



Fort McMurray Métis Local 1935

Realizing the United Nations Declaration on the Rights of Indigenous Peoples in Alberta and Canada

Report Prepared by

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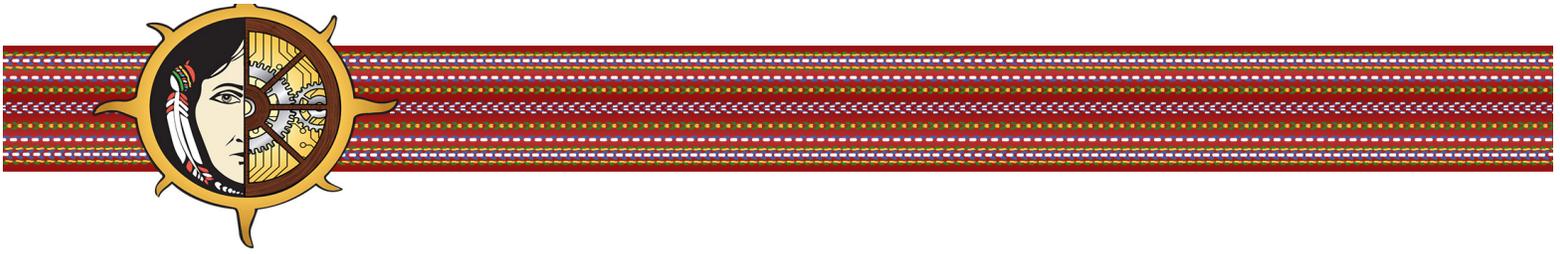


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1. Purpose

This report reviews and recommends implementation measures for the *United Nations Declaration on the Rights of Indigenous Peoples* (the *Declaration*, or UNDRIP) for the Métis Nation of Alberta Association Fort McMurray Local Council 1935 (McMurray Métis). The note is prepared by Willow Springs Strategic Solutions Inc. (WSSS) based on their work with the McMurray Métis and wider Métis community in northeastern Alberta. The recommendations provided here should not be treated as comprehensive, but rather a starting point for an ongoing discussion between McMurray Métis and Alberta and Canada in regards to reconciliation and the *Declaration*.

2. Background

The *Declaration* recognizes rights that “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.”¹ Following two decades of negotiations between states and indigenous peoples, the *Declaration* was adopted by the United Nations (UN) General Assembly on 13 September 2007. The Government of Canada initially refused to adopt the *Declaration*. Finally on 12 November 2010, the Government of Canada adopted the *Declaration* with conditions in a statement that upheld the *Declaration* “is a non-legally binding document that does

¹ *United Nation Declaration on the Rights of Indigenous Peoples* [the *Declaration*]. 2008. Article 43. p. 14.

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not reflect customary international law nor change Canadian laws.”² This stance was criticized by groups such as the North American Caucus of the United Nations Permanent Forum on Indigenous Issues (UNPFII), who called Canada’s reading of the *Declaration* “narrow and unjustifiable” and an attempt “to unilaterally rewrite and redefine essential recognitions of the rights of Indigenous Peoples.”³ Whether or not the Government of Canada’s reading was “unjustifiable,” Canada did recently adopt the *Declaration* and have recently taken measures to begin meaningful implementation in Canadian policy and law.

In February 2015, the Truth and Reconciliation Committee (TRC) published their commission reports. The 382-page report, *Honouring the Past, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (the *Summary Report*), describes reconciliation as an “ongoing process of establishing and maintaining respectful relationships at all levels of Canadian society”⁴ and upholds that the *Declaration* be adopted as a framework for reconciliation in Canada. The *Summary Report* states:

Studying the *Declaration* with a view to identifying its impacts on current government laws, policy, and behaviour would enable Canada to develop a holistic vision of reconciliation that embraces all aspects of the relationship between Aboriginal and non-Aboriginal Canadians, and to set the standard for international achievement in its circle of hesitating nations.⁵

Call to Action number 43 of the *Summary Report* subsequently calls “upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.”⁶ In one of her first public statements as the new Minister of Indigenous

² Canada, Statement of Support on the United Nations Declaration on the Rights of Indigenous Peoples (n 30). Retrieved 9 December 2015 from <http://www.aadnc-aandc.gc.ca/eng/1309374239861/1309374546142>.

³ Concern Raised by North American Indigenous Caucus to the Tenth Session of the United Nations Permanent Forum on Indigenous Issues. P. 13. Retrieved 11 October 2015 from http://www.afn.ca/uploads/files/northamericancaucus_issues_presented_to_unpfii.pdf. See also Truth and Reconciliation Committee. 2015. *Honouring the Truth, Reconciling for the Future: Summary Report of the Final Report of the Truth and Reconciliation Commission of Canada [Summary Report]*. p. 185.

⁴ *Summary Report*, p. 243-244.

⁵ *Ibid.*

⁶ *Summary Report*, p. 245.

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and Northern Affairs, Carolyn Bennett made clear Canada's commitment "to promote and protect the rights of Indigenous Peoples at home and abroad." With the goal to "redouble efforts across all Government departments, provinces and territories, municipalities and with all Canadians to fully understand and implement the United Nations Declaration on the Rights of Indigenous Peoples."⁷ This commitment was reiterated in Prime Minister Justin Trudeau's mandate letter to Dr. Bennett, where he made "implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*" a top priority.⁸

Prior to the Federal Government's commitments, in a letter dated 7 July 2015, Premier Rachel Notley responded to the *Summary Report's* Call to Action 43 by requesting her cabinet begin planning how they will implement the *Declaration* in Alberta.⁹ Ministers' reviews are to include proposed budgets and timelines, and are due on 1 February 2016. Aboriginal Relations Minister Kathleen Ganley will be coordinating the plans, and she has already begun touring the province to meet directly and begin building relations with indigenous communities.¹⁰

In the eight years since its adoption in 2007, no state has effectively implemented all the articles in the *Declaration*: As political scientist Rudolph C. Ryser explains, "some states ceremoniously legislate certain principles but provide no administrative, legal, or budgetary means to bring the domestic legislation into practice."¹¹ Alberta and Canada

⁷ Indigenous and Northern Affairs Canada. Statement by Minister Carolyn Bennett to celebrate the fifth anniversary of Canada's endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). 12 November 2015. Retrieved 9 December 2015 from <http://www.newswire.ca/news-releases/statement-by-minister-carolyn-bennett-to-celebrate-the-fifth-anniversary-of-canadas-endorsement-of-the-united-nations-declaration-on-the-rights-of-indigenous-peoples-undrip-547269312.html>.

