
CER Onshore Pipeline Regulations and Filing Manuals

Kelly Lake Cree Nations Response



Onshore Pipeline Regulations and Filing Manuals Review

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A. OPR – Damage Prevention Topic Paper

The Kelly Lake Cree Nation strongly emphasizes land stewardship and environmental protection in pipeline oversight. Any regulatory changes to the OPR must integrate Indigenous knowledge and ensure the protection of our traditional lands.

1. **Depth of Cover Monitoring Best Practices (A1)** – Indigenous ecological knowledge should complement industry standards. Seasonal land assessments must be included to monitor natural changes.
2. **Benefits & Implications (A2 & A3)** – Improved environmental protection, reduced spill risks, and Indigenous participation in monitoring. However, increased costs and stricter land use regulations may impact traditional activities.
3. **Alignment with Business Practices (A4)—Monitoring depth of cover** should already be a priority; reinforcing this ensures pipeline safety and land protection.
4. **Strengthening Surveillance & Monitoring (A5)** – Indigenous monitors must be included in oversight programs, and pipeline companies should report findings to Indigenous communities.
5. **Ground Disturbance Definitions (A6)** – The OPR must explicitly consider traditional land use activities, preventing conflicts with Indigenous land users.
6. **Explicit Depth of Cover Requirements (A7)** – Regular inspections, Indigenous participation, strict enforcement, and publicly available reports are necessary for accountability.

Conclusion: The OPR must ensure Indigenous-led monitoring and decision-making to uphold environmental sustainability and protect Kelly Lake Cree Nation lands.

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B. OPR - Deactivation and End of Lifecycle Topic Paper

B1. Comments on New or Amended Definitions

Definitions must acknowledge the deep connection between land, water, and Indigenous rights.

- *Decommission* and *Abandonment* should mandate full land restoration, respecting Indigenous perspectives on ecosystem and cultural significance.
- *Restoration and Reclamation* must ensure Indigenous communities can resume traditional land use, including hunting, fishing, and spiritual practices.

B2. Improvements to Section 45.1 on Decommissioning Plans

Decommissioning plans should integrate Indigenous consultation at every stage, including:

- A structured engagement process ensures informed decision-making.
- Cumulative impact assessments addressing long-term environmental and cultural effects.
- Restoration strategies aligned with Indigenous land stewardship.
- Monitoring commitments incorporating traditional knowledge.

B3 & B4. Management Systems for Decommissioned and Abandoned Pipelines

A robust management system must:

- Recognize Indigenous concerns over abandoned pipelines.
- Establish Indigenous-led oversight committees.
- Require long-term groundwater and soil monitoring.
- Secure financial assurances to prevent future burdens on Indigenous communities.

B5 & B6. Notification for Deactivation Instead of Applications

Replacing applications with notifications could reduce oversight. To mitigate risks:

- Notifications must include Indigenous consultation.
- Reporting should occur annually, not just every two years, for transparency.

B7 & B8. Surveillance and Monitoring of Abandoned Pipelines

Monitoring must:

- Be Indigenous-led or include Indigenous participation.
- Use traditional knowledge for on-the-ground assessments.
- Require industry funding for Indigenous environmental monitoring programs.

B9. Record Retention for Decommissioned and Abandoned Pipelines

- Records must be retained indefinitely for accountability.
- Indigenous communities must have access to environmental oversight.

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- GIS mapping of decommissioned pipelines should prevent land use conflicts.

Final Thoughts

For the Kelly Lake Cree Nation, land is a living entity integral to culture and identity. Regulatory changes must prioritize Indigenous rights, environmental protection, and long-term land stewardship through meaningful consultation and the integration of traditional knowledge.

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C. OPR – Emergency Management Topic Paper

C1. Incorporating CSA Z246.2 by Reference in the OPR:

KLCN supports incorporating CSA Z246.2 into the OPR for clarity and consistency in emergency preparedness but stresses the importance of meaningful Indigenous involvement. This should include recognizing Indigenous knowledge systems and governance structures and explicitly requiring Indigenous consultation in developing and revising CSA Z246.2.

C2. Replacing “Safety of Workers or the Public” with “People” in Subsection 32(1):

Expanding the scope to “people” is positive, but it must explicitly include Indigenous communities, land users, and traditional stewards to avoid overlooking Indigenous Peoples in emergency planning.

C3. Including Adverse Effects on Historical and Cultural Sites in Subsection 32(1):

KLCN strongly supports this addition, highlighting the potential harm to sacred sites, burial grounds, and water sources. A process should be established for Indigenous communities to identify and protect such sites before emergencies occur.

C4. Consolidating Regulatory Framework Requirements in the OPR:

Consolidation enhances clarity, but KLCN stresses that obligations toward Indigenous Peoples must not be diminished. The framework should require Indigenous consultation and inclusion in emergency planning and decision-making.

C5. Including Elements in OPR-Related Guidance vs. the OPR:

Regulatory requirements for Indigenous engagement, notification, and participation must be included in the OPR itself, not merely in guidance documents, to ensure firm Indigenous inclusion.

