

Review of Onshore Pipeline Regulations and Filing Manuals Review
L. Filing Manuals – Lands Topic Paper

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BACKGROUND

The Canadian Energy Regulator (CER) is seeking feedback on potential modifications to the Lands Information section of the Filing Manuals, specifically 4A and Chapter 8. The CER's primary focus is to improve systems and processes related thereto.

Below are the responses to the questions posed within the topic paper.

Subtopic 1 – Routing and Site Selection Process

L1. What criteria or tools are currently used by companies in determining the location of the required lands and the proposed route within the study corridor? Are there additional criteria or tools that should be used? What additional guidance, or expansion of existing guidance should be in the Filing Manual in relation to such criteria and tools?

To our knowledge, companies use a combination of technical, environmental, socio-economic, regulatory, and Indigenous consultation criteria from previously disturbed areas.

Criteria Used for Route Selection

Environmental & Geotechnical Considerations

- Terrain & Soil Stability: Avoiding landslides, permafrost, and flood-prone areas.
- Waterbody Crossings: Minimizing impact on rivers, wetlands, and groundwater.
- Wildlife & Biodiversity Protection: Avoiding sensitive habitats (e.g., caribou migration corridors).
- Vegetation & Reclamation Potential: Selecting areas with lower re-vegetation risk.

Land Use & Socio-Economic Considerations

- Existing Infrastructure & Rights-of-Way (ROWs): Aligning with highways, railways, or existing pipelines to reduce disturbance.
- Minimizing Landowner & Community Impacts: Avoiding agricultural land, residential areas, and culturally significant sites.
- Indigenous Lands & Treaty Rights: Considering traditional land use, culturally significant areas, and treaty agreements.

Engineering & Safety Considerations

- Pipeline Integrity & Safety: Ensuring suitable soil conditions for burial and avoiding high-risk geological features.
- Access for Construction & Maintenance: Choosing locations with feasible road or waterway access for pipeline installation and future monitoring.

Regulatory & Permitting Considerations

- Federal and Provincial Regulatory Approvals: Aligning with land use planning policies and environmental protection regulations.
- Consultation Requirements: Ensuring compliance with Indigenous consultation obligations and public engagement expectations.

Tools & Technologies Used for Route Selection

- **GIS (Geographic Information System) Mapping & Spatial Analysis**
Helps evaluate land use, environmental constraints, and existing infrastructure.
- **LiDAR & Remote Sensing**
Used to analyze topography, vegetation cover, and flood risk areas.
- **Ground Truthing and Field Surveys**
Verifies environmental, archaeological, and geotechnical conditions identified in GIS mapping.
- **Indigenous Knowledge Studies & Community Mapping**
Documents Indigenous land use, culturally significant sites, and sensitive ecological areas.
- **Multi-Criteria Decision Analysis (MCDA)**
A weighted decision-making tool that balances environmental, technical, and socio-economic factors.
- **Hydrological & Geological Modeling**
Predicts potential environmental risks such as soil erosion, slope instability, or flood impacts.

Additional Criteria & Tools That Should Be Used

While current industry practices incorporate many important criteria, the CER Filing Manual should be expanded to require additional considerations:

Climate Change & Resilience Criteria: The Filing Manual should require climate resilience assessments in route selection, including:

- Avoiding areas vulnerable to permafrost thaw and wildfire risks.
- Ensuring infrastructure can withstand flooding & extreme weather events.

Enhanced Indigenous Land Use & Consultation Tools: Companies should be required to:

- Use Indigenous-led mapping and monitoring tools.
- Incorporate Indigenous Knowledge Systems into route selection.
- Conduct co-developed land impact studies with Indigenous communities.

Cumulative Effects Assessment Tools: Current criteria focus only on project-specific impacts but should also consider cumulative effects using:

- Cumulative Effects GIS Databases to assess the broader landscape impact.
- Regional Environmental Assessments (REA) to evaluate long-term effects of infrastructure projects.

AI & Predictive Modeling for Risk Assessment: Emerging AI tools can help predict future land-use conflicts and environmental risks, improving proactive decision-making in route selection.

Other Recommendations

- The CER Filing Manual should be updated or expanded to clarify route selection criteria requirements.
- The CER Filing Manual should specify that companies must demonstrate:
 - How climate resilience factors were considered.
 - How Indigenous land use was integrated into routing decisions.
 - How cumulative effects assessments were conducted.
- The CER Filing Manual should require the Use of Indigenous-Led Tools & Knowledge. Companies should be required to:
 - Incorporate Indigenous mapping data in their Environmental and Socio-Economic Assessments (ESA).
 - Demonstrate how they incorporated Indigenous Knowledge into routing decisions.
- The CER Manual should standardize the use of new technology for route analysis. The CER Filing Manual should specify required geospatial & risk assessment tools, such as:
 - GIS-based cumulative effects modeling.
 - AI-driven predictive environmental risk tools.
 - Remote sensing for habitat fragmentation analysis.
- The CER Filing Manual Should Strengthen Consultation & Transparency in Route Selection. Companies should be required to:
 - Provide a detailed, publicly accessible rationale for route selection.
 - Outline how stakeholder input shaped route selection.
 - Demonstrate ongoing adaptive management for land-use changes post-approval.

L2. To what extent should Indigenous Knowledge and engagement be explicitly addressed in routing and site selection?

Indigenous Knowledge and engagement should be **explicitly** required at every stage of route selection and site selection, ensuring equitable integration with Western scientific methods. This means Indigenous perspectives should influence corridor planning, risk assessment, cumulative effects analysis, and final route decisions.

Indigenous Peoples hold unique, place-based environmental knowledge that can significantly improve route selection and risk assessment. However, current pipeline siting processes do not fully integrate Indigenous Knowledge or allow for meaningful decision-making roles.

Without explicit requirements, Indigenous participation is often reactive rather than proactive, which can lead to routes crossing culturally sensitive lands without early consultation, inadequate consideration of Indigenous land use & ecological knowledge, and legal & regulatory delays due to challenges over consultation sufficiency.

If Indigenous Knowledge is explicitly addressed through meaningful proactive Indigenous engagement/identification of concerns, stronger environmental and cultural protection through traditional land-use insights is achieved, and reduced project delays are experienced.

Key Areas Where Indigenous Knowledge and Engagement Should Be Required

- **Early-Stage Corridor Planning & Constraints Mapping:** Companies should engage Indigenous communities BEFORE finalizing corridor options.
- Require Indigenous land-use mapping & cumulative effects assessments to identify areas of concern early.
- **Indigenous-Led Environmental & Cultural Studies:** Require co-developed traditional land-use (TLU) studies to complement scientific data.
- Ensure Indigenous Knowledge is used in conjunction with Western geospatial & risk assessment tools.
- **Route Refinement & Decision-Making Processes:** Indigenous representatives should be actively involved in route selection meetings (not just consulted). Ensure Indigenous Knowledge based recommendations have equal weight in decision-making.
- **Monitoring & Adaptive Management Post-Approval:** Require Indigenous-led monitoring programs along pipeline routes. Companies must report on how Indigenous Knowledge is being used in ongoing risk mitigation & land restoration efforts.

