



LMG News



The LMG in a nutshell

The Canada Energy Regulator (CER) is committed to engaging Canadians on land matters. To that end, the Land Matters Group (LMG) was established in 2011 as a means to bring together people who have similar needs and interests.

The LMG operates as a two-way conduit of information between the CER and LMG members by providing participants with opportunities to share insight and advice on the protection of landowner rights and interests, with the ultimate goal of achieving regulatory excellence. By sharing information and real life experience, LMG members can build awareness and develop relationships across a diverse network.

The LMG Advisory Committee is composed of a balanced representation of the broader LMG membership consisting of landowner associations, professional services, industry and government.

Welcome to the LMG News, the e-newsletter for all registered members of the Land Matters Group (LMG)

Table of Content for this April 2021 issue

- The LMG in a nutshell 1
- LMG Advisory Committee Members Hold Virtual Workshops. . . 2
- Contaminated Sites Disclosure and Meaningful Engagement with Landowners 4
- We are Changing the Way We Communicate Information on the CER Regulatory Framework. 5
- Public Comment Period on the Revised CER Filing Manual, Guides B (Abandonment) and K (Decommissioning) 7
- April is Dig Safe Month and We all Have a Role to Play. 8
- CER Field Inspections Supported by External Experts and Indigenous Monitors 9



LMG Advisory Committee Members Hold Virtual Workshops

In early February, members of the Land Matters Group (LMG) Advisory Committee were invited by the Canada Energy Regulator (CER) to attend a series of virtual workshops designed to discuss priority issues as identified in the LMG Advisory Committee's latest work plan. Over the span of three days, representatives from industry and landowner associations, as well as lands professionals and CER staff, focused on the following: *landowner engagement*; *company access to lands*; and *damages incurred by landowners*.

"Landowners whose property is impacted by a pipeline under federal regulation need to know where to find a full complement of information to understand their obligations, and protect their rights and interests."

Over the past two years, CER staff have been updating land-related information to reflect the *Canadian Energy Regulator Act* coming into force. This includes information relevant to the LMG Advisory Committee's three priority issues identified above. These workshops provided participants an opportunity to review the CER's information through the lens of landowners and industry, and to suggest where more clarity could be provided.

The LMG was created as a means to provide landowners with opportunities to interact with industry by sharing insight and advice on the protection of landowner rights and interests. Working in partnership with the LMG is integral to the CER's commitment to build trust and confidence by ensuring safety and environmental sustainability, and by maintaining a strong and consistent focus on the interactions between landowners and industry.



Figure 1 - Lynn Jacobson – President, Alberta Federation of Agriculture and LMG Advisory Committee member



"I'm pleased to be part of the LMG team and have particularly enjoyed the momentum we have achieved in recent times. The diverse perspectives of professionals from across the country really makes the discussion valuable and greatly aids in improving the CER's processes, website presence and creation of resources for stakeholders desiring support."

Figure 2 - Brodie Allen – President, Evolve Surface Strategies Inc., and LMG Advisory Committee member

The CER heard the following comments and suggestions during the workshops and will review each suggestion to make sure that it is a matter that can be addressed and if it is, to plan for how it will be implemented.

- When a pipeline project or any type of infrastructure involves accessing properties, early and ongoing engagement between company representatives and landowners is key to building a relationship of trust based on true and accurate information.
 - o Expand the scope of [The Early Engagement Guide](#), which was initially intended as a resource outlining the CER's expectations of companies, by also providing content intended for landowners.
 - o Provide more clarity in all CER resources about the different types of individuals/groups who stand to be potentially affected by a project, including the land rights to which they are entitled (e.g. directly affected landowner; adjacent landowner; leaseholders; renters; land users, etc.)
- The terms under which a company may access a property throughout all stages of a project's lifecycle are critical to the establishment of a good working relationship between companies and landowners.
 - o The CER's [Land Matters Guide](#) needs more access related information in the following areas:
 - Define the different types of access, including the reasons for access and who may require access during the course of a project's lifecycle.
 - Provide compensation related guidance based on the different types of access (preliminary assessments / temporary access / maintenance and operations).
 - Explain what needs to take place before a company reaches the point of applying to the CER for a right-of-entry order, and provide landowners with guidance on what to include in their written objection.
 - Expand the Q&A on land agreements with information about the implications resulting from a landowner's objection to sign a land agreement and the available recourse options.
 - o For many landowners, the issue of damages is a serious concern and one that should be more broadly explained:
 - Provide concrete examples of what constitutes damages
 - Provide a checklist to guide landowners with their damage claim submission
 - Expand the list of terms for consideration with a definition of nuisance and inconvenience throughout all stages of a pipeline project's lifecycle
 - Add information on the CER website about [Damage Prevention](#), including what steps landowners should take if their property incurs damages