⁸ Trudeau, Justin. Minister of Indigenous and Northern Affairs Mandate Letter. 13 November 2015. Retrieved 9 December 2015 from <http://pm.gc.ca/eng/minister-indigenous-and-northern-affairs-mandate-letter>.

⁹ Sinnema, Jodie. Premier wants every cabinet minister to come up with plans to help protect rights and land of aboriginal community. 18 July 2015. *Edmonton Journal*. Retrieved 12 October 2015 from <http://www.edmontonjournal.com/news/Premier+wants+every+cabinet+minister+come+with+plans+help+protect+rights+land+aboriginal+community/11200991/story.html>.

¹⁰ Ibid.

¹¹ Ryser, Rudolph C. 2015. Beyond Human Rights Rituals: A Case for State-Nation Specific Negotiation of UNDRIP Implementation. Retrieved 9 December 2015 from <https://intercontinentalcry.org/beyond-human-rights-rituals/>.

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have an opportunity to not only improve upon indigenous relations, but also to be worldwide leaders in working with indigenous peoples to uphold the *Declaration*.

Government policy implementing the *Declaration* will require “focused and ongoing collaboration and communication” with indigenous governments.¹² A special issue of the *Indigenous Policy Journal* (2014) touches on the fact that implementation of the *Declaration* often results in frustration due to a lack of realized empowerment of indigenous communities. The issue highlights how “international standards such as the [*Declaration*] are only effective when successfully applied in real situations.”¹³ Such applications of the *Declaration* will only be effective with full involvement of indigenous communities; in other words, direct state-to-community negotiation that seeks to build mutual trust and confidence, and implements concrete actions to realize the *Declaration*.¹⁴

Alberta and Canada must collaborate with indigenous communities and each other to create and sustain measures for effectively realizing the implementation of the *Declaration*, developing policy that meets the needs and desires of the indigenous communities.

3. Key Measures & Recommendations

3.1 Self-Government and Self-Determination

A central question to the implementation of the *Declaration* is the question of competing rights and government claims to sovereignty. Indigenous law scholar Michael Asch explains that Canadian sovereignty in part depends on negating constitutional promises made to indigenous communities or by providing conditional support for the *Declaration*. Following Asch’s argument, upholding the *Declaration* would require reconciling the sovereignty of the Crown with the “pre-existence of Indigenous polity,” as opposed to the reverse.¹⁵ This reconciling will require the government to move

¹² Ornelas, Roxanne T. 2014. Implementing the Policy of the UN Declaration on the Rights of Indigenous Peoples. *International Indigenous Policy Journal* 5(1): art. 4. p. 12.

¹³ Wright, Claire, Alexandra Tomaselli, Silvia Ordonez Ganoza. 2014. Developments and Challenges to the UN Declaration on the Rights of Indigenous Peoples Five Years On: Insights on Biodiversity and Case Studies in Bangladesh, Brazil, Japan and Uganda: An Introduction to the Special Issue. *Indigenous Policy Journal*. XXIV(4):2-3.

¹⁴ Ryser 2015.

¹⁵ Asch, Michael. 2013. *On Being Here to Stay: Treaties and Aboriginal rights in Canada*. Toronto: University of Toronto Press. p. 68

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beyond current political thought, transforming the idea of *indigenous rights* into *settler obligations*.¹⁶ A start to adhering to these obligations lies in governments upholding their constitutional obligations. Alberta and Canada will likely have to redefine their practice of law and policy in accordance with indigenous legal orders.¹⁷

As the *Declaration* states

“Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements, and other arrangements.”¹⁸

RECOMMENDATION 1

- McMurray Métis recommends Alberta and Canada reform indigenous relations beginning with constitutional obligation and indigenous rights as foundation principles for implementing the *Declaration*. Both Governments should collaborate with McMurray Métis to further define these principles.

Article 3 of the *Declaration* emphasizes the right to indigenous self-determination.¹⁹ Recognizing that self-determination will be defined differently between and within indigenous communities, and many indigenous rights centre on this foundational concept, we suggest Alberta and Canada work with a multitude of indigenous communities including McMurray Métis to understand the meanings of self-determination. For instance, McMurray Métis recently identified self-determination as an important cultural component that relates closely with Métis identity, values, and spirituality.²⁰ Self-determination for McMurray Métis has, for instance, seen cumulative impacts from an influx of non-indigenous populations, the rapidity of oil sands development, and negative relations with oil companies and government.²¹ More work

¹⁶ Asch 2013 p. 149

¹⁷ See Napoleon, Val. 2012. Thinking about Indigenous Legal Orders. In *Dialogues on Human Rights and Legal Pluralism*. René Provost and Colleen Sheppard (eds.). New York and London: Springer.; Borrows, J. 2010. *Canada's Indigenous Constitution*. Toronto: University of Toronto Press.; Merry, Sally Engle. 1988. Legal Pluralism. *Law & Society Review*. 22(5):869-896.

¹⁸ *Declaration*, p. 13, Article 37.

¹⁹ *Declaration*, p. 4, Article 3.

²⁰ Clarke, Timothy David. 2015. McMurray Métis Cultural Impact Assessment – Teck Frontier Project. WSSS Inc. Retrieved 9 December 2015 from <http://www.ceaa.gc.ca/050/documents/p65505/103972E.pdf>.

²¹ *Ibid*, p. 133-143.

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is needed within the community and across the province and country to understand the multiple meanings of self-determination, impacts to self-determination, and how to strengthen communities' capacity for self-determination.

