


Partner

June 30, 2022

VIA EMAIL: opr-rpt@cer-rec.gc.ca

Canada Energy Regulator
210-517 10 Ave SW
Calgary, AB T2R 0A8

Dear Sirs/Mesdames:

**Re: Onshore Pipeline Regulations (“OPR”) Review (the “Review”)
Louis Bull Tribe: Submission on the Discussion Paper**

We write on behalf of Louis Bull Tribe (“LBT”) in response to the Canada Energy Regulator’s (“CER”) request for input on the Discussion Paper for the Review.

We attach as Appendix “A” to this correspondence the submission of LBT on the Discussion Paper, which is the result of collaboration amongst LBT staff and its professional advisors.

We thank you for your consideration of the attached submission.

Sincerely,

MLT AIKINS LLP

Per: 

Partner

AL:kab

cc:  Consultation Coordinator, Louis Bull Tribe 

Appendix “A”

Louis Bull Tribe Comments on the Discussion Paper for the Onshore Pipeline Regulations Review

General Comments on the Review Process

As an overarching comment on the Review process, it is imperative that the OPR be amended to reflect the CER’s new mandate and commitment to furthering Reconciliation with Indigenous peoples, and Canada’s commitments to the principles of the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”) and its obligations under the *United Nations Declaration on the Rights of Indigenous Peoples Act* (the “UNDRIP Act”). This requires updating the OPR, the CER’s Filing Manual as it pertains to the OPR, and any associated guidance documents, to identify how Indigenous peoples will be consulted and engaged through the OPR planning and decisions making processes.

Currently, the OPR does not make a single reference to Indigenous peoples, nor does it contemplate planning and decision making based on the consideration of valuable information from indigenous peoples. The tone and substance of the OPR must be modernized to reflect the CER’s new mandate, in the spirit of reconciliation. In order to be consistent with the principles of UNDRIP, the UNDRIP Act and the CER’s mandate, the OPR must be amended to include explicit and specific integration of Indigenous knowledge and consideration of direct and cumulative impacts to the rights of Indigenous peoples. The OPR should be amended to include express provisions that allow for joint-decision making between the federal government and Indigenous Nations.

The Discussion Paper explains that the CER “will work to develop regulatory tools responsive to issues raised during engagement with Indigenous peoples” (see page 2). It is suggested that regulatory tools such as issuing new guidance or a change in process could be an efficient alternative to changing a regulation. While regulatory tools may be helpful to address some issues, material amendments to the OPR are necessary because:

1. integration of Indigenous peoples and their perspectives in the OPR is currently non-existent;
2. since the OPR were enacted, there have been substantial developments in areas of regulatory law which require that Indigenous perspectives be incorporated, specifically with respect to direct and cumulative impacts of development on Aboriginal and Treaty rights;
3. without amendments to the OPR, the OPR will remain inconsistent with developments in Canadian law, specifically the UNDRIP Act, and the federal government’s commitments to advance reconciliation;

4. the modernization of the OPR will be necessary for Indigenous peoples to have confidence that CER regulated and approved projects will proceed in a manner that fully integrates the consideration of impacts to Indigenous rights as part of its public interest assessment; and
5. which gives confidence to proponents that approved projects will not be subject to review due to regulations or a process that do not properly integrate consideration of impacts of a project to the constitutionally protected rights of Indigenous peoples, and related avoidance, mitigation and accommodation measures.

LBT's comments on specific portions of the Discussion Paper are set out below according to the questions contained in the Discussion Paper. We conclude the submission by highlighting specific sections and provisions of the OPR that can be amended in order to reflect the principles of UNDRIP, incorporate the Indigenous perspective and minimize and account for impacts to Indigenous peoples' rights and territories arising from onshore pipeline activities.

