raspberries.
Chokecherry	Y or N if site is related to gathering chokecherries.
Animal Habitat	Y or N if site is related to animal habitat.
Info	Any other relevant site detail which may be provided.

Table 8: Data for Map Sets

### 3.3.7 Verification

A draft Report was provided to SNN and SNN Consultation Office for review and verification. This was done to ensure the information contained within the draft Report was accurate and respected any confidentiality concerns. Comments and observations on the Report were included in this Report where appropriate as determined by the Study Team. The Report was provided for submission to the NEB and NGTL on February 28, 2019.

## 3.4 Accommodation

### 3.4.1 NGTL Mitigation Measures

NGTL identified Project effects to their selected VCs. A fulsome list of measures meant to eliminate, reduce or control identified adverse effects are described in the 2021 Application. For example, NGTL identified all lands required for the Project and routed the Project to be adjacent to existing ROW's for 93% of the Project route except where deviations cannot be avoided (NGTL 2018b: Appendix A-1). NGTL used the following criteria to select and refine the routing of the Project:

NGTL's route selection process considers and balances several criteria when evaluating route options, including the following, where practical or feasible:

- Minimizing length to reduce overall environmental and socio-economic footprint
- Ensuring pipeline sections and facilities are economical to construct and operate
- Paralleling existing linear disturbances to:

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- Minimize the fragmentation of land parcels by introduction of infrastructure to areas in which it currently does not exist
- Maximize the amount of TWS on existing rows
- Minimize the amount of new (non-parallel and non-overlapping) row required
- Minimize potential effects on environmental resources (e.g., native plant communities and wildlife habitat) and agricultural operations
- Ensuring public safety
- Minimizing the number, and ensuring the construction feasibility, of watercourse, road, rail and utility crossings
- Considering and avoiding sensitive environmental features (e.g., wetlands, riparian Areas, and watercourse crossings) and sites with known occurrences of Provincially or federally listed wildlife and plant species (habitat features for Species of management concern, provincially listed species at risk, species and Habitats for species listed under the committee on the status of endangered Wildlife in Canada [COSEWIC] or the federal *Species at Risk Act* [SARA])
- Avoiding terrain subject to geotechnical issues such as areas of unstable slopes, Problem soils, or known seismic activity
- Avoiding lands of designated status, such as parks, protected areas, cemeteries and Historic, archaeological or heritage sites
- Avoiding concentrated areas of rural residences and urban developments considering input received from potentially impacted landowners, stakeholders and Aboriginal groups through various engagement activities (NGTL 2018b: 7-1).

The Study Team assumes in its analysis of SNN of Lands, Harvesting, and Culture that NGTL has applied the above criteria to the maximum degree feasible in selecting the project route.

Additionally, NGTL in the 2021 application EPP, Table 1, summarizes mitigation measures to be applied to the Project throughout its lifecycle including:

- Cleaning and disinfecting equipment being used within the North Saskatchewan River before moving it to a different waterbody;
- Scheduling clearing and construction activities outside breeding bird window (May 1 – August 10);
- Conducting field surveys for bear dens if construction begins after bear denning has begun;
- Scheduling of clearing and construction activities outside of breeding, emergence and migration periods for wildlife where feasible;
- Implementing a Key Wildlife and Biodiversity Zone Protection Plan outlined in Appendix F of 2021 Application EPP;
- Reduce sensory disturbances of construction activities during trumpeter swan buffer period (prior to sept 30);
- Cleaning and sanitization of equipment to prevent spreading of club rot;
- Treating sites to eradicate noxious weeds;

- Implementing the plant species and ecological community of concern discovery contingency plan outlined in Appendix 1E of 2021 Application EPP;
- Marking of all sensitive resources;
- Natural recovery methods for reclamation of wetlands;
- Marking of all historical or palaeontological features;
- Following requirements related to historical resources of Alberta Culture and Tourism under the *Alberta Historical Resources Act*;
- Stock piling topsoil/strippings from temporary disturbances to be used for reclamation activities; and,
- Addressing any specific issues related to noise emissions (NGTL 2018b; EPP 16-35).

The Study Team assumes in the analysis of SNN VCs of Lands, Harvesting, and Culture that all mitigation measures identified by NGTL will be applied to the maximum degree feasible in implementing the 2021 Application EPP. Within this assumption, the Study Team notes that mitigation measures in the 2021 Application EPP may not result in reduction in adverse effects to SNN VCs of Lands, Harvesting, and Culture. The Study Team notes that NGTL has not identified specific mitigation measures that relate to SNN Section 35 Rights.

### **3.4.2 Accommodation Measures**

The Study Team identified Project effects to the SNN VCs of Lands, Harvesting, and Culture using indicators specific to each SNN VC. Refer to Section 3.3.1 for an overview of SNN VCs and associated indicators.

The Study Team, in keeping with the NEB Filing Manual definition of mitigation measures, defined accommodation measures for the Report as measures to eliminate, reduce or control identified effects to selected SNN VCs (NEB Filing Manual 2017). In order to be effective, accommodation measures have to be directly responsive and proportional to the identified effect. Residual effects remain for those effects that cannot be eliminated or controlled through the application of mitigation measures. As stated, the Study Team used similar methodology as outlined by NGTL in the 2021 Application (NGTL 2018b: 4).

Residual effects are predicted to occur when a change resulting from the Project alters baseline conditions. Accommodation can be used to eliminate, reduce or control the potential adverse effects. Where accommodation measures reduce but do not eliminate or control the effect, a residual effect is predicted to occur. For all adverse effects that will be avoided, residual effects are not predicted, and no further assessment is required. For any adverse effects that remain after the application of feasible accommodation, a residual effect is identified and assessed (NGTL 2018b: 4-10).

The Study Team defines “eliminate” as avoiding or completely removing the identified effect. The Study Team defines “reduce” as making the identified effect smaller in size or scope, but the effect is not eliminated. The Study Team defines “control” as managing or offsetting an identified effect not eliminated or reduced, but the effect is not eliminated.

The Study Team notes that selection of an accommodation measure to eliminate the residual effect would not require additional selection of reduction or control measures; selection of reduction measures would require additional measures to control as a way to offset residual effects as illustrated in Figure 6 below:

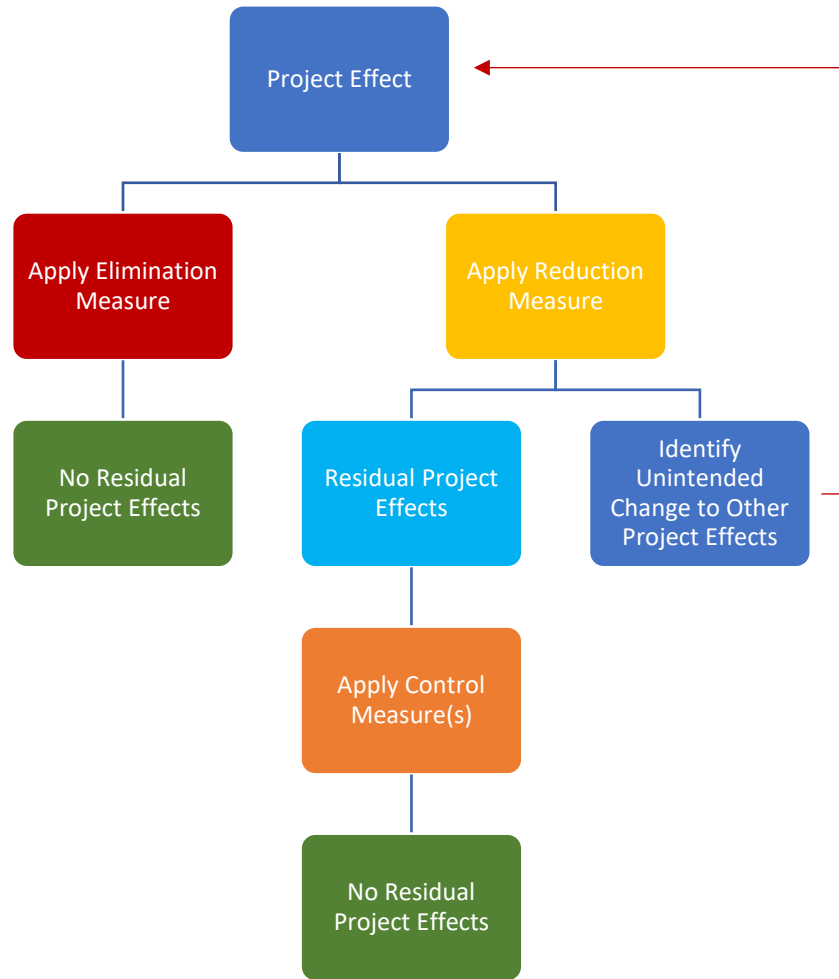


Figure 6: Options in the Selection of Accommodation Measures

The Study Team has developed a table of suggested accommodation measures to eliminate, reduce or control each identified adverse Project effects to the SNN VCs of Land, Harvesting, and Culture. See Appendix D.

### 3.5 Limitations of this Study

#### 3.5.1 Sample Size

Time and budget constraints limited the Survey to 43 Participants. While the data contained in this Report is an accurate reflection of the concerns and the exercise of Section 35 Rights of the Participants in this Report, the Report should not be considered a representative sample of the entire SNN population or a complete representation of land and resource use by SNN members or by Participants.

#### 3.5.2 Land Use Information

Land and resource use information collected in relation to a specific project is not the totality of information about the exercise of Section 35 Rights in an area by an Indigenous nation. It is also impossible to fully represent the extent of an individual’s experience or knowledge learned over a lifetime during a standard interview format. A representative map of land and resource use will identify ‘used’ areas which may not accurately reflect the totality of a lifetime of cultural knowledge and practices. Further, because of limited information in relation to the location of private lands, Participants were unable to identify private lands they have or had permission to access for exercising their Section 35 Rights. As such, the land and resource use maps likely under represent the amount of land and resource use sites in the vicinity of the Project.

Lack of land and resource use sites do not necessarily equate to a lack of use or exercise of SNN Section 35 rights in an area, nor does it equate to no adverse effects to SNN Section 35 Rights.

### **3.5.3 Data Limitations for Crown Datasets**

The spatial data used to represent private lands and Crown authorizations was accessed on November 19, 2018. Data used in this Report is limited to information that is available through AltaLIS Ltd., Alberta Data Partnerships Ltd., GeoGratis, Statistics Canada, and Alberta counties/municipal districts. Lands subject to temporary authorizations such as geophysical activity, laydown yards, logging, and/or temporary construction spaces are generally not included in the publicly available data. Other land types for which shape files are not publicly available include active logging sites, former cut blocks, gates, and signage.

Because there is limited publicly available information on private lands, Alberta's White Area was used as a proxy for private and fee simple lands.

### **3.5.4 Limitations of Identifying Project Effects**

Section 35 Rights are limited by specific geographic locations. The Study Team used the assumption the terms of Treaty No.7 and the *NRTA*, identify that SNN members have the right to exercise their Section 35 Rights on all available lands within the Province of Alberta. The Project effects identified in this Report are restricted to an examination of SNN members' right to exercise their Section 35 Rights on all available lands within the Project Footprint, LSA, and RSA.

### **3.5.5 Reliance on 2021 Application**

The Study Team did not have independent access to information related to biophysical effects resulting from the Project including changes to land, habitat, species composition, or other physical changes than was otherwise described in the 2021 Application.

### **3.5.6 Identification of Project Effects**

The Study Team notes that this Report is not an exhaustive identification of effects resulting from the Project to SNN Section 35 Rights. For the purposes of this Report, the activities of hunting and gathering will be used as representative harvesting activities for the exercise of SNN Section 35 Rights.

### **3.5.7 Spatial Identification of Effects**

Due to limiting factors including data availability, time, and budget constraints the Study Team has applied the precautionary principle (CEAA JRP 2015: 46) and assumed the maximum potential effect from construction to apply to the Project lifecycle.



Photo: 9 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

## 4. Stoney Nakoda Nations Valued Component of Lands

The following indicator was selected to characterise change or negative effects for the SNN VC of Lands:

- change in legal restriction resulting from the application of a Crown disposition leading to a decrease of available lands for the exercise of Section 35 Rights (hectare and %).

### 4.1 Baseline Conditions

#### 4.1.1 *Change in Legal Restriction*

The Project is located on both private and Crown land and crosses through Grande Prairie County, Greenview Municipal Districts, Yellowhead County and Clearwater County (NGTL 2018b: Appendix A 1-1).

The Study Team analyzed publicly available data on Crown authorizations and private land holdings to determine the amount of land currently unavailable for the exercise of Section 35 Rights prior to Project approval in the Project Footprint, LSA and RSA. Results are shown in Table 9.

Upon analysis:

Lands Available for Hunting Prior to Project Approval		Percent of Lands Available	Hectares of Lands Available
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	Lands Available Prior to Project Approval	19.63%	480.43 ha
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	Lands Available Prior to Project Approval	64.43%	26,694.98 ha
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	Lands Available Prior to Project Approval	66.73%	592,737.06 ha

Table 9: Available Lands Prior to Project Approval

The Study Team notes that there are already minimal lands available prior to Project approval in this area.

4.1.1.1 Change in Legal Restrictions Baseline Conditions According to Stoney Nakoda Nations

Participants reported seeing a continuous decrease in the amount of land available for hunting and other land and resource use activities. Participants 1SN, 33SN and 34SN described the lands in the past as free, fresh, and clean and reported that now the lands are now destroyed and inaccessible due to industrial development including pipelines, logging, and facility sites and roads.

Participants discussed how the decrease in available lands for the exercise of SNN Section 35 Rights has had an adverse effect on harvesting including hunting, fishing and gathering. Participant 3SN reported that development and clearing activities has had an adverse effect on the hunting and gathering lifestyle. Participant 27SN reported that with every new development project, SNN loses more hunting areas and territories. Participants 4SN, 40SN and 25SN reported being frustrated with how restricted they feel with the increase of development, noting that there are now fences, signs and surveillance equipment keeping them off lands they used to access.

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*“It’s not like the good old days where we could just go out there and hunt and gather and just enjoy nature.” 40SN [WFN]*

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Participants reported that the decrease in available lands for the exercise of Section 35 Rights has had an adverse effect on ceremony, cultural events, and sacred sites. Participants noted that ceremonies, cultural events, and sacred sites were extremely important to maintaining SNN culture and identity. Participants 1SN and 4SN discussed the importance of passing on culture and cultural practices to younger generations. Participants 9SN, 11SN, 14SN, and 34SN expressed their concern with the lack of available lands and how this has impacted sharing knowledge and culture with younger generations.

Participants additionally expressed concern with the loss of traditional family territories and camps resulting from development on Crown lands. Participants 2SN, 3SN, 24SN and 26SN reported that they were no longer able to access traditional family territories and camps because of development. family territories and

camp areas are areas where families would go year after year to exercise their Section 35 Rights. These family territories and camps, according to Participants, are also important locations because it is where knowledge including stories, skills, and cultural practices are passed on to younger generations. Participants 2SN, 8SN, 13SN and 16SN expressed their concern and sadness with losing the ability to access family territories and camps, because of the adverse effect it may have on SNN culture and the ability for elders and knowledge keepers to pass down traditions and SNN culture to future generations.

## 4.2 Results

### 4.2.1 Change in Legal Restriction

#### 4.2.1.1 Available Lands Post-Project Approval

The Study Team analyzed publicly available data on Crown authorizations and private land holdings to determine the amount of land currently available for the exercise of Section 35 Rights post-Project approval in the Project Footprint, LSA and RSA. Results are shown in Table 10.

Change in Lands Available for Hunting Post-Project Approval		Percent of Lands Available	Hectares of Lands Available
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	Lands Available Prior to Project Approval	19.63%	480.43 ha
	Lands Available Post- Project Approval	0.00%	0.00 ha
	<b>Change in Lands Available in Project Footprint</b>	<b>▼ 19.63%</b>	<b>▼ 480.43 ha</b>
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	Lands Available Prior to Project Approval	64.43%	26,694.98 ha
	Lands Available Post- Project Approval	63.27%	26,214.55 ha
	<b>Change in Lands Available in LSA</b>	<b>▼ 1.16%</b>	<b>▼ 480.43 ha</b>
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	Lands Available Prior to Project Approval	66.73%	592,737.06 ha
	Lands Available Post- Project Approval	66.67%	592,256.63 ha
	<b>Change in Lands Available in RSA</b>	<b>▼ 0.06%</b>	<b>▼ 480.43 ha</b>

Table 10: Available Lands Post-Project Approval



The change to the SNN VC of Lands resulting from the Project:

- There will be a change of 480.43 ha or 19.63% of lands available in the Project Footprint prior to Project approval converted to unavailable lands in the Project Footprint post-Project approval;
- There will be a change of 480.43 ha or 1.16% of lands available in the LSA prior to Project approval converted to unavailable lands in the LSA post-Project approval; and,
- There will be a change of 480.43 ha or 0.06% of lands available in the RSA prior to Project approval converted to unavailable lands in the RSA post-Project approval.

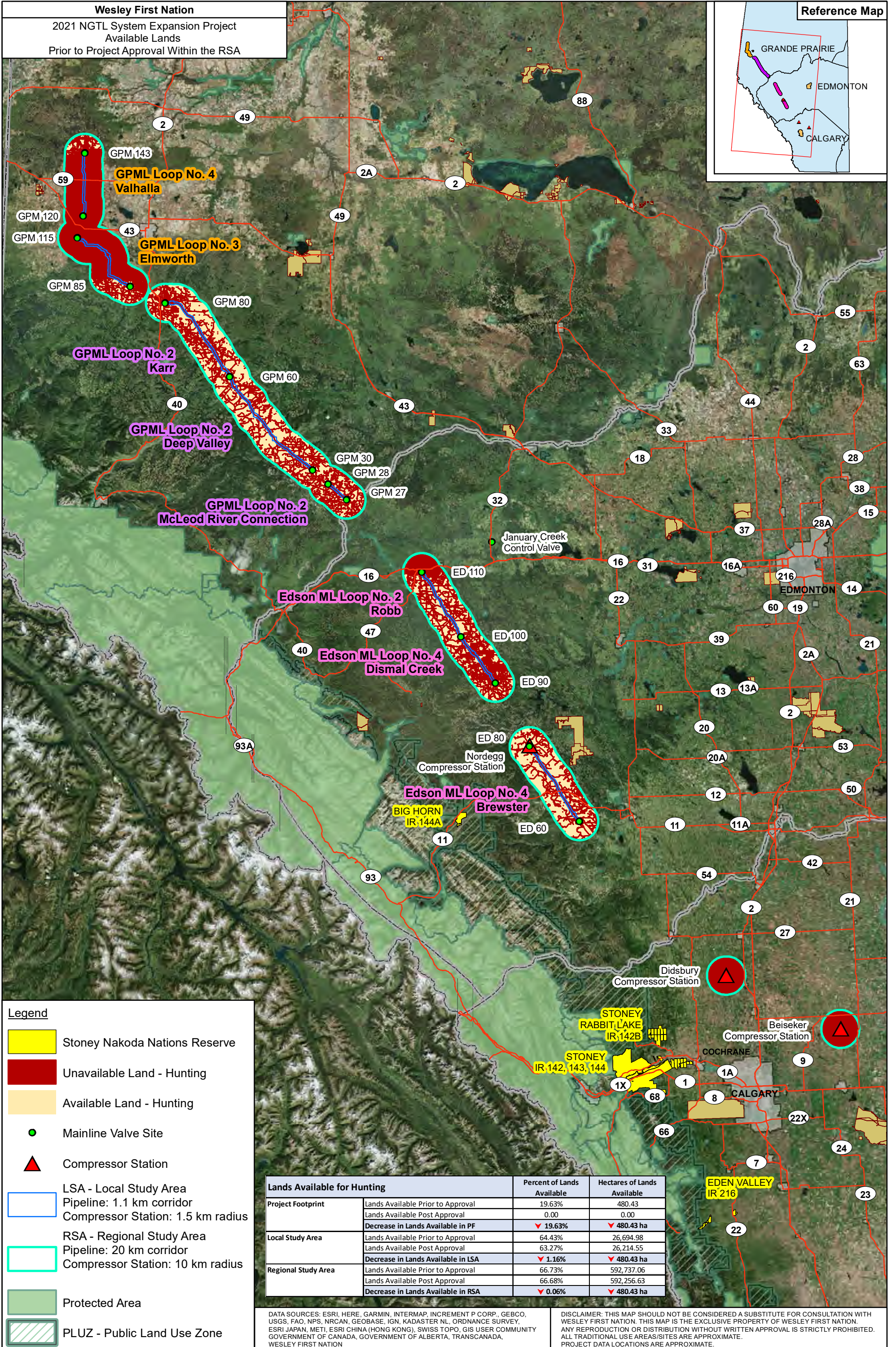
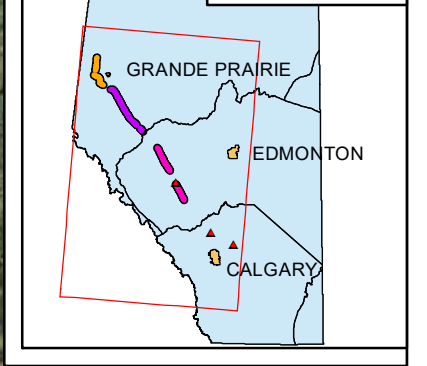
The Study Team notes that the change in lands available post-Project approval will lead to a decrease in lands available for the exercise of SNN Section 35 Rights in an area where there are already minimal lands available for the exercise of SNN Section 35 Rights.

See Figure 7 for a map of lands available for the exercise of SNN Section 35 Rights (hunting) prior to, and post, Project approval.

**Wesley First Nation**

2021 NGTL System Expansion Project  
Available Lands  
Prior to Project Approval Within the RSA

**Reference Map**



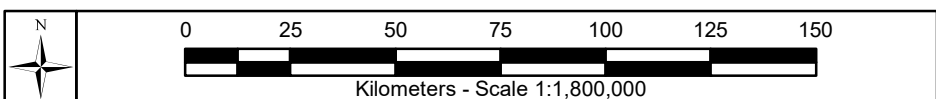
**Legend**

- Stoney Nakoda Nations Reserve
- Unavailable Land - Hunting
- Available Land - Hunting
- Mainline Valve Site
- Compressor Station
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Compressor Station: 1.5 km radius
- RSA - Regional Study Area  
Pipeline: 20 km corridor  
Compressor Station: 10 km radius
- Protected Area
- PLUZ - Public Land Use Zone

Lands Available for Hunting		Percent of Lands Available	Hectares of Lands Available
Project Footprint	Lands Available Prior to Approval	19.63%	480.43
	Lands Available Post Approval	0.00%	0.00
	<b>Decrease in Lands Available in PF</b>	<b>▼ 19.63%</b>	<b>▼ 480.43 ha</b>
Local Study Area	Lands Available Prior to Approval	64.43%	26,694.98
	Lands Available Post Approval	63.27%	26,214.55
	<b>Decrease in Lands Available in LSA</b>	<b>▼ 1.16%</b>	<b>▼ 480.43 ha</b>
Regional Study Area	Lands Available Prior to Approval	66.73%	592,737.06
	Lands Available Post Approval	66.68%	592,256.63
	<b>Decrease in Lands Available in RSA</b>	<b>▼ 0.06%</b>	<b>▼ 480.43 ha</b>

DATA SOURCES: ESRI HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Date: Jan 15, 2019  
Coordinate System: NAD83 11N

Prepared For: Wesley First Nation

Prepared By: MNP

Figure: 7

#### **4.2.2 NGTL Mitigation Measures**

Refer to Section 3.4.1 for NGTL Mitigation Measures.

#### **4.2.3 Suggested Accommodation Measures for Stoney Nakoda Nations Valued Component of Lands**

The Study Team determined a Project effect to the SNN VC of Lands will be the change of 480.42 ha of available lands to unavailable lands in the Project Footprint post-Project approval; 480.43 ha of available lands to unavailable lands in the LSA post-Project approval; and, 480.43 ha of available lands to unavailable lands in the RSA post-Project approval.



Photo: 10 SNN Family Camp, Banff AB.  
MNP LLP/Bill Marsh

The Study Team assumes that although NGTL applied the criteria outlined in Section 3.4.1 (pipeline route selection and EPP mitigation measures) to the maximum degree feasible, it may not result in reduction in negative and adverse effects to change in legal restrictions caused by the Project. For example, regarding the effect on the change in legal restriction, minimizing ROW length to reduce overall environmental and socio-economic footprint may exacerbate impacts to the VC of Lands by locating the route on unoccupied Crown lands. Furthermore, the Study Team notes that NGTL has not identified specific accommodation measures that relate to SNN Section 35 Rights.

Following the methodology criteria outlined in Section 3.4.2 the Study Team suggests accommodation measures to eliminate, reduce or control the adverse effects of a change in legal for the exercise of SNN Section 35 Rights resulting from the Project. For a list of suggested accommodation measures see Appendix D.

#### **4.2.4 Characterization of Residual Effects**

After mitigation measures are applied, residual effects to the SNN VC of Lands indicator will remain.

The following is a characterization of the residual effect for the SNN VC of Land - changes as a result from the Project to legal restrictions.

The assumption of the Study Team is that application of the suggested accommodation measures outlined in Appendix D will eliminate the identified effects of the changes in legal restriction for the exercise of SNN Section 35 Rights. However, the Study Team has no control or confidence that any of these accommodation measures will be successfully applied, therefore residual effects will remain.<sup>16</sup> A characterization of the residual effects to the SNN VC of Land is as follows:

Project Study Area	Mitigation Measure	Residual Effects Characterization					
		Direction	Geographic Extent	Magnitude	Duration	Frequency	Reversibility
Changes in Amount of Land Available for the exercise of Section 35 Rights.							
Project Footprint	Pending	Negative	Project Footprint	High	High-Term	Continuous	Permanent (no decommissioning contemplated)
LSA	Pending	Negative	Project Footprint	Moderate	High-Term	Continuous	Permanent (no decommissioning contemplated)
RSA	Pending	Negative	Project Footprint	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)

Table 11: Characterization of Residual Effects for SNN VC of Lands

#### 4.2.5 Likelihood

Likelihood is a measurement of whether or not the effect is likely to occur. The Study Team notes that it has no control or ability to require the application of suggested accommodation measures outlined in Appendix D. The Study Team predicts there is a high likelihood that the Project effect to the indicator will occur.

#### 4.2.6 Prediction of Confidence

Prediction of confidence refers to the degree of certainty of the residual effect prediction. The assessment process details with predictions of future circumstances. Therefore, predictions can vary in their level of certainty which can be influenced by availability of data, resiliency of SNN, degree of understanding of the Project, and Project interactions and factors beyond the control of the Study Team.

The confidence rating by the Study Team for the degree of certainty for changes to the SNN VC of Lands (change in legal restrictions) is high.

<sup>16</sup> The Study Team notes that reclamation of linear developments does not mitigate the legal conversion of unoccupied Crown lands to occupied Crown lands and all applicable legislation including the *Petty Trespass Act* (2000), and *Public Lands Act* (2000) and *Public Lands Administration Regulation* (2011) that would apply to individuals found on lands without permission from the disposition holder.



Photo: 11 SNN Hunting Camp, Eden Valley AB. MNP LLP/Bill Marsh

## 5. Stoney Nakoda Nations Valued Component of Harvesting

Considering SNN preferred means of exercising Section 35 Rights is an important criterion set by the Supreme Court of Canada (*Sparrow*). Therefore, the Study Team identified two indicators to characterise change to the SNN VC of Harvesting<sup>17</sup>:

- Change in SNN Hunting Avoidance Behaviours;
- Change in SNN Gathering Avoidance Behaviours.

For more detailed baseline information on SNN harvesting see Section 8.

### 5.1 Baseline Conditions

#### 5.1.1 NGTL Baseline Conditions

The 2021 Application ESA contains a description of NGTL's understanding of Traditional Land and Resource Use ("TLRU"). According to NGTL, the description for existing conditions for TLRU in the 2021 Application relies on the information provided in traditional knowledge studies and information shared with NGTL by SNN during Project engagement activities. For NGTL's TLRU assessment NGTL used "publicly available reports and environmental assessments with a similar socio-cultural context or regulatory context and academic reports" (NGTL 2018b: 19-4). The Study Team is not familiar with NGTL's definition of socio-cultural context. It is the Study Team's understanding that impacts to SNN Section 35 Rights are not included in the 2021 Application except for the statement that:

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<sup>17</sup> As noted in Section 3.2.3 for the purposes of this Report, the activity of hunting will be used as a representative activity for the exercise of Section 35 Rights in order to assess effects to the SNN VC of Harvesting.

Aboriginal and treaty rights, which include the right to practice traditional activities such as hunting, trapping, fishing, and plant gathering on Crown land, are protected under Section 35 of the Constitution Act (1982) and there is potential for Aboriginal groups to exercise those rights in the Project area. The effects assessment takes a conservative approach and assumes TLRU activities occur within the LSA on Crown land and that private lands could be used by Aboriginal groups for traditional purposes if there is an agreement in place with the landowner for access (NGTL 2018b: 19-17).

**5.1.2 Stoney Nakoda Nations Hunting and Gathering Avoidance Behaviours Baseline Conditions**

For the purposes of this Report, the activities of hunting and gathering are used as representative activities for the exercise of Section 35 Rights related to harvesting.

The Study Team to assess changes to SNN Hunting and Gathering Avoidance Behaviours posed questions to Participants who identified as hunters and/or gatherers related to both physical attributes they avoid and conditions they prefer for the exercise of their Section 35 Rights (hunting and gathering).

All 43 Participants were asked the question “Are you a hunter?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of hunting-related questions. If the Participant answered “no” the hunting related-questions were skipped.

Of the 43 Participants, 31 Participants indicated that they are or were a hunter.

All 43 Participants were asked the question “Are you a gatherer of berries, plants, herbs, trees and/or rocks and minerals?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of gathering-related questions. If the Participant answered “no” the gathering related-questions were skipped.

Of the 43 Participants, 35 Participants indicated that they are or were a gatherer. 35 Participants reported gathering berries, 33 Participants reported gathering plants and herbs, 27 Participants reported gathering tree and tree products and 27 Participants reported gathering rocks and minerals.

**5.1.2.1 Stoney Nakoda Nations Hunting and Gathering Avoidance Behaviours**

Participants were asked about how near/far from a predetermined list of physical attributes or development types they would hunt or gather using a provided list of distance options. The answers were captured on the Survey, voice recordings, and summary notes. The mean was calculated to arrive at the buffers for SNN Hunting Avoidance Behaviours and SNN Gathering Avoidance Behaviours for each development type. The SNN Hunting Avoidance Behaviours and SNN Gathering Avoidance Behaviours for each development type is presented below:

<b>Development Types</b>	<b>Hunting (meters)</b>	<b>Gathering (meters)</b>
Primary road or highway (e.g. HWY 63; 16 HWY)	1458.33 (resp = 30)	1250.00 (resp = 32)
Secondary road (paved and unpaved) (e.g. Range Roads; Winter Roads)	1091.67 (resp = 30)	1164.06 (resp = 32)
Lease road	758.33 (resp = 30)	1156.25 (resp = 32)
Pipeline right-of-way under construction	1750.00 (resp = 30)	1703.13 (resp = 32)
Pipeline right-of-way under operation	658.33 (resp = 30)	976.56 (resp = 32)
Pipeline water crossing during construction	1916.67 (resp = 30)	1804.69 (resp = 32)
Pipeline water crossing during operation	1066.67 (resp = 30)	1476.56 (resp = 32)

Development Types	Hunting (meters)	Gathering (meters)
Pipeline Facilities (compressor/meter stations) during construction	1933.33 (resp = 30)	1875.00 (resp = 32)
Pipeline Facilities (compressor/meter stations) during operation	1800.00 (resp = 30)	1726.56 (resp = 32)
Power lines	900.00 (resp = 30)	1039.06 (resp = 32)
Seismic lines	375.00 (resp = 30)	645.16 (resp = 31)
Active padsites (including fracking)	1933.33 (resp = 30)	1903.23 (resp = 31)
Reclaimed/capped padsites	1166.67 (resp = 30)	1459.68 (resp = 31)
Oil and gas facilities (processing plant, gas plant)	1933.33 (resp = 30)	1741.94 (resp = 31)
Coal mines (mine site, taillings pond, processing facilities)	1637.93 (resp = 29)	1629.03 (resp = 31)
Borrow pit (excavation made to provide soil materials for construction)	1189.66 (resp = 29)	1403.23 (resp = 31)
Sand and gravel quarry	1706.90 (resp = 29)	1620.97 (resp = 31)
Active logging site	1517.24 (resp = 29)	1483.87 (resp = 31)
Cutblock ( $\leq$ 10years of age)	550.00 (resp = 30)	1072.58 (resp = 31)
Pulp Mill	1827.59 (resp = 29)	1854.84 (resp = 31)
Electricity generation site	1827.59 (resp = 29)	1822.58 (resp = 31)
Structures and Dwellings	1791.67 (resp = 30)	1453.13 (resp = 32)
Private land (including grazing leases and agriculture)	1308.33 (resp = 30)	1554.69 (resp = 32)
Provincial Parks and Protected Areas	1396.55 (resp = 29)	867.19 (resp = 32)
National Parks	1362.07 (resp = 29)	929.69 (resp = 32)
Other Indian Reserves	1301.72 (resp = 29)	1125.00 (resp = 32)
Town or village	1866.67 (resp = 30)	1726.56 (resp = 32)
Campgrounds	1708.33 (resp = 30)	1375.00 (resp = 32)

Table 12: SNN Hunting and Gathering Avoidance Behaviours – Existing Developments within the RSA

Not all of the above development types exist in the RSA. For the purposes of this Report, only development types that intersected the RSA were used in this Report.

