



## **Canada Energy Regulator Onshore Pipeline Regulations Leq'a:mel First Nation Review and Comments on Discussion Paper**

### **Section 1. OPR – Lessons Learned**

1) What's working well in relation to the OPR, and its implementation, and what could be improved?

We are not apprised of what is 'working well in terms of the OPR' but have been given the opportunity to see first-hand the TMX Sumas Pump Station spill as an example of detrimental impacts to the environment from an oil pipeline. The initial notification process to communicate the spill out to the communities seemed appropriate and timely, however; when asked specific questions in relation to the volume of oil spilled it was unclear from the spill response team. There could be improvements to their management system on that note and having said that, there could be improvements to how the CER oversees the management system when a spill occurs.

Having effective plans on paper is often a good start but when an emergency actually happens is when it is put to the test and the flaws start to show in where improvements can be made to the plans with better oversight from the regulators. Integrating a few practice sessions to help with actual incidents is a proven method to aid in a successful plan and implementing the plan/policy objectives effectively with respect to the regulations.

### **Section 2. Reconciliation with Indigenous Peoples**

2) How can the OPR contribute to the advancement of Reconciliation with Indigenous peoples?

It would seem that incorporating Reconciliation within Onshore Pipeline Regulations could prove difficult and require some critical thinking as well as understanding how to achieve such a thing and it may not fit within this scope of where to advance such an initiative. Just initial thoughts but it would require some more brainstorming of how such a thing could be achieved I believe firstly.

3) How can the OPR contribute to the protection of heritage resources on a pipeline right-of-way during construction, and operations and maintenance activities?

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Consider inserting an early engagement framework within the OPR for engaging First Nations early on in the process as opposed to us just receiving a referral about an archeological permit that is being applied for in our respective territories. Working with the regulators early on in the process could prove to be very useful in identifying areas that are culturally sensitive or otherwise significant. This may pose a bit more work on the CER in terms of how it might be accomplished but there are potentially other ways to achieve this as well through a process developed by all parties involved working together to provide a clear and transparent path towards protecting heritage resources and or culturally sensitive areas.

4) How can the OPR contribute to the protection of traditional land and resource use, and sites of significance for Indigenous peoples on a pipeline right-of-way, during construction, and operations and maintenance activities?

The first thought when constructing a pipeline would be to minimize the footprint required to construct the pipeline is key and having that understanding where the sites of significance are or in the vicinity of as sometimes there are disclosure elements that are confidential and there is no wish to share those interests with proponents or the public in any shape or form. Operations and maintenance should carry the same principals of the footprint and disturbances being limited as possible in these areas.

5) How can the use of Indigenous knowledge be addressed in the OPR?

This has been an on-going topic of discussion for any project and at all levels of Government and there is not a simple answer to this question other than having the necessary discussions with the impacted Nations and treating it case by case is typically how we've seen this question answered. Some Nations are willing the share more details than others and some may choose not to share anything other than it is significant but not go into detail and that should be acceptable.

6) How can the OPR address the participation of indigenous peoples in pipeline oversight?

Using the model of the IAMC seems to be the logical answer to this question but there are components that are quite rigorous in terms of getting the training and adhering to the safety legislation requirements to be able to participate in CER lead inspections. We are under capacity often and it can be difficult to have the appropriate people for the tasks and meet the obligations sometimes.

### **Section 3. Engagement and Inclusive Participation**

7) How can the OPR support collaborative interaction between companies and those who live and work near pipelines?

As part of the regulation there could be someone from the company/proponent that is designated as a liaison lead that must interact with those people and try and implement safe, creative ways to

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show how the construction is carried out and what it can look like post-construction, is one simple way to address certain impacts to the land and concerns of it not looking adequate or in a better state than when it was impacted by construction. Effective community engagement is always a useful tool to use very early on to assist in good collaborative interaction between the people and the company/proponent. Who the company/proponent chooses to carry out this work can sometimes affect the outcome of how effective the interaction can be and is an important delicate task to perform.

