Elk Valley Métis Nation
Elkford | Fernie | Sparwood – and surrounding regions
PO Box 933
Fernie BC, V0B1M0

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Canadian Energy Regulator

Onshore Pipeline Regulation and Filing Manuals Review

Email: [redacted]

Please find below the comments from Elk Valley Métis Nation regarding the questions in the Discussion Paper for Onshore Pipeline Regulation. As noted in the instructions for the Discussion Paper, we have responded to just the questions that we had substantive comments on.

In general we would like all CER activities, and indeed, all government regulators, to take a co-development and co-management approach working with Indigenous communities during the oversight of infrastructure projects and natural resource developments.

Elk Valley Métis Nation appreciates the opportunity to review and comment on this regulation.

Sincerely,

[redacted]

[redacted], Elk Valley Métis Nation

A: Damage Prevention

In response to the discussion questions in the Damage Prevention Topic Paper, the Elk Valley Métis has the following comments. Addition information on issues of concern for Elk Valley Métis are well discussed in a paper by Theresa Brehm [1]

A2: Benefits and Costs of Depth of Cover Monitoring

Elk Valley Métis would like to see Community Based Monitoring of depth of cover to prevent the substantial soil and vegetation degradation. We are also interested in CER investment in technologies that monitor soil stability and cover depth continuously, although these technologies have a cost, we feel they are justified by the reduction in ecosystem disruption and the protection of lands that hold cultural significance for Elk Valley Métis .

A3: Benefits and Costs of Maintaining Minimum Depth of Cover

Elk Valley Métis feel maintaining a minimum depth of cover is a benefit as it seems to reduce soil compaction and therefore better protects soil health. Elk Valley Métis understands there is a costs associated with the work required to maintain minimum depth, and we'd suggest that pipeline operators be responsible for funding the necessary measures to prevent ecological disruption, which disproportionately affects Indigenous lands.

A4: Alignment with Business Practices

Elk Valley Métis feels that integration of these requirements should be viewed as not substantially alter corporate operations but rather aligning with a sustainable and ethical approach to land management. We would like to see full integration of Indigenous communities in the rehabilitation plans post-installation, focusing on recovery of vegetation and soil health as part of the business model.

A6: Defining Ground Disturbance in Connection with Damage Prevention

Elk Valley Métis would like to be involved in the development of a more detailed definition of ground disturbance that includes specific mention of the impacts on soil structure and plant life, especially those used for traditional purposes. The regulations should consider the depth of impact and recovery times (especially in some of our mountainous terrain) ensuring that ground disturbances do not irreversibly damage ecosystems crucial to Indigenous communities.

A7: Explicit Requirements for Depth of Cover Monitoring

Given the Elk Valley Métis members concerns regarding degradation effects of pipeline installation, Elk Valley Métis requests explicit, stringent requirements for depth of cover monitoring that involve periodic reassessment and mandatory remediation efforts where degradation is observed. This would include Indigenous involvement/oversight in these monitoring processes to ensure that traditional knowledge and land use considerations are integrated into the regulatory framework.

B: End of Life Cycle

[1] Pipeline installation effects on soils and plants: A review and quantitative synthesis. Theresa Brehm, Steve Culman. First published: 07 December 2022

In response to the discussion questions in the End of Life Cycle Topic Paper, the Elk Valley Métis has the following comments.

B1. Comments on New or Amended Definitions

Elk Valley Métis stress that new definitions should not only include environmental implications but also reflect the need for sustainable material usage. For instance, the definition of "decommission" could incorporate the importance of choosing materials with lower environmental impacts during all lifecycle stages, particularly those that minimize energy consumption and emissions during the manufacturing and operational phases.

B2. Improvements to Section 45.1

Feedback emphasizes the importance of sustainable material choices in decommissioning plans. Materials like HDPE have lower global warming potential (GWP) and reduced energy consumption compared to traditional materials like carbon steel. This knowledge should be incorporated into decommissioning strategies to ensure environmental responsibility.

B3. Management System for Decommissioned and Abandoned Pipelines

Elk Valley Métis recommend that the management system explicitly considers the environmental benefits of using materials with proven lower lifecycle impacts. Management practices should prioritize materials that reduce emissions throughout their lifecycle, especially during the use/operational phase as demonstrated in the lifecycle assessment studies.

B4. Scope of the Management System

Incorporating lifecycle assessment findings, the scope of the management system should explicitly include considerations for minimizing environmental impacts at each stage of the pipeline lifecycle, particularly focusing on the choice of materials that have lower long-term environmental effects.

B5. Notification for Deactivation Activities

Factors should considered in the notification process, ensuring that the deactivation plans include a comprehensive assessment of potential environmental impacts based on the choice of pipeline materials.

B7. Applicability of Section 39 to Abandoned Pipelines

The Elk Valley Métis suggest that Section 39 includes specific requirements for monitoring and mitigating the environmental impacts of decommissioned and abandoned pipelines. This includes ongoing evaluation of the environmental impacts of residual materials and their interactions with the environment.

B8. Involvement of Indigenous Peoples in Monitoring

Involvement in monitoring should include training on evaluating the environmental impacts. Indigenous communities should be empowered to monitor and report on the environmental performance of pipelines, using metrics that reflect comprehensive lifecycle impacts.

B9. Record Retention for Decommissioned and Abandoned Pipelines

Elk Valley Métis advocate for record retention that not only tracks the physical state of pipelines but also their environmental performance over time. This includes records on material impacts, energy use, and emissions throughout the operational life of the pipeline.

C: In responses to the questions raised in the document about emergency management from the perspective of the Elk Valley Métis

C3. Feedback on including adverse effects on sites of historic and cultural significance: The Elk Valley Métis strongly advocate for the explicit inclusion of protection for sites of historic and cultural significance within EM programs. This addition acknowledges the deep connections between the Métis and their lands, and the profound impact that any damage to these sites could have on the community's heritage and continuity.