The amount of land that currently avoided by SNN for hunting and gathering in the study areas is:

SNN Hunting Avoidance Behaviours Prior to Project Approval		Percent of Lands Avoided	Hectares of Lands Unavailable
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	SNN Hunting Avoidance Behaviours Prior to Project Approval	100.00%	2,447.51 ha
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	SNN Hunting Avoidance Behaviours Prior to Project Approval	99.58%	41,258.94 ha
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	SNN Hunting Avoidance Behaviours Prior to Project approval	93.32%	828,909.16 ha

Table 13: SNN Hunting Avoidance Behaviours Prior to Project Approval

SNN Gathering Avoidance Behaviours Prior to Project Approval		Percent of Lands Avoided	Hectares of Lands Unavailable
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	SNN Gathering Avoidance Behaviours Prior to Project Approval	100.00%	2,447.51 ha
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	SNN Gathering Avoidance Behaviours Prior to Project Approval	99.97%	41,419.15 ha
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	SNN Gathering Avoidance Behaviours Prior to Project Approval	96.29%	855,292.60 ha

Table 14: SNN Gathering Avoidance Behaviours Prior to Project Approval



The data presented in Table 13 and 14 above shows that Participants already avoid or prefer to avoid a large amount of land for the exercise of the Section 35 Rights (activity of hunting and gathering) in the LSA and RSA due to the amount infrastructure and industrial development. The Study Team notes that this illustrates that there are already minimal lands available to SNN members to exercise their Section 35 Rights (hunting and gathering) in a preferred manner.

5.1.2.2 Stoney Nakoda Nations Hunting Preferred Conditions

Participants who identified as being hunters were asked about their preferences while hunting. Responses indicate that Participants prefer hunting locations that are quiet, without the presence of development, including industrial development, industrial or construction workers, or any associated noises or smells. Participants also indicated they prefer to hunt in locations where there is no evidence of contamination, cultivated fields, vehicles or recreational users. A full list of preferences reported by Participants are listed below in Table 15.

---

*“That’s why there’s hardly any animals around, because of the pipelines and logging – they’re chasing the game away and destroying, they’re destroying what they eat.”*  
 15SN [WFN]

---

Do you like to hunt in a location if there are/it is ___?	Yes	No
Quiet	30	1
Development	0	31
Other Hunters	2	29
Recreational Users	1	30
Industrial/Construction Workers	0	31
Vehicles	2	29
All-Terrain Vehicles	2	29
Cultivated Fields	9	22
Livestock or Domestic Animals	7	24
Fences, Gates, Texas Gates	9	22
Signs	0	31
Dust	3	28
Industrial Development Smell	0	31
Industrial Development Noise	1	30
Industrial Development in Sight	1	30
A Recent Vegetation Spraying	0	31
Evidence of Contamination	0	30
A Recent Forest Fire	11	20

Table 15: SNN Hunting Preferred Conditions

5.1.2.3 Stoney Nakoda Nations Gathering Preferred Conditions

Participants who identified as being gatherers were asked about their preferences while gathering. Responses indicated that Participants prefer gathering in locations where there is no development and where they cannot see, hear, or smell industrial development. Participants also indicated that Participants do not prefer to gather in locations that are noisy or have signs of contamination or recent spraying or herbicide applications. A full list of preferences reported by Participants are listed below in Table 16.

---

*“Because they’ve disturbed the land and things within that area won’t be the same”  
20SN related to why they would stay away from pipeline ROW after construction  
[WFN]*

---

Do you like to gather in a location if there are/it is ___?	Yes	No
Quiet	30	0
Development	4	25
Other Hunters	8	23
Recreational Users	7	24
Industrial/Construction Workers	3	28
Vehicles	6	24
All-Terrain Vehicles	4	26
Cultivated Fields	6	25
Livestock or Domestic Animals	9	22
Fences, Gates, Texas Gates	11	20
Signs	4	27
Dust	2	29
Industrial Development Smell	0	31
Industrial Development Noise	3	27
Industrial Development in Sight	3	28
A Recent Vegetation Spraying	0	31
Evidence of Contamination	0	31
A Recent Forest Fire	9	22

Table 16: SNN Gathering Preferred Conditions

## 5.2 Results

### 5.2.1 *Change in Stoney Nakoda Nations Hunting and Gathering Avoidance Behaviours*

The Study Team notes that residual effects identified by NGTL in the 2021 Application conflict with SNN Hunting and Gathering Preferred Conditions. These residual effects include:

- Clearing and vegetation removal, alteration and ongoing mechanical vegetation management;
- Chemical vegetation management;
- Sensory disturbance (noise from welding, excavating or traffic; night time lighting; odors);
- Avoidance due to the presence of human activity;
- Increased traffic;
- Increased human access and hunting pressure; and,
- Alternation of ground water supply (NGTLb 2018: Table 23.0-1)

In addition, The Study Team notes that NGTL in the 2021 Application EPP, detail certain activities, tools and other mitigation measures to be used by NGTL during construction and operation of the Project that conflict with SNN Hunting and Gathering Preferred Conditions, including:

- The use of signs, fences, gates or flags;
- The use of heavy equipment and vehicles and increased personnel and traffic;
- Clearing, grading, trenching, pipe stringing/welding/ lowering, backfill, cleanup and reclamation activities (NGTL 2018b: Appendix A).

The Study Team notes that a decrease in SNN Hunting and Gathering Preferred Conditions will result in an increase in SNN Hunting and Gathering Avoidance Behaviours.

The analysis of Survey data indicates an increase in SNN Hunting Avoidance Behaviours for the exercise of SNN Section 35 Rights post-Project approval in the LSA and RSA. The results are shown in Table 17. The amount of land avoided by SNN for hunting post-Project approval in the LSA and RSA is:

<b>Change in SNN Hunting Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	Hunting Avoidance Prior to Project Approval	100.00%	2,447.51 ha
	Hunting Avoidance Post-Project approval	100.00%	2,447.51 ha
	<b>Change in Lands Avoided in Project Footprint</b>	<b>0.00%</b>	<b>0.00 ha</b>
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	Hunting Avoidance Prior to Project Approval	99.58%	41,258.94 ha
	Hunting Avoidance Post-Project approval	100.00%	41,431.51 ha
	<b>Change in Lands Avoided in LSA</b>	<b>▲ 0.42%</b>	<b>▲ 172.57 ha</b>
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	Hunting Avoidance Prior to Project Approval	93.32%	828,909.16 ha
	Hunting Avoidance Post-Project approval	93.99%	834,841.99 ha
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.67%</b>	<b>▲ 5,932.83 ha</b>

Table 17: Change in SNN Hunting Avoidance Behaviours Post-Project Approval

The change to the SNN VC of Harvesting, SNN Hunting Avoidance Behaviours resulting from the Project are:

- A change of 172.57 ha or 0.42% in the total amount of lands inducing SNN Hunting Avoidance Behaviours post-approval in the LSA
- A change of 5,932.83 ha or 0.67% in the total amount of lands inducing SNN Hunting Avoidance Behaviours in the RSA

Refer to Appendix E for a full break down of SNN Hunting Avoidance Behaviours by Project component.

*Stoney Nakoda Nations – Wesley First Nation Section 35 Rights Assessment Report*

The Study Team notes that, if approved, the Project will increase the amount of land Participants report avoiding in both the LSA and RSA. The limited amount of available lands prior to Project approval will be even further reduced if the Project is approved. The Study Team notes that with the limited available lands surrounding the Project, SNN can no longer simply go elsewhere to exercise their Section 35 Rights (hunting).

The Study Team further notes that the results presented in this Report do not comment on the suitability of the Crown lands for hunting that remain available in the LSA and RSA after the Project is approved. Additional assessment would be required to determine land suitability for hunting activities related to the exercise of SNN Section 35 Rights.

The analysis of Survey data indicates an increase in SNN Gathering Avoidance Behaviours for the exercise of SNN Section 35 Rights post-Project approval in the LSA and RSA. The results are shown in Table 18. The amount of land avoided by SNN for gathering post-Project approval in the LSA and RSA is:

Change in SNN Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	Gathering Avoidance Prior to Project Approval	100.00%	2447.51 ha
	Gathering Avoidance Post-Project Approval	100.00%	2447.51 ha
	<b>Change in Lands Avoided in Project Footprint</b>	<b>0.00%</b>	<b>0.00 ha</b>
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	Gathering Avoidance Prior to Project Approval	99.97%	41,419.15 ha
	Gathering Avoidance Post-Project Approval	100.00%	41,431.50 ha
	<b>Change in Lands Avoided in LSA</b>	<b>▲ 0.03%</b>	<b>▲ 12.35 ha</b>
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	Gathering Avoidance Prior to Project Approval	96.29%	855,292.60 ha
	Gathering Avoidance Post-Project Approval	96.55%	857,546.27 ha
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.26%</b>	<b>▲ 2,253.67 ha</b>

Table 18: Change in SNN Hunting Avoidance Behaviours Post-Project Approval

The change to the SNN VC of Harvesting- SNN Gathering Avoidance Behaviours resulting from the Project are:

- A change of 12.35 ha or 0.03% in the total amount of lands inducing SNN Gathering Avoidance Behaviours post-approval in the LSA.
- A change of 2.253.67 ha or 0.26% in the total amount of lands inducing SNN Gathering Avoidance Behaviours in the RSA.

Refer to Appendix E for a full break down of SNN Gathering Avoidance Behaviours by Project component.

The Study Team notes that, if approved, the Project will increase the amount of land Participants report avoiding in both the LSA and RSA. The limited amount of available lands prior to Project approval will be

*Stoney Nakoda Nations – Wesley First Nation Section 35 Rights Assessment Report*

even further reduced if the Project is approved. The Study Team notes that there is now limited available lands that SNN can no longer simply go elsewhere to exercise their Section 35 Rights (gathering).

The Study Team further notes that the results of this Report do not comment on the suitability of the identified lands for gathering that remain available in the LSA and RSA after the Project is approved. Further study would be required to determine land suitability for gathering activities related to the exercise of SNN Section 35 Rights.

See Figures 8 – 15 for maps of SNN Hunting and Gathering Avoidance Behaviours in RSA.

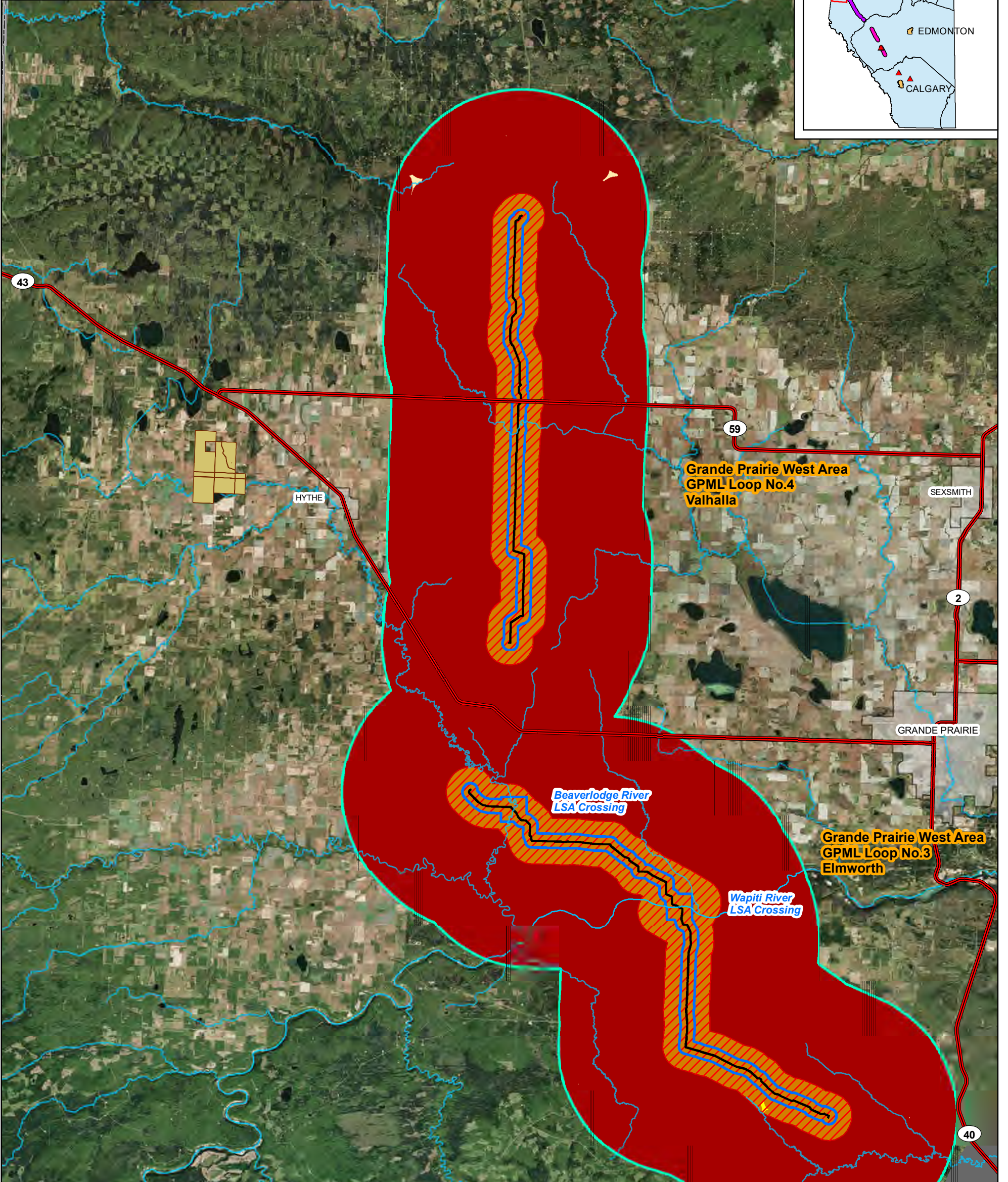
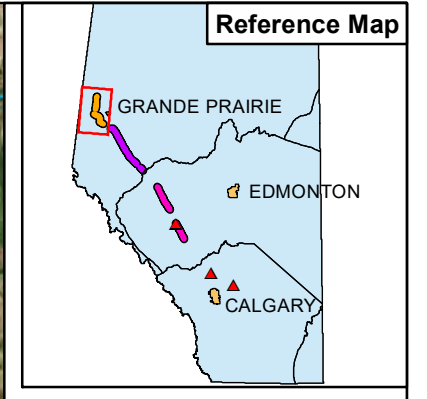
Photo: 12 Stock Photo. MNP LLP



**Wesley First Nation**

2021 NGTL System Expansion Project  
Hunting Avoidance Behaviours Prior and Post Approval  
Grande Prairie West RSA

**Reference Map**



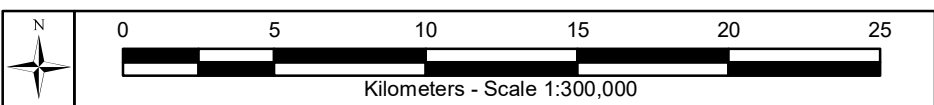
**Legend**

- Additional Lands Avoided Post Approval - Hunting
- Lands Avoided Prior to Approval - Hunting
- Lands Not Avoided - Hunting
- Project Footprint
- LSA - Local Study Area Pipeline: 1.1 km corridor Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area Pipeline: 20 km corridor

Grande Prairie West - Hunting Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Hunting Avoidance Prior to Approval	100.00%	9,142.39
	Hunting Avoidance Post Approval	100.00%	9,142.39
	<b>Increase in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Hunting Avoidance Prior to Approval	99.84%	204,082.32
	Hunting Avoidance Post Approval	99.85%	204,106.46
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 0.01%</b>	<b>▲ 24.14 ha</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Prepared For: Wesley First Nation

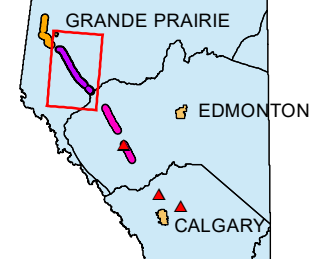
Prepared By: MNP LLP

Figure: 8

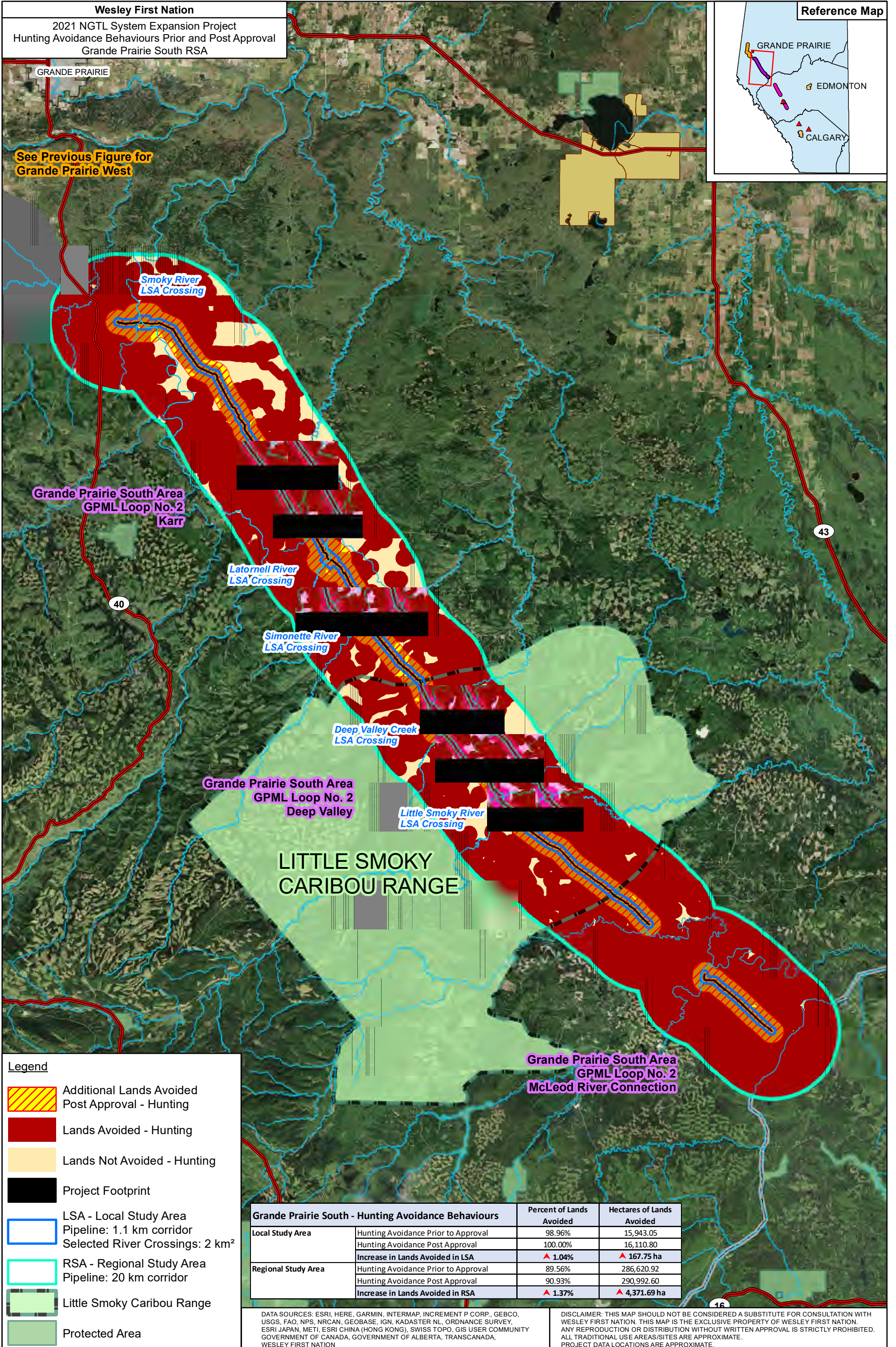
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2021 NGTL System Expansion Project  
Hunting Avoidance Behaviours Prior and Post Approval  
Grande Prairie South RSA

**Reference Map**



See Previous Figure for Grande Prairie West



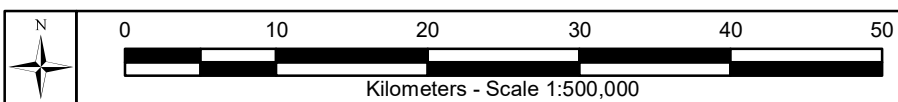
**Legend**

- Additional Lands Avoided Post Approval - Hunting
- Lands Avoided - Hunting
- Lands Not Avoided - Hunting
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor
- Little Smoky Caribou Range
- Protected Area

Grande Prairie South - Hunting Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Hunting Avoidance Prior to Approval	98.96%	15,943.05
	Hunting Avoidance Post Approval	100.00%	16,110.80
	<b>Increase in Lands Avoided in LSA</b>	<b>▲ 1.04%</b>	<b>▲ 167.75 ha</b>
Regional Study Area	Hunting Avoidance Prior to Approval	89.56%	286,620.92
	Hunting Avoidance Post Approval	90.93%	290,992.60
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 1.37%</b>	<b>▲ 4,371.69 ha</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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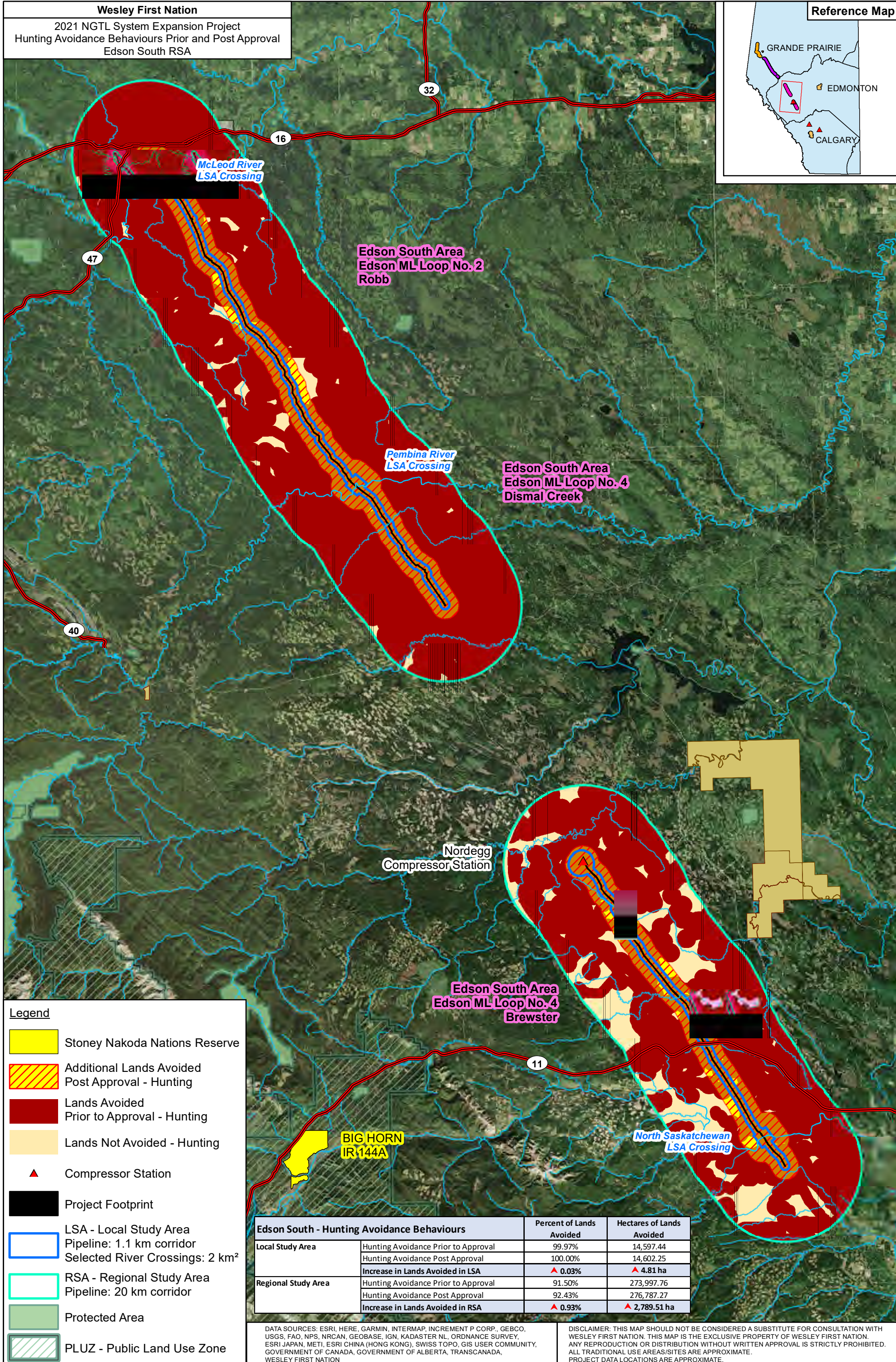
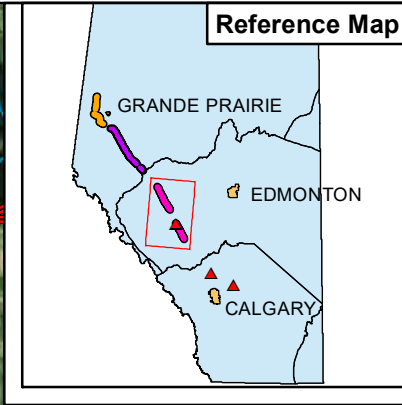
Figure:

9

**Wesley First Nation**

2021 NGTL System Expansion Project  
Hunting Avoidance Behaviours Prior and Post Approval  
Edson South RSA

**Reference Map**



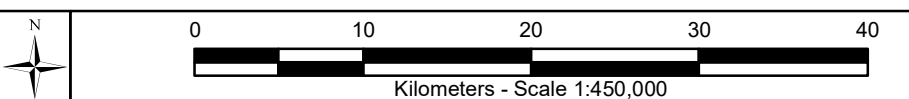
**Legend**

- Stoney Nakoda Nations Reserve
- Additional Lands Avoided Post Approval - Hunting
- Lands Avoided Prior to Approval - Hunting
- Lands Not Avoided - Hunting
- Compressor Station
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor
- Protected Area
- PLUZ - Public Land Use Zone

Edson South - Hunting Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Hunting Avoidance Prior to Approval	99.97%	14,597.44
	Hunting Avoidance Post Approval	100.00%	14,602.25
	<b>Increase in Lands Avoided in LSA</b>	<b>▲ 0.03%</b>	<b>▲ 4.81 ha</b>
Regional Study Area	Hunting Avoidance Prior to Approval	91.50%	273,997.76
	Hunting Avoidance Post Approval	92.43%	276,787.27
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 0.93%</b>	<b>▲ 2,789.51 ha</b>

DATA SOURCES: ESRI HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Prepared By: MNP LLP

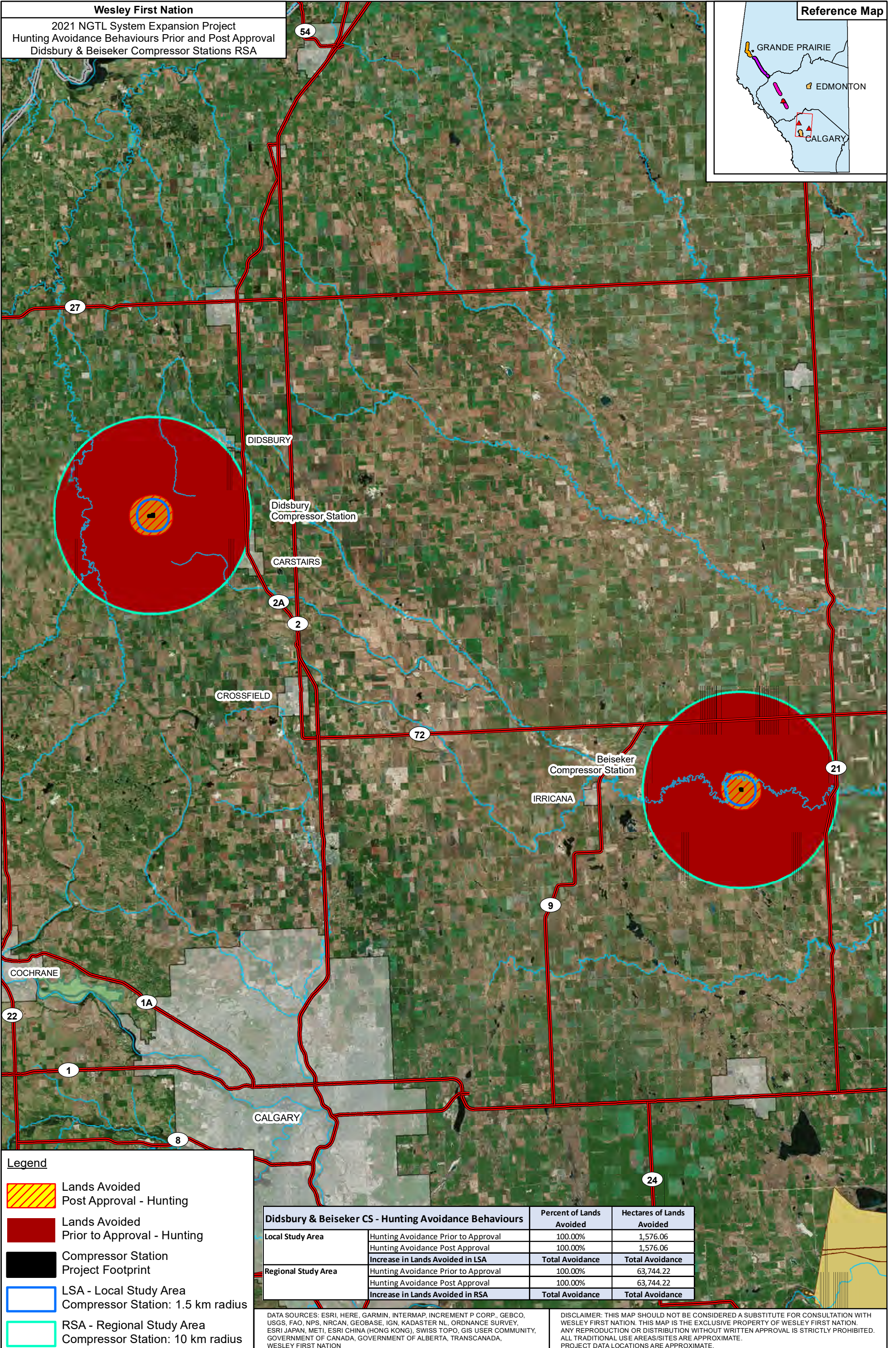
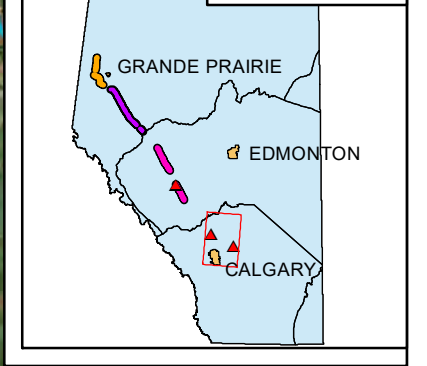
Figure: 10








**Wesley First Nation**

2021 NGTL System Expansion Project  
Hunting Avoidance Behaviours Prior and Post Approval  
Didsbury & Beiseker Compressor Stations RSA

**Reference Map**



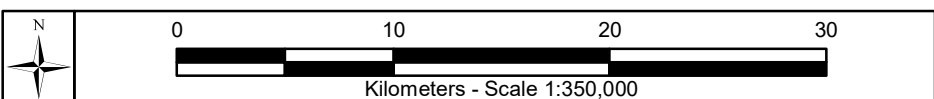
**Legend**

-  Lands Avoided Post Approval - Hunting
-  Lands Avoided Prior to Approval - Hunting
-  Compressor Station Project Footprint
-  LSA - Local Study Area Compressor Station: 1.5 km radius
-  RSA - Regional Study Area Compressor Station: 10 km radius