8) How could communication and engagement requirements in the OPR be improved?

Understanding that this requires a deeper level of engagement and consistent methods of very clear and concise communication is a key aspect of carrying out deep, effective engagement. There sometimes is not one methodology or single model on how to do this and can vary and providing some insight to this within the regulations could prove to be very useful. The duration of the communication and engagement can also be a factor in how this is carried out effectively and efficiently.

9) How could the CER improve transparency through the OPR?

Budget for regular reporting of the aspects that require more attention in terms of transparency and apply this technique throughout construction and not just intermittently or 'as needed'.

10) Gender and other intersecting identity factors may influence how people experience policies and initiatives. What should the CER consider with respect to:

- a) Those people implementing the OPR; or
- b) Those people who are impacted by the operational activities addressed in the OPR?

Good communication and training in the sensitivities surrounding the factors of how people experience certain policies and initiatives could be a great start but ultimately the understanding and foundational principals by which we live will influence our thoughts and feelings surrounding pipelines and there is no simple answer or one solution to this question.

### **Section 4. Global Competitiveness**

11) How can the OPR support a predictable and timely regulatory system that contributes to Canada's global competitiveness?

It is difficult to say that regulations can offer something in terms of global competitiveness and what that means for Canada. There is a supply and demand and how much you can produce for less is typically how markets work globally but for fossil fuels there is a known factor that they are not renewable, this is a huge factor in determining how this might be answered.

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12) How can the OPR support innovation, and the development and use of new technologies or best practices?

The OPR should definitely be supportive of new technologies and best practices, how to do that within the regulation may be just as simple as stating that the proponent have that mandate to explore the idea of finding new best practices or at least show the level of effort that went into trying to find or develop in some cases their own BMP's (Best Management Practices). Create an OPR scholarship to Universities that is specific to oil pipeline 'new technologies'.

13) What company-specific or industry-wide performance metrics could the CER consider to support the enhanced oversight and transparency for CER-regulated facilities.

Hopefully the performance metrics are a combination of man and technology that suits this industry given the highly controversial elements that surround pipelines and people's perception of them. We have also seen first-hand how quickly the assessment and evaluation of a proponent when something fails but there is value in showcasing what is working, that will in turn provide a bit of transparency at the same time.

14) Are there opportunities within the OPR for data and digital innovation that could be used by the CER and by companies regulated by the CER?

Yes, there are and they should be utilized as timing allows and having a good understanding of the benefits that data management can have in the oil and gas industry is something that could have more of a focus on it to become better as the technologies improve.

### **Section 5. Safety and Environmental Protection**

15) How can the OPR be improved to address changing pipeline use and pipeline status?

I don't know that this needs improvement unless there's something obvious that needs to be addressed that the CER has encountered as a result of changing a pipeline status.

16) What further clarification, in either the OPR (e.g. structure or content), or in guidance, would support company interpretation and implementation of management system requirements?

This seems to be a robust requirement for companies to implement as part of ensuring and promoting a successful, safe culture in the pipeline industry and reading the discussion paper there is some work on making a document by the CSA and the American Petroleum Institute that will help provide some guidance to support companies in their efforts and understanding of those requirements.

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17) How should information about human and organizational factors, including how they can be integrated into a company's management system, for both employees and contractors, be provided in the OPR, and/or described in related guidance?

It should be provided in the form of a link or web-based guide likely as the OPR would become such a large cumbersome document, or perhaps an appendix of sorts.

18) How can the OPR improve the connection between company safety manuals and the overarching Safety Management Program, for both employees and contractors?

Is this not already defined by legislation? I think it is but for the purpose of answering the question that should come to mind is which manual is setting the safety bar very high and going over and above the legislative requirements.

19) How can respect and personal workplace safety be assured at CER regulated sites?

By having a high-level safety program that is under the constant lens of the regulator(s) with regular audits to ensure it is being effectively implemented and is functioning well.