Overall, the workshops highlighted that information could be broadened to address the needs of an even wider range of affected stakeholder groups, including those who may not be directly affected.

To request more information, please contact Carole Léger-Kubeczek, LMG Coordinator at LMG-GQF@cer-rec.gc.ca.

Contaminated Sites Disclosure and Meaningful Engagement with Landowners

The CER is committed to environmental protection and meaningful engagement with landowners and all other persons who stand to be potentially affected by contamination related to infrastructure owned by CER-regulated companies. The CER supports the Government of Canada's guiding principles of openness, transparency and accountability.

Meaningful engagement with landowners requires that relevant information be routinely available and easily accessible.

Regulated companies must report contamination to the CER through the submission of a Notification of Contamination (NOC) and follow the CER's Remediation Process as outlined in the [CER 2020 Remediation Process Guide](#) (the Remediation Guide). Contamination refers to the presence of a substance in soil, sediment, air, or water at concentrations (1) above background (normally or naturally occurring) levels, and poses an actual or potential hazard to the environment, including human health or (2) exceeding levels specified in applicable laws and guidelines.

In accordance with the goal of increased transparency, the CER is making publicly available information that is submitted by regulated companies on contamination and remedial activities. The CER plans to publicly release information in a phased approach, starting with the information that is submitted by companies in the NOC and the annual updates for each contaminated site. The timelines for publication are as follows:

- 1) The Notice of Contamination (NOC)
 - o NOCs submitted to the CER between the dates of 15 August 2018 and 30 April 2021 will be published in May 2021. All NOCs submitted as of 1 May 2021 will be published upon submission to the CER.
- 2) Annual updates
 - o The annual updates submitted on or after 1 April 2021, for remediation events that had NOCs submitted on or after 15 August 2018, will be published in May 2021 and upon submission to the CER going forward.

When submitting information on contamination to the CER, companies are required to comply with all applicable privacy legislation. Landowner names and engagement logs will not be published. Global Positioning System (GPS) latitude and longitude coordinates of the contaminated sites will be published to two decimal degrees. The CER would like to note that Section 7 of the Remediation Process Guide requires that landowners be notified of contamination on their lands at the same time that the contamination is reported to the CER. Landowners should be made aware of contamination on their lands prior to the NOC being published.

The NOC will be published on [REGDOCS](#), the CER's regulatory database.

For further inquiries on the public disclosure of contaminated sites information, please contact Patti.Dods@cer-rec.gc.ca.