Subtopic 3: Consolidation of current regulatory framework requirements within the OPR

C4. Feedback on the proposal to consolidate EM requirements: Consolidating emergency management requirements within the OPR will enhance clarity and efficiency, making it easier for companies to comply and for communities to understand their rights and expectations. It is important that these consolidated regulations are accessible and transparent to Indigenous communities to facilitate better preparedness and response coordination.

Subtopic 4: Liaison Activities and the Continuing Education Program

C7. Feedback on clarifying requirements in sections 33-35 of the OPR: The Elk Valley Métis support the clarification of requirements for liaison activities and continuing education programs. It is vital that these programs are designed to include and address the specific needs of Indigenous communities, ensuring that they are not only informed but actively involved in emergency management processes.

Subtopic 5: Involvement of Indigenous Peoples in EM

C8. Feedback on the CER's requirements regarding the Involvement of Indigenous Peoples: The Elk Valley Métis endorse the development of explicit requirements for involving Indigenous Peoples in emergency management programs. It is crucial that these requirements promote genuine partnership and collaboration, providing mechanisms for meaningful input and decision-making by Indigenous communities in all stages of emergency management planning and response.

These responses seek to ensure that the regulations and practices in emergency management reflect the priorities and rights of the Elk Valley Métis , emphasizing the importance of protecting their land, culture, and community well-being in the face of industrial activities.

D: Environmental Protection

D1. Contamination Management

Elk Valley Métis recommend the integration of site-specific targets for contamination management which aligns with goals created in consultation with local indigenous groups. Elk Valley Métis propose the inclusion of specific protocols for regular soil and water testing using traditional knowledge to identify early signs of contamination that may not be recognized by standard methods.

D2. Reclamation and Vegetation Management

Elk Valley Métis recommend the development of projects that minimize land disturbance and focus on restoring native vegetation. Elk Valley Métis recommend that these practices be adapted to include traditional plants known to the Métis for reclamation purposes, enhancing both ecological and cultural restoration.

D3. Restoration Goals

Recommend restoring environments to their natural state or better, as opposed to reduced land use equivalent level. Elk Valley Métis propose that restoration plans should include specific targets for the recovery of species used by the Métis for medicinal and cultural purposes, ensuring that the land retains its traditional uses and values.

D4. Restoration Consultation

Involvement in restoration planning should include Métis elders and knowledge keepers to ensure that the restored landscapes align with historical and cultural patterns, which could include the re-establishment of traditional hunting and gathering spots.

D5. Monitoring by Indigenous Peoples

Elk Valley Métis believe there is value of incorporating local and traditional knowledge into environmental monitoring. We suggest creating partnerships with local Métis environmental organizations to develop monitoring protocols that reflect both scientific and traditional ecological knowledge.

D6. Independent Monitoring

Supporting independent monitoring involves training Métis community members in modern scientific methods while also respecting and integrating traditional practices, such as observing seasonal changes in flora and fauna that might indicate environmental shifts.

D7. Inclusion in Environmental Monitoring

Elk Valley Métis would like to see a requirement for companies to include traditional ecological indicators identified by the Métis in their environmental monitoring programs. This could include changes in the populations of specific species that are of cultural significance and are indicators of ecological health.

D9. EP Plan Alternatives

Alternatives to EP Plans could include ongoing, Métis-led community based monitoring and/or environmental audits and the establishment of a Indigenous community environmental advisory board to provide continuous feedback and guidance on operations and their impacts.

D10. EP Plans and Indigenous Rights

The integration of Métis rights and interests should include explicit protocols for protecting sacred and culturally significant sites from any operational impacts, ensuring these are not merely considered but actively protected through all phases of project planning and execution.

D11. Information Transfer

It is critical that traditional ecological knowledge gathered during the environmental assessment phase is transferred to operational teams and alignment sheets. Mechanisms for this could include the development of an integrated digital database that includes both scientific data and traditional knowledge, accessible to both company personnel and Métis representatives.

D13. Climate Resiliency

Resilience strategies should be informed by Métis traditional knowledge, which includes understanding historical environmental variations and traditional adaptation strategies. This could significantly enhance the effectiveness of resilience planning.

E: Human Organization Factors

E8. Understanding and Improving the Workplace System

Elk Valley Métis support the new requirements to improve understanding and management of socio-technical hazards. We emphasize the inclusion of traditional ecological knowledge and suggest incorporating local cultural and environmental conditions into safety and operational practices. For instance, recognizing traditional land use patterns can influence pipeline routing and maintenance schedules to minimize environmental and cultural impacts.

E10. Cultural Bias in HOF Implementation

Elk Valley Métis are concerned that standard HOF practices may not capture the nuances of Indigenous environmental management techniques, which can lead to the exclusion of traditional knowledge in safety practices. For instance, it is important to include various stakeholder inputs in developing safety practices. We recommend that pipeline companies undertake a more meaningful engagement with Indigenous representatives to integrate traditional indicators of environmental health, which can be crucial in early hazard detection and prevention.

E11. Strengthening Organizational Learning

Elk Valley Métis propose that organizational learning should not only adapt to technological and regulatory changes but also to cultural and ecological knowledge evolution. The use of Indigenous Knowledge is a 2 way street and industry and CER must respect the value of Indigenous wisdom. This adaptation can be supported by integrating Indigenous practices into the continuous learning processes of pipeline management systems. For example, learning from past interactions between industrial activities and traditional land uses can guide future project planning and hazard assessment practices, enhancing safety and environmental stewardship.

E14. Benefits and Costs of Incorporating HOF

The benefits of incorporating HOF principles that include Indigenous perspectives can be profound, enhancing both safety and environmental outcomes. Elk Valley Métis recommend integrating local knowledge and conditions into safety practices. While initial costs may include training and consultation, the long-term benefits of reducing accident rates and environmental damage, as well as strengthening community relationships, provide significant returns on investment. These efforts contribute to a holistic safety culture that respects both technological and traditional knowledge bases.

