

# CANADA ENERGY REGULATOR ONSHORE PIPELINES REGULATIONS

## Discussion Paper Review

LRC Branch  
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**Métis Nation of Ontario**  
Lands, Resources and Consultations

Métis Nation  
of Ontario 

# TABLE OF CONTENTS

Executive Summary .....	3
Introduction .....	5
Context .....	6
Project Objectives.....	7
Métis Nation of Ontario.....	7
Who are the Métis? .....	7
Métis Nation of Ontario Overview .....	9
Understanding Métis Land Use .....	9
Métis Worldview .....	10
Métis Harvesting Rights.....	11
Workshop Methodology.....	11
MNO Collective Feedback.....	13
Region Specific Feedback.....	16
Feedback from Regions 1, 2, and 3.....	16
Regions 1, 2 and 3 Results of Workshop .....	18
Region 1, 2, and 3 Recommended Actions .....	21
Feedback from Regions 4 and 7.....	23
Regions 4 and 7 Results of Workshop .....	24
Region 4 and 7 Recommended Actions .....	27
Feedback from Regions 6, 8, and 9.....	29
Regions 6, 8, and 9 Results of Workshop .....	30
Regions 6, 8, and 9 Recommended Actions .....	33
Conclusion .....	34

# Executive Summary

On August 28, 2019, the *Canadian Energy Regulator Act* (CER Act) came into force alongside updated environmental assessment legislation in the form of the *Impact Assessment Act*. Through the CER Act, the CER is dedicated to ensuring safety and environmental protection, building strong relationships with Métis, First Nations, and Inuit, and enhancing Canada’s global competitiveness. The *CER Act Onshore Pipeline Regulations* (OPR) provide the rules which regulated companies must follow. In January 2022, the CER released an *Onshore Pipeline Regulations Review Discussion Paper* (the Discussion Paper) as the first of several stages of engagement aimed at reviewing and revising the OPR so it better aligns with the strategic priorities outlined in its Strategic Plan.

To obtain Métis Nation of Ontario (MNO) citizen feedback on the current OPR, the MNO facilitated three virtual workshops with Regional Consultation Committees (RCC) representatives from Regions 1, 2, 3, 4, 6, 7, 8, and 9. These workshops provided a forum in which attendees could provide their thoughts, concerns, and feedback on their experience with the CER and in particular, regulated onshore pipeline projects to date. Nine questions from the Discussion Paper were selected for a fulsome review during the workshop based upon their relevance to (MNO) citizens.

The following report outlines the specific feedback provided from RCC representatives attending each workshop as well as the key themes and recommendations emerging across the workshop series that were shared by multiple attendees across Regions. A series of nine key themes emerged from the workshop series, with several additional themes being prioritized within each of the distinct workshops (Table 1). In brackets beside each recommendation is a list of the MNO Regions that explicitly discussed the recommendation during their workshop. However, the absence of a Region beside any given recommendation is not indicative of a lack of support or applicability for the recommendation by that Region, but simply that the Region did not discuss the given recommendation during their workshop.

Key Theme	Recommended OPR Revisions
Equitable consideration of Métis governments	<ul style="list-style-type: none"> <li>• Requirements for lifecycle and relationship agreements with impacted Métis communities (Regions 1, 2, 3, 4 &amp; 7)</li> <li>• Establishing Regional Memorandums of Understanding (Regions 1, 2, 3, 4 &amp; 7)</li> <li>• Developing Métis specific processes within the OPR (Regions 1, 2 &amp; 3)</li> </ul>