Didsbury & Beiseker CS - Hunting Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Hunting Avoidance Prior to Approval	100.00%	1,576.06
	Hunting Avoidance Post Approval	100.00%	1,576.06
	<b>Increase in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Hunting Avoidance Prior to Approval	100.00%	63,744.22
	Hunting Avoidance Post Approval	100.00%	63,744.22
	<b>Increase in Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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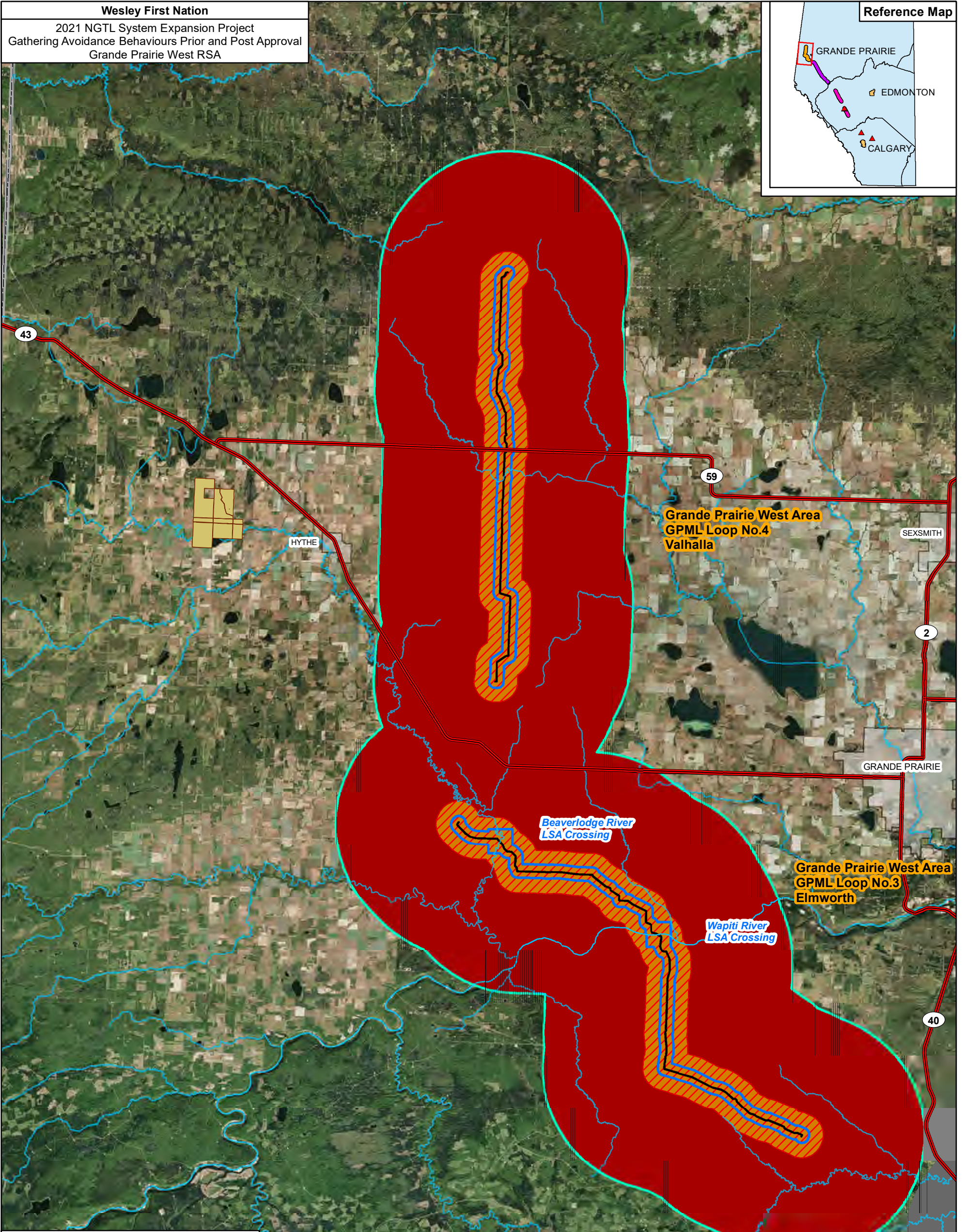
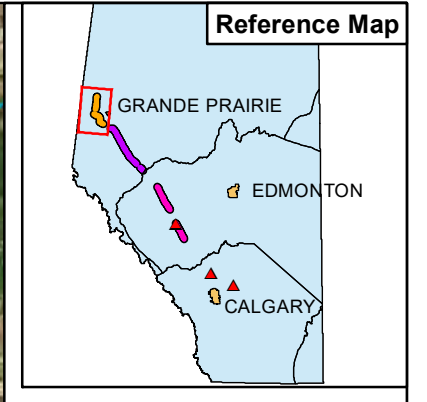
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Figure: 11

**Wesley First Nation**

2021 NGTL System Expansion Project  
Gathering Avoidance Behaviours Prior and Post Approval  
Grande Prairie West RSA

**Reference Map**



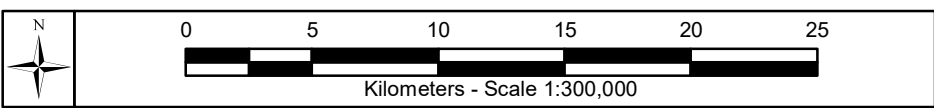
**Legend**

- Lands Avoided Post Approval - Gathering
- Lands Avoided Prior to Approval - Gathering
- Project Footprint
- LSA - Local Study Area Pipeline: 1.1 km corridor Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area Pipeline: 20 km corridor

Grande Prairie West - Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Gathering Avoidance Prior to Approval	100.00%	9,142.39
	Gathering Avoidance Post Approval	100.00%	9,142.39
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Gathering Avoidance Prior to Approval	99.99%	204,258.20
	Gathering Avoidance Post Approval	99.99%	204,258.20
	<b>Lands Avoided in RSA</b>	<b>Near Total Avoidance</b>	<b>Near Total Avoidance</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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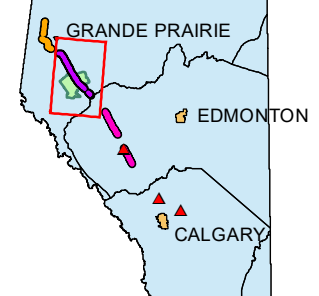
Prepared By: MNP LLP

Figure: 12

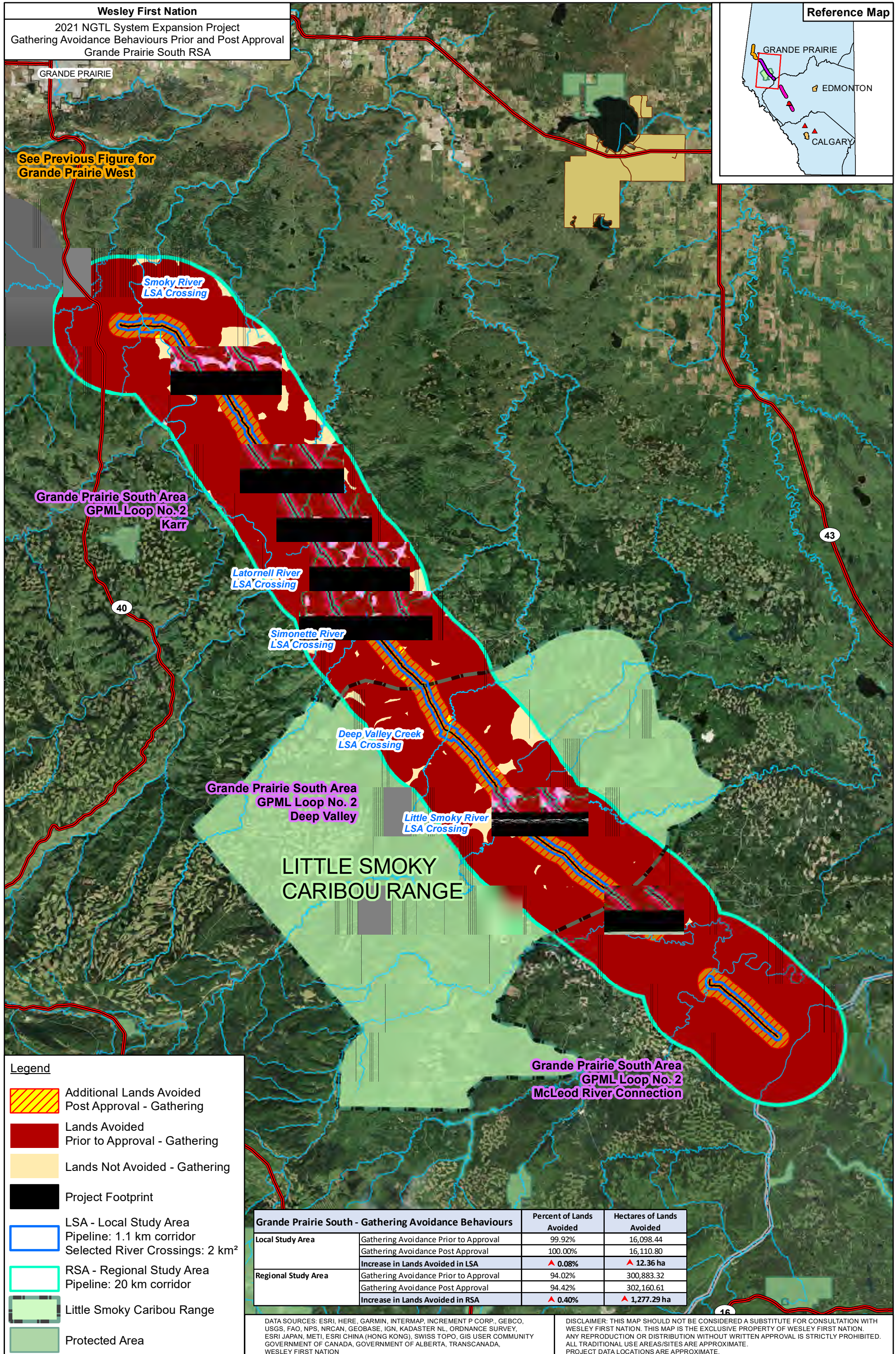
**Wesley First Nation**

2021 NGTL System Expansion Project  
Gathering Avoidance Behaviours Prior and Post Approval  
Grande Prairie South RSA

**Reference Map**



See Previous Figure for Grande Prairie West



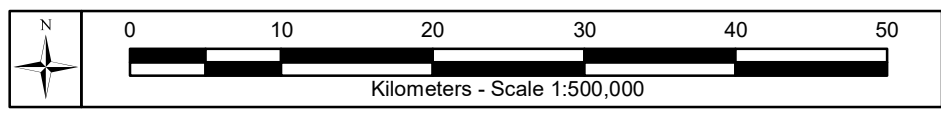
**Legend**

- Additional Lands Avoided Post Approval - Gathering
- Lands Avoided Prior to Approval - Gathering
- Lands Not Avoided - Gathering
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor
- Little Smoky Caribou Range
- Protected Area

Grande Prairie South - Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Gathering Avoidance Prior to Approval	99.92%	16,098.44
	Gathering Avoidance Post Approval	100.00%	16,110.80
	<b>Increase in Lands Avoided in LSA</b>	<b>▲ 0.08%</b>	<b>▲ 12.36 ha</b>
Regional Study Area	Gathering Avoidance Prior to Approval	94.02%	300,883.32
	Gathering Avoidance Post Approval	94.42%	302,160.61
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 0.40%</b>	<b>▲ 1,277.29 ha</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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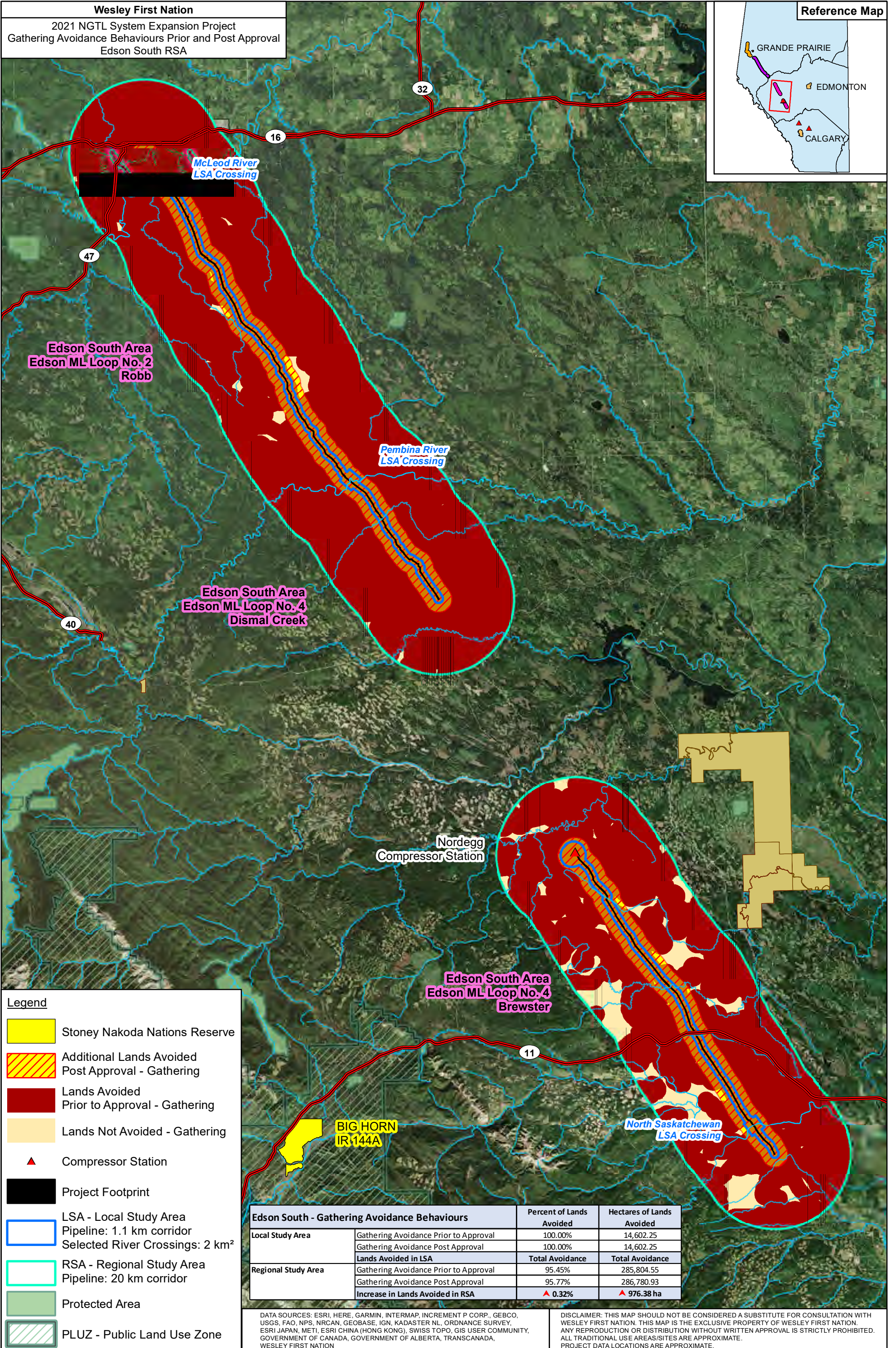
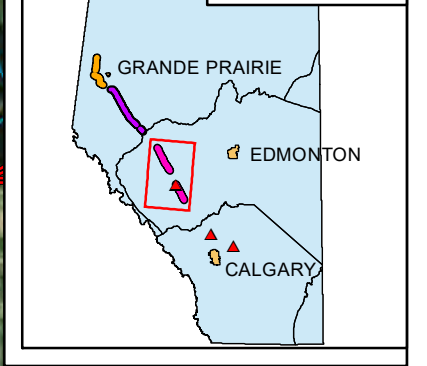
Prepared By: MNP LLP

Figure: 13

**Wesley First Nation**

2021 NGTL System Expansion Project  
Gathering Avoidance Behaviours Prior and Post Approval  
Edson South RSA

**Reference Map**



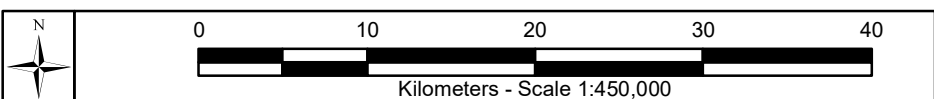
**Legend**

- Stoney Nakoda Nations Reserve
- Additional Lands Avoided Post Approval - Gathering
- Lands Avoided Prior to Approval - Gathering
- Lands Not Avoided - Gathering
- Compressor Station
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor
- Protected Area
- PLUZ - Public Land Use Zone

Edson South - Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Gathering Avoidance Prior to Approval	100.00%	14,602.25
	Gathering Avoidance Post Approval	100.00%	14,602.25
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Gathering Avoidance Prior to Approval	95.45%	285,804.55
	Gathering Avoidance Post Approval	95.77%	286,780.93
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 0.32%</b>	<b>▲ 976.38 ha</b>

DATA SOURCES: ESRI HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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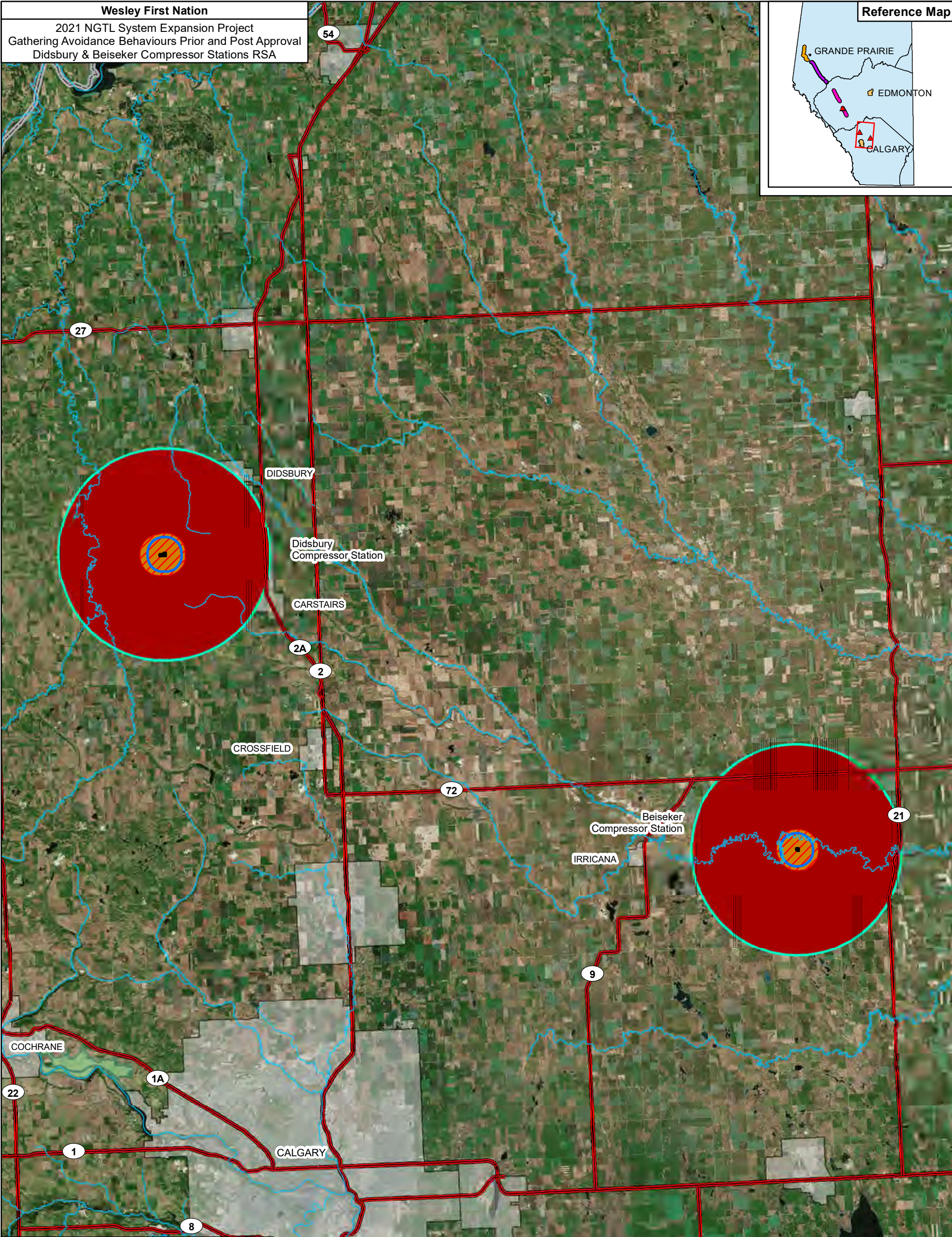
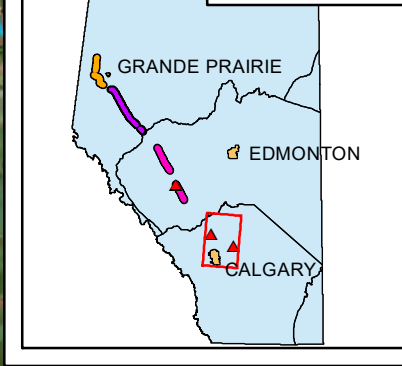
Prepared By: MNP LLP

Figure: 14

**Wesley First Nation**

2021 NGTL System Expansion Project  
Gathering Avoidance Behaviours Prior and Post Approval  
Didsbury & Beiseker Compressor Stations RSA

**Reference Map**



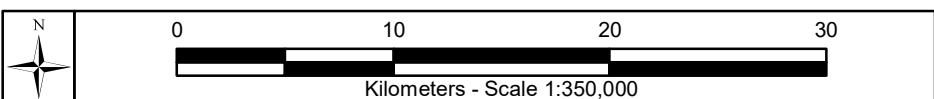
**Legend**

- Lands Avoided Post Approval - Gathering
- Lands Avoided Prior to Approval - Gathering
- Compressor Station Project Footprint
- LSA - Local Study Area Compressor Station: 1.5 km radius
- RSA - Regional Study Area Compressor Station: 10 km radius

Didsbury & Beiseker CS - Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Gathering Avoidance Prior to Approval	100.00%	1,576.06
	Gathering Avoidance Post Approval	100.00%	1,576.06
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Gathering Avoidance Prior to Approval	100.00%	63,744.22
	Gathering Avoidance Post Approval	100.00%	63,744.22
	<b>Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Prepared By: MNP LLP

Figure: 15

### **5.2.2 NGTL Mitigation Measures**

Refer to Section 3.41 for NGTL Mitigation Measures.

### **5.2.3 Suggested Accommodation Measures for Stoney Nakoda Nations Valued Component of Harvesting**

The Study Team determined adverse effects resulting from the Project to the SNN VC of Harvesting indicator SNN Hunting and Gathering Avoidance Behaviours by 0.42% and 0.03% respectfully in the LSA and by 0.67% and 0.26% respectfully in the RSA.

The Study Team assumes that although NGTL applied the criteria outlined in Section 3.4.1 (pipeline route selection and EPP mitigation measures) to the maximum degree feasible, it may increase SNN Hunting and Gathering Avoidance Behaviours caused by the Project. For example, in regard to the increase in SNN Hunting and Gathering Avoidance Behaviours, minimizing length to reduce overall environmental and socio-economic footprint may exacerbate effects to the VC of Harvesting by locating the route on lands currently not avoided by SNN.

Furthermore, the Study Team notes that NGTL has not identified accommodation measures that relate to SNN Section 35 Rights.

Following the methodology criteria outlined in Section 3.4, the Study Team suggested accommodation measures to eliminate, reduce or control the adverse effects of an increase in SNN Hunting and Gathering Avoidance Behaviours for the exercise of Section 35 Rights resulting from the Project. For a list of suggested mitigation and accommodation measures see Appendix D.

Photo: 13 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh



**5.2.4 Characterization of Residual Effects**

The assumption of the Study Team is that application of the suggested accommodation measures outlined in Appendix D will eliminate the identified effects of the changes in legal restriction for the exercise of Section 35 Rights. However, the Study Team has no control or confidence that any of these accommodation measures will be successfully applied, therefore residual effects will remain. A characterization of the of the residual effects to the SNN VC of Harvesting is as follows:

Project Study Area	Mitigation Measure	Residual Effects Characterization					
		Direction	Geographic Extent	Magnitude	Duration	Frequency	Reversibility
<b>Changes in SNN Hunting Avoidance Behaviours</b>							
Project Footprint	Pending	Negative	Project Footprint	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
LSA	Pending	Negative	LSA	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
RSA	Pending	Negative	RSA	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
<b>Changes in SNN Gathering Avoidance Behaviours</b>							
Project Footprint	Pending	Negative	Project Footprint	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
LSA	Pending	Negative	LSA	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
RSA	Pending	Negative	RSA	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)

Table 19: Characterization of Residual Effects for SNN VC of Harvesting

**5.2.5 Likelihood**

Likelihood is a measurement of whether or not the effect is likely to occur. The Study Team notes that it has no control or ability to require the application of suggested accommodation measures outlined in Appendix D. The Study Team predicts there is a high likelihood that the Project effect to the indicator will occur.

**5.2.6 Prediction of Confidence**

Prediction of confidence refers to the degree of certainty of the residual effect prediction. The assessment process details with predictions of future circumstances. Therefore, predictions can vary in their level of certainty which can be influenced by availability of data, resiliency of SNN, degree of understanding of the Project, and Project interactions and factors beyond the control of the Study Team.

The confidence rating by the Study Team for the degree of certainty for changes to the SNN VC of Harvesting (change in SNN Hunting and Gathering Avoidance Behaviours) is high.



Photo: 14 SNN Hunting Camp, Eden Valley AB. MNP LLP/Bill Marsh





Photo: 15 SNN Hunting Camp, Eden Valley AB. MNP LLP/Bill Marsh

## 6. Results: Stoney Nakoda Nations Valued Component of Culture

Considering SNN preferred means of exercising Section 35 Rights is an important criterion set by the Supreme Court of Canada (*Sparrow*). It is important to undertake an analysis of impacts to SNN culture. SNN culture is linked to SNN ability to attend ceremonies, cultural events and sacred sites within SNN traditional territory and transmit culture (including practices, knowledge, skills, stories, history, language, and protocols).

The Study Team identified two indicators to characterise change to the SNN VC of Culture:

- change in SNN Culture Avoidance Behaviours; and,
- change in ability to transmit SNN culture.

For more detailed baseline information see Section 8.

### 6.1 Baseline Conditions

#### 6.1.1 NGTL Baseline Conditions

The Study Team notes that NGTL in the Project Application ESA did not identify specific SNN ceremonial, cultural or sacred sites. NGTL identified “eight habitation, spiritual or cultural sites” in the LSA including three Heritage Resource Value 4c sites, four cabins and one archaeological site (NGTL 2018b: 19-38).

The Study Team notes that NGTL has not attributed any of the identified habitation, spiritual or cultural sites to SNN. However, SNN has identified ceremonial, cultural and sacred sites within the RSA, LSA and Project Footprint. See Section 8.

**6.1.2 Stoney Nakoda Nations Culture Avoidance Behaviours Baseline Conditions**

For the purposes of this Report, cultural activities including ceremony, cultural events and sacred sites will be used as a representative activity for the exercise of Section 35 Rights and calculations for change in SNN Culture Avoidance Behaviours.

The Study Team, to assess changes to SNN Culture Avoidance Behaviours, posed questions to Participants who indicated that they attend ceremonies, cultural events and visit sacred sites related to both physical attributes they avoid and conditions they prefer for the exercise of their Section 35 Rights related to culture.

All 43 Participants were asked the question “Do you attend ceremonies, cultural events or visit sacred sites?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of ceremony, cultural event or sacred site-related questions. If the Participant answered “no” the ceremony, cultural event or sacred site related-questions were skipped.

Of the 43 Participants, 39 Participants indicated that they currently or previously attended ceremonies, cultural events or visited sacred sites. Participants attend ceremonies, cultural events and visit sacred sites on Crown lands, private lands and on IRs. Participants reported on attending/visiting the following ceremonies, cultural events, and sacred sites:

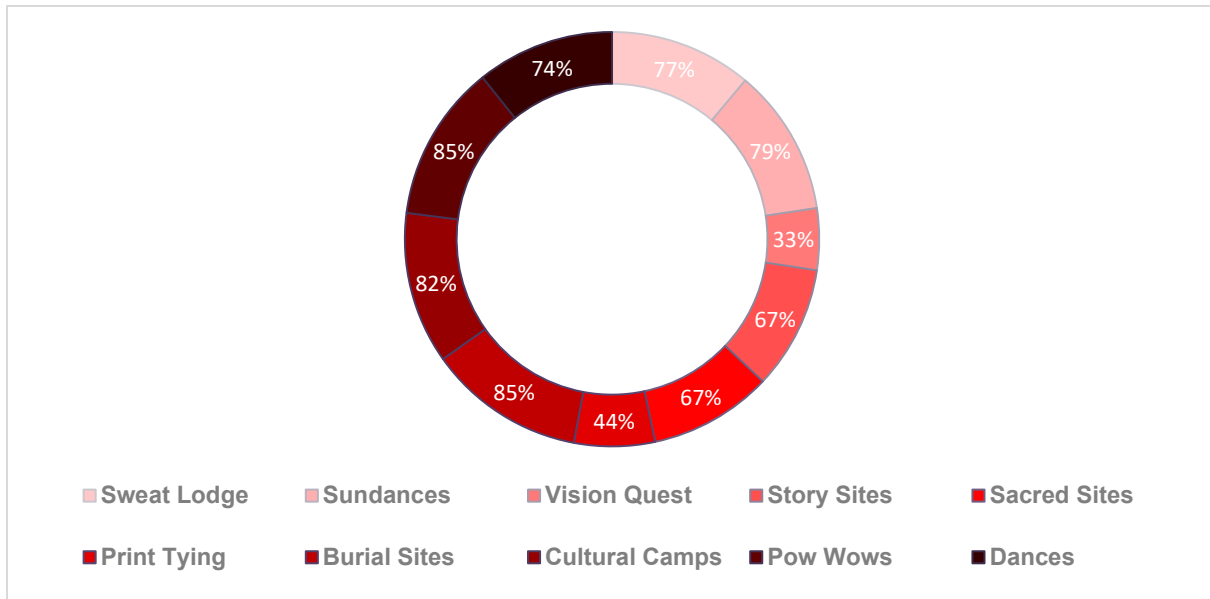


Figure 16: Identified SNN Ceremonies, Cultural Events and Sacred Sites

6.1.2.1 Stoney Nakoda Nations Culture Avoidance Behaviours

Participants were asked about how near/far from a predetermined list of physical attributes or development types they would participate in ceremonies, cultural events, or visit sacred sites using a provided list of distance options. The answers were captured on the Survey, voice recordings, and summary notes. The mean was calculated to arrive at buffers for the SNN Culture Avoidance Behaviours for each development type. The SNN Culture Avoidance Behaviours for each development type is presented below:

Development Types	Ceremonies (metres)
Primary road or highway (e.g. HWY 63; 16 HWY)	1827.59 (resp = 29)
Secondary road (paved and unpaved) (e.g. Range Roads; Winter Roads)	1687.50 (resp = 28)
Lease road	1706.90 (resp = 29)
Pipeline right-of-way under construction	1896.55 (resp = 29)
Pipeline right-of-way under operation	1413.79 (resp = 29)
Pipeline water crossing during construction	1931.03 (resp = 29)
Pipeline water crossing during operation	1577.59 (resp = 29)
Pipeline Facilities (compressor/meter stations) during construction	1965.52 (resp = 29)
Pipeline Facilities (compressor/meter stations) during operation	1896.55 (resp = 29)
Power lines	1646.55 (resp = 29)
Seismic lines	1293.10 (resp = 29)
Active padsites (including fracking)	1931.03 (resp = 29)
Reclaimed/capped padsites	1669.64 (resp = 28)
Oil and gas facilities (processing plant, gas plant)	1896.55 (resp = 29)
Coal mines (mine site, taillings pond, processing facilities)	1827.59 (resp = 29)
Borrow pit (excavation made to provide soil materials for construction)	1616.07 (resp = 28)
Sand and gravel quarry	1812.50 (resp = 28)
Active logging site	1775.86 (resp = 29)
Cutblock ( $\leq$ 10years of age)	1560.34 (resp = 29)
Pulp Mill	1965.52 (resp = 29)
Electricity generation site	1965.52 (resp = 29)
Structures and Dwellings	1706.90 (resp = 29)

Development Types	Ceremonies (metres)
Private land (including grazing leases and agriculture)	1896.55 (resp = 29)
Provincial Parks and Protected Areas	1051.72 (resp = 29)
National Parks	1051.72 (resp = 29)
Other Indian Reserves	1482.76 (resp = 29)
Town or village	1965.52 (resp = 29)
Campgrounds	1862.07 (resp = 29)

Table 20: SNN Culture Avoidance Behaviours – Existing Developments within the RSA

Not all of the above infrastructure and industrial development exist in the RSA. For the purposes of this Report, only infrastructure and industrial development types that intersected the RSA were used in this Report.

The amount of land currently avoided by SNN for culture prior to Project approval in the Project Footprint, LSA and RSA is:

SNN Culture Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	SNN Culture Avoidance Behaviours Prior to Project Approval	100.00%	2,447.51 ha
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	SNN Culture Avoidance Behaviours Prior to Project Approval	100.00%	41,431.51 ha
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	SNN Culture Avoidance Behaviours Prior to Project Approval	98.29%	873,019.97 ha

Table 21: SNN Culture Avoidance Behaviours Prior to Project Approval

The data presented in Table 21 above shows that Participants already avoid or prefer to avoid all, or a large amount of lands, for the exercise of the Section 35 Rights (culture) in the Project Footprint LSA and RSA due to the amount infrastructure and industrial development. The Study Team notes that this illustrates that there are already minimal lands available to SNN members to exercise their Section 35 Rights (culture) in a preferred manner.