Section 1: Lessons Learned

- **What's working well in relation to the OPR, and its implementation, and what could be improved?**
 1. The previous failures, disasters, compliance and enforcement issues, warning letters, inspection officer orders, commission orders and directions, audit reports and administrative monetary penalties all need to be reviewed and considered when amending the OPR.
 2. A reliability engineering management system should be a requirement for each pipeline operator to improve overall pipeline integrity, specifically with respect to man-made incidents such as material/weld/equipment failure, corrosion, incorrect operation and excavation damages. The approach should focus on failure prevention via design as well as early detection to prevent escalation of magnitude and then reviewing failures that get through the system for improvements in the design system process. The system should be based on the highest achievable reliability and not a balance of cost and reliability which is why the system should not be proprietary, but open to review and audit by the CER. The CER should maintain reliability engineering management system experts on staff for this purpose and drive the pipeline reliability process and standards. [Omoya et al. 2019]
 3. The CER should make efforts to incorporate greener operations into pipelines by using solar and wind power in the design, and through the use of remote sensing to ensure there is no leakage of methane and other gases from the pipelines and associated facilities.
 4. Current reclamation standards are inadequate to prevent and mitigate cumulative effects on Aboriginal and Treaty rights. As cumulative impacts are one of the largest sources of infringement on Indigenous and Treaty rights, the CER should require restoration exceeding the current reclamation standards to address these deficiencies. Prevention

through inspection and enforcement is critical to mitigating the effect of cumulative impacts on Indigenous peoples. A more rigorous compliance verification process must be developed in consultation with Indigenous peoples which focuses on preventing cumulative impacts, rather than addressing only direct impacts.

5. Construction timelines should be developed in consultation with Indigenous peoples and consider timing of local Indigenous land use (i.e. when Indigenous people are practicing their rights and caring out our Indigenous way of life). This should include creating a restricted access period in consultation with impacted Indigenous Nations and/or communities and prohibiting construction during the bird nesting season.
6. Restoration rather than reclamation is important to reduce cumulative impacts to constitutionally protected Aboriginal and Treaty Rights. Removing pipelines from the ground following abandonment is important to Indigenous people and restoring the land according to our standards, as leaving the pipeline in place restricts and reduces future land use. Additionally, the less intrusive removal methods, such as pulling the pipe out, should be preferred over more intrusive methods, such as digging the pipe out.

Section 2: Reconciliation with Indigenous Peoples

- **How can the OPR contribute to the advancement of Reconciliation with Indigenous peoples?**
 1. In order to achieve meaningful reconciliation with Indigenous peoples, the *Natural Resource Transfer Act* (1930) needs to be reviewed, revised or rescinded. Canada should have greater oversight of all access of resource development to ensure Treaty and Aboriginal Rights are protected now and into the future.
 2. The CER should develop an Indigenous Regulatory branch that has oversight and participates in decision-making.
 3. Reconciliation requires engagement with Indigenous peoples at the earliest stages of pipeline planning and development, such as conceptual planning and design (for example, high-level routing). It is easier to avoid traditional sites, game trails, mineral licks, and other culturally significant areas prior to pipeline route finalization.

Non-compliance needs to come at a significant cost to the proponent that is equal to or greater than the impacts on the environment and Indigenous peoples. The ability of companies to self-regulate is contributing to safety issues and increased cumulative effects on Indigenous and Treaty rights. For example, in some instances, it is less costly for a company to pay fines for non-compliance than it is to comply. There is little incentive for corporations to comply in situations where the inconvenience of compliance outweighs the financial penalties of non-compliance. In these cases, Indigenous peoples bear the cost of the impacts to the environment and increased cumulative effects on their Aboriginal and Treaty rights which arise from non-compliance. In LBT's experience, sub-contractors often have poor compliance rates which can

go unnoticed as they are not monitored as stringently as the prime contractor. Increased scrutiny and greater penalties for non-compliance, including issuance of fines during random site visits, for all levels of contractors, including environmental consultants, should be enforced. In order to improve ties between the CER and Indigenous peoples, LBT recommends selecting both CER and Indigenous monitors for each CER regulated project.

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

1. LBT recommends the CER consider repatriation of Indigenous artifacts rather than transferring such artifacts to provincial regulators (i.e. Culture and Status of Women in Alberta).

