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Manager, Funding Programs
Impact Assessment Agency of Canada
160 Elgin Street, 22nd Floor
Ottawa, ON K1A 0H3



Email: fp-paf@iaac-aeic.gc.ca

**RE: Review of Canadian Energy Regulator's On-Shore Pipeline Regulations
Discussion Paper conducted on behalf of Beaver Lake Cree Nation**

As per the Contribution Agreement, Beaver Lake Cree Nation (Nation), with support from Calliou Group have reviewed the following document(s):

- Canadian Energy Regulator ("CER") *On-Shore Pipeline Regulations* ("OPR") Discussion Paper.

The full review of the *OPR* Discussion Paper is attached in Appendix A below. In addition to the attached review, there are several key themes or points of topics for consideration:

1. Greater and explicit requirements for consultation and involvement of First Nations.

The current *OPR* does not mention First Nations or how they ought to be consulted and otherwise involved in any aspects that are regulated under this document. While the CER may encourage companies to engage First Nations, and include them in activities related to construction, operation, decommissioning/closure, and reclamation phases of a project, without explicit requirements companies have no real incentive to do so or do so properly.

While attached guiding documents such as the CER Early Engagement Guide or the CER Filing Manuals may speak more specifically to consultation with First Nations, these cannot be documents used in replacement of explicit requirements laid out in the *OPR*. Guidance documents are useful tools, but they are not binding, and they do not have same the force and effect as regulations as they are intended to speak directly to how legislation should be carried out. As such, the *OPR* should contain specific requirements to ensure First Nations are meaningfully consulted or included, and impacts to rights are considered, throughout the lifecycle of a project. There must also be requirements set to ensure that any impacts to rights resulting from a project directly or cumulatively are adequately accommodated either through elimination measures, or a combination of reduction and control measures.

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Further, the *OPR* currently does not include requirements that companies provide adequate capacity funding to allow for First Nations to participate in consultation activities or other related opportunities. This could render any opportunities meaningless, as the First Nation is then required to carry the burden of costs to participate or else miss out.

2. Greater and explicit requirements for considerations to Aboriginal (Indigenous), Inherent and Treaty rights.

The current *OPR* does not include any overt considerations or specific mention of Aboriginal (Indigenous), Inherent and Treaty rights. Given that the *OPR* regulates many activities that directly relate to, and impact, Aboriginal (Indigenous), Inherent and Treaty rights, they ought to include explicit directions to how companies must consider and address impacts to rights.

Although guiding documents speak more specifically to how rights are assessed or considered within CER processes, this does not negate the need for rights to be explicitly recognized with attached requirements in the *OPR*. The same can be said for any documents that outline conditions and commitments made within project-specific regulatory processes and subsequent approvals for how rights are considered and impacts to rights are mitigated. These documents do not replace the need for standards to be set that span all project approvals and project activities.

Further, the *OPR* would also be an appropriate place to consider cumulative impacts to rights resulting from all pipeline activities that the CER regulates. Again, this would require that the *OPR* includes specific mention and requirements related to cumulative effects and Aboriginal (Indigenous), Inherent and Treaty rights.

3. Shift in the CER's approach to oversight.

Regulatory oversight is often reactionary rather than proactive or involved in nature; the CER does not appear to get actively involved unless a complaint is received, or they are otherwise asked to intervene. A shift in this approach to oversight should be considered and facilitated within any updates to the *OPR*.

There is also a lack of transparency in how sufficiency of compliance is assessed by the CER. Terms like 'adequate' or 'meaningful' are subjective in nature. Use of these terms without defining them and detailing parameters for assessment leads to conflict due to differing expectations and needs of First Nations, companies, and the regulator.

4. Need for higher standards.

Regulations are intended to be the bare minimum standards that must be met by companies. If these standards are too low or easily achieved, then there is a risk that companies become complacent, choosing not to go beyond the minimum and there

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is no incentive to innovate or otherwise exceed expectations. Standards laid out in the *OPR* ought to be higher to encourage innovation as well as ensure proper considerations to Aboriginal (Indigenous), Inherent and Treaty rights and greater involvement of First Nations in *OPR*-related activities.

Please accept this letter and attached Appendix A as completing the requirements for submission on the *OPR* Discussion Paper. You are welcome to reach out if you require further information and/or clarification.