C6. Incorporating Best Practices into the OPR vs. Guidance:

Best practices for Indigenous involvement should be incorporated as mandatory requirements in the OPR, including notification timelines, consultation procedures, and Indigenous participation in response exercises.

C7. Clarifying Liaison and Continuing Education Requirements (Sections 33-35):

KLCN supports clarifying these requirements, emphasizing that Indigenous communities must be equal partners in planning. The education program should include Indigenous land users, knowledge holders, and emergency responders.

C8. Clarifying CER’s Requirements for Indigenous Involvement in EM Programs:

KLCN supports formalizing a plan for Indigenous involvement, including mandatory notification of Indigenous communities for any emergency affecting their lands, capacity funding for participation, inclusion of Indigenous knowledge in risk assessments, and involvement in emergency drills.

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Overall, KLCN believes emergency management must be proactive and inclusive, respect Indigenous rights, and ensure equal partnerships in planning and response.

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D. OPR – Environmental Protection Topic Paper

Subtopic 1: Duty to Report and Manage Contamination

While holding companies accountable for contamination is essential, the KLCN emphasizes the need for **direct notification** to Indigenous communities, not just the CER. **Indigenous environmental monitors** should be involved in contamination assessments to protect traditional land uses like hunting, fishing, and cultural practices.

Subtopic 2: Reclamation, Vegetation Management, and Restoration

The KLCN supports **Indigenous-led reclamation initiatives** and the integration of **Traditional Ecological Knowledge (TEK)** for ecosystem revitalization, biodiversity, and food sovereignty. Restoration plans must be co-developed with Indigenous communities, including Elders and land users.

Subtopic 3: Participation in Environmental Monitoring by Indigenous Peoples

Indigenous peoples should have a **formal role** in environmental monitoring throughout all project phases. This includes hiring **Indigenous monitors**, integrating **TEK**, and ensuring **independent Indigenous-led monitoring bodies** report to the CER with adequate funding.

Subtopic 4: Environmental Protection Plans for Construction and Operations

Indigenous participation in **Environmental Protection Plans (EP)** is crucial. Companies must demonstrate how **Indigenous knowledge** shapes their plans. An **Indigenous-led environmental review process** should complement EP plans.

Subtopic 5: Construction to Operations Transition Plans

The KLCN stresses the need for a **knowledge-transfer process** with **Indigenous oversight** during the transition from construction to operations, with costs covered by the company.

Subtopic 6: Climate Resiliency

Climate risk assessments should incorporate **Indigenous knowledge**. **Collaboration with Indigenous Nations** is essential for developing climate adaptation strategies based on **TEK**.

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Subtopic 7: Incorporation of ISO Environmental Standards

The KLCN is concerned that **ISO 14001** does not recognize **Indigenous-led governance**. **TEK** and **Indigenous laws** must be incorporated into environmental management systems to align with Indigenous values and practices.

Conclusion:

The KLCN supports these environmental protections but urges stronger **recognition of Indigenous knowledge** and **participation** throughout the pipeline lifecycle, ensuring that Indigenous communities lead **co-development, monitoring, and restoration**.

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E. OPR – Human and Organizational Factors Topic Paper

The Kelly Lake Cree Nation emphasizes a holistic, balanced approach to managing workplace systems, especially in pipeline operations, rooted in respect for the land, people, and resources. Integrating Indigenous knowledge into safety and hazard management is essential from this perspective. Traditional Knowledge (TK) and understanding of natural law have long guided the Nation's approach to risk and safety, which should be recognized within Human and Organizational Factors (HOF) frameworks.

Key Suggestions:

1. **Incorporate Indigenous Practices:** Acknowledge Indigenous approaches to safety, including traditional land use practices, risk assessments, and community monitoring, as valid tools for HOF (Human Organizational Factors).
2. **Recognize Oral Histories and Experiences:** Elders and land users offer crucial insights into long-term environmental changes and hazards, which should be recognized as legitimate sources of knowledge.
3. **Adopt a Holistic Lens:** Safety should be viewed through the interconnectedness of land, people, and spiritual well-being rather than focusing solely on technical procedures.
4. **Cultural Safety Training & Indigenous Panels:** Companies must provide meaningful cultural safety training and establish Indigenous-led advisory panels to guide risk assessments and safety culture development.
5. **Community-Led Monitoring and Traditional Ecological Knowledge (TEK):** Companies should work with Indigenous communities to integrate TEK and community-based monitoring into hazard identification and workplace safety programs.
6. **Address Cultural Bias:** Shift from top-down, procedural risk management to a relational, community-based approach that values spiritual, mental, and physical well-being.
7. **Support Organizational Learning:** Integrate Indigenous learning models, community-focused knowledge-sharing, and sustainable learning programs that preserve generational wisdom.
8. **Indigenous Oversight:** Indigenous leaders should be involved in the regulatory review of safety systems and incident investigations to ensure cultural and environmental aspects are fully understood.

Benefits:

- Enhanced hazard identification and safety outcomes through Indigenous knowledge.
- Stronger trust and collaboration between pipeline companies and Indigenous communities.
- A more sustainable, balanced approach to environmental protection.
- Improved workforce well-being through a focus on community health.