6.1.2.2 Stoney Nakoda Nations Culture Preferred Conditions

The Participants who indicated they attend ceremonies, cultural events, or visit sacred sites were asked about their preferences while doing so. Responses indicated that Participants prefer locations that do not have any development, including cultivated fields, industrial development and associated smells, noises, livestock, industrial or construction worker or fences and signs. A full list of preferences reported by Participants are listed below in Table 22.

Would be you bothered if your ceremonial site, cultural site, or sacred site was/had _____ ?	Yes	No
Quiet	4	29
Development	29	4
Other Hunters	27	6
Recreational Users	27	6
Industrial/Construction Workers	30	3
Vehicles	30	3
All-Terrain Vehicles	30	3
Cultivated Fields	27	4
Livestock or Domestic Animals	27	6
Fences, Gates, Texas Gates	21	12
Signs	27	6
Dust	29	4
Industrial Development Smell	29	4
Industrial Development Noise	30	3
Industrial Development in Sight	29	4
A Recent Vegetation Spraying	29	4
Evidence of Contamination	30	3
A Recent Forest Fire	29	4

Table 22: SNN Culture Preferred Conditions

**6.1.3 Stoney Nakoda Nation Ability to Transmit Culture Baseline Conditions**

Participants reported that there is a need to be connected to the land in order to transmit culture to younger generations. Participants noted that SNN stories are often connected to a particular place and that in order to share skills and knowledge it is important to be able to access areas like sacred sites, traditional harvesting areas, family territories, campsites etc.

---

*“It’s harder to pass on the stories if you can’t show the young ones where they need to, like where an event took place” 4SN [WFN]*

---

## 6.2 Results

### 6.2.1 Change to Stoney Nakoda Nations Culture Avoidance Behaviours.

NGTL in the Project Application ESA identified “temporary or permanent loss of habitation, spiritual or cultural sites” (NGTL 2018b: 19-31) as a residual effect of the Project. This residual effect was determined by NGTL as not significant and was only based on “eight habitation, spiritual or cultural sites” (NGTL 2018b: 19-38). As noted above, Participants identified ceremonial, cultural and sacred sites in the RSA, LSA and Project Footprint.

The Study Team notes that NGTL in the 2021 Application EPP, details certain activities, tools and other mitigation measures to be used by NGTL during construction and operation of the Project that may exacerbate Project effects to SNN’s VC of Culture, including:

- the use of signs, fences, gates or flags;
- the use of heavy equipment and vehicles and increased personnel and traffic;
- clearing, grading, trenching, pipe stringing/welding/ lowering, backfill, cleanup and reclamation activities (NGTL 2018b: Appendix a).

The analysis of Survey data indicates an increase in SNN Avoidance Behaviours for the exercise of Section 35 Rights post-Project approval in the RSA are shown in Table 23. The amount of land avoided by SNN post-Project approval in the Footprint, LSA and RSA is:

Change in SNN Culture Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
<b>Project Footprint</b> Total Area: 2,458.18 ha Total Waterbodies: 10.67 ha Total Land: 2,447.51 ha	Culture Avoidance Prior to Project Approval	100.00%	2,447.51 ha
	Ceremony Avoidance Post-Project approval	100.00%	2,447.51 ha
	<b>Change in Lands Avoided in Project Footprint</b>	<b>0.00%</b>	<b>0.00 ha</b>
<b>Local Study Area</b> Total Area: 41,904.65 ha Total Waterbodies: 473.15 ha Total Land: 41,431.50 ha	Culture Avoidance Prior to Project Approval	100.00%	41,431.51 ha
	Culture Avoidance Post-Project approval	100.00%	41,431.51 ha
	<b>Change in Lands Avoided in LSA</b>	<b>0.00%</b>	<b>0.00 ha</b>
<b>Regional Study Area</b> Total Area: 901,705.83 ha Total Waterbodies: 13,492.90 ha Total Land: 888,212.93 ha	Culture Avoidance Prior to Project Approval	98.29%	873,019.97 ha
	Culture Avoidance Post-Project approval	98.38%	873,837.00 ha
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.09%</b>	<b>▲ 817.03 ha</b>

Table 23: SNN Culture Avoidance Behaviours Post-Project approval

The change to the SNN VC of Culture, SNN Culture Avoidance Behaviours resulting from the Project is:

- An increase of 817.03 ha or 0.09% of the total amount of lands inducing SNN Culture Avoidance Behaviours in the RSA.

See Figures 17-20 for mapped SNN Culture Avoidance Behaviours in the RSA.

Refer to Appendix E for a breakdown of SNN Culture Avoidance Behaviours per Project component.

The Study Team notes that, if approved, the Project will increase the amount of land Participants report avoiding in both the LSA and RSA. The limited amount of available lands prior to Project approval will be even further reduced if the Project is approved. The Study Team notes that with the limited available lands surrounding the Project, SNN can no longer simply go elsewhere for ceremonies and cultural events or for sacred sites.

The Study Team further notes that the results presented in this Report do not comment on the suitability of the Crown lands for hunting that remain available in the LSA and RSA after the Project is approved. Additional assessment would be required to determine land suitability for cultural activities related to the exercise of SNN Section 35 Rights.

### **6.2.2 Decrease in Ability for Stoney Nakoda Nations to Transmit Culture**

Participants were asked whether they thought the Project would interfere or conflict with particular aspects of SNN culture. Of the 38 Participants who were answered these questions:

- 31 Participants (81.6%) answered “yes” when asked if they thought the Project would interfere or conflict with sharing knowledge/teaching youth.
- 32 Participants (84.2%) answered “yes” when asked whether they thought the Project would interfere or conflict with SNN stories about ceremonial or sacred sites.
- 27 Participants (71%) answered “yes” when asked whether they thought the Project would interfere or conflict with sharing or teaching Stoney language to youth.
- 34 Participants (89.5%) responded “yes” when asked whether they thought the Project would interfere or conflict with SNN stories about important species (animals, fish, plants, berries, trees etc.).

The Study Team notes that there is a relationship between the increase of the amount of land inducing SNN Culture Avoidance Behaviours and the ability for SNN members to transmit culture to younger generations. Participants reported on the importance on being on the land in order to share knowledge, history and skills related to SNN culture.

---

*“We don’t want to lose our land. That’s where we conduct our teachings to our grandchildren and our great grandchildren.” 8SN related to losing family territory  
[WFN]*

---

*Stoney Nakoda Nations – Wesley First Nation Section 35 Rights Assessment Report*

The Study Team understands that the exercise of SNN Section 35 Rights, particularly activities related to ceremonies, cultural events, and sacred sites are often inseparable from a particular location or ecosystem (SNN 2015). It was reported to the Study Team by Participants, Workshop Attendees, and the SNN Consultation Office, that ceremonial, cultural, or sacred sites cannot be moved; once the site is disturbed or destroyed it is culturally lost. Participants, Workshop Attendees and the SNN Consultation Office noted there is often an assumption that SNN members can go elsewhere to exercise their Section 35 Rights, including cultural activities. However, the Study Team notes that the SNN VC of Culture indicates that there are already limited lands available for SNN member to exercise their Section 35 Rights, including cultural activities. Due to a number of factors related to current development within the Project RSA, and the human and financial cost of going elsewhere, and other related issues, it cannot be assumed that SNN members can simply go elsewhere.

In addition, the Study Team notes that the results of this Report do not comment on the suitability of the lands for ceremony, cultural events, or sacred sites that remain available in the RSA post-Project approval. Further study would be required to determine land suitability for ceremony, cultural events, and sacred sites related to the exercise of SNN Section 35 Rights.

Photo: 16 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

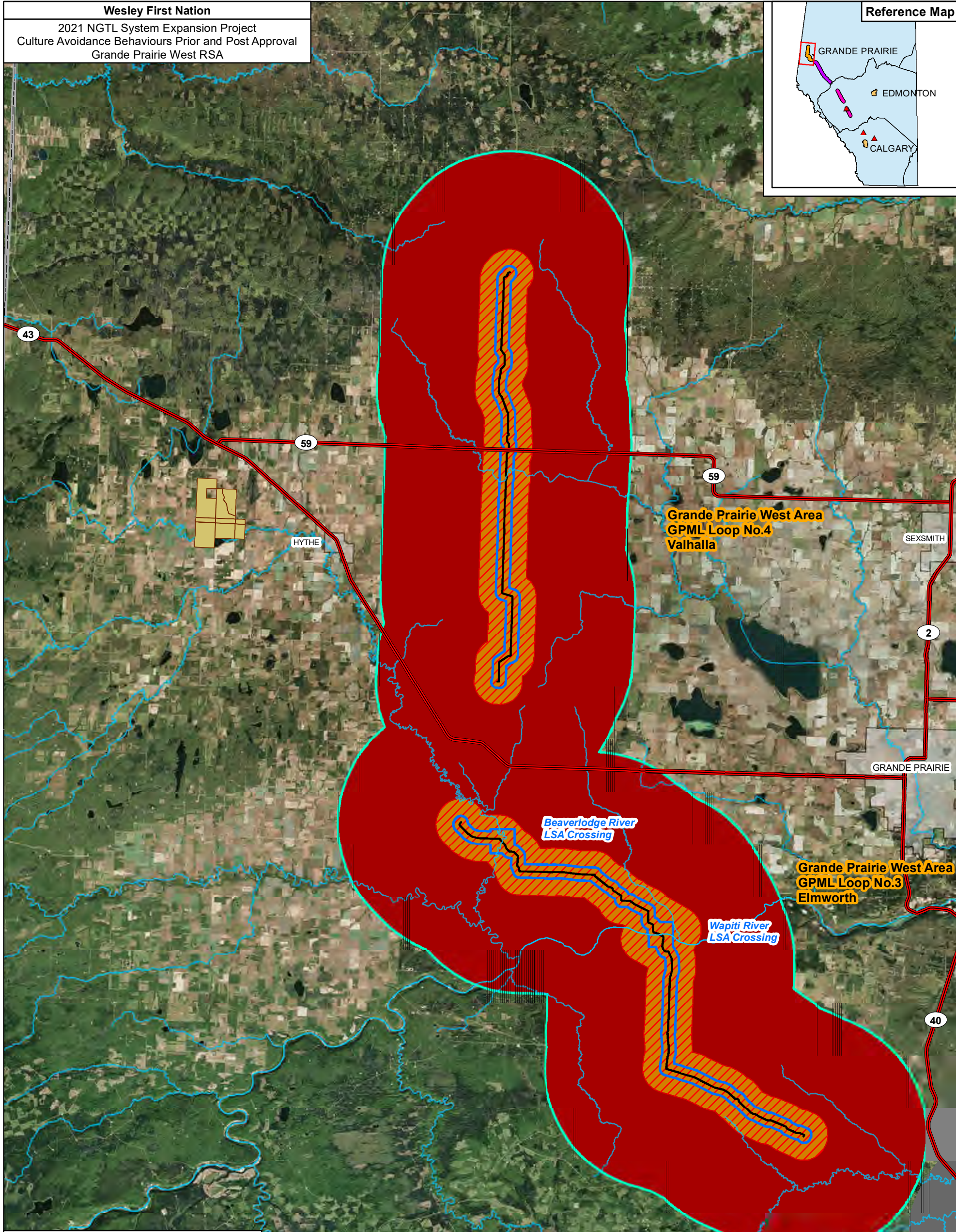
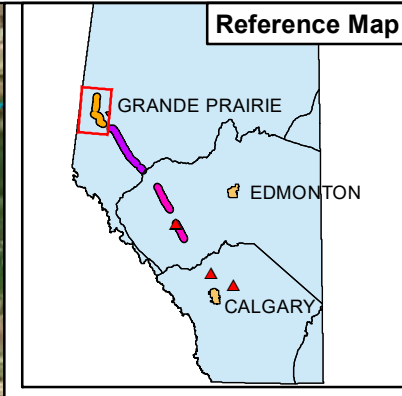




**Wesley First Nation**

2021 NGTL System Expansion Project  
 Culture Avoidance Behaviours Prior and Post Approval  
 Grande Prairie West RSA

**Reference Map**



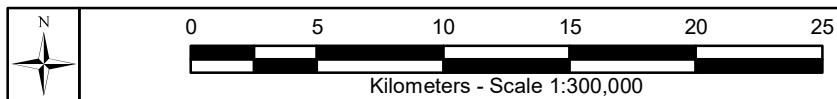
**Legend**

- Lands Avoided Post Approval - Culture
- Lands Avoided Prior to Approval - Culture
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor

Grande Prairie West - Culture Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Culture Avoidance Prior to Approval	100.00%	9,142.39
	Culture Avoidance Post Approval	100.00%	9,142.39
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Culture Avoidance Prior to Approval	100.00%	204,262.89
	Culture Avoidance Post Approval	100.00%	204,262.89
	<b>Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

DATA SOURCES: ESRI HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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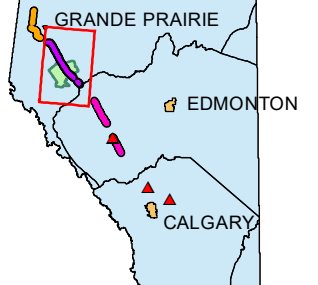


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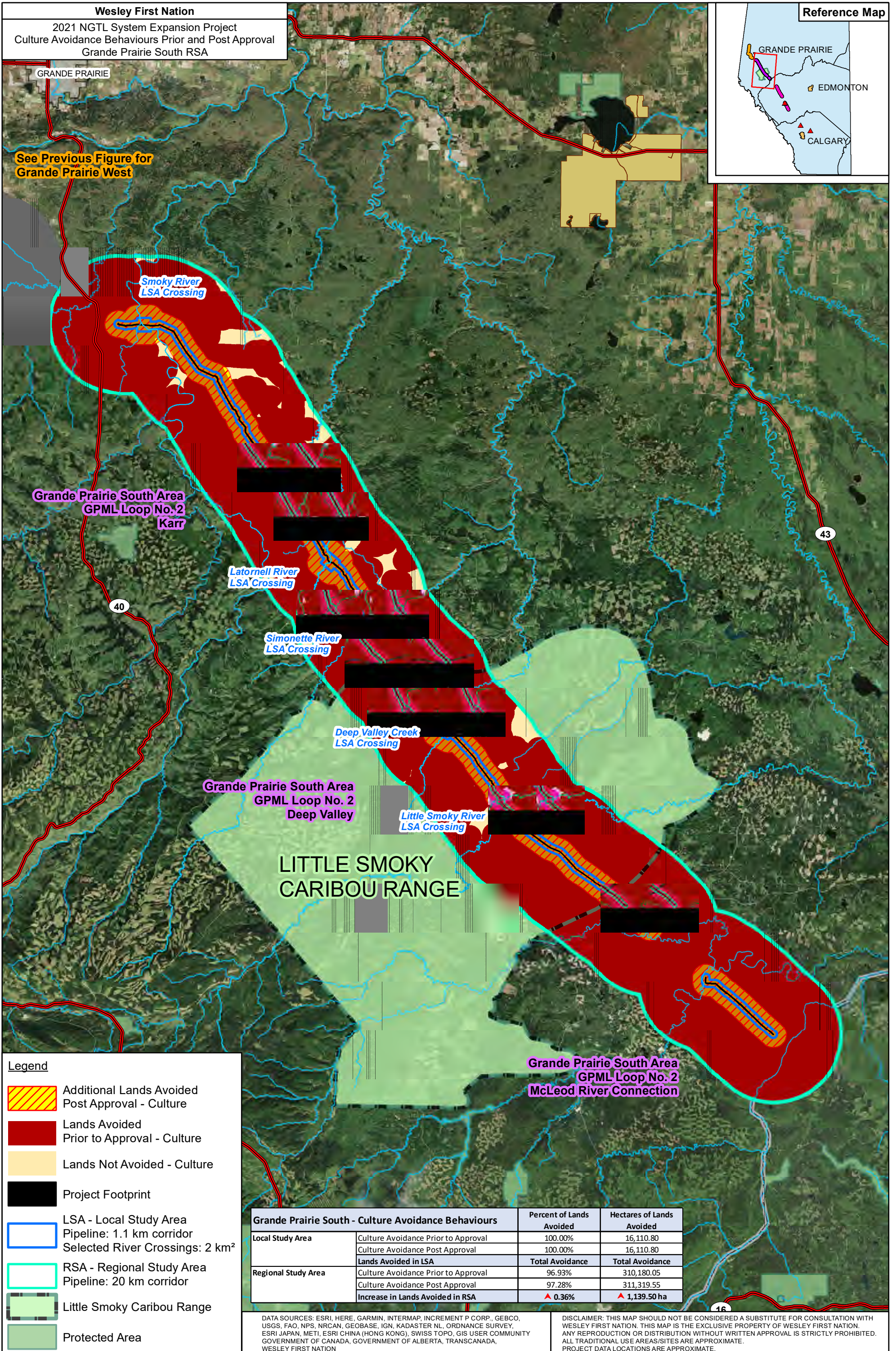
**Wesley First Nation**

2021 NGTL System Expansion Project  
Culture Avoidance Behaviours Prior and Post Approval  
Grande Prairie South RSA

**Reference Map**



See Previous Figure for Grande Prairie West



**LITTLE SMOKY CARIBOU RANGE**

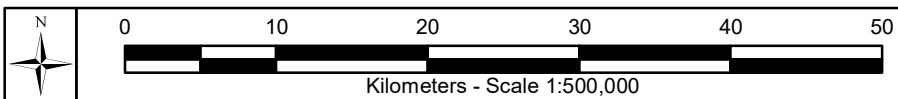
**Legend**

- Additional Lands Avoided Post Approval - Culture
- Lands Avoided Prior to Approval - Culture
- Lands Not Avoided - Culture
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor
- Little Smoky Caribou Range
- Protected Area

Grande Prairie South - Culture Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Culture Avoidance Prior to Approval	100.00%	16,110.80
	Culture Avoidance Post Approval	100.00%	16,110.80
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Culture Avoidance Prior to Approval	96.93%	310,180.05
	Culture Avoidance Post Approval	97.28%	311,319.55
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 0.36%</b>	<b>▲ 1,139.50 ha</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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MNP LLP

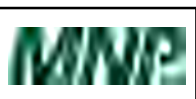


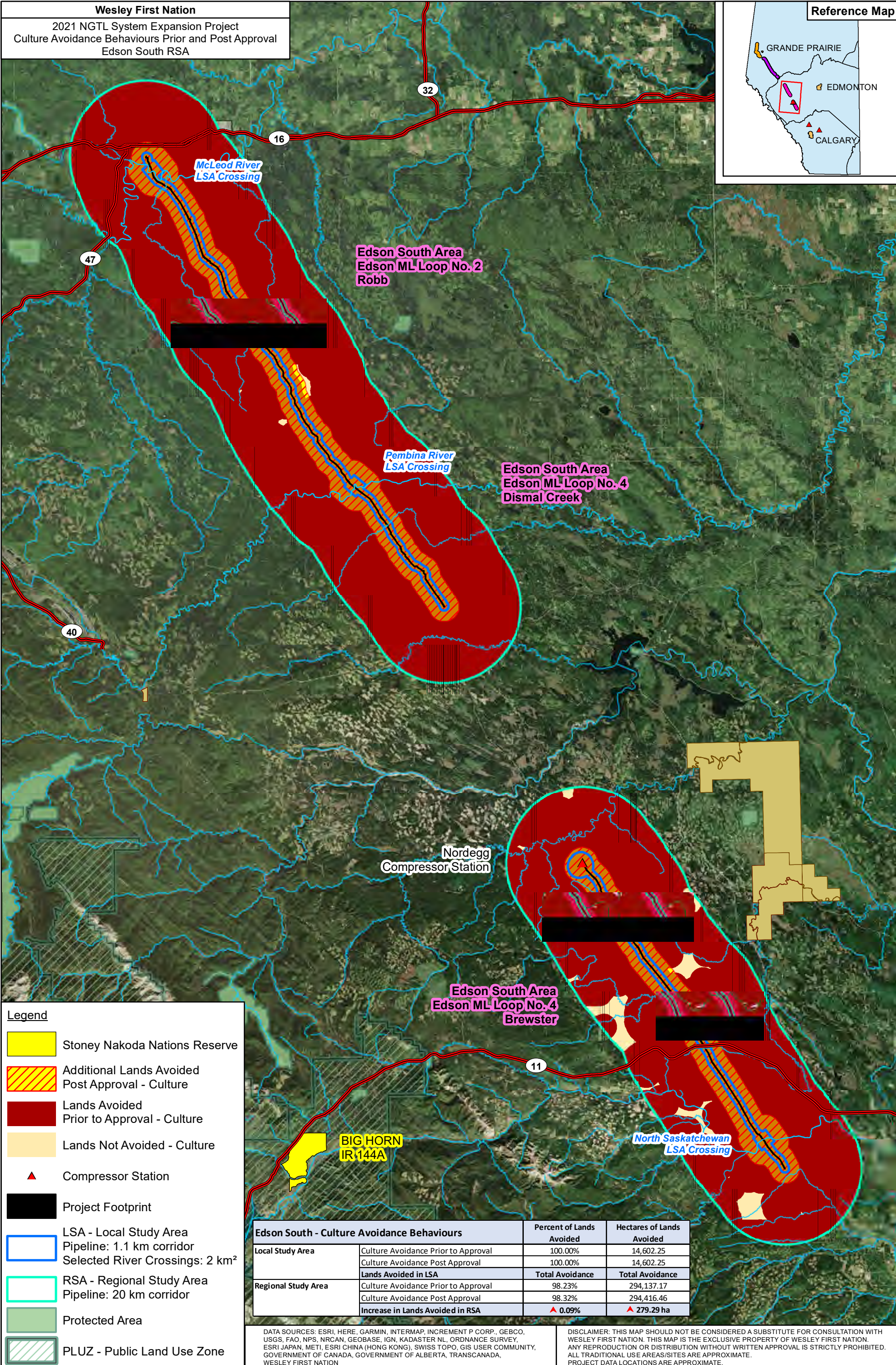
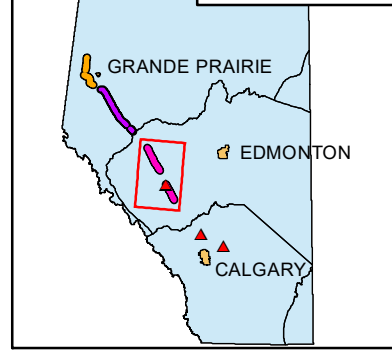
Figure:

18

**Wesley First Nation**

2021 NGTL System Expansion Project  
 Culture Avoidance Behaviours Prior and Post Approval  
 Edson South RSA

**Reference Map**



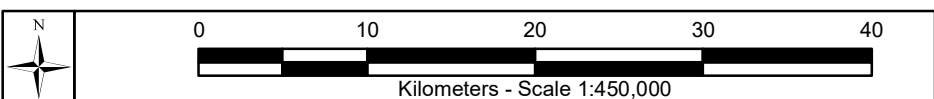
**Legend**

- Stoney Nakoda Nations Reserve
- Additional Lands Avoided Post Approval - Culture
- Lands Avoided Prior to Approval - Culture
- Lands Not Avoided - Culture
- Compressor Station
- Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Selected River Crossings: 2 km<sup>2</sup>
- RSA - Regional Study Area  
Pipeline: 20 km corridor
- Protected Area
- PLUZ - Public Land Use Zone

Edson South - Culture Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Culture Avoidance Prior to Approval	100.00%	14,602.25
	Culture Avoidance Post Approval	100.00%	14,602.25
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Culture Avoidance Prior to Approval	98.23%	294,137.17
	Culture Avoidance Post Approval	98.32%	294,416.46
	<b>Increase in Lands Avoided in RSA</b>	<b>▲ 0.09%</b>	<b>▲ 279.29 ha</b>

DATA SOURCES: ESRI HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Date: Feb 13, 2019  
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Prepared For: Wesley First Nation

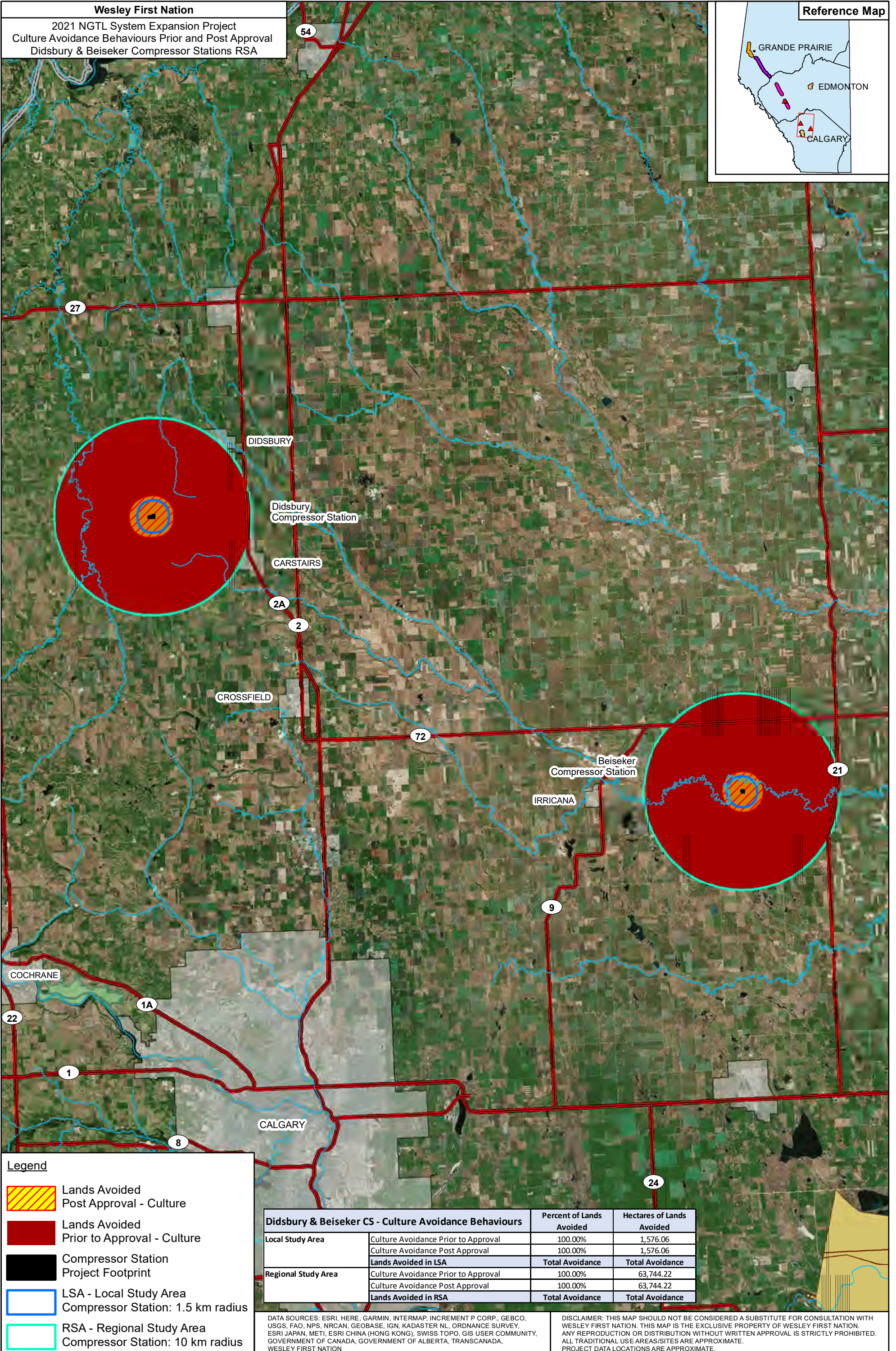
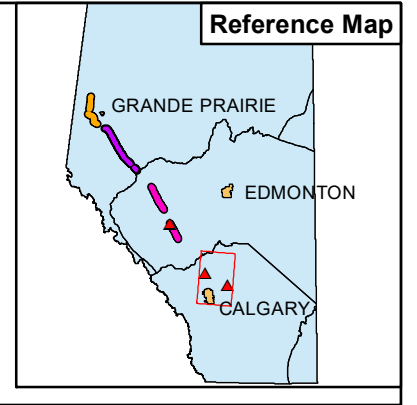
Prepared By: MNP LLP

Figure: 19

**Wesley First Nation**

2021 NGTL System Expansion Project  
 Culture Avoidance Behaviours Prior and Post Approval  
 Didsbury & Beiseker Compressor Stations RSA

**Reference Map**



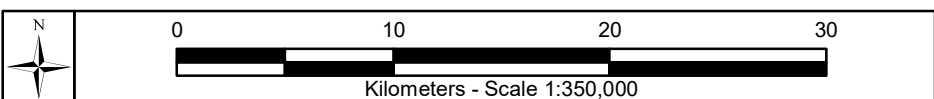
**Legend**

- Lands Avoided Post Approval - Culture
- Lands Avoided Prior to Approval - Culture
- Compressor Station Project Footprint
- LSA - Local Study Area Compressor Station: 1.5 km radius
- RSA - Regional Study Area Compressor Station: 10 km radius

Didsbury & Beiseker CS - Culture Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Avoided
Local Study Area	Culture Avoidance Prior to Approval	100.00%	1,576.06
	Culture Avoidance Post Approval	100.00%	1,576.06
	<b>Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Culture Avoidance Prior to Approval	100.00%	63,744.22
	Culture Avoidance Post Approval	100.00%	63,744.22
	<b>Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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 Coordinate System: NAD83 11N

Prepared For: Wesley First Nation

Prepared By: MNP LLP

Figure: 20

### **6.2.3 NGTL Mitigation Measures**

Refer to Section 3.4.1 for NGTL Mitigation Measures.

### **6.2.4 Suggested Accommodation Measures for Stoney Nakoda Nations Valued Component of Culture**

The Study Team determined adverse effects resulting from the Project to the SNN VC of Culture will be the decrease in SNN Culture Preferred Conditions and an increase of SNN Culture Avoidance Behaviours by 0.09% in the RSA.

The Study Team assumes that although NGTL applied the criteria outlined in Section 3.3 (Project route selection and EPP) to the highest degree feasible, it may not result in reduction in negative and adverse effects to the decrease in suitable sites available for exercising Section 35 Rights in SNN Culture Preferred Conditions. Furthermore, the Study Team notes that NGTL has not identified specific mitigation measures as it relates to SNN Section 35 Rights and the Project impact on SNN culture.

Following the methodology outlined in Section 3.4.2 the Study Team suggests accommodation measures to eliminate, reduce or control the impact from the Project on changes to the decrease in sites available for exercising Section 35 Rights aligned with SNN Culture Preferred Conditions. For a list of suggested accommodation measures for the SNN VC of Culture see Appendix D.



Photo: 17 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

**6.2.5 Characterization of Residual Effects**

The assumption of the Study Team is that application of the suggested accommodation measures outlined in Appendix D will eliminate, reduce or control the identified effects of the changes in SNN Culture Avoidance Behaviours for the exercise of Section 35 Rights. However, the Study Team has no control or confidence that any of these accommodation measures will be successfully applied, therefore residual effects will remain. A characterization of the residual effects to the SNN VC of Culture is as follows:

Project Study Area	Mitigation Measure	Residual Effects Characterization					
		Direction	Geographic Extent	Magnitude	Duration	Frequency	Reversibility
<b>Change in SNN Culture Avoidance Behaviours</b>							
Project Footprint	Pending	Negative	Project Footprint	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
LSA	Pending	Negative	LSA	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
RSA	Pending	Negative	RSA	Low	High-Term	Continuous	Permanent (no decommissioning contemplated)
<b>Change in Ability to Transmit Culture</b>							
Project Footprint	Pending	Negative	Project Footprint	N/A	High-Term	Continuous	Permanent (no decommissioning contemplated)
LSA	Pending	Negative	LSA	N/A	High-Term	Continuous	Permanent (no decommissioning contemplated)
RSA	Pending	Negative	RSA	N/A	High-Term	Continuous	Permanent (no decommissioning contemplated)

Table 24: Characterization of Residual Effects for SNN VC of Culture

**6.2.6 Likelihood**

Likelihood is a measurement of whether or not the effect is likely to occur. The Study Team notes that it has no control or ability to require the application of suggested accommodation measures outlined in Appendix D. The Study Team predicts there is a high likelihood that the Project effect to the indicator will occur.

### **6.2.7 Prediction of Confidence**

Prediction of confidence refers to the degree of certainty of the residual effect prediction. The assessment process details with predictions of future circumstances. Therefore, predictions can vary in their level of certainty which can be influenced by availability of data, resiliency of SNN, degree of understanding of the Project and Project interactions and factors beyond the control of the Study Team.

The confidence rating by the Study Team for the degree of certainty for changes to the SNN VC of Culture (including the change in SNN Culture Avoidance Behaviours and change in ability to transmit culture) is high.



Photo: 18 SNN Hunting Camp, Eden Valley AB. MNP LLP/Bill Marsh

## 7. Stoney Nakoda Nations Consultation Office Issues and Concerns

### 7.1 Meaningful Consultation and Accommodation

According to the SNN Consultation Office, the interconnected nature between the environment and SNN Section 35 Rights, culture and well-being should be more effectively explored by NGTL in the 2021 Application.

