



O'Chiese First Nation

March 18, 2025

Onshore Pipeline Regulations Review Team
Canadian Energy Regulator
210-517 10 Ave SW
Calgary AB. T2R 0A8

Sent via email: [REDACTED]

Re: O'Chiese First Nation Phase 2 Review of the Canadian Energy Regulator's *Onshore Pipeline Regulations*.

This letter is sent on behalf of O'Chiese First Nation's Chief and Council. The Chief and Council of O'Chiese First Nation have the elected authority and responsibility to protect the Inherent and Treaty rights of the over 1,500 O'Chiese First Nation members. The Inherent and Treaty rights of O'Chiese First Nation are recognized by Treaty No. 6, protected by Section 35 of the *Constitution Act, 1982*, and guided by *Kaa-Ke-Chi-Ko-Moo-Nan*.

O'Chiese First Nation is bound by *Kaa-Ke-Chi-Ko-Moo-Nan*, O'Chiese First Nation's Great Binding Law ("Natural Laws"). As such, O'Chiese First Nation operates under its own distinct set of legal principles and laws that have been in place since time immemorial. Our Natural Laws are the foundation for O'Chiese First Nation Peoples and our Inherent and Treaty rights.

O'Chiese First Nation has been with the Canadian Energy Regulator's ("CER") review of its Onshore Pipeline Regulations ("OPR") since Phase 1 was initiated in 2022. We provide this submission as part of our ongoing participation and in response to Phase 2 of the OPR review.

O'Chiese First Nation has carefully reviewed the 15 OPR Topic Papers ("Topic Papers"). From there, we identified our responses including critical gaps, concerns, and unresolved questions to be addressed by the CER within the revised edition of the OPR and before finalizing any regulatory amendments. A table with our comments is attached below.

It has been important for O'Chiese First Nation to participate in this review to advocate for proper consideration of Inherent and Treaty rights within CER processes.

Past and current regulatory frameworks have not been set up to wholly address cumulative effects, including environmental disturbance and infringements on Inherent and Treaty rights. This has resulted in a great deal of historic and ongoing activity on the lands that have created under-addressed and unaccommodated violations to both O'Chiese First Nation's rights and to the environment. It is our position that pipeline development should not occur without explicit and

meaningful consideration and protection of Inherent and Treaty rights or without identification of fulsome, direct and proportional accommodation measures for all impacts to rights not avoided.

In addition to the provided response table, we offer the following overarching comments and concerns related to the OPR and the Topic Papers.

1. Inherent and Treaty Rights

O'Chiese First Nation holds Inherent and Treaty rights on all unoccupied Crown lands¹ and all other lands to which there is a right of access throughout Treaty 6 and the province of Alberta. Any human activity that legally converts unoccupied Crown lands to occupied², or creates disturbances (digging and clearing, noise, air pollution and dust, fences and signs, etc.) diminishes O'Chiese First Nation's ability to exercise our Inherent and Treaty rights in accordance with our Natural Laws and as we have always done.

Currently, the OPR lacks explicit requirements and considerations related to Inherent and Treaty rights. This is a notable gap that must be intentionally addressed in any future iterations of the OPR.

The CER points to the OPR as the enforceable standards that proponents and projects must meet. Other CER supporting documents include direction on consultation and the protection of Indigenous rights and interests, but these guiding documents do not hold the same weight or enforceability as CER legislation and the related OPR do.

The OPR needs to contain specific, binding requirements that ensure that Inherent and Treaty rights are prioritized and properly considered and protected throughout all project phases. Further, the OPR should explicitly outline how Inherent and Treaty rights are to be considered and protected and mandate the provision of direct and proportional accommodation for any identified impacts to rights.

2. Consultation

The OPR needs to include detailed and explicit requirements to ensure that consultation is being conducted meaningfully with Nations throughout a pipeline's lifecycle. It is critical that consultation processes are strengthened to prevent violations to rights and ensure appropriate accommodations are identified. The OPR must lay out clear standards for consultation, including mandatory provision of capacity funding (by the regulator and the proponent), more reasonable timelines, information sharing, and active CER oversight.

It is O'Chiese First Nation's experience that proponents will often fulfill the minimum requirements set by regulators and they are not willing to extend themselves or go too far beyond what is set in regulatory guiding documents. Some proponents may even treat consultation as a check box exercise and give no real consideration to information shared by Indigenous nations. We have also seen instances where proponents conflate consultation-

¹ May also be referred to as Vacant Public Lands.

² Meaning that there is a legal land disposition, lease, or other type of legal authority granted to a proponent over an area of Crown land.

related capacity funding or activities such as site visits with accommodation for impacts to rights. Given this, we feel that it is extremely important for the CER to include clear definitions on consultation and set higher duty to consult standards and expectations, especially as they related to the delegated aspects of consultation.

We also find that the OPR needs to include specifics on enforceability and oversight related to consultation processes. There have been occasions where O'Chiese First Nation has brought forward concerns regarding a proponent's approach to consultation, only to be told by the regulator that it could not step in or require the proponent to change. The CER must play a more active role in overseeing consultation and Indigenous participation programs. The OPR should include greater oversight and intervention provisions along with accountability and enforcement mechanisms to support meaningful consultation.

To ensure fair and meaningful engagement, the OPR must include provisions for both adequate capacity funding and extended timelines, allowing Nations to fully participate and provide the necessary information for project assessments. We are too often inundated with consultation requests and facing capacity and resourcing constraints. This combination creates significant barriers to participation.

Currently, Nations do not receive core consultation capacity funding from the Federal Government or related regulatory bodies. Additionally, the CER does not offer project-specific capacity funding until a project application is filed and only if hearing is called. Proponents are responsible for early engagement and other delegated consultation activities. As such, Nations must look to proponents to provide consultation capacity to support engagement occurring outside, or alongside, regulatory steps. However, proponents are under no obligation to provide any level of capacity funding. This often puts Nations in the inequitable position of having to choose between absorbing the financial burden or being excluded from decision-making entirely.

Further, unrealistic consultation timelines further limit Indigenous participation. When regulatory deadlines are too restrictive, communities may be unable to respond on time adequately, and their lack of immediate input is often misinterpreted as non-objection. This fails to uphold the integrity of the consultation process.