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Costs:

- Initial investment in cultural training and community engagement.
- Adjusting regulatory frameworks to include Indigenous metrics and perspectives.

The Kelly Lake Cree Nation advocates for deeper integration of Indigenous knowledge, leadership, and cultural perspectives into pipeline safety and organizational learning, fostering a more effective, inclusive, and sustainable safety culture.

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F. OPR – Management System and Contractor Management Topic Paper

The Kelly Lake Cree Nation's response to the Onshore Pipeline Regulations (OPR) and Filing Manuals Review emphasizes the importance of integrating Indigenous perspectives and knowledge systems in pipeline management. Here are the key points:

Management System Requirements:

1. **Incorporation of Indigenous Knowledge:** Best practices should merge Indigenous Knowledge (IK) with Western technical approaches with Indigenous-led environmental monitoring and assessment programs.
2. **Indigenous Consultation:** Companies must engage Indigenous Nations from the start, co-developing management strategies and using adaptive management to respond to environmental changes.
3. **Cultural and Environmental Protection:** An Indigenous-led program should oversee cultural and environmental protection, ensuring Indigenous communities are part of the decision-making and reporting processes.
4. **Recognition of Indigenous Knowledge:** Indigenous Knowledge should be formally acknowledged as equal to Western scientific assessments and explicitly integrated into risk assessments and decision-making in the management system.
5. **Scalability of Requirements:** Indigenous engagement should be proportional to the project's impact, even for small-scale initiatives.
6. **Oversight Mechanisms:** Indigenous oversight in the risk assessment and mitigation processes is necessary for preventing harm, with a specific emphasis on Indigenous participation in environmental and cultural quality assurance.

Management of Contractors:

1. **Contractor Training:** Contractors must undergo training on Indigenous rights, culture, and environmental stewardship, with Indigenous representatives included in oversight roles.
2. **Protocols for Working on Indigenous Lands:** Contractors must respect traditional land use and follow protocols for operating on Indigenous territories.
3. **Indigenous-Led Risk Assessments:** The regulatory framework should include Indigenous knowledge-based risk assessments and commitments to hiring Indigenous contractors.
4. **Compliance and Reporting:** There should be Indigenous-led audits of contractor performance, direct reporting mechanisms to the CER, and penalties for non-compliance.

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Conclusion:

The Kelly Lake Cree Nation strongly advocates for a regulatory framework that fully integrates Indigenous perspectives. This framework would ensure that Indigenous communities are actively involved in environmental protection, contractor oversight, and regulatory compliance. This approach is crucial for safeguarding Indigenous rights and the sustainability of their lands and waters.

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G. OPR – Pipeline Integrity Topic Paper

G1. Definition of Onshore Pipeline – Inclusion of Hydrogen and Carbon Dioxide

The Kelly Lake Cree Nation strongly supports regulatory clarity regarding onshore pipelines but emphasizes the need for a balanced and cautious approach when including hydrogen and carbon dioxide in pipeline transportation. Our traditional knowledge teaches us that land, water, and air are interconnected, and any expansion of pipeline regulations must address the environmental and safety risks inherent in the transportation of these substances. Specifically, we request the following:

- Indigenous-led environmental monitoring and consultation throughout the entire lifecycle of the pipeline.
- Rigorous safety measures to prevent contamination of water sources and lands, which are integral to our cultural and subsistence practices.
- A comprehensive impact assessment that fully considers the cumulative effects of these pipelines on our communities and the ecosystems we depend on.

G2 & G3. Use of New Technologies Without Standards

We are concerned that introducing untested pipeline technologies could compromise the safety and integrity of our lands, waters, and cultural sites. To address this, we recommend the following:

- A mandatory consultation process with Indigenous Nations for the introduction of any new pipeline technology, especially in or near our territories.
- Establishment of an independent Indigenous review body to assess the potential environmental and safety risks associated with new technologies.
- A precautionary principle approach that requires new technologies to undergo rigorous, independent safety testing and validation before implementation.

G4 & G5. Pipeline Design – Geohazard Assessments & Risk Criteria

Geohazard assessments are essential to ensure the safety of pipeline infrastructure, and it is critical that these assessments incorporate Indigenous knowledge. Indigenous peoples have a deep understanding of the land that can reveal risks overlooked by conventional scientific methods. Therefore, we recommend:

- Indigenous-led geohazard assessments integrate traditional ecological knowledge and technical expertise to ensure comprehensive risk identification.
- Stronger protections for water bodies, particularly those supporting culturally significant species like salmon, through permanent monitoring systems for watersheds and streams.
- Mandatory cumulative impact assessments that evaluate the long-term consequences of multiple regional infrastructure projects, including their impacts on local ecosystems and communities.