20) How should the CER be more explicit about requirements for contractor management?

The company is the ultimate liable entity and managing sub-contractors is what this question seems to be asking about but managing contractors is an important aspect of the job and through regular audits during construction I think the appropriate oversight can be achieved this way.

21) How should the OPR include more explicit requirements for process safety?

This is a high-level concept that sure needs to have some form of critical thinking put into it to have a positive influence on safety and what it means for Process Safety. Including a mechanism or plan to address this would be an ideal component of the current regulations that exist but if not met should have some form of measures put in place to evaluate the effectiveness of the Process Safety plan or whatever it might be called.

22) How can the OPR drive further improvement to the environmental performance of regulated companies?

By continuing to engage First Nations and utilizing the knowledge they have to improve the performance of the companies in a more holistic approach that embodies the values and principles of the First Peoples.

23) How can the connection between the Environmental Protection Plan, specific to an individual pipeline, and the company's Environmental Protection Program, designed for a company's pipeline system, be improved?



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Environmental Protection Plans are designed to be site specific where there may be environmentally sensitive aspects not necessarily part of a whole Environmental Protection Program with potentially multiple pipelines in different geographical areas. Distinguishing that in the regulations and stressing the importance of this fact is important to the companies and or contractor(s) performing the work and adhering to the Environmental Protection Plan specifics is imperative to a successful connection of the two very distinct and different documents or plans that identify an over arching program and a very site-specific document made to assist in protecting that specific physical area of the pipeline.

24) How can contaminated site management requirements be further clarified, in the OPR or in guidance?

Making the objectives clear and having a process that is updated occasionally could be very helpful and hearing from the companies that have managed contaminated sites and have been successful in bringing them back to a state where the site is not contaminated anymore would be very helpful. It is not always the company that owns the pipeline that often deals with a spill incident but rather a 3<sup>rd</sup> party that cleans it up and reports back to the Government regulators like the CER and Ministry of Environment if required. It creates transparency and can be effective and making this clear in a guide or the regulations is necessary.

25) Are there any matters related to the Emergency Management Program in the OPR that require clarification? If so, what are they? Are there matters for which further guidance is required?

We are early on in our understanding of Emergency Management and what that entails and will be learning more about it this year and how it will be incorporated into our own Emergency Management Program along side some companies where there is potential for an incident to occur. CP Rail, TMX have both expressed a willingness to do a spill scenario in our community and work with our Emergency Management Team to see how it will work or mesh together in terms of structure and abilities. More of a comment than anything else but hopefully it helps in some shape or form for that question.

26) How could the requirement of a Quality Assurance Program be improved or clarified in the OPR?

Quality Assurance Programs are necessary to ensure that the highest standards possible are being met in terms or the quality of the materials down to the tradesman that welds the pipe and the consistency is of the highest standard applicable.

27) How can the OPR incorporate the key issues identified in the Safety Advisory regarding the strength of steel and the relative strength of the weld area?

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Science and technology is constantly improving and hopefully the CER and the OPR define the key issues clearly and concisely to the companies and there are regular updates to the Safety Advisory that highlight any improvements when some are made.

### Section 6. Implementation Objectives

28) What are your recommendations for compliance promotion at the CER?

Having more regulatory compliance inspections is a good way to promote compliance. Developing that tool on how best to increase the inspections and improving compliance during construction and potentially post-construction as well is likely something that could be inserted into the OPR as a mandatory mechanism the regulator to utilize.

29) How do you want to be engaged by the CER in the development of technical guidance?

By CER with goals and objectives in mind to help provide meaningful guidance that is through a First Nation 'lens' or perspective. Also keeping in mind that there are some of us that lack capacity in the form of actual capital to conduct this work and expertise in some areas we may want to hire a 3<sup>rd</sup> party to assist and help us provide input based on our individual or collective experiences.

Any further correspondence related to this response may be directed to [REDACTED] Referrals Officer working on behalf of Leq'a:mel First Nation.

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