3. Cumulative Effects

The OPR needs to include specific provisions and considerations to directly consider cumulative effects to the environment and to Inherent and Treaty rights. Cumulative effects assessments are essential for understanding how individual disturbances interact and collectively alter ecosystems, landscapes, and the ability of Indigenous Peoples to exercise their rights. Without considering Treaty obligations, cumulative effects, and lands taken up thresholds, proponents and regulators cannot adequately assess, eliminate, mitigate, or offset violations to Inherent and Treaty rights.

The *Yahey (Blueberry River First Nations) v. British Columbia* 2021 BCSC 1287 decision affirmed that governments cannot take up so much land that it prevents the meaningful exercise of Aboriginal and Treaty rights. However, the current regulatory system does not adequately address this issue. By limiting assessments to individual project impacts, often

classifying them as 'negligible' or 'insignificant,' the broader loss of access and land-based rights remains unrecognized.

Current regulatory processes are project-by-project focused and fail to properly consider the projects contribution to existing conditions on the lands and cumulative effects. Each project approval results in a progressive loss of land access, yet regulatory frameworks do not measure whether Indigenous Peoples retain the ability to meaningfully hunt, fish, and trap post-development. This critical information gap must be addressed by incorporating cumulative effects considerations and ensuring that regulatory decisions are made with a full understanding of how lands taken up for development impact Treaty rights in a collective and ongoing manner.

While the CER may not directly control provincial land use planning and management that overlap with the pipeline projects it regulates, there still must be awareness and intentional consideration of land conditions and cumulative effects. The decisions made by the CER and the projects it regulates have direct and lasting consequences on both the land and the exercise of Indigenous rights. The CER must take proactive steps to assess the broader landscape in which its decisions are made and incorporate cumulative impact considerations into regulatory approvals and oversight, including within the OPR.

4. Indigenous Knowledge

The updated OPR must establish clear requirements for the recognition, protection, and application of Indigenous Knowledge in all aspects of pipeline regulation, including assessment, monitoring, and enforcement. While the Topic Papers reference the importance of addressing cultural bias and request feedback on how Indigenous Knowledge can inform the regulatory process, they fail to provide concrete measures ensuring that Indigenous Knowledge is given appropriate weight in decision-making, particularly in the evaluation of project applications.

Currently, Western (colonial) scientific approaches and knowledge are given greater weight and legitimacy over Indigenous Knowledge within regulatory process and impact assessments. This is a notable gap born of internalized bias and systemic colonialism, preventing fulsome decision making by regulators.

Indigenous Peoples hold invaluable knowledge developed through generations of lived experience and stewardship of the land. This knowledge is fundamental and should be recognized and treated as such.

To ensure that Indigenous Knowledge is meaningfully incorporated into regulatory processes, the OPR must include binding provisions that not only guarantee capacity funding for Nations to collect and apply Indigenous Knowledge, but also require that proponents and regulators consider explicitly identify how it equally considered and acted upon Indigenous Knowledge in equal or greater measure to findings using western science approaches.

It is our expectation that the CER will review our provided responses, in conjunction with comments previously provided in Phase 1, and utilize this information within the revised OPR and

any related regulatory amendments or materials. If any information provided by O'Chiese First Nation is not included or considered, we will expect the CER to provide us with rationale for exclusion.

Sincerely,

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O'Chiese First Nation

QUESTIONS	O'CHIESE FIRST NATION RESPONSES
A. OPR – Damage Prevention	
<i>O'Chiese First Nation elected not to respond to these questions as they were determined to be technical questions intended for proponents.</i>	
B. OPR – Deactivation and End of Lifecycle	
<p>B8. Do you have feedback on how Indigenous Peoples can be involved in the monitoring of decommissioned and abandoned pipelines?</p>	<p>We note that decommissioning and abandonment activities may re-disturb lands and resources and exacerbate or create new impacts to Inherent and Treaty rights that will need to be properly identified and directly and proportionately accommodated for. Monitoring is not a replacement for meaningful consultation and fulfillment of the duty to consult and accommodate.</p> <p>It is important that the CER does not use involvement of Nations in programs such as monitoring programs to avoid accommodating violations to Inherent and Treaty rights. While monitoring and other Indigenous participation opportunities can be positive if done meaningfully, O'Chiese First Nation has also seen these programs be used as performative exercises to deflect away from considering and accommodating violations to Inherent and Treaty rights. We also have experience with Indigenous participation opportunities being seen as a 'check box exercise' with little-to-no real influence over how activities are carried out, or whether Inherent and Treaty rights are protected from further violations. The OPR needs to provide specific details on the purpose of Indigenous participation activities and the obligations and responsibilities of companies and the CER to consider and act upon information shared by Nations in these activities.</p> <p>There should also be greater oversight by the CER over these inclusion activities. Company-led program provides greater space for companies to disregard or gloss over issues or impacts identified by Nations. In O'Chiese First Nation's experience, companies prioritize meeting minimum requirements and constructing and operating their pipelines to secure maximum revenues. As such, delays or additional steps that accompany addressing any issues or impacts identified by Indigenous monitors are not desirable. Involvement of the CER in these programs would add a higher level of accountability to companies to follow-through on addressing issues and impacts raised within Indigenous programs, such as monitoring programs.</p> <p>In addition, the OPR must include requirements for sufficient time and capacity to support Indigenous Peoples in participating in monitoring and decommissioning activities. It must also ensure that the knowledge and feedback received from Indigenous Peoples consulted in these processes are meaningfully incorporated into monitoring and decommissioning activities and related decision-making.</p>
C. OPR – Emergency Management	
<p>C8. What is your feedback on clarifying the CER's requirements within the OPR regarding the Involvement of Indigenous Peoples in a company's EM Program?</p>	<p>O'Chiese First Nation generally supports the requirement for inclusion of Indigenous Peoples in Emergency Management (EM) programs.</p> <p>At the heart of any inclusion in oversight should be the objective of protecting Inherent and Treaty rights. Some opportunities for increased involvement of Nations in oversight activities could</p>