	<ul style="list-style-type: none"> <li>• Replacement of the word “Indigenous” with “Métis, First Nation, and Inuit” throughout the OPR (Regions 1, 2 &amp; 3)</li> </ul>
Commitment to UNDRIP and Reconciliation	<ul style="list-style-type: none"> <li>• Mandatory requirements from CER-regulated companies as to how the principles of UNDRIP and reconciliation will be implemented with their projects (Regions 1, 2 &amp; 3)</li> <li>• Stronger accountability measures for proponents to provide adequate time and capacity for impacted Indigenous communities to consult and engage (Regions 1, 2, 3, 4 &amp; 7)</li> <li>• Mandatory commitments from the CER to provide additional training and information sharing with Métis communities on their policies and regulations (Regions 6, 8 &amp; 9)</li> </ul>
Métis involvement and representation	<ul style="list-style-type: none"> <li>• Métis specific targets for Indigenous environmental and cultural monitors that are ongoing throughout the project and reflective of the work that is being completed (Regions 1, 2 &amp; 3)</li> <li>• Targets for Métis representation within CER-regulated companies (Regions 1, 2 &amp; 3)</li> </ul>
Understanding Métis history, culture, and experiences	<ul style="list-style-type: none"> <li>• Requirements for all communication with the MNO to occur at the Regional level (Regions 1, 2, &amp; 3)</li> <li>• Mandatory “Métis-101” training for the CER and its subsidiaries (Regions 1, 2, 3, 4 &amp; 7)</li> <li>• Capacity funding for the implementation of a province-wide TKLU study to inform future engagement on CER-regulated projects (Regions 4 &amp; 7)</li> </ul>
Environmental and cultural heritage protection	<ul style="list-style-type: none"> <li>• Mandatory requirements for Métis environmental and cultural monitors on all projects (All)</li> <li>• Requirements for capacity funding for impacted Métis, communities to hire their own environmental and cultural monitors (Regions 1, 2 &amp; 3)</li> <li>• Mandatory requirements for the collaborative involvement of impacted Métis communities in project closure plans (Regions 1, 2 &amp; 3)</li> <li>• Mandatory consultation with potentially impacted Indigenous communities prior to project fieldwork or ground disturbance (Regions 4, 7, 6, 8 &amp; 9)</li> <li>• Mandatory requirements for CER regulated companies to collaboratively develop change find procedures with Métis communities (Regions 6, 8 &amp; 9)</li> </ul>
Communication	<ul style="list-style-type: none"> <li>• Mandatory engagement with potentially impacted communities in accordance with their governance structures (Regions 1, 2 &amp; 3)</li> </ul>

	<ul style="list-style-type: none"> <li>• Mandatory requirements from the CER to communicate policy and regulatory changes based on feedback from Indigenous communities (Regions 4 &amp; 7)</li> </ul>
Métis Knowledge	<ul style="list-style-type: none"> <li>• Mandatory funding from CER-regulated companies to potentially impacted Métis communities to undertake ongoing Traditional Knowledge Studies (Regions 1, 2 &amp; 3)</li> <li>• Mandatory inclusion of Métis Knowledge to inform cultural training for all subcontractors involved in CER projects (Regions 4 &amp; 7)</li> </ul>
Emergency planning and response	<ul style="list-style-type: none"> <li>• Mandatory collaborative planning between regulated companies and potentially impacted communities for emergency planning and response protocols (All)</li> <li>• Stronger commitments within the OPR for regulated companies to provide prompt notifications following a project related incident or emergency (All)</li> <li>• Mandatory capacity funding for impacted Métis communities to train and hire their own emergency responders and technical experts (Regions 1, 2, 3, 4 &amp; 7)</li> </ul>
Environmental protections	<ul style="list-style-type: none"> <li>• Stronger accountability measures for CER-regulated companies for environmental protection measures across the project lifecycle (Regions 4, 7, 6, 8 &amp; 9)</li> </ul>

Recommendations to accompany these themes are provided in the below report. The themes and recommendations outlined represent what the MNO views as the beginning of a fulsome engagement process with MNO citizens regarding revisions to the OPR. For the CER to meaningfully progress toward achieving the strategic priorities outlined in their Strategic Plan, the recommendations provided below must be acknowledged and meaningfully incorporated into future iterations of the OPR.