F: Management System and Contractor Management

F3. Addition of Management System Components

Elk Valley Métis recommend the addition of a "Cultural Impact and Environmental Stewardship Component" to management systems. This component would be designed to integrate Métis traditional knowledge and environmental practices into pipeline operations, ensuring that all

phases—from planning and construction to operational maintenance—consider cultural heritage and ecological sustainability..

F4. Clarification of Management System Provisions

There is a need for explicit clarification on how Indigenous consultation outcomes are integrated into pipeline management systems. Elk Valley Métis propose a revision of the management system provisions to require detailed documentation of how Indigenous input is fully integrated in decision-making processes. This would ensure that Indigenous perspectives are not only heard but actively influence pipeline safety and operational protocols.

F5. Up-to-Date List of Policies and Procedures

Supporting the requirement for companies to maintain an up-to-date list of policies, processes, and procedures, the Elk Valley Métis see this as a step toward transparency and accountability. It ensures that detailed documentation and regular updates which are crucial for effective emergency response and recovery are used. This transparency is essential for ensuring Indigenous communities can verify that their concerns and Indigenous knowledge are being respected and fully integrated.

F10. Alignment of Management System Programs

Clarification is needed on how traditional Indigenous knowledge is incorporated within the management systems, especially those aspects that impact Indigenous territories directly. We propose the development of a framework within the management system that explicitly outlines the integration process for Indigenous ecological knowledge in each relevant program, particularly environmental protection and emergency management. This framework should be developed in collaboration with Indigenous representatives and should detail the process for ongoing updates and consultations.

F11. Disconnect Between Early Engagement Outcomes and Management Systems

To address the disconnect between early engagement outcomes and the design of management systems, we recommend that outcomes from early engagement with Indigenous communities be directly linked to management system updates and designs. Similar structured feedback mechanisms should be mandated to document how engagement with Indigenous communities directly influences system designs and operational adjustments.

G: Pipeline Integrity

G1. Definition of Onshore Pipeline

The Elk Valley Métis agree with expanding the definition of onshore pipelines to include hydrogen and carbon dioxide. However, we emphasize the importance of robust safety protocols specifically adapted for these gases, considering their unique properties and potential risks. We would like to see advanced testing and protective technologies employed during construction to safeguard against premature wear and potential leaks, particularly in geologically sensitive areas like those found within our traditional lands.

G4. Inclusion of New Requirements in Pipeline Design

We strongly support the proposal to mandate geohazard assessments and detailed risk assessments during the pipeline design phase especially in our mountainous terrain. Integrating comprehensive geotechnical evaluations and leveraging advanced simulation tools might

enhance the ability to identify potential issues before construction. These technologies, combined with traditional ecological knowledge of the Indigenous people, can lead to safer pipeline routes that minimize environmental impact and respect culturally significant areas.

G5. Impact of New Requirements on Safety

Elk Valley Métis see a crucial role for ongoing maintenance and the use of high-resolution inline inspection tools to monitor pipeline integrity. The Elk Valley Métis recommend that these practices be a regulatory requirement for all pipelines crossing our territories, ensuring early detection of potential failures. Additionally, the integration of real-time monitoring systems that track changes in operational conditions can provide critical data to prevent commodity releases, aligning with our goal of protecting the environment and our community.

G6. Safety Enhancements for Storage Facilities

We support the proposed improvements for storage facilities, including the installation of secondary containment systems and emergency power sources. We also advocate for community engagement programs that educate local residents about safety measures and emergency responses, enhancing community safety and preparedness.

G7. Material Traceability in the Quality Assurance Program

Elk Valley Métis would like to see enhanced material traceability and for pipelines to use only materials that meet stringent standards. The Elk Valley Métis believe that this should be a critical focus area, ensuring that all materials used in pipelines across our territories are documented and verified for quality. This practice will not only improve safety but also accountability, allowing for quick responses if substandard materials are discovered.

H: Reporting Harm

H4. Best Practices for Incident Reporting Related to Environmental Effects

The Elk Valley Métis is interested in a tiered reporting structure based on the incident severity, and categorizes incidents based on their potential impact on the environment and community. This includes not only immediate physical damage but also long-term ecological effects. For instance, any activities that might lead to significant sediment displacement or water contamination should trigger immediate and comprehensive incident reporting. Additionally, the use of real-time monitoring systems run in collaboration with indigenous communities, for detecting changes in water quality or wildlife behavior can provide early warnings of potential environmental impacts especially given the remote nature of some of the waterways in our territory.

H5. Non-Chemical Environmental Harm

Occurrences such as significant disruptions to wildlife habitats or traditional land uses due to noise, dust, or light pollution should also necessitate immediate reporting. The Elk Valley Métis suggest implementing a community based monitoring program, where trained local indigenous observers use community-specific criteria to report on non-chemical impacts. This practice ensures that subtle yet significant environmental changes are not overlooked.

H6. Extended Timeline Notification Types

For incidents that may not immediately appear severe but could have cumulative environmental impacts, such as minor but recurring leaks or vibrations affecting soil stability, a different

reporting threshold could be established. The Elk Valley Métis would like to see a "cumulative impact" type report that would be compiled and reviewed on a quarterly basis to assess ongoing activities and their impact on the environment and Métis land use.

H16. Best Practices in Historic or Cultural Site Hazard Identification

In addition to GIS mapping, the Elk Valley Métis recommend regular onsite inspections and aerial surveys using drones to monitor the condition of cultural sites before and during pipeline activities. The remote nature of terrain in our traditional territory makes the use of this type of technology essential. Any change in the status of these sites should be immediately reported using a dedicated incident category (developed in collaboration with Indigenous communities), which would trigger specific protection protocols.