Respectfully,

[Redacted signature]

Government and Industry Relations
Beaver Lake Cree Nation, Treaty No. 6

- Cc: Chief [Redacted]
- Councillor [Redacted]
- Councillor [Redacted]
- Councillor [Redacted]
- [Redacted] Tribal Administrator
- [Redacted] GIR Director

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#	Discussion Paper Question	Comments
1.	<p>What’s working well in relation to the <i>OPR</i>, and its implementation, and what could be improved?</p>	<p>Currently, the <i>OPR</i> is silent on how they consider, relate to, or seek to protect Aboriginal, Inherent and Treaty rights. The <i>OPR</i> also does not indicate any requirements to consult with, notify, or involve Indigenous nations in any form.</p> <p>Regardless of whether details or parameters pertaining to consultation with Nations and Aboriginal, Inherent and Treaty rights are present in related guiding documents put forth by the CER, such as the CER Early Engagement Guide or the CER Filing manuals, requirements must be specifically and overtly included in the <i>OPR</i>. Guiding documents are useful tools but they do not carry the same force or enforceability as regulations do.</p> <p>Moreover, it is not sufficient for the CER to solely rely on conditions and commitments stemming from a project approval to carry out actions or considerations to protection or accommodation of Aboriginal, Inherent and Treaty rights or involvement of Indigenous nations. These conditions or commitments are specific to a single project and may have variability between each project. Having minimum requirements explicitly identified in the <i>OPR</i> that conditions could be reflective, or built on top, of would address possible variability gaps and increase accountable expectations on proponents to consider and mitigate impacts to rights as well as engage with Indigenous nations throughout the lifecycle of a project.</p> <p>Additionally, the <i>OPR</i> regulates many actions and project aspects that directly impact Indigenous nations and their Aboriginal, Inherent and Treaty rights. For example, Construction activities result in conditions that are incompatible with the exercise of Beaver Lake Cree Nation’s Aboriginal, Inherent and Treaty rights. Ensuring these impacts are specifically acknowledged and there are requirements to ensure they are directly and proportionately accommodated either through elimination measures, or reduction and control measures during this phase would be beneficial.</p> <p>The <i>OPR</i> also identify activities that ought to explicitly require involvement of impacted Nations. For example, monitoring and emergency response are two activities that should explicitly include involvement of impacted Nations.</p>
2.	<p>How can the <i>OPR</i> contribute to the advancement of Reconciliation with Indigenous peoples?</p>	<p>As noted in Comment 1, the <i>OPR</i> is silent on how they consider, relate to, or seek to protect Aboriginal, Inherent and Treaty rights. Further, the <i>OPR</i> does not indicate any requirements to consult with, notify, or involve Indigenous nations in any form. Without explicit details pertaining to Indigenous nations and their rights, including requirements for consultation and protection of those rights, there is very little opportunity that the current <i>OPR</i> will contribute to any form of meaningful reconciliation.</p> <p>Increased involvement of impacted Indigenous nations in regulating pipelines and related facilities, along with greater requirements co-developed with impacted Nations on proponents and involved Crown bodies to ensure protection of Aboriginal, Inherent and Treaty rights, (or accommodation when this cannot occur) throughout the lifecycle of a project could be two steps towards advancing meaningful reconciliation.</p>