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G6. Storage Facilities – Safety & Emergency Preparedness

The proposed storage facilities represent significant risks to our lands and communities, particularly in the event of spills or fires. While we support the proposed improvements, we urge further measures to protect Indigenous communities and the environment, such as:

- Involvement of Indigenous peoples in emergency response planning, ensuring that First Nations have the necessary resources and authority to respond swiftly to incidents affecting our territories.
- Enhanced containment requirements reflect the unique vulnerabilities of Indigenous communities, especially those that rely on groundwater and surface water sources near pipeline storage sites.

G7. Quality Assurance Program – Material Traceability

Pipeline integrity failures disproportionately affect Indigenous lands, often leading to irreversible environmental damage. To prevent these disasters, we advocate for:

- Indigenous oversight in all material audits and inspections to ensure transparency and accountability in pipeline construction and operation.
- Strict penalties for companies that use substandard materials, including mandatory remediation measures that are promptly enacted in the event of pipeline failures.

G8. Definitions of Operating Pressures

While we appreciate the clarity provided by the proposed definitions of operating pressures, we remain concerned about the potential risks, particularly in aging infrastructure. Changes to pipeline pressure can lead to increased leak risks, which could have disastrous consequences for Indigenous lands. To address this, we recommend:

- Before implementation, mandatory risk assessments for pressure changes, with consultation and explicit consent from the affected Indigenous Nations.
 - Stronger enforcement of non-compliance penalties ensures that pipeline operators prioritize safety and environmental protection over profit.
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H. OPR – Reporting Harm Topic Paper

Response to Onshore Pipeline Regulations (OPR) – Reporting Harm from the Indigenous Perspective of the Kelly Lake Cree Nation

The Kelly Lake Cree Nation acknowledges the importance of pipeline regulation, but emphasizes the need for an approach that truly integrates Indigenous perspectives and knowledge systems.

1. Definition of Incident:

Current OPR definitions fail to capture the full scope of harm to our communities, lands, and ways of life. A broader, more holistic definition must include cumulative ecological and cultural impacts, as well as disruptions to traditional land use. Indigenous knowledge systems should be central to defining incidents, emphasizing environmental and cultural harm.

2. Environmental Effects:

We call for the integration of Indigenous-led environmental monitoring programs in the reporting system. This includes ensuring that guardians or monitors from our community can verify incidents, and that incidents impacting sacred or subsistence areas are immediately reported.

3. Loss of Operational View or Control:

For us, loss of operational view or control extends beyond technical failures. It includes the denial of our communities' access to vital information and oversight. We urge that pipeline operators share real-time operational data and collaborate with Indigenous emergency response teams.

4. Release of Substance Thresholds:

Pipeline impacts should be assessed with a focus on traditional territories. Special consideration should be given to the proximity to water sources, fishing and hunting grounds, and other culturally significant areas, alongside potential long-term environmental damage.

5. High-Potential Near Misses:

Near misses must be defined in a way that incorporates community risk assessments and Indigenous knowledge. Incidents like equipment failures near sacred sites or leaks in areas of high cultural value should be prioritized for immediate reporting.

6. Information Sharing:

Incident data should be disaggregated by proximity to Indigenous lands and waterways and should reflect the effectiveness of mitigation measures on our territories. Including Indigenous-led reports in industry data will improve understanding and prevention.

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7. Sites of Historical and Cultural Significance:

Hazard identification must begin with consultation with our communities, and mandatory cultural impact assessments should precede any disturbance of our lands. Indigenous-led monitoring programs with real-time reporting are essential.

Conclusion:

To improve OPR effectiveness, the Kelly Lake Cree Nation insists on including Indigenous knowledge systems, better consultation, and stronger safeguards for our lands, rights, and cultural heritage. Through meaningful involvement, we can ensure that the pipeline regulations protect our communities and environments.

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

Response from the Kelly Lake Cree Nation on the CER's Objectives for Improvement

The Kelly Lake Cree Nation believes the CER's objectives for improvement must go beyond regulatory compliance and focus on genuinely respecting Indigenous rights, environmental stewardship, and community well-being. The Nation emphasizes the importance of clear, enforceable standards that ensure Indigenous people's voices are heard and meaningfully incorporated into decision-making, especially concerning projects impacting traditional lands and ways of life.

Key objectives include:

1. **Environmental Protection:** Prioritize the long-term health of ecosystems, protecting water, wildlife, and sacred sites.
2. **Cultural Integrity:** Safeguard Indigenous peoples' cultural and spiritual connections to the land.
3. **Free, Prior, and Informed Consent (FPIC):** Ensure Indigenous communities have the right to participate in decisions fully and have the ability to approve or reject projects based on informed understanding.
4. **Economic Benefits:** Ensure equitable financial benefits, capacity building, and sustainable development opportunities.

Also, stronger Indigenous-led monitoring mechanisms and clear accountability for environmental and cultural impacts should be established.

Feedback on Proposed Engagement Requirements

While the proposal for explicit engagement requirements is a positive step, it must go beyond formal consultation and allow for true, active participation. From the outset, engagement should be integrated into the decision-making process with transparency, trust, and culturally sensitive approaches. The community must be allowed to shape the process, ensuring that concerns are heard and addressed genuinely.

