



Canada Energy Regulator: Review of the Onshore Pipeline Regulations

Phase 1 Report

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Centre of Excellence

July 15, 2022



Executive Summary

The Canada Energy Regulator's (CER) Onshore Pipeline Regulations (OPR) provides the rules that companies with authorizations to build and operate interprovincial pipelines must follow. The OPR requires regulated companies to establish, implement and maintain management systems and protection programs in order to anticipate, prevent, manage and mitigate conditions that may adversely affect the safety and security of the company's pipelines, employees, the public, as well as property and the environment. A management system is a systematic approach designed to effectively manage and reduce risk.

The CER conducts inspections and audits to confirm compliance with the CER Act, the OPR and other regulations, and conditions on authorizations, using a risk-based compliance verification approach. The CER focuses its compliance verification on those things that pose the highest risk of harm to people and the environment. Where non-compliance occurs, the CER will take necessary compliance and enforcement action to promote compliance, and deter future non-compliance based on a stepped enforcement approach.

The current version of the OPR is focused on company management systems and safety, security and environmental protection outcomes. The CER aims to make meaningful change in the CER's requirements and expectations of regulated industry to advance Reconciliation with Indigenous peoples. The CER expects regulated companies to work differently to support Reconciliation with Indigenous peoples.

In January 2022, the CER released a Discussion Paper which was intended to be a starting point for discussion outlining six topics of focus where the CER has identified a need for change in the existing OPRs.

At this stage of the OPR Review, the CER is seeking feedback on the issues and concerns (broadly speaking) Rights Holders face in their dealings with regulated companies during construction and operation of pipelines – i.e.: what is working well and what needs to be improved.

For Phase 1 of the OPR Review, the Centre is being asked for advice and guidance broadly speaking, on issues and concerns First Nations have as it relates to the CER's expectations of regulated companies. In addition, the CER is requesting input as to how First Nations in Saskatchewan – broadly speaking - should be engaged during future stages of the review process when more detailed engagement addressing technical issues will guide the development of draft regulations. This could include engagement through the Centre via workshops, collaboration with the CER or other potential avenues of participation.

In response to the Discussion Paper and Phase 1 engagement from the CER, the Saskatchewan First Nations Natural Resource Centre of Excellence (The Centre) has prepared the following report outlining the results from a workshop held with our Board on July 8, 2022, which is comprised of Chiefs and Tribal

Council leadership representing all 10 Tribal Councils in Saskatchewan, the Federation of Sovereign Indigenous Nations (FSIN) and Independent First Nations. The submission provides issues, opportunities, and recommendations identified during the workshop held with the Board.

The discussions spanned multiple issues and topic areas, with an underlying focus and emphasis on the significance of inherent rights and First Nations sovereignty and jurisdiction with respect to the lifecycle oversight of CER-regulated facilities, in particular onshore pipelines in our Traditional Territories. The discussions were focused around eleven questions that were adapted from the twenty-nine Discussion Paper questions.

The resulting comment submission provides several issues and recommendations for the CER's consideration during the process of updating the OPR. For the CER to maintain and fulfill its commitment to Reconciliation, it must engage in a Nation-to-Nation collaborative relationship with First Nations in Saskatchewan that is rooted in the recognition of our inherent rights, not just the rights that flow from Section 35 of the *Constitution Act*. This includes the CER engaging productively with The Centre and First Nations in Saskatchewan to review and advance these recommendations, either through direct amendments to the OPR or changes to other aspects of the CER's regulatory framework, as required. Undertaking this process in true partnership and good faith will be critical to ensure that First Nations in Saskatchewan have a meaningful role in the development and implementation of a revised OPR, as well as the CER's Regulatory Framework and Strategic Plan more broadly.

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1.0 Introduction

1.1 Background and Context

In early 2022, the Canada Energy Regulator (CER) released a Discussion Paper initiated a review of the Onshore Pipeline Regulations (OPR). These OPRs serve as a principal set of regulations for the oversight of onshore pipelines and their operation. The CER has invited interested and affected Indigenous groups across Canada to participate in the review of the OPR, starting by providing high-level feedback on the OPR Discussion Paper. This Discussion Paper outlines areas where the CER may make changes to the existing regulations and invites comment on the early stages of the development of the OPR, allowing for the opportunity for feedback to be meaningfully incorporated to aid in shaping the final OPR. Topics of focus for the Discussion Paper include:

1. **Lessons Learned** – information and insights gained over the last 20 years since the existing OPR came into force, including gaps or known areas where improvement of the regulations is needed.
2. **Reconciliation with Indigenous Peoples** – potential options for improving how the OPR interface and work with Indigenous peoples through the course of a pipeline’s lifecycle; emphasizing the need for respect and protection of heritage resources and areas of cultural significance, as well as involving impacted Indigenous communities involved in pipeline oversight.
3. **Engagement and Inclusive Participation** – identification of improved methods of planning how pipelines are operated and maintained, including emergency management and communication with affected communities. Additional effort and options for increasing the use of a gender-based plus analysis lens to lifecycle management, considering how policies affect women, men, and non-binary people differently.
4. **Global Competitiveness** – ensuring companies and people affected by the OPR know what to expect while improving innovation and flexibility to better adapt the oversight of pipelines for a low-carbon future.
5. **Safety and Environmental Protection** – using management systems to plan for all aspects of pipeline operations; exploring human and organizational factors that impact how work is done; looking at programs and plans for safety and environmental management; making sure contractors are properly managed; looking at how contaminated sites are cleaned up; making sure there is a strong emergency management program in place; and checking the quality of pipeline materials.

- 6. Implementation** – identifying pathways to improve understanding of the OPRs to achieve their intended results.

1.2 Onshore Pipelines in Saskatchewan

First Nations in Saskatchewan have a complicated history with pipelines and the broader oil, and gas sector in the province. This sector has brought prosperity to the province, however, there have been limited economic benefits realized by many of the First Nations directly impacted by the sector. Rather, well sites, pipelines, upgraders, refineries and supporting infrastructure have impacted the ability of Saskatchewan First Nations to exercise Inherent and Treaty Rights. Oil and gas development combined with agriculture, industry, mining, and infrastructure development, have resulted in significant cumulative impacts on First Nations' Inherent and Treaty Rights throughout the province.

Pipelines pose a unique challenge, as they create long linear disturbances, as well as maintain an ongoing threat in the event of a spill event. This threat was most recently realized in 2016, when a leak associated with a pipeline operated by Husky Oil Operations Ltd., spilled approximately 250,000+ litres of diluted heavy oil into the North Saskatchewan River and surrounding lands near North Battleford Saskatchewan. The immediate effect of this spill was the direct harm to fish and wildlife and on drinking water for thousands of people living hundreds of kilometers downstream for nearly two months.



Figure 1. Photo of petroleum residue along the North Saskatchewan River shoreline following the 2016 Husky oil spill.

The North Saskatchewan River is central to the culture and well-being of many First Nations in Saskatchewan as it is an important source of water,

transportation route and location and source of traditional land use. The ecosystem of the North Saskatchewan River weaves together the lands, waters, and way of life for many. The North Saskatchewan River represents a steady presence within a landscape that has experienced a deprivation of available lands where First Nations' inherent and Treaty rights can be exercised, as a result of European settlement and resource development.

Although, the Husky pipeline is regulated by the Province of Saskatchewan, there are applicable lessons learned regarding First Nation's involvement in provision of adequate oversight, and the resources they need to respond to potential impacts to their rights and interests in the event of

an incident. Very little space was allocated to Saskatchewan First Nations in the coordination effort for the clean-up, including aspects of environmental monitoring and there were many lessons learned about how best to communicate with impacted Rights Holders during an incident. There must be strong mechanisms built into the OPRs which ensure Saskatchewan First Nations have an active role to play in the oversight of projects and provide the policy and procedural mechanisms necessary to minimize the impacts of pipelines on the environment and exercise of rights.



Figure 2. Photo of coordination efforts to monitor and respond to the 2016 Husky oil spill on the North Saskatchewan River.

1.3 The Saskatchewan First Nations Natural Resource Centre of Excellence (the Centre)

The Saskatchewan First Nations Natural Resource Centre of Excellence (The Centre) is an organization designed to serve as an information hub, providing technical support and capacity to all 74 Saskatchewan First Nations. The Centre acts to support information and facilitate dialogue on matters related to natural resource utilization within Saskatchewan. A primary focus

for the Centre in recent years has been on providing capacity support as well as a voice for Saskatchewan First Nations on matters related to oil and gas production, transport, and remediation. Of note, the Centre was instrumental in coordinating the Indigenous response to the 2016 Husky oil spill on the North Saskatchewan River, as well as in connecting oil and gas restoration proponents to First Nation labour and businesses to ensure proper remediation and economic benefit for First Nations in Saskatchewan.