How to Strengthen Filing Manual Guidance on Routing & Site Selection

- The CER Filing Manual should explicitly require Indigenous Knowledge in route selection criteria by mandating that companies demonstrate how Indigenous Knowledge was used in:
 - Route feasibility assessments
 - Wildlife & biodiversity impact assessments
 - Waterbody & habitat crossing decisions
 - Climate resilience risk analysis

- The CER Filing Manual should establish clear expectations for Indigenous Engagement in routing decisions. The CER Filing Manual should require that companies:
 - Engage Indigenous groups before selecting a preferred route (not just after).
 - Use co-created decision-making frameworks for site selection.
 - Provide public reporting on Indigenous engagement outcomes.
- The CER Filing Manual should require companies to use Indigenous-led mapping and cumulative effects tools.
- The CER Filing Manual should reference GIS-based Indigenous land-use mapping tools and require companies to conduct cumulative effects assessments based on agreed upon baseline inputs that incorporate Indigenous Knowledge.
- The CER Filing Manual should strengthen accountability for Indigenous participation in monitoring. The CER Filing Manual should require long-term Indigenous-led monitoring programs along selected routes and ensure companies provide annual compliance reports on Indigenous engagement.
- The CER Filing Manual should address collaboration between various Provincial and Federal Crown agencies (e.g. forestry, agriculture, etc.) and their Consultation/Engagement with Indigenous groups and their participation (or lack thereof) to demonstrate the Indigenous Knowledge and participation that may have been provided or collected a part of other industry programs or projects. The CER Filing manual currently only addresses the Onshore Pipeline Regulations but does not provide for any guidance around collaboration between any other Provincial or Federal Crown agency regarding Indigenous Knowledge and/or participation and or the consideration of any information that these Provincial and Federal Crown agencies may have collected that are relevant to the company application(s) that have been submitted to the CER.
- Companies and Provincial and Federal Crown agencies have been disturbing Crown Lands without seeking out Indigenous Knowledge and/or participation or Consultation with Indigenous groups and it has led to the disturbance and desecration of numerous Indigenous traditional territory and cultural sites long before the companies prepare to construct a pipeline on the same Crown lands. While it is not within the CER's mandate to oversee other Provincial and Federal Crown agencies, the CER could take an active role in bringing all parties to the table (Including Indigenous groups) to discuss the lack of Indigenous Participation and/or knowledge that could have been incorporated had Indigenous groups been Consulted/Engaged appropriately in the beginning and how to properly compensate Indigenous groups for the loss of traditional land use and cultural sites.

Subtopic 2: Compensation Methodology

L3. How could Filing Manual Guidance better describe the CER's expectations (such as criteria) for companies when they are developing a compensation methodology for land matters?

The Canada Energy Regulator (CER) Filing Manual should provide clearer, standardized expectations for companies regarding compensation methodology in land matters to:

- Ensure fairness for landowners, Indigenous communities, and affected stakeholders.
- Reduce disputes & regulatory delays by setting clear guidelines.
- Improve transparency & accountability in compensation decisions.

Clear Criteria for Compensation Determination

The CER Filing Manual should outline specific factors companies must consider, such as:

- Market Value: Compensation based on fair market price for affected land.
- Land Use Disruptions: Payment for loss of agricultural, commercial, or residential use.
- Cultural & Traditional Land Impacts - Indigenous land compensation based on cultural significance rather than market value.
- Severance & Fragmentation: Addressing long-term effects of land division.
- Environmental Damage and Reclamation Costs: Compensation for loss of ecosystem services & restoration efforts.

Indigenous-Specific Compensation Considerations

The CER Filing Manual should require Indigenous-led valuation frameworks, recognizing:

- Loss of access to culturally significant sites.
- Impact on Indigenous and treaty land rights beyond Western property valuation.
- Ongoing benefits sharing, not just one-time payments.

Transparency & Consultation in Developing Compensation Plans

The CER Filing Manual should ensure companies be required to:

- Engage affected landowners & Indigenous groups when designing compensation plans.
- Provide clear, documented rationale for compensation offers.
- Establish a dispute resolution process for contested payments.

Addressing Long-Term & Cumulative Effects

Compensation should not just cover immediate impacts but also:

- Ongoing monitoring and maintenance costs.
- Revenue loss from restricted land use over time.
- Adaptive compensation models if land conditions worsen post-project.

Addressing Offset Measures for Loss of Land for Traditional Uses

To improve clarity and effectiveness, the Canada Energy Regulator (CER) Filing Manual guidance should provide specific expectations for companies developing a compensation methodology to offset land lost for traditional use by Indigenous Peoples. One way the guidance could be better described and structured would be:

- Establishing the importance of Traditional Land Use by clearly stating that land used for hunting, fishing, trapping, gathering, ceremonial, and cultural purposes holds unique and irreplaceable value that may not be fully captured by standard economic compensation models.

- Acknowledging that compensation should be based on more than market value, considering cultural, spiritual, ecological, and subsistence-based uses of the land.
- The CER should require companies to engage with Indigenous communities early in the project planning phase to identify the lands used for traditional purposes before any disturbances occur and penalize any companies that do not engage effectively.
- The Filing Manual should specify that companies must include the following elements in their compensation methodology:

Identification and Documentation of Traditional Use Areas

- Companies must work collaboratively with Indigenous groups to identify and map traditional land use areas potentially impacted.
- The methodology should include Traditional Land Use Studies (TLU Studies) and Traditional Ecological Knowledge (TEK).
- Community-led studies should be funded by the company where necessary to ensure Indigenous participation and expertise are incorporated.

Assessment of Impacts on Traditional Use

- Clearly define the short-term, long-term, and cumulative impacts of land loss on Indigenous rights, including impacts on:
 - Food security (e.g., loss of hunting/fishing areas)
 - Cultural continuity (e.g., loss of ceremonial spaces)
 - Environmental knowledge transfer (e.g., loss of access for teaching younger generations)
- Require companies to consult Indigenous communities on how to quantify these impacts in a meaningful way.

Compensation Options (Beyond Financial Payment)

The Filing Manual should clarify that compensation may take various forms, including:

1. Land-Based Offsets (Preferred Approach)
 - Providing access to alternative lands of equal ecological and cultural value.
 - Supporting land conservation efforts to protect similar lands elsewhere.
2. Restoration and Reclamation Commitments
 - Ensuring the company has a long-term plan to rehabilitate and restore the affected lands.
 - Guaranteeing Indigenous involvement in monitoring reclamation efforts.
3. Funding for Cultural and Environmental Programs
 - Creating community-driven cultural preservation and land stewardship programs.
 - Supporting Indigenous-led environmental protection initiatives.
4. Financial Compensation (Only If No Alternatives Exist)
 - If no land-based compensation is feasible, financial compensation should be determined in collaboration with affected Indigenous groups, considering:

- Lost resources (e.g., replacement costs for lost fish/wild game).
- Lost cultural and educational opportunities.
- Increased travel costs to access remaining traditional lands.

Transparency in the Compensation Process

- Require companies to document how Indigenous input was incorporated into the compensation methodology.
- Establish a clear process for dispute resolution if Indigenous communities disagree with the proposed compensation.
- Ensure commitments made by the company are legally binding and enforceable throughout the project lifecycle.

Guidance on Indigenous-Led Compensation Models

- The Filing Manual should recognize and prioritize Indigenous-led compensation frameworks where they exist.
- Indigenous communities should have the ability to co-develop the compensation methodology rather than simply responding to a company-developed plan.

Monitoring, Reporting, and Adaptive Management

- Companies should be required to track and report on the effectiveness of compensation measures over time.
- Establish a mechanism for reassessment if the agreed compensation does not adequately address these impacts.
- Indigenous communities should be involved in long-term monitoring to ensure commitments are fulfilled.

