



Lac Ste. Anne Métis Community Association

March 31, 2025

Canada Energy Regulator ("CER")
Government of Canada

VIA EMAIL/COURRIEL: [REDACTED]

Dear Mesdames/Sirs:

Re: Review of the Onshore Pipeline Regulations and the Environmental and Socio-Economic Assessment and Lands portion of the Filing Manuals – Lac Ste. Anne Métis Community Association feedback on Topic Papers

On behalf of the Lac Ste. Anne Métis ("LSAM") community, we set out within this letter our feedback on the Canada Energy Regulator's ("CER") Phase 2 review of the Onshore Pipeline Regulations ("OPR") and the Environmental and Socio-Economic Assessment ("ESA") and Lands portion of the Filing Manual ("FM").

The Lac Ste. Anne Métis Community Association ("LSAMCA") is a corporate entity designed and incorporated by members of the contemporary Lac Ste. Anne Métis community to represent the Métis Aboriginal rights and interests of the historic and contemporary Lac Ste. Anne Métis community, a section 35 *Constitution Act, 1982* Métis Aboriginal rights-bearing (*Powley*) community, whose traditional territory encompasses present day west central and northwest Alberta. LSAMCA is the only legal entity representing the contemporary LSAM community regarding our Métis Aboriginal rights and interests. In its *Powley* decision, the Supreme Court of Canada defined the Métis rights-holding collective under section 35 of *Constitution Act, 1982* to be a Métis community.¹

As the CER should be aware, in Fall 2022 the Government of Alberta recognized LSAMCA as the second Métis organization in Alberta to establish a credible assertion of section 35 Métis harvesting rights with respect to our historic and contemporary section 35 *Constitution Act 1982* rights-bearing *Powley* Métis

¹ *R v. Powley*, [2003] 2 S.C.R 207; 2003 SCC 43 ("*Powley*") at paras. 12, 13, 23 and 24.

community, the contemporary Lac Ste. Anne Métis community, represented by LSAMCA.²

Our community commends the CER for undertaking these critically important reviews with the involvement of Indigenous (Métis) communities. CER regulated pipelines are a prominent industrial feature in our traditional territory, resulting in profound adverse direct, indirect, and cumulative impacts regarding the ability of our LSAM community members to exercise our Métis rights. A diminishing ability to carry out longstanding practices in our traditional territory, such as harvesting resources of cultural importance, negatively affects our way of life, which affects extend to sustenance of our language and culture, our health and wellbeing, and the transfer of our Métis Knowledge to younger generations.

LSAMCA understands that the CER is reviewing the OPR, as well as updating the ESA and Lands sections of the Filing Manuals, to reflect the objectives set out in the Canadian Energy Regulator (“CER”) Act³ including commitments to advance Reconciliation with Indigenous People and to implement the United Nations Declaration on the Rights of Indigenous Peoples (“Declaration”).⁴

The perspectives and feedback shared in these submissions are connected to our Métis Aboriginal rights and interests and draw from our experiences with several CER regulated projects, including the Trans Mountain Expansion Project, several NOVA Gas Transmission (“NGTL”) Projects, and the Peace River Mainline Abandonment Project. The LSAM community actively participates in various ways with the CER, including through the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion Project (“IAMC-TMX”), including its Socioeconomic Subcommittee and Indigenous Monitoring Program; and, since 2021, in the NGTL Indigenous Oversight Forum, including Indigenous Monitoring Program’s two Co-Writing Committees.

While we write today to provide the CER with Lac Ste. Anne Métis community’s comments and feedback on these important topic papers, we wish to also convey our support for continuing to expand opportunities for Indigenous (Métis) communities to build capacity in the regulatory space and express our strong interest in continuing to be part of the CER’s reconciliation journey.

² Alberta government’s Métis organization establishes credible assertion, Lac Ste. Anne Métis Community Association – See Alberta Government webpage: <https://www.alberta.ca/release.cfm?xID=8471263626970-A2FD-DF8F-26B346D3257AF65D> assessed on March 25, 2025.

³ *Canadian Energy Regulatory Act*, S.C. 2019, c. 28, preamble, paras. 4 and 5.

⁴ *United Nations Declarations on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14, Schedule, United Nations Declaration on the Rights of Indigenous Peoples (“Declaration”).



In the remainder of this submission, we've concentrated our feedback on select topic papers but strongly urge the CER to view the feedback shared as informing other topic papers and subtopics not explicitly addressed.

To begin, below LSAMCA provides a few overall comments:

- **Ongoing engagement and reporting back to Indigenous communities** – Indigenous (Métis) communities must be appropriately engaged and consulted throughout the lifecycle of projects. This includes defining engagement protocols with each Indigenous (Métis) community. The CER should ensure that engagement is occurring and ongoing, and that the results of engagement are clearly communicated across the project/company/contractors. Far too often, company engagement or consultation is viewed as a check box exercise where information and Indigenous (Métis) Knowledge that has been shared is not effectively integrated in project management, oversight, and monitoring.
- **Integration of Indigenous Knowledge across the lifecycle of the project** – The OPR and Filing Manual must make clear the requirement that the proponent involves Indigenous (Métis) communities and seeks their unique perspectives during the assessment phase and regarding the design and implementation of project-specific management approaches. Further, the CER itself should have Indigenous (Métis) Knowledge experts with community-based lived experience involved in reviewing and determining the adequacy of the proponent's assessments and management systems, including the process by which the proponent worked with Indigenous (Métis) communities on their development and implementation of management approaches (this is required under the Crown's duty to consult in relation to the assessment phase).

