



March 21, 2025

Canada Energy Regulator  
210-517 10 Ave SW  
Calgary AB T2R 0A8

## **RE: Cold Lake First Nations Comments on the Canada Energy Regulator's Onshore Pipeline Regulations Review**

Cold Lake First Nations (CLFN) is a Denesuline Nation and a signatory to Treaty No. 6 which specifically protects our rights to hunt, fish, trap, gather and generally carry on our livelihood after Treaty as before. In addition to our Treaty Rights, our members hold Aboriginal Rights to practice, protect, and preserve their spiritual and cultural practices, including, but not limited to protection of historic resources, conservation and stewardship of *Denne Ni Nennè* (our Homeland) and locations of spiritual and cultural significance. These inherent and legal rights are protected, recognized, and affirmed by the *Natural Resources Transfer Agreement*, s. 35 of the *Constitution Act, 1982*, and the United Nations Declaration on the Rights of Indigenous Peoples.

The Canada Energy Regulator (“**CER**”) is seeking feedback for the Phase 2 review of the Onshore Pipeline Regulations (“**OPR**”).<sup>1</sup> The OPR are the main regulations that the CER uses to oversee pipelines in Canada.

The first phase of engagement began in January 2022 and ended in June 2022. In this phase, the CER held information and engagement sessions and published a [Discussion Paper](#) for input.

The second phase of engagement, which is based on lessons learned from the first phase of engagement, is now underway. It launched in June 2024 and will last until March 31, 2025. As part of this review, the CER is seeking input on issue specific topic papers relating to the OPR, which are listed below:

- A. OPR - Damage Prevention
- B. OPR - Deactivation and End of Lifecycle
- C. OPR - Emergency Management
- D. OPR - Environmental Protection
- E. OPR - Human and Organizational Factors
- F. OPR - Management Systems and Contractor Management
- G. OPR - Pipeline Integrity
- H. OPR - Reporting Harm

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<sup>1</sup> The CER is also seeking feedback on the Environmental and Socio-Economic Assessment and Lands portion of the Filing Manuals (“**FM**”). The FM explains what to include in an application for a potential project.

- I. OPR - Rights and Interests of Indigenous Peoples, Socio-Economic Effects, Engagement
- J. OPR - Safety.<sup>2</sup>

The CER states that feedback collected as part of this review will inform potential improvements to both the OPR and FM as well as any other related guidance and internal processes.

Thank you for providing the opportunity to review the Canada Energy Regulator’s Onshore Pipeline Regulations. Below are CLFNs comments on Topic Papers B through I.

If you need further clarification on any of our responses or would like to continue this conversation, please contact:

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## I. COMMENTS ON DISCUSSION QUESTIONS

### A. Paper Topic I – OPR – Rights and Interests of Indigenous Peoples, Socio-Economic Effects, Engagement

There are three subtopics discussed in Paper 1 on the “Rights and interests of Indigenous people.” These include subtopic 1 on preventing and addressing impacts on the rights and interests of Indigenous Peoples, subtopic 2 on managing socio-economic effects, and subtopic 3 on engaging with potentially affected people and communities.

#### Subtopic 1: Preventing and Addressing Impacts on the Rights and Interests of Indigenous Peoples

The CER is considering to direct companies to consider and address impacts on Indigenous and Treaty Rights related to their pipeline activities. The CER is also considering the involvement of potentially affected Indigenous Peoples and recognizes that the incorporation of Indigenous knowledge in lifecycle oversight should be increased.

To this end, the CER has outlined the following objectives to “help ensure that companies”:

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<sup>2</sup> We note that there are three other discussion papers listed specific to the FM. These include “Topic K – Filing Manual - Environmental and Socio-Economic Assessment”; “Topic L – Filing Manual – Lands”; and “Topic M – Filing Manual - Rights and Interests of Indigenous Peoples.”

- 1) have systematic processes and procedures in place to identify, anticipate, manage and address potential impacts on the rights and interests of Indigenous Peoples across all of its activities involving the design, construction, operation or abandonment of a pipeline;
- 2) can appropriately identify, incorporate, and address applicable Indigenous laws, policies, practices and protocols;
- 3) are considering and including Indigenous knowledge in their decision-making relating to their protection programs, and that there are procedures to prevent the unauthorized disclosure of confidential Indigenous knowledge; and,
- 4) have systems in place to ensure those working on behalf of the company are doing so in a culturally safe manner i.e., racism and sexual exploitation is prevented and addressed.