# Introduction

The Métis Nation of Ontario (MNO) hosted three workshops to engage with MNO Regional Consultation Committee (RCC) members on the Canada Energy Regulator’s (the CER) Onshore Pipelines Regulations Review Discussion Paper (the Discussion Paper). MNO Regions 6, 8, and 9 attended the first workshop on June 20th, 2022, Regions 1, 2, and 3 on June 26th, and Regions 4 and 7 attended the final workshop on June 28th. It should be noted that Region 5 was unable to attend a workshop due to a last-minute scheduling conflict. The purpose of each workshop was for RCC members to understand the Discussion Paper, to ensure that this process meets or exceeds the MNO’s expectations for engagement and consultation, and to gather feedback on regulations and policies to protect Métis Rights and Métis Way of Life.

The workshops began with a presentation from the CER relating to the OPR and the intent of the Discussion Paper. Shared Value Solutions (SVS) was retained by the MNO to provide a presentation on key questions within the Discussion Paper. For the remainder of the workshop, SVS hosted a facilitated discussion among MNO RCC representatives to gather and assess their unique experiences with the CER and with pipeline projects within their Region. A targeted discussion was generated on the first nine questions of the Discussion Paper to gain understanding of the concerns, values, and priorities of each Region with respect to the current state of the OPR.

## Context

On August 28, 2019, the *Canadian Energy Regulator Act* (CER Act) came into force alongside updated environmental assessment legislation in the form of the *Impact Assessment Act*. This regulatory and legislative change also came with a transition of the National Energy Board to the Canada Energy Regulator (CER).

As part of this regulatory regime change, the CER commenced efforts to revise its existing policy, guidance, and regulations to ensure conformity and alignment with the measures set out in the CER Act. This included revisions to the CER Filing Manual, release of the 2022–2025 Regulatory Framework Plan, development of the CER Strategic Plan, and the formation of a Métis, First Nations, and Inuit Advisory Committee.

Most recently, the process to update and amend the OPR to ensure alignment with the new act has commenced. As part of this process, the CER is seeking input from Métis, First Nations, and Inuit, regulated companies, landowners, and other stakeholders. The review will address all areas of the OPR and may result in changes to other parts of the CER's regulatory framework, including regulatory documents and guidance such as the CER's Filing Manual.

To support the review of the OPR, the CER released its Discussion Paper in January 2022 alongside a call for participant funding applications facilitated by the Impact Assessment Agency of Canada. According to the Discussion Paper, the purpose of the review is as follows:

*The CER's objective for this review is to deliver a regulation that supports the highest level of safety, security and environmental protection, advances Reconciliation with Métis, First Nation, and Inuit peoples, addresses transparency and inclusive participation, provides for predictable and timely oversight and encourages innovation. The OPR will*

*continue to function as a single regulation that applies to all CER-regulated companies across the many regions of Canada.*

## Project Objectives

As stated in the Métis Nation of Ontario's *Statement of Prime Purpose*, the Métis citizens comprising the MNO are committed to protecting and preserving the land and waters within our homelands for future generations. Métis lands in which MNO citizens reside are linked to the unique Métis history and values of each Historic Métis Community and are valued as a precious foundation for the future.

There are several regional rights-bearing communities within the MNO that currently house CER-regulated pipeline infrastructures within their territories, where citizens have constitutionally protected Aboriginal Rights. With a growing demand for pipeline development across the province of Ontario, it is essential that feedback from MNO citizens be collected to voice the concerns and challenges associated with the current OPR process and to guide the revised OPR. The revisions made to the OPR process should be considered the first step in guiding the CER toward a place of reconciliation with MNO citizens.

The primary objective of this report is to convey the feedback gathered from engagement with MNO RCC representatives on the OPR and its associated Discussion Paper. Through providing targeted and regionally specific feedback to the first nine questions within the Discussion Paper, the MNO 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*.