- **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?**

- Avoidance and off-setting (adjusted for time and scale) should be incorporated by the CER to protect traditional land and resource use of Indigenous peoples. Further, issues surrounding traditional land and resource use are strongly interwoven with cumulative effects and the fragmentation and degradation of resources on a broader scale, rather than at the direct project level. As landscapes evolve in the face of pressures from multiple stakeholders, industrial development and a changing climate, the locations of high-quality resources, medicines and sites of significance are ever evolving and diminishing. Assessment of impacts to valued ecosystem components and traditional land resources at the direct project scale in some circumstances fail to address the cumulative effects impacts of large linear projects. To address this concern, understanding of historic and modern resource use and abundance need to be incorporated through meaningful consultation with Indigenous peoples. In situations where direct or cumulative impacts to traditional land use have been identified and cannot be avoided, there needs to be clear and transparent justification given for all mitigation measures. Mitigation measures need to have a thorough analysis of reasonable outcome expectations. In situations where quantitative data or guidelines are not available judgments by professionals need to demonstrate clear justification. When avoidance is not feasible there needs to be consultation with Indigenous peoples to evaluate appropriate offsets measures.

Further, traditional land and resource use only appears to address current use, not historical or future use (i.e. Treaty 6 members travelling to Treaty 8 territory to practice their rights because there is nowhere left to practice their rights within Treaty 6 territory).

- **How can the use of Indigenous knowledge be addressed in the OPR?**

1. The OPR should require that engagement and consultation with Indigenous peoples is implemented and Indigenous Knowledge incorporated early in the design process.

Section 3: Engagement and Inclusive Participation

- **How can the OPR address the participation of Indigenous peoples in pipeline oversight?**
 1. The OPR should require that active participation of local land users is allowed during the design process of the project before the routes are developed. Further, the OPR should facilitate the active participation of Indigenous guardians of the land during construction, operation, and decommissioning of the pipeline facilities.
- **How can the OPR support collaborative interaction between companies and those who live and work near pipelines?**
 1. Prevent private property damage arising from Clubroot, introduction of invasive species, contractors that depart from the right-of-way, spills, etc.
 2. Create awareness around missing and murdered Indigenous women, drugs and alcohol, prostitution, and other social impacts to Indigenous people to promote prevention of these impacts. This includes ensuring that all people working on CER regulated facilities have cultural sensitivity training with respect to Indigenous issues. Further, the CER should mandate and incentivize companies to be mindful of the Indigenous way of life and consider the unique culture and circumstances of their Indigenous employees in operational and human resources planning. For example, offering jobs with a shift schedule of six days on and one day off are generally exclusive to Indigenous peoples.
- **How could communication and engagement requirements in the OPR be improved?**
 1. Proactive communication in relation to incidents, health and safety violations, non-compliances, and a proponent's good performance. Communication from the CER needs to be early, frequent, and meaningful.

Section 4: Global Competitiveness

- **How can the OPR support a predictable and timely regulatory system that contributes to Canada's global competitiveness?**
 1. Global competitiveness results in fast paced development resulting in greater impacts to rights and loss of use, thus increasing the rate of colonization.
- **How can the OPR support innovation, and the development and use of new technologies or best practices?**
 1. The CER, through the OPR should promote innovation and flexibility. Generally, progress towards new technologies has been limited and slow, as a result of limited

improvements to the OPR, design codes like Z662 and the connection to US based regulatory codes.

2. The CER should reconsider the rules around building pipelines to meet future needs. If proponents were required to forecast future need there would be less requirement for looping projects which result in greater cumulative impacts (for example, construct one 48” line rather than multiple 10” lines within one right-of-way).
- **What company-specific or industry-wide performance metrics could the CER consider to support enhanced oversight and transparency for CER-regulated facilities?**
 1. There are many project applications and impact assessments that have been approved over the last 30 years. These all need to be evaluated to see if the assumptions and commitments contained in them have been honoured and are still relevant. Adjustments to the OPR and the Filing Manual need to be made to consider any variances in the assumptions and commitments made in these assessments and/or applications to address cumulative impacts and the resulting erosion of Indigenous and Treaty Rights.
 - **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?**
 1. Data and digital innovation should be more widely focused on things other than personal safety, such as process safety, environmental impact from operations like GHG emissions, and security of gas and oil supply.

Section 5: Safety and Environmental Protection

- **How can the OPR be improved to address changing pipeline use and pipeline status?**
 1. Before a change in pipeline use and status occurs a new impact assessment needs to be conducted to understand potential impacts relating to releases or incidences of these products and how to respond to them. Proponent must provide assurance that the pipelines can adequately handle the new products, for example the addition of H₂ to gas pipelines is starting to occur. It's possible in the future that pipelines could be converted to H₂ or ammonia service which is not currently covered.
 2. Currently only oil and gas pipelines, but the future will include CO₂, hydrogen, ammonia (NH₃ to more hydrogen in more stable form) and even clean potable water. H₂, NH₃ and H₂O aren't covered by CER but CO₂ is.