The Centre of Excellence has been incorporated as a non-profit organization since September 2009. Creation of the Lands and Resources Commission of the Federation of Sovereign Indigenous Nations (FSIN), the Centre of Excellence works to assist and support our 10 Tribal Councils and 74 First Nations in Saskatchewan. Leadership representatives from each of the following compose the Centre of Excellence Board of Directors:

1. Federation of Saskatchewan Indian Nations (FSIN)
2. Agency Chiefs Tribal Council
3. Battlefords Agency Tribal Chiefs
4. Battlefords Tribal Council
5. File Hills Qu'Appelle Tribal Council
6. Meadow Lake Tribal Council
7. Prince Albert Grand Council
8. Saskatoon Tribal Council
9. South East Treaty 4 Tribal Council
10. Touchwood Agency Tribal Council
11. Yorkton Tribal Council
12. Independent First Nations

In addition to project-related consultation and negotiation support, the Centre of Excellence also provides participating First Nations with tools, training, and advice for the advancement of successful economic and business development initiatives. Many First Nations Elders in Saskatchewan speak about the Treaty promises and the economic opportunities which were to arise from these promises. With this in mind, the Centre of Excellence aims to work alongside First Nations communities in Saskatchewan to enable them to take full advantage of opportunities in the energy and resource sector such as oil and gas, mining (e.g. uranium, potash, gold, diamonds), and renewable sources of energy such as wind and solar power.

The Centre of Excellence respects the autonomy and authority of each of its' member First Nations and Tribal Councils and seeks to support their initiatives respectfully. By developing meaningful and collaborative relationships among First Nations, industry, educational institutions and all levels of government, the Centre aims to build a prosperous future through the sustainable development of First Nation communities.



To support the review of the OPRs and facilitate dialogue for Saskatchewan First Nations who are not independently participating in the OPR review, the Centre has developed a response to the Discussion Paper, intending to create space for more detailed and Nation specific concerns to be heard as engagement on the OPR review progresses. In the review of the Discussion Paper and to make recommendations to the CER, the Centre developed its response by interviewing the Centre of Excellence Board of Directors, gaining insights on key aspects of the Discussion Paper as well as the existing status quo.

1.4 Project Team

The Centre of Excellence undertook this review with support from Shared Value Solutions (SVS). The Centre of Excellence worked with SVS to develop a methodology for data collection, workshop design and presentation materials – which included a description of the OPR review process. The Centre of Excellence facilitated the workshop with support from SVS regulatory and technical specialists and note takers. Staff from SVS then collated the input from Board Members into this report.

2.0 Review of the Onshore Pipeline Regulations Discussion Paper

The primary objective of this report is to convey the feedback gathered from the workshop with the Centre's Board of Directors. The engagement was focused on the OPR and its associated Discussion Paper. The questions within the Discussion Paper were condensed and modified to be tailored towards the specific issues and concerns for First Nations in Saskatchewan. The questions used in the workshop discussion are provided in Appendix A of this report.

The Centre expects that the suggestions and feedback provided within this report will be meaningfully acknowledged and implemented by the CER in future iterations of the *Canada Energy Regulator Onshore Pipeline Regulations SOR/99-294*. In instances where the Centre's input cannot be incorporated into the review process, the Centre requests that the CER provide written explanations as to why not. In addition, the Centre wishes to note the comments and recommendations within this submission should be considered preliminary and high-level in nature and that further engagement will need to be conducted between and among First Nations in Saskatchewan which can be facilitated by the Centre to inform more specific aspects of the CER's amendments to the OPR.

2.1 Workshop Methodology

The Centre held a workshop discussion with its Board of Directors during its Annual General Meeting held on Friday July 8, 2022, as a hybrid session with most participants in person at the Grey Eagle Resort in Calgary, AB and some participants joining virtually via ZOOM.

Prior to the workshop, there was a discussion and high-level presentation from CER leadership on the Memorandum of Understanding being advanced between the CER and the Centre as well as purpose of the CER and the applications of the OPR. CER leadership spoke to the strategic priorities of the CER as they relate to advancing reconciliation and provided an overview of the intent behind reviewing the OPR through the Discussion Paper.