SNN Consultation Office would like to see an increase in consultation and accommodation efforts by industry proponents like NGTL to better include the Traditional Ecological Knowledge (“TEK”) and expert information of SNN. As noted in the *Cultural Assessment for the Enhancing Grizzly Bear Management programs through the Inclusion of Cultural Monitoring and Traditional Ecological Knowledge* (Stoney Consultation Team and Stoney Tribal Administration 2016):

As traditional inhabitants with unique ties to the landscape, the Stoney Nakoda hold knowledge that can improve the understanding of key conservation concerns from a culture viewpoint... (SNN 2016: 9)

SNN TEK and expert information could be a key resource for companies like NGTL in ensuring mitigation and remediation work is completed accurately and in such a way that is not only a benefit to the environment, but also to the continued exercise of SNN Section 35 Rights. The SNN Consultation Office would like to more serious consideration for the SNN TEK, expert information, and the land and resource use experiences.



## **7.2 Harvested Resources**

According to the *Traditional Practices of the Stoney Nakoda Nations* (Stoney Nakoda Nations 2009)<sup>18</sup> report, and as noted by the SNN Consultation Office, SNN has a spiritual and cultural connection with harvested resources. SNN Consultation Office identified that this spiritual and cultural connection is interrupted by development activities on the land.

SNN Consultation Office reported to the Study Team their concerns with adverse Project effects to species harvested by SNN members. Representatives of SNN Consultation Office noted that there is less wild game available in areas where SNN members can exercise their Section 35 Rights. In addition, it was reported by SNN Consultation Office that gathering sites are frequently damaged.

## **7.3 Ceremonial, Cultural and Sacred Sites**

SNN Consultation Manager noted, based on experience, that companies and government agencies tend to view ceremonial, cultural and sacred sites as transferrable and can be easily moved to alternate locations once the historical ceremonial, cultural, or sacred site has been displaced by development. This differs from the views of SNN; SNN Consultation Office reported that SNN ceremonies, cultural events and sacred sites are linked to a specific location and specific physical attributes. Once ceremonial, cultural or sacred sites are disturbed the ceremony, stories, history, cultural activity etc. associated with that site often cannot be replicated in a new location.

## **7.4 Accidents and Safety**

SNN Consultation Office identified a concern with the lack of a formal plan to respond to any accidents and safety risks that may impact SNN. Safety and emergency preparedness and response is of interest to the SNN Consultation Office due to the proximity of the Project components to the SNN IRs: The Bighorn IR 144a is located approximately 47 km and 49 km from the Brewster Section and the Nordegg Compressor Station unit addition respectively; and, Stoney IR 142-143-144 and 142b are approximately 54 km from the Didsbury Compressor Station unit addition.

The SNN Consultation Office also reported on previous experiences with accidents and the adverse effects to SNN members and the environment. The Consultation Manager recalled an accident in 2010 where a gas line leaked, and the natural gas blew onto the SNN IR 142, 143, 144. The accident negatively impacted the environment and the health of individuals and the response was not to the satisfaction of SNN.<sup>19</sup> Moreover, the accident also led to an increase in distrust of development projects.

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<sup>18</sup> Report presented by SNN at the AER Sullivan Field Sour Gas Development Hearing in 2009.

<sup>19</sup> Accident is also referenced in Letter sent July 5, 2013 to Minister of Energy Ken Hughes by Stoney Nakoda Nation in response to the *Responsible Energy Development Act*.



Photo: 19 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

## 8. Stoney Nakoda Nations Exercise of Section 35 Rights

Participants were asked to identify details concerning the exercise their Section 35 Rights including where they had harvested and participated in ceremonial activities or visited sacred sites in the in the vicinity of the Project.

Due to time and resource constraints, the Study Team focused on asking Participants to describe their exercise of Section 35 Rights in the vicinity of the following Project components:

- Grand Prairie West Area;
- Grand Prairie South Area;
- Edson South Area;
- Nordegg Compressor Station;
- Didsbury Compressor Station; and,
- Beiseker Compressor Station.

Participants were able to identify numerous land and resource sites where they currently<sup>20</sup> exercise their Section 35 Rights. Participants were also able to identify sites where SNN members exercised their Section 35 Rights in the past. These sites are indicated in Figure 21, 22, 23, 24, 25, and 26.

The Study Team notes the lack of site-specific evidence of land and resource use does not prove or disprove the existence of SNN Section 35 Rights.

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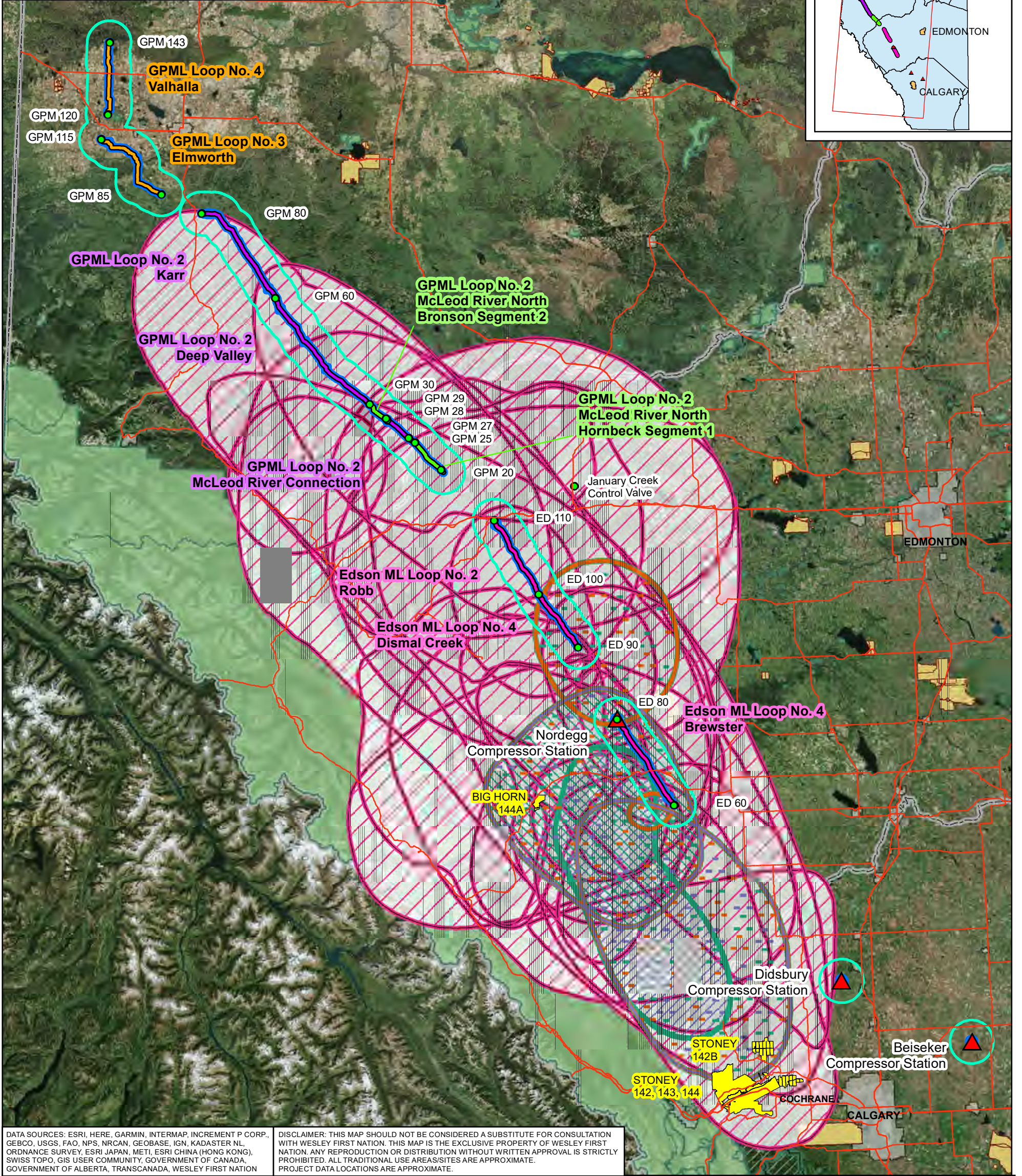
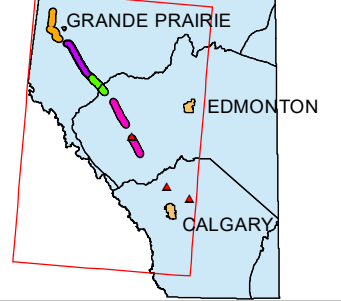
<sup>20</sup> Within the lifetime of the Participant.

Additionally, Participants were asked questions about why animals, fish, plants, berries, trees and rocks and minerals were of value to SNN. During the Workshops, it was noted by Workshop Attendees that not all community members participate in all harvesting activities (hunting, fishing, gathering) but that did not mean that they did not use harvested species or benefit from harvesting activities. One individual or group may physically hunt the animal, but it is shared with other community members who will then dry or cook the meat for food or to use in ceremonies, tan the hides or use in medicines. Similarly, for berries, plants, tree or tree products and minerals, someone with given knowledge on how to gather according to SNN natural laws or protocols may do the actual gathering, but it is used or consumed by other community members for medicine or healing, for food, for use in ceremonies or for various crafts. Based on this feedback, all Participants were asked questions about animals, fish, vegetation and minerals, their importance and their uses along with the exercise of their Section 35 Rights.

**Wesley First Nation**

2021 NGTL System Expansion Project  
 McLeod River North  
 Land and Resource Use - Hunting

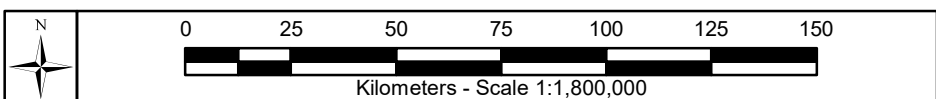
**Reference Map**



DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Legend	
	Stoney Nakoda Nations Reserve
	General Hunting
	Hunting - Deer
	Hunting - Elk
	Hunting - Moose
	Hunting - Sheep
	Hunting - Porcupine, Rabbit
	<b>2021 NGTL - Grande Prairie West Area</b> Valhalla, Elmworth Preliminary Route
	<b>2021 NGTL - Grande Prairie South Area</b> Karr, Deep Valley, McLeod River Preliminary Route
	<b>2021 NGTL - Edson South Area</b> Robb, Dismal Creek, Brewster Preliminary Route
	<b>GPML Loop No. 2 McLeod River North</b> Hornbeck Segment 1, Bronson Segment 2
	Mainline Valve Site
	Compressor Station
	LSA - Local Study Area Pipeline: 1.1 km corridor Compressor Station: 1.5 km radius
	RSA - Regional Study Area Pipeline: 20 km corridor Compressor Station: 10 km radius
	Protected Area
	Public Land Use Zone



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Prepared For: Wesley First Nation

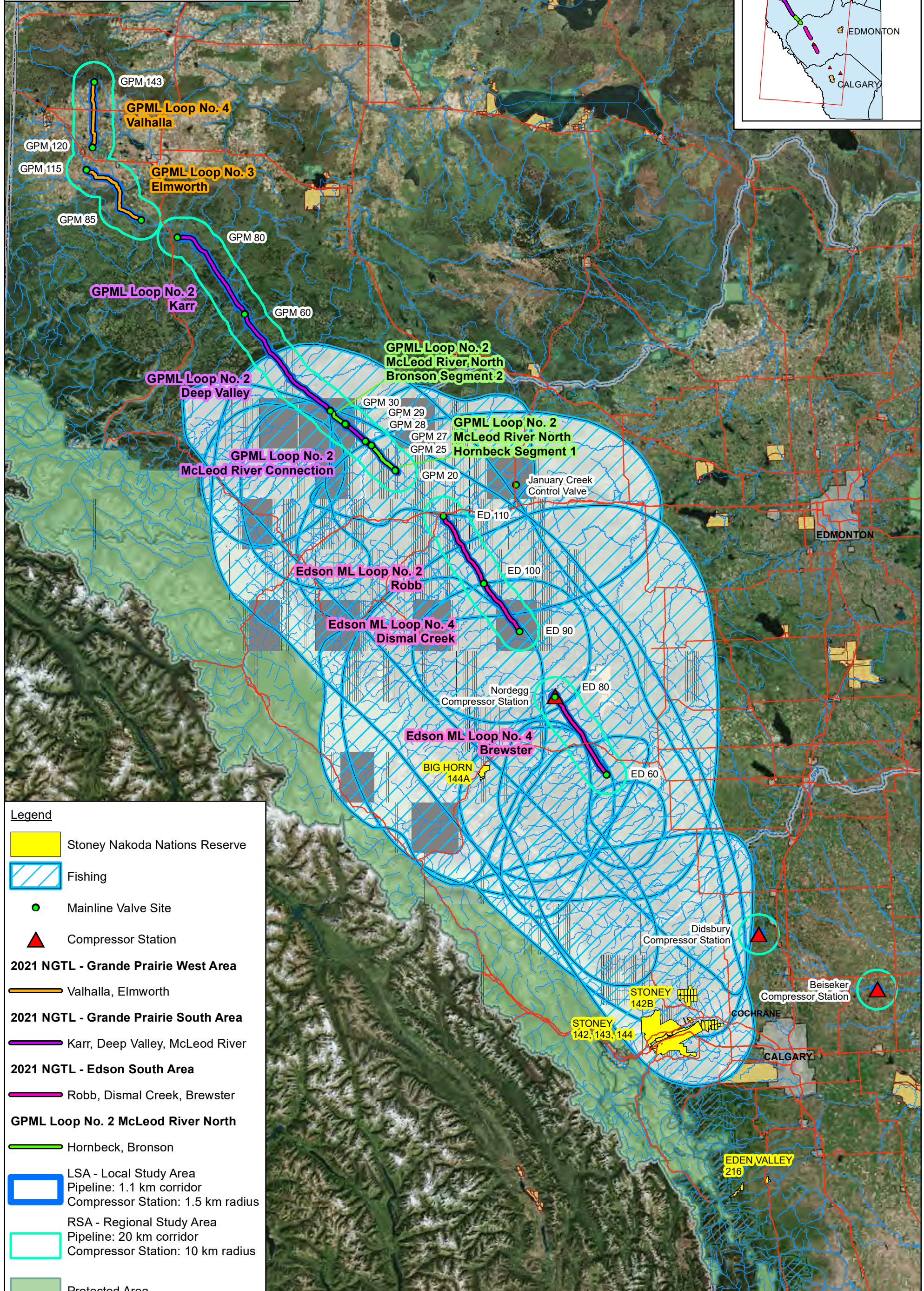
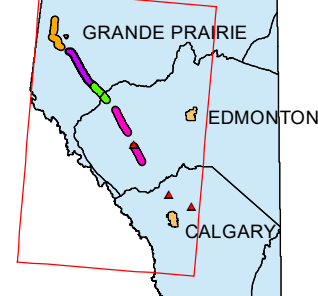
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Figure: 21

**Wesley First Nation**

2021 NGTL System Expansion Project  
 McLeod River North  
 Land and Resource Use - Fishing

**Reference Map**



**Legend**

- Stoney Nakoda Nations Reserve
- Fishing
- Mainline Valve Site
- Compressor Station

**2021 NGTL - Grande Prairie West Area**

- Valhalla, Elmworth

**2021 NGTL - Grande Prairie South Area**

- Karr, Deep Valley, McLeod River

**2021 NGTL - Edson South Area**

- Robb, Dismal Creek, Brewster

**GPML Loop No. 2 McLeod River North**

- Hornbeck, Bronson

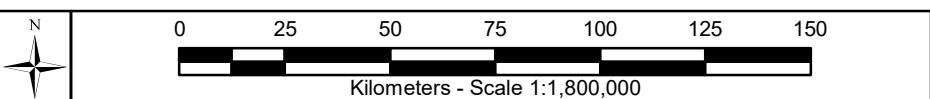
**LSA - Local Study Area**  
 Pipeline: 1.1 km corridor  
 Compressor Station: 1.5 km radius

**RSA - Regional Study Area**  
 Pipeline: 20 km corridor  
 Compressor Station: 10 km radius

- Protected Area
- Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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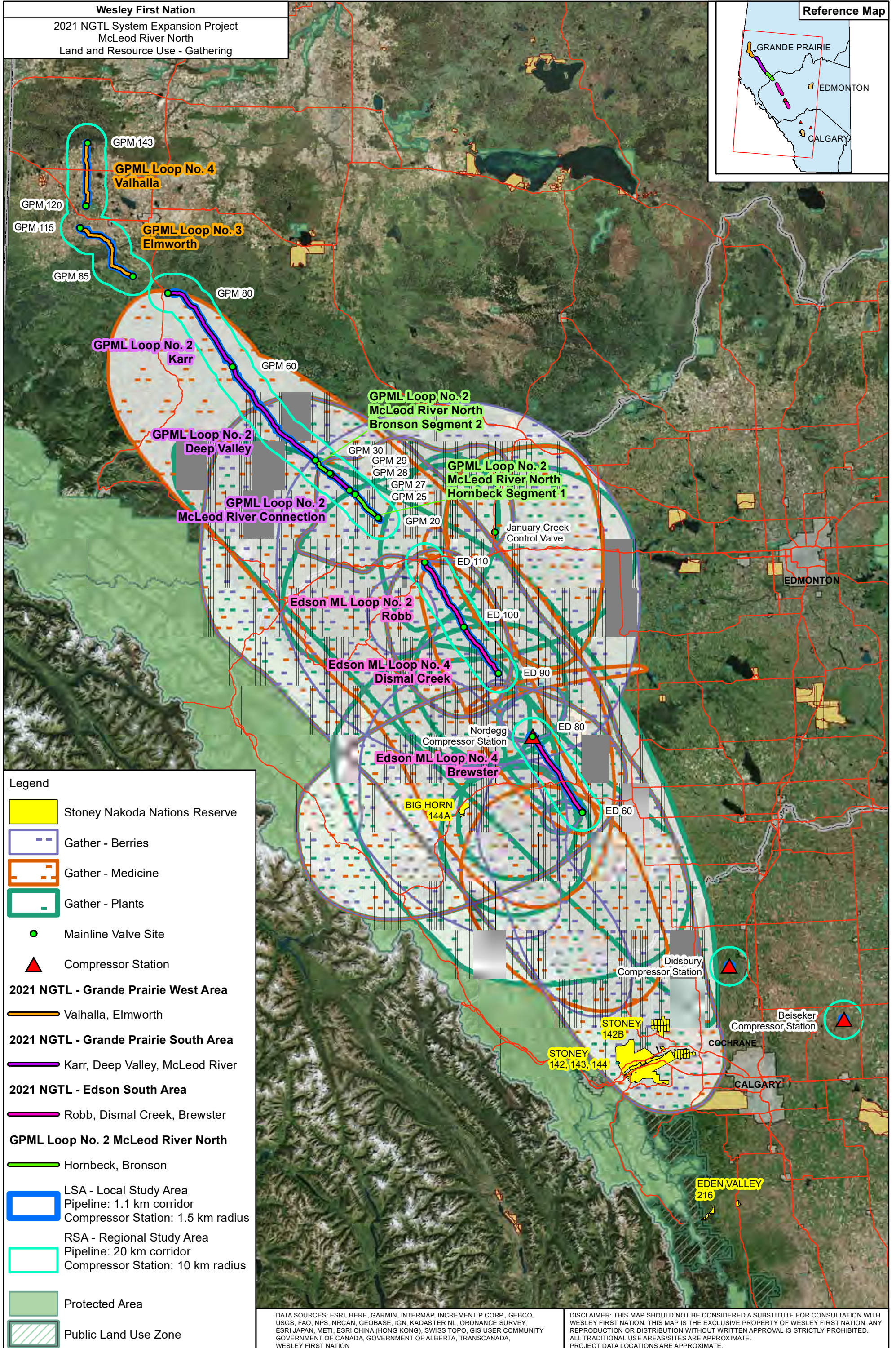
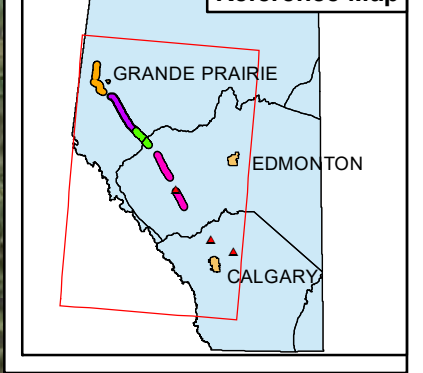
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Figure: 22

**Wesley First Nation**

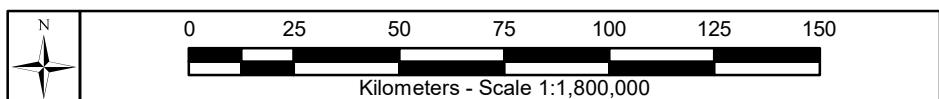
2021 NGTL System Expansion Project  
McLeod River North  
Land and Resource Use - Gathering

**Reference Map**



DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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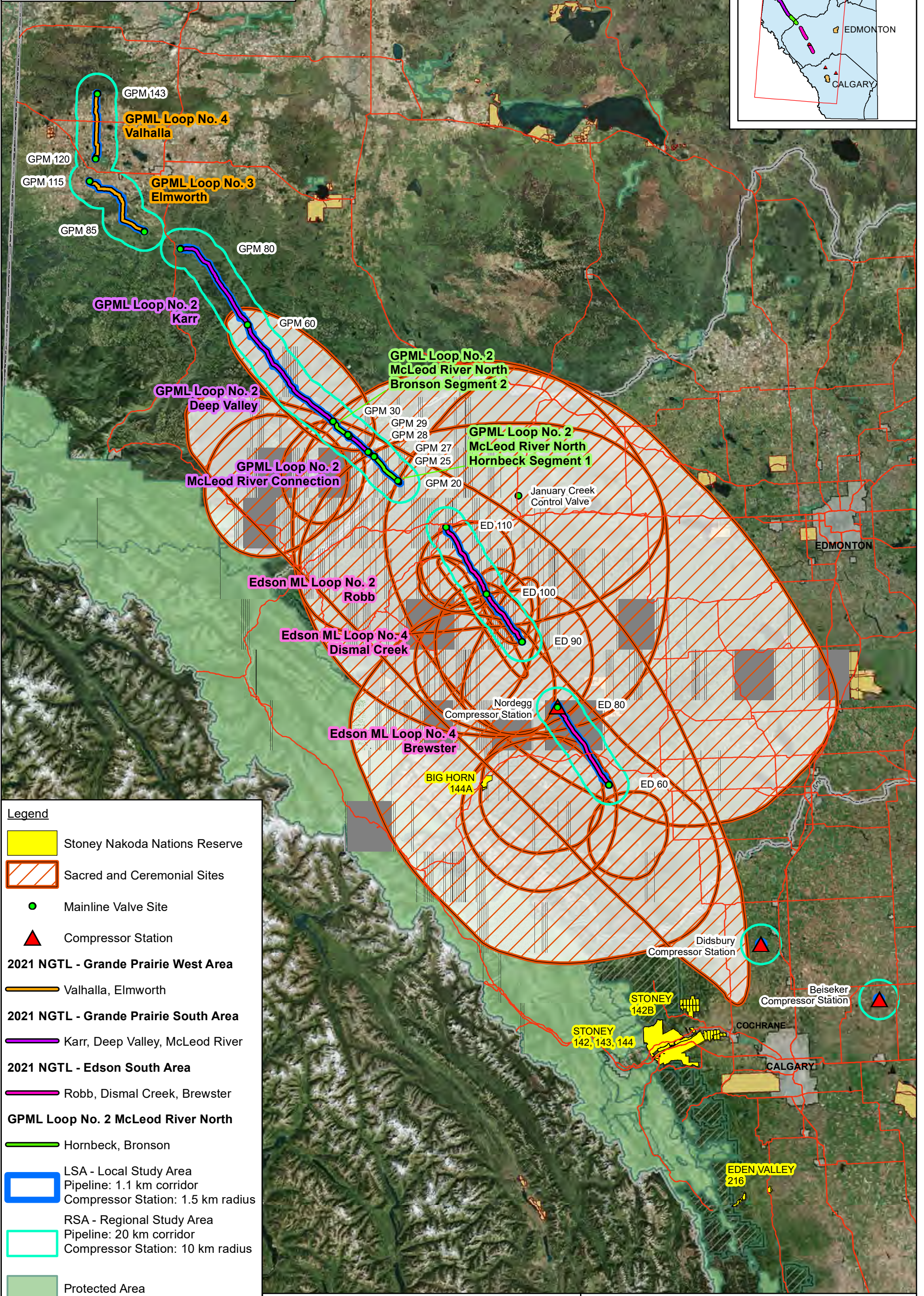
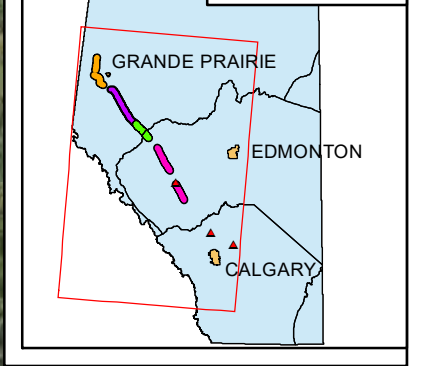
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Figure: 23

**Wesley First Nation**

2021 NGTL System Expansion Project  
 McLeod River North - Land and Resource Use  
 Ceremonial, Cultural and Sacred Sites

**Reference Map**



**Legend**

- Stoney Nakoda Nations Reserve
- Sacred and Ceremonial Sites
- Mainline Valve Site
- Compressor Station

**2021 NGTL - Grande Prairie West Area**

- Valhalla, Elmworth

**2021 NGTL - Grande Prairie South Area**

- Karr, Deep Valley, McLeod River

**2021 NGTL - Edson South Area**

- Robb, Dismal Creek, Brewster

**GPML Loop No. 2 McLeod River North**

- Hornbeck, Bronson

**LSA - Local Study Area**

- Pipeline: 1.1 km corridor
- Compressor Station: 1.5 km radius

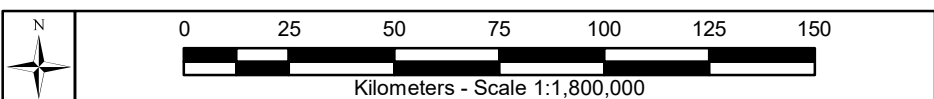
**RSA - Regional Study Area**

- Pipeline: 20 km corridor
- Compressor Station: 10 km radius

- Protected Area
- Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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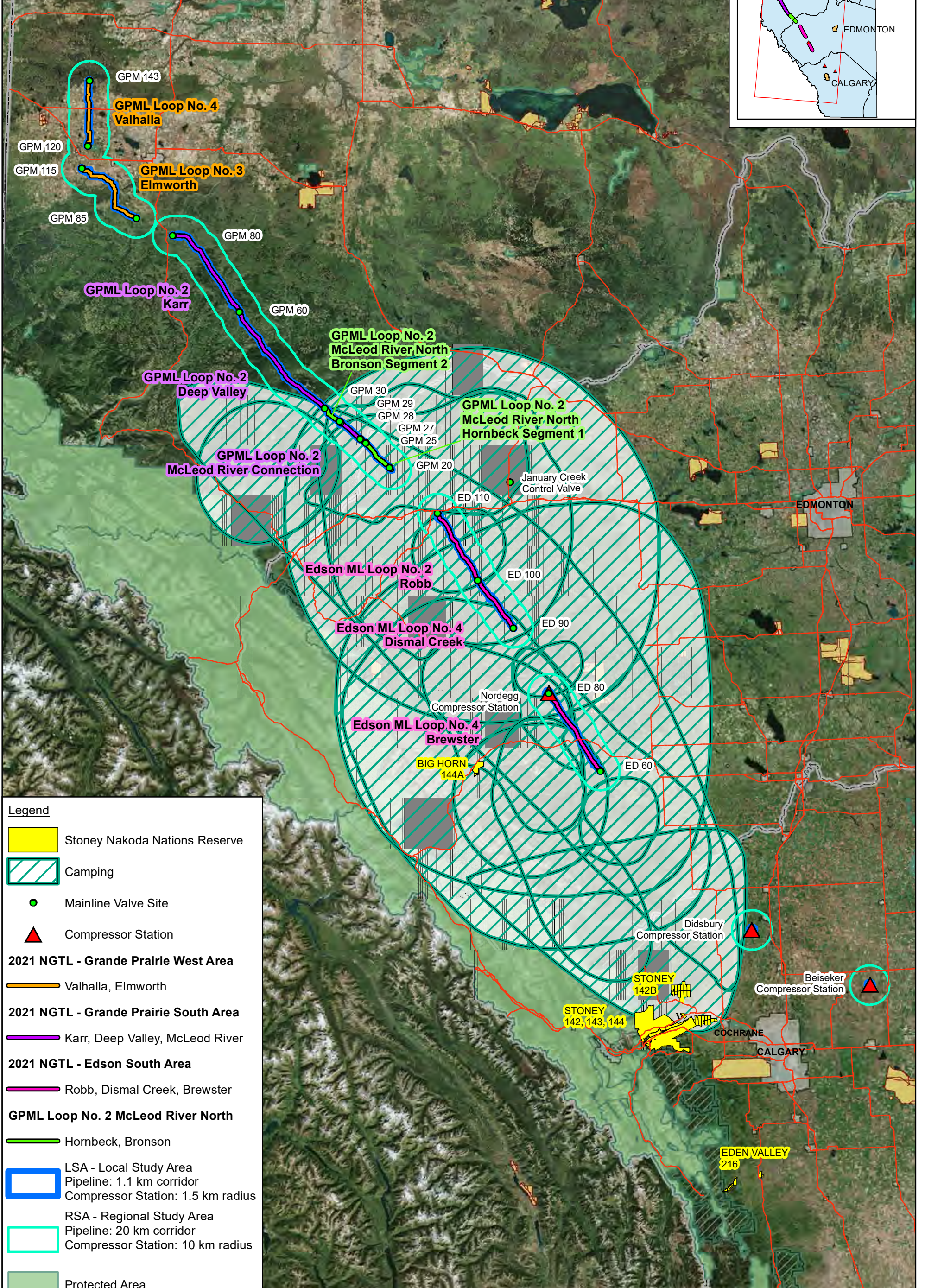
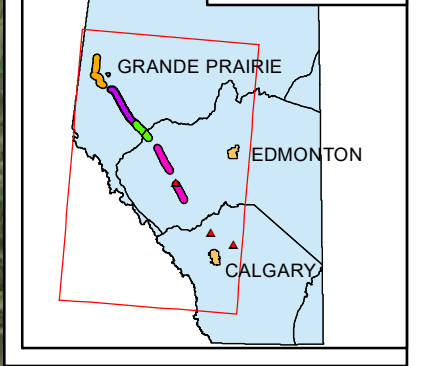
Prepared By: MNP LLP

Figure: 24

**Wesley First Nation**

2021 NGTL System Expansion Project  
McLeod River North  
Land and Resource Use - Camping

**Reference Map**

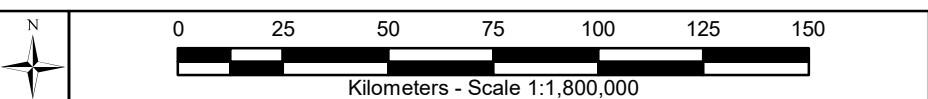


**Legend**

- Stoney Nakoda Nations Reserve
- Camping
- Mainline Valve Site
- Compressor Station
- 2021 NGTL - Grande Prairie West Area**
- Valhalla, Elmworth
- 2021 NGTL - Grande Prairie South Area**
- Karr, Deep Valley, McLeod River
- 2021 NGTL - Edson South Area**
- Robb, Dismal Creek, Brewster
- GPML Loop No. 2 McLeod River North**
- Hornbeck, Bronson
- LSA - Local Study Area**
- Pipeline: 1.1 km corridor  
Compressor Station: 1.5 km radius
- RSA - Regional Study Area**
- Pipeline: 20 km corridor  
Compressor Station: 10 km radius
- Protected Area
- Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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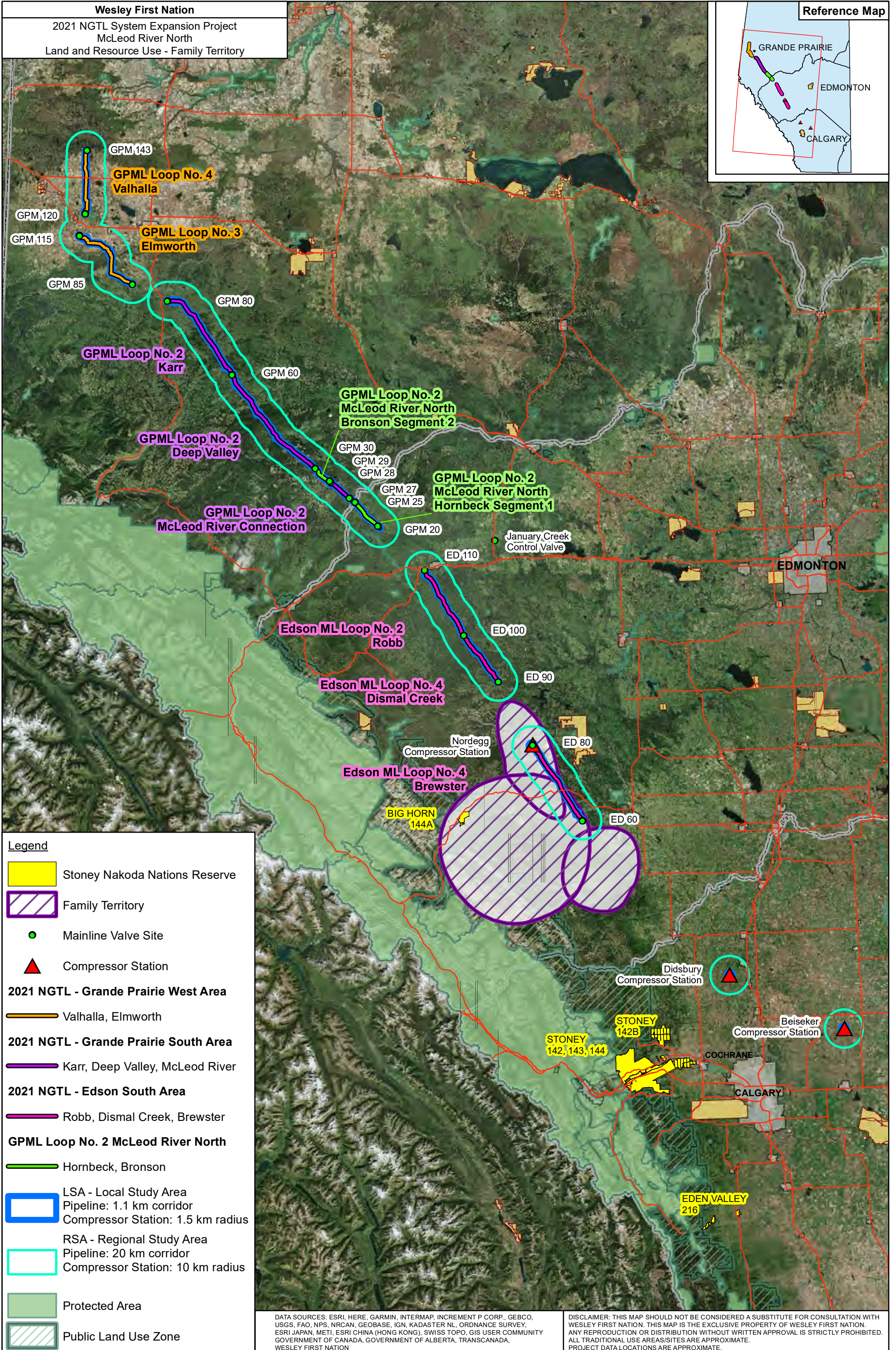
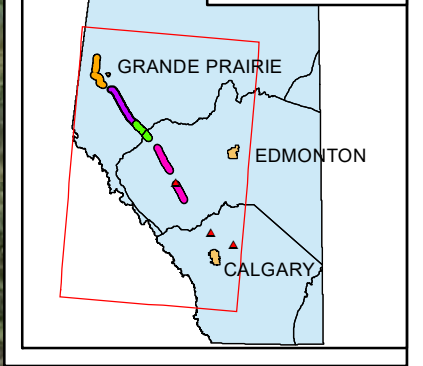
Figure: 25



**Wesley First Nation**

2021 NGTL System Expansion Project  
McLeod River North  
Land and Resource Use - Family Territory

**Reference Map**

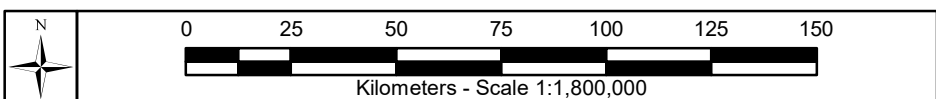


**Legend**

- Stoney Nakoda Nations Reserve
- Family Territory
- Mainline Valve Site
- Compressor Station
- 2021 NGTL - Grande Prairie West Area**
- Valhalla, Elmworth
- 2021 NGTL - Grande Prairie South Area**
- Karr, Deep Valley, McLeod River
- 2021 NGTL - Edson South Area**
- Robb, Dismal Creek, Brewster
- GPML Loop No. 2 McLeod River North**
- Hornbeck, Bronson
- LSA - Local Study Area**
- Pipeline: 1.1 km corridor  
Compressor Station: 1.5 km radius
- RSA - Regional Study Area**
- Pipeline: 20 km corridor  
Compressor Station: 10 km radius
- Protected Area
- Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDNANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY, GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Date: Feb 12, 2019  
Coordinate System: NAD83 11N

Prepared For: Wesley First Nation

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Figure: 26

## 8.1 Animals

Participants were asked during the interviews to identify animals that are of particular value or importance to them and/or to SNN. Participants were then asked if the animals they selected were 1) for food 2) for ceremony 3) for healing or medicines 4) for the fur, hides, feather or bones 5) for trading or sharing 6) for capturing and 7) important for Stoney Culture and Stoney Stories. The 16-animal species selected most frequently by Participants and their purposes are listed in Table 25.