Implementation and Compliance Verification

For effective implementation, companies should be held accountable through:

- Regular reporting on engagement effectiveness and addressing concerns raised.
- Independent monitoring, particularly by Indigenous communities, to ensure company actions align with the engagement process.
- Performance metrics to assess the quality of engagement and community satisfaction.

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Challenges and Recommendations

Key challenges include ensuring sincerity in engagement and addressing community capacity issues. The CER must actively support communities with resources and oversight, ensuring equitable power dynamics between companies and Indigenous peoples. Additionally, training for industry professionals and regulators on Indigenous ways of knowing and being is essential to improving engagement.

Guidance to Enhance Understanding

Companies and Indigenous communities need clear and detailed guidance, including definitions of meaningful engagement, culturally appropriate practices, best practices from successful projects, and support resources for capacity building. The CER must also ensure that accountability mechanisms are clear and enforceable.

Ultimately, the Kelly Lake Cree Nation expects the CER to support Indigenous communities involvement and ensure all regulatory objectives respect the Nation's rights and sovereignty, leading to better outcomes for industry and Indigenous peoples.

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OPR – J. Safety Topic Paper

Response from the Kelly Lake Cree Nation to Proposed Amendments in the Onshore Pipeline Regulations (OPR)

The Kelly Lake Cree Nation supports the proposed amendments to the Onshore Pipeline Regulations, provided that they prioritize the values of safety, environmental protection, and meaningful engagement with Indigenous communities. As stewards of the land and environment, we emphasize the following key points:

Process Safety Management (PSM):

1. **Support for Stronger Regulations:** We support clarifying and strengthening PSM to enhance transparency, accountability, and protection of public safety and the environment. It is essential to prevent accidents such as spills, explosions, or fires, which pose significant risks to our lands and communities.
2. **Meaningful Consultation:** The Nation expects regular, ongoing consultation throughout all stages of the project to ensure our concerns are heard and addressed. This includes the integration of traditional knowledge in safety management practices.
3. **Environmental Protection:** Guidance should specifically address environmental risks to Indigenous lands, waters, and wildlife, including clear contingency plans for potential disasters.
4. **Cultural Sensitivity:** The PSM guidance should ensure the protection of cultural practices, including hunting, fishing, and the preservation of sacred sites.
5. **Risk Communication:** Companies should communicate risks in a way that is understandable to our communities, ensuring clear, plain-language summaries and technical reports.

Safety Plans for Construction, Operations, Maintenance, and Abandonment:

1. **Tailored Safety Plans:** We support flexible safety plans tailored to each project phase (construction, operation, maintenance, and abandonment), with a focus on the unique risks to Indigenous territories. This should include emergency response plans specific to our communities.
2. **Community Involvement:** Safety plans should incorporate protocols for community consultation, engagement, and participation, ensuring our perspectives and needs are fully integrated.
3. **Long-Term Impact Considerations:** Safety plans should also address long-term environmental impacts and include monitoring throughout the lifecycle of the pipeline, including abandonment and decommissioning.

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Overall Indigenous Perspective: We call for safety regulations that respect Indigenous rights, culture, and connection to the land. We stress:

- **Environmental Stewardship:** Protecting our lands, waters, and wildlife should be the priority in all pipeline operations.
- **Meaningful Consultation:** Indigenous communities must actively develop safety and environmental management plans, not just be informed after making decisions.
- **Cultural Protection:** Safety plans should reflect and protect our cultural, spiritual, and economic practices.

We support amendments that strengthen safety, environmental protection, and community health, provided they respect our rights and ensure long-term sustainability for future generations.

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K. Filing Manuals - Environmental and Socio-Economic Assessment Topic Paper

Kelly Lake Cree Nation Response to CER on ESA Section Restructuring

The Kelly Lake Cree Nation supports the proposed restructuring of the ESA section better to reflect the rights and interests of Indigenous Peoples. We emphasize that separating Indigenous concerns into a distinct section is essential for recognizing projects' unique cultural, spiritual, and socio-economic impacts on our communities. The inclusion of Indigenous knowledge and meaningful engagement must be prioritized, ensuring that traditional ecological knowledge is fully integrated into selecting VCs (Valued Component) and assessing impacts.

We strongly advocate for including socio-economic VCs related to Indigenous rights, traditional resource use, and cultural practices in the new section. Furthermore, mitigation and enhancement measures must focus on minimizing harm and maximizing positive outcomes for Indigenous communities, particularly in terms of cultural restoration and sustainable livelihoods.

Climate change and cumulative effects assessments must reflect the vulnerabilities of Indigenous territories, ensuring that long-term impacts are fully understood. We urge the CER to prioritize the well-being, resilience, and rights of Indigenous Peoples in the final ESA framework.

The Kelly Lake Cree Nation seeks a robust, culturally sensitive approach that respects our governance, knowledge, and land rights.

Subtopic 1: Restructuring the ESA Section

K1. Does the proposed split of the current ESA section improve clarity?