Six key areas were identified by the CER as priority topics for feedback, including:

- Lessons Learned
- Reconciliation with First Nations Peoples
- Engagement and Inclusive Participation
- Global Competitiveness
- Safety and Environmental Protection
- Implementation Objectives

The CER provided general context for each area and outlined opportunities for participation and comment throughout the four phases leading to the final OPR regulation implementation in 2025.

Following this, The Centre's leadership, with support from SVS provided a brief presentation to attendees on the specific implications of the OPR to First Nations in Saskatchewan. Participants were then led through a facilitated discussion surrounding the Discussion Paper. Specifically, eleven questions were developed based on the Discussion Paper questions. In some cases, Board members were provided with follow-up questions and examples to prompt responses based on the distinct experiences and viewpoints of the First Nations leaders in attendance at the session.

Throughout the facilitated discussion, attendees provided feedback verbally. SVS facilitators captured all participant feedback in detailed meeting minutes for the workshop. The session was closed out with an invitation to share final comments relating to the CER, OPR, or experiences working with companies in general that would be of benefit to the CER in their OPR review.

2.2 Workshop Results and Comments

General Feedback and Comments

- Pipelines have been in our territories and communities for 70 years. However, in that time our First Nations have had a limited working relationship with the CER. This is particularly concerning given past incidents such as pipeline ruptures and spills in our territories.
- Currently, there are no consistent Environmental or Cultural monitors from First Nations that are accountable to our First Nations in our Treaty or Traditional territories on sites with meaningful authority under the current CER Act for these pipelines. One of the contributing factors to this is our First Nations lacking the capacity and resources to respond to these issues. Historically, we have had to deal with any incidents on our own with limited information and no support from regulators. It is also a problem that there are no First Nations inspectors that report independently to First Nations leadership or band membership on our Treaty or Traditional lands for pipelines. We are looking for capacity for our own monitors – accountable to us - to be on site.
- There are little to no financial or economic benefits coming to First Nations in Saskatchewan through pipeline projects or other oil and gas activity in our territories. Our Nations need to also be benefitting from these projects such that we can finance our own activities, including environmental and cultural monitoring.
- There are several challenges our Nations experience around equality of rights around access to lands. It seems as though farmers and other landowners have greater access and authority to lands, and also have limited First Nations access to their land to conduct inspections and monitoring activities. When it comes to monitoring and other activities related to pipeline oversight, First Nations should not be working for the CER on these projects, needs to be an equitable partnership between the parties.

- The CER's Indigenous Advisory Committee doesn't have adequate representation. Representatives from other provinces should not be advising First Nations in Saskatchewan around projects in our territories. Only our people will know about the land and important sites, as a result our people should be serving as the advisors on these matters.
- IAMC Environmental monitors have an immense amount of responsibility. It is important to ensure these monitors have a full and complete understanding of the project, its issues, and the sites of importance for all Nations individually and collectively. Monitors should have accountability to their Nation- not the CER. This requires Nations being provided the financial resources and oversight capacities and not the CER.
- It is important for there to be Indigenous involvement at the CER's Board level. The oversight and advisory of an Indigenous Advisory and Monitoring Committee (IAMC) is a good start, but First Nations in Saskatchewan should also be at the decision-making table, not just in an advisory capacity. What this looks like in practice could be subject to further discussion between the Centre and the CER.

Discussion Question 1: Based on what you have heard, what do you feel the main purpose and goals of the current OPR are?

- Discussion on question #1 was skipped by participants and combined with question # 2 below.

Discussion Question 2: In thinking about the CER's current regulatory expectations of regulated pipeline companies during construction and operation, what is working well in relation to those expectations and their implementation and what needs to be improved?

- There is a need for improvement around how chance finds of cultural sites and artifacts are responded to. There is needed improvement and a deeper level of respect given to these issues from proponents and regulators – in particular, who claims ownership of the artifacts that are of First Nations origin and documenting this on the record? Moving forward it is recommended stronger policies and regulatory requirements developed by First Nations regarding cultural heritage chance finds along pipeline corridors and within project areas with retained ownership to First Nations.

For example, 10 years ago during the Keystone pipeline construction, many artifacts were found along the pipeline. We [First Nations] asked the company whether they would be returning the artifacts to us, but the company's response was that they owned the artifacts and would not be giving them back. They displayed them in their offices. We are very aware of this and would like to see this changed. It is very important to address who owns the artifacts and how they will be returned.