A key part of appropriate integration of Indigenous (Métis) Knowledge is making sure the proponents and regulators are ready to engage with and understand the knowledge being shared. In LSAMCA's 2021 submissions to the Indigenous Knowledge Policy Framework for Project Review and Regulatory Decisions, LSAMCA stated "At its core, to meaningfully assist regulatory decision-makers to integrate Indigenous Knowledge into their decisions requires a shift in perspective in how to receive information". LSAMCA advises the CER to consider requirements for proponents to complete relevant training and participate in cultural ceremonies and site visits before receiving and bearing witness to Indigenous Knowledge. Indigenous (Métis) communities should have the opportunity to define the requirements they feel would adequately prepare proponents to engage with their Indigenous (Métis) Knowledge. LSAMCA has previously expressed that the CER should have Indigenous (Métis) Knowledge experts involved in reviewing and determining the adequacy of the proponent's management



systems, as it relates to the integration, application, use and protection of Indigenous (Métis) Knowledge.

- **Provision of capacity funding to Indigenous communities for the lifecycle of the project** – LSAMCA has previously commented on the need for Indigenous communities to be supported to appropriately engage in project assessment, development, oversight and monitoring activities. Many Indigenous (Métis) communities do not have the human resources (staff, capacity) to engage with proponents; rather than understand this as the need for some other body to take their place, the CER must require proponents to provide sufficient funding to Indigenous (Métis) communities to account for the time and effort, i.e. the opportunity costs, associated with community involvement in meaningfully engaging with the proponent to minimize risks to their rights and interests from the project. Indigenous (Metis) communities are on a journey to build upon their strengths and the CER should seek to also view consultation in this light. As LSAM, we are interested in participating throughout the lifecycle of a project, but we need to be properly resourced with human and financial capacity. We recommend that Métis communities be provided core funding to ensure capacity over several years in relation to the lifecycle of projects.

We are currently provided with minimal consultation capacity funding to facilitate consultation activities with respect to the assessment of specific projects; but often this consultation capacity funding provided by government or proponents is not sufficient and we end up utilizing our own community funds to subsidize or support the consultation process in order to determine potential impacts to our Métis rights and interests.





Lac Ste. Anne Métis Community Association

A. Topic Paper C. OPR - Emergency Management (“EM”)

- **Priorities to be Considered within the EM Program** – With respect to the CER’s proposed change to the scope of priorities to be considered within the EM program,

A company shall develop, implement and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency that could adversely affect property, the environment or the safety of workers or the public

to:

A company shall develop, implement and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency that could adversely affect people, property, sites of historic and cultural significance, or the environment.

There remains a need to consider and protect traditional, cultural, heritage, and spiritual resources, as well as sites of historical and cultural significance. During Phase 1 of the OPR/FM review, LSAMCA shared that there is often an assumption that by protecting the environment, rights intimately connected with the environment, such as Métis harvesting rights, are also protected. For LSAM members, their experience is that despite environmental mitigations and regulatory standards applied to pipeline development and emergency management, the ability of LSAM members to exercise their Métis harvesting rights are negatively and adversely affected. LSAMCA additionally identified that although companies may be conditioned to develop plans and protocols specific to heritage resources and sites of significance, gaps in provincial legislation and requirements influence those plans and protocols such that they are not adequate to address and protect traditional, cultural, heritage, and spiritual resources, as well as sites of historic and cultural significance to Indigenous (Métis) communities. Regulators and companies tend to minimize the extent and significance of important sites and lack recognition and understanding of the relationship of sites to Indigenous (Métis) communities.

LSAMCA have also previously advised that to *prevent, manage and mitigate conditions during an emergency that could adversely affect people*, companies must understand how risks are experienced differently by Indigenous people, and Indigenous women, girls, gender diverse and two-spirit individuals.

Companies must be required to apply an Indigenous and Gender-Based Analysis Plus (IGBA+) lens to the development of any Emergency Response Program.

- **Involvement of Indigenous people in EM** – LSAMCA have previously described that current emergency response and incident management systems are not supporting prompt notification of Indigenous (Métis) communities, and even where notification occurs, the specific location of the incident may not be shared. In Phase 1 of the OPR review, LSAMCA shared an example where the LSAM community was informed about an incident which occurred on an operating pipeline. The pipeline operator did not share the specific location due to safety concerns – i.e., the desire to limit the potential for community members to show up at the incident location. However, this notification without the specific location details limited our ability to advise our members to avoid the area, which is a safety concern and defeats the purpose of an emergency management plan to protect people, which includes our community members. Further, without the specific location it was not possible to check to determine the proximity to sites of significance or land and resource use sites.

Indigenous (Métis) communities may also experience lingering concerns about contamination of traditional resources resulting from past incidents and associated changes to harvesting and land use that have occurred over time. LSAMCA recommends that Indigenous (Métis) communities be promptly notified of the location of any emergency incident or management concern, and the proponent must request and consider any information about land and resource use and sites of significance in the area that may be affected. Indigenous (Métis) communities must have an opportunity to visit the incident location (when safe to do so) and access (with the aid of capacity support) to review any reports and assessment results. The proponent must also support Indigenous (Métis) communities in any further monitoring or contaminant testing that are necessary to provide assurances of safety of traditional resources after the incident occurs.

CER's Industry Best Practices for Notification to Indigenous Nations and Communities Regarding CER-Reportable Incidents, when requirements are added to the OPR, provides some improvement in the assurance of involvement of Indigenous people in Emergency Management. However, the best practices state that "companies should determine which Indigenous Nations and Communities and/or traditional territories lie along or are overlapped by the right of way (or other company property upon which the CER-regulated pipelines and facilities are located), including areas where Indigenous peoples exercise Indigenous rights that could be affected by an immediate reportable incident". The CER must also include opportunities for Indigenous Nations and Communities to self-identify as holding rights and interests in a particular area and so they can be notified of relevant incidents.



Furthermore, LSAMCA advises the CER to add requirements for the proponent to integrate Indigenous (Métis) Knowledge into all aspects of an emergency management program.

