



Veness Consultants Inc.

**Review of Onshore Pipeline Regulations and Filing Manuals Review  
M. Filing Manuals – Rights and Interests of Indigenous Peoples, Socio-economic  
Effects, and Engagement Topic Paper**

Prepared for: Kelly Lake First Nation (KLFN)

Author: Veness Consultants Inc.

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## BACKGROUND

The Canadian Energy Regulator (CER) is seeking feedback on potential modifications to the Environmental and Socio-economic Assessment (ESA) section of the Filing Manuals, specifically Section A.2, as well as the Electricity Filing Manual. The CER's primary focus is to enhance the assessment of project impacts on the rights and interests of Indigenous Peoples during application evaluations. Historically, feedback has indicated a need for greater emphasis on the depth and thoroughness regarding these impacts as a vital aspect of meaningful reconciliation.

Over the years, the ESA has evolved significantly, resulting in increased complexity that has made the document challenging to navigate. This complexity has sometimes led to the dispersion of critical information, which is now located in various sections of the document rather than consolidated in a single area. Indigenous Knowledge, for example, is currently interspersed throughout the text, rather than being centralized.

This situation raises important considerations, particularly regarding whether the organization of content reflects governance issues rather than strictly subject matter. It may be better to view Indigenous Knowledge as a dynamic element, integral to the governance systems of Indigenous Peoples, not just a product of regulation. This perspective acknowledges how Indigenous Peoples access, interpret, and apply decision-making processes based on their own jurisprudence across multiple areas of expertise, rather than confining it to sections that merely reference data.

The Royal Commission on Aboriginal Peoples (RCAP) has outlined several essential expectations concerning the inclusion of Indigenous Peoples in discussions relating to rights and socio-economic impacts. The RCAP ***emphasizes the importance of recognizing the inherent rights and jurisdiction of Indigenous Peoples over their traditional lands and resources through the entire lifecycle of regulatory decision-making practices.*** Such recognition is fundamental for enabling meaningful participation in decision-making related to rights and socio-economic issues.

RCAP also offers recommendations which advocate for the establishment of *genuine* partnerships between Indigenous Peoples and government agencies, emphasizing co-management arrangements that empower Indigenous Peoples with significant decision-making authority and shared control over projects that impact their lands.

In addition, RCAP calls for ***informed and inclusive*** consultation processes that extend beyond mere protocols. Engagement should be substantive, allowing Indigenous Peoples to voice their concerns, contribute their expertise, and influence relevant outcomes. Lastly, the report underscores the necessity of ***integrating*** Indigenous knowledge systems and cultural practices into environmental and socio-economic assessments. Recognizing the unique insights offered by Indigenous Peoples is crucial for developing sustainable and culturally appropriate solutions in these assessments.

## DISCUSSION QUESTIONS

### **M 1. Does the proposed split into two sections (i.e., an amended ESA section and a new “Rights and Interests of Indigenous Peoples” section) improve clarity?**

- Splitting the Environmental and socioeconomic Assessment section in the Canadian Energy Regulator Filing Manual into separate components could provide both clarity and limitations to addressing the impacts on the rights and interests of Indigenous Peoples. By separating the sections, assessments can potentially focus on each subject matter independently, allowing for more detailed and targeted analysis of environmental and socioeconomic impacts. This separation can provide the specific context in which projects affect Indigenous Peoples' lands, cultures, economies, and social structures. However, keeping these separate would not provide complementary information that centers the interrelated nature of these impacts on the rights and interests of Indigenous Peoples, who may not separate those systems. Doing so in an analytical approach through a western worldview, ignores the dialogical nature of Indigenous assessment protocols.
- With separate assessments, it is more feasible to develop tailored mitigation strategies that address the specific needs and concerns of Indigenous communities for both environmental and socioeconomic impacts. This can enhance the effectiveness of measures aimed at protecting Indigenous rights. Distinct sections can hold project applicants accountable for addressing impacts in both categories. This can improve monitoring and compliance, ensuring that commitments to mitigating negative impacts are met.
- However, separating assessments might lead to a fragmented understanding of impacts if not managed well. Environmental and socioeconomic aspects often intersect and dissociating them could overlook the cumulative effects or interdependence between them. Managing separate assessments could introduce additional complexity and administrative burden for Indigenous Peoples, regulators and project proponents. This could lead to inefficiencies or slower processes if not streamlined effectively. More detailed assessments might require additional resources, expertise, and time for thorough analysis and engagement. This could further strain resources, especially for smaller Indigenous communities or regulatory bodies.