RECOMMENDATION 2

- McMurray Métis requests that Alberta and Canada collaborate with McMurray Metis to define self-determination, building on recent community-driven work.²²

RECOMMENDATION 3

- Alberta and Canada should establish formal mechanisms to build capacity for McMurray Métis to achieve self-determination, including but not limited to capacity funding, consultation, and cultural programming.

3.2 Implementation

In order to address the *Declaration* provincially and nationally, it will be of utmost importance to consult with each indigenous community, including the McMurray Métis. The Truth and Reconciliation Committee's *Summary Report* calls upon the Federal government "to develop a national action plan, strategies, and other concrete measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples."²³ This is a call that Alberta can assist, by developing a coordinated Provincial Action Plan.

RECOMMENDATION 4

- McMurray Métis recommends that Canada work with Alberta and McMurray Metis to develop an Action Plan for the realization of the *Declaration*. The Plan will establish clear timelines, priorities, and adequate resources to ensure full implementation of the *Declaration*.

Article 42 of the *Declaration* upholds that "States shall promote respect for a full application of the provisions of this Declaration and follow of the effectiveness of this Declaration."²⁴ In accordance with Article 42 (also Article 40),²⁵ we suggest that the Action Plan include mechanisms for reviewing the application of the *Declaration* in Alberta and Canada.

²² Ibid.

²³ *Summary Report*, p. 244, Call to Action 44.

²⁴ *Declaration*, p. 14, Article 42.

²⁵ *Declaration*, p. 13-14, Article 40, 42.

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RECOMMENDATION 5

- McMurray Métis requests that the Action Plan include mechanisms for review of the effectiveness of the *Declaration's* implementation, which may form the basis of an unbiased annual review. Measures for such a review will be developed with McMurray Metis.

In Australia, a UN Special Rapporteur also recommended review mechanisms for realizing the *Declaration*, calling the government to also:

Engage in comprehensive reviews of their existing legislation and administrative programs to identify where they may be incompatible with the Declaration. This would involve a review of all laws and programs touching upon indigenous peoples' rights and interests, including those related to natural resource development, land, education, administration of justice and other areas. On the basis of such review necessary legal and programmatic reforms should be developed and implemented, in consultation with indigenous peoples.

States should be committed to devote significant human and financial resources to the measure required to implement the Declaration.²⁶

Similarly, we uphold that implementing the *Declaration* in Alberta and Canada will require policy and legislative reform, especially of indigenous consultation policies. We suggest both governments undertake an impartial review of the current political landscape, including national and provincial policy, legislation, and administrative programs. Indeed, Article 38 of the *Declaration* upholds that "States, in consultation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration".²⁷

RECOMMENDATION 6

- McMurray Métis requests the Action Plan preliminarily include a comprehensive review and overhaul of current provincial and federal policies, legislation, and administrative programs that touch upon indigenous rights issues, especially

²⁶ Anaya, James. 2010. Statement on the United Nations Declaration on the Rights of Indigenous Peoples, to the EMRIP. Retrieved 9 December 2015 from unsr.jamesanaya.org/statements/statement-on-the-United-nations-declaration-on-the-rights-of-indigenous-peoples-to-the-emrip.

²⁷ *Declaration*, p. 13, Article 38.

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Alberta's consultation policies and Alberta's Métis Harvesting Policy. Such a review will include, but will not be limited to:

- a. Direct participation and consultation with all indigenous communities in all stages of the review process. The process may require different levels of engagement, though this should be undertaken in consultation with indigenous communities.
- b. Clear, mutually agreed-upon timelines.
- c. A contextual review and analysis of indigenous rights implementation strategies across Canada, including advice from indigenous law experts, Nunavut's governance structure, and the Northwest Territories' co-management models.
- d. Adequate funding for indigenous communities' involvement in the review process.
- e. Mechanisms for rewriting policies, legislation, and administrative programs upon completion of the review, to be developed in collaboration with indigenous communities including the McMurray Métis.

RECOMMENDATION 7

- McMurray Métis requests that the Alberta and Canada recognize and affirm the *Declaration* in all legislation dealing with indigenous peoples rights and interests.

As stated above, the *Summary Report* states that reconciliation is an ongoing process that will require participation of all levels of Canadian society. Therefore effective implementation will not only require staff from Alberta and Canada, but also non-government sectors, especially natural resource developers, to become familiar with the *Declaration* and committed to achieve its principles through concrete action. To this end, it is imperative that public sector and businesses train their staff and become familiar with the Action Plan and documents like *A Business Reference Guide to United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP Business Reference Guide)*.²⁸

RECOMMENDATION 8

- McMurray Métis recommends training programs and actions for implementing the *Declaration* be developed in collaboration with McMurray Metis for both

²⁸ United Nations Global Impact. 2013. *A Business Reference Guide to the United Nations Declaration on the Rights of Indigenous Peoples*. New York. Retrieved 9 December 2015 from <https://www.unglobalcompact.org/library/541>.

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public and private sector employees. Programs and actions may include but not be limited to: training programs implemented by indigenous communities, and businesses adhering to the *UNDRIP Business Reference Guide*.

3.3 Consultation Reform and Compensation

As noted in social scientific literature, indigenous consultation is at best a box-ticking exercise for development and at worst perpetuates the ongoing colonial relations.²⁹ As it stands, Alberta's indigenous consultation process for natural resource development is in potential violation of the *Declaration*. Likewise, the Harper Government's consecutive Omnibus Bills failed to meet the Crown's constitutional obligation for meaningful consultation with indigenous people.³⁰ Without a Métis Consultation Policy, consultation with Métis communities in Alberta has particularly fallen short in recent decades. The current Alberta government has emphasized discussing consultation concerns with Métis communities and, to address some of these issues, we urge them to work with communities to implement a Métis Consultation Policy post-haste.³¹

Articles 10, 11, 20, 28, 29, and 32 of the *Declaration* deal most explicitly with consultation, emphasizing the right to free, prior and informed consent (FPIC), just and fair redress to infringement, and compensation.³² The *Declaration* upholds that development or dispossession of lands can only occur after gaining "free, prior, and informed consent."³³ Upholding the right to FPIC will require new consultation policies that speak more directly to constitutional obligations and indigenous rights. These new policies should be developed together with indigenous communities.

