



Land Matters Group



Land Matters Group (LMG) Advisory Committee Virtual Workshops on 2020/2021 Work Plan Summary Notes

February 2nd, 3rd and 4th, 2021

Participation: For the complete list of participants, see Appendix “A”, page 7.

Amy Jarek (Canada Energy Regulator, or CER) – Chair of Advisory Committee / VP, Communications and Engagement

- Greetings and acknowledgement of Indigenous and Métis traditional territories
- Introduction of new members – Drew Spoelstra, Ontario Federation of Agriculture, Larry Yurkiw and Sarah MacKenzie, Enbridge Inc., Fiona LeBlanc, Alberta Energy Regulator and Leanne Mundt. Alberta Farmers’ Advocate Office, as well as Marie-Anick Elie (CER), Technical Leader of Engagement and Véronique Duhamel (CER), Director of Engagement

Katherine Murphy (CER) – Acting VP, Strategic Engagement and Transparency

- Opening remarks – key message

“Working in partnership with the LMG is integral to the CER’s commitment to build trust and confidence by taking measures to ensure safety and environmental sustainability and maintaining a strong and consistent focus on the interactions between landowners and industry remains key to delivering on that commitment.”

Anne-Marie Erickson (CER) – Technical Leader, Lands / Lead Facilitator

Workshop objectives: To ensure that the information provided to Canadians is complete and accurate in reference to situations affecting landowners and energy companies that involve energy infrastructure at any stage of its lifecycle.

TOPIC OF DAY 1 WORKSHOP: LANDOWNER ENGAGEMENT

Discussions:

Early Engagement

- Early engagement with landowners and other stakeholder groups is critical.
- Relevant information from landowners during early engagement can help shape a project.
- Early engagement, especially one-on-one contact, can set the foundation for relationship building through trust and transparency throughout a project's lifecycle.
- The CER's [Early Engagement Guide](#) is targeted for companies. Perhaps it could also be a resource for landowners.
- Landowners may not be aware of the work companies need to do before applying for a project.
- Early engagement companies with opportunities to proactively have discussions with each landowner about the property's future expansion plans to assess whether they could be factored into the project.
- Companies say they are seeing more "landowner fatigue" because of earlier start of engagement – process feels more drawn out.
- Efficacy of alternate dispute resolution (ADR) during early engagement – is it too soon?

Suggestions:

- Review the amount of information a company is required to share during early engagement with regards to avoid impacting a project's competitiveness
- Update the CER's Early Engagement Guide to also make it a resource not only for companies, but also for landowners.

Information for new landowners

- Not all new landowners know they have existing (or planned) energy infrastructure on their property.
- Importance of new owners understanding the implications of having a facility on their land.
- Understanding "energy literacy" - could help landowners better understand the importance of energy infrastructure projects; develop trust.
- Understanding the differences between federally vs. provincially/territorially regulated facilities.

Suggestions:

- Develop information regarding energy literacy for landowners to better understand the importance and implications of energy infrastructure projects
- Define the different types of individuals/groups potentially affected by a project, including the land rights to which they are entitled (e.g. directly affected landowner; adjacent landowner; leaseholders; renters; land users, etc.)
- Develop an info sheet on "What to consider when buying a land with a CER regulated energy infrastructure on it". Consider including information about understanding different jurisdictions (provincial, federal, etc.) and best practices

Engagement through Online Information

- There can be a lot of information provided to landowners, especially in paper format.
- Companies follow the CER's requirements with respect to what information is to be provided and in what format.

Suggestions:

- CER review of which materials need to be delivered to landowners, etc. in paper format vs. electronically
- Provide landowners with a choice of how to receive project-related information: printed material or online information

Lifecycle Engagement

- Importance of engagement throughout the facility's lifecycle (from the planning stage to beyond its abandonment or decommissioning).
- Visual information / flow chart detailing the sequence and timing of CER projects.
- How to best notify landowners of changes to a project plan – whether to include an explanation of what triggered the change.
- Understanding how to navigate the CER's REGDOCS (public registry).

Suggestions:

- Add information about importance of ongoing relationships between companies and landowners to the CER's [Land Matters Guide](#) (e.g., directly affected landowner / adjacent landowner / affected people, leaseholders/renters or land users, etc.)
- Provide advice on how to find regulatory documents on [REGDOCS](#)
- Add to the CER website, more graphic illustrations showing the different lifecycle phases of regulated projects

TOPIC OF DAY 2 WORKSHOP: COMPANY ACCESS TO PROPERTY

Discussions:

Access

- There are different types of access, for different reasons at different stages of a project's lifecycle. For example:
 - Access for a new project, construction, operations, emergencies, abandonment, post-abandonment;
 - Purpose and duration of access;
 - Intensity of planned work;
 - Who is accessing the land (company, contractors, CER Inspection Officers., etc.);
 - Access by people on foot, vehicles, machinery;
 - How landowners are notified about access;
 - Compensation for the different types of access.
- Access for archaeological studies. Archaeological work can take place for surveys before an application is filed; during construction; and during maintenance work on older pipelines. Archaeological work can be short or long in duration.
- Discussed options when access is denied by a landowner
 - What tools are available to resolve challenges and disputes related?