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*“Every living animal is sacred to us. Because Creator has given us the gift to live with them, to live in harmony with them, to live in respect with them.” 40SN [WFN]*




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It is important to note that while Participants were asked to selectively choose animal species of value, Participants reported that all animals are very important to SNN.

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*“with animals, you barely see them now. Before it used to be all the time no matter what time of day it was. But now you’re lucky if you ever see a deer.” 20SN[WFN]*

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SNN Animal Species of Value	
 <p>Moose</p>	<p>Of the 42 Participants who selected moose, 42 Participants reported using moose for food, 32 Participants reported using moose for ceremony, 15 Participants reported using moose for healing or in medicines, 38 Participants reported using the moose hide and bones, 35 Participants reported trading or sharing moose and 35 Participants reported moose as being important for Stoney culture and Stoney stories.</p>
 <p>Elk</p>	<p>Of the 41 Participants who selected elk, 40 Participants reported using elk for food, 24 Participants reported using elk for ceremony, 13 Participants reported using elk for healing or in medicines, 37 Participants reported using the elk hide and bones, 33 Participants reported trading or sharing elk and 32 Participants reported elk as being important for Stoney culture and Stoney stories.</p>
 <p>Mule Deer</p>	<p>Of the 40 Participants who selected mule deer, 40 Participants reported using mule deer for food, 24 Participants reported using mule deer for ceremony, 15 Participants reported using mule deer for healing or in medicines, 36 Participants reported using the mule deer hide and bones, 35 Participants reported trading or sharing mule deer and 31 Participants reported mule deer as being important for Stoney culture and Stoney stories.</p>

SNN Animal Species of Value	
 Black Bear	Of the 37 Participants who selected black bear: 17 Participants reported using black bear for food, 26 Participants reported using black bear for ceremony, 31 Participants reported using black bear for healing or in medicines, 25 Participants reported using the black bear fur and/or bones, 15 Participants reported trading or sharing black bear and 35 Participants reported black bear as being important for Stoney culture and Stoney stories.
 Grizzly Bear	Of the 37 Participants who selected grizzly bear: 14 Participants reported using grizzly bear for food, 26 Participants reported using grizzly bear for ceremony, 27 Participants reported using grizzly bear for healing or in medicines, 24 Participants reported using the grizzly bear fur and/or bones, 13 Participants reported trading or sharing grizzly bear, 1 Participant reported capturing grizzly bears and 33 Participants reported grizzly bear as being important for Stoney culture and Stoney stories.
 Eagle (Golden, Bald)	Of the 33 Participants who selected eagle, 1 Participant reported using eagle for food, 29 Participants reported using eagle for ceremony, 13 Participants reported using eagle for healing or in medicines, 27 Participants reported using the eagle feathers and/or bones, 11 Participants reported trading or sharing eagle, 4 Participants reported capturing eagles and 31 Participants reported eagles as being important for Stoney culture and Stoney stories.
 White-tailed Deer	Of the 30 Participants who selected white-tailed deer, 29 Participants reported using white-tailed deer for food, 17 Participants reported using white-tailed deer for ceremony, 10 Participants reported using white-tailed deer for healing or in medicines, 25 Participants reported using the white-tailed deer hide and/or bones, 23 Participants reported trading or sharing white-tailed deer and 24 Participants reported white-tailed deer as being important for Stoney culture and Stoney stories.
 Beaver	Of the 28 Participants who selected beaver, 24 Participants reported using beaver for food, 10 Participants reported using beaver for ceremony, 12 Participants reported using beaver for healing or in medicines, 27 Participants reported using the beaver hide and/or bones, 19 Participants reported trading or sharing beaver and 23 Participants reported beaver as being important for Stoney culture and Stoney stories.
 Bison	Of the 25 Participants who selected bison, 19 Participants reported using bison for food, 23 Participants reported using bison for ceremony, 13 Participants reported using bison for healing or in medicines, 20 Participants reported using the bison hide and/or bones, 17 Participants reported trading or sharing bison and 25 Participants reported bison as being important for Stoney culture and Stoney stories.
 Wild Horse	Of the 24 Participants who selected wild horses, 1 Participant reported using wild horses for food, 5 Participants reported using wild horses for ceremony, 1 Participants reported using wild horses for healing or in medicines, 1 Participant reported using the wild horses hide and/or bones, 8 Participants reported trading or sharing wild horses, 16 Participants reported capturing wild horses and 19 Participants reported wild horses as being important for Stoney culture and Stoney stories.







SNN Animal Species of Value	
 Cougar	Of the 23 Participants who selected cougar, 6 Participants reported using cougar for food, 9 Participants reported using cougar for ceremony, 9 Participants reported using cougar for healing or in medicines, 19 Participants reported using the cougar fur and/or bones, 12 Participants reported trading or sharing cougar and 18 Participants reported cougar as being important for Stoney culture and Stoney stories.
 Grouse (Roughed, Sharptail, Spruce, Blue)	Of the 19 Participants who selected grouse, 19 Participants reported using grouse for food, 10 Participants reported using grouse for ceremony, 5 Participants reported using grouse for healing or in medicines, 14 Participants reported using the grouse fur and/or bones, 11 Participants reported trading or sharing grouse and 14 Participants reported grouse as being important for Stoney culture and Stoney stories.
 Geese (Canada etc.)	Of the 18 Participants who selected geese, 17 Participants reported using geese for food, 9 Participants reported using geese for ceremony, 3 Participants reported using geese for healing or in medicines, 14 Participants reported using the geese fur and/or bones, 5 Participants reported trading or sharing geese and 14 Participants reported geese as being important for Stoney culture and Stoney stories.
 Big Horn Sheep	Of the 17 Participants who selected bighorn sheep, 16 Participants reported using bighorn sheep for food, 9 Participants reported using bighorn sheep for ceremony, 8 Participants reported using bighorn sheep for healing or in medicines, 12 Participants reported using the bighorn sheep fur and/or bones, 11 Participants reported trading or sharing bighorn sheep and 16 Participants reported bighorn sheep as being important for Stoney culture and Stoney stories.
 Timberwolf	Of the 17 Participants who selected wolf, no participants reported using wolf for food, 8 Participants reported using wolf for ceremony, 2 Participants reported using wolf for healing or in medicines, 14 Participants reported using the wolf fur and/or bones, 12 Participants reported trading or sharing wolf and 14 Participants reported wolf as being important for Stoney culture and Stoney stories.
 Ducks (Mallard, Black)	Of the 16 Participants who selected ducks, 14 participants reported using ducks for food, 7 Participants reported using ducks for ceremony, 2 Participants reported using ducks for healing or in medicines, 11 Participants reported using the duck feathers and/or bones, 7 Participants reported trading or sharing ducks and 11 Participants reported ducks as being important for Stoney culture and Stoney stories.

Table 25: SNN Animal Species of Value

## 8.2 Hunting

All 43 Participants were asked the question “Are you a hunter?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of hunting-related questions. If the Participant answered “no” the hunting related-questions were skipped.

Of the 43 Participants, 31 Participants indicated that they are or were a hunter. Participants reported hunting animals including but not limited to, moose, elk, mule deer, porcupine, bighorn sheep, geese and ducks. Participants reported hunting on Crown lands, private lands, and on IRs.

Participants identified areas on a composite map where they hunt in relation to the Project Footprint, LSA and RSA:

- 23 SNN hunting sites were identified in the Project Footprint
- 23 SNN hunting sites were identified in the LSA
- 29 SNN hunting sites were identified in the RSA

Refer to Appendix F for further details on hunting sites identified by Participants.

Participants discussed the importance of hunting as a central part of SNN culture. Participant 25SN talked about teaching their grandkids to hunt and the importance of passing down knowledge and teaching younger generations how to respect the land and the animals. Participants 2SN, 8SN, 37SN and 43SN reported that in order to pass down knowledge and cultural teachings and stories to younger generations, it is essential to be out on the land and to access traditional sites.



Photo: 20 SNN Hunting Camp, Eden Vallev AB. MNP LLP/Bill Marsh

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*“if you take a child out hunting then you’re offering that child a course in biology, a course in history, a course in spirituality, passing on knowledge. And this is all done in your own language. Naming body parts, explaining how the animal anatomy, explaining how blood vessels work – how veins work, how the digestive system in an animal works. You know, you are teaching that child and that’s how children learn. And when you take everything away, you’re taking everything away from the future generations to come” 3SN [WFN]*

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Participants expressed concern with the decrease in quality and quantity of animals. Participants 4SN, 20SN, 24SN, 32SN, 41SN reported that the animals appear to be sick, noting a change in the colour of the meat or finding white lumps in the meat that they have only recently started seeing. Participants 1SN, 6SN, 30SN and 37SN noted that they have seen a decrease in the certain of animal species including moose, deer, and elk present in Stoney traditional territory, making it more difficult to hunt.

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*“Nowadays the animals, they’re not that healthy. Like some of them eat those herbicides” 15SN [WFN]*

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### 8.3 Fish

Participants were asked during the interviews to identify fish that are of particular value or importance to them and/or to SNN. Participants were then asked if the fish they selected were 1) for food 2) for ceremony 3) for healing or medicines 4) for crafts 5) for trading or sharing and/or 6) important for Stoney Culture and Stoney Stories. The top fish species selected most frequently by Participants and their purposes are listed in Table 26.

It is important to note that while Participants were asked to selectively choose fish species of value, Participants reported that all fish are very important to SNN.

SNN Fish Species of Value	
 Rainbow Trout	<p>Of the 35 Participants who selected rainbow trout, 35 reported using rainbow trout for food, 16 Participants reported using rainbow trout for ceremony, 10 Participants reported using rainbow trout for healing or in medicines, 5 Participants reported using rainbow trout for crafts, 26 Participants reported trading or sharing rainbow trout and 27 Participants reported rainbow trout as being important for Stoney culture and Stoney stories.</p>
 Bull Trout	<p>Of the 23 Participants who selected rainbow trout, 23 reported using rainbow trout for food, 10 Participants reported using rainbow trout for ceremony, 6 Participants reported using rainbow trout for healing or in medicines, 4 Participants reported using rainbow trout for crafts, 14 Participants reported trading or sharing rainbow trout and 19 Participants reported rainbow trout as being important for Stoney culture and Stoney stories.</p>
 Brook Trout	<p>Of the 20 Participants who selected brook trout, 18 Participants reported using brook trout for food, 8 Participants reported using brook trout for ceremony, 7 Participants reported using brook trout for healing or in medicines, 4 Participants reported using brook trout for crafts, 13 Participants reported trading or sharing brook trout and 16 Participants reported brook trout as being important for Stoney culture and Stoney stories.</p>
 Mountain Whitefish	<p>Of the 19 Participants who selected mountain whitefish, 16 Participants reported using mountain whitefish for food, 7 Participants reported using mountain whitefish for ceremony, 5 Participants reported using mountain whitefish for healing or in medicines, 4 Participants reported using mountain whitefish for crafts, 14 Participants reported trading or sharing mountain whitefish and 14 Participants reported mountain whitefish as being important for Stoney culture and Stoney stories.</p>
 Cutthroat Trout	<p>Of the 15 Participants who selected cutthroat trout, 14 Participants reported using cutthroat trout for food, 7 Participants reported using cutthroat trout for ceremony, 5 Participants reported using cutthroat trout for healing or in medicines, 3 Participants reported using cutthroat trout for crafts, 10 Participants reported trading or sharing cutthroat trout and 13 Participants reported cutthroat trout as being important for Stoney culture and Stoney stories.</p>
 Lake Trout	<p>Of the 15 Participants who selected lake trout, 15 Participants reported using lake trout for food, 8 Participants reported using lake trout for ceremony, 5 Participants reported using lake trout for healing or in medicines, 3 Participants reported using lake trout for crafts, 11 Participants reported trading or sharing lake trout and 13 Participants reported lake trout as being important for Stoney culture and Stoney stories.</p>
 Lake Whitefish	<p>Of the 13 Participants who selected lake whitefish, 10 Participants reported using lake whitefish for food, 3 Participants reported using lake whitefish for ceremony, 3 Participants reported using lake whitefish for healing or in medicines, 2 Participants reported using lake whitefish for crafts, 7 Participants reported trading or sharing lake whitefish and 9 Participants reported lake whitefish as being important for Stoney culture and Stoney stories.</p>
 Arctic Grayling	<p>Of the 9 Participants who selected arctic grayling, 8 Participants reported using arctic grayling for food, 5 Participants reported using arctic grayling for ceremony, 2 Participants reported using arctic grayling for healing or in medicines, 1 Participant reported using arctic grayling for crafts, 5 Participants reported trading or sharing arctic grayling and 4 Participants reported arctic grayling as being important for Stoney culture and Stoney stories.</p>
 Suckers and Chubs	<p>Of the 7 Participants who selected suckers and chubs, 6 Participants reported using suckers and chubs for food, 3 Participants reported using suckers and chubs for ceremony, 2 Participants reported using suckers and chubs for healing or in medicines, 1 Participants reported using suckers and chubs for crafts, 5 Participants reported trading or sharing suckers and chubs and 5 Participants reported suckers and chubs as being important for Stoney culture and Stoney stories.</p>


SNN Fish Species of Value	
 <p>Northern Pike (Jackfish)</p>	<p>Of the 5 Participants who selected northern pike, 5 Participants reported using northern pike for food, 3 Participants reported using northern pike for ceremony, 3 Participants reported using northern pike for healing or in medicines, 1 Participants reported using northern pike for crafts, 3 Participants reported trading or sharing northern pike and 4 Participants reported northern pike as being important for Stoney culture and Stoney stories.</p>

Table 26: SNN Fish Species of Value

## 8.4 Fishing

All 43 Participants were asked the question “Are you a fisher?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of fishing-related questions. If the Participant answered “no” the fishing related-questions were skipped.

Of the 43 Participants, 34 Participants indicated that they fish or fished in the past. 13 Participants reported ice fishing, 6 Participants reported net fishing, 30 Participants reported angle fishing and 13 Participants reported snare fishing. Participants reported fishing on Crown lands, private lands and on IRs.

Participants identified areas on a composite map where they hunt in relation to the Project Footprint, LSA and RSA:

- 9 SNN fishing sites were identified in the Project Footprint
- 10 SNN fishing sites were identified in the LSA
- 14 SNN fishing sites were identified in the RSA

Refer to Appendix F for further details on fishing sites identified by Participants.

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*“I’m personally a little hesitant eating the fish now” 37SN [WFN]*

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Participants reported being concerned with a decline in quality and quantity of fish. Participants 4SN 5SN, 7SN, and 28SN reported noticing changes to the quality of fish, noting they now appear sick and smaller in size, attributing water pollution and low water levels from development as the cause. Participants 1SN, 17SN, 20SN, 33SN, and 34SN reported seeing fewer fish around in areas where they used to see plenty.

## 8.5 Berries, Plants, Trees, Rocks and Minerals

### 8.5.1 Berries

Participants were asked during the interviews to identify berries that are of particular value or importance to them and/or to SNN. Participants were then asked if the berries they selected were 1) for food 2) for ceremony 3) for healing or medicines 4) for crafts 5) for trading or sharing and/or 6) important for Stoney Culture and Stoney Stories. The 10 berry species selected most frequently by Participants and their purposes are listed in Table 27.

It is important to note that while Participants were asked to selectively choose berry species of value, Participants reported that all berries are very important to SNN.

SNN Berry Species of Value	
 <p>Blueberry</p>	<p>Of the 42 Participants who selected blueberries, 42 Participants reported using blueberries for food, 37 Participants reported using blueberries for ceremony, 24 Participants reported using blueberries for healing or in medicines, 4 Participants reported using blueberries for crafts, 38 Participants reported trading or sharing blueberries and 39 Participants reported blueberries as being important for Stoney culture and Stoney stories.</p>
 <p>Saskatoon Berry</p>	<p>Of the 37 Participants who selected saskatoon berries, 37 Participants reported using saskatoon berries for food, 33 Participants reported using saskatoon berries for ceremony, 19 Participants reported using saskatoon berries for healing or in medicines, 4 Participants reported using saskatoon berries for crafts, 30 Participants reported trading or sharing saskatoon berries and 32 Participants reported saskatoon berries as being important for Stoney culture and Stoney stories.</p>
 <p>Raspberry</p>	<p>Of the 35 Participants who selected raspberries, 35 Participants reported using raspberries for food, 30 Participants reported using raspberries for ceremony, 20 Participants reported using raspberries for healing or in medicines, 4 Participants reported using raspberries for crafts, 28 Participants reported trading or sharing raspberries and 30 Participants reported raspberries as being important for Stoney culture and Stoney stories.</p>
 <p>Strawberry</p>	<p>Of the 34 Participants who selected strawberries, 34 Participants reported using strawberries for food, 27 Participants reported using strawberries for ceremony, 21 Participants reported using strawberries for healing or in medicines, 4 Participants reported using strawberries for crafts, 28 Participants reported trading or sharing strawberries and 28 Participants reported strawberries as being important for Stoney culture and Stoney stories.</p>
 <p>Low-bush Cranberry</p>	<p>Of the 33 Participants who selected low-bush cranberries, 32 Participants reported using low-bush cranberries for food, 29 Participants reported using low-bush cranberries for ceremony, 18 Participants reported using low-bush cranberries for healing or in medicines, 4 Participants reported using low-bush cranberries for crafts, 28 Participants reported trading or sharing low-bush cranberries and 29 Participants reported low-bush cranberries as being important for Stoney culture and Stoney stories.</p>
 <p>Chokecherry</p>	<p>Of the 29 Participants who selected chokecherries, 28 Participants reported using chokecherries for food, 22 Participants reported using chokecherries for ceremony, 16 Participants reported using chokecherries for healing or in medicines, 3 Participants reported using chokecherries for crafts, 25 Participants reported trading or sharing chokecherries and 26 Participants reported chokecherries as being important for Stoney culture and Stoney stories.</p>














SNN Berry Species of Value	
 High-bush Cranberry	Of the 27 Participants who selected high-bush cranberries, 26 Participants reported using high-bush cranberries for food, 22 Participants reported using high-bush cranberries for ceremony, 12 Participants reported using high-bush cranberries for healing or in medicines, 3 Participants reported using high-bush cranberries for crafts, 23 Participants reported trading or sharing high-bush cranberries and 24 Participants reported high-bush cranberries as being important for Stoney culture and Stoney stories.
 Gooseberry	Of the 24 Participants who selected high-bush cranberries, 23 Participants reported using high-bush cranberries for food, 17 Participants reported using high-bush cranberries for ceremony, 12 Participants reported using high-bush cranberries for healing or in medicines, 2 Participants reported using high-bush cranberries for crafts, 20 Participants reported trading or sharing high-bush cranberries and 18 Participants reported high-bush cranberries as being important for Stoney culture and Stoney stories.
 Huckleberry	Of the 23 Participants who selected huckleberries, 21 Participants reported using huckleberries for food, 17 Participants reported using huckleberries for ceremony, 14 Participants reported using huckleberries for healing or in medicines, 3 Participants reported using huckleberries for crafts, 17 Participants reported trading or sharing huckleberries and 20 Participants reported huckleberries as being important for Stoney culture and Stoney stories.
 Juniper Berry	Of the 14 Participants who selected huckleberries, 8 Participants reported using huckleberries for food, 9 Participants reported using huckleberries for ceremony, 7 Participants reported using huckleberries for healing or in medicines, 3 Participants reported using huckleberries for crafts, 12 Participants reported trading or sharing huckleberries and 12 Participants reported huckleberries as being important for Stoney culture and Stoney stories.

Table 27: SNN Berry Species of Value

### 8.5.2 Plants

Participants were asked during the interviews to identify plants that are of particular value or importance to them and/or to SNN. Participants were then asked if the plants they selected were 1) for food 2) for ceremony 3) for healing or medicines 4) for trading or sharing and/or 5) important for Stoney culture and Stoney stories. The 10 plant species selected most frequently by Participants and their purposes are listed in Table 28.

It is important to note that while Participants were asked to selectively choose plant species of value, Participants reported that all plants are very important to SNN.

SNN Plant Species of Value	
 Sweetgrass	Of the 35 Participants who selected sweetgrass, 2 Participants reported using sweetgrass for food, 32 Participants reported using sweetgrass for ceremony, 23 Participants reported using sweetgrass for healing or in medicines, 17 Participants reported trading or sharing sweetgrass and 30 Participants reported sweetgrass as being important for Stoney culture and Stoney stories.
 Rat Root	Of the 31 Participants who selected rat root, 6 Participants reported using rat root for food, 21 Participants reported using rat root for ceremony, 30 Participants reported using rat root for healing or in medicines, 15 Participants reported trading or sharing rat root and 26 Participants reported rat root as being important for Stoney culture and Stoney stories.
 Pasture Sage	Of the 29 Participants who selected pasture sage, 5 Participants reported using pasture sage for food, 26 Participants reported using pasture sage for ceremony, 19 Participants reported using pasture sage for healing or in medicines, 13 Participants reported trading or sharing pasture sage and 23 Participants reported pasture sage as being important for Stoney culture and Stoney stories.
 Labrador Tea	Of the 24 Participants who selected Labrador tea, 14 Participants reported using Labrador tea for food, 14 Participants reported using Labrador tea for ceremony, 18 Participants reported using Labrador tea for healing or in medicines, 15 Participants reported trading or sharing Labrador tea and 19 Participants reported Labrador tea as being important for Stoney culture and Stoney stories.
 Mountain Sage	Of the 24 Participants who selected mountain sage, 5 Participants reported using mountain sage for food, 22 Participants reported using mountain sage for ceremony, 18 Participants reported using mountain sage for healing or in medicines, 12 Participants reported trading or sharing mountain sage and 21 Participants reported mountain sage as being important for Stoney culture and Stoney stories.
 Buffalo Sage	Of the 24 Participants who selected buffalo sage, 4 Participants reported using buffalo sage for food, 21 Participants reported using buffalo sage for ceremony, 20 Participants reported using buffalo sage for healing or in medicines, 12 Participants reported trading or sharing buffalo sage and 21 Participants reported buffalo sage as being important for Stoney culture and Stoney stories.
 Mint	Of the 20 Participants who selected mint, 15 Participants reported using mint for food, 11 Participants reported using mint for ceremony, 17 Participants reported using mint for healing or in medicines, 10 Participants reported trading or sharing mint and 16 Participants reported mint as being important for Stoney culture and Stoney stories.











SNN Plant Species of Value	
 Bear Root	Of the 19 Participants who selected bear root, 3 Participants reported using bear root for food, 10 Participants reported using bear root for ceremony, 15 Participants reported using bear root for healing or in medicines, 8 Participants reported trading or sharing bear root and 14 Participants reported bear root as being important for Stoney culture and Stoney stories.
 Wild Onion	Of the 18 Participants who selected wild onion, 17 Participants reported using wild onion for food, 5 Participants reported using wild onion for ceremony, 6 Participants reported using wild onion for healing or in medicines, 6 Participants reported trading or sharing wild onion and 9 Participants reported wild onion as being important for Stoney culture and Stoney stories.
 Cow Parsnips	Of the 14 Participants who selected cow parsnip, 6 Participants reported using cow parsnip for food, 5 Participants reported using cow parsnip for ceremony, 8 Participants reported using cow parsnip for healing or in medicines, 6 Participants reported trading or sharing cow parsnip and 9 Participants reported cow parsnip as being important for Stoney culture and Stoney stories.
 Prickly Rose	Of the 14 Participants who selected cow parsnip, 6 Participants reported using cow parsnip for food, 4 Participants reported using cow parsnip for ceremony, 9 Participants reported using cow parsnip for healing or in medicines, 4 Participants reported trading or sharing cow parsnip and 11 Participants reported cow parsnip as being important for Stoney culture and Stoney stories.

Table 28: SNN Plant Species of Value

### 8.5.3 Tree and Tree Products

Participants were asked during the interviews to identify tree and tree products that are of particular value or importance to them and/or to SNN. Participants were then asked if the tree and tree products they selected were 1) for food 2) for ceremony 3) for healing or medicines 4) for crafts 5) for trading or sharing and/or 6) important for Stoney culture and Stoney stories. The 10 tree and tree products selected most frequently by Participants and their purposes are listed in Table 29.

It is important to note that while Participants were asked to selectively choose tree and tree products of value, Participants reported that all trees and tree products are very important to SNN.

SNN Tree and Tree Products of Value	
 Diamond Willow Fungus	<p>Of the 26 Participants who selected diamond willow fungus, 1 Participant reported using diamond willow fungus for food, 20 Participants reported using diamond willow fungus for ceremony, 16 Participants reported using diamond willow fungus for healing or in medicines, 2 reported using diamond willow fungus for crafts, 10 Participants reported trading or sharing diamond willow fungus and 22 Participants reported diamond willow fungus as being important for Stoney culture and Stoney stories.</p>
 White Birch (Paper Birch)	<p>Of the 24 Participants who selected white birch, 6 Participants reported using white birch for food, 15 Participants reported using white birch for ceremony, 13 Participants reported using white birch for healing or in medicines, 6 reported using white birch for crafts, 10 Participants reported trading or sharing white birch and 19 Participants reported white birch as being important for Stoney culture and Stoney stories.</p>
 Poplar (Balsam, Black)	<p>Of the 24 Participants who selected poplar, 13 Participants reported using poplar for food, 15 Participants reported using poplar for ceremony, 9 Participants reported using poplar for healing or in medicines, 5 reported using poplar for crafts, 10 Participants reported trading or sharing poplar and 20 Participants reported poplar as being important for Stoney culture and Stoney stories.</p>
 Diamond Willow	<p>Of the 24 Participants who selected diamond willow, 11 Participants reported using diamond willow for food, 10 Participants reported using diamond willow for ceremony, 5 Participants reported using diamond willow for healing or in medicines, 4 reported using diamond willow for crafts, 9 Participants reported trading or sharing diamond willow and 17 Participants reported diamond willow as being important for Stoney culture and Stoney stories.</p>
 Cedar	<p>Of the 22 Participants who selected cedar, 2 Participants reported using cedar for food, 15 Participants reported using cedar for ceremony, 17 Participants reported using cedar for healing or in medicines, 3 reported using cedar for crafts, 11 Participants reported trading or sharing cedar and 19 Participants reported cedar as being important for Stoney culture and Stoney stories.</p>
 Balsam Fir	<p>Of the 20 Participants who selected balsam fir, 13 Participants reported using balsam fir for food, 15 Participants reported using balsam fir for ceremony, 9 Participants reported using balsam fir for healing or in medicines, 5 reported using balsam fir for crafts, 10 Participants reported trading or sharing balsam fir and 20 Participants reported balsam fir as being important for Stoney culture and Stoney stories.</p>







SNN Tree and Tree Products of Value	
 Spruce (Black, White)	<p>Of the 20 Participants who selected spruce, 1 Participant reported using spruce for food, 8 Participants reported using spruce for ceremony, 11 Participants reported using spruce for healing or in medicines, 6 reported using spruce for crafts, 10 Participants reported trading or sharing spruce and 17 Participants reported spruce as being important for Stoney culture and Stoney stories.</p>
 Red Willow	<p>Of the 17 Participants who selected red willow, 3 Participants reported using red willow for food, 8 Participants reported using red willow for ceremony, 6 Participants reported using red willow for healing or in medicines, 1 reported using red willow for crafts, 6 Participants reported trading or sharing red willow and 11 Participants reported red willow as being important for Stoney culture and Stoney stories.</p>
 Lodgepole Pine	<p>Of the 17 Participants who selected lodgepole pine, no Participants reported using lodgepole pine for food, 8 Participants reported using lodgepole pine for ceremony, 8 Participants reported using lodgepole pine for healing or in medicines, 4 reported using lodgepole pine for crafts, 6 Participants reported trading or sharing lodgepole pine and 14 Participants reported lodgepole pine as being important for Stoney culture and Stoney stories.</p>
 Douglas Fir	<p>Of the 16 Participants who selected Douglas fir, 1 Participant reported using Douglas fir for food, 5 Participants reported using Douglas fir for ceremony, 10 Participants reported using Douglas fir for healing or in medicines, 2 reported using Douglas fir for crafts, 6 Participants reported trading or sharing Douglas fir and 13 Participants reported Douglas fir as being important for Stoney culture and Stoney stories.</p>
 Aspen (White Poplar, Trembling Aspen)	<p>Of the 15 Participants who selected aspen, 3 Participant reported using aspen for food, 10 Participants reported using aspen for ceremony, 7 Participants reported using aspen for healing or in medicines, 1 reported using aspen for crafts, 7 Participants reported trading or sharing aspen and 13 Participants reported aspen as being important for Stoney culture and Stoney stories.</p>
 Jack Pine	<p>Of the 15 Participants who selected jack pine, no Participants reported using jack pine for food, 4 Participants reported using jack pine for ceremony, 5 Participants reported using jack pine for healing or in medicines, 6 reported using jack pine for crafts, 6 Participants reported trading or sharing jack pine and 10 Participants reported jack pine as being important for Stoney culture and Stoney stories.</p>






Table 29: SNN Tree Species of Value

**8.5.4 Rocks and Minerals**

Participants were asked during the interviews to identify rocks and minerals that are of particular value or importance to them and/or to SNN. Participants were then asked if the rocks and water they selected were 1) for drinking 2) for ceremony 3) for healing or medicines 4) for heating 5) for trading or sharing and/or 6) important for Stoney culture and Stoney stories. The 10 rocks and minerals selected most frequently by Participants and their purposes are listed in Table 30.