RECOMMENDATION 9

- McMurray Métis requests the Alberta establish a Métis Consultation Policy that goes beyond the existing settlement-specific policy to include Métis

²⁹ Baker, Janelle Marie. Forthcoming. From Traps to Pipelines: Extractive Industries in Northern Alberta; Reddekopp, Neil. 2013. Theory and Practice of the Government of Alberta's Consultation Policy. *Constitutional Forum constitutional* 22(1): 47-62.

³⁰ Courtoreille v. Canada (Aboriginal Affairs and Northern Development), 2014 FC 1244 (CanLII), <http://canlii.ca/t/gfwn3> retrieved on 9 December 2015.

³¹ Morin, Brandi. 2015. "We're getting things done," Alberta Aboriginal Affairs minister taking action to implement UNDRIP mandate. July 15. APTN. Retrieved on 9 December 2015. <http://aptn.ca/news/2015/07/15/were-getting-things-done-alberta-aboriginal-affairs-minister-taking-action-implement-undrip-mandate/>.

³² *Declaration*, pp. 6, 8, 10-12; Articles 10, 11, 20, 28, 29, 32.

³³ *Ibid.*

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communities in the rest of the province, including McMurray Métis. The Métis Consultation Policy should include binding requirements for consultation, consent, and accommodation. The policy should be written from an indigenous rights perspective, honouring and respecting constitutional obligations, and focus on industries gaining free, prior, and informed consent from communities.

RECOMMENDATION 10

- McMurray Métis recommends the Alberta Métis Consultation Policy be written in collaboration with Métis communities across the province, including the McMurray Métis, using a participatory process developed by communities that specifies how communities will provide input during scoping, drafting, revisions and communication to the Government of Alberta, industry and indigenous communities.

RECOMMENDATION 11

- McMurray Métis recommend the Métis Consultation Policy include “a directive to Alberta’s Aboriginal Consultation Office mandating consultation with affected Métis communities prior to regulatory approvals.”³⁴

Regarding redress and compensation, Article 20 of the *Declaration* states

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.³⁵

The “enjoyment of” and “ability to engage freely” in traditional activities and subsistence depends on sustaining a regional land base that is environmentally healthy as defined by indigenous communities and therefore necessitates a recognition of cumulative effects of industrial developments. This article therefore requires direct

³⁴ Wood Buffalo Métis. 10 July 2015. Wood Buffalo Métis Welcome Alberta Premier’s Mandate Letter. Retrieved 9 December 2015 from <https://mcmurraymetis.wordpress.com/2015/07/10/wood-buffalo-metis-welcome-alberta-premiers-mandate-letter/>.

³⁵ *Declaration*, p. 8, Article 20.

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consultation with communities regarding any developments in their homelands that would impact means to engage in traditional activities. To maintain political and social systems, indigenous communities will also require support for maintaining local councils.

Should the rights in Article 20:1 be violated, Article 20:2 makes clear that indigenous peoples “are entitled to just and fair redress.”³⁶ Indigenous communities will need to define what is considered “just and fair” in conversation with Alberta and Canada. Redress may include more than mere monetary compensation. Further, a review of existing violations of Article 20 will also need to be conducted in order to ascertain redress.

RECOMMENDATION 12

- McMurray Métis recommends that a review of previous and potential rights infringements be conducted in collaboration with McMurray Metis. Only after the Alberta and Canada understand past wrongs can “just and fair redress” be given to indigenous communities including McMurray Métis.³⁷

RECOMMENDATION 13

- McMurray Métis suggests that Alberta and Canada work with McMurray Metis to (1) determine measures for “just and fair” redress and compensation, and (2) develop a framework to address disputes over rights and to compensate for past wrongs.

RECOMMENDATION 14

- McMurray Métis request Alberta and Canada work with McMurray Métis to assess the cumulative environmental impacts of past, present, and planned oil sands projects in their traditional territories in order to construct an adequate account of historical impact and baseline data from which to gauge future impacts and negotiate mitigation and compensation agreements.

RECOMMENDATION 15

- McMurray Métis requests Alberta and Canada work with indigenous communities to develop a cumulative-impacts assessment mechanism that is

³⁶ Ibid.

³⁷ e.g. *Declaration*, p. 6, 8, 10, 12. Articles 10, 20, 28, 32.

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incorporated into the regulatory systems in order to protect and preserve constitutional and traditional resource usage rights.

RECOMMENDATION 16

- McMurray Métis requests Alberta and Canada work with the McMurray Métis and other indigenous communities to identify community-specific cultural thresholds, such as by providing financial support for development of the McMurray Métis Cumulative Environmental Management System.³⁸

RECOMMENDATION 17

- McMurray Métis requests Alberta and Canada provide financial support for multistakeholder groups like the Cumulative Environmental Management Association (CEMA) in order to assist in the advance of cumulative-impact assessment in the region and ensure industrial projects are socially and environmentally sustainable.

3.4 Lands and Traditional Knowledge

Like Article 20, Article 25 deals with indigenous peoples' relationships to lands, stating,

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.³⁹

Maintaining and strengthening relations to the environment requires (1) those environments remain healthy, as defined by indigenous communities, and (2) maintaining access to traditional territories.

Similarly, Articles 26 and 27 of the *Declaration* outline the rights to traditional territories. Article 26 states:

³⁸ Fortna, Peter, Gillian Donald, Darcy Picard and Tim Clark. The McMurray Métis' Cumulative Effects Management Strategy: Connecting Métis, Social Scientific and Scientific Research Methodologies to Monitor the Effects of Oil Sands Development. University of Aberdeen, Jun 2015. Retrieved 9 December 2015 from <http://www.willowspringsss.com/blog/the-mcmurray-metis-cumulative-effects-management-strategy-connecting-metis-social-scientific-and-scientific-research-methodologies-to-monitor-the-effects-of-oil-sands-development>

³⁹ Ibid, p. 10, Article 25.