I: Rights and Interests of Indigenous Peoples, Socio-economic Effects, and Engagement

I1. Feedback on CER's Objectives for Improvement

The Elk Valley Métis support the CER's objectives to enhance Indigenous rights protection, particularly the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which emphasizes free, prior, and informed consent. We recommend that these objectives be embedded into all levels of decision-making, ensuring that Métis voices are not only heard but are influential in shaping outcomes that directly affect their lands and lives. This would include continuing the initiative to create a co-regulatory system with Indigenous peoples on the NGTL System, and then expand this initiative to all CER regulated facilities.

I2. Feedback on Proposed Options to Meet Regulatory Objectives

- **New Protection Program**: We propose the establishment of Indigenous-led oversight to ensure these new programs align with both the spirit and letter of UNDRIP. These committees should have the power to conduct independent environmental assessments and have a direct line to federal regulatory enforcement mechanisms.
- **Incorporation of Indigenous Knowledge**: We emphasize the need for mechanisms that not only incorporate but prioritize Indigenous ecological and cultural knowledge in pipeline planning and monitoring. This should include training for all involved parties on how to integrate this knowledge respectfully and effectively.
- **Cultural Competency Training**: The training programs should be developed and delivered in partnership with Indigenous educators and be mandatory for all levels of personnel involved in pipeline operations, from the field workers to the executives.

I3. Implementation and Compliance Verification

To verify compliance, the Elk Valley Métis suggest the creation of a transparent reporting system accessible to the public that tracks progress on Indigenous engagement and the integration of Indigenous knowledge. Regular audits should be conducted by third-party observers who are trusted by the Indigenous communities.

I4. Potential Challenges

The main challenge is ensuring the genuine integration of Métis perspectives rather than superficial acknowledgments. Overcoming this requires setting clear, enforceable standards for what constitutes meaningful integration and establishing consequences for non-compliance that go beyond monetary fines.

I5. Guidance for Understanding CER Expectations

Guidance should include detailed, practical examples of successful Indigenous engagement strategies and highlight the benefits of these strategies for both the company and the communities. This guidance should be developed in collaboration with Indigenous leaders and made available in multiple formats to ensure broad accessibility.

I6. Incorporation of Specific Localized Knowledge

One component of the co-regulator system with Indigenous peoples and CER should be the creation of regional advisory councils consisting of Métis and other Indigenous groups that can provide specific localized knowledge for pipeline projects. These councils should have the authority to approve, reject, or request modifications to projects based on their potential impacts on Indigenous rights and territories.

I7. Best Practices for Indigenous Participation in Impact Assessments

The document emphasizes the importance of integrating Indigenous legal traditions and ecological knowledge into impact assessments. For the Elk Valley Métis, this means incorporating their specific environmental stewardship practices directly into the criteria used for assessing environmental impacts. This approach respects and utilizes their deep understanding of local ecosystems, which can provide unique insights into potential long-term impacts of pipeline projects.

I8. Mechanisms to Ensure Indigenous Participation in Monitoring

Elk Valley Métis would like to see a mechanisms for Indigenous participation should include training programs developed in collaboration with Métis Elders and knowledge keepers to ensure monitoring approaches are culturally relevant and scientifically robust. This training should focus on equipping monitors with the tools necessary to effectively communicate their findings to regulatory bodies and pipeline companies.

I9. Indigenous Roles in Emergency Response Planning

Elk Valley Métis advocate for the proactive engagement of Indigenous communities in emergency planning, suggesting that Indigenous involvement should include designing specific response strategies that leverage traditional knowledge about land, water, and wildlife to mitigate damage quickly and efficiently during an emergency.

I10. Opportunities for Enhanced Participation in CER Processes

The best practices highlighted include the creation of dedicated Indigenous positions within regulatory bodies to ensure ongoing engagement and representation. For the Elk Valley Métis, establishing a Métis liaison officer within the CER could help facilitate continuous dialogue and ensure Métis concerns are addressed promptly.

I11. Recognition and Integration of Indigenous Laws and Legal Traditions

The document supports the integration of Indigenous governance structures into co-regulatory framework described in answers to I1 and I2. The CER could implement this by recognizing Métis communal decision-making processes and adapting consultation protocols to align with Métis governance traditions, ensuring that these processes are both respected and legally acknowledged.

I12. Inclusion of Indigenous Knowledge in Technical Analyses

Elk Valley Métis suggests that Indigenous knowledge be documented using both traditional and digital means to ensure it is accessible and accurately represented in technical analyses. Training sessions should include methodologies for documenting Indigenous ecological indicators and incorporating this data into environmental risk assessments.

I13. Formal Inclusion of Indigenous Peoples in Decision-Making

According to the best practices, formal inclusion should also ensure equitable compensation for Métis decision-makers, recognizing their time and contributions as valuable and essential as a recognized indigenous group within Canada. This compensation should be transparent and consistent with the principles of equitable partnerships.

I14. Barriers to Effective Indigenous Participation

Elk Valley Métis have been active participants in the initial stages of development of a co-regulatory process with CER for the NGTL system. As the work on this initiative continues Indigenous communities who are involved should receive financial support to allow them to effectively participate. There may also be a need for training and capacity building of indigenous representatives so they are aware of the spectrum of activities undertaken by CER.

I15. Best Practices for Respecting Treaty Rights in Regulatory Processes

Regular reviews of how Aboriginal rights, harvesting rights and treaty rights are being respected within regulatory processes, possibly through annual audits conducted in partnership with Métis communities. These audits should assess the ongoing alignment of CER operations with treaty obligations and suggest improvements.