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	<p>include more explicit requirements for involvement of Nations in works such as environmental protection planning, monitoring, and emergency response. To support increased participation in these types of works, there should be an increase in training provided to Nations, and formation of IAMC's on a greater number of projects, or overarching IAMC-style programs pertaining to larger pipeline systems regulated under the CER.</p> <p>Further, requirements around the inclusion of impacted Nations in risk management must be explicitly outlined. This includes how Nations will be involved in project and long-term monitoring, and the role of Nations in emergency response.</p> <p>We also note that EM programs should not only include Nations who have Reserve lands in the vicinity of the incident, but also Nations whose members may be exercising the Inherent and Treaty rights nearby.</p> <p>In addition, the OPR must ensure that EM programs include materials translated into each Nation's language to ensure that language barriers do not compromise the safety of Nation members. This translation must be done in partnership with each Nation.</p> <p>Like our response to B8, O'Chiese First Nation notes that sufficient time and capacity is required to support participation in EM.</p>
D. OPR – Environmental Protection	
<p>D4. What is your feedback on establishing restoration goals in consultation with potentially impacted parties?</p>	<p>O'Chiese First Nation supports the need for consultation with impacted Indigenous communities when establishing restoration goals, ensuring that their perspectives and concerns are meaningfully incorporated into decision-making.</p> <p>Additionally, requirements around reclamation should be more stringent than they currently are. At present, reclamation requirements have allowed for companies to abandon sites of oil and gas development, claiming bankruptcy in order to avoid having to clean up and reclaim abandoned sites. This is of large concern to O'Chiese First Nation, as sites that are not reclaimed cannot be used for the practice of Inherent and Treaty rights. The Nation does not want to see never-ending patches of un-reclaimed or deficiently reclaimed lands that do not support the exercise of Inherent and Treaty rights in accordance with Natural Laws.</p> <p>We note that perspective on what is adequate restoration efforts may differ between Nations, proponents, and regulators. Once disturbed, lands and resource never fully return to what they once were. Moreover, restoration can create new impacts on the rights and interests of Indigenous Peoples, that will need to be identified and accommodated through meaningful consultation.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden</p>

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<p>D5. What does involvement by Indigenous Peoples in monitoring over the lifecycle of the pipeline look like to you? Please provide any applicable examples or best practices.</p>	<p>of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p> <p>See response to question B8.</p> <p>Monitoring and other involvement activities can be very important and positive if they are done meaningfully. Unfortunately, they are often not set up to support actionable intervention or change.</p> <p>Indigenous involvement in oversight and ongoing pipeline activities, should be set up to support ongoing information sharing, consideration to Nations' rights and interests, and prevention of additional impacts to rights before they occur. This requires actions such as site visits throughout the project's lifecycle, and that the findings and observations acquired during these visits be meaningfully addressed by the proponent and the regulator. If they are not, then the involvement of Indigenous Peoples in monitoring programs becomes performative.</p> <p>It also needs to be underscored that participation in monitoring is not direct or proportional accommodation for project violations to Inherent and Treaty rights.</p> <p>Meaningful Indigenous involvement in the monitoring process also requires that Indigenous Peoples are immediately notified of any changes, incidents, or deviation from normal operations to ensure the safety of communities. This will also allow communities to make informed decisions on whether they wish to conduct a follow-up site visit to monitor for damages and impacts firsthand after such incidents.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>D6. In the context of the CER's expectations of regulated companies, how could more independent monitoring and reporting by Indigenous Peoples be effectively and safely achieved? What challenges might be involved? Please provide any applicable examples or best practices.</p>	<p>See response to D5 above.</p> <p>Findings, information, observations, recommendations, or other factors derived from these activities must be meaningfully addressed by proponents and regulators. If they are not, then the involvement of Indigenous Peoples in monitoring programs is performative. All safety measures and protocols for Indigenous Peoples when conducting these activities must be clearly outlined and adhered to by proponents and anyone conducting these visits.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>

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<p>D7. Would the proposed processes in Subtopic 1 of the Rights and Interests, Socio-Economic Effects, and Engagement Topic Paper help ensure that Indigenous Peoples are included in the development and implementation of environmental monitoring activities, or are additional requirements or guidance required specific to monitoring?</p>	<p>See responses to D4-6, as well as those under Section I.</p>
<p>D10. Would the proposed requirements in Subtopics 1 and 3 of the Rights and Interests, Socioeconomic Effects and Engagement Topic Paper help ensure that EP Plans and the Environmental Protection Programs incorporate measures to prevent and address impacts to the Rights and Interests of Indigenous Peoples?</p>	<p>See responses under D4-6, as well as those under Section I.</p>
<p>E. OPR – Human and Organizational Factors</p>	
<p>E10. The CER would like to better understand the concerns related to the possibility of inherent cultural bias within the HOF discipline and its implementation. Please describe and share examples of how the HOF principles and/or performance influencing factors may be impacted by cultural bias(es). Please also describe how Indigenous knowledge could inform the implementation of HOF within pipeline companies.</p>	<p>Based on the context of this section, O'Chiese First Nation understands that the proposed OPR changes related to HOF are primarily directed at proponents and companies. While these measures are necessary, it is important to recognize that paternalistic and Eurocentric biases are not limited to industry; regulators and regulatory systems also reflect these biases.</p> <p>One example of this is the tendency for government processes to treat Nations as homogeneous, rather than acknowledging that each Nation has its own distinct history, governance structures, customs, languages, and priorities. The expectation that a one-size-fits-all approach can be applied to the “rights and interests of Indigenous Peoples” makes it difficult for communities to effectively engage with the regulatory system.</p> <p>Additionally, when assessing impacts on Indigenous rights and interests, both proponents and regulators frequently fail to recognize concerns that do not align with Western values or scientific frameworks. For example, the legal conversion of unoccupied Crown lands to occupied lands and cumulative effects on traditional territories are often dismissed or diminished, despite their significance to Indigenous communities.</p> <p>Another major concern is the persistent undervaluing of Indigenous Knowledge in regulatory processes. Indigenous-led studies and assessments are often treated as less credible or authoritative than Western scientific studies, reinforcing a systemic bias that marginalizes Indigenous perspectives. This imbalance further extends to how proponents and regulators</p>