It is important to note that while Participants were asked to selectively choose rocks and minerals of value, the Participants reported that all rocks and water are very important to SNN.

*“Spring water is considered sacred to us” 3SN [WFN]*

SNN Rocks and Minerals of Value	
 Spring Water	Of the 35 Participants who selected spring water, 29 Participants reported using spring water for drinking, 24 Participants reported using spring water for ceremony, 20 Participants reported using spring water for healing or in medicines, 3 reported using spring water for heating, 13 Participants reported trading or sharing spring water and 27 Participants reported spring water as being important for Stoney culture and Stoney stories.
 Sweat Rocks	Of the 31 Participants who selected sweat rocks, 30 Participants reported using sweat rocks for ceremony, 10 Participants reported using sweat rocks for healing or in medicines, 15 reported using sweat rocks for heating, 8 Participants reported trading or sharing sweat rocks and 23 Participants reported sweat rocks as being important for Stoney culture and Stoney stories.
 Pipestone	Of the 31 Participants who selected pipestone, 23 Participants reported using pipestone for ceremony, 8 Participants reported using pipestone for healing or in medicines, 2 reported using pipestone for heating, 7 Participants reported trading or sharing pipestone and 20 Participants reported pipestone as being important for Stoney culture and Stoney stories.
 Mountain Rocks	Of the 21 Participants who selected mountain rocks, 14 Participants reported using mountain rocks for ceremony, 5 Participants reported using mountain rocks for healing or in medicines, 7 reported using mountain rocks for heating, 8 Participants reported trading or sharing mountain rocks and 16 Participants reported mountain rocks as being important for Stoney culture and Stoney stories.
 Mountain Hot Spring Water	Of the 21 Participants who selected mountain hot spring water, 6 Participants reported using mountain hot spring water for drinking, 10 Participants reported using mountain hot spring water for ceremony, 14 Participants reported using mountain hot spring water for healing or in medicines, 2 Participants reported using mountain hot spring water for heating, 8 Participants reported trading or sharing mountain hot spring water and 14 Participants reported mountain hot spring water as being important for Stoney culture and Stoney stories.


 <p>Other Stones and Rocks</p>	<p>Of the 10 Participants who selected mountain rocks, 7 Participants reported using mountain rocks for ceremony, 2 Participants reported using mountain rocks for healing or in medicines, 6 reported using mountain rocks for heating, 3 Participants reported trading or sharing mountain rocks and 8 Participants reported mountain rocks as being important for Stoney culture and Stoney stories.</p>
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Table 30: SNN Rocks and Minerals of Value

## 8.6 Gathering

All 43 Participants were asked the question “Are you a gatherer of berries, plants, herbs, trees and/or rocks and minerals?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of gathering-related questions. If the Participant answered “no” the gathering related-questions were skipped.

Of the 43 Participants, 35 Participants indicated that they are or were a gatherer. 35 Participants reported gathering berries, 33 Participants reported gathering plants and herbs, 27 Participants reported gathering tree and tree products and 27 Participants reported gathering rocks and minerals. Participants reported gathering on Crown lands, private lands, and on IRs.

Participants identified areas on a composite map where they gather in relation to the Project Footprint, LSA and RSA:

- 18 SNN gathering sites were identified in the Project Footprint
- 18 SNN gathering sites were identified in the LSA
- 26 SNN gathering sites were identified in the RSA



Photo: 21 Stock Photo. MNP LLP

Refer to Appendix F for further details on gathering sites identified by Participants.

Participants discussed the spiritual and cultural connection of gathering activities. Participant 2SN, 6SN, 10SN and 26SN reported on how gathering is more than just going out and picking. There are protocols and traditional natural laws that must be followed. Participant 3SN further connected gathering as a traditionally female role; when women would go out the gather, they would share stories, seek guidance and discuss community matters.

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*“That area not only serves as a berry picking path – it’s everything, it’s the essence of who we are as women - that’s where women gather. To share stories, to support one another, to encourage one another, to instill a sense of pride of who they are as women” 3SN related to traditional gathering sites and women’s role as gatherers [WFN]*

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Participants reported that there have been adverse effects to gathering activities because of development. Participants 4SN, 22SN, 29SN and 33SN reported no longer being able to access gathering sites because of development. Participants 2SN, 10SN, 29SN and 43SN reported that many gathering sites have been sprayed with herbicide and contaminated by pollution related to development. Participants 38SN, 39SN and 43SN noted that once a gathering site is disturbed and contaminated it can no longer be accessed for gathering.

## 8.7 Ceremonial, Cultural and Sacred Sites

All 43 Participants were asked the question “Do you attend ceremonies, cultural events or visit sacred sites?” If the Participant answered “Yes” or “Yes in the past” the Participant was then asked a series of ceremony, cultural event, or sacred site-related questions. If the Participant answered “no” the ceremony, cultural event or sacred site related-questions were skipped.

Of the 43 Participants, 39 Participants indicated that they currently or previously attended ceremonies, cultural events or visited sacred sites (refer to section 6.1.1 details on specific ceremonies, cultural events, and sacred sites).

Participants identified family territories, travel routes, sacred sites, cultural events, campsites and ceremonial sites on a composite map where they gather in relation to the Project Footprint, LSA and RSA:

- 14 SNN ceremonial, cultural and sacred sites were identified in the Project Footprint
- 11 SNN campsites and Family Camps were identified in the Project Footprint
- 14 SNN ceremonial, cultural and sacred sites were identified in the LSA
- 11 SNN campsites and family camps were identified in the LSA
- 18 SNN ceremonial, cultural and sacred sites were identified in the RSA
- 15 SNN campsites and family camps were identified in the RSA

Refer to Appendix F for further details on ceremonial, cultural and sacred sites and campsites and family camps identified by Participants.

Participants noted that ceremonies, cultural events, and sacred sites were extremely important to maintaining SNN culture and identity. Participants 1SN and 4SN discussed the importance of passing on culture and cultural practices to younger generations. Participants 9SN, 11SN, 14SN, and 34SN expressed their concern with the lack of available lands and its adverse effect to sharing knowledge and culture with younger generations.

Participants reported the importance of being out on the lands for ceremonies and noted that this is not easily done anymore. Participants 4SN, 13SN 35SN, 39SN explained that ceremonies cannot be held near development. Participant 36SN noted that the sacred sites and ceremonial sites are largely disturbed, and they cannot be accessed as they were in the past. Participants 33SN, 30SN and 37SN reported that there is a lot of fences and barriers to access sacred or ceremonial sites.

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*“if you look at our traditional territories where we traditionally camped and gathered and hunt. That’s developed. And I say developed in a way that there’s a lot of gas plants, there’s a lot of roads, everyone can access all those roads now and it really affected our hunting and gathering lifestyle” 3SN [WFN]*

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Participants 2SN and 14SN commented on the importance of treating sacred sites with respect and expressed their desire to have companies, government, and recreational users treat sacred sites and SNN culture with the same respect.





Photo: 22 SNN Hunting Camp, Eden Valley AB. MNP LLP/Bill

## 9. Cumulative Effects

### 9.1 Introduction

Participants and Workshop Attendees expressed concerns that the amount of land available for the exercise of Section 35 Rights is diminishing. Both Participants and Workshop Attendees identified these concerns both in relation to the Project and the broader SNN traditional territory. Participants consistently noted that there is less land available today than there was in the past and many Participants also shared their personal experiences with development destroying or interfering with areas important with the exercise of Section 35 Rights held by SNN.

The Canadian Environmental Assessment Agency (“CEA Agency”) Operational Policy Statement (“OPS”) provides guidelines for assessing cumulative environmental effects under *CEAA 2012*. Section 19(1) of *CEAA 2012* states that an EA must consider the potential for cumulative effects resulting from a designated project in combination with other physical activities that have been or will be carried out (CEA Agency 2015).

Section 19(1) of *CEAA 2012* states:

**19 (1)** The environmental assessment of a designated project must take into account the following factors:

**(a)** the environmental effects of the designated project, including the environmental effects of malfunctions or accidents that may occur in connection with the designated project and any cumulative environmental effects that are likely to result from the

designated project in combination with other physical activities that have been or will be carried out;

The OPS identifies that all cumulative effects assessments should include five steps: 1) scoping, 2) analysis, 3) mitigation, 4) significance, and 5) follow up.

When a residual effect is identified, a cumulative effects assessment is required to determine if the effects interact temporally and spatially with effects from additional developments or activities. When activities or disturbances interact spatially and temporally with the project, their combined effects may differ in nature or extent from the effects of individual project activities. The Report does not assess residual effects.

Due to limiting factors including data availability, time, and budget constraints the Report was unable to conduct a customary cumulative effects assessment. However, in order to demonstrate that a cumulative effects assessment should be completed, the Report used the SNN VC of Lands (change in legal restriction) as an example to illustrate the Project's interaction with other reasonably foreseeable projects.

The Report used public and private data to assess the conversion of available land to unavailable land. This conversion was then applied to one additional project NGTL identified within its cumulative effects assessment.

## **9.2 Cumulative Effects Assessment According to NGTL**

In the 2021 Application, NGTL notes the NEB Filing Manual, at a minimum, requires cumulative effects assessments to include physical facilities or activities that include:

Existing projects and activities;

Those physical facilities or activities for which formal plans or applications have been made or are likely to occur; and

Other related project or activity development assumptions that support and are consistent with the long-term economic or financial assumptions and engineering assumptions made in the Application, even if formal plans or applications have not yet been made. (NGTL 2018b: 4-30).

In NGTL's 2021 Application, NGTL characterised residual Project effects such that; if no adverse residual Project effects were found, NGTL did not complete any further analysis. If residual adverse effects were identified, NGTL assessed how effects from the Project would interact temporally and spatially with the effects from one or more additional developments or activities (NGTL 2018b: Section 4.4).

NGTL's geographic extent varied depending on the NGTL VC. For example, the environmental VC's adopted the RSA used for several terrestrial and aquatic VCs as the cumulative effects study area, and the social and economic VCs used the Socio-Economic Study Area ("SESA") for the assessment of cumulative effects (NGTL 2018b: Section 4). Figure 4.4-1 in the 2021 Application shows the RSA and SESA boundaries used in the cumulative effects assessments.

**9.2.1 Other Projects and Activities**

According to NGTL, current projects and activities affect approximately 38% (327,397 ha) of the RSA. In addition NGTL noted there are over 14,000 land dispositions issued within the RSA including “license of occupation, easements, grazing, pipeline installation, mineral surface leases, pipeline agreements, right-of-entry agreements, recreation and registered roads” (NGTL 2018b: 4-35). Those land use dispositions as shown in Table 4.4-2 of NGTL’s 2021 Application will take up an additional 14,259 ha within the RSA, or 1.59% of the RSA<sup>21</sup> (NGTL 2018b: 4-35).

NGTL assumed for the cumulative effects assessment that “the current level of disturbance within the SESA will be consistent for the life of the Project. This assumption was based on the dominant land use within the RSA, which is forestry and within the SESA, which is a combination of agriculture and forestry” (NGTL 2018b: 4-44).

According to NGTL, reasonably foreseeable projects considered in the cumulative effects assessment include oil and gas, infrastructure, commercial, institutional, recreational, pipelines and power. NGTL identified seven reasonably foreseeable projects that overlap spatially with the RSA equalling a total of 386 ha (NGTL 2018b: Section 4.4.5). Table 31 below shows the reasonably foreseeable projects according to NGTL overlapping the RSA.

Reasonably Foreseeable Projects	Location Description	Overlapping Area with the RSA (ha)
NGTL Clearwater West	Pipeline connecting the Valhalla and Elmworth sections of the Project, and the Elmworth and Karr sections of the Project. The RSA overlaps at three, 10 km locations with a 45 m wide ROW.	135 ha
Wapiti Gas Plant	Within the RSA east of the Elmworth ROW.	21.5 ha
NGTL McLeod River North	Pipeline connecting the Deep Valley and McLeod River Connection sections of the Project, and extending south of the McLeod River Connection Section of the Project. The RSA overlaps for 21 km with a 45 m wide ROW.	94.5 ha
Trans Mountain Pipeline Expansion	Pipeline crosses the RSA north of the Robb Section of the Project.	45 ha
2017 NGTL System Expansion	Pipeline extends northward from the north end of the Robb Section of the Project.	45 ha
NGTL Smoky River Lateral Loop	Pipeline crosses the RSA and extends through Smoky River Caribou Range.	45 ha
Parkland Lodge Expansion	Located within the community of Edson, AB, west of the Robb Section of the Project.	<1 ha

Table 31: Reasonably Foreseeable Project According to NGTL

NGTL did not assess the conversion of lands from the seven projects identified within the RSA/SESA. Rather, NGTL noted that “detailed spatial analysis is not possible for cumulative effects for all VCs as it is often difficult to identify a project-specific area of disturbance for reasonably foreseeable projects in the

<sup>21</sup> It was unclear from NGTL’s 2021 Application if the dispositions that make up the additional 14,259 ha is in addition to the 38% of current land use.

planning stage. As a result, qualitative analyses were undertaken for the cumulative effects assessment” (NGTL 2018b 4-33).

### **9.3 Combined Project Effects According to SNN**

SNN Consultation Office and Participants expressed concern for the accumulation of development in SNN traditional territory and resulting cumulative impacts on SNN Section 35 Rights. Participants identified and discussed how the accumulation of development within SNN traditional territory has impacted their ability to exercise Section 35 Rights.

Participants and the SNN Consultation Office identified real and/ or perceived impacts such as:

- Contamination and a reduction in the quantity of harvested resources (including wildlife, plants, berries, rocks, water, fish and trees);
- Contamination and displacement of sacred, ceremonial and cultural sites;
- Impacts to access of sacred and cultural sites to exercise Section 35 Rights (including harvesting, camping, ceremonies and cultural events); and,
- Impacts to transmission of culture resulting from both the decline in quality and quantity of harvested resources and disturbance of, or blocked access to, ceremonial, cultural and sacred sites. See Chapters 4, 5, 6, 7, and 8 for further details on what Participants and the SNN Consultation Office reported to the Study Team.

### **9.4 Trans Mountain Pipeline Expansion Project**

NGTL’s 2021 Application identifies the Trans Mountain Pipeline Expansion Project (“Trans Mountain”) as intersecting the RSA north of the Robb Section of NGTL 2021 (NGTL 2018b 4-45). Figure 27 below shows Trans Mountain in relation to NGTL 2021.

The Study Team analyzed the lands available prior to project approvals of both NGTL 2021 and the Trans Mountain project and the lands available post project approvals to determine the total lands available in the RSA/SESA<sup>22</sup>.

The Study Team analyzed the conversion of available land by first looking within NGTL’s SESA to identify the segment of the Trans Mountain project footprint that was within the SESA. The Study Team then analyzed the part of the project footprint that overlapped with the NGTL 2021 RSA. The total area of the Trans Mountain project footprint within NGTL 2021’s RSA was 310.29 ha. The Study Team evaluated both the lands available and unavailable within Trans Mountain’s project footprint. Table 32 shows the conversion of available lands to unavailable lands within the RSA of the Project.

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<sup>22</sup> Shapefiles provided by Trans Mountain

<b>Trans Mountain Corridor - SESA / RSA</b>	<b>Percent</b>	<b>Hectares</b>
Lands Available within Trans Mountain Project Footprint Overlapping NGTL 2021 RSA (Robb Section) Prior to Trans Mountain Project Approval	5.19%	16.12 ha
Lands Available within Trans Mountain Project Footprint Overlapping NGTL 2021 RSA (Robb Section) Post Trans Mountain Project Approval	0.00%	0.00 ha
<b>Change in Lands Available within Trans Mountain Project Footprint Overlapping NGTL 2021 RSA (Robb Section)</b>	<b>▼ 5.19%</b>	<b>▼ 16.12 ha</b>

Table 32 Lands Available within Trans Mountain Project Footprint Overlapping NGTL 2021 RSA

The following changes may occur to the lands available for SNN exercise of Section 35 Rights resulting from interaction with Trans Mountain:

- A change of 16.12 ha or 5.19% of lands available within Trans Mountain project footprint overlapping NGTL 2021 RSA (Robb Section) prior to Trans Mountain project approval that will be converted to unavailable lands.

The change in lands available post-Trans Mountain project approval will lead to a decrease in lands available for the exercise of Section 35 Rights in an area where there are already minimal lands available for the exercise of SNN Section 35 Rights, thereby adding to the cumulative impacts experienced by SNN.

If the Trans Mountain project is approved in combination with NGTL 2021, it will further increase the amount of unavailable lands post- approval of both projects. Therefore, at a minimum, the Study Team expects the predicted effect of SNN’s ability to exercise Section 35 Rights on available lands to interact with the Trans Mountain resulting in cumulative effects within the RSA/SESA.

This finding demonstrates that other projects have the potential to interact with NGTL 2021 and cause a cumulative effect on the landscape. Once a disposition is designated it remains; the lasting effect of the conversion of land renders it unavailable through legal instrument and impairs the ability for SNN to use these areas to exercise their Section 35 Rights.

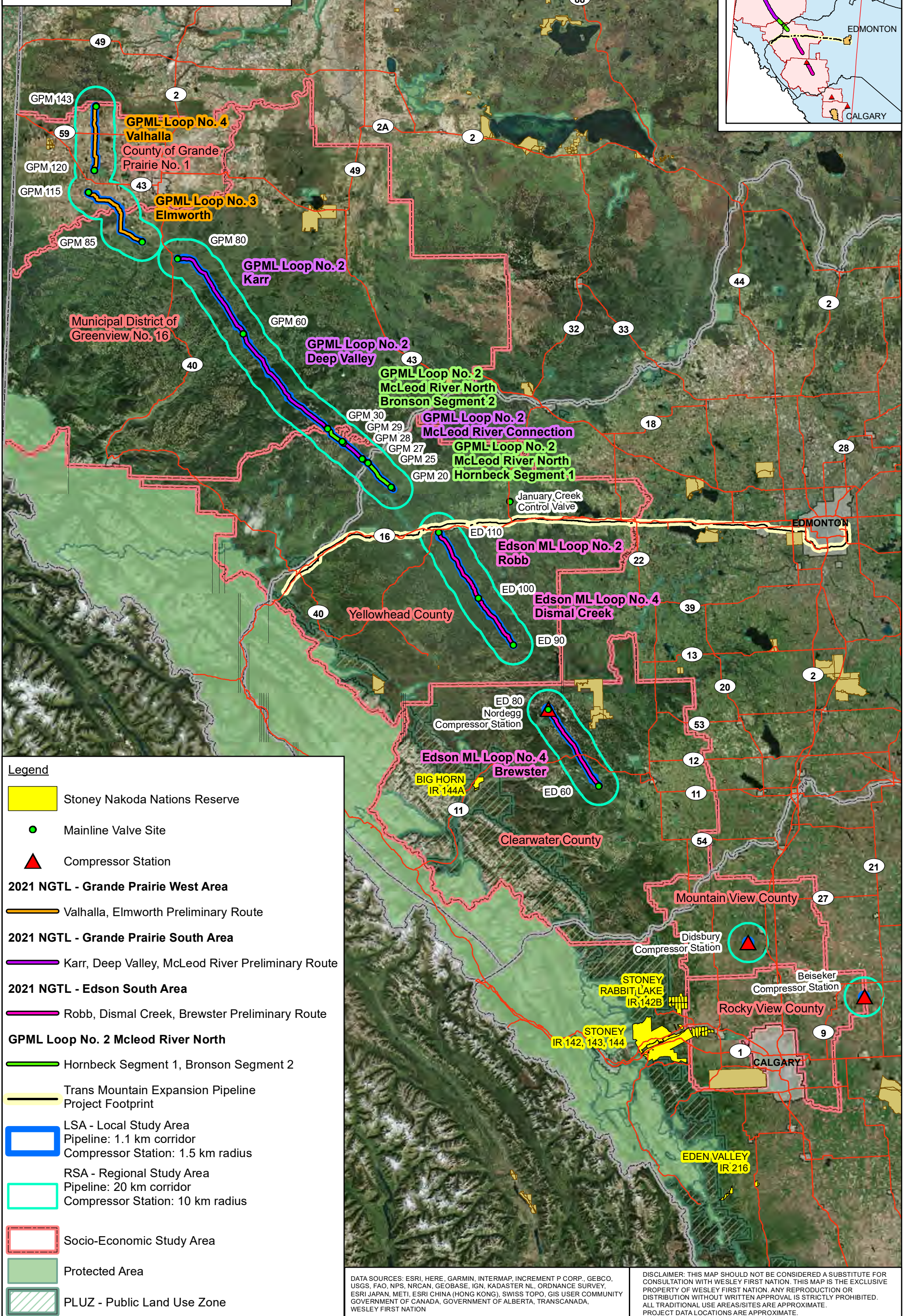
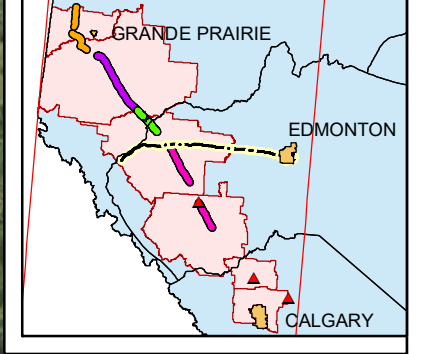
The Study Team recommends after the application of appropriate accommodation measures are applied to the effects described in this Report, if residual effects remain, that a cumulative effects assessment be conducted for all indicators, including:

- change in legal restriction resulting from the application of a Crown disposition leading to a decrease of available lands for the exercise of Section 35 Rights (hectare and %);
- change in SNN Hunting Avoidance Behaviours;
- change in SNN Gathering Avoidance Behaviours;
- change in SNN Culture Avoidance Behaviours; and
- change in SNN ability to transmit culture.

**Wesley First Nation**

2021 NGTL System Expansion Project  
in Relation to Trans Mountain Pipeline Expansion Project

**Reference Map**

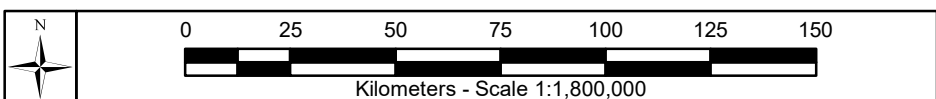


**Legend**

- Stoney Nakoda Nations Reserve
- Mainline Valve Site
- Compressor Station
- 2021 NGTL - Grande Prairie West Area**
- Valhalla, Elmworth Preliminary Route
- 2021 NGTL - Grande Prairie South Area**
- Karr, Deep Valley, McLeod River Preliminary Route
- 2021 NGTL - Edson South Area**
- Robb, Dismal Creek, Brewster Preliminary Route
- GPML Loop No. 2 McLeod River North**
- Hornbeck Segment 1, Bronson Segment 2
- Trans Mountain Expansion Pipeline Project Footprint
- LSA - Local Study Area  
Pipeline: 1.1 km corridor  
Compressor Station: 1.5 km radius
- RSA - Regional Study Area  
Pipeline: 20 km corridor  
Compressor Station: 10 km radius
- Socio-Economic Study Area
- Protected Area
- PLUZ - Public Land Use Zone

DATA SOURCES: ESRI, HERE, GARMIN, INTERMAP, INCREMENT P CORP., GEBCO, USGS, FAO, NPS, NRCAN, GEOBASE, IGN, KADASTER NL, ORDANCE SURVEY, ESRI JAPAN, METI, ESRI CHINA (HONG KONG), SWISS TOPO, GIS USER COMMUNITY GOVERNMENT OF CANADA, GOVERNMENT OF ALBERTA, TRANSCANADA, WESLEY FIRST NATION

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Date: Apr 17, 2019  
Coordinate System: NAD83 11N

Prepared For: Wesley First Nation

Prepared By: MNP LLP

Figure: 27



Photo: 23 SNN Family Camp, Banff AB. MNP LLP/Bill Marsh

## 10. Conclusion

The following section summarizes the results including identified Project effects to SNN VCs of Lands, Harvesting, and Culture, SNN Consultation Office issues and concerns, and SNN land and resource use, presented in the Report and provides suggestions for appropriate accommodation measures to eliminate, reduce and control the identified effects to SNN Section 35 Rights resulting from the Project.

***SNN and SNN Consultation Office maintain that it is NGTL and the NEB's responsibility to ensure that all Project effects to SNN are identified and properly accommodated.***

### 10.1 Project Effects on the Exercise of Stoney Nakoda Nations' Section 35 Rights

Section 35 Rights are location specific according to Canada's understanding of the terms of Treaty No.7 and the *NRTA*. SNN members have the right to exercise their Section 35 Rights on all available lands.

If NGTL 2021 is approved it will have adverse effects on the three selected SNN VCs of Land, Harvesting, and Culture.

The Study Team notes that the results of this Report show there are limited amount of lands available for the exercise of SNN Section 35 Rights in the vicinity of the Project. The Study Team notes that this illustrates the restrictions already faced by SNN while exercising their Section 35 Rights due to a number of factors related to current development within the Project RSA, and the human and financial cost of going elsewhere, and other related issues.

### **10.1.1 Stoney Nakoda Nations Valued Component of Lands**

For the SNN VC of Lands, the Study Team determined that there would be Project effects to the indicators.

The Study Team concluded, there will be a conversion of available lands (unoccupied Crown lands) where SNN Section 35 Rights can be exercised to unavailable lands (occupied Crown lands with no right of access) for the exercise of SNN Section 35 Rights:

- 482 ha or 19.63% of the total amount of lands will be converted to unavailable lands in the Project Footprint.

### **10.1.2 Stoney Nakoda Nations Valued Component of Harvesting**

For the SNN VC of Harvesting, the Study Team determined that there would be Project effects to the indicators.

The Study Team's analysis shows for the exercise of Section 35 Rights related to hunting:

- An increase of 172.57 ha or 0.42% in the total amount of lands inducing SNN Hunting Avoidance Behaviours post-Project approval in the LSA.
- An increase of 5,932.83 ha or 0.67% in the total amount of lands inducing SNN Hunting Avoidance Behaviours post-Project approval in the RSA.

The Study Team's analysis shows for the exercise of Section 35 Rights related to gathering:

- An increase of 12.35 ha or 0.03% in the total amount of lands inducing SNN Gathering Avoidance Behaviours post- Project approval in the LSA.
- An increase of 2,253.67 ha or 0.26% in the total amount of lands inducing SNN Gathering Avoidance Behaviours post-Project approval in the RSA.

The Study Team understands that there are limited lands available for SNN to exercise their Section 35 Rights in a preferred manner due either to legal restrictions or attributes avoided or not preferred by SNN. This will be further reduced by the Project.

### **10.1.3 Stoney Nakoda Nations Valued Component of Culture**

For the SNN VC of Culture, the Study Team determined that there would be Project effects to the indicators.

The change to the SNN VC of Culture, SNN Culture Avoidance Behaviours resulting from the Project is:

- An increase of 817.03 or 0.09% in. the total amount of lands supporting SNN Culture Avoidance Behaviours in the RSA.

The Study Team's analysis also indicated a correlation between an increase in avoided lands and the ability for members of SNN to transmit culture (practices, knowledge, skills, stories, history, language, and protocols) to younger generations.

The Study Team understands that the exercise of SNN Section 35 Rights, particularly activities related to ceremonies, cultural events, and sacred sites are often inseparable from a particular location or ecosystem (SNN 2015). It was reported to the Study Team by Participants, Workshop Attendees, and the SNN Consultation Office, that ceremonial, cultural, or sacred sites cannot be moved; once the site is disturbed or destroyed it is culturally lost.



## 10.2 Stoney Nakoda Nations Consultation Office Issues and Concerns

In addition to the identified potential Project effects, the SNN Consultation Office have additional concerns that remain outstanding including:

Issue and Concern	Details
Harvesting	Project-effects to quality and quantity of species harvested.
Safety and Accidents	Fear of potential malfunctions and accidents. Desire to have a formal response plan inclusive of SNN and SNN language requirements.
Ceremonial, Cultural and Sacred Sites	Project-impacts to ceremonial, cultural and sacred sites without appropriate accommodation to those impacts.
Meaningful Consultation and Accommodation	Need for better opportunities for SNN to provide TEK and expert information in Project Design, Environmental Assessment, Mitigation and Remediation of Project.

Table 33: SNN Consultation Office Issues and Concerns

## 10.3 Stoney Nakoda Nations Exercise of Section 35 Rights

The Project intersects with sites and areas used for the exercise of SNN Section 35 Rights. This includes interactions with harvesting areas, ceremonial, and sacred sites and traditional family territories:

- 75 SNN Land and Resource Use sites in Project Footprint.
- 76 SNN Land and Resource Use sites in LSA.
- 102 SNN Land and Resource Use sites in RSA.

The Study Team notes the lack of site-specific evidence of land and resource use does not prove or disprove the existence of SNN Section 35 Rights.

SNN Consultation Office, Workshop Attendees, and Interview Participants highlighted the connection between harvesting and ceremonial and cultural events and activities. Animals, plants, berries, fish, trees and rocks and minerals all have a purpose in, and are important to, SNN culture and SNN Section 35 Rights. Parts of each are used in various ceremonies and cultural events, medicines and healing, and in stories and teachings. SNN cultural practices and activities may be impacted without the ability to access lands including family territories and camp spots to exercise SNN Section 35 Rights, and without the ability to harvest animals, plants, berries, fish, trees, and rocks and minerals.

## 10.4 Cumulative Effects

The Study Team's analysis of Trans Mountain's interaction with NGTL 2021 demonstrates that other projects have the potential to interact with NGTL 2021 and cause a cumulative effect on the Section 35 Rights held by SNN.

The Study Team concluded that there will be a cumulative conversion of available lands (unoccupied Crown lands) where SNN Section 35 Rights can be exercised to unavailable lands (occupied Crown lands with no right of access) for the exercise of SNN Section 35 Rights:

- 16.12 ha or 5.19% of lands available within Trans Mountain project footprint overlapping NGTL 2021 RSA (Robb Section) prior to Trans Mountain project approval that will be converted to unavailable lands.

The Study Team further recommends after the application of appropriate accommodation measures are applied to the effects described in this Report, if residual effects remain, that a cumulative effects assessment be conducted for all indicators.

## **10.5 Accommodation of Project Effects to Stoney Nakoda Nations Section 35 Rights**

The Study Team understands that eliminate, reduce, and control measures are standard mitigation strategies applied according to the NEB Filing Manual, 2017:

In respect of a project, the elimination, reduction or control of the adverse environmental effects of the project and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means. (NEB Filing Manual 2017: viii)

In order to be adequate, accommodation measures have to be directly responsive and proportional to the identified adverse effect. For those effects that cannot be eliminated through the application of elimination accommodation measures, residual effects remain.

The Study Team also notes that there are agreement, compensation, and arbitration processes in-place outlined in Section 86-103 of the *NEB Act* available to land owners and land users including lease holders.

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**It is the expectation of SNN that the information contained in this Report will be used by NGTL and the NEB to contribute to the identification and accommodation of potential adverse effects to SNN Section 35 Rights arising from the construction and operation of the Project.**

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# Appendix A

## Convictions for Exercising Section 35 Rights

Provincial Crown authorities pursued violations for illegal hunting that resulted in mostly successful convictions against Indigenous peoples, including:

- Hunting in a provincial forest reserve (*R. V. Strongquill* 1953 206 SKCA)
- Hunting in a road corridor wildlife sanctuary (*R. V. Gauchier*, 2013 ABQB 30; *R. V. Legrande*, 2011 ABPC 379)
- Hunting on leased Crown land set aside for grazing purposes (*R. V. Ahenakew*, 2000 SKQB 425; *R. V. Janier* 1995 10826 SKPC; *R. V. Martin*, 2008 ABQB 29)
- Hunting on leased Crown land set aside for military purposes (*R. V. Catarat*, 2001 SKCA 50)
- Hunting on leased Crown land set aside for mining purposes (*R. V. Bretton*, 1999 ABCA 285)
- Hunting on land set aside for game preserves (*R. V. Wolverine and Bernard*, 1989 4478 SKCA)
- Private lands under “visible, incompatible” conditions (*R. V. Quinney*, 2003 ABPC 47; *R. V. Peace*, 1999 12941 SKQB; *R. V. Corbiere*, 1996 8154 ONSC; *R. V. Bear*, 2004 SKPC 137; *R. V. Prairie Chicken*, 2010 ABPC 176; *R. V. Lachance*, 1997 11551 SKPC; *R v Pierone*, 2018 SKCA 30);
- Hunting on public roads (*R. V. Yapput, et al*, 2004 ONCJ 318)

Several key principles have resulted from the outcome of these convictions. First, restricted vs. prohibited provisions for conduct of activity may determine whether land is occupied or unoccupied by the Crown (restricted but not prohibited access results in a determination of unoccupied Crown land). And second, the lack of safe hunting conditions may render land incompatible with hunting, and therefore no right of access for Indigenous peoples in the exercise of the Section 35 Rights will exist.