### **M 2. What overarching topics are important to highlight as applying throughout the applicant’s ESA and “Rights and Interests of Indigenous Peoples” sections?**

- Indigenous Peoples often experience cumulative impacts from multiple projects at the same time. Cumulative impacts aggregate and intensify environmental and socio-economic challenges a community faces and are expected to address with limited time and resources. Highlighting cumulative impacts requires tracking not only current project effects, but how they compound existing stresses on ecosystems, social structures, and cultural practices.

This broadens the scope of assessments to include historical and ongoing developments which currently do not adequately inform the regulatory process. This is compounded by the lack of focus on baselines pre-Treaty ecosystem conditions. What was "good" for Indigenous Peoples is measured using oral systems that predate western scientific measurements which lack spatial and temporal accuracy.

- Cultural offsets are measures designed to compensate for cultural losses due to multiple major projects, acknowledging that certain impacts cannot be mitigated completely. Including cultural offsets in assessments ensures consideration of how projects might support cultural preservation, restoration or revitalization efforts, offering tangible benefits and restitution for affected communities. Its not enough to measure how cumulative effects impacts Indigenous Peoples, there needs to be efforts made to ensure there are enhancements to Treaty rights instead of constant erasure.
- Linear disturbances, such as pipelines, roads, or transmission lines, often cut across multiple ecosystems and Indigenous areas of significance, leading to significant environmental and cultural disruptions which take generations to repair. If change is to be made, there will need to be *real* effective mitigations that focus on *cultural restoration initiatives* which repair and revive cultural practices, languages, and traditions disrupted by industrial activities. Restoration is an act of re-storying and therefore equitable and comparable decision making. Cultural restoration compels project proponents to develop strategies and allocate resources toward initiatives that restore cultural heritage and enhance community resilience.
- Major projects often involve complex supply chains and participation in wage economies that can extend impacts beyond immediate project sites, affecting Indigenous communities directly. Examining supply chain elements in socio-economic assessments can identify opportunities for Indigenous inclusion, ensuring fair practices, local employment, and economic opportunities along the supply chain not just during specific phases of development or operations.
- Inclusive practices ensure that Indigenous Peoples are actively involved in decision-making processes related to environmental and socio-economic assessments. Focusing on inclusion requires regulators and project proponents to ensure Indigenous representation in **full lifecycle planning**, consultations, and monitoring, promoting equitable participation and reflecting community needs and rights. Inclusion can't only be focused as a "results of regulatory conditions", but rather as a result of planned co-development and co-management.
- Recognizing Indigenous jurisdiction emphasizes the authority of Indigenous Nations over their lands and resources, acknowledging self-determination and governance rights as per existing Treaty agreements and Section 35 rights. The CER should consider the term 'inherent' and decide if the current regulatory framework has a mutually recognizable definition and application of the intent of that word.

The legitimacy of the regulatory system depends on it. Including jurisdictional assertion within assessments demands that regulatory processes respect Indigenous laws and governance, ensuring that the assessment reflects and abides by Indigenous protocols and decision-making frameworks. Sidestepping authority is not a method of building credibility or demonstrating authentic accountability.

### **M 3. What other restructuring of the “Rights and Interests of Indigenous Peoples” section might improve clarity, readability, and better highlight important issues?**

- A break down of the section into clear subsections regardless of approach being considered, with descriptive headings such as "Legal Rights," "Cultural Interests," "Environmental Considerations," and "Socioeconomic Impacts." This organization helps readers navigate the content easily and find specific information efficiently.
- Recognize that the subject matter within the ESA is not only a set of data for western decision-making processes but represents fully accessible Indigenous governance structures that are required for Indigenous Peoples to feel confidence that their processes are represented clearly with the weight it deserves. Relegation of rights to appendices and procedural steps in a regulatory document does not respect the ethical and fundamental governance hard won by Indigenous Peoples through the courts and business community.
- Consider arranging information in a logical sequence, starting with background context and principles (e.g., relevant RCAP recommendations, rights frameworks like UNDRIP), then detailing procedural requirements, and concluding with best practices and case studies which show best in class application and examples where enforcement of compliance highlights costs, timing delays and significant changes is scoping.
- Employ straightforward language that minimizes technical jargon and legal complexities. Demonstrate that the regulatory process is not only administrative, legalistic and technical but also reflects the honour of the Crown in its ability to communicate ethically. Wherever possible have regulatory documents translated into Indigenous languages. This ensures the manual is accessible to a wide audience, including Indigenous communities, regulators, and industry stakeholders. Include definitions for key terms and abbreviations used throughout the section, providing clarity to readers unfamiliar with specific concepts. Demystify and unravel the complexity of a regulatory system that is foreign to Indigenous Peoples as it doesn't include their terms of reference.
- Utilize diagrams and oral system visual media illustrating processes and protocols related to Indigenous engagement and assessments. Visual aids can simplify complex procedures and enhance understanding. Use boxes or callouts to draw attention to crucial information, such as key legislation, goals, or principles underlying the rights and interests of Indigenous Peoples. Use QR scanning to navigate to parallel Indigenous regulatory stories orally preserved, which show complementary decision making.