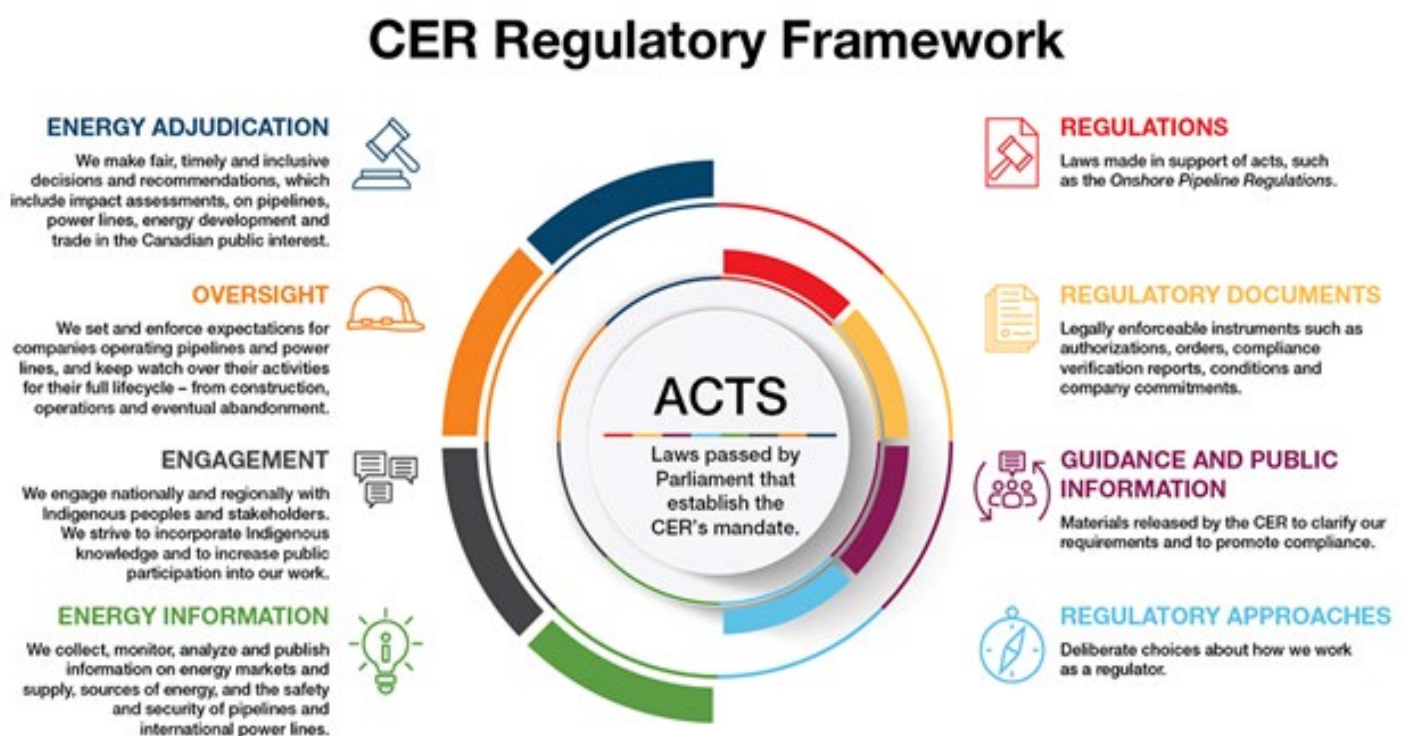
Figure 3 - The groundwater monitoring well shown in this photo is a common component of remedial activities.

We are Changing the Way We Communicate Information on the CER Regulatory Framework

A framework is a structure around which something can be built. The CER's Regulatory Framework provides the structure around which all of its regulatory activities take place. It includes the system of laws, policies and other regulatory documents used to regulate the parts of Canada's energy industry that fall within our scope of authority.

We are getting ready to publish a new graphic and expanded description of the CER Regulatory Framework on the CER website.

Here is a preview of our new graphic:



The right-side of the circle shows the Legal Foundations of the Regulatory Framework – i.e. the tools we use to set and enforce expectations, as well as the Regulatory Approaches that guide how we act as regulator.

The left-side of the circle shows the four Core Responsibilities through which we execute our mandate – i.e. the applicable activities of our Regulatory Framework.

It is important to the CER that information on our Regulatory Framework be accessible, clear and understandable to a wide audience. Our expanded web content will include information on:

- What we regulate
- Who else participates in the energy system
- What regulatory approaches that have been developed over time
- How our regulations foster innovation
- How we manage and improve the Regulatory Framework over time, in the context of our Management System

We are sharing our Regulatory Framework Plan for the first time.

The efforts to improve the way we communicate information with the public on the Regulatory Framework also include sharing more details about upcoming changes. We are planning to publish the CER's 2021-2024 Regulatory Framework Plan (RF Plan).

Every year, the RF Plan is prepared; setting out the regulations, regulatory documents, policies and guidance that we plan to develop or amend over a three year period, including the projected timelines.