Updating the CER Filing Manual to clearly define expectations for how companies assess, quantify, and compensate for land lost for traditional use will improve accountability and fairness. Compensation should go beyond financial payment and include land-based offsets, restoration, cultural program funding, and Indigenous-led solutions. Clear requirements for consultation, transparency, and monitoring will help ensure that compensation measures are meaningful and effective in maintaining Indigenous rights and cultural continuity.

The CER Filing Manual Guidance could also describe better the compensation methodology for cultural sites. To ensure fair and meaningful compensation for impacts to cultural sites which may include burial grounds, sacred sites, ceremonial areas, and other locations of deep spiritual, historical, or social significance, the CER Filing Manual should provide clear, structured expectations for companies when developing compensation methodologies.

Recognizing the Unique and Irreplaceable Nature of Cultural Sites

- The guidance should acknowledge that cultural sites cannot be replaced or valued purely in monetary terms.
- Compensation must be developed in collaboration with Indigenous Peoples and should prioritize preservation, protection, or alternative means of ensuring cultural continuity rather than simply offering financial payment.

Core Components of a Compensation Methodology for Cultural Sites

The Filing Manual should require companies to develop a transparent, respectful, and community-driven process when determining compensation for cultural site impacts.

Early Identification and Protection Measures

- Companies must engage early with Indigenous groups, Elders, and Knowledge Keepers to identify, document, and assess cultural sites before project development.
- Require the use of Traditional Knowledge Studies (TKS) and Cultural Heritage Assessments (CHA) to inform compensation measures.
- Encourage avoidance as the preferred approach—companies should demonstrate they have explored all possible alternatives to avoid impacting cultural sites before considering compensation.

Assessment of Cultural Impact

- The methodology should assess the direct, indirect, and cumulative effects of disrupting or displacing cultural sites, including:
 - Loss of access for ceremonies, teaching, or other cultural practices.
 - Loss of intergenerational knowledge transfer due to site destruction or relocation.
 - Spiritual and emotional distress caused by disturbance or desecration of sacred spaces.
- Companies should work with Indigenous Peoples to develop customized impact indicators that go beyond traditional economic valuation models.

Compensation Options for Cultural Sites

The Filing Manual should require companies to offer multiple forms of compensation, ensuring affected communities have choice and agency in the process.

1. Preservation and Protection Measures (Preferred Approach)
 - Establishing legal protection for the site (e.g., through conservation easements or protected status designations).
 - Funding Indigenous-led site monitoring programs to ensure long-term protection.
 - Supporting restricted access agreements to prevent third-party encroachment.
2. Cultural Site Replication or Relocation (If Approved by the Community)
 - In cases where a cultural site must be moved, require community approval and Indigenous oversight of the relocation process.

- Funding for the ceremonial relocation process, ensuring proper cultural protocols are followed.
3. Funding for Cultural Continuity Initiatives
 - Supporting the creation of cultural centers or learning spaces to pass on knowledge about the site.
 - Establishing Elder and Knowledge Keeper programs to document and teach the cultural significance of the site.
 - Investing in language revitalization or historical archiving to maintain cultural heritage.
 4. Financial Compensation (Only as a Last Resort)
 - If land-based or cultural initiatives are not viable, financial compensation should be determined in collaboration with affected Indigenous groups.
 - Financial support should be community-directed, meaning funds are allocated toward Indigenous-led cultural preservation efforts rather than generic project mitigation.

Ensuring Transparency, Consultation, and Indigenous Leadership

- Companies should co-develop compensation methodologies with affected Indigenous communities before filing regulatory applications.
- Require companies to document how Indigenous input was incorporated into compensation decisions.
- Establish a formal dispute resolution process, ensuring Indigenous groups can challenge inadequate compensation proposals.

Long-Term Monitoring and Adaptive Management

- Compensation must not be a one-time transaction—companies should establish a long-term monitoring plan to assess whether cultural continuity is maintained.
- Indigenous communities should have the right to reassess compensation adequacy over time, with opportunities for adjustments if the initial measures prove insufficient.

By strengthening guidance on cultural site compensation, the CER Filing Manual can ensure that companies:

- Prioritize site protection instead of compensation.
- Engage meaningfully with Indigenous communities.
- Offer compensation beyond financial payments; and
- Implement long-term monitoring and cultural preservation commitments

This approach fosters respect for Indigenous rights and heritage while ensuring more just and effective compensation for impacted cultural sites.

L4. When a company has developed a compensation methodology relating to their project, what information should be included in its application?

The CER Filing Manual should specify clear expectations for **what** must be included. The application should provide detailed, transparent, and justifiable information on how compensation is determined, ensuring fairness for landowners, Indigenous communities, and other affected stakeholders.

Essential Components of a Compensation Methodology Application

To ensure transparency and fairness in the application process companies should be required to provide a detailed description of the compensation payment structure and timing to include a breakdown of one-time vs. ongoing compensation, a schedule for when payments will be made, and a contingency plan(s) for delays or unexpected impacts. Companies should also be required to include case studies and precedents (if applicable) along with examples of previous compensation agreements for similar projects, and legal or regulatory precedents supporting the methodology.

Compensation Methodology Overview

The compensation methodology application should include a general description of the methodology used to determine compensation, an explanation of how compensation aligns with CER regulations, legal precedents, and industry standards, and a rationale for how various compensation factors were weighted.

Detailed Compensation Criteria & Valuation Approach: A detailed compensation criteria and valuation approach should be included and should include a breakdown of each compensation factor, including:

- Market value assessment (e.g., independent appraisals, comparable sales data).
- Severance & land fragmentation impact assessment.
- Loss of use compensation (agriculture, forestry, commercial, residential, etc.).
- Environmental damage & reclamation considerations.
- Impact on Indigenous rights, traditional land use, and culturally significant sites.
- Justification for how each factor was calculated (e.g., economic modeling, precedent-based valuation).

Indigenous-Specific Compensation Framework (If Applicable): Indigenous specific compensation framework should be included (if applicable) to show engagement with Indigenous groups in designing compensation, an explanation of cultural loss valuation models, (if applicable), and long-term compensation mechanisms (e.g., revenue-sharing agreements, stewardship funds).

Consultation and Engagement Summary: A detailed summary of stakeholder consultations (landowners, Indigenous communities, municipalities, etc.) should be included and should show how feedback influenced compensation decisions, and documentation of disputes, concerns, and resolutions.

Dispute Resolution & Appeal Process: Clear explanation of how disputes will be addressed (e.g., mediation, arbitration, regulatory appeal) and a timeline for resolving compensation disputes should be included.

Ongoing Monitoring & Adjustments: A process for reassessing compensation if land conditions change post-project, and commitments to adaptive compensation mechanisms (e.g., payments adjusted for inflation, new land use restrictions) should be included.

L5. How detailed should a company's compensation methodology and approach be? For example, it could be kept at a broad overview level, or it could be made specific to include the use of land evaluations, studies, or analysis that was completed to determine the compensation to be offered to owners (as per section 320 of the CER Act).

A company's compensation methodology should be detailed *enough to ensure transparency, fairness, and regulatory compliance*, while also being flexible enough to accommodate project-specific factors. The compensation methodology should include:

A general overview of the methodology

- Clear explanation of how compensation is determined.
- Regulatory compliance (alignment with the CER Act, Section 320).
- General categories of compensation (market value, loss of use, severance, Indigenous land rights, etc.).