Include quotes, stories, or perspectives from Indigenous leaders and communities. These firsthand narratives foreground Indigenous voices, emphasizing the oral basis of rights and interests.

- Highlight crucial issues through dedicated sections, such as impacts on sacred sites, traditional knowledge, or the principle of **free, prior, and informed consent** (FPIC). Remove the “elephants in the room” by actively highlighting efforts to address their complexity. Providing focused discussions ensures these topics receive the attention they deserve. Include relevant case studies or examples illustrating successful models of Indigenous engagement, rights protection, and collaborative decision-making in energy projects. These real-world scenarios offer practical insights and inspire best practices. Celebrate the successes along the way to show change is possible.
- Include examples where credible multiple pathways and guidance on fulfilling regulatory requirements related to Indigenous rights, including timelines, reporting expectations, and engagement best practices actually resulted in tangible equanimity for everyone involved.

#### **M 4. Would having separate sections in the Filing Manual (e.g., one describing VCs focused on the rights and interests of Indigenous Peoples and another describing biophysical and socio-economic VCs) improve clarity?**

- By having a separate section on the rights of Indigenous Peoples, the manual ensures these rights are given legitimacy and focused attention. This separation highlights the importance of Indigenous rights and prioritizes them within and outside of the regulatory processes.
- **Rights are not a product of regulations**; they transcend regulatory processes and should be upheld as the authority of Indigenous Peoples in shared decision making. Each section can delve into the specificity required for its focus area. For instance, the Indigenous rights section can address legal frameworks, cultural impacts, and consultation practices in detail.
- The biophysical and socioeconomic sections can provide thorough analysis and criteria for environmental impacts, community socio-economics, and how these are evaluated, without conflating these with Indigenous rights issues. Project proponents can more easily identify compliance requirements related to Indigenous rights versus those related to biophysical or socioeconomic impacts. This clarity helps ensure that all aspects of regulatory compliance are addressed fully, and the jurisdiction of Indigenous Peoples are respected.

#### **M 5. How would such a split impact the assessment of biophysical and socio-economic VCs, and VCs focused on the rights and interests of Indigenous Peoples?**

- Separating the sections helps clarify boundaries and responsibilities, reducing the risk of overlapping content or processes that can lead to confusion about roles and expectations.

- With separate sections, tailored engagement processes can be outlined for Indigenous Nations, distinct from those used in environmental or socio-economic assessments. This would ensure strategies are culturally appropriate and relevant.

**M 6. What VCs should be included in the “Rights and Interests of Indigenous Peoples” section which should stay in or also be included in the ESA section?**

- This is a highly subjective question that will differ between Indigenous Nations. Different value components require different consultation approaches for all Indigenous Nations. There are no “Pan-Indigenous” solutions that work as a common lexicon or guidance for complex regulatory process or governance systems. Separate sections enable the manual to specify unique consultation processes for Indigenous rights and for environmental/societal impacts. There are no short cuts to thorough equitable decision making.