- In terms of what has been working well, an example is through the current Line 3 Indigenous Advisory and Monitoring committee (L3 IAMC) is a mandate for IAMC monitors. They are there

monitoring artifacts and will work with the local First Nations to take the appropriate next steps (e.g., ceremony). It should be mandated that First Nations people take part in every project. This should be automatic, not a request. We [First Nations] should have more skilled people to be part of this to establish our own oversight organization so that we can take the appropriate cultural steps with artifacts. An oversight Committee like the IAMC should be born and funded through an First Nations owned organization such as the Centre of Excellence. A lot of the funding for the IAMC stays within government and could be utilized at the ground level building capacity.

Discussion Question 3: How can the OPR contribute to the protection of sites of significance including areas of harvesting, resource use, cultural significance (including cultural heritage sites), and Indigenous ecological knowledge? Do protections need to differ depending on the phase of the project (i.e.: construction vs. pipeline integrity and other maintenance activities vs. abandonment)?

- The cultural significance and importance of the arrowhead cannot be overstated as different arrowheads along pipelines are from different tribes and Nations. As a result, these arrowheads provide a detailed history and story of our people and our relationship to place. As a result, it is important for us to be able to identify ownership so that we can tell our own story.
- Some participants noted having a positive experience with the IAMC program on Line 3 and would like to see such structures expanded to independently First Nations led on other CER-regulated projects and other oversight matters within the CER's jurisdictions.
- There have been challenges faced by First Nations monitors and contractors being denied access to private land unless they are employed by the CER. This is discrimination that must be addressed and there needs to be equality. The non-Indigenous peoples [monitors] working at the CER don't have the same set of skills as First Nation monitors and don't know what to look for. Our people should not work for the CER directly as monitors, rather First Nations in Saskatchewan should have our own company or institution that the CER contracts for monitoring activities. The CER must come to us for all projects in our territories and homeland.
- The environmental protection measures, including avoidance, mitigation, management, and accommodation measures need to be different depending on the project phase given the differing environmental and rights-based impacts experienced by First Nations at various stages of the Project lifecycle.
- We [First Nations] use the term "environmental monitors" and then the CER staff are called "CER inspectors". This gives a confusing understanding to First Nation leadership that our monitors are out there monitoring all aspects of the pipeline right-of-way, but this isn't the case. Our monitors essentially go out alongside the CER inspectors on planned visits. We need our monitors to be in the field consistently and across the pipeline route, including the right-of-way

and temporary workspaces set up for the project. This should be written into the regulations. Without this written in the regulations, there are issues with the ability to freely go on people's land specific to a project. It will turn into issues of racism and discrimination if the monitors need to access farmer's land. People are scared to get shot. When farmers see an Indigenous person, they treat us differently than the CER inspectors.

- It is important not to reinvent the wheel when it comes to protection of sites of significance and involvement of Indigenous Nations. The Enbridge L3 is in our territory and we are somewhat happy with the recommendations. We do not need to stray too far from these and if anything should aim to build on the successes and learnings of this structure and process.
- For the Alliance pipeline, we convinced the company to hire as many First Nations people as possible. This allowed us to be in a position to have care and stewardship any burial sites that we come across. These burial sites and other sites of importance must be looked after properly by First Nations and this must be a mandatory requirement for all CER-regulated projects moving forward. There needs to be strict attention paid to the concerns and needs of First Nations when it comes to burial or sacred sites. Provincial laws of jurisdiction must not supersede First Nations jurisdiction of our Inherent rights.
- Overall, it is strongly recommended that there are mechanisms that allow for mandatory independent monitoring by First Nations be undertaken within our Treaty and traditional territories.

Discussion Question 4: What expectations do you as First Nations leadership have that could direct the CER to mandate the use and consideration of Traditional Knowledge in regulated companies' decision making?

- This question was skipped by participants and was covered in discussions in questions 3 and 5.

Discussion Question 5: Reflecting on UNDRIP, what role should the citizens and leadership of First Nations have in the lifecycle oversight and regulation of CER-regulated pipelines?

- During the Enbridge Line 3 process, Enbridge hand-picked certain communities to participate and left other First Nations out that "weren't in close proximity" to the pipeline. We need to share the process, and all be equal. We must all be part of the process right away from the beginning to avoid cherry-picking. With the Enbridge L3 pipeline, the process meant that some communities that were close to the pipeline are not even getting information or benefits of any sort. Enbridge is being paid but our people are still living in poverty. We need equality.
- Pipeline companies have taken a divide and conquer mentality with us. [For example] we are 7km away from the Enbridge Line 3 pipeline, but we weren't engaged with. Reflecting on UNDRIP, there must always be an acknowledgement of lands and territories. Our land should be recognized and valued. Our rights should also be recognized and valued. A key part of UNDRIP is

that we shouldn't have to change and we should be able to live as we always have done. This divide and conquer process we are seeing leaves some bands that have and some that don't- so we start looking at our neighbours with anger and frustration.