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1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.⁴⁰

Article 27 explains that:

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.⁴¹

RECOMMENDATION 18

- McMurray Métis requests Alberta and Canada work with McMurray Métis to define a healthy environment from the community's perspective. This will include a community-driven, long-term, participatory study involving elders, youth, and land-users, building on baseline information already identified by the community in previous studies.⁴²

RECOMMENDATION 19

- McMurray Métis requests Alberta and Canada collaborate with McMurray Metis to identify the extent of the community's traditional homeland, and provide formal recognition of McMurray Metis's self-defined traditional homeland.

⁴⁰ Ibid, p. 10, Article 26.

⁴¹ Ibid, p. 10, Article 27.

⁴² e.g. Clark 2015.

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RECOMMENDATION 20

- McMurray Métis recommend Alberta and Canada collaborate with McMurray Metis to establish mechanisms to evaluate and conserve culturally important places.

RECOMMENDATION 21

- McMurray Métis requests Government of Alberta work with the McMurray Métis to review and update regional initiatives including the Oil Sands Monitoring Program in accordance with the *Declaration*.

Article 28 establishes that indigenous peoples have the right to redress when rights, such as those in Articles 26 and 27, have not been upheld.⁴³ In the case of Métis, understanding rights infringements and determining fair and appropriate redress will necessitate a review of scrip in Alberta and other displacements of Métis settlement and seasonal camps.

RECOMMENDATION 22

- McMurray Métis recommends Alberta and Canada formally recognize Métis land tenure systems and uphold Métis rights within their traditional homelands, which may overlap with other community's traditional territories.

RECOMMENDATION 23

- McMurray Métis recommends that the Alberta and Canada formally review, in collaboration with McMurray Métis, issuances of scrip and displacement of Métis settlements. Identifying these displacements will then lead to determining fair and appropriate redress through a participatory process with the McMurray Métis.

Article 29 also outlines the right to a safe and healthy environment in indigenous peoples' traditional territories, compensation for environmental decline, and efforts to restore a healthy environment where it has been degraded.⁴⁴ This right suggests a need to define a healthy environment from a community's perspective, as outlined above, but also compensation if health is not maintained; a significant concern for McMurray Métis in their homeland. In addition, the *Environmental Protection and Enhancement Act* (EPEA) should be reviewed and amended to incorporate indigenous rights, and

⁴³ Ibid, p. 10-11, Article 28.

⁴⁴ Ibid, p. 11, Article 29.

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reclamation requirements must be changed to require ecological restoration to support indigenous rights.

RECOMMENDATION 24

- McMurray Métis recommends the Government of Alberta review land planning processes, including those in the *Land-Use Framework (LUF)* and *Lower Athabasca Regional Plan (LARP)*. These processes should be amended to begin with indigenous rights considerations, before considering non-indigenous land uses. Indigenous peoples, especially the McMurray Métis who were excluded from much of the LUF planning process, should therefore be key players in land planning processes from beginning to end.

RECOMMENDATION 25

- McMurray Métis recommends Alberta and Canada collaborate with communities to review and compensate for environmental damages to traditional territories.

RECOMMENDATION 26

- McMurray Métis recommends Alberta review the EPEA and amend it to incorporate indigenous rights. Reclamation requirements should be changed to require ecological restoration and restoration of biodiversity to support Métis harvesting rights.

Article 31 speaks directly to maintaining traditional knowledge and cultural heritage.⁴⁵ As per the article, the Governments should work with indigenous communities to realize this right, for instance by implementing programming and institutions.

RECOMMENDATION 27

- McMurray Métis recommends Alberta and Canada work with McMurray Metis to create more community-driven programming and institutions to realize Article 31 of the *Declaration*,⁴⁶ for instance by providing capacity to establish a Métis cultural center in the Athabasca region or seed facilities for ecological restoration.

Maintaining cultural heritage also aligns with Article 11, which establishes that indigenous peoples have the right to “practise and revitalize their cultural traditions and

⁴⁵ Ibid, p. 11, Article 31.

⁴⁶ Ibid, p. 11, Article 31.

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customs.”⁴⁷ Alberta and Canada could support this by upholding the call for states to “provide redress through effective mechanisms,”⁴⁸ including for example a review of the *Historic Resources Act* (HRA), and review and repatriation of holdings at provincial and national museums.

RECOMMENDATION 28

- McMurray Métis recommends Alberta and Canada work to uphold Article 11 by, for instance, working with McMurray Metis to review and amend the HRA to reflect indigenous rights and ways of engaging with historic sites.

RECOMMENDATION 29

- McMurray Métis recommends Alberta and Canada review holdings at provincial and national museums and return artefacts to communities with capacity to effectively display and care for such materials.

3.5 Socio-Economic Rights

Articles 21-23 of the *Declaration* relate to socio-economic issues facing indigenous communities.⁴⁹ Articles 21 and 22 declare that states must take effective measures to ensure the socio-economic wellbeing of indigenous peoples, particularly with attention to the needs of youth, children, women, and elders. These articles require assessments of indigenous communities’ socio-economic status and needs and capacity for community-driven social and economic programming.⁵⁰

RECOMMENDATION 30

- McMurray Métis recommends Alberta and Canada provide means for McMurray Metis to conduct their own socio-economic assessment, building on previous work.⁵¹ Such an assessment should ascertain the socio-economic needs of the McMurray Métis.

RECOMMENDATION 31

- McMurray Métis recommends Alberta and Canada provide capacity for programming regarding key areas identified in the McMurray Métis socio-

⁴⁷ Ibid, p. 6, Article 11.

⁴⁸ Ibid.

⁴⁹ Ibid, p. 9, Articles 21-23.

⁵⁰ Ibid, p. 9, Article 23

⁵¹ e.g. Clark 2015.