The discussion questions in this subtopic read:

*11. What is your feedback on the CER's objectives for improvement? Are these the right objectives, or are there others the CER should consider?*

- The objectives for improvement are commendable and would improve protections for the rights and interests of CLFNs and other First Nations.
- On requiring proponents to have systematic processes and procedures in place to “identify, anticipate, manage and address potential impacts on the rights and interests of Indigenous Peoples across all of its activities involving the design, construction, operation or abandonment of a pipeline” or to “appropriately identify, incorporate, and address” First Nation laws, it will be important to ensure that such processes are created with First Nation input. First Nations should be meaningfully included in the identification and management of the impacts on their lands and communities or which of their laws should apply; priorities should not be set by proponents or the CER alone.
- It is also crucial that the CER ensures that these objectives are enforceable. Currently, the CER already guides proponents to engage Indigenous communities on their needs and how projects may impact them. Yet, when proponents only do so as a checkbox in the regulatory process, rather than ongoing and meaningful engagement as project partners, there is little recourse for the communities in CER processes to change that. The CER should establish enforcement measures to ensure that Indigenous laws, policies and practices are understood, incorporated, and protected during a project's approval process. In this regard, the CER falls short in its objectives because it is missing accountability measures. A lot of what companies report to the CER is measurable. The CER should be able to rely upon quantifiable data received by proponents. It is not enough to provide the CER with general information that does not hold the proponent accountable.
- The CER should ensure that companies are not only required to engage and incorporate Indigenous knowledge, laws, and practices, but also that their project development actively ensures the protection of Indigenous interests. Processes should not be only reactive but should be pre-emptive and collaborative.

*12. What is your feedback on the following proposed options to meet the regulatory objectives?*

We note that CER options include 1) a new protection program to prevent and address impacts on the rights and interests of Indigenous Peoples; 2) a new management system process for the incorporation of Indigenous knowledge; 3) a new management system process for the identification and incorporation of Indigenous laws, policies, practices and protocols; 4) cultural competency training requirements for all those working for regulated companies; 5) additional requirements where necessary.

- The CER's proposal to implement a protection program that would need to be integrated with a company's management system would be a welcome change.
- The CER states that such a program embedded in a company's management system "must be explicit, comprehensive, proactive, and applied to all company activities involving the design, construction, operation, or abandonment of a pipeline." At the same time, the CER emphasizes that such a program would also be flexible to "allow companies to apply a distinctions-based approach to how they prevent and address impacts on the rights and interests of Indigenous Peoples." The CER should ensure that this flexibility does not translate into companies offering different communities' different levels of protections.
  - Proponents with projects that affect communities should be providing all communities with consistent, proactive, and comprehensive protections for Indigenous rights and interests throughout the design, construction, operation, or abandonment of a pipeline. It should be communities that have a say in when distinctions-based approaches are appropriate, and not the proponent. This would help alleviate some of the power imbalances between proponents and First Nation communities.
- A management system process for the identification of Indigenous laws, policies, practices, and protocols, developed by the CER, would be a welcome development (as long as the CER works closely with different communities to ensure that their specific traditional knowledge is accurately reflected). This type of system would allow the CER and proponents to access information about local governance structures and policies/laws throughout the approvals process. Importantly, such a management system should not reduce the need to engage Indigenous communities and work with them as project partners. This management system should be co-developed in a culturally important way, and perhaps as part of the Section 76 Collaborative Arrangements. CLFNs would be interested to work with the CER on this kind of initiative. Perhaps, as a first step, the CER can take part of CLFNs 101 training program.
- Cultural competency training requirements for all those working for regulated companies is welcome although care should be taken to ensure that this training is designed by First Nations. It should be mandatory.

*13. Do you have any feedback on how these can be implemented by companies and how compliance can be verified by the CER (e.g., potential oversight activities, assessment criteria, performance measures)?*

- Oversight activities and performance measures will be important.
- The CER should review all regulator companies' management systems to ensure that there are comprehensive, proactive, and meaningful protections in place that anticipate, prevent, manage, and mitigate conditions that could adversely impact the rights and interests of Indigenous Peoples.
- The CER should require proponents to submit periodic reports to the CER detailing their progress in adhering to the requirements, including the effectiveness of their management systems and cultural competency training.
- The CER should confirm that the training has been completed by all employees at regular companies.
- The CER should require proponents to comply with independent audits by third parties engaged by Indigenous communities if communities choose to do so.
- The Commission and CER should include First Nations in conditions writing, as well as when conditions need to go to the Commission "for approval", to make sure that engaged First Nations can input on those prior to the Commission approving reports submitted to it through project conditions.