Discussion Question 6: Broadly speaking, what steps, processes, or mechanisms should the OPR dictate to companies in order to increase communication, participation, and transparency between impacted First Nations and pipeline operators?

- Regulations allow the companies to pick and choose winners and losers
- When looking at the Husky oil spill, this incident impacted all of our First Nations. Even if we don't live where it happened, we still could have come to that location to fish and now we can't.
- (Proponents) hand picks First Nations peoples that are going to become their puppets. This process and mechanism must change so that we are all being treated fairly. All of us should be getting royalties because they are all our resources being used. The non-Indigenous people are the ones getting all the money and we are in poverty. This has been a long-standing issue. This must be flagged as a recommendation for continued discussion with the CER in phase 2 engagement

Discussion Question 7: How should the CER consider and integrate the unique lived experiences, perspectives, and concerns of Indigenous women, girls, youth, LGBTQIA2S, and/ or persons with disabilities into the OPR?

- This question was skipped by participants.

Discussion Question 8: How can the Crown's Duty to Consult and Accommodate and the corresponding regulatory mechanisms, requirements, and capacity funding for First Nations support a predictable and timely regulatory system that contributes to Canada's global competitiveness?

- Once a project's permit is granted, all the responsibility for subcontractor hiring is passed down to the general contractor. So they have the ability they don't want to hire people or they will cherry-pick. There must be a mandated percentage contracting on Indigenous companies.
- Unions are not friendly to our people and are very nepotistic - these are the people who end up working the jobs, not us. There should be non-union work packages that our people can benefit from as our people are at the bottom of the list for union work. The general contractors pick their buddies to hire. Then they make 10 bands compete for one small work package (also a form of divide and conquer). This issue must be elevated as a recommendation for further discussion with the CER in phase 2 engagement.

- The Duty to Consult (DTC) is at a higher level than the regulatory review. Maybe a recommendation that we provide is for the above conversation to occur. The federal DTC is always vague and they don't seem to step up to the plate in any way.
- There should have been royalty payments and benefits issued from the Alliance pipeline, and are something to be explored on future projects in our territories.
- We must include language [in the report] not just around technical pipelines, but also socio-economic aspects. We've been conditioned to leave business opportunities outside of regulatory aspects. The government likes to keep to science and administration and leave business outside. But it is important that we keep this conversation at the forefront. Obviously cultural sites are very important, but so is socio-economic considerations. It should be mandated that all Nations are not only consulted, but accommodated in a meaningful way. This is a fairly large issue and it is recommended that it be subject to further discussion with the CER during phase 2 engagement.

Discussion Question 9: What measures would you direct the CER require from pipeline operators for you to be fully apprised, engaged, involved, and to lead in order to have the confidence that a contaminated site is properly remediated or rehabilitated?

- Communities have done traditional land use studies. Industry should recognize how projects affect our hunting/trapping/fishing when these projects are going through our traditional territory. It is important for government to recognize these studies and maps because they often don't consult and just go ahead with the projects. If consulted, we are often given very short timelines to review and sign documents. We need more time.
- In order for a site to be cleaned properly, it has to be signed off a couple years after companies have finished working on the site. We often ask them to leave sites the way they found them. [Example]: A company once completed a rehabilitation of a site within our reserve and it looked great after they did it. Then the following year, canola started growing on the land [which is not native to the reserve lands]. What the company did was use non-reserve soils for the rehabilitation. From now on, we ask companies to do their rehabilitations only with local materials. We need 2 years to make sure it has been rehabilitated properly. We should include a recommendation around a Nation-led long-term monitoring plan. This should also include a recommendation for a mandated timeline that companies must follow to inform Nations on accidents, spills, malfunctions, and other major incidents.
- We need to discuss the intersection of legislation- federal, provincial, municipal and our own- for example, which supersedes the other when they intersect. This comment must be flagged as a recommendation for further discussion with the CER during phase 2 engagement. First Nations inherent Rights must be paramount.