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	<p>perceive Indigenous sovereignty, often failing to recognize First Nations as self-governing nations with distinct leadership and decision-making structures.</p> <p>To address these biases, the regulatory framework must actively integrate Indigenous perspectives, ensure equitable treatment of Indigenous Knowledge, and move away from generalized approaches that overlook the diversity of First Nations</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>F. OPR – Management Systems and Contractor Management</p>	
<p><i>O'Chiese First Nation elected not to respond to these questions as they were determined to be questions specific to contractors and proponent management systems.</i></p>	
<p>G. OPR – Pipeline Integrity</p>	
<p>Summary Response to all G discussion questions.</p>	<p>O'Chiese First Nation supports the expansion of definitions within the OPR to encompass a broader range of pipeline types that are not currently covered under existing regulations. However, O'Chiese First Nation strongly opposes any narrowing or removal of definitions that would result in previously regulated projects being excluded from the updated framework.</p> <p>Additionally, O'Chiese First Nation supports the inclusion of enhanced risk and safety assessments, particularly in cases where new technologies are introduced without established regulatory standards or where independent reviews and publicly available assessments are lacking. However, it is essential that existing risk and safety requirements remain intact, and O'Chiese First Nation does not support any weakening or removal of these critical safeguards.</p> <p>Regarding project review periods, O'Chiese First Nation is in favour of extending review timelines to allow all affected parties to conduct a thorough and informed evaluation of project information. Conversely, any attempt to shorten review periods would be strongly opposed, as it would limit the ability of Nations and other stakeholders to meaningfully assess and respond to proposed projects.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>H. OPR – Reporting Harm</p>	
<p>H3. What instructions or decision-making tools (e.g., risk matrix, checklist, decision tree) are most useful for regulated</p>	<p>Pipelines and oil facilities already pose significant risks to the biophysical environment and nearby communities, including many Indigenous communities, even when operating as expected. When unexpected, irregular, or undesired events occur within these projects, they</p>

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<p>companies to make a timely assessment of whether an occurrence requires immediate notification to the CER?</p>	<p>must be immediately reported to the CER. Additionally, Nations with neighboring Reserve lands, as well as those whose members may be exercising their Aboriginal and Treaty rights in the area, must be notified without delay.</p> <p>The time taken by proponents to detect, assess, discuss, and report an irregular occurrence can allow harmful substances—such as chemicals or pollutants—to enter the environment, air, or water systems, creating immediate risks for nearby communities. Indigenous Peoples, who often rely on the land and resources surrounding these projects, may experience serious health, environmental, and cultural consequences before an issue is even acknowledged. Determining whether an occurrence qualifies as a reportable incident should never come at the cost of environmental and public safety, and any failure to report such occurrences must result in penalties.</p> <p>Furthermore, Indigenous communities are disproportionately affected by failures in pipeline and oil infrastructure. Even in cases where a failure does not cause immediate, visible harm to a Reserve or settlement, any damage to land, water, air, or wildlife has lasting impacts on Indigenous Peoples. These impacts extend beyond physical survival to the survival of cultural rights, values, language, and traditional practices, all of which are deeply interconnected with the health of the natural environment.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>H4. Describe industry best-practices that can improve how the CER approaches incident reporting in relation to adverse environmental effects or the potential for adverse environmental effects.</p>	<p>See response to H3.</p>
<p>H5. Describe occurrences, other than chemical releases, that may have adverse environmental effects for which the CER needs to be immediately notified.</p>	<p>See response to H3.</p>
<p>H6. There are occurrences that may result in an adverse environmental effect and may not be considered an incident as defined in the OPR. Depending on their severity, they could be submitted to the CER as a new notification type with an extended timeline</p>	<p>See response to H3.</p> <p>Determining whether an occurrence or failure is considered “small” or “insignificant” is inherently subjective, and failing to document minor irregularities can create blind spots in assessing long-term risks. O'Chiese First Nation maintains that all irregular, unexpected, and undesired occurrences should be reported, documented, and incorporated into trend analyses of company performance. These analyses must be mandatory for submission with project applications and</p>

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<p>and used to assess company performance or trend analysis. What occurrences do you think the CER needs to be notified of?</p>	<p>should also be shared with potentially impacted Nations during consultation to ensure transparency.</p> <p>Additionally, incidents must not be treated as isolated events but rather evaluated within broader patterns. Repeated occurrences—whether within a single project, across multiple projects by the same proponent, or within an industry as a whole—can indicate deficiencies in operations, monitoring, compliance, equipment, or design. Without comprehensive reporting, early warning signs of systemic issues may be overlooked, increasing the likelihood of larger, more catastrophic failures in the future.</p> <p>Restricting reporting to only those occurrences deemed “significant” results in an incomplete picture of project risks, particularly for Indigenous communities, who are often among the most directly affected by industrial failures. Without access to detailed incident records, Nations are unable to fully assess the reliability of a proponent’s operations, making it more difficult to evaluate the risks of proposed projects, especially when certain companies have a history of repeated failures.</p> <p>A complete and transparent record of a proponent’s incidents would provide Nations with critical data to validate concerns about project risks. Project information packages often present an overly optimistic view of safety by emphasizing the rarity of malfunctions or failures, which can lead to legitimate concerns being dismissed. Ensuring that all irregularities are documented and disclosed would help strengthen the integrity of project assessments and improve confidence in regulatory oversight.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>H7. What do the terms “loss of operational view or operational control of a pipeline” mean to you?</p>	<p>O'Chiese First Nation understands that a “loss of operational view or operational control” of a pipeline refers to situations where a proponent is no longer able to actively monitor or manage their pipeline. This may occur due to regulatory actions (e.g., suspension or revocation of a license), technical failures (e.g., computer or equipment malfunctions, cyber-attacks), or other circumstances (e.g., a company dissolving while its pipeline remains operational).</p>
<p>H8. How should notification and reporting be treated in relation to such events?</p>	<p>The CER must be notified immediately of any instance where a pipeline experiences a loss of operational view or control. Additionally, nearby communities should be informed without delay if a pipeline in their vicinity is affected. Beyond just notification, the CER should provide impacted communities with key details, including the expected duration of the issue and the specific measures being taken by the CER and/or the proponent to protect public health, ensure safety, and mitigate environmental impacts.</p>