*14. Are there any potential challenges associated with these proposals? What are they? How can they be addressed?*

- Inconsistency in how these protections are developed will be a challenge. The CER should prepare guidance for proponents on how to integrate such protections into proponent management systems in a way that can be consistently followed.
- The CER should ensure funding or training is available for community representatives can enhance their capacity to participate meaningfully.
- Companies may misinterpret or inadequately understand Indigenous laws and protocols. This can be addressed by requiring companies to consult with Indigenous knowledge holders on the application of these laws and protocols.
- CER should consider what can go into the "general" bucket and what should go into a s. 76 Collaborative Arrangements bucket. As mentioned, CLFNs is interested in entering negotiations with the CER on a s. 76 agreement, which could be a mechanism to achieve some of these objectives in a culturally appropriate manner. From CLFNs perspective, leading with community focused initiatives is likely to have greater success rates than pan-Indigenous approaches. In the future, First Nation communities with s. 76 agreements may be able to address broader objectives, similar to how Modern Land Claim and Self-Government groups meet with Canada to discuss broader policy issues and interests.

*15. What kind of guidance would be helpful to enhance your understanding of CER expectations related to new requirements to prevent and address impacts on the rights and interests of Indigenous Peoples?*

- It will also be important for the CER to clearly communicate how changes that increase First Nation involvement in CER processes differ from past processes.
- Both First Nations and proponents should understand the implications of CER changes. It should be clear that requirements will be enforced by the CER and that proponents need to respect these new requirements.

*16. Do you have feedback on how specific localized knowledge, as well as Indigenous laws, policies, practices, protocols, and knowledge could be incorporated into the OPR? Are there other options or proposals that the CER should consider? Are there any particular challenges associated with implementing or verifying compliance with new requirements? How can these be addressed?*

- The CER should recognize traditional environmental knowledge on equal footing as western science in order to ensure that it can influence environmental assessments, management practices, and mitigation strategies.
- The CER should create systematic ways for Indigenous communities to provide feedback on the effectiveness of regulatory measures and the impacts on their rights and interests would help adapt strategies to better serve Indigenous needs.
- The CER should create space for Indigenous environmental assessment that could be carried out in early engagement and in parallel to the CER hearing process.

### *Sub-topic 2: Managing Socio-economic effects*

The CER is considering incorporating requirements related to the management of socio-economic effects and that companies should regularly report on their efforts to mitigate socio-economic effects over the lifecycle of pipeline infrastructure. Through this work, the CER aims to ensure that companies have systematic processes and procedures in place to identify, anticipate, manage and address potential socio-economic impacts across all of its activities involving the design, construction, operation or abandonment of a pipeline. This includes preventing and addressing impacts on human health, human occupancy and resource use, infrastructure and service, navigation and navigation safety.

The discussion questions in this subtopic read:

*17. What is your feedback on the CER's objectives for improvement? Are these the right objectives, or are there others the CER should consider?*

- The objectives could be enhanced to include community involvement. First Nations should be afforded the opportunity to work with proponents to identify the socio-economic effects associated with a project. This would ensure local input and knowledge is integrated into such assessments. This could be done through, among other ways, creating and encouraging companies to support First Nation environmental assessment.
- The objectives could also benefit from the inclusion of long-term monitoring of socio-economic effects beyond project completion.
- Finally, the objectives could also reflect the need to create objectives related to the direct socio-economic benefits for Indigenous Peoples, such as job creation, economic development, and support for local businesses during the lifecycle of pipeline projects. As mentioned above, these are measurable and quantifiable. The CER should provide more guidance and require proponents to submit data that can be reviewed and move away from relying on general “pamphlet” reports.