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economic assessment. Social, cultural and economic programming will be developed and implemented by the community, as per Article 23 of the *Declaration*.⁵²

RECOMMENDATION 32

- McMurray Métis recommends Alberta and Canada provide capacity funding for Métis housing initiatives.

RECOMMENDATION 33

- McMurray Métis recommends Alberta and Canada continue supporting a National Inquiry into Missing and Murdered Indigenous Women.

RECOMMENDATION 34

- McMurray Métis recommends Alberta and Canada continue supporting the Moose Hide Campaign at Native Friendship Centres and other initiatives that raise awareness of violence against indigenous women.

3.6 Education, language and culture

Another key component of the *Declaration* is rights to education, culture, and language. The *Declaration* outlines that indigenous peoples have rights to exercise their cultural practices and be free from discrimination⁵³ as well as to live as distinct peoples, with mental and physical integrity.⁵⁴ As explained in the *Summary Report*:

The Declaration also includes specific recognition of the right to revitalize and transmit Aboriginal languages in Article 13:1, which recognizes that ‘Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.’ Article 14 provides for educational language rights of the type that Canadians already know and experience, with respect to anglophone and francophone minorities.⁵⁵

⁵² *Declaration*, p. 9, Article 23.

⁵³ *Ibid*, p. 4, Article 2.

⁵⁴ *Ibid*, pp. 4, 6, Article 7, 12.

⁵⁵ *Summary Report*, pp. 200-201.

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RECOMMENDATION 35

- McMurray Métis recommends Alberta and Canada work with McMurray Metis to identify needs and provide capacity for community-led education. This may include developing a Métis Cultural Center in Fort McMurray.

Regarding education, the *Declaration* states

Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.⁵⁶

To this end, Articles 14 to 15 uphold responsibilities of the state implementing measures for indigenous peoples' access to "an education in their own culture and provided in their own language."⁵⁷

RECOMMENDATION 36

- McMurray Métis recommends Alberta and Canada translate the *Declaration* into indigenous languages, including Cree, Dene, and Michif.

RECOMMENDATION 37

- McMurray Métis recommends Alberta and Canada collaborate with McMurray Métis to promote broader public awareness of and education on the *Declaration*, such as in the provincial curriculum and both public and private sectors. All government staff should be familiar with the *Declaration* and provided clear direction and support to uphold its provisions.

RECOMMENDATION 38

- McMurray Métis recommends Alberta and Canada include Métis culture and history in education curriculums.

RECOMMENDATION 39

- McMurray Métis recommends Alberta and Canada collaborate with McMurray Metis and provide capacity for indigenous education within the community, including but not limited to scholarship programs and cultural camps for youth and elders.

⁵⁶ *Declaration*, p. 7, Article 14.

⁵⁷ *Ibid.*

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States are also called to “combat prejudice and eliminate discrimination and to promote tolerance, understanding, and good relations among indigenous peoples and all segments of society.”⁵⁸ Part of this call includes taking measures to ensure that media is inclusive and reflective of indigenous cultural diversity and providing public education on indigenous issues.⁵⁹ In a context where media in Alberta and Canada often reflects racialized assumptions about indigenous peoples, it is important that the Governments implement measures to hold media outlets accountable for presenting indigenous peoples respectfully.⁶⁰

RECOMMENDATION 40

- McMurray Métis recommends the Alberta and Canada collaborate with McMurray Metis to define and implement inclusive or non-racialized media representations of Métis peoples.

RECOMMENDATION 41

- McMurray Métis recommends Alberta and Canada, following the *Summary Report* and the *Declaration* to “provide education to public servants on the history of Aboriginal peoples [including Métis], including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal– Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”⁶¹

3.7 Healthcare

The *Summary Report* summarizes the *Declaration’s* emphasis on healthcare in Articles 24 and 29 as follows:

Health care is a right enshrined in international and constitutional law as well as in Treaties. The *United Nations Declaration on the Rights of Indigenous Peoples* recognizes that Indigenous peoples have the right to physical and mental integrity, as well as the right to equal enjoyment of the highest attainable standard of physical and mental health. In taking measures to achieve these goals, states are obligated to pay particular attention to the rights and special

⁵⁸ Ibid, p. 7, Article 15.

⁵⁹ Ibid, p. 7, Article 16.

⁶⁰ See, for example, indigenous anthropologist Zoe Todd’s critique of racialized discourses in Edmonton news coverage on urban public spaces: Todd, Zoe. 2015. *Building building building*. Urbane Adventurer. Retrieved 9 December 2015 from <https://zoeandthecity.wordpress.com/2015/07/23/4592/>.

⁶¹ *Summary Report*, p. 261, Call to Action 57.

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needs of Elders, women, youth, children, and persons with disabilities. Indigenous peoples have the right to be actively involved in developing, determining, and administering health programs that affect them. Indigenous peoples also have the right to traditional medicines and to maintain their traditional health practices.”⁶²

RECOMMENDATION 42

- McMurray Métis recommends Alberta and Canada review current indigenous healthcare programmes in the province in collaboration with McMurray Metis, identifying gaps and implementing measures to address these gaps and community concerns.

Of particular concern to the McMurray Métis is the connection between environmental and human health. As Article 29 of the *Declaration* upholds, States must “take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by [hazardous] materials, are duly implemented.”⁶³

RECOMMENDATION 43

- McMurray Métis recommends Alberta and Canada work with McMurray Metis to identify and implement “programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by [hazardous] materials, are duly implemented.”⁶⁴ This may include providing capacity for McMurray Métis to create a local Métis healthcare programme.

Based on the *Declaration*, the *Summary Report* Call to Action 24 recommends adequate training and education for healthcare professions about indigenous health issues.⁶⁵

RECOMMENDATION 44

- McMurray Métis recommends Alberta and Canada require all healthcare professionals be effectively educated in indigenous (including Métis) health issues, “including the history and legacy of residential schools, the United

⁶² Ibid, p. 207.

⁶³ *Declaration*, p. 11, Article 29.

⁶⁴ *Declaration*, p. 11, Article 29.

⁶⁵ *Summary Report*, p. 211, Call to Action 24.