A Detailed Valuation and Analysis (Project-Specific Studies & Evidence)

- Land Evaluations and Appraisals: Independent assessments of land value.
- Loss of Use Studies: Agricultural, commercial, or residential impact assessments.
- Severance Impact Analysis: Effects of dividing land or restricting access.
- Environmental Damage and Reclamation Costs: Compensation for ecological impacts.
- Indigenous Land and Cultural Impact Assessments: Traditional Land Use (TLU) studies and Indigenous-led valuation approaches.

A Justification for Compensation Calculations

- Explanation of why certain factors were weighted more heavily.
- Comparable case studies from similar projects.
- Consultation feedback from landowners, Indigenous groups, and municipalities.

Payment Structure and Dispute Resolution Process

- Breakdown of compensation payments (one-time vs. ongoing).
- Appeal mechanisms for landowners and Indigenous groups.
- Commitment to monitoring and adjusting compensation if land conditions change.

The best approach may be a hybrid approach between a broad overview and more detailed and specific approach to help ensure clarity and transparency without overwhelming complexity. A hybrid approach can provide **justifiable** evidence for compensation decisions, and reduce legal disputes by setting clear expectations, while aligning with CER Act Section 320, which requires compensation to be based on fair value and impact assessments.

Subtopic 3: Location of Lands Required for the Project

L6. What specific guidance should be provided, in relation to companies describing the location of lands that support the studies for the Environmental and Socio-economics Assessment while incorporating Traditional Land Use and Traditional Ecological Knowledge?

To ensure that Environmental and Socio-Economic Assessments (ESA) accurately reflect environmental, cultural, and socio-economic impacts, companies should be required to provide clear, detailed descriptions of the lands studied. This should include:

- Geographic & Spatial Location Details
- Incorporation of Traditional Land Use (TLU) & Traditional Ecological Knowledge (TEK)
- Transparency in Data Collection & Mapping Methods
- Consideration of Cumulative & Long-Term Effects

Geographic & Spatial Location Details: Companies must clearly describe the lands studied in the ESA, ensuring:

- Specific geographic boundaries (latitude/longitude coordinates, GIS maps, topographical overlays).
- Land ownership & tenure status (private, Crown, Indigenous lands, protected areas). Current land use descriptions (e.g., agricultural, residential, cultural sites, hunting grounds).
- Environmental & socio-economic context (e.g., sensitive habitats, community infrastructure).

Incorporating Traditional Land Use (TLU) and Traditional Ecological Knowledge (TEK): To integrate Indigenous Knowledge **meaningfully**, companies should:

- Engage Indigenous communities early to identify TLU sites (hunting, fishing, medicinal plant gathering).
- Use Indigenous-led mapping methods alongside Western GIS-based mapping.
- Include qualitative data (e.g., Indigenous oral histories, seasonal use patterns).
- Ensure consent & data sovereignty for using Indigenous Knowledge.

Transparency in Data Collection & Mapping Methods: To ensure credibility and clarity, companies must:

- Document data sources (e.g., remote sensing, community workshops, Indigenous Knowledge studies).
- Distinguish between primary and secondary data sources.
- Explain limitations and uncertainties in land assessments.

Consideration of Cumulative and Long-Term Effects

- Assess how the project interacts with other land uses & developments over time.
- Evaluate long-term socio-economic effects (e.g., changes in land access, shifts in biodiversity).
- Develop adaptive management strategies to respond to new environmental data.

L7. What should be included in a description of the lands used by Indigenous Peoples or communities for traditional purposes that are proposed to be used for the project?

To ensure fairness, transparency, and informed decision-making, a description of lands used by Indigenous Peoples for traditional purposes that are proposed for project use should include:

- Geographic & Spatial Information
- Traditional Land Use (TLU) Activities and Significance
- Traditional Ecological Knowledge (TEK) Considerations
- Consultation and Engagement Process
- Potential Impacts and Proposed Mitigation Measures
- Cumulative and Long-Term Effects Assessment
- Commitments for Indigenous Involvement in Monitoring

Geographic & Spatial Information

- Exact location details: GIS maps, latitude/longitude, Indigenous territorial boundaries.
- Legal status of the land: Crown land, reserve land, treaty land, unceded traditional territory.
- Environmental characteristics: Forests, waterways, wildlife corridors, wetlands, etc.

Traditional Land Use (TLU) Activities and Significance

- Types of activities: Hunting, fishing, trapping, gathering, ceremonial practices.
- Seasonal use patterns: When and how communities use the land.
- Cultural/spiritual importance: Sacred sites, burial grounds, heritage sites.

Traditional Ecological Knowledge (TEK) Considerations

- Indigenous observations of environmental changes (e.g., shifting animal migration, climate impacts).
- Knowledge of species at risk or ecological balance.
- Land stewardship principles unique to each Nation.

Consultation and Engagement Process

- Who was consulted? List of Indigenous groups engaged.
- How was engagement conducted? Community meetings, elder interviews, land-use surveys.
- Feedback received & how it was incorporated into project planning.

Potential Impacts and Proposed Mitigation Measures

- Short-term and long-term project impacts on land use.
- Loss of access to traditional sites (e.g., hunting grounds, fishing areas).
- Disruption of cultural practices (e.g., noise, water pollution, habitat loss).
- Planned mitigation strategies: Access agreements, habitat restoration, compensation measures.

Cumulative and Long-Term Effects Assessment

- Historical context: Past land dispossession, previous industrial projects.
- Future risks: How ongoing development could further impact TLU lands.
- Adaptive management strategies to address unforeseen effects.

Commitments for Indigenous Involvement in Monitoring

- How Indigenous Peoples will be involved in environmental monitoring.
- Data-sharing agreements to ensure Indigenous access to project data.
- Mechanisms for Indigenous oversight (e.g., community-led environmental audits).

Subtopic 4: Land Rights

L8. What information is appropriate (e.g., typical drawings, estimated duration for each type of temporary workspace) for companies to describe the land rights required (or not required in the case of existing rights), and the type of ownership, for the company to demonstrate that impacted rights holders, owners and users of lands have been identified and consulted in land acquisitions and compensation matters?

To ensure transparency, regulatory compliance, and fairness in land acquisition and compensation matters, companies should provide clear, detailed, and standardized descriptions of:

- Type and Scope of Land Rights Required
- Ownership, Tenure and Existing Rights
- Temporary Workspaces and Estimated Durations
- Identification of Impacted Rights Holders and Users
- Consultation and Engagement Process
- Compensation Framework and Justification

Type and Scope of Land Rights Required

- Description of land rights required (fee simple acquisition, easement, right-of-way, temporary workspace, etc.).
- Extent of land use (permanent vs. temporary).
- Restrictions on land use (e.g., access limitations, environmental setbacks).

Ownership, Tenure & Existing Rights

- Legal status of the land (Crown land, private land, Indigenous territory, municipal land).
- Existing agreements, easements, or leases.
- Conflicts or competing claims on land use.

Temporary Workspaces & Estimated Durations

- Typical drawings and site layouts of temporary workspace.
- Estimated duration of land use for each type of temporary workspace.
- Purpose of the temporary workspace (e.g., construction staging, pipeline tie-ins).
- Plans for land restoration post-use.

Identification of Impacted Rights Holders & Users

- List of all affected landowners, leaseholders, Indigenous groups, and other users.
- How the company identified these stakeholders (land title searches, municipal records, Indigenous Knowledge studies).
- Acknowledgment of historical land use & traditional Indigenous land rights.