I16. Implementing the UN Declaration on the Rights of Indigenous Peoples in CER Operations

We suggest regular training on UNDRIP for all CER staff, particularly focusing on the principles of "free, prior, and informed consent." EVM suggest creating specific training modules developed in collaboration with Indigenous educators to ensure that the content is culturally appropriate and effectively educates staff on how to implement these principles in their daily work

J: Safety Topics

J1. Feedback on the Proposed Approach for Process Safety Management

The Elk Valley Métis appreciate the CER's efforts to enhance clarity and requirements for process safety management. We support the addition of explicit requirements to integrate both operational and process safety into Safety Management Programs. It's crucial that these enhancements consider unique risks associated with indigenous territories, including potential impacts on traditional lands and water systems. Incorporating indigenous knowledge in risk assessments can provide deeper insights into environmental sensitivities and historical data relevant to pipeline safety.

J2. Guidance Needed for Process Safety Management

To effectively incorporate process safety management, guidance should include:

- Integration of traditional ecological knowledge with technological hazard assessments.
- Case studies highlighting successful collaborations between pipeline companies and indigenous communities.

- Detailed protocols on engaging indigenous communities in the safety management process, ensuring their input is systematically included in safety planning and risk mitigation strategies.

J3. Feedback on the Proposed Approach for Safety Plans

The Elk Valley Métis support the initiative to streamline safety documentation into a holistic safety plan covering all phases of pipeline lifecycle—construction, operation, maintenance, and abandonment. This approach should ensure that the safety plans are adaptable to the specific needs of indigenous territories, taking into account the ecological and cultural sensitivities that may not be prevalent in other regions.

J4. Guidance Needed for Safety Plan Provisions

For the safety plans, detailed guidance should include:

- Methods for incorporating indigenous monitoring techniques and local ecological indicators into safety monitoring and emergency response plans.
- Templates for safety plans that include sections specifically for indigenous community engagement, traditional knowledge application, and cultural site protection.
- Examples of adaptive safety measures that have successfully mitigated risks in culturally and environmentally sensitive areas.

K: Filing Manuals - Environmental and Socio-Economic Assessment

K1: Proposed Split of the ESA Section

The split is supported as it allows for more specialized assessment of Indigenous concerns, echoing our emphasize on the need for targeted assessments in areas of significant cultural importance. It just had to ensure that all potential impacts from development facing Indigenous communities are adequately addressed. Not ever issue that affects Indigenous peoples from development are a “Rights and Interests” issue.

K2: Overarching Topics in the ESA

Include Indigenous sovereignty and environmental stewardship as core topics, reflecting the principles of UNDRIP and emphasizing the role of Indigenous knowledge in environmental assessments. Cultural Impact Assessments and integrated cultural assessments should also be overarching approaches to ESA.

K3: Improving Clarity and Readability of the ESA

Adopt clear language and structured formats that highlight Indigenous engagement outcomes and how Indigenous input was integrated into the ESA, as recommended for transparency in environmental assessments.

K4: Indigenous Knowledge in VC Selection

Formalize the inclusion of Indigenous knowledge through community-based methodologies that ensure Indigenous perspectives are integral to VC selection, aligning with practices that prioritize local ecological knowledge. While many impacts from development affecting Indigenous Peoples are relevant to Indigenous knowledge holders, some impacts also focus on the provision on

services and infrastructure in the communities, housing, transportation and education are a few examples.

K5: Choosing VCs

Select VCs that reflect not only environmental impacts but also cultural, spiritual, and historical significance to the Métis, ensuring assessments cover both tangible and intangible values.

K6: Nested VCs

Implement nested VCs that reflect the interconnectedness of environmental and cultural impacts, recognizing the cumulative and interrelated effects on Indigenous lands.

K7: Improvements to VC Discussion

Introduce mechanisms for continuous Métis input into VC discussions to ensure dynamic responsiveness to evolving environmental and cultural conditions.

K8: Separate Sections for Socio-economic VCs

This separation ensures dedicated attention to the unique socio-economic impacts on Indigenous communities, fostering a deeper understanding and more effective mitigation strategies.

K9: Impact of the Split on Assessment

The split enhances focus and resource allocation to Indigenous-specific issues, ensuring that assessments are more aligned with Métis perspectives and needs. Need to ensure all issues that affect Indigenous communities are adequately discussed in the ESA, regardless of which section they are in.

K10: VCs in Sections

Move culturally significant VCs to the Indigenous-specific sections to ensure focused attention and specialized expertise in their assessment.

K11: Improving Guidance for Socio-economic VCs

As the new category of VCs on the rights and interests of Indigenous Peoples would include categories such as: employment and economy for Indigenous Peoples, heritage resources (including cultural, historical, archaeological, and paleontological resources), human health of Indigenous Peoples including the accessibility and availability of country foods, social and cultural well-being, and traditional land and resource use including sites of Indigenous significance, those would not need to duplicated in the remaining ESA report. However, there are still unique issues and challenges for indigenous communities in areas such as providing safe and affordable housing to members, providing quality non-indigenous education to their youth and accessing non-indigenous health care services. These unique challenges are often related to the remote location of Indigenous communities, limited access to land and the complexity of the provincial vs federal jurisdiction and funding. These issues may still need a separate section in the traditional SEIA, or they would need to be added as topics to the Indigenous specific assessment section.