The Treasury Board Secretariat (TBS) [Directive on Regulations](#) requires that every federal department publish the list of Regulations coming-due for review in the following five years, including the ones that are scheduled to be amended in the next two years. The CER already publishes these lists on its website – through the *Regulatory Stock Review Plan* and the *Forward Regulatory Plan*, but these present a partial picture of improvements planned for the Regulatory Framework, and omit details such as 'next steps' or 'project objectives'.

One of the most important differences between the RF Plan and the others posted to the website in compliance with TBS Directive on Regulations, is the inclusion of planned changes to our regulatory guidance materials.

Guidance helps regulated companies, interested parties and the general public to understand the requirements and to promote compliance. Guidance is important and serves many functions; for example, it is used to:

- Give a window into how we apply the law when we carry out our functions;
- Instruct companies on what to include and how to submit materials to us so we can make timely decisions;
- Guide Canadians on how to participate in our processes, like application reviews or regulation-making;
- Share our approach on matters like engagement that apply to many aspects of our work;
- Explain our expectations; and
- Explain how we respond when expectations are not met and how enforcement works.

The RF Plan includes details about the CER projects for improving certain Guides and Sections of the Filing Manuals, working collaboratively on a Canada Standards Association (CSA) Group Express Document for Quality Assurance of Pipeline Components, plans to improve reporting of regulatory asset data (RAD) through use of Geographic Information Systems (GIS), and more.

We aim to publish the RF Plan in April. Please visit the CER website to view the content and other information on the Regulatory Framework, described above. You may also request a copy of the RF Plan directly by e-mail at regulatory.framework@cer-rec.gc.ca.

Your input is valuable!

We welcome any and all feedback you might have on the contents of the new CER Regulatory Framework graphic and description, as well as the details of the current Regulatory Framework Plan.

To submit questions or comments, please contact regulatoryframework@cer-rec.gc.ca.

Public Comment Period on the Revised CER Filing Manual, Guides B (Abandonment) and K (Decommissioning)

Regulatory Context

Consequential edits to the Filing Manual resulting from the coming into force of the CER Act (2019) and related updates, including the CER's [Early Engagement Guide](#), were published on the CER website on 6 August 2020. A series of periodic technical updates to the [Filing Manual](#) are now underway in a process that is anticipated to occur over the next two years.

Public Comment Opportunity

The 45-day public comment period on the first proposed technical revisions affecting Filing Manual Guides B ([Abandonment](#)) and K ([Decommissioning](#)) will come to an end 14 April 2021. A feedback page created on the CER website has been used to collect comments, and also provides links to the draft revised Guides B and K, and a version tracking the proposed changes.

Proposed updates

Guides B and K require updating because the number of pipeline abandonment and decommissioning applications to the CER has been increasing in recent years, while existing filing requirements and guidance lack necessary detail and clarity on some topics. This has led to incomplete applications, more information requests and conditions, and frequent queries from companies and their consultants.

Proposed updates address the following areas:

- Requirements regarding the explanation and rationale for the abandonment or decommissioning method(s) chosen, including how factors such as land use, safety, potentially affected peoples and communities, property, environment and economics were identified and considered. These updates would increase transparency and rigor regarding the applicant's reasons, including the factors considered for selecting the preferred abandonment or decommissioning method.
- Requirements for applicants to provide a high-level assessment of the potential short-term and long-term environmental and socio-economic effects on each valued environmental and socio-economic component regardless of the preferred abandonment method. These updates would provide all parties with additional information related to potential consequences of possible abandonment methods on each valued component, and will aid in determining the appropriateness of the chosen abandonment method.
- Requirements for the applicants to provide an environmental protection plan, or a description of the environmental protection procedures, and a reclamation plan. These updates would increase transparency and rigor related to long-term environmental protection and reclamation requirements.
- Clarification of the circumstances in which companies need to undertake a comprehensive environmental and socio-economic assessment and when it is not required (scalability). These updates would provide added clarity to applicants when planning and preparing their submissions to the CER in regards to the level of information to be provided in an application. This would assist the CER in increasing the efficiency of processing applications and releasing decisions in a timely manner.

