



k^wik^wəłəm
Kwkwetlem First Nation

July 21st, 2022

Dan Barghshoon
Technical Specialist
Regulatory Policy
Canadian Energy Regulator (CER)

Sent by email to: opr-rpt@cer-rec.gc.ca

Re: k^wik^wəłəm First Nation Response Letter to the Discussion Paper on the Onshore Pipeline Regulations

Dear Dan,

Thank you for providing k^wik^wəłəm First Nation with the Onshore Pipeline Regulations (OPR) Discussion Paper, received via email on January 27th, 2022.

k^wik^wəłəm has completed a thorough review of the OPR Discussion Paper, as well as the Indigenous Caucus Advice on the OPR Discussion Paper, received from the Indigenous Advisory and Monitoring Committee (IAMC). To ensure that all k^wik^wəłəm's interests and concerns are considered in the review of existing legislation, k^wik^wəłəm had both external (environmental and archaeological) and internal advisors review all materials pertaining to the OPR, as well as attend meetings and engagement sessions on the OPR with the CER and other committees related to the OPR such as the IAMC.

Specifically relating to the latter, consultants and staff attended regional meetings with the IAMC specific to OPR discussions to bring forward the Nation's interests based on Chief and Council's guidance, and to discuss potential regional impacts and concerns to be included in the IAMC review of the Discussion Paper.

In general, k^wik^wəłəm First Nation is in support of and deems its interests included in the contents of the IAMC Review of the OPR Discussion Paper, with a specific focus on the below items:

- 1. Archaeological Concerns:** With respect to questions 3 and 4 of the Discussion Paper, k^wik^wəłəm expects that companies regulated by the CER adopt a rigorous archaeological protection and assessment policy that stipulates archaeological potential assessments ahead of all proposed ground disturbing OPR activities. Such assessments must be informed by local Indigenous knowledge and scientific criteria and will guide the need for detailed impact assessments or Nation engagement associated with operational and maintenance works. Any development of archaeological policy relating to OPR procedures must entail consultation and engagement with affected area Nations. Current CER regulations do not require proponents to identify or mitigate potential impacts to Sites of Significance; the continued disregard and destruction of k^wik^wəłəm ancestral heritage is unacceptable. Improved consultation must include engagement and consultation with the Nation early in the project or operational planning phase.

For future projects, proponents must reach out to k^wik^wəłəm First Nation far in advance with project footprint information and other pertinent details. This process will smooth collaboration and allow for proper project design and implementation that accommodates the needs of the Nation. Specifically, early consultation will help proponents avoid known archaeological sites, sites of cultural importance, and areas with high potential for undocumented archaeological sites in the project's footprint. If the project location cannot be reconciled with the presence of archaeological and/or cultural sites, early intervention will allow for the development of appropriate accommodation and mitigation opportunities. k^wik^wəłəm First Nation agrees with the IAMC on their response to questions 3 and 4 and expects incorporation of these details in the OPR.



kʷikʷəłəm
Kwkwetlem First Nation

2. **Environmental Concerns:** kʷikʷəłəm are stewards of the lands situated around the Coquitlam Watershed, ranging from the east side of Pitt Lake to Burnaby Lake, and from the upper Coquitlam Watershed to Branstons Island and down to Annacis Island. With reference to improvements to the environmental performance of regulated companies, (specifically to question 22), the Nation expects the inclusion and increased oversight of Indigenous Monitors over works conducted within Indigenous territories.

Often neglected, and of particular importance to the Nation, is understanding the cumulative impacts of pipeline projects on the surrounding environment. This is particularly necessary for projects that may not trigger an Environmental Assessment (EA), as these projects often do not sufficiently consider Indigenous valued environmental, archaeological, or cultural places or the impacts on Indigenous communities' ability to practice their Indigenous rights. The importance of understanding the combined effects and interaction of pipeline installation and potential spills, in addition to other surrounding projects is exacerbated in the face of climate change, where combined effects may be amplified in unanticipated ways.

Projects related to the installation, maintenance, repair, and operation of pipelines and any changes with regards to those pipelines must be brought to the Nation through the consultation process and the opportunity given to oversee and monitor the lifetime of such projects. kʷikʷəłəm First Nation agrees with the IAMC on their response to questions 1, 5, 6, 22, and 23 and expects incorporation of these details in the OPR.

3. **Engagement and Inclusive Participation:** An Indigenous perspective is key when developing plans and regulations for major projects. Indigenous representation should be included throughout all levels of the regulatory process to ensure that an Indigenous lens and perspective are considered from planning to the implementation stage of the regulation. In addition, kʷikʷəłəm, like each of our Indigenous neighbours is unique in our way of life and connection to the land. Proper consultation with kʷikʷəłəm is necessary. Proponents should be made aware of and comply with the provincial regulations surrounding DRIPA of free, prior, and informed consent for all projects that may affect their Indigenous Rights and Interests. kʷikʷəłəm First Nation agrees with the IAMC on their response to questions 7 through 10 and expects incorporation of these details in the OPR.

Please note that kʷikʷəłəm First Nation asserts rights, title, and stewardship interests over all lands, waters, and resources within kʷikʷəłəm Traditional Territory. This includes the areas in and around the Project. As a decision-making authority, kʷikʷəłəm expects meaningful consultation for the Project to proceed. The Nation reserves the right to provide comments at any stage of the process. Please continue to notify kʷikʷəłəm via referrals@kwkwetlem.com of any activity related to the Project as planning progresses.

Best Regards,



Referrals and Stewardship Project Coordinator

cc. Christa Williams, Lands and Resources Director, kʷikʷəłəm First Nation
Nicole Oakes, Archaeology and Cultural Heritage Advisor, Brown & Oakes Archaeology