K12: Enhancement Measures Considerations

Socio-economic protection and enhancement measures need to be monitored and reported on during construction and operations. Many biophysical mitigation measures are monitored over the life of the project (e.g. air emission, water quality, etc.) but there is virtually no monitoring of socioeconomic impacts for the life of a project. Socioeconomic effects, especially employment and fiscal benefits described in an ESA are based on a series of “best guesses” and therefore have

a very low confidence level. For example, prior to construction, the SEIA will calculate its economic "Benefits" by using the projects engineering estimate of workforce size and spending, which is a +/- 20% to 33% accuracy. This initial estimate is then multiplied by the proponents guess as to how much of their project spending would occur in the local study area versus spending in province or country as a whole. This is just an estimate as well, and probably has a +/- 20% accuracy. Macro-economic impact theory suggests that some of the increased wages paid to direct and indirect workers will be spent on consumer goods and services produced locally creating employment income. But no one knows exactly what these number are either, so the SEIA adds a third guess to their "impacts benefits" calculation and guesses at the multiplier effect of additional money in the local economy. I/O models exist for the provinces and they are good to use, but nothing for the regional analysis, so you make an estimate of how much of the provincial I/O multiplier would affect the local area dependent on how big a service center the local area has. but that is probably +/- 33% accuracy. So SEIA impacts are based and engineer estimate, multiplied by a guess on local spending multiplied again by another estimate of spin off benefits. The result is a number presented in SEIAs that at best, has a 50% accuracy. Any predictions of impacts in and ESA that has, at best, a 50% accuracy must have a robust and vigorous long term monitoring program for both construction and operations. The CER must ensure every project has a robust and extensive SEIA monitoring program, with the full involvement and integration of indigenous peoples.

K13: Offset Principles

Define offset strategies that respect Métis cultural landscapes and spiritual beliefs, ensuring that offsets provide real, culturally relevant benefits. The principles should also avoid placing economic benefits as a sole offset in exchange for impacts on multiple biophysical (air, water wildlife) and social (traffic, services and infrastructure) impacts.

K14: Documenting Socio-economic Measures

The best way to document socio-economic measures is the undertake extensive and detailed monitoring of social and economic impacts. As mentioned in response to K12, the SEIA is a series of guesses multiplied by more guesses, so there is a very low level of certainty with any SEIA predictions. The monitoring and report should be multi-stakeholder, it cannot just be industry collecting data and reporting themselves. The collection and report needs to involve a committee with industry, Indigenous peoples, local service and infrastructure providers and government (Fed and Provincial).

K15: Documentation of Protection Measures

Create a publicly accessible database of protection measures that includes detailed timelines and responsibilities, modeled on best practice guidelines for transparency and community engagement. The data should be collected by a multi-stakeholder committee who work directly infrastructure or service providers that are on the front-line delivering programs. Relying on the industry alone to report on the measures is challenging. Indigenous communities need to integral participants for the on-the-ground reporting of socio-economic impacts, as they are often disproportionally affected by the impacts.

K16: Improvements to Mitigation and Enhancement Guidance

Ensure Indigenous ecological knowledge is incorporated into mitigation planning, as these practices can help effectively predict environmental and socio-economic changes and provide sustainable solutions.

K17: Including Environmental Events in Assessments

Emphasize the assessment of environmental events through Indigenous historical knowledge, which often holds valuable insights into long-term ecological changes.

K18: Cumulative Effects on Positive Impacts

Focus on maximizing positive impacts through community-driven projects and initiatives that align with Métis cultural and economic aspirations. It will be important to consider that when attributing impacts, there are other influences that could affect economic, infrastructure and services and cause changes in demand other than just. In areas with multiple large projects, the CER should consider conducting a regional SEIAs, this could be a driver for community wellness assessments or the "Vital Signs" type reporting that cities across Canada undertake.

K19: Choosing Baselines for Cumulative Effects

Utilize historical and traditional knowledge to establish baselines that truly reflect the pre-industrial conditions of Métis lands, supporting more accurate impact assessments.

K20: Role of Offsets in Cumulative Effects

Minimize reliance on offsets by prioritizing direct mitigation strategies that involve Indigneous participation and benefit, ensuring alignment with community values and sustainable development goals.

K21: Improving Cumulative Effects Guidance

Integrate Indigenous methodologies into cumulative effects assessment, enabling a more holistic and culturally sensitive approach to understanding and managing impacts.

K22: Including Significance Tables

Adopt significance tables that are co-developed with Métis communities to ensure that the criteria reflect community-specific values and concerns.

K23: Significance Determination for Federal Lands

Ensure that significance determinations on federal lands involving Métis territories are made with direct Métis involvement, respecting sovereign rights and treaty obligations.

K24: Improvements to Significance Discussion

Revise significance criteria to include Métis perspectives on what constitutes significant impacts, ensuring these criteria are developed in partnership with the Métis community.

L: Filing Manuals, Land

L2: Extent of Indigenous Knowledge and Engagement in Routing and Site Selection

From the perspective of the Elk Valley Métis, Indigenous knowledge and engagement should be explicitly and comprehensively addressed in routing and site selection for pipeline projects. The traditional routes and access paths used by the Métis for hunting, fishing, and gathering are often impacted by construction and subsequent operations. To mitigate these impacts, it is crucial that pipeline companies:

- Incorporate Métis Traditional Knowledge Early: Engage with Métis communities during the initial phases of route and site selection to integrate traditional knowledge into

planning. This ensures that important cultural, environmental, and social factors are considered from the start.

- Develop Flexible Access Solutions: During construction, provide managed access to traditional lands, potentially through scheduled escorts or by designing temporary access routes that do not disrupt traditional activities. Respect the timing of these activities by adjusting construction schedules around key Métis harvesting seasons.
- Maintain Post-Construction Access: Collaborate with Métis stakeholders to ensure that after construction, traditional access to land is restored or maintained. This could involve agreements on removing gates or providing keys to locked areas to authorized Métis members.
- Document Engagement Outcomes: Clearly document how Métis input has influenced the project planning and decision-making processes. This transparency is crucial for maintaining trust and demonstrating the effectiveness of engagement efforts.

L3: Enhancing Filing Manual Guidance for Compensation Methodology

From the Elk Valley Métis perspective, Filing Manual guidance should detail expectations for compensation methodologies that include provisions for maintaining or restoring access to crown-held harvesting areas. The guidance could advocate for compensation approaches that consider the creation of new trails or alternative access methods funded by the pipeline companies to ensure that Métis traditional activities are not disrupted.