# Métis Nation of Ontario

## Who are the Métis?

The Métis evolved out of the initial relations of European men and First Nation women who were brought together during the early fur trade. While the initial offspring of these relations were individuals who simply possessed mixed European and Indian ancestry, continued intermarriage resulted in a new and distinct people—the Métis Nation. Volume 4 of the Royal Commission on Aboriginal Peoples (RCAP) describes this evolution as follows:

*“Intermarriage between First Nations and Inuit women and European fur traders and fishermen produced children, but the birth of new Aboriginal cultures took longer. At first, the children of mixed unions were brought up in the traditions of their mothers or (less often) their fathers. Gradually, however, distinct Métis cultures emerged, combining European and First Nations or Inuit heritages in unique ways. Economics played a major role in this process. The special qualities and skills of the Métis population made them indispensable members of Aboriginal/non-Aboriginal economic partnerships, and that association contributed to the shaping of their cultures...as interpreters, diplomats, guides, couriers, freighters, traders and suppliers, the early Métis people contributed massively to European penetration of North America.”*

RCAP also recognized that the Métis developed separate and distinct identities, not reducible to only their mixed ancestry.

*What distinguishes Métis people from everyone else is that they associate themselves with a culture that is distinctly Métis. Métis communities have their own collective identity, language (Michif), culture, traditions, dance, song, music, self-governing structures and Way of Life. The Métis were always seen, by themselves and outsiders, as distinct from both their First Nations and European/Canadian relations. As the RCAP explained, the culture of the Métis was derived from the lifestyles of the Aboriginal and non-Aboriginal peoples from whom the modern Métis trace their beginnings, yet the culture they created was no cut-and-paste affair. The product of the Aboriginal-European synthesis was more than the sum of its elements; it was an entirely distinct culture.*

The Métis are one of the “aboriginal peoples of Canada” recognized in Section 35 of the Constitution Act, 1982, which reads as follows:

*(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.*

*(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit, and Métis peoples of Canada.*

The Constitution Act, 1982, does not set out a hierarchy of rights, and clearly outlines that Métis rights are equally recognized and affirmed with First Nations and Inuit rights.



In its landmark decision in *R. v. Powley*, the Supreme Court of Canada stressed that

*The term “Métis” in s. 35 does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs, way of life, and recognizable group identity separate from their Indian or Inuit and European forebears. Métis communities evolved and flourished prior to the entrenchment of European control, when the influence of European settlers and political institutions became pre-eminent.*

...  
*...The constitutionally significant feature of the Métis is their special status as peoples that emerged between first contact and the effective imposition of European control. The inclusion of the Métis in s. 35 represents Canada’s commitment to recognize and value the distinctive Métis cultures, which grew up in areas not yet open to colonization, and which the framers of the Constitution Act, 1982, recognized can only survive if the Métis are protected along with other aboriginal communities.*

## Métis Nation of Ontario Overview

The Métis are one of the “aboriginal peoples of Canada” recognized in Section 35 of the Constitution Act, 1982, which reads as follows:

*(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.*

*(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit, and Métis peoples of Canada.*

The MNO represents the collective aspirations, rights and interests of its registered citizens and the rights-bearing Métis communities made up of those citizens through its governance structures at the local, regional, and provincial levels.

## Understanding Métis Land Use

Métis communities with traditional territories in Ontario have deep connections—social, cultural, spiritual, and economic—to the land. Connections to the land are at the core of Métis identity and culture. The health and well-being of the land directly correlates with that of the people whose history, present and future, is tied to it. This concept was well expressed by the RCAP (1996: Volume 4, 232, 203, 252):

*Aboriginal peoples have told us of their special relationship to the land and its resources. This relationship, they say, is both spiritual and material, not only one of livelihood, but one of community and indeed of the continuity of their cultures and societies. ...The use of the lands and resources has formed a central part of Aboriginal economies from time immemorial. For most Aboriginal communities, natural resources are the key to making a living, whether this takes the form of traditional subsistence activities to profit-seeking, wage-providing enterprises.*

The Supreme Court of Canada, in its decision in *R v Powley*, made clear that the Métis, as an Aboriginal people of Canada within Section 35 of the Constitution Act, 1982, have rights that arise through their unique Métis “special relationship to the land” (para 41).