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	<p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>I. OPR – Rights of Indigenous Peoples, Socio-Economic Effects and Engagement</p>	
<p>I1. What is your feedback on the CER's objectives for improvement? Are these the right objectives, or are there others the CER should consider?</p>	<p>While O'Chiese First Nation supports the goal of ensuring that companies establish clear processes to address impacts on Indigenous rights and interests, it is essential to recognize that proponents themselves do not have the authority or ability to determine these impacts on behalf of Nations. Indigenous communities are not homogeneous. Each Nation has its own distinct culture, traditions, values, and governance structures, meaning that the effects of a project will vary from one Nation to another. As a result, impacts cannot be assumed to be uniform or predictable across different Indigenous groups.</p> <p>To truly meet these objectives, the CER must strengthen regulatory requirements for proponents to engage with Nations at all stages of a project. This includes implementing stronger compliance measures, increasing accountability to Indigenous Peoples, and ensuring that project impacts identified by Nations are meaningfully acknowledged and addressed.</p> <p>Furthermore, if the CER aims to improve how it recognizes and mitigates impacts on Indigenous communities, it must expand the way impacts are assessed. Currently, impacts are evaluated on a project-by-project basis, which fails to account for the cumulative effects of multiple projects over time. Without integrating cumulative impact assessments into regulatory decision-making, there will continue to be significant gaps in both impact evaluation and mitigation efforts.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>I2. What is your feedback on the following proposed options to meet the regulatory objectives?</p> <ul style="list-style-type: none"> • a new protection program to prevent and address impacts to the rights and interests of Indigenous Peoples; • a new management system process for the incorporation of Indigenous knowledge; • a new management system process for the identification and 	<p>As noted in our response to question I1, while there is general support for the development of a protection program aimed at preventing and addressing impacts on Indigenous rights and interests, it is essential to recognize that only Nations themselves are qualified to identify these impacts. A standardized or one-size-fits-all approach cannot be applied, as each Nation has distinct laws, policies, practices, and governance structures, and the effects of a project will vary based on the specific circumstances of the Nation and the project itself.</p> <p>Additionally, Indigenous laws, policies, and protocols must be acknowledged and respected on a Nation-by-Nation basis rather than treated as uniform across all Indigenous communities. Any protection program developed must prioritize direct engagement with affected Nations to ensure that their unique rights and interests are accurately identified and safeguarded.</p>

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<p>incorporation of Indigenous laws, policies, practices and protocols;</p> <ul style="list-style-type: none"> • cultural competency training requirements for all those working for regulated companies; • additional requirements where necessary. 	<p>Any protection program must include provisions for the meaningful consideration and mitigation of cumulative effects to Inherent and Treaty rights. Cumulative effects have been allowed to occur entirely unmitigated and unregulated. Projects are viewed on a project-by-project basis, which does not allow for cumulative effects to be understood and addressed. Nations are limited to identifying impacts from present actions, with no consideration to past or future potential impacts. This results in an incomplete understanding of impacts to the rights and interests of Indigenous Peoples.</p> <p>The CER's current regulatory process, including review, approval, and oversight of pipeline projects does not explicitly consider cumulative effects, including current levels of violations to rights (such as disturbance levels and amount of lands taken up). With every new piece of land taken up and disturbed by pipeline and other development activities, O'Chiese First Nation members' ability to exercise their Inherent and Treaty rights are further diminished and the Crown is at risk for infringement.</p> <p>O'Chiese First Nation supports the inclusion of provisions that protect and integrate Indigenous Knowledge into regulatory processes. However, it is equally important to ensure that Indigenous Knowledge is given the same legitimacy and weight as Western science. In practice, Western scientific frameworks are often treated as absolute, while Indigenous Knowledge is overlooked or dismissed when it does not align with dominant regulatory perspectives. Meaningful protection of Indigenous Knowledge must go beyond acknowledgment—it requires a fundamental shift in how it is valued and applied in decision-making.</p> <p>Additionally, O'Chiese First Nation supports the implementation of cultural competency training for regulated companies, their contractors, and all CER staff members. However, such training must avoid promoting a generalized or pan-Indigenous perspective. In addition to general cultural competency education, individuals working on Indigenous lands must take responsibility for learning about the specific Nations they are engaging with, including their governance structures, customs, and cultural protocols. Furthermore, those in leadership roles must ensure that staff adhere to this training and demonstrate respect for Indigenous Peoples and their lands.</p> <p>To further promote equity and accountability, anti-racism training should also be a mandatory requirement for regulated companies, contractors, and CER staff. This will help address systemic biases and ensure that Indigenous Peoples are treated with fairness and respect throughout regulatory processes.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>

QUESTIONS	O'CHIESE FIRST NATION RESPONSES
<p>13. Do you have any feedback on how these can be implemented by companies and how compliance can be verified by the CER (e.g., potential oversight activities, assessment criteria, performance measures)?</p>	<p>Involvement of Indigenous Peoples is necessary to ensure compliance, as proponents and regulators are not qualified to accurately identify impacts to Indigenous Peoples or verify the effectiveness of the associated measures. This would require substantial participation that would require sufficient time and capacity to ensure meaningful participation.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>14. Are there any potential challenges associated with these proposals? What are they? How can they be addressed?</p>	<p>It has been O'Chiese First Nation's experience that proponents and regulators view meaningful engagement with Indigenous Peoples as a hindrance or inconvenience, as they are time consuming and costly, often aiming to rush project approval without proper diligence or in the most cost-effective way possible, even when this results in incomplete or inadequate consultation.</p> <p>Further, O'Chiese First Nation notes that Indigenous Knowledge, rights and interests often challenge industry interests, resulting in them being overlooked or ignored by proponents and regulators.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>15. What kind of guidance would be helpful to enhance your understanding of CER expectations related to new requirements to prevent and address impacts to the rights and interests of Indigenous Peoples?</p>	<p>These requirements and guidance documents must contain clear and specific language to leave less room for interpretation or misunderstanding. Policies pertaining to Indigenous rights and interests often use unclear, ambiguous, or non-committal language that leads to confusion or deliberate misinterpretation to serve industry or regulator interests. When this occurs, without clear and specific language, it is difficult for Indigenous Peoples to rely on these documents to support the protection of their rights or to hold proponents or regulators accountable when their rights and interests have been impacted.</p>
<p>16. Do you have feedback on how specific localized knowledge, as well as Indigenous laws, policies, practices, protocols, and knowledge could be incorporated into the OPR? Are there other options or proposals that the CER should consider? Are there any particular challenges associated with implementing or verifying compliance to</p>	<p>Given that the scope of the OPR applies federally, spanning a vast geographic area, introducing specific knowledge, laws, protocols, policies and practices pertaining to Indigenous Peoples would prove difficult as these vary significantly between groups. The OPR must include provisions that allow each group to identify and incorporate their own unique systems, knowledge and values into the process, without being so vague that it allows proponents or regulators to misinterpret or work around their obligations.</p> <p>Any requests or actions that require Indigenous participation should be accompanied by provision of sufficient capacity to facilitate participation. Nations should not be required to carry the burden</p>