L4: Information in Compensation Methodology Applications

Applications should include a comprehensive plan outlining how the pipeline companies intend to maintain or enhance access to traditional lands affected by the project. This should cover detailed maps, projected timelines for access restoration, and descriptions of alternative routes during and after construction. Additionally, how these plans are developed—in consultation with Métis communities—should be transparently documented.

L5: Detail in Compensation Methodology

The compensation methodology should be highly detailed and specific, particularly regarding how it preserves or enhances access to traditional harvesting areas. It should include assessments of how construction impacts access and detailed plans for mitigating these impacts, such as constructing new access routes or providing transportation assistance during and after construction phases. This ensures that the Métis can continue their traditional practices without interruption or additional burden.

L6: Specific Guidance for Describing Lands Supporting Environmental and Socio-economic Assessments

From the Elk Valley Métis perspective, specific guidance should emphasize the inclusion of Traditional Land Use (TLU) and Indigenous Ecological Knowledge (TEK) in describing lands for projects. This should involve mapping and documenting traditional harvesting areas, sacred sites, and culturally significant landscapes. The guidance should recommend collaborative field surveys with Métis knowledge keepers to accurately integrate these aspects into project planning and assessment documents.

L7: Description of Lands Used for Traditional Purposes

For lands used by Indigenous Peoples for traditional purposes that are proposed for project use, the description should be comprehensive. This includes detailed accounts of the seasonal usage patterns of these lands, the types of activities performed (such as medicinal gathering, hunting, or spiritual ceremonies), and the historical significance of these areas to the Indigenous community. Proposals should outline measures for minimizing disruptions and ensuring that traditional uses can continue unhindered or be suitably compensated if impacted

L10: Describing Types of Rights Holders, Owners, and Users of Lands

From the Elk Valley Métis perspective, it is essential that the description of rights holders, owners, and users of lands in CER-regulated projects explicitly include Métis, irrespective of provincial recognition. The identification process should acknowledge Métis traditional land use rights as inherently valid. The CER's guidance should mandate that applications clearly categorize Métis communities as distinct rights-holders, and require project proponents to document Métis land use patterns, historical ties to the land, and ongoing cultural practices, ensuring their full inclusion in the assessment and consultation processes. This approach not only aligns with federal commitments to Indigenous inclusion and rights but also ensures that Métis voices are heard and respected in the development impacting their traditional territories.

M: Filing Manuals - Rights and Interests of Indigenous Peoples

Proposed Split into Two Sections

While the Elk Valley Métis recognize the logic in splitting the ESA into two sections — one for Environmental and Socio-Economic Assessments and another for the "Rights and Interests of Indigenous Peoples" — it is crucial to ensure that all potential impacts on Indigenous communities are comprehensively assessed. The separation must be managed carefully to ensure that impacts not directly related to 'rights and interests' but still affecting Indigenous communities are adequately addressed within the ESA framework.

M2: Overarching Topics Important for the ESA

The overarching topics should include not only those that impact the direct rights and interests of Indigenous Peoples but also broader socio-economic and environmental impacts that could affect these communities. Topics like Indigenous knowledge systems, the assessment of impacts on traditional land uses, cultural sites, and practices should be emphasized across both proposed sections to ensure a holistic approach to project assessments.

M3: Improving Clarity and Readability of the "Rights and Interests of Indigenous Peoples" Section

To enhance clarity and readability in the "Rights and Interests of Indigenous Peoples" section, it's essential to interlink this section with general environmental and socio-economic impacts that might not explicitly fall under 'rights and interests' but still affect Indigenous communities significantly. Structuring this section around thematic areas such as traditional land use, cultural heritage, and direct and indirect community impacts, with clear cross-references to related environmental and socio-economic topics, would ensure comprehensive coverage and integration of all relevant issues

while "employment and economy" issues are not directly labeled as rights-based issues under traditional legal frameworks, they are critically intertwined with the socio-economic rights and well-being of Indigenous peoples. These issues impact access to economic opportunities, sustainable development, and the overall ability to maintain and enhance community well-being and autonomy. Therefore, addressing employment and economic conditions is crucial in the context of respecting and promoting the broader socio-economic rights and interests of Indigenous communities. This integrated approach supports the holistic view of rights that includes not only legal and territorial rights but also the right to improved life conditions and opportunities

M4: Separate Sections in the Filing Manual

The introduction of separate sections within the Filing Manual for Valued Components (VCs) focused on the rights and interests of Indigenous Peoples and another for biophysical and socio-economic VCs is sensible. It could enhance clarity by allowing each section to delve deeper into specific issues relevant to its focus, ensuring a thorough and tailored assessment that respects and highlights the nuances of Indigenous concerns, such as employment, economic impacts, and cultural heritage.

M5: Impact of the Split on Assessment

The split could ensure a more focused and effective assessment by enabling project analysts to apply specialized expertise to either Indigenous rights and interests or to general environmental and socio-economic factors. However, care must be taken to maintain a holistic view of the project's impact, ensuring that the interconnections between socio-economic, environmental, and Indigenous rights issues are not overlooked but are synergistically evaluated.

M6: VCs in "Rights and Interests of Indigenous Peoples" Section

VCs to be included in the "Rights and Interests of Indigenous Peoples" section should specifically relate to direct impacts on Indigenous communities, such as access to traditional lands, effects on health from changes to country foods, and impacts on cultural and archaeological sites. These are intimately connected with Indigenous ways of life and should be distinctly assessed to ensure that mitigation strategies are effectively aligned with the unique needs and rights of Indigenous Peoples. It will be important to ensure the relevance and accuracy of the VCs, ensuring they reflect the real and comprehensive impacts on Indigenous communities.