- Under Saskatchewan’s current Duty to Consult Policy Framework, when there is a pipeline rupture there is no requirement during an emergency response for the province to let First Nations know. As a result, the province feels that they have complete authority to do whatever they want. This issue must be discussed further with the CER during phase 2 engagement. The CER also does not mandate a specific time frame in which Proponents needs to notify of a spill and there is an ongoing concern that First Nations are most often notified last.
- We need to have our own staff understand what the appropriate tools/methods are for cleaning up spills. We’re spending a lot of time asking [companies] about this, but not a lot of time understanding. We need to understand what companies are going so that we can have our own crew that is ready to monitor from start to finish.
- Companies need to acknowledge that we need to have ceremony at sites where there are spills, accidents, or other major incidents.
- If we are part of the process [of monitoring/ clean-up], we can inform our citizens. We need to be the ones who can explain it to our people.

Discussion Question 10: How should the CER focus on Indigenous-led oversight and thought leadership in drafting OPR requirements related to:

- **Environmental Protection Plans and Programs**
- **Management Systems**
- **Safety Management Programs**
- **Emergency Response and Management Programs**
- We need funding and capacity to have the skills and be the ones on the ground during spills. [Example]: With the Husky Oil spill, they reported the spill very differently from how we saw it. We had to rely on our own institution (the Centre of Excellence) to bring in our own experts to prove that the spill was from their oil. This was over the course of a few years so consistency in capacity and funding is key. However, it is doable.
- A recommendation should include “to ensure proper resources and capacity are provided to First Nations to do work on our own merit. The work must come from our own worldview”. This should include short and long-term monitoring. There should be funding opportunities available for First Nations wanting to do long-term monitoring.
- Legislations and Regulations should be revised so that impacted parties and their own independent assessments [following spills/accidents] must be funded by the responsible party (e.g., polluter pays)

- When it comes to an Environmental Damages Fund, the government dictates who gets this funding. This needs to be locally controlled. This should be included as a recommendation to the CER.
- We need emergency response training for environmental monitors and rehabilitation specialists to be prepared for spills as well as our own notification system.
- We need to flag aspects of enforcement around violation of regulations. We need to be part of this as well. We cannot rely on government people. Also, if there is a fine for companies related to a spill, the money goes to the receiver general. This is not fair - it should be going to First Nations to do whatever they need to do for remediation. This comment must be flagged as a recommendation for further discussion with the CER during phase 2 engagement.

Discussion Question 11: What role should the Centre play in convening the perspectives of First Nations in Saskatchewan into the OPR Review process?

- We should be developing a pool of labour specialities (e.g., cleanup, IAMC) so that once there is a spill, then the workers are employed by the Centre are employed on behalf of the 74 First Nations. (EXPORT Database – www.exportdata.ca)
- We also have a big advocacy role with what we do. The Centre advocates for our Nations. Our Nations and our individual and collective band membership are our rights holders.
- We need to play the role of communication and coordination when there are incidents/emergencies. We are not here to compete with First Nations, but to support and enhance. This would be a collective approach.
- The original goal of the Centre is to build capacity. We must continue to work together to build up the capacity we are looking for.
- There must be a recommendation for further discussion that the Centre be leaned upon in the event of an emergency to facilitate communication.
- There must be a recommendation that First Nations co-develop how reclamation and restoration is completed. Companies will always try to do the bare minimum so we need to have the impacted people co-developing getting the land back to its original condition. There should also be funding support not only for technical scientists but for legal support.

2.3 Recommended Actions and Next Steps in the OPR Review

The recommendations listed below reflect the common themes and suggestions that emerged from the discussion held by the Centre’s Board during the workshop. While the suggested recommendations are

reflective of shared feedback among attendees, they should be considered as a starting point for further discussion with the CER. The Centre, our Board, and First Nations in Saskatchewan expect to continue providing feedback to the CER through additional phases of the OPR review process, including through an in-depth technical review that combines nation-specific feedback with a technical review and recommendations report.

Several Board members shared perspectives and experiences of input from past consultations being disregarded or inadequately addressed. It is therefore imperative that the recommendations provided throughout the report be acknowledged by the CER and incorporated into the revised Onshore Pipeline Regulations, and instances where they are not, a written explanation as to why from the CER.