Suggestions:

- Add a topic on *access* to the CER's Land Matters Guide about the different types of access over the project's lifecycle; reasons for access; who has access; etc. Also include information about options when access is denied by a landowner
- Develop guidance about access and compensation based on the different types of access (preliminary assessments / temporary / maintenance and operations)
- Build on information in *land agreements* page in CER's Land Matters Guide – e.g., add “What if the landowner does not want to sign a land agreement?” to the Q&A; include process checklist for landowners

Right of Entry

- Discussed the right of entry process.
 - Notice of application for a right-of-entry order vs. application for a right-of-entry order.
 - What rights, including access, are included with an order for right-of-entry for the company, and for the landowner?
 - Checklist for the steps in the right-of-entry order process.
- A right-of-entry order is the last resort – steps companies take to come to an agreement to applying to the CER for a right-of-entry order.
- Guidance for landowners regarding what information to include in their written objections.
- Role of ADR in land acquisition agreement and right-of-entry processes.

Suggestions:

- Build on information in *right-of-entry orders* page in CER's Land Matters Guide - e.g., information on the work that needs to happen before a company gets to the point

of applying to the CER for a right-of-entry order; guidance for landowners on what to include in their written objection; highlighting importance of alternative dispute resolution; greater emphasis on the Land Matters Advisory Service; include checklist for the steps in the right-of-entry order process landowners.

Abandonment

- Landowners still have questions about abandonment.
 - Abandonment fund; implications for landowners with abandonment pipeline on their land; maintenance of an abandoned pipeline.
- A process flowchart regarding adjudication of an application to abandon a pipeline.

Suggestions:

- Build on information on abandonment in the Land Matters Guide: e.g., abandonment fund; companies' and landowners' rights with respect to abandonments; potential environmental issues that could occur; reasons why a pipe might be abandoned in place; process checklist for landowners potentially impacted by an abandonment application; compliance and enforcement with respect to abandonment

TOPIC OF DAY 3 WORKSHOP: DAMAGES

Discussions:

Understanding Damages

- How to define the term “damage” (damage incurred on the landowner, not damage to the pipeline).
 - Examples of different damages.
 - Assigning a monetary value to nuisance, inconvenience, loss of enjoyment of a property.
- Guidance for landowners who experience a damage.
 - How to determine whether a situation qualifies for a damage claim.
 - Checklist of the types of information that should be included in the claim.
- Value of having service standards and expedited adjudicative processes with respect to addressing damage claims.
- Damage claim process not always equitable: landowners with experience or representatives who know what to ask for in a claim for damages receive larger damage compensation packages than landowners with less representation/experience.
- Examples of what to consider in a claim.
- Damage to/regarding drainage tiles - a growing concern for some landowners.
- Promoting the CER’s Land Matters Advisory Service and ADR.

Suggestions:

- Define damages and provide examples
- Develop guidance for landowners on what could be considered for compensation
- Provide information on best practices with respect to damages
- Add information on the CER’s Damage Prevention pages for landowners on what to do if they incur damages (or a link to this information)
- Update CER’s Damage Prevention pages to more clearly identify “residential and commercial landowners” from “agriculture landowners”
- Improve definition/implications of the prescribed area
- Update the CER’s complaint resolution page to clarify what might be considered to be a complaint

Appendix “A”

Participants to the Workshops

Lynn Jacobson	Alberta Federation of Agriculture
Drew Spoelstra	Ontario Federation of Agriculture
Isabelle Bouffard Paul Doyon Louis Ménard	(UPA) Union des producteurs agricoles
Jenna Wood Brodie Allan	International Right of Way Association
Alisha Bhura	Canadian Energy Pipeline Association (CEPA)
Tim Robillard	(CEPA) Pembina Pipeline Corporation
Graeme Wright	(CEPA) TC Energy Corporation
Larry Yurkiw Sarah McKenzie	Enbridge Inc.
Leanne Mundt	AB Farmers’ Advocate Office
Carey Patterson	Alberta Energy Regulator
Fiona LeBlanc	
Renée Bazinet	Natural Resource Canada
Marie-Anick Élie Michael Benson Anne-Marie Erickson Paul Georgison Lisa Zaplachinski Debbie Clyne (Pacific Off.) Shannon Newfeld Marie-Ève Latour Mary Vega	Canada Energy Regulator