M7: Documenting Protection and Enhancement Measures for VCs

Documenting, monitoring, managing, and reporting on VCs focused on the rights and interests of Indigenous Peoples should involve collaborative frameworks that include regular consultations and feedback mechanisms with Indigenous communities. Involving a diverse group of stakeholders in these processes, as suggested, would increase transparency, enhance the reliability of data, and ensure that measures are effectively implemented and adjusted based on comprehensive community input and feedback. This approach ensures that data collection reflects real impacts and that proposed mitigation and enhancement measures are culturally appropriate and effective in addressing the specific needs of the communities involved.

M8: Documentation for Rights and Interests of Indigenous Peoples

To ensure effective documentation and implementation of commitments during construction and operations, it is essential to undertake extensive and detailed monitoring of impacts, recognizing the inherent uncertainties in ESAs. Monitoring should be conducted by a multi-stakeholder

committee that includes industry representatives, Indigenous peoples, local stakeholders with expertise in the specific biophysical or socioeconomic topic, and both federal and provincial government representatives. This collaborative approach ensures diverse perspectives in data collection and reporting, enhancing the transparency and accountability of the process.

M9: Opportunities and Challenges of Indigenous-led Assessments and Studies

Incorporating Indigenous-led assessments and studies, such as Integrated Cultural Assessment's into project evaluations can profoundly enrich the understanding of a project's impact on the Indigenous way of life. These community-led studies allow for a more comprehensive and integrated assessment of cultural impacts, focusing on aspects that are most significant to Indigenous communities. The opportunities presented by such approaches include deeper insights into the cultural, social, and environmental interconnections that standard assessments might overlook. Challenges might involve aligning the timing and scope of these studies with regulatory requirements and ensuring that their findings are adequately integrated into the broader project assessment framework, respecting both the depth and the context of the Indigenous perspectives provided

M10: Opportunities and Challenges for Applicants in Indigenous-led Assessments and Studies

For project applicants, integrating Indigenous-led assessments into the broader project framework presents unique opportunities include gaining a richer, community-based understanding of potential impacts, which can enhance project design to avoid or mitigate adverse effects more effectively. Such integration can also foster stronger relationships with Indigenous communities, leading to smoother project implementation and enhanced corporate social responsibility. Some of the challenges may include logistical complexities in synchronizing community-led assessments with project timelines, additional costs associated with supporting independent studies, and the need for applicants to adapt project plans based on findings that may diverge from initial assessments. Successfully managing these elements requires flexibility, open communication, and a genuine commitment to incorporating Indigenous perspectives into project planning and execution.

M13: Opportunities and Challenges for Indigenous Peoples with the CER's Existing Guidance

The existing guidance, when properly implemented, can provide Indigenous communities, like the Elk Valley Métis, with a structured approach to ensure their rights and concerns are considered in project assessments. The legal backing enhances the legitimacy of their claims and participation. However, there can be inconsistencies in how the guidance is applied, potentially leading to superficial consultations rather than meaningful engagement. Ensuring that all voices within the community are heard and that consultations lead to substantive changes in project plans remains a challenge.

M14: Opportunities and Challenges for Applicants with the CER's Existing Guidance

For applicants, clear guidance helps in formulating a consistent approach to Indigenous consultations, potentially streamlining the project approval process and building better relationships with Indigenous communities. However, the complexity and depth of consultation required can lead to increased project timelines and costs. Applicants may also find it challenging to fully integrate the diverse views and needs of Indigenous communities into their project plans.

M15: Additional Guidance in the Filing Manuals

The Filing Manuals should provide more specific methodologies for assessing the impact on Indigenous rights and interests, particularly integrating Indigenous perspectives on what constitutes significant impacts. Including examples of best practices for meaningful engagement and successful integration of consultation findings into project planning could also be beneficial.

M16: Framework Similar to the Severity Table in the Filing Manual

Incorporating a framework similar to the severity table used in the Commission's NEBC Recommendation Report would be appropriate and beneficial. This would help quantify and make more transparent the assessment of impacts on Indigenous rights, providing clear criteria for evaluating the severity of impacts.

M17: Draft Determination of Severity of Effects

Requiring applicants to submit a draft determination of the severity of project effects on Indigenous rights can enhance early understanding and allow for better planning and mitigation strategies. This approach supports a more collaborative review process where Indigenous communities can provide input before final decisions are made.

M18: Integrating Indigenous-led Assessments with VC-based Assessments

Applicants should demonstrate the overlaps and interconnections between Indigenous-led assessments and VC-based assessments by using integrated reporting formats that highlight how findings from Indigenous studies directly impact the assessment of VCs. This integration ensures that the unique insights from Indigenous-led studies are not isolated but are used to inform the broader environmental and socio-economic impact assessments

M19: Framework for Indigenous-CER Co-Regulation

Building on the co-regulatory process initiated for the NGTL system, this approach should be expanded to encompass all CER-regulated facilities. A structured partnership where both CER and Indigenous communities share decision-making powers can ensure that Indigenous knowledge and priorities are integrally considered. This expansion would align oversight and monitoring across a broader range of projects, ensuring consistent application of best practices for Indigenous engagement and environmental stewardship.

M20: Benefits of Indigenous-CER Co-Regulation

Expanding the NGTL system's co-regulatory model to all CER-regulated facilities enhances trust, ensures consistency, and improves project compliance. This model offers greater inclusivity and legitimizes the regulatory process by integrating Indigenous perspectives directly, fostering better-informed decision-making that respects and protects Indigenous rights and environmental integrity across all projects.

M21: Challenges of Implementing Co-Regulation

While the benefits are significant, challenges in expanding the NGTL system's co-regulatory model include aligning different governance frameworks, continuous engagement requirements, and securing sustainable funding. To overcome these, the CER must commit to policy reforms and capacity building, ensuring that the co-regulatory approach is effectively supported and that it respects Indigenous autonomy in environmental governance