- **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?**
 1. The fact that the management system in Section 5 references 2013 demonstrates the need for management systems to be updated more frequently.

- **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?**
 1. The CER should implement requirements regarding regulated companies employing Indigenous peoples in their workforces, and particularly in management roles. The presence of Indigenous employees in management roles will facilitate decision making that more fully considers Indigenous world views and perspectives. This will promote organizational influences that will lead to greater systemic change in the CER regulatory processes and activities over time.

- **How can the OPR improve the connection between company safety manuals and the overarching Safety Management Program, for both employees and contractors?**
 1. These documents should be easier to understand, access and use. Currently there are numerous volumes and they can be hard to implement.

- **How can respect and personal workplace safety be assured at CER regulated sites?**
 1. On page 10 of the Discussion Paper, the CER explains that it has received feedback from Indigenous monitors that they have experienced discrimination and harassment while conducting their work. In order to confront the systemic racism and discrimination faced by Indigenous peoples, the OPR should require mandatory annual cultural competency training for all regulated companies and their employees, and require regulated companies to have adequate processes and protocols which specifically address discrimination and harassment of Indigenous employees. This may require updating the Work Place Harassment and Violence Prevention Regulations to expressly require that employers develop work place harassment and violence prevention policies which are targeted to prevent and address harassment and discrimination against Indigenous employees.

- **How should the CER be more explicit about requirements for contractor management?**
 1. See comments under section 2 above.

- **How should the OPR include more explicit requirements for process safety?**

1. Include as conditions in project approvals.
- **How can the OPR drive further improvement to the environmental performance of regulated companies?**

1. **Best Management Practices vs Directives**

Best management practices (BMPs) often vary and conflict between provincial, federal, and national levels. When the use of BMPs are left to the discretion of the proponent there is no mechanism to ensure proponents follow BMPs or which BMP is most appropriate for the circumstances and project. LBT has observed that most proponents promise to uphold BMPs during the project planning stages, and they are often dropped as pressure to construct on time and budget take precedence. Further, most pipeline operations utilize sub-contractors to conduct most of the work and there is often a lack of oversight and control on the part of the prime contractor. External oversight is needed to ensure BMPs are being followed, and monitoring of internal processes and sub-contractors is taking place in a consistent manner.

An example of a BMP that is prone to getting dropped is the recommendation by Environment and Climate Change Canada (ECCC) to avoid any vegetation clearing of complex habitats during the breeding bird period. Further, ECCC considers nest sweeps to be ineffective at locating active nests and conducting the sweeps can result in disruption of nesting migratory birds (CWS 2014). Despite clear federal BMPs, most provincial regulators permit projects to continue with clearing in complex habitats, despite the acceptance of a high incidental take of migratory and resident birds in contradiction with ECCC recommendations.

Second, ECCC recently announced that several bird species' nests will be protected for re-use (e.g pileated woodpecker) which had not previously been protected unless actively occupied. Under the updated *Migratory Bird Convention Act* (MBCA) several types of nests will require ministerial approval to damage, destroy or remove the nests. The nests may only be disturbed or removed if they have not been occupied by a migratory bird for the prescribed period (36 months in the case of pileated woodpecker cavities). In Alberta, provincial wildlife sweep requirements and protocols under the *Master Schedule of Standard and Conditions* fail to identify and capture these re-use nest features and additional care is required by proponents and environmental contractors to ensure compliance with changing regulations at varying levels of government. There is no wildlife or migratory bird nest sweep protocol provided at the federal level, and provincial legislation and protocols are not designed to ensure compliance with federal wildlife legislation such as the MBCA or *Species At Risk Act*. Protocols, methodologies, and mitigations for important wildlife features are often left to professional judgement due to an inconsistent and complex regulatory environment between jurisdictions. This leaves room for project timelines and pressure to influence the adoption of lesser

mitigation measures and a culture of choosing minimum regulatory compliance over BMPs.