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3.	How can the <i>OPR</i> contribute to the protection of heritage resources on a pipeline right-of-way during construction, and operations and maintenance activities?	<p>Heritage resources are strictly defined and required recognition by the Crown as such. While it is important that greater protections exist for heritage resource sites, heritage resource lists identified by the Crown do not consider the full scope of culturally critical sites or landscapes that are important to Nations for continuation of culture and way-of-life. For example, heritage resource sites recognized by the Crown typically relate to grave sites or similar, but they do not often include ceremonial sites, historical places, or other locations and landscapes that hold significance to a Nation.</p> <p>Further, there is limited transparency as to how heritage resources are identified and how a connection with a specific Nation is determined. This may result in gaps in the Crown’s knowledge of heritage resources and which Nation they are linked with.</p> <p>Moreover, focus on site-specific often overlooks the historical and cultural significance more broadly to all lands and resources to which a Nation holds connection. For example, Beaver Lake Cree Nation connection with all lands and resources throughout Treaty 6 and the province of Alberta is important to allow for the continued exercise of Aboriginal, Aboriginal and Treaty rights, and continuation of language, knowledge and skill transference, culture, governance, and history.</p>
4.	How can the <i>OPR</i> 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?	<p>The term ‘traditional land and resource use’ (“TLRU”) and use of TLRU to assess impacts to rights places the focus on site-specific impacts. This is too narrow an approach to consider Aboriginal, Inherent and Treaty rights adequately and meaningfully work towards their protection.</p> <p>TLRU is a watered-down term for Aboriginal, Inherent and Treaty rights; the use of this term downgrades the significance and constitutional nature of these rights and fails to recognize the Treaty relationship and requirement for the Crown to protect Aboriginal, Inherent and Treaty rights from impacts, or accommodate for impacts where they are unavoidable.</p> <p>Further, focus on site-specific or ‘use’ sites fails to acknowledge that Aboriginal, Inherent and Treaty rights exist for Nations beyond one specific site. For example, Beaver Lake Cree Nation’s rights exist throughout Treaty 6 and the province of Alberta on all unoccupied Crown lands and any other lands to which the Nation has a right of access. TLRU takes a ‘use it or lose it’ perspective on rights, requiring Nations to prove they use a specific location in order to justify that there will be impacts to rights. This approach also fails to acknowledge that impacts often extend beyond a specific footprint as well as contributes to cumulative effects already present on the lands.</p>
5.	How can the use of Indigenous knowledge be addressed in the <i>OPR</i> ?	<p>Requirements for inclusion of Indigenous nations must first be included in the <i>OPR</i> in order to ensure that proper consideration to Indigenous knowledge is accomplished. These requirements must put some baseline parameters around how the proponent must engage with Nations ongoing to receive input on their project activities. They must also put some parameters around how the Crown will ensure these engagement steps are taken sufficiently.</p> <p>It is important that any participation of Indigenous nations, including any sharing or information or knowledge, must be accompanied with adequate and ongoing funding to facilitate participation.</p>

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6.	How can the <i>OPR</i> address the participation of Indigenous peoples in pipeline oversight?	<p>Requirements for inclusion of Indigenous peoples and nations must be explicit within the <i>OPR</i>. It cannot be implied or left solely to project-specific conditions or guiding documents.</p> <p>Further, oversight over pipeline and related facilities should not only focus on project-by-project basis, but also include oversight over pipeline and related facilities cumulatively on the lands. Regulators should take steps to understand current conditions on the lands and assess impacts and regulate activities accordingly. This includes identifying current cumulative impacts to Aboriginal, Inherent and Treaty rights.</p> <p>It is important that any participation of Indigenous nations must be accompanied with adequate and ongoing funding to facilitate participation.</p>
7.	How can the <i>OPR</i> support collaborative interaction between companies and those who live and work near pipelines?	<p>This question is very western-centric in that it fails to consider collaboration and positive relationships between Nations who exercise their rights near pipelines which does not necessarily equate to living or working in the area. Proximity to a Reserve, or where people live, is often considered as a trigger for engagement or other activities such as incident notification; this is not adequate. Beaver Lake Cree Nation members may travel far distances to exercise their Aboriginal, Inherent and Treaty rights. The distance of travel has even increased over time given the amount of lands that are no longer spatially available or functionally adequate for the exercise of rights throughout Treaty 6 and the province of Alberta. Only focusing on proximity to residences or workplaces fails to recognize that other Indigenous nation members may be in the vicinity of a pipeline project and affected by pipeline activities or incidents.</p> <p>Importantly, any participation of Indigenous nations must be accompanied with adequate and ongoing funding to facilitate participation.</p>
8.	How could communication and engagement requirements in the <i>OPR</i> be improved?	<p>Expectations on proponents to identify proper communication and engagement activities specific to each Nation, and meaningfully fulfill communication and engagement requirements should be identified and integrated explicitly into the <i>OPR</i>. Similar steps and expectations should also be included for the Crown's communication and engagement with Nations. It is not enough to have implied expectations or rely only on guiding documents or possible conditions or commitments applied on a project-by-project approval basis.</p> <p>Further, there needs to be greater oversight by the Crown to ensure that proponents are adequately fulfill communication and engagement requirements. Often this is a gap; there is an assumption that proponents are meeting these requirements and the Crown only gets involve after concerns are raised. A more proactive approach to oversight would be beneficial.</p> <p>It is important that any participation of Indigenous nations, including identifying and participating in communication or engagement activities, must be accompanied with adequate and ongoing funding to facilitate participation.</p>
9.	How could the CER improve transparency through the <i>OPR</i> ?	<p>Once a project is approved, there is very little to no communication between the Crown and Indigenous nations. Primarily, the conditions or commitments placed on a project are a proponent's responsibility to carry out. What is unclear is how the</p>