Métis communities in Ontario represented by the MNO have traditional territories that they have historically relied upon and continue to rely on. In many parts of Ontario, these territories are shared with First Nations, with whom the Métis have co-existed and maintained respectful relationships for generations. These territories include areas where there was historical settlement, presence and occupation by the Métis, as well as historical use, including harvesting, cultural, social, spiritual, and economic activities.

Throughout these Métis traditional territories in Ontario, MNO citizens, and the regional rights-bearing Métis communities composed of those citizens, have constitutionally protected Aboriginal rights that are grounded in their historical and ongoing customs, practices and traditions connected to the land. Métis live, work and harvest throughout these territories and rely on them for their individual as well as their community’s overall cultural, social, spiritual, physical, and economic well-being. These territories are inextricably linked to a Métis community’s shared identity, culture, and history.

## Métis Worldview

The relationship between Métis communities and their homelands is a symbiotic one. One cannot be healthy without the other being healthy. As such, what happens to homelands in relation to use, development, ecosystems and sustainability is of fundamental importance to the survival of Métis communities. If these territories are indelibly changed or damaged, the Métis people and communities will be too.

The Métis are stewards of their homelands and have a responsibility to work with First Nations, governments and others to protect them. The Métis see collecting and sharing their traditional knowledge with others to ensure that informed decision making—which must include the MNO through its representative governance structure at the local, regional, and provincial levels—takes place with respect to policies, planning, projects,

and developments that have the potential to affect Métis rights, interests, and Way of Life in their homelands.

## Métis Harvesting Rights

On September 19, 2003, in *R. v. Powley*, the Supreme Court of Canada confirmed that the Métis are a distinct Aboriginal peoples that can hold collective rights to harvest for food protected by s. 35 of the *Constitution Act, 1982*. Harvesting has traditionally been, and continues to be, integral to the Métis Way of Life and includes the taking, catching, or gathering of renewable resources by MNO citizens for reasonable personal use in Ontario. The MNO encourages conservation practices during the Métis harvest so that species are preserved for future generations, and it develops wildlife management practices based on traditional Métis values of cooperation and respect. The MNO regulates the harvesting activities of its citizens through the MNO Harvesting Policy, which provides for the issuance of MNO Harvester's Certificates to eligible MNO citizens. The MNO's Harvester Certificate system verifies that the applicant has sufficient documentation to support a claim to being able to exercise a collective Métis right to harvest in Ontario.

Pursuant to an agreement between the Government of Ontario and the MNO, Ontario applies its Interim Enforcement Policy to valid MNO Harvester Certificate holders. As described in this Framework Agreement, there are seven identified rights-bearing Historic Métis Communities in Ontario. Since 2004, through agreements with the Government of Ontario, Métis rights have been accommodated in the Métis Traditional Harvesting Territories throughout Ontario, identified in Figure 1.

The Métis harvest occurs throughout the year, apart from moose and deer harvesting, which only occur from September 1st to December 31st.

The President of the MNO appoints a Captain of the Hunt in each MNO Region who is responsible for implementing the MNO Harvesting Policy, determining the appropriate management of the Métis harvest, and evaluating its progress on a regular and ongoing basis.

## Workshop Methodology

Each MNO Region has unique histories, geographies, and interests. In recognition of the unique circumstances of the Regions, three separate engagement workshops were held to gather feedback on the OPR Discussion Paper.

RCC representatives from three regions were present for each workshop, apart from the June 28th workshop in which only two Regions could attend. A breakdown of the regions included within each workshop is listed below.

- June 20, 2022, 6:30 p.m.-9:30 p.m.: RCC Representatives from MNO Regions 6, 8, and 9
- June 26, 2022, 2:00 p.m.-5:00 p.m.: RCC Representatives from MNO Regions 1, 2, and 3
- June 28, 2022, 6:30 p.m.-9:30 p.m.: RCC Representatives from MNO Regions 4 and 7

Also in attendance at each workshop was MNO's Federal Consultation Advisor from the Lands, Resources and Consultations (LRC) Branch, a representative(s) from the CER, and staff from SVS.