The proposed split may enhance clarity, but separating the "Rights and Interests of Indigenous Peoples distinctly" section from the broader Environmental and Socio-Economic Assessment (ESA) section is essential. This would allow for a more focused approach to Indigenous concerns, which go beyond environmental impacts and include cultural, spiritual, and socio-economic factors. It is crucial that this new section thoroughly addresses the distinctive impacts of pipeline projects on Indigenous communities.

K2. What overarching topics are important to highlight as applying throughout the applicant's ESA and "Rights and Interests of Indigenous Peoples" sections?

Overarching topics that should be consistently addressed include:

- **Engagement with Indigenous Peoples:** Applicants must demonstrate genuine, continuous engagement with Indigenous communities, respecting traditional governance structures and decision-making processes.

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- **Incorporation of Indigenous Knowledge:** Applicants must integrate Traditional Ecological Knowledge (TEK) alongside Western science to ensure comprehensive environmental and socio-economic assessments.
- **Impact on Treaty and Aboriginal Rights:** Projects must consider how they affect treaty rights, land claims, and traditional practices such as hunting, fishing, and cultural practices.
- **Climate Change Resilience:** Indigenous communities are particularly vulnerable to climate change. Therefore, resilience in relation to the territory and community should be central to the assessment process.
- **Socio-Economic and Cultural Impacts:** A focus on the socio-economic impacts on Indigenous communities, including health, cultural integrity, and community well-being, is essential.

K3. What other restructuring of the existing ESA section might improve clarity and readability and better highlight important issues?

Additional restructuring could include:

- **Dedicated Subsection for Indigenous Cultural and Spiritual Practices:** A dedicated section addressing the cultural, spiritual, and economic significance of lands and resources to Indigenous communities.
- **Intergenerational Impacts:** A stronger focus on how pipeline projects affect future generations, considering long-term environmental and cultural consequences.
- **Specific Metrics for Indigenous Socio-Economic Effects:** Clear guidelines for evaluating impacts on language, culture, and traditional practices, ensuring Indigenous ways of life are respected and preserved.

Subtopic 2: Environmental and Socio-economic Assessment

K4. To what extent should Indigenous knowledge and engagement be explicitly addressed in the selection of VCs?

Indigenous knowledge should be central in identifying Valued Components (VCs). Applicants should demonstrate how they have engaged with Indigenous communities to incorporate traditional ecological knowledge in selecting and prioritizing VCs. This should be reflected in detailed reports of community consultations and the documentation of how Indigenous perspectives influenced the selection and assessment of VCs.

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K5. What factors should guide the choice of VCs in terms of their breadth?

VCs should be guided by:

- **Cultural Relevance:** VCs must reflect what is culturally important to Indigenous communities, including sacred sites, traditional resource use, and cultural practices.
- **Ecosystem Interconnectivity:** The interconnection between environmental and socio-economic systems must be considered to ensure that both specific and broader concerns are addressed.
- **Community Well-Being:** VCs should account for the holistic well-being of Indigenous communities, covering social, cultural, health, and economic impacts.

K6. Can VCs be ‘nested’ to cover both specific and more general concerns?

Yes, VCs can be nested to capture both specific impacts (e.g., the effect on a particular species) and broader, more general concerns (e.g., ecosystem health). It is crucial, however, that this "summing" of effects does not obscure smaller but significant impacts, especially those affecting Indigenous communities or species of cultural significance.

K7. What other improvements or clarifications can be made to the discussion and selection of VCs?

Clear guidance should be provided on integrating Indigenous knowledge into the definition and assessment of VCs. Applicants should be required to demonstrate how these VCs are relevant to Indigenous territories and how potential impacts on those VCs may affect broader social, cultural, and spiritual aspects of Indigenous life.

Socio-economic Valued Components

K8. Would having separate sections in the Filing Manual (e.g., one describing socio-economic VCs and another describing VCs focused on the rights and interests of Indigenous Peoples) improve clarity?

Yes, creating separate sections for socio-economic VCs and those specifically addressing Indigenous rights and interests would improve clarity. It would allow Indigenous concerns, such as impacts on traditional livelihoods, cultural practices, and community health, to receive the attention they deserve.

K9. What VCs should stay in the ESA section versus which should move to the “Rights and Interests of Indigenous Peoples” section?

VCs related to community health, traditional resource use, and cultural practices should be moved to the new section addressing Indigenous rights and interests. The ESA section could retain VCs related to broader socio-economic impacts but should always be contextualized with respect to their effects on Indigenous communities.

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Mitigation and Enhancement Measures

K12. What considerations concerning enhancement measures should be included?

Enhancement measures should focus on maximizing positive impacts, particularly in relation to employment, economic opportunities, and capacity building for Indigenous communities. Special consideration should also be given to enhancing cultural practices, such as restoring sacred sites and supporting the sustainability of traditional livelihoods.

K13. What principles and other considerations concerning offsets should be included?

Offsets should be a last resort, only considered after exploring all avoidance, minimization, and restoration options. They must be rigorously evaluated to ensure they do not undermine Indigenous rights or cultural practices and should prioritize the long-term health of ecosystems critical to Indigenous communities.

Cumulative Effects

K17. To what extent should environmentally events and climate change be included in cumulative effects assessments?