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		<p>CER ensures that proponents are accurately representing activities, including engagement with Indigenous nations and measures to protect or accommodate for impacts to Aboriginal, Inherent and Treaty rights.</p> <p>What is also unclear is how the CER considers or takes direct, proactive action to require proponents to continue engagement with Indigenous nations or adequately consider Indigenous knowledge or address concerns identified by Nations.</p>
10.	<p>Gender and other intersecting identity factors may influence how people experience policies and initiatives. What should the CER consider with respect to:</p> <ol style="list-style-type: none"> those people implementing the <i>OPR</i>; or those people who are impacted by the operational activities addressed in the <i>OPR</i>? 	<p>Indigenous peoples are impacted acutely and broadly by policies and initiatives set up within a colonial system and implemented by individuals with either ingrained or explicit bias'. Steps to decolonize systems and thoughts should be included in any actions taken by the CER. Accountability loops, increased training, and greater opportunities for Indigenous peoples to be employed by or involved otherwise in overseeing or carrying out policies and initiatives could be things that the CER could look to implement to a higher degree.</p> <p>Further, Indigenous women are at a great risk for violence at the hands of non-Indigenous workers migrating to camps or worksites. This must be explicitly considered and reflected in any policies, process, initiatives, and other activities that touch the <i>OPR</i>.</p>
11.	<p>How can the <i>OPR</i> support a predictable and timely regulatory system that contributes to Canada's global competitiveness?</p>	<p>This question spurs the follow-up question: predictable and timely for who? It is often the case the regulations are lacking or minimized in the name of economic pursuits. Unfortunately, this prioritization of economic benefit has resulted in the significant diminishment of Beaver Lake Cree Nation's Aboriginal, Inherent and Treaty rights and has led to severe environmental consequences. It is time for a shift in focus.</p> <p>'Timely and predictable' should not supersede the need for meaningful consultation, and for proper consideration to, followed by protection of, or accommodation for impacts to, Aboriginal, Inherent and Treaty rights.</p>
12.	<p>How can the <i>OPR</i> support innovation, and the development and use of new technologies or best practices?</p>	<p>To deviate from status quo, regulations need to demand more and aim higher; they must push proponents to work beyond their comfort zone and seek new solutions to impacts to lands, resources, and Aboriginal, Inherent and Treaty rights caused by pipeline development, operation, and closure activities.</p> <p>Moreover, regulations should be both forward and backward thinking in nature. While it is positive that new technologies and best practices may eliminate or reduce effects that occur during pipeline development, it does not address that there remains a great portion of the landscape that has already been damaged due to past technologies or worse practices than are implemented now. Setting standards or requirements within the <i>OPR</i> to address both new effects and current cumulative effects would be beneficial.</p>
13.	<p>What company-specific or industry-wide performance metrics could the CER consider to support enhanced oversight and transparency for CER-regulated facilities?</p>	<p>There must be metrics that are specific to Aboriginal, Inherent and Treaty rights. These metrics should be codeveloped with Nations. Metrics developed should be both project specific as well as cumulative.</p> <p>It is important that any participation of Indigenous nations, including identifying metrics, must be accompanied with adequate and ongoing funding to facilitate participation.</p>