**M7. What is the best way to document, monitor, manage, and report on protection and enhancement measures for VCs focused on the rights and interests of Indigenous Peoples?**

- Develop documentation frameworks collaboratively with Indigenous Nations to ensure cultural relevance and input.
- Engage Indigenous Peoples in recommending oral systems that reflect community priorities and perspectives.
- Ensure documentation respects cultural sensitivities by including Indigenous languages, cultural norms, and symbols where appropriate.
- Involve Indigenous Peoples directly in monitoring activities. Train and employ Indigenous monitors who can provide insights based on traditional knowledge and cultural context.
- Establish Indigenous indicators that accurately reflect Indigenous rights and interests. These might include measures of environmental health, cultural preservation, resource access, and economic benefits to communities.
- Support the use of technology for effective monitoring, such as GIS mapping, data collection apps, and remote sensing, while ensuring data sovereignty for Indigenous Nations.
- Maintain transparent management processes by regularly sharing information, strategies, and updates with Indigenous Nations through various channels (community meetings, online platforms, newsletters).
- Include sections in reports dedicated to community feedback and responses, regardless of if they serve the regulatory perspective or not. Document how Indigenous input has shaped and influenced measures and outcomes.
- Highlight both quantitative and qualitative outcomes in reports. Address not only compliance metrics but also community well-being, cultural revitalization, and empowerment indicators.

## **M 8. How can information relevant to the rights and interests of Indigenous Peoples best be documented to ensure site-specific information and relevant commitments are maintained and implemented during construction and operations?**

- Maintain detailed records of all engagement activities, agreements, and measures taken to protect Indigenous rights and ensure that OCAP<sup>1</sup> principles are rigorously in place. This includes meeting minutes, consultation notes, agreements, and community feedback.
- Produce regular reports detailing the progress and effectiveness of protection measures. Ensure reports are accessible, using plain language and visual aids where possible. Wherever feasible, employ third-party verification to enhance credibility and trust in reporting. Independent assessments can corroborate findings and validate the effectiveness of protection measures.

## **M 9. What are the opportunities and challenges of Indigenous-led assessments and studies for Indigenous Peoples (e.g., timing, funding, scoping, integration)?**

- Aligning the timing of Indigenous-led assessments with the fast-paced schedules of development projects can be difficult. Proponents often push for expedited timelines, which may not align with the time needed for thorough, community-based assessments. Indigenous communities may encounter scheduling challenges due to seasonal activities such as fishing, hunting, or cultural ceremonies, which can delay assessments. Traditional Land Use and Occupancy studies require **full lifecycle seasonal review**, not just when summer field seasons or construction schedules can fit them in.
- Securing sufficient funding to conduct comprehensive assessments is a common challenge. Limited financial resources can restrict the scope and depth of studies, affecting the ability to address Indigenous Nation concerns effectively. Reliance on funding from project proponents or governmental agencies can create conflicts of interest, potentially influencing the independence and credibility of the assessments.
- Establishing a clear and comprehensive scope that reflects community priorities while meeting regulatory demands can be complex. This requires balancing a wide range of environmental, cultural, and socioeconomic factors. Ensuring that the diverse voices within a community are represented can be difficult, especially in cases where there are differing opinions on project implications.
- Including Indigenous-led assessments into existing regulatory frameworks can be problematic if those frameworks do not fully **recognize or value** Indigenous methodologies and knowledge systems. Ensuring that traditional knowledge is respected and understood as a governance system is key.

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<sup>1</sup> OCAP (Ownership, Control, Access and Possession): is a set of principles developed by First Nations in Canada to guide the governance of their information and data, ensuring they have control over how their data is collected, used, and shared. <https://fnigc.ca/ocap-training>  
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Veness Consultants Inc. 21 Mount Brewster Circle SE, Calgary Alberta, T2Z 2M6

- Trying to fit TLUS into regulatory processes often poses significant barriers, particularly where there is a lack of understanding or acceptance by regulators and Western decision-making systems. These systems need to operate distinctly from each other with their own timelines and deliverables.
- Efforts to adapt policies that recognize and support Indigenous-led assessments can help include them more fully into decision making processes. Investing in community capacity building and training can empower Indigenous Peoples to lead and conduct their own assessments more effectively.

**M 10. What are the opportunities and challenges of Indigenous-led assessments and studies for applicants Indigenous-led assessments and studies present both opportunities and challenges for proponents of major projects regulated by the Canadian Energy Regulator. Understanding these factors is crucial for developing and implementing projects that are both compliant and respectful of Indigenous rights and interests.**