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Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”⁶⁶

4. Summary

This report reviewed the *Declaration* and provided preliminary recommendations for its realization in Alberta and Canada, within the context of McMurray Métis concerns. The recommendations in this review should not be considered comprehensive. The recommendations should merely be treated as a starting point for an ongoing conversation about reconciliation with McMurray Métis. As such, McMurray Métis look forward to entering into a constructive dialogue with both Alberta and Canada to begin implementation of the UNDRIP.

⁶⁶ *Summary Report*, p. 211, Call to Action 24.

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5. Table of Recommendations

The recommendations made in this review of the *Declaration* are summarized here. The table is divided into three categories:

- Number (the number of the recommendation)
- Rights Type (the rights or concerns to be addressed by the recommendation)
- Recommendation (the specific recommendation made)

Number	Rights Type	Recommendation
1	Self-Government and Self-Determination	McMurray Métis recommends Alberta and Canada reform indigenous relations beginning with constitutional obligation and indigenous rights as foundation principles for implementing the <i>Declaration</i> . Both Governments should collaborate with McMurray Métis to further define these principles.
2	Self-Government and Self-Determination	McMurray Métis requests that Alberta and Canada collaborate with McMurray Metis to define self-determination, building on recent community-driven work.
3	Self-Government and Self-Determination	Alberta and Canada should establish formal mechanisms to build capacity for McMurray Métis to achieve self-determination, including but not limited to capacity funding, consultation, and cultural programming.
4	Implementation	McMurray Métis recommends that Canada work with Alberta and McMurray Metis to develop an Action Plan for the realization of the <i>Declaration</i> . The Plan will establish clear timelines, priorities, and adequate resources to ensure full implementation of the <i>Declaration</i> .
5	Implementation	McMurray Métis requests that the Action Plan include mechanisms for review of the effectiveness of the <i>Declaration's</i> implementation, which may form the basis of an unbiased annual review. Measures for such a review

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		will be developed with McMurray Metis.
6	Implementation	<p>McMurray Métis requests the Action Plan preliminarily include a comprehensive review and overhaul of current provincial and federal policies, legislation, and administrative programs that touch upon indigenous rights issues, especially Aboriginal consultation policies and Alberta’s Métis Harvesting Policy. Such a review will include, but will not be limited to:</p> <ul style="list-style-type: none"> f. Direct participation and consultation with all indigenous communities (including Métis communities) in all stages of the review process. The process may require different levels of engagement, though this should be undertaken in consultation with indigenous communities. g. Clear, mutually agreed-upon timelines. h. A contextual review and analysis of indigenous rights implementation strategies across Canada, including advice from indigenous law experts, Nunavut’s governance structure, and the Northwest Territories’ co-management models. i. Adequate funding for indigenous communities’ involvement in the review process. j. Mechanisms for rewriting policies, legislation, and administrative programs upon completion of the review, to be developed in collaboration with indigenous communities including the McMurray Métis.
7	Implementation	McMurray Métis requests that the Alberta and Canada recognize and affirm the <i>Declaration</i> in all legislation dealing with indigenous peoples rights and interests.
8	Implementation	McMurray Métis recommends training programs and actions for implementing the <i>Declaration</i> be developed in collaboration with McMurray Metis for both public and private sector employees. Programs and actions may include but not be limited to: training programs implemented by indigenous communities, and businesses adhering to the <i>UNDRIP Business Reference Guide</i> .



9	Consultation Reform and Compensation	McMurray Métis requests the Alberta establish a Métis Consultation Policy that goes beyond the existing settlement-specific policy to include Métis communities in the rest of the province, including McMurray Métis. The Métis Consultation Policy should include clean, binding requirements for consultation, consent, and accommodation. The policy should be written from an indigenous rights perspective, honouring and respecting constitutional obligations, and focus on industries gaining free, prior, and informed consent from communities.
10	Consultation Reform and Compensation	McMurray Métis recommends the Alberta Métis Consultation Policy be written in collaboration with Métis communities across the province, including the McMurray Métis, using a participatory process developed by communities that specifies how communities will provide input during scoping, drafting, revisions and communication to the Government of Alberta, industry and indigenous communities.
11	Consultation Reform and Compensation	McMurray Métis recommend the Métis Consultation Policy include “a directive to Alberta’s Aboriginal Consultation Office mandating consultation with affected Métis communities prior to regulatory approvals.”
12	Consultation Reform and Compensation	McMurray Métis recommends that a review of previous and potential rights infringements be conducted in collaboration with McMurray Metis. Only after the Alberta and Canada understand past wrongs can “just and fair redress” be given to indigenous communities including McMurray Métis.
13	Consultation Reform and Compensation	McMurray Métis suggests that Alberta and Canada work with McMurray Metis to (1) determine measures for “just and fair” redress and compensation, and (2) develop a framework to address disputes over rights and to compensate for past wrongs.
14	Consultation Reform and Compensation	McMurray Métis request Alberta and Canada work with McMurray Métis to assess the cumulative

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		environmental impacts of past, present, and planned oil sands projects in their traditional territories in order to construct an adequate account of historical impact and baseline data from which to gauge future impacts and negotiate mitigation and compensation agreements.
15	Consultation Reform and Compensation	McMurray Métis requests Alberta and Canada work with indigenous communities to develop a cumulative-impacts assessment mechanism that is incorporated into the regulatory systems in order to protect and preserve constitutional and traditional resource usage rights.
16	Consultation Reform and Compensation	McMurray Métis requests Alberta and Canada work with the McMurray Métis and other indigenous communities to identify community-specific cultural thresholds, such as by providing financial support for development of the McMurray Métis Cumulative Environmental Management System.
17	Consultation Reform and Compensation	McMurray Métis requests Alberta and Canada provide financial support for multistakeholder groups like the Cumulative Environmental Management Association (CEMA) in order to assist in the advance of cumulative-impact assessment in the region and ensure industrial projects are socially and environmentally sustainable.
18	Lands and Traditional Knowledge	McMurray Métis requests Alberta and Canada work with McMurray Métis to define a healthy environment from the community's perspective. This will include a community-driven, long-term, participatory study involving elders, youth, and land-users, building on baseline information already identified by the community in previous studies.
19	Lands and Traditional Knowledge	McMurray Métis requests Alberta and Canada collaborate with McMurray Metis to identify the extent of the community's traditional homeland, and provide formal recognition of McMurray Metis's self-defined traditional homeland.
20	Lands and Traditional	McMurray Métis recommend Alberta and Canada