B. Topic Paper D. OPR - Environmental Protection

- **Duty to report and manage contamination** - The proposed improvements under *Subtopic 1: Duty to report and manage contamination*, do not require companies to report contamination to Indigenous (Métis) communities with rights and interests in the area and/or resources potentially affected by any contamination. As it relates to the requirements for companies to “manage contamination and any potential risks in a manner that is timely and protects human health, property, and the environment”, LSAMCA would like to refer the CER to comments and recommendations outlined above (see Topic Paper E; regarding priorities to be considered in the EM Program). Specifically, the scope of risks required to be managed are too narrowly conceived to ensure that companies manage potential effects to the rights and interests of Indigenous peoples.

LSAMCA recommend that the CER provide detailed description of requirements for the company to report contamination to Indigenous (Métis) communities. This may include reporting near-misses, their immediate and long-term responses to manage the contaminated sites, and access to assessment and monitoring reports. Without such critical information, it is challenging to assess the true extent of impacts to Indigenous (Métis) peoples and to enforce accountability.

- **Reclamation, Vegetation Management, and Restoration** – The proposed options for improvement do not include requirements for engagement of Indigenous Nations and Métis communities. Engagement must be a requirement throughout the project lifecycle, including during reclamation, vegetation management, and restoration. Engagement requirements must specify a co-defined process for ensuring Indigenous (Métis) Knowledge is integrated into all plans, including reclamation, vegetation management, and restoration. The experience of LSAM members is that most, if not all, reclamation/restoration does not return areas to the previous state of that habitat and does not take into consideration Indigenous (Métis) harvesting and subsistence interests. For example, LSAM members noted that in their experience, while a right-of-way may be reseeded, the plants that return do not provide LSAM members with the traditional plants needed for medicines, food, or other cultural purposes. LSAMCA would like to emphasize that Indigenous (Métis) Knowledge should drive reclamation and restoration efforts and be addressed in vegetation management.



- **Participation in development of environmental monitoring by Indigenous Peoples** – LSAMCA has been involved in the CER’s Indigenous Monitoring Program, including both the IAMC-TMX Indigenous Monitoring Program, and the NGTL Indigenous Monitoring Program, as well as two co-writing committees.

The CER must require the meaningful participation of Indigenous (Métis) communities throughout all stages of energy projects, from early planning to post-construction monitoring. Indigenous community-based monitoring is critical for ensuring that project management and mitigation plans are effectively working to maintain respect and protection of the land, resources, and cultural heritage of Indigenous (Métis) communities. Meaningful engagement of affected Indigenous (Métis) communities in Indigenous monitoring, including post-construction monitoring, reporting, and follow-up fosters accountability and is a measure to address and safeguard Indigenous (Métis) use and values throughout project lifecycles.

LSAM Indigenous monitors act as the "eyes and ears" of the community, weaving the unique culture of LSAM community into their work. Impacted Indigenous (Métis) communities are best positioned to monitor, document, and advise on biophysical and socioeconomic impacts to their rights and interests, and to provide feedback regarding protection and enhancement measures in their territory.

LSAMCA offers the following for consideration by the CER in updating the OPR and FM requirements related to environmental protection:

- To integrate the unique aspects of Indigenous (Métis) communities and strengthen the effectiveness of Indigenous monitoring programs, the CER must ensure the involvement of community-based Indigenous Monitors with understanding of local cultural protocols and values.
- LSAMCA highlights the NGTL approach to Indigenous Post-Construction Monitoring as a strong example of an effective program that considered the unique needs, knowledge, and values of each Indigenous (Métis) community. NGTL’s work with affected Indigenous Nations on the 2021 and Edson Mainline Projects. This distinction-based approach meant that Indigenous (Métis) communities could monitor and verify reclamation efforts, at one, three, and five-years post-construction. NGTL shared with affected communities how they had included their feedback into their own post-construction monitoring findings, along with mitigation efforts, as applicable.
- Indigenous community-based monitors require greater autonomy and increased authority to address the concerns they identify, without being constrained by pre-defined regulatory conditions. Through engagement on recent projects, LSAM members have shared that monitoring and compliance verification focus too much on the exact wording of the



regulations instead of considering the broader commitments made by the proponent to adaptive management or performance-based management. Indigenous (Métis) Knowledge should drive reclamation and monitoring efforts, and communities should have a greater role in advocating for their needs. Greater flexibility would empower Indigenous Monitors to bring their lived experiences, traditional Knowledge, and community priorities to their work, enabling a more comprehensive approach to monitoring and adaptive management or performance-based management.

Indigenous-driven strategies for monitoring and measuring compliance enhances transparency, ensures that commitments to safety, environmental stewardship, and socio-economic well-being are upheld in a manner that fosters Indigenous rights and values. Accountability must be reinforced through robust collaboration between proponents and impacted Indigenous (Métis) communities, especially in developing a comprehensive tracking and monitoring system for socio-economic effects. Such a system should be co-designed with Indigenous (Métis) communities, integrating culturally relevant metrics and timely reporting back to affected Indigenous (Métis) communities. Regular and transparent updates would ensure that Indigenous (Métis) communities have the information and tools needed to hold industry accountable for project impacts.

- **Environmental Protection (“EP”) Plan required for Construction and Operation and Maintenance Activities** – Through engagement with the IAMC-TMX and the IAMC-TMX’s Socioeconomic Subcommittee, LSAMCA have witnessed the constraints faced by the regulator when condition requirements are too narrowly or loosely defined. The CER is advised to require submission and approval of all EP Plans, in terms of ensuring environmental protection and the protection of the rights and interests of Indigenous (Métis) communities. While the proposed options, listed under Topic Paper I. OPR – Rights and Interests of Indigenous Peoples, Socio-economic Effects, and Engagement, would incorporate measures to prevent and address impacts to the Rights and Interests of Indigenous Peoples, there needs need to be clear requirements to ensure that company departments/staff/contractors responsible for environmental protection are fully integrated with departments/staff/contractors responsible for co-developing and implementing program projects to prevent and address impacts to the rights and interests of Indigenous People. Far too often, these requirements are adhered to in isolation and the engagement of Indigenous people (rights-holders) serves as a check box exercise whereby feedback and shared Indigenous (Métis) Knowledge fails to be fully integrated across programs, plans, oversight, monitoring, and adaptive management.
- **Construction to Operations and Sale or Transfer of Assets Transition Plans** – In addition to the proposed requirement, the CER must consider how relevant environmental information is shared across projects, so that the potential for cumulative effects is adequately considered. LSAMCA is a Métis community



directly impacted by multiple CER-regulated projects, yet it remains unclear what mechanisms, if any, are in place/used by CER-regulated companies to identify and/or protect against cumulative effects. We also note that this is just one industry, whereas there are many other industries that have additional cumulative effects.