*18. What is your feedback on the following proposed options to meet the regulatory objectives? (These include a new protection program for the management of socio-economic effects; and expansion of the existing Environment Protection Program to include the management of socio-economic effects).*

- On the new protection program for the management of socio-economic effects, a dedicated protection program is a positive step, but the program should be tailored to reflect the specific socio-economic realities of First Nations communities and include measurable outcomes to track effectiveness.
- On expanding the existing environmental protection program, although integrating socio-economic effects into the Environment Protection Program could provide a more holistic approach to addressing impacts, the CER must ensure that the expanded program maintains a distinct focus on socio-economic aspects and ensures adequate resources are allocated to address these simultaneously with environmental concerns.
- The CER needs to add more regulatory teeth to the EPP program, including making updates to the EPP pursuant to the CER hearing and conditions, something that must be approved by the Commission prior to construction.

*19. Do you have any feedback on how these can be implemented by companies and how compliance can be verified by the CER (e.g., potential oversight activities, assessment criteria, performance measures)?*

- The CER should require regular reporting on socio-economic impacts and mitigation measures should be mandated, accompanied by a clear framework for transparency and accountability.
- The CER should look to develop specific performance measures and indicators to assess the effectiveness of the new and expanded programs, allowing for regular evaluations and adjustments.

- The CER should engage independent third parties to review compliance can enhance credibility and ensure that the interests of Indigenous communities are represented.
- Plus, read together with above comments regarding the same.

*110. Are there any potential challenges associated with these proposals? What are they? How can they be addressed?*

- There is a risk that proponents (and the CER) may not meaningfully incorporate the lessons they learn from their engagement with First Nation communities. This will lead to misunderstandings (and or omissions) about socio-economic impacts. Such issues can be addressed by establishing mandatory engagement processes with First Nations.
- First Nations may lack the resources to effectively participate in oversight and compliance monitoring. The CER should ensure that funding and educational programs are available to First Nations help enhance participation. We understand that capacity funding is within the Commission's authority to require through a project approval condition. CLFNs has experienced issues with proponents misleading the Commission on project condition fulfillment, so the Commission should make sure that at the very least First Nations have sufficient and meaningful capacity to continue to engage Proponent during this phase of the project. Proponents generally like to exclude First Nations during this phase and in CLFNs experience, have found creative ways in doing so. First Nation oversight, and CER and First Nation collaboration on this phase, is critically important, especially as the CER is a life cycle regulator.
- Accurately measuring socio-economic impacts can be complex. Companies should work closely with communities to establish clear criteria and methodologies for evaluating socio-economic effects. CER could provide more regulatory teeth to help encourage proponents to do this work, as they intrinsically prefer self-performance of this work.

*111. What kind of guidance would be helpful to enhance your understanding of CER expectations related to new requirements to manage socio-economic effects?*

- A detailed framework outlining how to measure socio-economic impacts and the expectations for community engagement in this process.
- Sharing case studies or examples where socio-economic effects have been successfully managed could provide valuable benchmarks/ insights.

*Sub-topic 3: Engaging with Potentially Affected People and Communities*

The CER is proposing to change the way it approaches engagement with Indigenous communities to ensure that engagement is conducted with cultural awareness and is respectful of the unique engagement preferences of communities. Responsive to this feedback, the CER is considering formalizing additional engagement requirements in the regulation.

The objectives identified by the CER are to 1) drive consistency and clarify the requirements for communications and engagement with potentially affected people and communities across the lifecycle; 2) help ensure appropriate information about a company's activities is provided to impacted communities; 3) help ensure that companies are engaging potentially impacted Indigenous Peoples throughout the lifecycle to identify where rights and interests may be impacted, and how they can be addressed; and, 4) allow for flexibility so that companies can be responsive to, and respectful of, the unique needs, interests, and engagement preferences of Indigenous Peoples, potentially affected people and communities.

The discussion questions in this subtopic read:

*I12. What is your feedback on the CER's objectives for improvement? Are these the right objectives, or are there others the CER should consider?*

- The CER should ensure that its objectives translate into enforceable requirements on proponents. It should require proponents to report on and detail how they have changed their engagement strategies to meet these goals.
- The CER should ensure that communities can comment on whether these objectives have been accomplished or not through ongoing dialogue.
- One of the objectives appears to offer proponents flexibility to respond to the unique needs of different communities, but as stated above, the CER should ensure that flexibility here does not translate into companies offering differing communities' different levels of engagement. Proponents with projects that risk affecting communities should be providing all communities with consistent, proactive, and comprehensive engagement on the design, construction, operation, or abandonment of a pipeline. It should be communities that have a say in when distinctions-based approaches are appropriate, and not the proponent. This would help alleviate some of the power imbalances between proponents and Indigenous communities.
- The CER should require First Nations and proponents to file a plan (both summarizing activities to date and to be performed).