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14.	Are there opportunities within the <i>OPR</i> for data and digital innovation that could be used by the CER and by companies regulated by the CER?	<p>Beyond how data can support the CER and companies, there ought to be more accessible data available to Indigenous nations to support participation in consultation-related activities or other participation opportunities.</p> <p>For example, geospatial data is often difficult to track down and ends up costing money to the Nation to retrieve. Presumably the CER ought to have geospatial databases that could be shared with Nations at no cost.</p> <p>It is a concern with this question that the CER wants to hold and recycle information shared by Nations specific to one project, thereby limiting the need for the CER or proponents to re-engage with Nations on the next proposed project. This would be inappropriate. The CER would need to conduct a broad information gathering and consultation initiative to retrieve knowledge and data from Nations that speak to larger operations or considerations made by the CER. The purpose and use of this information would need to be explicit and consent for Nation data to be shared, publicized, or used in any other capacity would need to be sought.</p>
15.	How can the <i>OPR</i> be improved to address changing pipeline use and pipeline status?	<p>There needs to be recognition that impacts to Aboriginal, Inherent and Treaty rights extend through the lifespan of a pipeline, including closure and reclamation. Moreover, new impacts may arise at each stage that need to be identified through consultation and accommodated for when the impacts cannot be fully eliminated. For example, companies may need to bring in heavy equipment to complete reclamation activities. Heavy equipment and the presences of workers on the pipeline results in conditions such as access barriers and sensory disturbances that are not compatible with the exercise of Aboriginal, Inherent and Treaty rights. The <i>OPR</i> ought to explicitly consider this and includes requirements for additional assessment and consultation activities to ensure that all impacts are understood and addressed.</p> <p>Further, when changing use or status, there should be considerations given to current conditions of the lands in vicinity to the pipeline or facility in question. Cumulative effects are ever changing, and they have widespread impacts on Aboriginal, Inherent and Treaty rights. This needs to be considered explicitly within the <i>OPR</i>.</p>
16.	What further clarification, in either the <i>OPR</i> (e.g. structure or content), or in guidance, would support company interpretation and implementation of management system requirements?	<p>As previously stated, the <i>OPR</i> is silent on how they consider, relate to, or seek to protect Aboriginal, Inherent and Treaty rights. The <i>OPR</i> also does not indicate any requirements to consult with, notify, or involve Indigenous nations in any form. While it is understood that guiding documents or conditions and commitments stemming from a project approval may include more details related to protection or accommodation of Aboriginal, Inherent and Treaty rights or involvement of Indigenous nations. Neither of these document types negate the need for the <i>OPR</i> to included specific requirements and directives.</p> <p>Having minimum requirements explicitly identified in the <i>OPR</i> would address possible variability gaps, increase accountability and enforceability, and increase expectations on proponents to consider and mitigate impacts to rights as well as engage with Indigenous nations throughout the lifecycle of a project.</p>
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	Information about human and organization factors should be explicitly defined in the <i>OPR</i> , especially as it pertains to risk management and emergency response.

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	contractors, be provided in the <i>OPR</i> , and/or described in related guidance?	Factors specific to Indigenous nations should also be developed, so that Nations who engage with multiple projects and project activities are better prepared to address and navigate these factors.
18.	How can the <i>OPR</i> improve the connection between company safety manuals and the overarching Safety Management Program, for both employees and contractors?	<p>Standard requirements that must be present in a company safety manual ought to overlap or align explicitly with the Safety Management Program. This could occur within an attached procedures document to the <i>OPR</i> to allow for periodic review and updates to ensure that safety standards meet best practice.</p> <p>Company safety manuals as well as the Safety Management Program, do not properly consider safety risk to Nation members exercising their Aboriginal, Inherent and Treaty rights. Considerations to safety often focus on workers at the site and nearby residents.</p> <p>They also do not include adequate requirements for notification and involvement of Indigenous nations in the event of an accident or emergency that leads to unforeseen impacts, including impacts to Aboriginal, Inherent and Treaty rights. Nations who are impacted ought to be notified with fulsome, timely information and then included in all facets of responding to an accident.</p>
19.	How can respect and personal workplace safety be assured at CER regulated sites?	Discrimination and colonized perspectives present in our systems and approaches to work create unsafe and uncomfortable work environments for Indigenous peoples. Active decolonization of systems and structures must occur in order to ensure respect and personal safety of Indigenous peoples at a work site. Decolonization of systems can include the creation of accountability loops, and increased cultural, rights training, and implicit bias training. Further, improving Indigenous peoples access to jobs, training, and other employment and contracting opportunities would be beneficial. As would creating more meaningful space for Indigenous nations and peoples to be in oversight positions.
20.	How should the CER be more explicit about requirements for contractor management?	<p>There is often a challenge with knowing what contractors are working at a site and what procedures they follow. This could lead to challenges for Nation members who are both working at the site or exercising their rights in the vicinity if there is a difference between a proponent's procedures versus their contractor's procedures.</p> <p>Further, there is no set requirement that contractors on all projects understand Aboriginal, Inherent and Treaty rights and how they're work impacts those rights. This gap may result in increased impacts to rights or failure to avoid new impacts that were not anticipated. It may also result in discrimination or harassment of Nation members exercising their rights in the vicinity of the site.</p>
21.	How should the <i>OPR</i> include more explicit requirements for process safety?	<p>The <i>OPR</i> needs more explicit instructions as to what the standards are and how to implement them appropriately. Often regulations include vague and subjective wording such as 'adequate' without identifying how that is measured or assessed within the context it is used. This creates confusion and opens up to interpretations from all parties resulting in conflict.</p> <p>Additionally, the <i>OPR</i> also needs to make their safety standards higher. Regulations define minimum requirements and then encourage companies to exceed those minimum requirements. Unfortunately, without formal incentives, companies have no reason to surpass minimum requirements.</p>