As it relates to the transfer of information received during hearings, LSAMCA has recommended improvements to hearing processes to ensure that cultural safety and meaningful integration of shared Indigenous (Métis) Knowledge (see LSAMCA submission to the CER re: Rules of Practice and Procedures⁵).

- **Climate resiliency** – Climate change is an ongoing concern for LSAMCA with implications for our people and their ability to exercise our Métis rights and interests. The design of new projects and the operation of existing projects must be continually evaluated for their ability to withstand new climate effects and impacts. Results from these ongoing evaluations must be used to update accident and safety planning, including engagement with affected Indigenous (Métis) communities. The evaluation of risks and risk mitigation would be inadequate without incorporation of additional necessary climate resiliency.

C. Topic Paper E. OPR - Human and Organizational Factors

- **Workplace System Understanding and Improvement** – There remains a need to support movement away from a “hyper-masculine” work culture associated with major projects and resource development and to develop strategies to prevent violence against women and children as an aspect of minimizing the negative effects of project development on nearby Indigenous (Métis) communities.⁶ This type of work culture can increase socio-technical hazards. The proposed option to require consideration of the human and organizational factors discipline and relevant performance influencing factors in the identification and analysis of hazards and potential hazards is a step in the right direction, however, does not explicitly require acknowledgement of the different biases, social norms, and Western-centric views that may underpin workplace culture and decisions. LSAMCA have previously advised the CER to require mandatory cultural, diversity, and unconscious bias awareness training, informed or led by Indigenous people, for all contractors/subcontractors, staff, and management of CER-regulated companies. This should include in-person and interactive components to help build empathy, understanding, and a sense of shared responsibility. Any new requirements related to understanding the

⁵ January 31, 2025 LSAMCA letter to CER re: Review of the Rules of Practice and Procedure – LSAMCA feedback on the Discussion Paper.

⁶ Indigenous Communities and Industrial Camps, Promoting Healthy Communities in Settings of Industrial Change, Prepared by the Firelight Group with Lake Babine Nation and Nak'azdli Whut'en, February 2017, page 24, para. 4.



workplace system and improving the management of socio-technical hazards must be clearly guided from a position of ensuring gender and cultural safety for Indigenous (Métis) communities.

- **Strengthening Organizational Learning** – Through experience on multiple CER-regulated projects, LSAMCA have experienced that public and internal reporting of incidences of bullying, harassment, and discrimination as well as adverse interactions between workers and local communities, particularly Indigenous (Métis) communities, remains frequently underreported. Through strengthening organization learning proposed options, *how can the CER ensure that regulated companies learn and adaptively manage social as well as technical and environmental incidences?*, including reviewing lessons learned to ensure it met high standards and was effectively leading to improvements.

D. Topic Paper F. OPR - Management System and Contractor Management

- **Management System Requirements** - LSAMCA have previously shared with the CER that current requirements defined in the OPR regarding management systems, policies, and procedures, are failing to ensure that the social, economic, cultural, and health and wellbeing issues and concerns experienced by Indigenous (Métis) communities and persons are recognized, managed, mitigated, and accommodated. At minimum requirements should:
 - Require major projects to manage, track, and report on Indigenous-specific information. This includes integration of Indigenous (Métis) Knowledge shared through the assessment phase, hearings, and engagement.
 - Require companies to involve Indigenous (Métis) communities who are impacted by a project throughout the lifecycle of the project, including in the development of, and reporting on, management systems specific to Indigenous (Métis) issues and impacts.
 - Ensure affected and involved Indigenous (Métis) communities are engaged in audits of management systems.

LSAMCA has also previously commented that the purpose of the OPR, as outlined in Section 6, and reference in Section 6.2, must be expanded to explicitly include the advancement of Reconciliation with Indigenous peoples. The need to address, consider, accommodate, and protect Indigenous and Treaty Rights, as defined by Section 35, should be explicitly acknowledged in the purpose section of the Regulations. Flowing from this, Indigenous (Métis) communities must be involved in the identification of standards and design, and implementation (tracking and reporting on indicators/metrics) of management systems specific to the purpose of the OPR and taking into account the issues and impacts experienced by Indigenous (Métis) communities and people, such as impacts to our ability to exercise our Section 35 rights, socioeconomic impacts, including



risks to our Métis community and individual health and wellbeing, and need to ensure pipeline development, when it does occur, supports sustainable economic development and the prosperity of Indigenous (Métis) communities.

E. Topic Paper H. OPR - Reporting Harm

- **Definition of Incident** - LSAMCA advises the CER to expand the definition of an incident to include psychological and emotional harms potentially arising from gender- and race-based discrimination, harassment, and violence (including lateral violence). Indigenous (Métis) communities have long expressed concerns, based on their experiences with pipeline development, about how pipeline development impacts the safety and security of their members, including those living in towns with intensified activity related to resource development. Racism and gender-based harassment and violence are disproportionately experienced by Indigenous people and are persistent and pervasive within the resource extraction sector. LSAMCA advises the CER to consider the following opportunities:

- The CER, regulated companies, Indigenous (Métis) communities, and governments must meaningfully collaborate to develop reporting mechanisms that jointly manage, track, respond to, and report on gender- and race-based harassment and violence involving between employees and contractors, and experienced by Indigenous (Métis) community members from employees/contractors.