*I13. What is your feedback on the following proposed option to meet the regulatory objectives: "Explicit requirements for engagement related to the objectives, either through a stand-alone requirement or a management system process"?*

- Explicit requirements would be a welcome change because they would improve the enforceability of the CER's new requirements. It would also allow First Nations to work with the CER to enforce requirements when they are not followed.

*I14. Do you have any feedback on how these can be implemented by companies and how compliance can be verified by the CER (e.g., potential oversight activities, assessment criteria, performance measures)?*

- The CER should require companies to develop detailed engagement plans *with* First Nations, and outline how they will meet the explicit engagement requirements.
- The CER should require proponents to engage with First Nations on regular monitoring and share the results of that monitoring with them immediately.
- The CER could establish clear performance metrics and benchmarks for measuring the effectiveness of engagement activities, such as the level of community participation and follow-through on feedback.

*115. Are there any potential challenges associated with this proposal? What are they? How can they be addressed?*

- Indigenous communities have diverse engagement practices and preferences, which may complicate the one-size-fits-all approach. Proponents should be encouraged to assess and accommodate these preferences with different communities and nations on a case-by-case basis.
  - Proponents could provide First Nations with a potential engagement plan and allow those stakeholders to amend that plan to their needs.
- Some communities may lack the resources or capacity to participate in engagement processes in addition to their other responsibilities. Providing funding to support community engagement initiatives can help address this issue. Proponents should report on the level of funding, and First Nations should report of the consistently underfunded work that they are expected to engage on in order to not potentially prejudice their rights on the reciprocal onus to consult grounds. In other words, proponents should demonstrate that reasonable capacity funding was provided, and communities to confirm that sufficient/reasonable capacity funding was in fact provided.
- There is a risk that engagement could become merely a check-box exercise without meaningful dialogue. Establishing strict criteria for genuine engagement and community involvement in decision-making can help mitigate this risk.

*116. What kind of guidance would be helpful to enhance your understanding of CER expectations related to engagement?*

- The CER should endeavour to provide a clear and detailed framework outlining best practices for engagement, including timing, methods, and communication.
- The CER could offer training sessions for both companies and Indigenous communities on best practices for engagement, ensuring both sides understand expectations and approaches.

## **B. Paper on Topic B – OPR – Deactivation and End of Lifecycle**

Subtopic 5 of this paper is on surveillance and monitoring. The CER is considering how surveillance and monitoring could be applied to abandonment and how Indigenous Peoples should be involved in the development of indicators in that regard. CLFN notes that section 39 of the OPR requires companies to develop a surveillance and monitoring program to protect the pipeline, the public and the environment; however, this section does not explicitly mention monitoring of decommissioned and abandoned pipelines. The CER is considering whether section 39 is the appropriate place in the OPR to include explicit provisions around the monitoring of abandoned and decommissioned pipelines.

As part of this work, the CER seeks general input on Indigenous involvement in abandoned and decommissioned pipelines with the discussion question:

*B8. Do you have feedback on how Indigenous Peoples can be involved in the monitoring of decommissioned and abandoned pipelines?*

- CLFNs would like to be involved in this work.
- Indigenous communities should be engaged at the outset in the development of surveillance and monitoring programs for decommissioned and abandoned pipelines. Their traditional knowledge and understanding of the land can help shape relevant indicators that reflect both environmental health and cultural significance.
- The CER should endeavour to establish joint monitoring committees comprising representatives from Indigenous communities, the proponents and the CER. This collaborative approach could foster mutual respect and ensures that Indigenous voices are central to the oversight of monitoring efforts.
- The CER should provide First Nations with capacity funding and training in monitoring techniques and methodologies that relate to abandonment and decommissioned pipelines. The CER may benefit from being in dialogue with communities to ensure that the CER's guidance relating to this topic is also influenced by traditional knowledge and practices.
- The CER should establish clear and regular reporting mechanisms to keep First Nations informed about the current status of any decommissioned or abandoned pipelines on their lands.
- The CER should include legal provisions that guarantee Indigenous involvement in monitoring within the regulatory framework.