Climate change and environmental events should be explicitly included in cumulative effects assessments, as they disproportionately affect Indigenous territories. The long-term cumulative impacts of climate change and project developments must be thoroughly considered to understand the full extent of risks to Indigenous communities.

Conclusion

From the perspective of the Kelly Lake Cree Nation, changes to the ESA section and the broader regulatory process must prioritize the inclusion of Indigenous knowledge, rights, and concerns. The restructuring should reflect Indigenous communities' profound connection to the land, ensuring that their voices are heard, their rights are respected, and their cultural integrity is upheld. Our Nation calls for a strong and respectful process that recognizes Indigenous sovereignty and contributes to the long-term sustainability of both our communities and the environment.

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L. Filing Manuals - Lands Topic Paper

The Kelly Lake Cree Nation (KLCN) affirms that the rights of Indigenous peoples, the protection of cultural and environmental integrity, and long-term sustainability must be prioritized in any pipeline approval and construction process. Below is KLCN's response to key topics outlined in the CER report.

Subtopic 1: Routing and Site Selection Process

- **L1. Criteria or tools used by companies in determining location and proposed route:** Indigenous knowledge, particularly Traditional Land Use (TLU) and Traditional Ecological Knowledge (TEK), must be incorporated into routing and site selection processes. These tools ensure that sacred sites, culturally significant areas, and wildlife habitats are protected and considered holistically, beyond Western scientific methods.
 - **L2. Explicit integration of Indigenous knowledge in routing and site selection:** Indigenous knowledge should be included in the initial stages of planning. The KLCN should be consulted as stakeholders and active partners in decision-making. Indigenous knowledge provides essential insights into land stewardship and helps prevent long-term environmental damage.
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Subtopic 2: Compensation Methodology

- **L3. Guidance for compensation methodology in the CER Filing Manual:** The Filing Manual must include clear guidelines requiring companies to engage with Indigenous communities to ensure compensation considers the land's cultural, spiritual, and environmental significance. Compensation should extend to future generations and the impact on traditional practices.
 - **L4. Information included in compensation methodology applications:** Companies should show how they have engaged Indigenous communities to align compensation with cultural values. The application should reflect the loss of access to traditional areas and the destruction of culturally significant sites.
 - **L5. Detailing compensation methodology:** Compensation methods should be detailed, transparent, and adaptable. Companies should provide justifications for compensation amounts, ensuring they address cultural, social, and environmental impacts, with continuous dialogue with Indigenous communities.
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Subtopic 3: Location of Lands Required for the Project

- **L6. Guidance for incorporating TLU and TEK in assessments:**
Guidance should require companies to reference TLU and TEK in environmental and socio-economic assessments, with detailed maps of traditional territories and sacred sites. Indigenous communities must be involved in these assessments for accuracy and inclusion.
 - **L7. Description of lands used by Indigenous Peoples for traditional purposes:**
Descriptions should include not only the physical use of the land (e.g., hunting, fishing) and its cultural and spiritual significance. Input from elders and knowledge keepers must be gathered to capture the traditional use of the land fully.
-

Subtopic 4: Land Rights

- **L8. Information for describing land rights required:**
Companies must provide detailed maps that outline ownership and cultural context. They should demonstrate how Indigenous communities, as rights holders, are involved in land acquisition, ensuring continuous consultation.
 - **L9. Process for resolving disputes in land agreements:**
Companies should clearly describe conflict resolution processes, including mediation and involvement of Indigenous leadership. Agreements should respect Indigenous sovereignty and decision-making.
-

Subtopic 5: Rights Holders, Owners, and Users of Lands

- **L10. Accurate description of rights holders and land users:**
Rights holders should include both legal landowners and Indigenous communities with inherent rights to the land. Indigenous governance systems must be recognized and respected in discussions and decisions about land use.
 - **L11. Availability of rights holder information during application preparation:**
Information may not always be readily available to companies. Companies should engage directly with Indigenous communities to fully understand traditional land uses and rights.
-

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Subtopic 6: Land Acquisition Process

- **L12. Elements of the land acquisition process:**
The process must outline how Indigenous consultation and consent will be obtained, respect the land's cultural significance, and ensure the preservation of traditional practices. Agreements should benefit future generations, not just provide immediate compensation.
 - **L13. Standard or best practice elements in land acquisition processes:**
Standard practices should include early and continuous consultation with Indigenous communities, creating long-term relationships based on respect, transparency, and free, prior, and informed consent (FPIC).
 - **L14. Process for unsuccessful land acquisition:**
Clear protocols should be in place for conflict resolution, including third-party mediation. Indigenous communities should have the sovereignty to determine if land can be used.
-

Subtopic 7: Land Acquisition Notices and Agreements

- **L15. Additional elements in land acquisition notices and agreements:**
Agreements should ensure that cultural practices are not disrupted and reflect the full value of the land's spiritual and environmental significance. They should respect Indigenous governance systems and protect Indigenous rights.
 - **L16. Standard or best practices in land acquisition agreements:**
Best practices involve ongoing, meaningful engagement with Indigenous peoples, ensuring agreements are clear, transparent, and culturally respectful.
-

These responses highlight the Kelly Lake Cree Nation's commitment to protecting the land, respecting Indigenous rights, and minimizing development impacts. Any development project must recognize and incorporate Indigenous perspectives, practices, and governance systems to ensure a sustainable and respectful future for all generations.