Consultation and Engagement Process

- List of meetings, discussions, and outreach efforts.
- Concerns raised and how they were addressed.
- Commitments made to impacted landowners and Indigenous groups.

Compensation Framework and Justification

- How compensation was calculated (land appraisals, loss of use studies, Indigenous impact assessments).
- Breakdown of financial & non-financial compensation offered.
- Dispute resolution mechanisms for compensation disagreements.

L9. Is it helpful to provide a description of the process to be used if agreements with utility owners cannot be reached?

Providing a clear description of the process to be followed **if agreements with utility owners cannot be reached** is highly beneficial for regulatory compliance, transparency, and dispute resolution. It ensures:

Predictability: All parties understand their rights and obligations.

Efficiency: Reduces project delays caused by prolonged negotiations.

Fairness: Ensures a balanced approach to resolving disputes

Regulatory Clarity: Demonstrates compliance with CER and other legal requirements.

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

L10. What might be an accurate way to describe the types of rights holders, owners and users of lands?

To ensure clarity, inclusivity, and regulatory consistency, it is important to categorize land-related stakeholders in a structured manner.

Landowners (Legal Title Holders): These are individuals or entities that legally own the land, with rights to sell, lease, or develop it. They include:

- Private Landowners – Individuals or corporations owning freehold land
- Indigenous Landowners – First Nations, Métis, and Inuit groups holding reserve land, settlement lands, or land claim areas under treaties, self-government agreements, or modern land claims.

- Crown Landowners – Federal, provincial, or territorial governments managing public lands, parks, and protected areas.

Crown lands may be subject to Indigenous land claims, requiring additional consultation.

Land Rights Holders (Non-Ownership Interests): These are entities that do not own the land but have legal rights to use or manage it. They include:

- Easement & Right-of-Way Holders – Utility companies, pipeline operators, railroads.
- Leaseholders – Tenants renting land for agriculture, industry, or residential use.
- Mineral & Resource Rights Holders – Entities with subsurface rights for mining, oil, gas, or timber extraction.
- Water and Riparian Rights Holders – Stakeholders with access or usage rights for lakes, rivers, and shorelines.

Rights holders may require separate consultation from landowners, particularly for subsurface vs. surface rights conflicts.

Indigenous Land Users and Rights Holders: These groups may not hold formal land titles but have constitutionally protected rights related to land use.

Treaty and Aboriginal Rights Holders: Indigenous groups with recognized land-based rights under treaties or Section 35 of the Constitution Act.

Traditional Land User: Indigenous communities practicing hunting, fishing, trapping, and gathering. Indigenous Governance Bodies – Tribal councils, Métis organizations, or hereditary chiefs managing land interests.

Traditional land use may extend beyond formal reserve boundaries and must be documented.

Land Users (Non-Ownership Use of Land): These groups do not own or hold legal rights to land but rely on it for economic, cultural, or recreational purposes.

Agricultural Users: Farmers, ranchers, and cooperatives using leased or private land.

Recreational Users: Indigenous Knowledge users, hunters, fishers, off-road vehicle operators.

Commercial and Industrial Users: Businesses operating on leased or public lands.

Environmental & Conservation Groups: Organizations with stewardship interests.

Land use changes may affect access to resources and ecosystems critical to these users.

Municipal and Infrastructure Stakeholders: Local governments, agencies, and service providers that manage land use planning, zoning, and public services.

- Municipal & Regional Governments – Cities, towns, and rural municipalities.
- Public Utility Providers – Electricity, gas, water, and telecommunication companies.
- Transportation Authorities – Rail companies, port authorities, and highway departments.

Coordination with municipalities ensures land-use compatibility and regulatory compliance.

L11. Is this information available to companies at the time companies are preparing their application?

While land ownership and rights holders' data is often available to companies preparing their applications, Indigenous land use information (including traditional knowledge and historical claims) often requires direct consultation with affected communities. Key challenges include gaps in publicly accessible data, especially concerning traditional land use areas and resource rights, and the need for meaningful engagement with rights holders.

Companies should ensure that they have access to updated, comprehensive data from official land and rights records, but they should also plan for early and ongoing consultation with Indigenous groups and affected stakeholders to address potential gaps or issues during the application process.

Subtopic 6: Land Acquisition Process

L12. What elements of a land acquisition process should be included when companies describe their process?

When companies describe their land acquisition process, it is important to include a clear, comprehensive outline that ensures transparency, legal compliance, and effective engagement with landowners, rights holders, and other stakeholders.

Identification of Affected Lands and Stakeholders: This is the first step in the process and involves identifying all lands that will be impacted by the project. The company should outline:

- **Land Identification:**
 - Define the land parcels affected (e.g., private, public, Crown, Indigenous lands).
 - Identify the boundaries of the land and the extent of the disturbance (temporary workspace, permanent easements, etc.).

- **Stakeholder Identification:**
 - Landowners, including Indigenous groups or private landholders.
 - Rights holders, such as easement holders, mineral rights holders, or holders of land claims.
 - Land users, including those using land for agriculture, recreation, or other non-ownership purposes.

The CER should require companies to create landowner/rights holder maps and stakeholder identification tables to be submitted with their application.

Engagement and Consultation Process: The company must outline how it will engage with landowners, rights holders, and land users. This should include:

- **Initial Notification:**
 - Provide details on how landowners and rights holders will be notified about the project and its potential impacts. This might include letters, emails, or formal meetings.
 - The timing of notifications, ensuring it is done early in the process to give stakeholders sufficient time to respond.
- **Consultation and Negotiation:**
 - Describe the process for negotiating compensation, access rights, and addressing concerns. This includes whether agreements are made through voluntary negotiations or whether regulatory procedures (e.g., expropriation or easement) may apply.
 - Outline how Indigenous consultations will take place, including respecting any Aboriginal or treaty rights.
- **Feedback and Adaptation:**
 - Mechanisms for incorporating stakeholder feedback into project planning (e.g., route adjustments, mitigation measures).
 - Describe the methods for documenting consultations, such as maintaining meeting

The CER should require a clear timeline for consultations and an outline of how feedback will be documented and acted upon. Also, define the key contact persons for consultations.

Compensation Methodology: Describe how the company will determine and offer fair compensation to landowners, rights holders, and users. Key components include:

- **Valuation Methodology:**
 - Describe the methodology for land valuation based on property values, land use, and potential future impacts (e.g., loss of access, environmental degradation).
 - Outline how non-market values (e.g., cultural or traditional uses for Indigenous lands) will be considered in compensation.
- **Compensation Types**
 - Compensation can take many forms, including monetary payments, land exchanges, rentals, or long-term agreements (e.g., profit-sharing).
 - For temporary impacts, describe compensation for lost land use or the restoration of land after project completion.

Companies should be required to provide examples of compensation packages or calculations and explain how these will be tailored to each individual situation.

Legal Framework and Compliance: Companies must demonstrate compliance with relevant legal frameworks that govern land acquisition processes. Key points include:

- **Regulatory Compliance:**
 - Reference the relevant legislation (e.g., CER Act, Expropriation Act, Indigenous land laws) under which the company will operate.
 - Demonstrate adherence to local, provincial, and federal regulations that guide land acquisition.

- **Indigenous Rights and Consultation:**
 - Describe how the company will ensure compliance with Section 35 of the Constitution Act (for Indigenous rights), and relevant land claims or treaty obligations.
 - Specify any special legal processes required for acquiring Indigenous lands or rights.