## **C. Paper on Topic C – OPR – Emergency Management**

Subtopic 5 of this paper focuses on the “Involvement of Indigenous Peoples in [Emergency Management (“EM”)]”. The CER considering adding a requirement for a plan to involve Indigenous Peoples in the EM Program. The purpose of such a requirement will “help ensure that companies appropriately involve Indigenous Peoples in their EM Program[s].”

*To this end, the discussion question (#C8) asks, “What is your feedback on clarifying the CER’s requirements within the OPR regarding the Involvement of Indigenous Peoples in a company’s EM Program?”*

- Involving Indigenous Peoples in EM is important to improve the safety of their members, and to mitigate potential impacts on their lands and peoples.
- This type of involvement should be project specific. Proponents must ensure that all Indigenous Nations and Communities that could be affected by a CER-regulated pipeline and facility are not only notified but involved in EM. Involvement should not only be based on whether the community or nation’s colonial boundaries are affected by a project (or associated right of way), but rather, involvement should be triggered whenever traditional territories are affected.
- To support this type of involvement, the CER and proponents should make efforts to ensure that communities know about the kinds of reportable incidents to help them understand how pipeline construction and operation affects their communities.
- There should be requirements on proponents to involve Indigenous parties in EM immediately of the incident occurring. While the CER has previously suggested that the appropriate amount of time to involve Indigenous communities is 24 hours,<sup>3</sup> proponents have obligations to report incidents immediately to the CER, as per section 52, and that obligation should extend to Indigenous communities if the CER is hoping for meaningful partnership on EM.
  - Indeed, in case it is of interest, pursuant to the OPR (section 52), pipeline companies must immediately report the following incidents to the Regulator:
    - An Incident that Harms People or the Environment
      - a death
      - a serious injury
      - an unintended or uncontrolled [low-vapor pressure hydrocarbons] release in excess of 1.5 m<sup>3</sup> that leaves company property or occurs on or off the right of way
      - an unintended or uncontrolled release of sour natural gas or hydrogen sulfide
      - a significant adverse effect on the environment
    - A Rupture

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<sup>3</sup> See Industry Best Practices for Notifications to Indigenous Nations and Communities regarding CER-reportable Incidents, Appendix A: <https://www.cer-rec.gc.ca/en/safety-environment/emergency-management/industry-best-practices-notifications-indigenous-nations-communities-cer-reportable-incidents.html#nixa>

- an instantaneous release that immediately impacts the operation of a pipeline segment such that the pressure of the segment cannot be maintained
  - A Toxic Plume
    - band of service fluid or other contaminant (e.g., hydrogen sulfide or smoke) resulting from an incident that causes people, including employees, to take protective measures (e.g., muster, shelter-in-place or evacuation).
- If First Nations are meant to be real partners in EM, they should be afforded reporting at the same time as the CER.

#### **D. Paper on Topic D – OPR – Environmental Protection Topic Paper**

The CER is considering numerous options to meet objectives related to preventing and addressing impacts on the rights and interests of Indigenous Peoples. As stated in the Topic Paper on the Rights and Interests of Indigenous Peoples, Socio-Economic Effects, and Engagement, the CER is considering the addition of a new protection program to prevent and address impacts on the rights and interests of Indigenous Peoples and new management system requirements. This would require companies to develop, implement and maintain a program that is integrated with its management system, to anticipate, prevent, manage, and mitigate conditions that could adversely impact the rights and interests of Indigenous Peoples.

Subtopics 3 and 4 are specific to these objectives.

**Subtopic 3** of the paper on Topic D focuses on “Section 21 of the OPR – Participation in the development of environmental monitoring by Indigenous Peoples.” The CER is considering new requirements to help ensure that companies include Indigenous Peoples in the development, implementation, and monitoring of reclamation activities. This is because they recognize that the inclusion of Indigenous Peoples in monitoring programs adds value to the assessment of the effectiveness of mitigation measures identified in the Environmental Protection Plan (“**EP Plan**”).

To this end, the CER has set out the following discussion questions:

*D5. What does involvement by Indigenous Peoples in monitoring over the lifecycle of the pipeline look like to you? Please provide any applicable examples or best practices.*

- The CER should ensure that First Nations are involved early in the development of monitoring indicators. Indigenous Peoples possess unique knowledge about their territories, ecosystems, and resources, including the best ways to monitor specific sites,

plants used for harvesting, and other environmental components. Indigenous involvement ensures that monitoring activities are tailored to the specific local context, making them more effective and sustainable. When Indigenous Peoples are involved in the development of monitoring indicators, they are also better positioned to carry out the monitoring activities because these indicators have the potential to hold cultural significance for Indigenous Peoples. While early involvement is important to Indigenous communities, it is essential that this involvement translates into indigenous-led indicators being used to monitor projects.