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	Knowledge	collaborate with McMurray Metis to establish mechanisms to evaluate and conserve culturally important places.
21	Lands and Traditional Knowledge	McMurray Métis requests Government of Alberta work with the McMurray Métis to review and update regional initiatives including the Oil Sands Monitoring Program in accordance with the <i>Declaration</i> .
22	Lands and Traditional Knowledge	McMurray Métis recommends Alberta and Canada formally recognize Métis land tenure systems and uphold Métis rights within their traditional homelands, which may overlap with other community's traditional territories.
23	Lands and Traditional Knowledge	McMurray Métis recommends that the Alberta and Canada formally review, in collaboration with McMurray Métis, issuances of scrip and displacement of Métis settlements. Identifying these displacements will then lead to determining fair and appropriate redress through a participatory process with the McMurray Métis.
24	Lands and Traditional Knowledge	McMurray Métis recommends the Government of Alberta review land planning processes, including those in the <i>Land-Use Framework (LUF)</i> and <i>Lower Athabasca Regional Plan (LARP)</i> . These processes should be amended to begin with indigenous rights considerations, before considering non-indigenous land uses. Indigenous peoples, especially the McMurray Métis who were excluded from much of the LUF planning process, should therefore be key players in land planning processes from beginning to end.
25	Lands and Traditional Knowledge	McMurray Métis recommends Alberta and Canada collaborate with communities to review and compensate for environmental damages to traditional territories.
26	Lands and Traditional Knowledge	McMurray Métis recommends Alberta review the EPEA and amend it to incorporate indigenous rights. Reclamation requirements should be changed to require ecological restoration and restoration of biodiversity to support Métis harvesting rights.

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27	Lands and Traditional Knowledge	McMurray Métis recommends Alberta and Canada work with McMurray Metis to create more community-driven programming and institutions to realize Article 31 of the <i>Declaration</i> , ⁶⁷ for instance by providing capacity to establish a Métis cultural center in the Athabasca region or seed facilities for ecological restoration.
28	Lands and Traditional Knowledge	McMurray Métis recommends Alberta and Canada work to uphold Article 11 by, for instance, working with McMurray Metis to review and amend the HRA to reflect indigenous rights and ways of engaging with historic sites.
29	Lands and Traditional Knowledge	McMurray Métis recommends Alberta and Canada review holdings at provincial and national museums and return artefacts to communities with capacity to effectively display and care for such materials.
30	Socio-Economic Rights	McMurray Métis recommends Alberta and Canada provide means for McMurray Metis to conduct their own socio-economic assessment, building on previous work. Such an assessment should ascertain the socio-economic needs of the McMurray Métis.
31	Socio-Economic Rights	McMurray Métis recommends Alberta and Canada provide capacity for programming regarding key areas identified in the McMurray Métis socio-economic assessment. Social, cultural and economic programming will be developed and implemented by the community, as per Article 23 of the <i>Declaration</i> .
32	Socio-Economic Rights	McMurray Métis recommends Alberta and Canada provide capacity funding for Métis housing initiatives.
33	Socio-Economic Rights	McMurray Métis recommends Alberta and Canada continue supporting the call for a National Inquiry into Missing and Murdered Indigenous Women.

⁶⁷ Ibid, p. 11, Article 31.



34	Socio-Economic Rights	McMurray Métis recommends Alberta and Canada continue supporting the Moose Hide Campaign at Native Friendship Centres and other initiatives that raise awareness of violence against indigenous women.
35	Education, language and culture	McMurray Métis recommends Alberta and Canada work with McMurray Metis to identify needs and provide capacity for community-led education. This may include developing a Métis Cultural Center in Fort McMurray.
36	Education, language and culture	McMurray Métis recommends Alberta and Canada translate the <i>Declaration</i> into indigenous languages, including Cree, Dene, and Michif.
37	Education, language and culture	McMurray Métis recommends Alberta and Canada collaborate with McMurray Metis to promote broader public awareness of and education on the <i>Declaration</i> , such as in the provincial curriculum and both public and private sectors. All government staff should be familiar with the <i>Declaration</i> and provided clear direction and support to uphold its provisions.
38	Education, language and culture	McMurray Métis recommends Alberta and Canada include Métis culture and history in education curriculums.
39	Education, language and culture	McMurray Métis recommends Alberta and Canada collaborate with McMurray Metis and provide capacity for indigenous education within the community, including but not limited to scholarship programs and cultural camps for youth and elders.
40	Education, language and culture	McMurray Métis recommends the Alberta and Canada collaborate with McMurray Metis to define and implement inclusive or non-racialized media representations of Métis peoples.
41	Education, language and culture	McMurray Métis recommends Alberta and Canada, following the <i>Summary Report</i> and the <i>Declaration</i> , “provide education to public servants on the history of Aboriginal peoples [including Métis], including the history

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		and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”
42	Healthcare	McMurray Métis recommends Alberta and Canada review current indigenous healthcare programmes in the province in collaboration with McMurray Metis, identifying gaps and implementing measures to address these gaps and community concerns.
43	Healthcare	McMurray Métis recommends Alberta and Canada work with McMurray Metis to identify and implement “programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by [hazardous] materials, are duly implemented.” ⁶⁸ This may include providing capacity for McMurray Métis to create a local Métis healthcare programme.
44	Healthcare	McMurray Métis recommends Alberta and Canada require all healthcare professionals be effectively educated in indigenous (including Métis) health issues, “including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.” ⁶⁹

⁶⁸ Declaration, p. 11, Article 29.

⁶⁹ Summary Report, p. 211, Call to Action 24.

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