QUESTIONS	O'CHIESE FIRST NATION RESPONSES
<p>new requirements? How can these be addressed?</p>	<p>of costs for any projects or related activities that are imposed on them and will result in violations to Inherent and Treaty rights.</p>
<p>17. What is your feedback on the CER's objectives for improvement? Are these the right objectives, or are there others the CER should consider?</p>	<p>While these objectives are vague, O'Chiese First Nation supports the requirement of proponents to identify, anticipate, manage and address socio-economic effects from their projects throughout their lifecycles. The CER should also take a more active role in the identification, protection and monitoring of socio-economic effects in the projects it regulates.</p>
<p>18. What is your feedback on the following proposed options to meet the regulatory objectives?</p> <ul style="list-style-type: none"> • a new protection program for the management of socio-economic effects; • expansion of the existing Environment Protection Program to include the management of socio-economic effects. 	<p>As noted in our response to question 17, these proposed options are vague, and it is unclear what actual changes this entail. It is our understanding, based on the Topic Paper, that the addition of the "new" protection program would be based on the same expectations for existing programs under the OPR. Please explain how these changes differ from existing protections.</p> <p>O'Chiese First Nation cannot provide specific feedback as it is unclear from the Topic Paper what the "expansions" to the existing Environmental Protection Program would entail, but generally supports the expansion of these protection programs, provided they do not entail the removal or diminishment of existing provisions.</p> <p>Current provisions in the OPR related to the identification, assessment, and management of socio-economic effects from development are insufficient. Without significant improvements to these provisions in the updated OPR, they will continue to be inadequate.</p>
<p>19. Do you have any feedback on how these can be implemented by companies and how compliance can be verified by the CER (e.g., potential oversight activities, assessment criteria, performance measures)?</p>	<p>The OPR needs greater accountability, monitoring, and oversight over the assessment and management of socio-economic effects. These effects must be assessed and managed throughout each project phase. O'Chiese First Nation has observed an over-reliance on the honesty and transparency of proponents regarding negative impacts of development, including those related to socio-economic effects, indicating that the OPR must contain stricter provisions, requirements and oversight that enhance accountability.</p>
<p>110. Are there any potential challenges associated with these proposals? What are they? How can they be addressed?</p>	<p>See reply to I9 above.</p> <p>O'Chiese First Nation has observed that proponents will misrepresent or downplay the socio-economic effects of their project when it risks placing additional responsibilities, obligations or requirements on companies or their projects. Unless stricter provisions and requirements are introduced in the updated OPR, proponents will continue to cut corners and avoid accountability which will perpetuate the same problems that exist in the current OPR.</p>
<p>111. What kind of guidance would be helpful to enhance your understanding of CER expectations related to new requirements to manage socio-economic effects?</p>	<p>Clear, consistent, and precise language that ensure proponent accountability would improve clarity and understanding of requirements and obligations and would also provide Indigenous Peoples and other impacted groups a degree of assurance that there are consequences if standards set in the regulations are not met.</p>
<p>112. What is your feedback on the CER's objectives for improvement? Are these the</p>	<p>O'Chiese First Nation generally supports these objectives for improvement.</p>

QUESTIONS	O'CHIESE FIRST NATION RESPONSES
<p>right objectives, or are there others the CER should consider?</p>	
<p>I13. What is your feedback on the following proposed option to meet the regulatory objectives?</p> <ul style="list-style-type: none"> • Explicit requirements for engagement related to the objectives, either through a stand-alone requirement or a management system process. 	<p>O'Chiese First Nation cannot comment on the effectiveness of this option without knowing what the "explicit requirements" would specifically entail, but generally supports the introduction of clear and explicit requirements for engagement.</p>
<p>J. OPR - Safety</p>	
<p>Summary Response to all J discussion questions.</p>	<p>O'Chiese First Nation generally supports the requirement for applicants to provide well-rounded, detailed safety plans for each of a project's phases. For these safety plans to be effective, they must be readily available and use clear and accessible language. O'Chiese First Nation generally supports the requirement for proponents to devise robust Safety Management Programs for all phases of a project's lifecycle, that anticipate, prevent, manage and mitigate potentially hazardous or dangerous conditions that may arise from project activities.</p>
<p>K. Filing Manuals – Environmental and Socio-Economic Assessment</p>	
<p>General Comment for Topic Paper K.</p>	<p>See comments in response to Discussion Paper M. Filing Manuals – Rights and Interests of Indigenous Peoples for answers to K1-16.</p>
<p>K17. To what extent should environmental events and climate change be included in cumulative effects assessments?</p>	<p>O'Chiese First Nation notes that all such events should be included in every cumulative effect assessment. Neglecting environmental effects and climate change in these assessments leaves out crucial information on impacts resulting from development.</p>
<p>K18. How is the cumulative effects assessment relevant to positive effects as well as adverse effects?</p>	<p>Cumulative effects assessments consider both positive and adverse potential effects in a larger context.</p>
<p>K19. What factors are important in choosing the appropriate baseline for cumulative effects assessment?</p>	<p>O'Chiese First Nation notes that using before and after a single project's approval as a baseline is not an appropriate way to assess cumulative effects, as cumulative effects refer to all past and future development as well. The baseline conditions selected must reflect impacts to Inherent and Treaty rights from an Indigenous perspective, which span for many generations back. Potential baselines for the CER to consider for a cumulative effects assessment could include the signing of Treaty or the introduction of NRTA rights.</p>
<p>K20. To what extent should the use of offsets and the applicant's confidence in achieving no net loss relieve an applicant from having to include a cumulative effects assessment in their ESA?</p>	<p>In O'Chiese First Nation's experience, offsetting and accommodations have not yet been sufficient for any project to result in "no net loss," especially regarding cumulative effects to Inherent and Treaty rights. For a project to result in "no net loss," offsetting measures must be direct and proportional to the identified impact. O'Chiese First Nation has yet to witness offsetting measures that are equivalent to the impacts to Inherent and Treaty rights created by any given</p>