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22.	How can the <i>OPR</i> drive further improvement to the environmental performance of regulated companies?	<p>Greater expectations towards environmental protection needs to be included in the <i>OPR</i>. This includes stricter limits related to water, soil, and air contamination as well as wildlife and vegetation protection. Regulations are often meant to represent the minimum requirements, but companies are encouraged to take additional steps. The issue with this, is that often the minimum requirements is all a company will want to fulfill, they have no incentive or need to extend themselves beyond that. The <i>OPR</i> should set higher minimum standards if they want to see improvements in how the environment is considered and impacts are managed moving forward.</p> <p>Further, requirements to consider impacts cumulatively should also be integrated into the <i>OPR</i>. Direct project effects are only half the story, project-specific effects grow to large, widespread damages that create irreparable environmental harm as well as contribute to infringement upon Aboriginal, Inherent and Treaty rights.</p>
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?	<p>Standard requirements that must be present in an Environmental Protection Plan and Environmental Protection Program should be directed by the <i>OPR</i>. Further, there ought to be greater consultation requirements placed on companies to consult with and otherwise involve Nations who are impacted by a specific project or who are impacted broadly by a company's historical and ongoing activities to develop, update, implement, and monitor project-specific Environmental Protection Plans and a company's Environmental Project Program.</p> <p>There should be requirements that these plans and programs be reviewed periodically to ensure they are adequately considering all impacts, including direct project effects to Aboriginal, Inherent and Treaty rights as well as cumulative effects.</p> <p>It should also be noted that Environmental Protection Plans and Environmental Protection Programs are meant to include mitigation measures and other activities to either eliminate or reduce impacts stemming from a project or broad activities being carried out by a company. Frequently, these plans and programs fail to explicitly include commitments or mitigation measures that directly address impacts to Aboriginal, Inherent and Treaty rights. Rather, they focus on mitigating biophysical impacts and use these as proxy for addressing impacts to rights. The <i>OPR</i> must require companies explicitly identify measures to address impacts to rights specific to one project and cumulatively from all activities directly and proportionately. Further, the <i>OPR</i> must direct companies to consult with Nations to ensure that any measures identified are appropriate.</p> <p>It is important that any participation of Indigenous nations, including participating in consultation to identify appropriate mitigation or accommodation measures, must be accompanied with adequate and ongoing funding to facilitate participation.</p>
24.	How can contaminated site management requirements be further clarified, in the <i>OPR</i> or in guidance?	<p>Requirements for companies to notify Indigenous nations in the event of an accident or contamination incident are vague and inadequate for a Nation to properly understand the scope of the incident and how they may impact a Nation and their Aboriginal, Inherent and Treaty rights. There is also a lack of explicit requirements for the company to involve a Nation in any way during response or clean up steps following an incident. This can result in tension between companies and Nations, where the company is following what they understand to be the minimum requirements set by a regulator, but the Nation has different interpretations and requirements that they would want a company to follow. This is further challenged by a lack of</p>