All parties must collaborate to improve transparency and data tracking of incidences of gender- and race-based harassments, discrimination, and violence. This ensures that more proactive management and mitigation will be put in place and gives voice to the experiences of Indigenous people, in particular Indigenous women, girls, gender diverse and two-spirit individuals living near or working for resource development projects.

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

- **Preventing and Addressing Impacts to the Rights and Interests of Indigenous Peoples** – The purpose of the OPR must be to advance Reconciliation with Indigenous peoples. LSAMCA commends the CER for integrating feedback received during Phase 1. LSAMCA does support: the addition of new protection programs to prevent and address impacts to the rights and interest of Indigenous (Métis) communities; a new management system process for the incorporation of Indigenous (Métis) Knowledge; a new management system process for the identification and incorporation of Indigenous laws, policies, practices and protocols; and cultural competency training for all those involved in the workplace. Beyond what is outlined in the objectives for improvement and proposed options, LSAMCA advises the CER to additionally include specific



requirements related to distinction-based approaches, inclusion of a management system for companies to track business, employment and training opportunities and targets and long-term economic inclusion for Indigenous (Métis) communities, capacity funding, co-development of engagement and data sharing protocols.

- ***Distinction-based approach*** - The CER must specify that companies apply a distinctions-based lens that recognizes the unique legal, historical, and cultural identities of each Indigenous (Métis) community. Indigenous (Métis) Knowledge is context-specific; by embedding distinctions-based principles, the CER can ensure that oversight activities, assessment criteria, and performance measures are informed by the richness of Indigenous perspectives while honoring the rights and sovereignty of diverse Indigenous (Métis) communities.
- ***Management system for companies to track business, employment and training opportunities and targets and long-term economic inclusion for Indigenous communities*** - LSAMCA have previously expressed that their community has rarely realize the opportunities and benefits promised on resource development projects. Companies who are required to self-report on Indigenous contracting and employment often overstate the value and benefit of the opportunities. True economic reconciliation requires more than simply providing for short-term contracting opportunities. Long-term equity for affected Indigenous (Métis) communities provides an avenue for communities to benefit and transform those benefits into other economic and social investments. It is necessary to develop standards and metrics in collaboration with affected Indigenous (Métis) communities, and to draw on the experiences and perspectives of the Indigenous (Métis) communities themselves in evaluating the company's performance regarding Indigenous employment and contracting to address true economic reconciliation and long-term economic inclusion and benefits.
- ***Capacity funding*** – Pipeline companies must involve Indigenous (Métis) communities who are impacted by a project in the development of, and reporting on, management systems specific to Indigenous rights and interests. However, LSAMCA has previously commented on the need for Indigenous (Métis) communities to be supported to appropriately engage and consult regarding project assessment, development, oversight and monitoring. Many Indigenous (Métis) communities do not have the human resources (staff, capacity) to engage with proponents. CER must require proponents to provide sufficient funding to Indigenous (Métis) communities to account for community-based human resources and the



time and effort involved in working with the proponent to minimize risks to their Indigenous (Métis) rights and interests from the project.

As stated previously above, LSAMCA prior experience with pipeline projects, is that in some instances, we are provided with minimal consultation capacity funding to facilitate consultation with respect to the project assessment phase of a pipeline; and more often than not, this consultation capacity funding whether provided by government or proponents is not sufficient and we end up utilizing our own funds to subsidize or support the consultation process for pipeline projects that we may not wish to proceed because of potential negative impacts to our Métis rights and interests, and without any sense of what benefits to our Métis community may result. And this only addresses the project assessment phase of pipeline project; typically, LSAMCA is provided no funding past the consultation phase, i.e. in relation to project development and oversight.

- **Co-development of protocols for engagement and data sharing** – CER must require companies to co-develop engagement and data sharing protocols to ensure that each impacted Indigenous (Métis) community specifies their own requirements, timelines, and expectations. Indigenous (Métis) communities must be involved in the identification of standards and design and implementation (tracking and reporting on indicators/metrics) of management systems specific to the purpose of the OPR (i.e. which should be to advance Reconciliation with Indigenous peoples) and taking into account the issues and impacts experienced by Indigenous (Métis) communities in relation to pipeline development, such as impacts to Section 35 Rights, socioeconomic impacts, including risks to the Indigenous (Métis) community's health and wellbeing, and the need to ensure pipeline development supports sustainable economic development and the prosperity of Indigenous (Métis) communities. LSAMCA is supportive of the CER's objectives from Subtopic 3, Engaging with Potentially Affected People and Communities. LSAMCA highlights a significant gap exists in the tracking of Indigenous (Métis)-focused data, including the specific impacts of projects on rights and interests of Indigenous (Métis) communities, including socioeconomic, cultural, and health and well-being interests. Without such critical data, it becomes challenging to assess the true extent of impacts for Indigenous (Métis) peoples and to enforce accountability. Data sharing with Indigenous communities is an important aspect of advancing reconciliation. However, as outlined previously, Indigenous (Métis) communities also need to be enabled to participate effectively in engagement and data sharing by being properly resourced with financial and human capacity through being properly funded to address these matters.



- **Managing Socio-Economic Effects** – Socioeconomic effects and benefits oversight and compliance verification remains deficient across resource development projects, including CER-regulated projects. For example, on the Trans Mountain Expansion Project, the proponent was required through a project level condition to develop a Socio-Economic Effects Management Plan, within which Trans Mountain reported on quarterly. These quarterly reports were not subject to review, even when it seems that thresholds had been breached. Many thresholds were based on outdated schedules and anticipated work force needs that shifted significantly because of the pandemic and for other reasons, and thus monitoring data ceased to be tracked against any benchmarks. A new protection program for the management of socio-economic effects, including the development, implementation, and maintenance of a program to track benefits received by each Indigenous (Métis) community as well as by spread - locally and regionally.
- **Engaging with Potentially Affected People and Communities** – LSAMCA have previously shared that the OPR can set expectations on companies entering formal relationships with Indigenous (Métis) communities that guide communication and engagement (e.g. Indigenous (Métis) community-specific Engagement Protocol). In phase 1, LSAMCA shared that the level of filing notifications to communities can be a challenge, and the CER REGDOC website can be difficult to navigate and find particular filings. Indigenous (Métis) community specific engagement protocols can allow individual Indigenous (Métis) communities to determine methods that work best for them.