- Collaborating with Indigenous communities in conducting assessments can build trust and improve relationships, leading to smoother project implementation and acceptance. This approach creates a space where certainty of process can evolve. Developing partnerships with Indigenous Peoples can foster positive, long-term relationships, potentially leading to future collaborations and support, that moves from adversary to advocacy.
- Indigenous-led assessments provide valuable insights into local environments and ecosystems often not captured in conventional assessments, thanks to the inclusion of traditional knowledge and cultural understanding. Data can move from being in competition with Western systems to being **complementary**. Complementary assessments offer a more holistic view of environmental, social, and cultural impacts, which can lead to sustainable project planning and execution. Inputs from Indigenous-led studies can guide adaptive management strategies that mitigate potential environmental and social impacts, leading to improved project design and outcomes.
- Collaboration can bring innovative approaches to problem-solving, contributing to project resilience. Engagement with Indigenous communities through their own assessments can reduce the risk of conflicts, protests, or legal challenges, saving time and resources.
- Ensuring that project objectives align with Indigenous community priorities can be challenging, particularly when there are differing views on development. Reaching agreements on project terms and conditions that reflect Indigenous assessments may require complex and often lengthy negotiations.
- Ensuring that Indigenous knowledge and assessments complement scientific and technical project data can pose challenges, particularly if methodologies differ significantly. Engaging in Indigenous-led assessments may require additional resources, including time and funding, to ensure thorough and respectful participation. Investing in capacity building for Indigenous communities may be

necessary to support the ability to conduct assessments, which can require additional commitment from proponents.

### **M 11. How can Indigenous-led assessments and studies be integrated with the applicant's assessment and still support the objective of "one project, one assessment"?**

- The "One Project, One Assessment" approach is fundamentally a colonial approach to decision making and cannot provide both regulatory outcomes that satisfy the rights and interests of Indigenous Peoples and/or respect the jurisdictional authority of Indigenous Nations with constitutionally protected rights. As a start the CER should recognize that they are **not the sole regulatory body** with responsibilities to address or ensure compliance. "One Project, Two Assessments" is a much more effective and probable path to regulatory certainty for both western and Indigenous worldviews. The assessments are distinct and should kept as such.
- What is more appropriate and culturally safe is if the CER adopts a "two-eyed seeing" approach to Indigenous-led regulatory assessments, which involves deliberate centering and including both Indigenous knowledge and Western scientific knowledge distinctly and independently. This approach recognizes the value of traditional Indigenous knowledge and the importance of including it alongside complementary conventional scientific methods when conducting regulatory assessments.

### **M 12. When the timing does not match, how can Indigenous-led assessments and studies be integrated with the applicant's assessment and still meet the CER's legislated time limits of 450 days for pipeline and power line certificate applications?**

- When the timing doesn't match, the outcomes for Indigenous Nations are predictable. If timing doesn't match indigenous needs, the project will most likely trend to imposing on the rights and interests of Indigenous Peoples. Asking Indigenous led assessments to conform to timelines that do not match their independent needs would not lead to complementary outcomes or processes that would provide efficient outcomes. The Transmountain Pipeline is case in point
- To get ahead of timing lags, an applicant has many options before being constrained by regulatory processes. Begin engaging with Indigenous communities as soon as possible to discuss their involvement in assessments. Early consultation *before* triggering the duty to consult or enter a regulatory process can help identify potential timing conflicts and provide the lead time to address them collaboratively.
- Work with Indigenous Nations and the CER to develop a parallel timeline that aligns both Indigenous-led and applicant-led assessment processes, including setting realistic milestones and deadlines.
- If immediate full-scale Indigenous-led assessments are not feasible, consider postponing the project until conducting preliminary assessments is aligned. Poor planning from industry and regulatory agencies shouldn't be borne by Indigenous Peoples.

- Establish a timing window where projects can realistically be commenced without putting timelines at risk.
- Implement a phased approach that go beyond regulatory guidelines where initial findings from Indigenous-led assessments inform subsequent stages of the project, allowing flexibility in timing.
- Allocate funding and resources to support Indigenous communities in conducting assessments promptly instead of reactively.
- Establish funding streams or granting institutions that Nations can access to conduct pre-emptive research on geographical areas of interest prior to intensive development. This can include training, hiring additional personnel, or providing technical support.
- Establish platforms for continuous information sharing between the applicant and Indigenous communities, ensuring that insights from both assessments are promptly included and addressed.
- Provide regular status updates to the CER to demonstrate ongoing efforts to integrate assessments and adhere to deadlines.