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		<p>direct involvement or oversight by the regulator to manage or mitigate for these potential conflicts; Regulators often do not get involved unless a clear complaint is registered, or a company seeks their involvement.</p> <p>It is important that any participation of Indigenous nations, including participating in consultation to identify appropriate mitigation or accommodation measures, must be accompanied with adequate and ongoing funding to facilitate participation.</p>
25.	<p>Are there any matters related to the Emergency Management Program in the <i>OPR</i> that require clarification? If so, what are they? Are there any matters for which further guidance is required?</p>	<p>The Emergency Management Program does not properly consider safety risk to Nation members exercising their Aboriginal, Inherent and Treaty rights. Considerations to safety often focus on workers at the site and nearby residents. As previously noted, Nation members may travel quite far from their homes to exercise their rights. This may put them in proximity to an emergency incident and facing unique risks.</p> <p>The program also does not include adequate requirements for notification and involvement of Indigenous nations in the event of an accident or emergency that leads to unforeseen impacts, including impacts to Aboriginal, Inherent and Treaty rights. Nations who are impacted ought to be notified with fulsome, timely information and then included in all facets of responding to an accident.</p>
26.	<p>How could the requirement for a Quality Assurance Program be improved or clarified in the <i>OPR</i>?</p>	<p>The <i>OPR</i> contains vague language in what it requires of companies under the Quality Assurance Program. Better definitions of subjective terms such as ‘adequate’ and similar ought to be included along with specific parameters for how these terms are evaluated.</p> <p>Moreover, there ought to be explicit requirements for Nations to be consulted and otherwise involved in carrying out activities under the Quality Assurance Program, not just implied or encouraged activities.</p> <p>The Quality Assurance Program also ought to include explicit standards and considerations to Indigenous nations and Aboriginal, Inherent and Treaty rights. These standards should be identified in consultation with Nations and periodically reviewed for their appropriateness and adequacy.</p> <p>It is important that any participation of Indigenous nations, including participating in consultation to identify appropriate mitigation or accommodation measures, must be accompanied with adequate and ongoing funding to facilitate participation.</p>
27.	<p>How can the <i>OPR</i> incorporate the key issues identified in the Safety Advisory regarding the strength of steel and the relative strength of the weld area?</p>	<p>Higher standards that reflect those requirements recommended by the Safety Advisory should be included in the <i>OPR</i>. More transparent and widespread reporting on the Safety Advisory’s recommendations and issues identified should be done to encourage engagement as well as encourage higher standards and innovation. Periodic updates to any set standards or requirements should also occur.</p> <p>Increased involvement by Indigenous nations in the Safety Advisory should also be sought.</p>

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28.	What are your recommendations for compliance promotion at the CER?	<p>It is important that any participation of Indigenous nations must be accompanied with adequate and ongoing funding to facilitate participation.</p> <p>Greater penalties for non-compliance should be identified and widely communicated.</p> <p>Higher standards should be placed on companies on all facets of the <i>OPR</i>. Higher standards encourage increased effort and innovation.</p> <p>Additionally, regulators need to shift from responding to issues after the fact or once a complaint is received, to a more proactive approach where issues are headed off before they result in greater conflict or larger impacts. For example, greater oversight of when notifications are sent to Nations, along with the content, following an incident would ensure that companies are meeting the needs of Nations and providing fulsome, timely information.</p> <p>More involvement of Nations in oversight and review of compliance should be sought as well. This may support greater consideration to Aboriginal, Inherent and Treaty rights along with other issues and concerns that Nations may have related to a specific pipeline or cumulative effects resulting from collective activities on the land.</p> <p>It is important that any participation of Indigenous nations must be accompanied with adequate and ongoing funding to facilitate participation.</p>
29.	How do you want to be engaged by the CER in the development of technical guidance?	<p>Approaches to consultation may vary depending on the topic that the CER is seeking input from the Nation on. Consultation steps will need to be determined at the time and jointly between the CER and the Nation.</p> <p>However, regardless of the nature of consultation or what activities are required, it is important that any participation of Beaver Lake Cree Nation must be accompanied with adequate and ongoing funding to facilitate participation. There must also be adequate time and information provided to allow for the Nation to review, engage with Nation members, correspond with the regulator, and provide written comments.</p>