Direct communication and engagement between impacted Indigenous (Métis) communities, regulators, and regulated companies strengthens relationships and supports them to keep abreast of and respond to notifications, which improves understanding and resolution of issues and concerns. Again, as outlined previously, Indigenous (Métis) communities need to be enabled to participate effectively by being properly resourced with financial and human capacity to address these matters.

G. Topic Paper J. OPR - Safety

- LSAMCA recommends the CER broadens their definition of safety to include cultural safety (“process of making spaces, services and organizations safer and more equitable for Indigenous people”) and gender safety (“process of making spaces, services and organizations safer and more equitable regardless of gender,



gender expression, gender identity or perceived gender”)⁷. LSAMCA have previously highlighted concerns about the safety and security of their members.

H. Topic Paper K. FM - Environmental and Socio-economic Assessment

- **Restructuring the ESA section** - The proposed options will serve to underscore that the potential impacts to Indigenous (Métis) rights and interests are distinct from impacts experienced by municipalities and others. LSAMCA emphasizes the need for any assessment on the rights and interest of Indigenous peoples needs to be distinctions-based, reflecting that the rights and interests of each potentially affected Indigenous (Métis) community is different. When addressing the potential impacts and effects of a pipeline project through an ESA, there must be consideration of existing limitations on our Métis rights. Therefore, the existing cumulative effects and historical context must inform the scope of the ESA and necessary potential mitigation or accommodation measures. Furthermore, each Indigenous group or Métis community is entitled to be engaged in relation to the unique facts and circumstances pertinent to that respective Indigenous group or Métis community.
- **Valued component identification and selection for the ESA** – LSAMCA has previously shared that pipeline companies are inadequately assessing potential environmental and socioeconomic effects (positive and adverse) experienced by Indigenous and local communities. The CER must require companies to engage with Indigenous (Métis) communities and integrate Indigenous (Métis) Knowledge on the selection of environmental and socioeconomic valued components (VCs), including requirements to demonstrate Indigenous (Métis) Knowledge guided selection.
- **Socio-economic valued components** - Regarding socio-economic valued components, companies would benefit from more guidance on the breadth of aspects to be considered under each socio-economic valued component. For illustrative purposes, Table 1 compares the guidance from the CER and B.C.’s Environmental Assessment Office for the Infrastructure and Services VC. BC EAO guidance requires the proponent to complete a more thorough assessment.

⁷ Woodfibre LNG. 2024. Gender and Cultural Safety Plan: Woodfibre LNG Project. Retrieved March 22, 2025 from [Woodfibre LNG Gender and Cultural Safety Plan v8 May13 final clean.pdf](#).



Table 1 Guidance comparison between the CER Filing Manual and the B.C. EAO Human and Community Well-Being - Guidelines for Assessing Social, Economic, Cultural, and Health Effects in Environmental Assessments in B.C.

CER Filing Manual – Infrastructure and Services	B.C. EAO – Infrastructure and Services⁸
<ul style="list-style-type: none"> • The project may cause temporary or permanent damage, or require additions, modifications or repairs, to local or regional infrastructure. • The project may result in increased demands on local and regional services. • The project may affect the usage of roadways during construction and operation. • There is outstanding concern about this element of the project, which has not been resolved through engagement. 	<ul style="list-style-type: none"> • How would the project effect demand on, capacity of, or financial viability of local, regional or provincial infrastructure and services, including: <ul style="list-style-type: none"> ○ Health care and social services and facilities? ○ Emergency response services? ○ Domestic water supply? ○ Sewage and water treatment facilities? ○ Landfills and recycling facilities? ○ Community recreational facilities? ○ Educational services and facilities, including day cares? ○ Other public and private sector services? • Are non-local workers anticipated to relocate to the project area? Are non-local workers anticipated to bring their families? • To what extent is the project expected to result in a shadow population? • How might the project affect the ability of a community to meet residents’ infrastructure and service needs? How might the project affect the ability of current residents to access community infrastructure and services (for example, by altering residents’ access routes/mobility, increased cost of services, services diverted to project needs)?

⁸ B.C. Environmental Assessment Office. 2020. Human and Community Well-Being: Guideline for Assessing Social, Economic, Cultural and Health Effects in Environmental Assessment in B.C. Retrieved March 23, 2025 from [hcwb_guidelines_v1_-_april_2020.pdf](#).



<p>CER Filing Manual – Infrastructure and Services</p>	<p>B.C. EAO – Infrastructure and Services⁸</p>
	<ul style="list-style-type: none"> • Which community services may be affected more acutely by project-related demands? • To what extent would direct project demands require increased spending on local or provincial infrastructure or utilities? • To what extent do local governing authorities have the capacity to respond to project engagement or other project-related requirements? • What is the shift length? Will workers be able to access community services during their off hours? • To what extent would the project and its workers add traffic to public roads? How would project incremental vehicle movements affect local road usage, safety, level of service? • To what extent would the project and its workers affect the capacity of airports and rail lines? • Are there adequate social supports in place (for example, food banks, food sharing programs) to help food-insecure individuals and families? • To what extent would the housing and accommodation capacity (for example, hotels, rentals) in the communities where the project is located and nearby areas, support the needs of temporary project workers, considering the current population, projected population growth during the project and projected visitor patterns? • How would the project affect housing and accommodation availability or affordability? Could the use of local accommodation by project workers affect the availability of rental units for community members, or cause an increase in rental prices?