**M 13. What are the opportunities and challenges for Indigenous Peoples with the CER’s existing guidance?**

- The present regulatory system continues to marginalize Indigenous Peoples. Ignoring or excluding Indigenous jurisdiction, regulatory systems or the expectations of Indigenous Peoples will continue to perpetuate and compound the current view that western regulatory processes are inherently mandated to extinguish indigenous interests and rights. This will result in continued legal implications.
- The regulator has an opportunity to demonstrate its function is not to erase Indigenous rights or perpetuate the trite trivialization of Indigenous regulatory systems. For Indigenous Nations, the current regulatory guidance risks over simplifying and generalizing Indigenous authority, regulatory systems and continues to intervene and impose colonial processes on sovereign Indigenous Peoples.

**M 14. What are the opportunities and challenges for applicants with the CER’s existing guidance?**

- Failure of western regulatory systems to recognize and validate perspectives of Indigenous regulatory systems may undermine the participation of Indigenous Peoples from decision-making process as well as the legitimacy of the outcomes of western regulatory systems.
- The outcomes would bring the opposite of certainty for applicants who are dependent on consistent application of regulations in a timely fashion in order to effectively and efficiently bring their products to market.

- Opportunities for applicants would be to insist on maintaining the status quo. Under the current regulatory system, it is rare an applicant has been denied a project or held to account by the constitutional authority of Indigenous Peoples, therefore they maintain a sub-standard level of compliance while avoiding the necessary work needed to satisfy the rights and interests of Indigenous Peoples whom they impact. In essence, the CER provides a regulatory subsidy to shield applicants from the intent and purpose of Treaty and constitutional obligations.
- Maintaining the status quo by the applicant removes the opportunity for them to prove that they are credible, accountable and trustworthy partners in resource development and confirms to Indigenous Peoples what they already know, that applicants are not persuaded to follow basic minimum guidelines unless compelled to do so at the risk of shareholder value and confidence.

**M 15. What additional guidance, if any, should the Filing Manuals provide to applicants to identify the potential effects of the project on the exercise and practice of the rights of Indigenous Peoples?**

- Ask Indigenous Peoples themselves. Filing Manuals should prescribe or include parallel approaches to identifying and addressing cumulative effects and should be focused on emphasizing complimentary co-production of knowledge and cross-cultural practices to promote and enable connections between both regulatory processes.

**M 16. Would a framework similar to the severity table used in the Commission's NEBC Recommendation Report be appropriate for inclusion in the Filing Manual?**

- The severity model continues to relegate Indigenous decision-making frameworks to a lesser class of assessment. A better approach would be a move towards establishing distinct complimentary regulatory models, that would contribute to better decision making, which is resonant with expectations of Indigenous Peoples on regulatory excellence.
- Consider deliberate intersubjectivity (respect and inclusion of multiple perspectives), which would increase understanding of both regulatory models not only in scope of collaboration but in the types of observations and judgements. Multiple examples already exist and can serve as conceptual models of cross regulatory processes collaboratively working together to make land-based resource decisions.

**M 17. Should applicants submit a draft determination of the severity of the project effects on the rights of Indigenous Peoples?**

See answer above.

**M 18. How should applicants integrate their assessment of the potential effects of a project on the rights of Indigenous Peoples with their VC-based assessments?**

- Engage with Indigenous communities early in the project planning process to understand their concerns, values, and any potential effects on their rights.

- Establish clear, respectful communication channels and document all interactions. Clearly identify and assess the specific rights of Indigenous Peoples that could be affected by the project, such as treaty rights, land usage, cultural practices, and traditional land stewardship.
- Include Indigenous perspectives and indicators into the identification of value components. This involves understanding the cultural, spiritual, economic, and environmental significance of the project area from the viewpoint of Indigenous Nations.
- Conduct thorough baseline studies that include co-developed traditional knowledge and scientific data to assess potential impacts on value components that concern Indigenous Peoples.
- Propose mutually agreed upon measures to mitigate adverse impacts on Indigenous rights and value components.
- Collaborate with Indigenous communities in developing and monitoring these measures.
- Ensure that all findings, proposed actions, and consultations are transparently documented and presented in regulatory filings.
- Highlight how Indigenous feedback has been included into the assessment and decision-making process.

**M 19. What are the opportunities and challenges for Indigenous Peoples of being involved in the applicant’s inspection, monitoring and follow-up plans and programs (e.g., timing, funding, scoping, integration)?**

- Involvement in monitoring and follow-up programs can create job opportunities and build skills within Indigenous Nations, facilitating long-term employment and expertise in land management. Indigenous Peoples bring valuable traditional and local knowledge, which can enhance the understanding of environmental and social impacts and lead to more comprehensive and culturally relevant monitoring programs. Collaborative involvement can strengthen relationships between applicants and Indigenous communities, fostering trust and mutual respect.
- Ensuring Indigenous perspectives are integrated into monitoring activities can help protect culturally significant sites and practices, aligning project operations with community values. Inclusive participation often leads to broader support for projects from Indigenous Nations, reducing conflict and facilitating smoother implementation.