Overall, BMPs do not sufficiently protect valuable ecosystem components and traditional land resources as they are not enforceable. LBT recommends the use of directives or the integration of BMPs into project approvals to provide more assurance that BMPs will be followed. However, the integration of BMPs into approvals or directives need to have a timely review process and a degree of flexibility that accounts for updates in BMPs and new technology. There also needs to be clear cross-jurisdictional oversight and compliance actions in situations where the regulatory environment is not aligned between multiple levels of governance.

2. Blowdown – prevents wildlife movement and the access for Indigenous people, contributes to cumulative impacts

LBT has concerns regarding edge effects specifically related to windthrow (blowdown) of trees along the perimeter of the cleared multiuse pipeline corridor right-of-way. LBT has observed blowdown areas along pipelines that may have potential impacts on wildlife movement through the area by creating barriers to movement into the adjacent forest. There are also concerns that with increased severe weather patterns associated with climate change, including the increasing pattern of more severe wind events over the past number of years, that there is an increased risk for windthrow (blowdown) of trees to become more prevalent along these linear corridors.

LBT is also concerned that some of what is observed may not always be related to blowdown. Some of the concerns are believed to be related to pushing fall back where it shouldn't be during construction. This may need more oversight if it is being missed in inspections. Salvage of merchantable timber and piling and burning or mulching and hauling away of harvest/clearing debris needs to be inspected and managed. Third-party Indigenous inspectors (guardians of the land) in conjunction with the CER are recommended.

- **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?**
 1. This must be started at the planning and design phase and new projects must include design for the operating, maintenance, and abandonment phase, not just the construction. Design typically doesn't have people on the project who are dedicated to the operation, maintenance, and abandonment.
- **How can contaminated site management requirements be further clarified, in the OPR or in guidance?**

1. The current remediation standards in Canada need to fully consider and include Indigenous land use. For example, peat and bog water is not considered drinking water within the Alberta soil and water guidelines, however, traditionally it was an important source of not only drinking water, but also for washing, and food storage. Many of the pipeline breaks impact peatlands, contributing to cumulative impacts and impacts to Indigenous and Treaty Rights.
- **Are there any matters related to the Emergency Management Program in the OPR that require clarification? If so, what are they? Are there any matters for which further guidance is required?**
 1. There must be proactive planning before an incident occurs that involves consultation, engagement and participation of potentially impacted Indigenous peoples. The scope has to include more than oil and gas going forward for products like CO², H² and NH³. These products have different associated risks.
 2. Utilizing Indigenous peoples as first responders would be beneficial as they are often the closest to a pipeline right of way and can mobilize quickly. This requires training, resources and equipment.
 - **How could the requirement for a Quality Assurance Program be improved or clarified in the OPR?**
 1. The Quality Assurance Program should include assurance for construction related damage and prevention as well. Many lines get dented or gouged while laying in the line. Mandatory in-line inspection in the first year should be required and construction related defects should be warrantied by the contractor.

Section 6. Implementation Objectives

- **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?**
 1. This section may require proof of strength testing records be made available for inspection at random by CER inspectors.
 2. One hundred percent of the welds must be x-rayed, not just a sample size, to ensure all welds are secure.
- **What are your recommendations for compliance promotion at the CER?**
 1. Reward and promote good operators.

2. Support the OPR with technical guidance. The CER working as a partner with Indigenous Nations to having to improve the system would help with actual collaboration and lead to more efficient and timely change and improvements in the regulatory regime.
- **How do you want to be engaged by the CER in the development of technical guidance?**
 1. LBT prefers in-person meetings or workshops.