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	<p>project. In short, proposed offsetting measures and an applicant's confidence should not relieve an applicant from including a robust cumulative effects assessment in their ESA, as the actual outcomes have shown that confidence in achieving "no net loss" is misplaced.</p> <p>O'Chiese First Nation also notes that reclamation activities as well as new disturbance on previously disturbed lands also create impacts to Inherent and Treaty rights. Offsetting plans often fail to recognize or accommodate for these types of disturbances, which must be addressed in updates to the OPR.</p>
<p>K21. What other improvements can be made to the discussion and guidance for cumulative effects?</p>	<p>Requirements for the assessment of cumulative effects need to be applied more broadly in the regulatory system, not just in the OPR, for all types of project assessments.</p>
<p>L. Filing Manual - Lands</p>	
<p>L2. To what extent should Indigenous knowledge and engagement be explicitly addressed in routing and site selection?</p>	<p>Indigenous Knowledge should be explicitly addressed in all site selection and routing processes, as proponents will often not be aware of sacred sites, graves, or other areas of significance without this Knowledge, and would avoid future delays or rerouting by avoiding them in early planning phases.</p> <p>However, O'Chiese First Nation notes that these sites are not the only locations where projects cause impacts to areas of significance to Indigenous Peoples. All development creates conditions that are incompatible with the exercise of O'Chiese First Nation Inherent and Treaty rights, and any reduction or change in the lands suitable for the exercise of these rights result in negative impacts.</p> <p>Additionally, as mentioned in previous comments; to collect and share the necessary Indigenous Knowledge to inform routing and site selection processes, Indigenous Peoples must be provided with sufficient time and capacity to be able to meaningfully engage in these processes.</p>
<p>L7. What should be included in a description of the lands used by Indigenous Peoples or communities for traditional purposes that are proposed to be used for the project?</p>	<p>The OPR should contain requirements for applicants and/or regulators to identify the amount of unoccupied Crown land that is being taken up or altered as the result of the proposed project. Indigenous Peoples need unoccupied Crown land to exercise their Aboriginal and Treaty rights, so a proper identification of the lands that will no longer be available or suitable for these purposes is required to understand the full scope of project impacts.</p>
<p>M. Filing Manual – Rights of Indigenous Peoples</p>	
<p>M1. 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?</p>	<p>O'Chiese First Nation does not necessarily oppose the proposed split but notes that impacts to the rights and interests of Indigenous Peoples should be included in regular ESAs as well.</p> <p>O'Chiese First Nation cannot anticipate whether the proposed split would improve overall clarity. Dividing ESAs into two distinct sections may create confusion regarding how general ESAs apply to Indigenous Peoples or whether they do at all. If the updated OPR includes this proposed split, it must explicitly outline the overlap and ensure that regulators, proponents, and all interested</p>

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	<p>parties understand that Indigenous Peoples are also part of the general population and have a vested interest in ESAs, in addition to assessments specifically focused on Indigenous Rights and Interests.</p> <p>Additionally, O’Chiese First Nation is concerned that separating these assessments could introduce further bias into the regulatory system. More specifically, there is a risk that assessments related to Indigenous Rights and Interests may be taken less seriously by regulators and proponents than the general ESA in an application. O’Chiese First Nation has repeatedly observed that concerns raised by Indigenous groups—particularly those related to cumulative effects—are frequently dismissed or ignored in regulatory processes. If the CER proceeds with this split, it must implement clear safeguards to ensure that assessments related to Indigenous Peoples are given equal weight and consideration.</p>
<p>M2. What overarching topics are important to highlight as applying throughout the applicant’s ESA and “Rights and Interests of Indigenous Peoples” sections?</p>	<p>O’Chiese First Nation notes that it may be difficult or misguided to reduce the broad spectrum of Indigenous rights and interests to a small list of topics. Only a given Indigenous group can identify its own rights and interests.</p> <p>O’Chiese First Nation recommends the inclusion of Cumulative Effects as a topic that should be considered in the ESA section, as well as the Rights and Interests of Indigenous Peoples sections.</p>
<p>M3. What other restructuring of the “Rights and Interests of Indigenous Peoples” section might improve clarity, readability, and better highlight important issues?</p>	<p>What constitutes an “important issue” varies from group to group and project to project. Using clear, concise and specific language will help to improve clarity and readability.</p>
<p>M4. 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?</p>	<p>O’Chiese First Nation notes that isolating VCs determined to be Indigenous-specific may ignore the interconnectedness of biophysical and socio-economic impacts with the rights and interests of Indigenous Peoples. Impact to the biophysical environment and socio-economic components impact Indigenous rights and interests. Therefore, if the OPR is to separate these sections, it is important that these components are included in both sections.</p>
<p>M5. 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?</p>	<p>See response to M4 above.</p>
<p>M6. What VCs should be included in the “Rights and Interests of Indigenous Peoples” section and which should stay in or also be included in the ESA section?</p>	<p>VCs will differ between Indigenous groups and projects. Each Nation must determine which VCs apply to their own group. Generalizing VCs can prove to be difficult when attempting to capture all rights and interests of all Indigenous groups. Applicants should consult with all impacted</p>

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	Indigenous groups regarding their project to determine which VCs should be considered in their assessments.
<p>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?</p>	<p>As noted in previous responses, the best way to approach activities focused on the rights and interests of Indigenous Peoples is to involve Indigenous Peoples in each stage, provide sufficient time and capacity for their participation, and to acknowledge and accommodate for the diverse needs, values and interests of each individual group. In O'Chiese First Nation's experience, regulators and proponents both prioritize speed and cost efficiency regarding project approvals, which often fails to allow a full scope of the Indigenous participation that is necessary for protecting the rights and interests of Indigenous Peoples.</p>
<p>M8. 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?</p>	<p>As previously mentioned, the CER's approach of project-by-project assessments is problematic, as it fails to address or consider cumulative effects, which prevents the accurate and meaningful identification and accommodation for impacts to Inherent and Treaty rights.</p> <p>Ensuring that information is being adequately documented and conditions maintained requires regular and thorough monitoring, enforcement and follow-up from both regulators as well as Indigenous Peoples. O'Chiese First Nation notes that adequate time and capacity must be provided for Indigenous groups to have the opportunity to participate in these activities.</p>
<p>M9. What are the opportunities and challenges of Indigenous-led assessments and studies for Indigenous Peoples (e.g., timing, funding, scoping, integration)?</p>	<p>As previously stated, the regulatory system in general remains largely inaccessible to Indigenous Peoples due to lack of time and capacity, which applies to the ability to conduct Indigenous-led assessment and studies. It is both time- and resource-intensive to respond to the overwhelming number of consultation requests with sufficient information and within the restrictive deadlines.</p> <p>Additionally, Indigenous-led assessments and studies are not given the same weight as those using Western science in the currently regulatory system. As a result, the invaluable knowledge informing these assessments is not recognized or fairly considered.</p>
<p>M11. How can Indigenous-led assessments and studies be integrated with the applicant's assessment and still support the objective of "one project, one assessment"?</p>	<p>O'Chiese First Nation notes that while it is understandable to want to reduce the duplication of effort in assessments, the CER's "one project, one assessment" approach is not always fair or feasible. Regulators tend to prioritize and hold assessments using Western science to a higher regard than those incorporating Indigenous Knowledge, especially when assessments produced by the applicants do not meaningfully incorporate Indigenous Knowledge or address the full scope of impacts to Inherent and Treaty rights. This is to say that some projects may require more than one assessment to present all necessary information.</p>
<p>M12. 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</p>	<p>The CER must consider that its existing deadlines and time limits for pipeline and powerline certificate applications are too restrictive if it is unable to collect and compile all necessary information and complete the required studies in that timeframe. The quality and quantity of information required to understand the full scope of impacts cannot be compromised for the sake of speed.</p>