- The CER should consider requiring proponents to engage in independent verification, if First Nations request it. Third-party verification of environmental protection measures and compliance with regulations would allow First Nations and the CER to ensure projects are designed, built, and operated responsibly. This would build trust and confidence in the environmental performance of a project.

*D6. In the context of the CER's expectations of regulated companies, how could more independent monitoring and reporting by Indigenous Peoples be effectively and safely achieved? What challenges might be involved? Please provide any applicable examples or best practices.*

- Proponents could be required to work with an external, impartial entity (not directly affiliated with the project proponent) to oversee and verify environmental protection measures and compliance, if an Indigenous community requests such verification.
- This external entity should then send the results to the CER and all indigenous communities affected.
- This would ensure that the costs of monitoring do not fall on the communities and alleviate associated safety issues.

*D7. Would the proposed processes in Subtopic 1 of the Rights and Interests, Socio-Economic Effects, and Engagement Topic Paper help ensure that Indigenous Peoples are included in the development and implementation of environmental monitoring activities, or are additional requirements or guidance required specific to monitoring?*

- See responses to questions I2 – I6.

**Subtopic 4** of the paper on Topic D focuses on “Environmental Protection Plan required for Construction and Operation and Maintenance Activities.” The CER is considering requiring that companies have an environmental protection plan in place for all work and activities, scalable to the scope of the work, including operations and maintenance activities. To this end, the CER is considering the following options to meet the objectives outlined above: 1) EP Plans will be developed and implemented for: a) all construction projects; and b) all operations and maintenance activities; 2) EP Plans would only need to be submitted to the CER through a condition requirement or by request; and 3) EP Plans would be scalable to the size and scope of

the work; for projects that have few or no environment interactions, the EPP could simply state there are no interactions.

*Discussion question D10 asks whether “the proposed requirements in Subtopics 1 and 3 of the Rights and Interests, Socio-Economic Effects and Engagement Topic Paper help ensure that EP Plans and the Environmental Protection Programs incorporate measures to prevent and address impacts on the Rights and Interests of Indigenous Peoples?”*

- See responses to questions I2 – I6 and I13 – I16 (which are answered above in questions under Topic I).

#### **E. Paper Topic H – OPR – Reporting Harm**

Subtopic 7 of the paper on Topic H focuses on “Reporting — Sites of Historic and Cultural Significance.” The CER is considering new requirements to help ensure that companies are sensitive to, aware of, and protective of historic or cultural sites of significance to Indigenous Peoples. To meet that objective outlined above, the CER is considering adding a new reporting requirement in relation to damage to a site of historic or cultural significance, subject to confidentiality agreements signed by companies and Indigenous communities and any applicable provincial or territorial requirements.

To this end, the CER’s discussion question asks:

*H-16. Are you aware of existing best practices in historic or cultural site hazard identification that would clarify definitions and this proposed reporting requirement?”*

- The CER should encourage proponents to:
  - Develop a shared understanding (grounded in Indigenous knowledge) of terms like "cultural heritage," "traditional knowledge," and "hazard" with Indigenous communities affected by a project.
  - Determine the geographic and temporal scope of the reporting requirements, considering the unique histories and territories of different Indigenous groups. (This must include traditional territories).
  - Integrate Indigenous knowledge systems, oral traditions, and traditional ecological knowledge into hazard identification and assessment processes.
  - Engage Indigenous communities in all stages of the process, from hazard identification to mitigation planning, ensuring their perspectives and concerns are heard and addressed.
  - Employ culturally appropriate data collection methods, respecting Indigenous protocols and ensuring data ownership and control.

- Employ culturally appropriate data collection methods, respecting Indigenous protocols and ensuring data ownership and control with Indigenous communities.
- Establish a schedule for regular reporting, allowing for ongoing monitoring and evaluation of the effectiveness of hazard mitigation measures.
- Develop mitigation plans in collaboration with Indigenous communities, ensuring that plans are culturally appropriate and effective.
- Ensure there is funding for Indigenous communities to participate in hazard identification and mitigation planning.