Companies should include a section detailing the legal rights of landowners and Indigenous Peoples, and how these will be respected in the land acquisition process.

Dispute Resolution and Unresolved Agreements: Provide a process for resolving disputes if agreements cannot be reached. This section should include:

- **Negotiation and Mediation:**
 - Outline how the company will seek **resolution through negotiation** or **mediation** with landowners and rights holders.
 - Specify when an **independent mediator** might be used.
- **Regulatory Involvement:**
 - Describe the process for **escalating disputes** to regulatory authorities such as the CER when agreements cannot be reached.
 - Include timelines and procedures for **formal dispute resolution**

The CER should ensure that clear escalation procedures are defined and that companies commit to keeping impacted parties informed at every stage.

Temporary and Permanent Land Use Agreements: The company should distinguish between temporary and permanent land uses and describe the following:

- **Temporary Land Use Agreements:**
 - Define the **scope and duration** of any **temporary workspace** required (e.g., staging areas, access roads).
 - Detail how the company will **restore the land** to its original condition following the end of construction activities.
- **Permanent Land Use Agreements:**
 - Specify any **long-term land rights** needed, such as **easements, right-of-way agreements, or lease agreements**.
 - Describe how the land will be **maintained** and **managed** for the lifetime of the project.

Companies should provide a clear explanation of how temporary impacts will be restored and what measures will be taken to ensure long-term environmental protection.

Documentation and Record-Keeping: Companies must maintain detailed records of the entire land acquisition process. These should include:

- **Records of Engagement:**
 - Document all communication with landowners, rights holders, and stakeholders, including letters, emails, meeting minutes, and responses.

- Formal agreements (e.g., easements, compensation contracts) should be maintained as part of the documentation.
- **Tracking & Monitoring:**
 - Establish a system for tracking land acquisition milestones and updates, including payments and land use status.
 - Maintain a record of consultation efforts and dispute resolution steps.

Companies should have a centralized database or file management system should be in place to store and easily retrieve these records, ensuring compliance and transparency.

L13. Are there standard or best practice elements that are common amongst most companies? If yes, what are they?

There are several standard or best practice elements commonly followed by most companies when developing land acquisition and compensation methodologies. These best practices are designed to ensure that companies meet regulatory requirements, respect stakeholder rights, and foster positive relationships with affected parties, including landowners and Indigenous communities.

Stakeholder Identification and Mapping

One of the foundational elements of any land acquisition process is the identification of all affected parties. Companies generally use the following approaches:

Land Ownership and Rights Mapping:

- Landowners (private or public) are identified using publicly available land titles and property records.
- Indigenous groups are mapped based on land claims, treaty areas, or self-governance agreements.
- Other rights holders (e.g., easement holders, subsurface rights holders, or grazing rights holders) are also identified.

Stakeholder Types:

- Indigenous Peoples (e.g., First Nations, Métis, Inuit).
- Private landowners.
- Government landowners (e.g., provincial or federal government, municipalities).
- Utility or infrastructure owners.
- Local community members or land users (e.g., agricultural users, recreational users).

Early Engagement and Communication: Engaging with stakeholders early and consistently throughout the process is critical. Best practices here include:

- **Early Notification and Information Sharing:**
 - Providing advance notice of the project to landowners and Indigenous groups, clearly stating the potential impacts.
 - Offering plain-language summaries of the project to ensure all stakeholders understand the scope and implications.

- **Multiple Communication Channels:**
 - Use a combination of communication methods, including in-person meetings, letters, email, phone calls, and community meetings.
 - A dedicated contact person is typically appointed for each key stakeholder group to address concerns and questions.

Transparent and Fair Compensation Methodology: A clear and fair methodology for compensation is crucial to ensure that all parties feel adequately compensated for land use, impact, or disturbance.

Common best practices include:

- **Land Valuation Methods:**
 - Market-based valuation (e.g., fair market value, appraisals).
 - Replacement cost (if applicable, e.g., for temporary land uses or land that is permanently altered).
 - Non-market compensation (for cultural or environmental values, such as compensating for the loss of hunting grounds or sacred sites).
- **Types of Compensation:**
 - Monetary payments or lump sum agreements.
 - Land exchanges or long-term land lease arrangements.
 - Income loss compensation (for agricultural or business users).
 - Rehabilitation and restoration commitments to ensure lands are restored to their pre-disturbance condition.

Adherence to Legal and Regulatory Frameworks: Companies are required to operate within the bounds of various legal and regulatory frameworks to ensure compliance. Best practices typically include:

- **Compliance with Relevant Laws:**
 - Adhering to local, provincial, and federal land laws, including the CER Act, Indigenous land laws, Environmental Protection regulations, and expropriation laws.
 - Following treaty agreements and land claims agreements with Indigenous groups, which might include requirements for compensation, consultation, and monitoring.
- **Detailed Documentation of Processes:**
 - Maintaining records of all engagements, consultations, and compensation agreements.
 - Clearly documenting land ownership and land use information to track affected parties and the resolution of issues.

L14. What information could be included when describing the process to be used if companies are unsuccessful in acquiring land rights either before or after an application is submitted to the CER?

When describing the process to be used if companies are unsuccessful in acquiring land rights before or after applying to the CER, it's important to outline a clear, transparent, and legally compliant approach.

The company should demonstrate that all efforts have been made to resolve issues, while providing a roadmap for escalation if land rights cannot be acquired through negotiations.

Overview of Land Acquisition Efforts

- **Initial Attempts to Acquire Land Rights:**
Provide a summary of the company's initial attempts to acquire land rights, including letters, emails, meetings, and any formal or informal negotiations with affected landowners, rights holders, and Indigenous groups.
- **Stakeholder Identification:**
Clearly identify the landowners, rights holders, or users whose lands the company is trying to acquire, specifying whether the land is privately owned, Crown land, or Indigenous land.

Detailed Steps in the Acquisition Process

Provide a timeline of the steps the company has taken and will take if they are unsuccessful in acquiring land rights:

Pre-Application Stage:

- Describe efforts to engage with landowners and rights holders prior to submitting the application to the CER, including negotiations, consultations, and compensation offers.
- If agreements have not been reached before the application, the company should state why these agreements were not finalized, and if possible, the reasons for disagreements (e.g., valuation issues, terms of compensation, land access restrictions).
- **Indigenous Consultation:** If the project affects Indigenous lands or communities, describe the consultation process and how the company has worked to respect Indigenous rights and concerns.

Post-Application Stage (if unsuccessful):

- Provide a process for continued engagement with landowners or rights holders during the review phase of the application, and efforts to resolve issues before project approval.
- Include strategies for addressing concerns or adjusting the project (e.g., rerouting or offering additional mitigation measures) in response to issues with land acquisition.

Alternative Measures if Negotiations Fail: If the company is unsuccessful in acquiring land rights, it's important to outline alternative methods the company could use to resolve land rights issues:

- **Expropriation or Eminent Domain (if applicable):**
 - Provide a description of how the company would invoke expropriation or eminent domain if negotiations are unsuccessful.
 - Reference the legal framework under which expropriation can occur (e.g., CER Act, Expropriation Act, or other provincial or federal legislation).
 - Include a timeline for initiating expropriation and steps to follow if the process moves forward, such as court hearings or arbitration.