- Information requirements regarding contamination assessment and management to be made consistent with the Remediation Process Guide. These updates would improve clarity and consistency regarding filing requirements to ensure environmental protection in cases where contamination was discovered during abandonment or decommissioning activities.
- Reference documents relating to physical and technical issues related to abandonment (i.e., studies completed by the Pipeline Abandonment Research Steering Committee). These updates would assist all users of the document in accessing relevant and current technical knowledge related to abandonments.
- Adding information requirements for those companies wanting to apply to access funds held in Abandonment Trusts. These requirements would provide clarity to the applicants when submitting an application to access funds from trust for undertaking the activities related to abandonments and decommissioning.
- Remove requirements for any irrelevant or redundant information, for example in the case of small abandonments. These updates would improve regulatory efficiency and contribute to competitiveness.
- Consistency between the requirements in Guides B and K with improved clarity around filing requirements, the need for subsequent information requests should be lessened.

The CER welcomes written feedback regarding Guides B and K and the proposed updates during the comment period ending 14 April 2021, via the [feedback page](#).

Please contact filingmanual@cer-rec.gc.ca to request a meeting to discuss your feedback or concerns.

April is Dig Safe Month and We all Have a Role to Play

Along with the arrival of spring comes the arrival of increased ground disturbance activities - and potential risks tend to increase when safe digging practices aren't followed.

For many landowners and companies, construction activities increase this time of year. With the warming weather, this is the time of the year when homeowners begin planning for or starting outdoor home improvement projects such as decks, fences, gazebos and sheds, and larger landowners plan projects to improve their agricultural operations.

The COVID-19 pandemic has impacted all aspects of our lives, and last year saw a sharp increase in homeowner renovation projects, likely due to everyone staying close to home. Despite these circumstances, the importance of knowing our role to keep ourselves and others safe when doing any ground disturbance work remains just as critical. We all have a responsibility to click before we dig and know what's below.



Figure 4 - The groundwater monitoring well shown in this photo is a common component of remedial activities.

From planting a tree, to building a new fence or putting pipe or cables in the ground, we must be accountable to ourselves and each other to conduct these activities safely. There is a complex network of lines underground: electricity, water, natural gas and oil pipelines, phone service and internet cables, among others. These lines allow essential services to continue to operate, and they enable children across the country to access school and learning resources online, and people to work remotely from their homes. They are heating our homes and powering essential services. They are keeping us connected with our family and friends via technology to ease social isolation.

By using www.clickbeforeyoudig.com and the provincial one-call resources, we can all help minimize potential disruptions to the services we are relying on to make it through this difficult time. The CER works to keep energy moving safely across the country and we will continue to build awareness of safe digging practices to keep Canada's energy infrastructure safe. Before any digging activity – whether by homeowners, companies, contractors or municipalities – always click or call before you dig.

It's important to remember that we are all affected by COVID-19 and the impacts are far reaching. This includes those working in damage prevention services. When requesting locate services, don't forget to take into account that wait times might be longer than usual for companies to respond to your One Call ticket.

Please check out the [Damage Prevention](#) pages in the Safety and Environment section of the CER website for more information.

CER Field Inspections Supported by External Experts and Indigenous Monitors

When the new *Canadian Energy Regulator Act* (CER Act) came into force in August 2019, it was accompanied by a number of changes, including aspects touching on the enforcement measures supporting some of the most strict safety and environmental standards in the world.

One of the new changes under the CER Act is a provision that allows Inspection Officers to be accompanied by any other person who they believe necessary to assist them in performing their duties and functions. The individuals accompanying the Inspection Officers can include external experts and/or Indigenous peoples whose knowledge and insight are highly valued. More specifically, by expanding its inspection program to include access to external experts and Indigenous Monitors working alongside Field Inspectors, the CER further strengthens its safety and environmental oversight to prevent harm, and also helps to protect Indigenous interests and build relationships.

Working with other experts and Indigenous Monitors not only enhances the work of the CER, but also supports the Government of Canada's commitment to Reconciliation with Indigenous Peoples. To learn more about the CER's own commitment to Reconciliation with Indigenous Peoples, including how this will apply to the [NGTL 2021 project](#).