Final Draft for a CER Report Response from Kelly Lake Cree Nation

As an Indigenous person from Kelly Lake Cree Nation, I present responses focused on protecting our cultural heritage, sovereignty, and environmental rights.

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M. Filing Manuals - Rights and Interests of Indigenous Peoples Topic Paper

M1: Clarity of Split into Two Sections

The proposed split into ESA and "Rights and Interests of Indigenous Peoples" sections improves clarity by highlighting Indigenous concerns separately, preventing them from being overlooked in broader assessments.

M2: Overarching Topics to Highlight

Key topics to emphasize:

- **Indigenous Knowledge:** Essential for understanding land and environment.
 - **Traditional Land Use:** Acknowledge hunting, fishing, and cultural practices.
 - **Climate Change Resilience:** Assess impacts on traditional practices.
 - **Consultation and Consent:** Ensure meaningful Indigenous participation.
-

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

To enhance clarity:

- **Define Key Terms:** Like "Indigenous Rights" and "Treaty Rights."
 - **Highlight Values:** Focus on cultural practices and sacred sites.
 - **Visual Aids:** Use maps and timelines for cultural significance.
-

M4: Separate Sections in the Filing Manual

Yes, separate sections would improve clarity by focusing on Indigenous concerns separately from biophysical and socio-economic VCs, reducing oversimplification.

M5: Impact of Split on VC Assessments

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The split allows focused assessments on both environmental and cultural impacts, ensuring Indigenous concerns are directly addressed.

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

Key VCs:

- **Traditional Land Use:** Hunting, fishing, and cultural practices.
 - **Cultural Sites:** Protect sacred and cultural sites.
 - **Health and Well-being:** Assess effects on community health.
 - **Heritage Resources:** Archaeological and historical connections.
-

M7: Documenting Protection Measures

Protection measures should be:

- **Collaborative:** Indigenous communities should participate in monitoring.
 - **Comprehensive:** Ongoing reports shared with communities.
 - **Community-based:** Protection measures should be culturally appropriate.
-

M8: Maintaining Site-Specific Information

Maintain site-specific information by respecting **Indigenous Knowledge Protocols**, ensuring **clear commitments** from applicants, and being **culturally sensitive** in tracking sacred sites and practices.

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M9: Indigenous-Led Assessments - Opportunities and Challenges

Opportunities:

- Cultural integrity and empowerment for Indigenous communities.

Challenges:

- Limited **funding** and **timing** mismatch with project assessments.
-

M10: Challenges for Applicants with Indigenous-Led Assessments

Opportunities:

- **Authentic** perspectives and **collaboration**.

Challenges:

- Difficulties in **coordination** and **integration** with applicant assessments.
-

M11: Integrating Indigenous-Led Studies

To integrate Indigenous-led studies, applicants should engage early, ensure clear communication, and use **shared data platforms**.

M12: Timing Mismatch for Indigenous-Led Assessments

To address timing mismatches:

- **Extensions** and **parallel processes** should be considered.
 - **Preliminary work** should be done early to gather baseline data.
-

M13: Opportunities and Challenges with CER's Existing Guidance

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Opportunities: Encourages consultation, allowing Indigenous influence.

Challenges: The guidance lacks clarity and enforceability in ensuring meaningful consultation.

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

Opportunities: Provides a framework for understanding Indigenous engagement.

Challenges: Applicants need **flexibility** in adapting to Indigenous needs.

M15: Additional Guidance in Filing Manuals

The Filing Manuals should:

- Clarify **Indigenous knowledge** incorporation.
 - Emphasize **early consultation** and assess **cumulative effects** on rights.
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M16: Severity Framework for Impacts on Indigenous Rights

A severity framework would be helpful but must be flexible to account for cultural diversity.

M17: Draft Determination of Severity

Applicants should submit a **draft determination** for Indigenous review before finalizing the assessment.

M18: Integrating Rights of Indigenous Peoples in VC Assessments

Applicants should cross-reference Indigenous rights impacts with biophysical and socio-economic VCs, integrating **community-led knowledge**.

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M19: Opportunities and Challenges in Monitoring and Follow-Up

Opportunities: Indigenous participation ensures concerns are addressed in real-time.

Challenges: **Limited resources** may hinder meaningful involvement.

M20: Opportunities and Challenges for Applicants in Monitoring

Opportunities: Indigenous involvement enhances **credibility** in monitoring.

Challenges: **Coordination** may require additional time and resources.

M21: Involving Indigenous Peoples in Monitoring

Applicants should establish **joint management committees** and ensure Indigenous communities have resources for full participation in monitoring and holding applicants accountable.

This response reflects Kelly Lake Cree Nation's commitment to protecting our lands, culture, and rights through meaningful consultation and respect for Indigenous sovereignty.