- **Voluntary Agreements:**
 - Emphasize any last attempts at voluntary agreements, including adjustments to compensation or land use that could resolve the issue without formal legal action.
- **Mediation or Third-Party Involvement:**
 - Detail a mediation process or the involvement of third-party arbitrators to resolve land rights disputes before escalating to legal avenues.
 - Specify any external parties the company may use for dispute resolution (e.g., independent mediators, professional negotiators).

Regulatory Involvement (if negotiations are unsuccessful): Outline the steps for engaging with regulatory authorities Indigenous Knowledge e the CER if land rights are not successfully acquired:

- **CER Involvement and Escalation Process:**
 - Detail the process for notifying the CER if land rights cannot be secured, including when and how the company will report the issue.
 - Include the CER's role in assisting the company in resolving land acquisition issues, such as facilitating further consultation or providing direction on proceeding with the application without full land rights.
 - Identify the information required by the CER if the company must proceed without having acquired all the necessary land rights, such as compensation strategies, mitigation measures, or adjustments to the proposed route or project design.
- **Public Notification:**
 - Provide a strategy for how the company will notify the public and any affected parties about the status of land acquisition, ensuring transparency and clear communication regarding any unresolved issues.
 - This could include community meetings or formal announcements.

Impact on Project Timeline and Scope: If land rights are not secured, it is important to detail how this may impact the overall project timeline and scope:

- **Timeline Adjustments:**
 - Outline how the company plans to adjust the project timeline to accommodate delays related to land acquisition.
 - Specify the expected timeline for resolution, including steps for reaching agreements or completing expropriation proceedings.
- **Potential Modifications to the Project:**
 - If land rights cannot be acquired, companies should outline how the project will be modified (e.g., rerouting to avoid land disputes, use of alternative land areas, or scaling back certain project components).
 - Include potential mitigation measures if the project scope is changed, such as environmental protection adjustments or new community engagement efforts.

Compensation and Mitigation Measures: Provide a clear description of how compensation will be handled if land rights are not secured by the initial timeline:

- **Revised Compensation Plans:**
 - Outline alternative compensation methods that may be used if landowners or rights holders are not satisfied with the initial offers. This could include financial compensation, land swaps, or benefits-sharing arrangements.
 - For Indigenous Peoples, emphasize that additional measures may be taken to address non-market impacts (e.g., loss of cultural land or hunting areas).
- **Mitigation Strategies:**
 - Identify mitigation measures that will be used to address any unresolved impacts due to the lack of land rights. These could include additional environmental safeguards or increased consultation with Indigenous communities.

Reporting and Transparency: Ensure the process is transparent, and the company is committed to reporting its progress and actions clearly:

Regular Updates:

- Provide a strategy for ongoing updates on land acquisition status to the CER, landowners, and the public.
- This could include quarterly reports, public notices, and progress tracking for all affected parties.

Final Report or Summary:

- Upon resolution, companies should submit a final report to the CER detailing how the issue was resolved, outlining any agreements, compensation, or modifications to the project.

Risk Mitigation and Contingency Planning: Explain the company's risk mitigation strategies and contingency plans in case land acquisition is unsuccessful, including how they will continue to move forward with the project:

- **Contingency Planning:**
 - Provide a contingency plan for resolving land rights issues, such as adjusting the construction schedule, utilizing alternative routes, or modifying the project design.
 - Include how the company will address legal, financial, or community relations risks if land acquisition challenges persist.

Subtopic 7: Land Acquisition Notices and Agreements

L15. Are there other elements that should be included in any land acquisition notices and land agreements besides what is required by sections 321 and 322 of the CER Act?

There are several additional elements that could be included in land acquisition notices and land agreements to enhance transparency, ensure clear communication, and facilitate smoother interactions between companies and landowners or rights holders, beyond the basic requirements set out in sections 321 and 322 of the CER Act. These elements ensure that all stakeholders are properly informed, their rights are respected, and any issues or concerns are addressed early in the process.

Clear Description of the Project and Its Impact: In addition to the basic requirements, the land acquisition notice or agreement should include a detailed description of the proposed project and its potential impact on the land in question, including:

- **Project Description:** Clearly outline the scope, nature, and purpose of the project (e.g., pipeline construction, power line installation, etc.).
- **Specific Impact on Land:** Describe how the project will affect the land, including the type and extent of disturbance (e.g., construction footprint, temporary workspace, long-term changes, etc.).
- **Temporary vs. Permanent Impacts:** Clarify whether the impact is temporary (e.g., for construction) or permanent (e.g., for infrastructure that will remain on the land).

Terms of Access: Provide explicit details on the access rights required for the project, as well as the timing and duration of the access:

- **Access to Land:** Describe the specific areas of land that will be accessed, and the types of activities that will be conducted there (e.g., construction, testing, maintenance).
- **Duration of Access:** Specify whether access is required for a short term (e.g., construction) or long term (e.g., operation and maintenance of the project), and the timing of these activities.
- **Access Restrictions or Conditions:** Identify any restrictions or conditions related to access, such as limited access periods or activities, and any requirements for notifying the landowner in advance of access.

Compensation Details: Beyond the basic monetary compensation, the land acquisition agreement should include detailed terms about compensation for landowners or rights holders, such as:

- **Amount and Payment Schedule:** Clearly outline the compensation amount being offered and the timing of payments (e.g., lump sum or installment payments).
- **Compensation for Non-Market Impacts:** If the land is used for purposes other than agriculture or commercial use (e.g., cultural or spiritual significance to Indigenous Peoples), describe how non-market compensation will be addressed.
- **Additional Payments:** Specify any potential additional payments, such as compensation for loss of income or costs incurred due to land disturbance or project activities.

- **Indigenous Compensation:** For Indigenous lands, include compensation for loss of access to traditional land use or hunting, fishing, and gathering areas.

Environmental and Cultural Considerations: Provide provisions that address the environmental and cultural significance of the land and how these will be protected throughout the project:

- **Environmental Mitigation Measures:** Describe any environmental mitigation plans that will be implemented to minimize impacts (e.g., revegetation, wildlife protection measures).
- **Cultural Sensitivity Measures:** For Indigenous lands, provide specific provisions that respect Traditional Knowledge, cultural practices, and spiritual significance of the land. This might include protocols for activities that affect sacred sites or traditional land use areas.
- **Monitoring and Restoration:** Include commitments to monitor and restore the land once the project has been completed. For example, specify the methods for soil restoration or wildlife habitat restoration.

Dispute Resolution Mechanism: A clear mechanism for addressing any disputes that may arise during the land acquisition process is essential:

- **Mediation and Negotiation:** Specify that if disputes arise, the company will engage in good-faith negotiation or mediation with the landowner or rights holder to resolve the issue.
- **Third-Party Dispute Resolution:** Outline the process for involving a third-party mediator or arbitrator if disputes cannot be resolved through direct negotiations.
- **Timeline for Dispute Resolution:** Provide a timeline for how quickly disputes will be addressed, with an emphasis on resolving issues before they escalate to formal legal action.

Conditions for Termination of the Agreement:

Clarify the circumstances under which the land acquisition agreement may be terminated, either by the landowner or the company:

- **Termination by Landowner:** Specify conditions under which the landowner can terminate the agreement, such as failure by the company to meet agreed-upon compensation or access terms.
- **Termination by Company:** Include any rights the company has to terminate the agreement, such as if land rights cannot be acquired in time for project construction or if the company decides to alter the project route.
- **Termination Clauses:** Clearly define the procedures for terminating the agreement, including compensation for landowners if the agreement is ended prematurely.
- **Ongoing Consultation and Communication**
- A commitment to ongoing consultation and communication with the affected landowners and rights holders throughout the lifecycle of the project is crucial:
- **Notification of Changes:** If there are changes to the project or the land use, specify that the company will notify the landowner or rights holder and discuss the changes prior to implementation.