## Appendix B

Residual Effects Criteria	Descriptor of Criteria
<b>Direction</b>	<ul style="list-style-type: none"> <li>• Positive (net benefit)</li> <li>• Negative (net loss)</li> <li>• Neutral (no change)</li> </ul>
<b>Geographic Extent</b>	<ul style="list-style-type: none"> <li>• Project Footprint</li> <li>• LSA</li> <li>• RSA</li> </ul>
<b>Magnitude</b>	<ul style="list-style-type: none"> <li>• Low (&lt;1%)</li> <li>• Moderate (1% to 10%)</li> <li>• High (&gt;10%)</li> </ul>
<b>Duration</b>	<ul style="list-style-type: none"> <li>• Short-Term (&lt;1 Seasonal Round or 1 yr)</li> <li>• Medium-Term (&gt;1 Seasonal Rounds or 1 yr)</li> <li>• High-Term (20+ years or equivalent to a generation)</li> <li>• Permanent (unlikely to recover to baseline conditions)</li> </ul>
<b>Frequency</b>	<ul style="list-style-type: none"> <li>• Rare (uncommon)</li> <li>• Multiple Regular</li> <li>• Multiple Irregular</li> <li>• Continuous</li> </ul>
<b>Reversibility</b>	<ul style="list-style-type: none"> <li>• Reversible</li> <li>• Permanent (no decommissioning contemplated)</li> </ul>
<b>Likelihood</b>	<ul style="list-style-type: none"> <li>• High</li> <li>• Low</li> </ul>

Table 34: Residual Effects Criteria



## Stoney Nakoda Nations Land Use Survey August 2018

### CONSENT

**[Interviewer] You are being invited to participate in a study about Stoney Nakoda First Nation Land Use for use in the Trans Canada NGTL 2021 Expansion Project and Grand Prairie Main Line Loop 2 McLeod River North Project. Approximately 45 Nation members will be invited to participate in this study. For one interview session you will be provided with a \$\_\_\_\_ honorarium.**

**The Stoney Nakoda Nations (SNN) Land Use Survey (the "Survey") is designed to collect information from members on their ability to exercise treaty rights.**

**I'm (Interviewer) going to read you the consent form and when I'm finished you can let me know if you agree.**

**[Participant Consent Form] I, the interviewee, agree to participate in the SNN Land Use Survey. I understand that the purpose of this project is to provide SNN with baseline information that will support the regulatory and legal needs of the Nation.**

**I agree that the information gained from this survey can be utilized by SNN to support its studies. I further understand that this information can be utilized to support SNN research, regulatory interventions, court actions, negotiations and legal work, projects and initiatives. All information collected is the sole property of the SNN, and will not be used for any purpose without Nation consent.**

**All participants will remain anonymous. The Survey Team will assign your Survey a number and all information you provide will remain anonymous. Any quotes that appear in final reports will be attributed to your number.**

**Only four questions require answers (Question #1 , Question #2, Question #5 and Questions #6); these are necessary to advance the Survey. While we ask you to please try to answer all of the questions, should you feel uncomfortable with a particular question, you may skip that question.**

# Appendix D

SNN VC of Lands			
Identified Adverse Effect <sup>23</sup> and Direct Effects of Project	Accommodation		
	Measures to Eliminate Adverse Effect	Measures to Reduce Adverse Effect	Measures to Control Remaining Adverse Effect
<p><b>1. Adverse effect of the Project on the ability of SNN to exercise their Section 35 Rights due to increased legal restriction.</b></p> <p>See Section 4 of the Report.</p>	<p><b>1.</b> No Project approval.</p> <p><b>2.</b> Locate the Project on existing unavailable land/occupied Crown land to ensure no increased legal conversion of the Project Footprint.</p> <p><b>3.</b> Ensure SNN members priority rights to exercise their Section 35 Rights on the land under the disposition sought for the Project, which are exempt from the enforcement of any offences under the <i>Petty Trespass Act</i> and <i>Public Lands Act</i>.</p>	<p><b>1.</b> Reduce the amount of land subject to the increased legal restriction. e.g. by 50%<sup>24, 25</sup></p> <p><b>2.</b> Minimize the type of legal restriction on the Project Footprint. For example:</p> <ul style="list-style-type: none"> <li>- Impose or amend the approval terms and conditions issued in conjunction with granting the Crown Land Reservation, easement or disposition sought for the Project under the <i>Public Lands Act</i>, to the effect that SNN Section 35 Rights are not subject to a legal restriction during construction and/or operation.</li> </ul> <p><b>3.</b> Draft additional conditions where SNN members are exempt from the enforcement of offences under the <i>Petty Trespass Act</i> and <i>Public Lands Act</i>.</p> <p style="text-align: center;">Once reduction measures are applied, the residual effects that remain outstanding would require measures to control.</p>	<p><b>1.</b> Control the remaining effect of the reduction in the amount of land by creating or making available equivalent amount of available land so that there is “No Net Loss” of lands available for the exercise of SNN Section 35 Rights and way of life. For example:</p> <ul style="list-style-type: none"> <li>- Unoccupied Crown land.</li> <li>- Occupied Crown land with allowed activity.</li> </ul> <p><b>2.</b> Compensate<sup>26</sup> for the remaining effects (increased legal restriction on the Project Footprint) similar to criteria set out in Section 97<sup>27</sup> (1)(c); (d); (h); (i) of the <i>NEB Act</i>.</p>

Table 35: Suggested Accommodation - SNN VC of Lands

<sup>23</sup> Pursuant to definitions in Section 2 and 5 of *CEAA, 2012* “environmental effects” includes effects to the environment including humans.

<sup>24</sup> Notwithstanding the assumption that NGTL will apply all the mitigation measures that were identified in the EPP, the reduction of the adverse effects to SNN Section 35 Rights will be subject to further negotiations between SNN and NGTL. For example, if the amount of land subject to legal restriction is reduced, there are residual effects on the remaining 50% of the land subject to legal restriction that will require further control measures. The same representation applies to all ten identified adverse effects.

<sup>25</sup> The Study Team notes that the Project Footprint is proposed to be 42 m (narrowed from 75 m) in the Little Smoky Caribou Range. The Study Team assumes that this Project Footprint is appropriate for safe pipeline construction and could be feasible for the entire Project.

<sup>26</sup> Rates of appropriate compensation are unidentified at this time.

<sup>27</sup> Section 97 does not explicitly state criteria for compensation of adverse effects to constitutionally-protected Section 35 Rights.

SNN VC of Harvesting

Identified Adverse Effect <sup>28</sup> and Direct Effects of Project	Accommodation		
	Measures to Eliminate Adverse Effect	Measures to Reduce Adverse Effect	Measures to Control Remaining Adverse Effect
<p><b>2. Adverse effect of the Project on SNN Hunting Avoidance Behaviours.</b></p> <p>See Section 5 of the Report.</p>	<ol style="list-style-type: none"> <li>1. No Project approval.</li> <li>2. Locate the Project on existing unavailable land/occupied Crown land (where Project Footprint and avoidance behaviour zone would not impact current harvesting activities).</li> <li>3. Construct and operate the Project as non-visible.</li> <li>4. Construct, Operation and Maintain the Project to eliminate the changes brought to the physical and aesthetical attributes of the Land avoided by SNN for the exercise of Section 35 Rights. For example: <ul style="list-style-type: none"> <li>- no vegetation or soil removal (i.e., no clearing)</li> <li>- no vegetation management or tree control including application of chemicals</li> <li>- no signs, fences or gates.</li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>1. Reduce the alteration of harvesting activities. Would have to be confirmed through follow up and monitoring activities. e.g., 50% reduction in alteration of SNN harvesting activities. Would have to be confirmed through follow up survey and monitoring.</li> <li>2. Reduce the displacement of wildlife or harvested species.</li> <li>3. Reduce the adverse effects on the negative perceptions of the Project. e.g., 50% reduction of the negative perceptions due to construction, operation and maintenance activities. For example: <ul style="list-style-type: none"> <li>- monitoring and follow up to verify prediction of Project effects.</li> <li>- public relations campaign.</li> <li>- conduct long term studies in partnership with SNN on the effects of the use of chemicals to soil, water, vegetation and animals.</li> </ul> </li> </ol> <p>Once reduction measures are applied, the residual effects that remain outstanding would require measures to control.</p>	<ol style="list-style-type: none"> <li>1. Control the remaining adverse effects resulting in alternation of SNN harvesting activities in Project area. For example: <ul style="list-style-type: none"> <li>- if 50% is reduced, the remaining 50% is to be compensated for.</li> </ul> </li> <li>2. Compensate for the remaining effects similar to criteria set out in Section 97 (1) (d); (g); (h); (i) of the <i>NEB Act</i>.</li> </ol>

<sup>28</sup> Pursuant to definitions in Section 2 and 5 of *CEAA, 2012* “environmental effects” includes effects to the environment including humans.

SNN VC of Harvesting			
Identified Adverse Effect <sup>29</sup> and Direct Effects of Project	Accommodation		
	Measures to Eliminate Adverse Effect	Measures to Reduce Adverse Effect	Measures to Control Remaining Adverse Effect
<p><b>3. Adverse effect of the Project on SNN Gathering Avoidance Behaviours.</b></p> <p>See Section 5 of the Report.</p>	<ol style="list-style-type: none"> <li>1. No Project approval.</li> <li>2. Locate the Project on existing unavailable land/occupied Crown land (where Project Footprint and avoidance behaviour zone would not impact current harvesting activities).</li> <li>3. Construct and operate the Project as non-visible.</li> </ol>	<ol style="list-style-type: none"> <li>1. Reduce the alteration of harvesting activities. Would have to be confirmed through follow up and monitoring activities. e.g., 50% reduction in alteration of SNN harvesting activities. Would have to be confirmed through follow up survey and monitoring.</li> <li>2. Reduce the displacement of wildlife or harvested species.</li> <li>3. Reduce the adverse effects on the negative perceptions of the Project. e.g., 50% reduction of the negative perceptions due to construction, operation and maintenance activities. For example: <ul style="list-style-type: none"> <li>- monitoring and follow up to verify prediction of Project effects.</li> <li>- public relations campaign.</li> <li>- conduct long term studies in partnership with SNN on the effects of the use of chemicals to soil, water, vegetation and animals.</li> <li>- support for the NEB to establish an Indigenous Advisory and Monitoring Committee to provide oversight on all NEB conditions.<sup>30</sup></li> </ul> <p>Once reduction measures are applied, the residual effects that remain outstanding would require measures to control.</p> </li> </ol>	<ol style="list-style-type: none"> <li>1. Control the remaining adverse effects resulting in alternation of SNN harvesting activities in Project area. For example: <ul style="list-style-type: none"> <li>- if 50% is reduced, the remaining 50% is to be compensated for.</li> </ul> </li> <li>2. Compensate for the remaining effects similar to criteria set out in Section 97 (1) (d); (g); (h); (i) of the <i>NEB Act</i>.</li> </ol>

Table 36: Suggested Accommodation - SNN VC of Harvesting

<sup>29</sup> Pursuant to definitions in Section 2 and 5 of *CEAA, 2012* “environmental effects” includes effects to the environment including humans.

<sup>30</sup> Similar to Indigenous Advisory and Monitoring Committee established for the Trans Mountain Expansion Project and Enbridge Line 3 Project.

SNN VC of Culture			
Identified Adverse Effect <sup>31</sup> and Direct Effects of Project	Accommodation		
	Measures to Eliminate Adverse Effect	Measures to Reduce Adverse Effect	Measures to Control Remaining Adverse Effect
<p><b>4. Adverse effect of the Project on the ability for SNN to transmit culture.</b></p> <p>See Section 6 of the Report.</p>	<ol style="list-style-type: none"> <li>1. No Project approval.</li> <li>2. Locate the Project on existing unavailable land/occupied Crown land (where Project Footprint and SNN avoidance zone would not impact current cultural activities).</li> <li>3. Construct and operate the Project as non-visible.</li> </ol>	<ol style="list-style-type: none"> <li>1. Reduce the displacement of harvesting, ceremonial and cultural activities, family territories and camps, and sacred sites. Would have to be confirmed through follow up survey and monitoring. <ul style="list-style-type: none"> <li>Provide capacity for cultural and language camps.</li> </ul> </li> <li>2. Develop and deliver cultural awareness training for NGTL staff related to SNN culture. To promote preservation of ceremonial, cultural and sacred sites.</li> </ol> <p>Once reduction measures are applied, the residual effects that remain outstanding would require measures to control.</p>	<ol style="list-style-type: none"> <li>1. Control the remaining adverse effects resulting in negative perceptions of the Project. For example: <ul style="list-style-type: none"> <li>- if 50% is reduced, the remaining 50% is to be compensated for.</li> </ul> </li> <li>2. Compensate for the remaining effects similar to criteria set out in Section 97 (1) (h); (i) of the <i>NEB Act</i>.</li> </ol>
Identified Adverse Effect <sup>32</sup> and Direct Effects of Project	Accommodation		
	Measures to Eliminate Adverse Effect	Measures to Reduce Adverse Effect	Measures to Control Remaining Adverse Effect
<p><b>5. Adverse effect of the Project on the SNN Culture Avoidance Behaviours.</b></p> <p>See Section 6 of the Report.</p>	<ol style="list-style-type: none"> <li>1. No Project approval.</li> <li>2. Locate the Project on existing unavailable land/occupied Crown land (where Project Footprint and SNN avoidance zone would not impact current cultural activities).</li> <li>3. Construct and operate the Project as non-visible.</li> </ol>	<ol style="list-style-type: none"> <li>1. Reduce the alteration of SNN cultural activities. e.g., 50% reduction in alteration of SNN cultural activities. Would have to be confirmed through follow up survey and monitoring.</li> <li>2. Reduce the displacement of ceremonial, cultural and sacred sites.</li> <li>3. Reduce the adverse effects on the negative perceptions of the Project. e.g., 50% reduction of the negative perceptions due to construction, operation and maintenance activities. For example: <ul style="list-style-type: none"> <li>- monitoring and follow up to verify prediction of Project effects.</li> <li>- public relations campaign.</li> <li>- conduct long term studies in partnership with SNN on the effects of the use of chemicals to soil, water, vegetation and animals.</li> </ul> </li> </ol> <p>Once reduction measures are applied, the residual effects that remain outstanding would require measures to control.</p>	<ol style="list-style-type: none"> <li>1. Control the remaining adverse effects resulting in alternation of SNN cultural activities in Project RSA. For example: <ul style="list-style-type: none"> <li>- if 50% is reduced, the remaining 50% is to be compensated for.</li> </ul> </li> <li>2. Compensate for the remaining effects similar to criteria set out in Section 97 (1) (d); (g); (h); (i) of the <i>NEB Act</i>.</li> </ol>

Table 37: Suggested Accommodation - SNN VC of Culture

<sup>31</sup> Pursuant to definitions in Section 2 and 5 of *CEAA, 2012* “environmental effects” includes effects to the environment including humans.

<sup>32</sup> Pursuant to definitions in Section 2 and 5 of *CEAA, 2012* “environmental effects” includes effects to the environment including humans.

# Appendix E

## SNN Hunting Avoidance Behaviours Separated into Project Segment

Grande Prairie West – SNN Hunting Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
Local Study Area	Hunting SNN Avoidance Zone Prior to Project Approval	100.00%	9,142.39
	Hunting SNN Avoidance Zone Post-Project Approval	100.00%	9,142.39
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Hunting SNN Avoidance Zone Prior to Project Approval	99.84%	204,082.32
	Hunting SNN Avoidance Zone Post-Project Approval	99.85%	204,106.46
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.01%</b>	<b>▲ 24.14 ha</b>

Grande Prairie South - SNN Hunting Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
Local Study Area	Hunting SNN Avoidance Zone Prior to Project Approval	98.96%	15,943.05
	Hunting SNN Avoidance Zone Post-Project Approval	100.00%	16,110.80
	<b>Change in Lands Avoided in LSA</b>	<b>▲ 1.04%</b>	<b>▲ 167.75 ha</b>
Regional Study Area	Hunting SNN Avoidance Zone Prior to Project Approval	89.56%	286,620.92
	Hunting SNN Avoidance Zone Post-Project Approval	90.93%	290,992.60
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 1.37%</b>	<b>▲ 4,371.69 ha</b>



<b>Edson South - SNN Hunting Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Hunting SNN Avoidance Zone Prior to Project Approval	99.97%	14,597.44
	Hunting SNN Avoidance Zone Post-Project Approval	100.00%	14,602.25
	<b>Change in Lands Avoided in LSA</b>	<b>▲ 0.03%</b>	<b>▲ 4.81 ha</b>
<b>Regional Study Area</b>	Hunting SNN Avoidance Zone Prior to Project Approval	91.50%	273,997.76
	Hunting SNN Avoidance Zone Post-Project Approval	92.43%	276,787.27
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.93%</b>	<b>▲ 2,789.51 ha</b>

<b>Didsbury &amp; Beiseker CS - SNN Hunting Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Hunting SNN Avoidance Zone Prior to Project Approval	100.00%	1,576.06
	Hunting SNN Avoidance Zone Post-Project Approval	100.00%	1,576.06
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
<b>Regional Study Area</b>	Hunting SNN Avoidance Zone Prior to Project Approval	100.00%	63,744.22
	Hunting SNN Avoidance Zone Post-Project Approval	100.00%	63,744.22
	<b>Change in Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

Table 38: SNN Hunting Avoidance Behaviours By Project Component

### SNN Gathering Avoidance Behaviours Separated into Project Segment

Grande Prairie West – SNN Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
Local Study Area	Gathering SNN Avoidance Zone Prior to Project Approval	100.00%	9,142.39
	Gathering SNN Avoidance Zone Post-Project Approval	100.00%	9,142.39
	<b>Change Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
Regional Study Area	Gathering SNN Avoidance Zone Prior to Project Approval	99.99%	204,258.20
	Gathering SNN Avoidance Zone Post-Project Approval	99.99%	204,258.20
	<b>Change in Lands Avoided in RSA</b>	<b>Near Total Avoidance</b>	<b>Near Total Avoidance</b>

Grande Prairie South - SNN Gathering Avoidance Behaviours		Percent of Lands Avoided	Hectares of Lands Unavailable
Local Study Area	Gathering SNN Avoidance Zone Prior to Project Approval	99.92%	16,098.44
	Gathering SNN Avoidance Zone Post-Project Approval	100.00%	16,110.80
	<b>Change in Lands Avoided in LSA</b>	<b>▲ 0.08%</b>	<b>▲ 12.36 ha</b>
Regional Study Area	Gathering SNN Avoidance Zone Prior to Project Approval	94.02%	300,883.32
	Gathering SNN Avoidance Zone Post-Project Approval	94.42%	302,160.61
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.40%</b>	<b>▲ 1,277.29 ha</b>

<b>Edson South - SNN Gathering Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Gathering SNN Avoidance Zone Prior to Project Approval	100.00%	14,602.25
	Gathering SNN Avoidance Zone Post-Project Approval	100.00%	14,602.25
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
<b>Regional Study Area</b>	Gathering SNN Avoidance Zone Prior to Project Approval	95.45%	285,804.55
	Gathering SNN Avoidance Zone Post-Project Approval	95.77%	286,780.93
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.32%</b>	<b>▲ 976.38 ha</b>

<b>Didsbury &amp; Beiseker CS - SNN Gathering Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Gathering SNN Avoidance Zone Prior to Project Approval	100.00%	1,576.06
	Gathering SNN Avoidance Zone Post-Project Approval	100.00%	1,576.06
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
<b>Regional Study Area</b>	Gathering SNN Avoidance Zone Prior to Project Approval	100.00%	63,744.22
	Gathering SNN Avoidance Zone Post-Project Approval	100.00%	63,744.22
	<b>Change in Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

Table 39: SNN Gathering Avoidance Behaviours By Project Component

**Ceremony SNN Avoidance Behaviours Separated into Project Segment**

<b>Grande Prairie South – SNN Culture Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Culture SNN Avoidance Zone Prior to Project Approval	100.00%	16,110.80
	Culture SNN Avoidance Zone Post-Project Approval	100.00%	16,110.80
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
<b>Regional Study Area</b>	Culture SNN Avoidance Zone Prior to Project Approval	96.93%	310,180.05
	Culture SNN Avoidance Zone Post-Project Approval	97.28%	311,319.55
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.36%</b>	<b>▲ 1,139.50 ha</b>

<b>Edson South - SNN Culture Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Culture SNN Avoidance Zone Prior to Project Approval	100.00%	14,602.25
	Culture SNN Avoidance Zone Post-Project Approval	100.00%	14,602.25
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
<b>Regional Study Area</b>	Culture SNN Avoidance Zone Prior to Project Approval	98.23%	294,137.17
	Culture SNN Avoidance Zone Post-Project Approval	98.32%	294,416.46
	<b>Change in Lands Avoided in RSA</b>	<b>▲ 0.09%</b>	<b>▲ 279.29 ha</b>

<b>Didsbury &amp; Beiseker CS - SNN Culture Avoidance Behaviours</b>		<b>Percent of Lands Avoided</b>	<b>Hectares of Lands Unavailable</b>
<b>Local Study Area</b>	Culture SNN Avoidance Zone Prior to Project Approval	100.00%	1,576.06
	Culture SNN Avoidance Zone Post-Project Approval	100.00%	1,576.06
	<b>Change in Lands Avoided in LSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>
<b>Regional Study Area</b>	Culture SNN Avoidance Zone Prior to Project Approval	100.00%	63,744.22
	Culture SNN Avoidance Zone Post-Project Approval	100.00%	63,744.22
	<b>Change in Lands Avoided in RSA</b>	<b>Total Avoidance</b>	<b>Total Avoidance</b>

Table 40: SNN Culture Avoidance Behaviours By Project Component

## Appendix F

SNN Hunting Sites in Project Footprint	Participant
Hunting	7SN
Hunting	8SN
Hunting - Elk, Moose, Deer, Bighorn Sheep	8SN
Hunting	11SN
Hunting	17SN
Hunting	17SN
Hunting	18SN
Hunting	19SN
Hunting	19SN
Hunting	19SN
Hunting	20SN
Hunting	21SN
Hunting	22SN
Hunting	22SN
Hunting - Elk, Moose	23SN
Hunting - Moose, Elk	40SN
Hunting	14SN
Hunting	15SN
Hunting	15SN
Hunting	16SN
Hunting	41SN
Hunting	43SN
Hunting	43SN
<b>Total Hunting Sites in Project Footprint: 23</b>	

Table 41: SNN Hunting Sites in Project Footprint

SNN Hunting Sites in LSA	Participant
Hunting	7SN
Hunting	8SN
Hunting - Elk, Moose, Deer, Bighorn Sheep	8SN
Hunting	11SN
Hunting	17SN
Hunting	17SN
Hunting	18SN
Hunting	19SN
Hunting	19SN
Hunting	19SN
Hunting	20SN
Hunting	21SN
Hunting	22SN
Hunting	22SN
Hunting - Elk, Moose	23SN
Hunting - Moose, Elk	40SN
Hunting	14SN

<b>SNN Hunting Sites in LSA</b>	<b>Participant</b>
Hunting	15SN
Hunting	15SN
Hunting	16SN
Hunting	41SN
Hunting	43SN
Hunting	43SN
<b>Total Hunting Sites in LSA: 23</b>	

Table 42: SNN Hunting Sites in LSA

<b>SNN Hunting Sites in RSA</b>	<b>Name Code</b>
Hunting	7SN
Hunting	8SN
Hunting - Elk, Moose, Deer, Bighorn Sheep	8SN
Hunting	11SN
Hunting	17SN
Hunting	17SN
Hunting	18SN
Hunting	18SN
Hunting	19SN
Hunting	19SN
Hunting	19SN
Hunting	20SN
Hunting	21SN
Hunting	22SN
Hunting	22SN
Hunting - Elk, Moose	23SN
Hunting - Moose, Porcupine, Rabbit	38SN/39SN
Hunting - Moose, Elk	40SN
Hunting	14SN
Hunting	14SN
Hunting	14SN
Hunting	14SN
Hunting	15SN
Hunting	15SN
Hunting	16SN
Hunting - Moose, Elk, Deer	36SN
Hunting	41SN
Hunting	43SN
Hunting	43SN
<b>Total Hunting Sites in RSA: 29</b>	

Table 43: SNN Hunting Sites in RSA

<b>SNN Fishing Sites in Project Footprint</b>	<b>Participant</b>
Fishing	17SN
Fishing	18SN
Fishing	19SN
Fishing	19SN
Fishing	19SN
Fishing	20SN
Fishing	21SN
Fishing	15SN
Fishing	15SN
<b>Total Fishing Sites in Project Footprint: 9</b>	

Table 44: SNN Fishing Sites in Project Footprint

<b>SNN Fishing Sites in LSA</b>	<b>Participant</b>
Fishing	17SN
Fishing	18SN
Fishing	19SN
Fishing	19SN
Fishing	19SN
Ice Fishing	19SN
Fishing	20SN
Fishing	21SN
Fishing	15SN
Fishing	15SN
<b>Total Fishing Sites in LSA: 10</b>	

Table 45: SNN Fishing Sites in LSA

<b>SNN Fishing Sites in RSA</b>	<b>Participant</b>
Fishing	17SN
Fishing	18SN
Fishing	18SN
Fishing	19SN
Fishing	19SN
Fishing	19SN
Ice Fishing	19SN
Fishing	20SN
Fishing	21SN
Fishing	38SN/39SN
Fishing	14SN
Fishing	14SN
Fishing	15SN
Fishing	15SN
<b>Total Fishing Sites in RSA: 14</b>	

Table 46: SNN Fishing Sites in RSA

<b>SNN Gathering Sites in Project Footprint</b>	<b>Participant</b>
Gathering – General	7SN
Gathering – Medicines and Berries	8SN
Gathering – Blueberries, Cranberries, Medicines	11SN
Gathering – General	17SN
Gathering – General	17SN
Gathering - Herbs, Fungus, Berries, Medicine and Rat Root	19SN
Gathering – Medicines and Berries	20SN
Gathering – Medicines	20SN
Gathering – General	21SN
Gathering – Plants and Berries	40SN
Gathering – Plants and Berries	40SN
Gathering – Berries	14SN
Gathering – General	15SN
Gathering – General	15SN
Gathering – Medicines	16SN
Gathering – Medicines	41SN
Gathering – Plants, Rat root and Bear Root	41SN
Gathering – Medicines	41SN
<b>Total Gathering Sites in Project Footprint: 18</b>	

Table 47: SNN Gathering Sites in Project Footprint

<b>SNN Gathering Sites in LSA</b>	<b>Participant</b>
Gathering – General	7SN
Gathering – Medicines and Berries	8SN
Gathering – Blueberries, Cranberries, Medicines	11SN
Gathering – General	17SN
Gathering – General	17SN
Gathering - Herbs, Fungus, Berries, Medicine, Rat Root	19SN
Gathering – Medicines and Berries	20SN
Gathering – Medicines	20SN
Gathering – General	21SN
Gathering – Plants and Berries	40SN
Gathering – Plants and Berries	40SN
Gathering – Berries	14SN
Gathering – General	15SN
Gathering – General	15SN
Gathering – Medicines	16SN
Gathering – Medicines	41SN
Gathering – Plants, Rat Root and Bear Root	41SN
Gathering – Medicines	41SN
<b>Total Gathering Sites in LSA: 18</b>	

Table 48: SNN Gathering Sites in LSA



<b>SNN Gathering Sites in RSA</b>	<b>Participant</b>
Gathering – General	7SN
Gathering – Medicines and Berries	8SN
Gathering – Blueberries, Cranberries and Medicines	11SN
Gathering – General	17SN
Gathering – General	17SN
Gathering - Herbs, Fungus, Berries, Medicine, Rat Root	19SN
Gathering – Medicines and Berries	20SN
Gathering – Medicines	20SN
Gathering – General	21SN
Gathering – Blueberries, Strawberries, Cranberries	38SN/39SN
Gathering – Plants and Berries	40SN
Gathering – Plants and Berries	40SN
Gathering – Berries	14SN
Gathering – General	14SN
Gathering – Berries	14SN
Gathering – General	15SN
Gathering – General	15SN
Gathering – Medicines	16SN
Gathering – Medicines	5SN & 6SN
Gathering – Berries	5SN & 6SN
Gathering – Medicines	5SN & 6SN
Gathering – Dorf Berries, Cranberries, Blueberries	29SN
Gathering – Medicines and Rat Root	29SN
Gathering – Medicines	41SN
Gathering – Plants, Rat Root and Bear Root	41SN
Gathering – Medicines	41SN
<b>Total Gathering Sites in RSA: 26</b>	

Table 49: SNN Gathering Sites in RSA

<b>SNN Ceremonial, Cultural and Sacred Sites in Project Footprint</b>	<b>Participant</b>
Ceremonial Site	4SN
Sacred and Ceremonial Site	17SN
Ceremonial Site	17SN
Sacred Site	20SN
Ceremonial Site	21SN
Sacred and Ceremonial Site	22SN
Sacred and Ceremonial Site	14SN
Ceremonial Site	14SN
Ceremonial Site	15SN
Sacred, Ceremonial and Burial Sites	15SN
Cultural Camp	5SN & 6SN
Sacred Site	5SN & 6SN
Cultural Site	5SN & 6SN
Sacred Sites	41SN
<b>Total Ceremonial, Cultural and Sacred Sites in Project Footprint: 14</b>	

Table 50: SNN Ceremonial, Cultural and Sacred Sites in Project Footprint

<b>SNN Camp, including Family Camp, Sites in Project Footprint</b>	<b>Participant</b>
Family Camp	7SN
Camping	17SN
Camping	18SN
Camping	19SN
Camping	21SN
Camping	22SN
Camping	22SN
Camping	40SN
Camping	14SN
Family Camp	15SN
Cultural Camp	5SN & 6SN
<b>Total Camping Sites in Project Footprint: 11</b>	

Table 51: SNN Camp Sites in Project Footprint

<b>SNN Ceremonial, Cultural and Sacred Sites in LSA</b>	<b>Participant</b>
Ceremonial Site	4SN
Sacred and Ceremonial Site	17SN
Ceremonial Site	17SN
Sacred Site	20SN
Ceremonial Site	21SN
Sacred and Ceremonial Site	22SN
Sacred and Ceremonial Site	14SN
Ceremonial Site	14SN
Ceremonial Site	15SN
Sacred, Ceremonial and Burial Sites	15SN
Cultural Camp	5SN & 6SN
Sacred Site	5SN & 6SN
Cultural Site	5SN & 6SN
Sacred Sites	41SN
<b>Total Ceremonial, Cultural and Sacred Sites in LSA: 14</b>	

Table 52: SNN Ceremonial, Cultural and Sacred Sites in LSA

<b>SNN Camp, including Family Camp, Sites in LSA</b>	<b>Participant</b>
Family Camp	7SN
Camping	17SN
Camping	18SN
Camping	19SN
Camping	21SN
Camping	22SN
Camping	22SN
Camping	40SN
Camping	14SN
Family Camp	15SN
Cultural Camp	5SN & 6SN
<b>Total Camping Sites in LSA: 11</b>	

Table 53: SNN Camp Sites in LSA

<b>SNN Ceremonial, Cultural and Sacred Sites in RSA</b>	<b>Participant</b>
Ceremonial Site	4SN
Sacred and Ceremonial Site	17SN
Ceremonial Site	17SN
Sacred Site	20SN
Ceremonial Site	21SN
Sacred and Ceremonial Site	22SN
Sacred and Ceremonial Site	14SN
Ceremonial Site	14SN
Burial sites	14SN
Ceremonial Site	14SN
Ceremonial Site	14SN
Ceremonial Site	15SN

<b>SNN Ceremonial, Cultural and Sacred Sites in RSA</b>	<b>Participant</b>
Sacred, Ceremonial and Burial Sites	15SN
Cultural Camp	5SN & 6SN
Sacred Site	5SN & 6SN
Cultural Site	5SN & 6SN
Sacred Sites	41SN
Burial Site	13SN
<b>Total Ceremonial, Cultural and Sacred Sites in RSA: 18</b>	

Table 54: SNN Ceremonial, Cultural and Sacred Sites in RSA

<b>SNN Camp, including Family Camp, Sites in RSA</b>	<b>Participant</b>
Family Camp	7SN
Used to have camping grounds	17SN
Camping	18SN
Camping	18SN
Camping	19SN
Camping	21SN
Camping	22SN
Camping	22SN
Camping	38SN/39SN
Camping	40SN
Camping	14SN
Camping	14SN
Camping	14SN
Family Camp	15SN
Cultural Camp	5SN & 6SN
<b>Total Camping Sites in RSA: 15</b>	

Table 55: SNN Camp Sites in RSA