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<p>pipeline and power line certificate applications?</p>	<p>Additionally, if Indigenous groups were provided with sufficient capacity to support conducting these studies and assessments, they could be completed more time-efficiently. Time and resource constraints limit Indigenous groups' ability to prioritize studies and assessments among other competing urgent issues. Adequate and predictable funding could allow Indigenous groups to invest in staff and materials that could support conducting studies and assessments more quickly and efficiently.</p>
<p>M13. What are the opportunities and challenges for Indigenous Peoples with the CER's existing guidance?</p>	<p>One significant challenge with the CER's existing guidance is that it is non-binding, rendering it practically optional. In O'Chiese First Nation's experience, when provisions are not required or legally binding, proponents will most often opt not to follow them, affected groups have little recourse for holding companies accountable for them, and the CER does very little (if anything) to enforce them.</p> <p>Including cumulative effects in the guidance documents also poses a significant challenge. As mentioned above, provisions or recommendations set out in guidance documents are not binding and are not generally adhered to. While cumulative effects are mentioned in the guidance documents, the reality is that, in practice, only project-specific impacts are considered and mitigated. If cumulative effects provisions are only loose recommendations but not applied or enforced in practice, then these provisions are performative.</p> <p>Another challenge for Indigenous Peoples with the CER's existing guidance is that the Commission is ultimately responsible for making final determinations about the severity of effects on the rights and interests of Indigenous Peoples. In O'Chiese First Nation's experience, the regulators do not accept or align with Indigenous Peoples' determinations and perspectives on impacts to Inherent and Treaty rights. As a result, determinations made by the regulator on behalf of Indigenous Peoples regarding their own rights and interests often do not accurately represent their concerns of impacted communities but are presented as such. This is an offensive misrepresentation of Indigenous perspectives and of the "consultation" that has taken place.</p>
<p>M15. 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?</p>	<p>To identify effects of projects on the rights and interests of Indigenous Peoples, meaningful consultation must occur with each impacted group. Meaningful participation in consultation is costly to Indigenous groups, so guidance documents should at minimum encourage proponents to provide sufficient capacity to Indigenous groups to engage in consultation activities.</p>
<p>M16. Would a framework similar to the severity table used in the Commission's NEBC Recommendation Report be appropriate for inclusion in the Filing Manual?</p>	<p>O'Chiese First Nation does agree that the Filing Manual must contain a mechanism for assessing impacts to the rights and interests of Indigenous Peoples. However, the table used in the NEBC Recommendation Report does not accurately capture or assess impacts in a compatible way with many Indigenous Peoples' perspectives.</p> <p>For example, this table's temporal parameters do not consider that impacts from a given project in its various phases extend well beyond the respective phase's anticipated duration. What is</p>

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	<p>considered a short-term impact from the perspective of proponents or regulators may be a permanent impact to a certain Indigenous group, depending on the circumstance. Once certain activities have been conducted and the land has been disturbed in that area, this land is no longer suitable for the exercise of many O'Chiese First Nation cultural practices, even after "reclamation" has taken place. This sort of impact, along with many others, cannot be captured in the NEBC table's parameters.</p> <p>The NEBC table also fails to account for impacts due to perceived conditions. Regulators generally do not acknowledge that real and perceived effects often have the same impacts to the exercise of Inherent and Treaty rights. For example, if an O'Chiese First Nation member perceives that an area has been contaminated or rendered unsuitable for use due to a nearby project, they will not be able to exercise their rights in that area, even if no contamination has been recorded. Regardless of whether conditions are real or perceived, if they prevent or deter Indigenous Peoples from using an area that would otherwise be available or suitable for the exercise of Inherent and Treaty rights, they are an impact to the rights and interests of Indigenous Peoples.</p>
<p>M17. Should applicants submit a draft determination of the severity of the project effects on the rights of Indigenous Peoples? This would be similar to the CER's expectations that applicants submit draft determinations of the significance of valued components in the applicants' ESA, which helps inform the Commission's determinations about significance in the Commission's ESA.</p>	<p>Applicants submitting a draft determination of the severity of the project effects on the rights of Indigenous Peoples could be beneficial if impacted Indigenous groups could review and provide feedback on the draft before its submission to the regulator. Without this step, the draft determination would be completely arbitrary and likely not accurately capture these effects.</p> <p>O'Chiese First Nation also notes that if applicants are provided the opportunity submit a draft determination with their application, affected Indigenous groups should also have an opportunity to submit their own draft determination on impacts to their own rights and interests that should be considered in the project application's assessment.</p>
<p>M18. How should applicants integrate their assessment of the potential effects of a project on the rights of Indigenous Peoples with their VC-based assessments? For example, how should applicants demonstrate the overlaps and interconnections between the potential effects of a project on the rights of Indigenous Peoples and VC-based assessments (i.e., the assessment of biophysical and socio-economic VCs, and</p>	<p>Applicants should integrate Indigenous rights into their impact assessments, as impacts to biophysical and socio-economic aspects also impact Indigenous rights through impacts to land use, cultural practices, and well-being. To do that, applicants must meaningfully engage with Indigenous communities to understand the overlaps with relevant VCs. Separating Indigenous rights from the impact assessment may result in an assessment that misrepresents the full scope of impacts from project effects.</p>

QUESTIONS	O'CHIESE FIRST NATION RESPONSES
VCs focused on the rights and interests of Indigenous Peoples)?	
M19. 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)?	Indigenous participation in these activities is necessary but costly. A lack of capacity poses the biggest challenge of Indigenous Peoples being involved in inspection, monitoring and follow-up activities.
M21. 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 provide capacity for Indigenous Peoples to participate in monitoring and managing activities.