CER Filing Manual – Infrastructure and Services	B.C. EAO – Infrastructure and Services⁸
	<ul style="list-style-type: none"> • To what extent do communities have adequate supports in place to address potential issues and needs related to housing affordability and availability (for example, low-income housing, homeless shelters)? • Which sub-groups within the area would be most vulnerable to adverse effects on infrastructure and services and why? How would these sub-groups experience effects differentially

Further, an IGBA+ lens needs to be applied to the assessment of all socio-economic VCs. While GBA+ is an effective tool for identifying gender inequalities and differences in how project effects may be experienced, IGBA+ ensures that assessments also consider the uneven impacts experienced by Indigenous people and communities. For example, IGBA+ may require proponents to consider how factors such as colonial policy and systemic racism, and limited access to culturally appropriate social and health supports may affect how project effects may be experienced.

LSAMCA recommends that the CER consider add a requirement about baseline socioeconomic data. Too often proponents rely on outdated or non-specific regional data that does not provide a good indication of on-the-ground realities. Obtaining good baseline information takes time and planning and must be started several years in advance of a project and must allow for iterative co-development with Indigenous (Métis) communities, municipalities, and service providers.

- **Mitigation and enhancement measures** – Socioeconomic mitigation and enhancement measures are often designed for large areas and populations i.e. regional. As a result, it is challenging for the data to show that mitigation and enhancement measures are effective at reducing adverse effects and augmenting potential benefits at site-specific levels. Mitigation and enhancement measures need to go beyond engagement, demonstrating how they may or may not be feasible.

Fully supported socioeconomic monitoring initiatives, involving representatives from Indigenous (Métis) communities, municipalities, and services providers (including health, social and policing services), can be a means of assessing the effectiveness of enhancement and mitigation measures in a timelier way, and



ensuring that feedback is not reliant on company liaison officers bringing forward information, and/or information being shared in silos. Through work on the Socioeconomic Subcommittee of the IAMC-TMX, we heard about the challenges faced by community members, local service providers, and police in addressing misalignment between realized effects and mitigation/enhancement measures, including the fear of raising concerns, the vagueness of where concerns would be raised, and the disconnect between what was brought forth to the company and what was reported in quarterly socioeconomic reports.

In addition to ensuring that site-specific socioeconomic protection measures relevant to the operations phase are maintained and implemented after construction, proponents must be required to consider the socioeconomic effects and accompanying mitigation and enhancement measures for the transition phase from construction to operation. The post-construction phase including large changes in local populations and jobs losses can have specific socioeconomic effects and opportunities that are often missed. For example, proponents should consider how to support Indigenous and local employees to leverage experience gained to access other jobs in the area.

- **Cumulative Effects** – Indigenous (Métis) communities, including LSAMCA have questioned the lack of cumulative effects evaluation as applied in the environmental assessment process. Too often proponents are indicating the mitigation measures can achieve no net loss and therefore address potential cumulative effects on valued components. LSAMCA argues that cumulative effects assessments should be required for all identified valued components to determine what the effect on that valued component might look like if other reasonably foreseeable projects were to overlap. LSAMCA and Indigenous communities have also raised that cumulative effects on the rights and interests of Indigenous (Métis) communities must start from a different baseline. As stated above, when addressing the potential impacts and effects of a pipeline project thought an ESA, there must be consideration of existing limitations on our Métis rights. The existing cumulative effects and historical context must inform the scope of the ESA and ensure necessary potential mitigation or accommodation measures. Furthermore, each Indigenous group or Métis community is entitled to be engaged in relation to the unique facts and circumstances pertinent to that respective Indigenous group or Métis community.

For the exercise of our Métis rights to be meaningful, our Métis rights must include the maintenance of our culture and identity including our way of life. A primary part of our cultural and economic activity is the carrying on our way of life based on a fundamental reliance on lands and waters within our territory and traditional patterns of land use while engaging in the meaningful pursuit of our traditional activities including hunting, trapping, fishing, gathering plants, berries and medicines, camping, processing that which was harvested, spiritual practices, and family/educational practices, including the teaching and passing



on of knowledge to younger generations of our members – our Métis rights. It is important to consider the cumulative effects to our traditional territory and lands in any ESA, this context and the current state of affairs, to gain a proper understanding of the seriousness of the potential adverse impacts to our Métis rights and interests of any proposed pipeline project when conducting an ESA.

I. Topic Paper M. FM - Rights and Interests of Indigenous Peoples

Restructuring the Filing Manual - LSAMCA is supportive of the CER's proposal of a new ESA section, "Rights and Interests of Indigenous Peoples" as this will serve to underscore the Métis rights, cultural practices, and governance structures of Métis communities. LSAMCA advises the CER to update Filing Manuals to reflect an approach to engagement and consultation which will underscore the unique needs and circumstances of each individual Métis community. LSAMCA had previously stressed that potential effects on the section 35 rights and interests of each Indigenous person or Métis community must be addressed separately. Each Indigenous group or Métis community rights-holder is entitled to engagement, consultation and potential accommodation based on the unique facts and circumstances pertinent to that Indigenous group or Métis community.⁹ CER is cautioned to understand that assessments on the section 35 rights and interests must not be generalized and must be applied to each respective Indigenous group or Métis community separately, not generally across Indigenous communities. Additionally, proponents must understand that Indigenous (Métis) rights and interests and Indigenous (Métis) Knowledge must still be considered in the ESA section across all VCs. The full application should include an IGBA+ approach as discussed above.