- **Regular Updates:** Commit to providing regular updates on project progress, construction timelines, and restoration efforts, ensuring the landowner is informed about ongoing activities.
- **Point of Contact:** Include the contact information of a designated company representative who will be available for any concerns or inquiries throughout the project lifecycle.

Long-Term Monitoring and Maintenance

- In the case of permanent infrastructure on the land (such as pipelines or power lines), it's important to include provisions for long-term monitoring and maintenance:
- **Monitoring of Land Health:** Provide for periodic inspections of the land to ensure that there are no ongoing negative impacts (e.g., soil erosion, vegetation loss, or contamination).
- **Maintenance and Access for Repairs:** Define the company's rights and responsibilities for ongoing maintenance and access to the land, including for repairs or upgrades to the infrastructure.
- **Commitment to Remediation:** If land or environmental damage occurs, provide clear obligations for restoration or remediation efforts to return the land to its previous state or better.

Transparency in Reporting

- Transparency in the land acquisition process helps to ensure that the company is accountable to all stakeholders:
- **Public Reporting:** Companies can include provisions to ensure public reporting on land acquisition activities and compensation agreements, which may help avoid conflicts or confusion among landowners and communities.
- **Reporting to CER:** Outline the process for reporting to the CER on land acquisition progress, any disputes, or non-acquisition scenarios, ensuring the regulator is kept informed.

Confidentiality and Privacy Considerations

- Respecting the privacy of landowners and rights holders is important, especially when dealing with sensitive information:
- **Confidentiality Clause:** Include provisions that address the confidentiality of negotiations and compensation agreements, ensuring that the company and landowner understand how personal or sensitive information will be handled and protected.
- **Privacy of Agreements:** Ensure that agreements, compensation details, and personal information related to the acquisition are kept confidential unless disclosure is required by law or regulation.

L16. Are there standard or best practice elements that are common amongst companies?

There are several standard and best practice elements that are commonly adopted by companies when dealing with land acquisition, environmental protection, and Indigenous consultation in pipeline and infrastructure projects. These best practices are designed to ensure legal compliance, transparency, and the respectful treatment of landowners and Indigenous communities, while also promoting efficient project development. Some key elements include:

Transparent and Early Engagement

- **Early Consultation and Communication:** Best practice involves initiating engagement with impacted landowners and Indigenous communities early in the project planning stage. This helps to establish trust, clarify expectations, and allow for meaningful consultation regarding potential impacts and compensation.
- **Clear Information Sharing:** Providing clear and easily understandable information about the project, including potential land impacts, environmental risks, and compensation procedures, is critical. Companies should make sure that stakeholders understand the scope, timeline, and nature of the project.

Standardized Land Acquisition Processes

- **Written Agreements:** A written land agreement should be used in all cases to outline the terms, conditions, compensation, and rights of all parties involved. This protects both the company and the landowner and ensures clarity and enforceability.
- **Use of Fair Market Value for Compensation:** Companies often follow the practice of offering compensation based on the fair market value of the land or asset being impacted. This includes considering both market value and any potential non-market losses, such as the impact on cultural or spiritual land uses.
- **Comprehensive Compensation Methodology:** Companies should have a clearly defined compensation methodology that incorporates land evaluations, studies, and impact assessments to determine appropriate compensation.

Consideration of Indigenous Rights and Knowledge

- **Incorporation of Indigenous Knowledge:** Best practices involve integrating Traditional Ecological Knowledge (TEK) and Traditional Land Use (TLU) studies into the environmental and social assessments. Indigenous Knowledge can significantly improve the understanding of the potential impacts on land, resources, and communities.
- **Respectful Consultation:** Companies are increasingly adopting policies that emphasize ongoing consultation with Indigenous communities throughout the lifecycle of the project, ensuring that the rights and interests of Indigenous Peoples are considered in decision-making processes.
- **Cultural Sensitivity:** For projects impacting Indigenous lands, companies often include provisions to mitigate the impacts on culturally significant areas, such as sacred sites, hunting grounds, or other areas used for traditional purposes.

Environmental and Social Responsibility

- **Environmental Protection Programs (EPPs):** Companies typically adopt Environmental Protection Programs that specify measures to mitigate adverse environmental impacts and ensure that the company complies with environmental regulations and commitments. These programs may include measures for erosion control, vegetation management, and wildlife protection.

- Sustainability Goals: Best practices often include the incorporation of sustainability goals such as carbon footprint reduction, restoration of ecosystems, and long-term stewardship of the land post-construction.

Dispute Resolution and Conflict Management

- Early Dispute Resolution: Companies should have clear mechanisms for resolving disputes early in the process to avoid escalation. This includes the use of mediation or negotiation prior to legal proceedings.
- Clear Dispute Resolution Clauses: Standard practice involves including specific dispute resolution clauses in land agreements, allowing for third-party mediation or arbitration if parties cannot agree on the terms of land use or compensation.

Ongoing Monitoring and Reporting

- Monitoring and Reporting Systems: Companies frequently use ongoing monitoring systems to track compliance with environmental protection measures, compensation agreements, and commitments made to landowners and Indigenous communities. This often includes regular reports submitted to relevant authorities and stakeholders.
- Independent Audits: For increased transparency and accountability, some companies engage third-party auditors to verify compliance with environmental protection measures and community commitments.

Project Lifecycle Management

- Clear Transition Plans: Best practices involve having a transition plan for moving from construction to operations, ensuring that all land use and environmental commitments are upheld throughout the project lifecycle. These plans outline how responsibilities for land restoration, monitoring, and maintenance will be transferred.
- Post-Construction Restoration: Land restoration should be carefully planned, with commitments to revegetate and restore ecosystems after construction. For projects that require permanent infrastructure, such as pipelines, companies should outline plans for long-term maintenance and land stewardship.

Use of Standardized Documentation

- Standardized Templates for Agreements: Many companies utilize standardized templates for land acquisition agreements to streamline the process and ensure consistency. These templates typically cover compensation terms, access rights, and environmental protections.
- Environmental and Social Assessments: Best practices involve conducting thorough Environmental and Social Impact Assessments (ESIA) that include the identification of affected stakeholders, the assessment of impacts on both the biophysical environment and socio-economic conditions, and the development of appropriate mitigation strategies.

Collaboration with Third-Party Experts

- **Independent Expertise:** When assessing land impacts or developing compensation methodologies, companies often work with third-party experts, including environmental consultants, Indigenous representatives, or land evaluation professionals, to ensure thorough and unbiased assessments.
- **Public and Stakeholder Engagement:** Best practice involves hosting public meetings or forums, especially in areas where land acquisition impacts are significant. These meetings allow stakeholders to ask questions, raise concerns, and provide feedback before major decisions are made.

Transparency and Public Accountability

- **Public Disclosure:** Best practice is to publicly disclose key elements of the land acquisition process, such as compensation methodology, environmental assessments, and consultation efforts with Indigenous communities, to promote transparency and accountability.
- **Regular Reporting to Regulatory Authorities:** Regular reporting to regulators, such as the CER, on land acquisition progress, compensation agreements, and dispute resolution is a standard practice to ensure compliance with legal and regulatory requirements.