**M 20. What are the opportunities and challenges for applicants of involving Indigenous Peoples in their inspection, monitoring and follow-up plans and programs (e.g., timing, funding, scoping, integration)?**

- Indigenous communities may face constraints in terms of financial resources, technical capacity, and personnel availability required for full participation, necessitating support and partnership building.

- Securing adequate funding and fair compensation for participation and contributions is often a hurdle, requiring clear agreements and ongoing negotiations
- Aligning project timelines with community schedules and addressing seasonal constraints can be difficult, especially if traditional activities take precedence over project timelines.
- Developing a comprehensive understanding of complex projects and ensuring all relevant aspects are appropriately monitored can be daunting without adequate training and resources. Effectively including complementary traditional knowledge with scientific methods and ensuring that Indigenous insights are given appropriate weight in decision-making can be challenging and require mutual understanding and respect.

**M 21. How should applicants involve Indigenous Peoples in monitoring and managing the effects of the project on the rights and interests of Indigenous Peoples during construction and operation?**

- Applicants should first respect, the necessity of recognizing Indigenous Peoples' inherent rights and jurisdiction over their traditional lands and resources. This recognition is foundational for meaningful participation in environmental and socio-economic decision-making processes where the rights and interests of Indigenous Peoples are at risk of loss of use.
- To ensure effective participation, a best practice would include investing in capacity-building initiatives for Indigenous communities. This includes providing resources, training, and support that empower them to engage meaningfully in discussions and decision-making.

**M 22. How does the concept of “sites of Indigenous significance” compare with heritage resources and traditional land and resource use? Where might there be overlap (including with existing legislative responsibilities by jurisdictions)?**

- Traditional Land Use is term that references Indigenous governance systems that accesses, understands and applies Indigenous jurisprudence to decision making processes. The concept of relegating this governance system to descriptions of sites of significance is trivializing. There is no overlap.

These are distinct systems that are independent of each other and can complement each other to enhance decision making.

- Western science analytical research design for sites of significance and dialogical/spiritual Indigenous governance systems represent distinct approaches to knowledge generation, inquiry, and understanding which reflect diverse cultural perspectives ontologies, axiology's and epistemologies.

**M 23. What are the opportunities and challenges for Indigenous Peoples of integrating the concept of “sites of Indigenous significance” into the applicant’s assessment?**

- There are no opportunities for Indigenous Peoples to integrate "sites of significance" in an applicants’ assessment. Doing so would continue to provide the regulatory process an opportunity to erase Indigenous governance systems and continue to marginalize the jurisdictional authority of Indigenous Peoples.
- The challenge for Indigenous Peoples remains the same. To somehow communicate unequivocally and compel the CER to recognize that "sites of significance" are not up to the applicant, regulator, archaeologist, heritage specialist, biologist, ecologist or ethnoanthropologist to determine in isolation of the *rightsholder*.
- The challenge for Indigenous Peoples is the constant requirement to satisfy a regulatory process over and over by emphasizing the importance of storytelling, dialogue, and collective reflection as means of transmitting knowledge, preserving cultural heritage, and fostering interconnectedness with the land, ancestors, and spiritual connectivity to Creator. If this isn't enough to demonstrate "sites of significance" from an Indigenous perspective, there may remain little left of the regulatory process to demonstrate confidence in assessment.

**M 24. What are the opportunities and challenges for applicants of integrating the concept of “sites of Indigenous significance” into their assessment?**

- A challenge for the applicant would be ethical and structural in nature. Independently integrating the concept of "sites of significance" into their assessment would be ethically suspect.
  - By design an applicant’s approach would be primarily from a western science analytical research design, with the emphasis on sites of significance placed on a systematic, objective, and empirical investigation of phenomena through structured methodologies, controlled environments, and quantitative data analysis. This approach would prioritize the separation of the "sites of significance" from the interconnectedness between Indigenous Peoples, nature, and the spiritual world, who view their worldview as a dynamic and evolving protocol, shaped by relationships, context, and lived experiences.
-