- **Valued components focused on the rights and interests of Indigenous people** – LSAMCA commends the CER on the initial identification of VCs on the rights and interests of Indigenous Peoples and advises that requirements need to be flexible, allowing for each Indigenous Nation/ Métis community to specify their interests (valued components). LSAM community has identified that major projects need to improve at identifying and assessing the compounding nature of effects and to enhance understanding of how Indigenous (Métis) rights and interests are interconnected. For example, effects on harvesting and subsistence activities may affect ceremonies, food sovereignty, the ability to access and harvest traditional country foods, culture and cultural continuity through changes to intergenerational knowledge transfer occurring through engagement in cultural practices such as harvesting, food preparation, ceremonies, and gatherings requiring traditional foods. As it relates to VCs

⁹ *Tsleil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153 ("Tsleil-Waututh Nation") at paras. 506, 565 and 568.



focused on the rights and interests of Indigenous Peoples and Indigenous-led assessments and studies, LSAMCA advises the CER to consider:

- requirements for applicants to work with impacted Indigenous (Métis) communities to identify their Interests (VCs), the breadth of each VC (i.e. subcomponents important to be assessed) as well as culturally appropriate indicators and methods to collect data on the impacts to those socioeconomic indicators.
- requirements for the CER and applicants must collaborate with Indigenous (Métis) communities to determine how their Indigenous (Métis) Knowledge is shared, used, and protected.
- requirements for the CER and applicants to recognize that meaningful and effective collaboration with Indigenous (Métis) communities necessitates sufficient time and resources for preparation and iterative in-depth discussions.

It is possible that some VCs will be assessed in both sections (i.e. the ESA and the Rights and Interests of Indigenous Peoples sections) but from different lenses. The ESA section will be assessing the socioeconomic effects potentially experienced by people, including people in surrounding communities, workers, and worker families. It is critical that proponents apply an IGBA+ lens to this assessment to understand how individuals and groups may experience effects differently. In contrast, the Rights and Interests of Indigenous People section will focus specifically on assessing the effects on the rights and interests of Indigenous (Métis) communities and people, using an approach applied to each respective Indigenous group or Métis community (each rights-holder) separately.

LSAMCA have previously stressed that obtaining good baseline information takes time and planning and should be started several years in advance of a project to ensure sufficient data for an accurate baseline. Indigenous (Métis) communities and groups should be involved in the design, implementation, analysis and interpretation, and reporting of baseline conditions. If an Indigenous (Métis) community or group does not wish to participate in the development of baseline conditions, proponents relying on publicly available information should carefully assess the credibility of such sources. All sources used should be approved by Indigenous (Métis) communities.

- **Integrating the applicant's assessment and Indigenous-led assessments and studies** – CER must provide provisions for Indigenous (Métis) communities to complete Indigenous-led assessments and Indigenous-led studies that can form part of an assessment. Indigenous (Métis) communities should be supported to complete studies to inform all their interest areas (VCs). LSAMCA understands that proponents/regulators are often concerned that Indigenous-led



assessments and studies may not align with timelines and time limits. From experience, LSAMCA members have shared that often projects are in development and studies are being completed several years in advance of entering the CER's legislative time limits. Proponents and regulators need to engage with Indigenous (Métis) communities much earlier and support Indigenous (Métis) communities to undergo studies and assessments that can support project-level as well as strategic assessments.

- **Clarifying the CER's guidance for monitoring and oversight by Indigenous Peoples** - Impacted Indigenous (Métis) communities are best placed to document, monitor, adaptively manage, and report on protection and enhancement measures in their territory. The CER and applicants must collaborate with impacted Indigenous (Métis) communities to develop comprehensive tracking and monitoring systems for VCs/Interests. A significant gap currently exists in the tracking of Indigenous (Métis)-focused data, including the specific impacts of projects on Indigenous (Métis) communities and individuals. Without such critical data, it becomes challenging to assess the true extent of impacts for Indigenous (Métis) peoples and to enforce accountability. The absence of a clear requirement to track these metrics and share them with Indigenous (Métis) communities fosters an environment where concerns can be raised but seldom addressed effectively, leaving Indigenous (Métis) communities without meaningful recourse.
- Indigenous-driven strategies for monitoring effects and measuring compliance would enhance transparency, ensuring that commitments to safety, environmental stewardship, and socio-economic well-being are upheld in a manner that fosters respect for Indigenous rights and values. Such a system should be co-designed with Indigenous (Métis) communities, integrating culturally relevant metrics and timely reporting. LSAMCA also advises the CER to incorporate requirements for proponents to complete a post-construction assessment. This would provide critical insights into how a project has impacted the rights and interests of Indigenous (Métis) communities and hold proponents to account for their assessments. This follow-up must be guided by affected Indigenous (Métis) communities and Indigenous (Métis) Knowledge, to ensure a holistic and place-based assessment.

LSAMCA puts CER on notice that it requires consultation with respect to its section 35 Métis rights in relation to any proposed Onshore Pipeline Regulations and the Environmental and Socio-economic assessment and lands portion of the Filing Manual. Although there is no requirement to consult regarding the enactment of legislation, there is a requirement to consult with respect to subordinate legislation (such as regulations or rules) and policies.¹⁰ The OPR and policies in the FM and their

¹⁰ *Mikisew Cree First Nation v Canada (Governor General in Council)*, 2018 SCC 40 at para. 51.



content are high-level management or structural changes under the CER Act which are strategic, higher-level decisions which require consultation¹¹ with LSAMCA because of our credibly asserted section 35 Métis rights. Each Indigenous group or Métis community is entitled to consultation and potential accommodation based on the unique facts and circumstances pertinent to that respective Indigenous group or Métis community.¹²

In closing, we wish to thank you for the opportunity to provide feedback and invite you to reach out if there are any questions regarding our submissions. We look forward to further opportunities for engagement and direct consultation with CER representatives, including to discuss the OPR and Filing Manual reviews to better address the current and future needs of our Métis community. By considering and incorporating the feedback shared from LSAMCA, the CER can build trust and create a regulatory environment where Métis interests are meaningfully represented and respected in Canada's energy landscape.

Yours truly,

[Redacted signature block]

[Redacted contact information]

cc: [Redacted distribution list]

¹¹ *Rio Tinto Alcan Inc. v Carrier Sekani Tribal Council*, 2010 SCC 43 at paras. 43, 44 and 47.

¹² *Tseil-Waututh Nation* at paras. 506, 565 and 568.