Recommended Amendments to the OPR

Finally, LBT has provided the following recommendations for amendments to the OPR, which support LBT's above comments on the Discussion Paper and suggest ways in which the CER can implement OPR that better reflect Canada's commitments and obligations to Indigenous peoples:

- The definition for "**environment**" should be amended to incorporate the Indigenous perspective and understanding of the environment, including the sacrality and interconnectedness of the natural environment.
- The definition for "**incidents**" should be amended in consultation with Indigenous peoples in order to ensure that the thresholds for adverse environmental effects reflect and incorporate Indigenous understandings and thresholds of harm.
- The definition for "**serious injury**" should be amended to include damage to mental health. Amending the definition in such a way would recognize that incidents causing serious adverse environmental effects in the territories of Indigenous peoples, which impact or potentially permanently extinguishes the ability of Indigenous peoples to practice their rights, can cause serious psychological distress in those communities that have enduring and intergenerational effects.
- A definition for "**Indigenous rights**" should be added. LBT recommends the following or similar language could be used for the definition:

"**Indigenous rights**" means Treaty Rights as defined in the treaties between Canada and Indigenous peoples, including both historic and modern treaties, Aboriginal and Treaty rights as defined in sections 25 and 35 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* 1982 (UK), 1982, c 11, and inherent Indigenous rights and natural laws by which Indigenous peoples have relied upon since time immemorial.

- Section 6 should be amended to include s. 6(d) (amendment identified in bold below):

6 The purpose of these Regulations is to require and enable a company to design, construct, operate or abandon a pipeline in a manner that ensures:

(d) adverse impacts to Indigenous rights and the territories of Indigenous peoples are limited and where possible, avoided.

- In the current OPR, section 6.1(e) is discretionary, particularly with respect to a company's authority to assess the hazards and risks associated with its activities under its management plan. LBT recommends amending section 6.1(e) so that it integrates Indigenous worldviews and perspectives. This can be done by amending the provision so that a company must incorporate Indigenous Knowledge into its assessment of the hazards and risks associated with its activities in its management plan. Section 6.1(e) should also stipulate that a management plan must be compliant with the standards and thresholds of harm of impacted Indigenous Nations and/or communities.

- Section 6.5(1)(a) should be amended as follows (amendment in bold):

6.5 (1) A company shall, as part of its management system and the programs referred to in section 55,

(a) establish and implement a process for setting the objectives and specific targets that are required to achieve the goals established under subsection 6.3(1) and for ensuring their annual review, **including processes to allow for:**

(i) Indigenous participation in monitoring and oversight of pipeline activities;

(ii) consideration of Indigenous worldviews; and

(iii) training for all staff and employees on Indigenous perspectives, principles and standards with respect to monitoring and the environment.

- Section 18 should be amended to include the following as section 18(1)(e) (amendment in bold):

18 (1) If a company contracts for the provision of services in respect of the construction of a pipeline, the company shall

(e) ensure authorized Indigenous peoples or their representatives are provided reasonable access to the construction sites to monitor construction activities.

- Section 21 should be amended to require regulated companies to engage impacted Indigenous Nations and/or communities on restoring the right-of-way and temporary work areas following construction of a pipeline and incorporate Indigenous Knowledge into all restoration and reclamation plans. Companies should be required to restore these areas to Indigenous environmental standards and where applicable, restore the areas to a standard which supports not only current land uses, but former land uses, specifically the practice of Indigenous rights that may have been diminished due to past development. At a

minimum, the OPR should require companies to make efforts to restore plant and other species that are native to right-of-way and temporary work sites.

- Section 27 should be amended to require that operation and maintenance manuals be prepared in consultation with Indigenous peoples.
- Sections 47 and 48 should be amended to specifically allow for Indigenous participation in the development, implementation and review of safety management and environmental protection programs and to require companies to integrate the Indigenous Knowledge and perspectives provided during engagement with impacted Indigenous Nations and/or communities.
- Section 50 should be amended to expressly stipulate that procedures for pipeline abandonment require the integration of information provided by Indigenous peoples and Indigenous Knowledge regarding how lands should be reclaimed, including what reclamation standards must be met in order to comply with the practices and protocols of impacted Indigenous Nations and/or communities.
- Section 52 should be amended so that incident reports are issued to potentially impacted Indigenous peoples and that the integration of Indigenous Knowledge and participation into incident responses is prioritized.

References:

[CWS] Canadian Wildlife Service. 2014. Incidental Take of Migratory Birds in Canada. Environment Canada; [accessed 2022 June 30] <https://www.ceaa-acee.gc.ca/050/documents/p80054/121249E.pdf>

[Omoya et al. 2019] Reliability engineering application to pipeline design.] International Journal of Quality & Reliability Management. 28 May 2019. <https://www.emerald.com/insight/content/doi/10.1108/IJQRM-09-2017-0197/full/html>