The following recommendations are provided to assist in informing and scoping future discussions between the CER, The Centre, and First Nations in Saskatchewan:

- Environmental monitors have an immense amount of responsibility. It is important to ensure these monitors have a full and complete understanding of the project, its issues, and the sites of importance for their Nation. Monitors should have accountability to their Nation- not the CER. This requires being paid by their Nation and not the CER.
- It is important for there to be Indigenous involvement at the CER's Board level. The oversight and advisory of an IAMC is a good start, but we should also be at the decision-making table.
- There needs to be efforts undertaken between the CER, the Centre, and First Nations in Saskatchewan to discuss contracting, procurement, and other economic development opportunities that need to be realized for First Nations in these projects.
- There needs to be further discussion on a First Nations led monitoring strategy, including First Nations involvement in emergency planning and response moving forward.
- Consultation and accommodation in a manner that recognizes inherent rights and considers the socio-economic impacts of these projects need to be discussed in a fulsome manner during the Phase 2 engagement held on the OPR Review.
- Overlapping federal, provincial, and First Nations jurisdictions and the role of each jurisdiction plays in environmental protection, oversight, and emergency response must be discussed. This includes reaching a shared understanding of the role of the Duty to Consult and requirement to consult and accommodate First Nations when accidents, malfunctions, ruptures, or other incidents occur.

3.0 Conclusion

For the CER to maintain and fulfill its commitment to Reconciliation, the Centre and our Board maintains that the CER must engage in a collaborative relationship with each potentially impacted First Nation in Saskatchewan to review and advance these recommendations, either through direct amendments to the OPR or changes to other aspects of the CER's regulatory framework, as required. In instances where

individual potentially impacted Nations do not have the inhouse capacity to undertake direct participation in the OPR Review, the Centre will act as a vehicle to convene input from willing First Nations into this process. Undertaking this process in true partnership and good faith with both individual First Nations and with the Centre will be critical to ensuring that our people have a meaningful role in the development and implementation of a revised OPR, as well as the CER's Regulatory Framework and Strategic Plan more broadly.

Appendix A– Discussion Questions from Workshop with The Centre’s Board of Directors

Question #	Discussion Paper Topic	Workshop Question	Corresponding CER OPR Discussion Paper Question #
1.	Lessons Learned	Based on what you have heard, what do you feel the main purpose and goals of the current OPR are?	1
2.	Lessons Learned	In thinking about the CER’s current regulatory expectations of regulated pipeline companies during construction and operation, what is working well in relation to those expectations and their implementation and what needs to be improved?	1
3.	Reconciliation with Indigenous Peoples	How can the OPR contribute to the protection of sites of significance including areas of harvesting, resource use, cultural significance (including cultural heritage sites), and Indigenous ecological knowledge? <ul style="list-style-type: none"> Do protections need to differ depending on the phase of the project (i.e.: construction vs. pipeline integrity and other maintenance activities vs. abandonment)? 	3, 4, 5
4.	Reconciliation with Indigenous Peoples	What expectations do you as First Nations leadership have that could direct the CER to mandate the use and consideration of Traditional Knowledge in regulated companies’ decision making?	6
5.	Reconciliation with Indigenous Peoples	Reflecting on UNDRIP, what role should the citizens and leadership of First Nations have in the lifecycle oversight and regulation of CER-regulated pipelines?	5
6.	Engagement and inclusive participation	Broadly speaking, what steps, processes, or mechanisms should the OPR dictate to companies in order to increase communication, participation, and transparency between impacted First Nations and pipeline operators?	7, 8, 9
7.	Engagement and inclusive participation	How should the CER consider and integrate the unique lived experiences, perspectives, and concerns of Indigenous women, girls, youth, LGTBQIA2S, and/ or persons with disabilities into the OPR?	10
8.	Global Competitiveness	How can the Crown’s Duty to Consult and Accommodate and the corresponding regulatory mechanisms, requirements, and capacity funding for First Nations support a predictable and timely regulatory system that contributes to Canada’s global competitiveness?	11, 12

9.	Safety and Environmental Performance	What measures would you direct the CER require from pipeline operators for you to be fully apprised, engaged, involved, and to lead in order to have the confidence that a contaminated site is properly remediated or rehabilitated?	24
10.	Safety and Environmental Performance	<p>How should the CER focus on Indigenous-led oversight and thought leadership in drafting OPR requirements related to:</p> <ul style="list-style-type: none"> • Environmental Protection Plans and Programs • Management Systems • Safety Management Programs • Emergency Response and Management Programs 	16, 18, 22, 23, 25
11.	Implementation	What role should the Centre play in convening the perspectives of First Nations in Saskatchewan into the OPR Review process?	28, 29