Each workshop began with a high-level presentation from CER representatives on the purpose of the CER and the applications of the OPR. Representatives 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 Métis, First Nations, and Inuit 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, SVS provided a brief presentation to attendees on the specific implications of the OPR to Métis citizens. Facilitators shared a case study of the TransCanada Canadian Mainline pipeline to provide context on how the various components of the OPR in its current state can be executed with a project occurring in MNO regional territory. Participants were then led through a facilitated discussion surrounding the Discussion Paper. Specifically, the first nine questions described in the Discussion Paper were selected for discussion. RCC representatives were provided

with follow-up questions and examples for each of the nine questions to prompt responses based on the distinct experiences and viewpoints of each attending region.

Throughout the facilitated discussion, attendees were directed to provide their feedback either verbally or through typing their comments in the Zoom chat. SVS facilitators captured all participant feedback in detailed meeting minutes for each workshop. At the end of each session, attendees were asked 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.

## MNO Collective Feedback

The series of workshops provided a range of ideas and perspectives, many of which were Region- and area-specific, based on the lived experiences of Métis citizens in each Region and the distinct culture and history of these areas. Alongside these Region-specific themes and perspectives were a set of common cross-cutting ideas that were expressed in all three workshops.

Those perspectives are described further below to demonstrate the key themes that emerged as broad considerations raised across all Regions, regardless of where the MNO Region is located. These themes are intended to serve as a starting point for further discussion and collaboration between the MNO and the CER and should not be regarded as a definitive or conclusive set of comments and recommendations from the MNO and MNO Regions.

- **Equitable consideration and inclusion of Métis governments and communities:** There needs to be equitable consideration and inclusion of Métis governments and communities impacted by projects within these CER policy review and regulation development processes. Historically the Métis and the MNO have been engaged and included in processes at a delayed stage, leading to limited time and resources being available for the MNO to participate. In addition, this inequitable treatment, and, at times, tendency toward a pan-Indigenous approach, also translates into language and approaches used in consultation with the Métis that assumes that we are the same as First Nations and Inuit communities, which is inappropriate at best and potentially harmful to Métis impacted by these projects.
- **Commitment to UNDRIP and Reconciliation more broadly:** All workshops had a strong focus and emphasis on both the CER and the companies it regulates

making stronger commitments and taking action to enact UNDRIP and contribute to reconciliation meaningfully. Each Region offered a range of perspectives and recommendations in terms of how this commitment could be demonstrated. However, there were some common suggestions identified. These centred around the importance of MOUs being developed between the MNO (as a collective and specific regions, depending on the circumstance), and the CER and/ or CER-regulated companies. These MOUs would need to consider how Métis Knowledge would be shared and considered, adequate provision of capacity funding, the process when cultural heritage chance finds occur, and how Métis monitors would be involved in project inspections, audits, and monitoring.

- **Importance of Métis involvement and representation in decision-making processes:** A cross-cutting theme that came up in all workshops across multiple discussion questions was the importance of Métis citizens, through the MNO and RCCs, being adequately and meaningfully involved and represented within both project-specific and broader initiatives with the CER.
- **Importance of the CER and its regulated companies understanding Métis history, culture, and experiences:** A key recommendation linked to Métis involvement and representation within CER processes was the importance of the regulator and companies becoming more familiar with MNO and Métis history and culture. This would ensure that engagement comes from a common understanding of who the Métis are, Métis culture, and challenges experienced by the MNO and Métis more broadly in consultation processes. In practice, the recommendation put forward in all workshops was having the CER, CER-regulated companies, and their contractors participate in an MNO-led Métis 101 training session. Métis 101 would cover: Who we are as MNO, MNO Community Councils and Regions, our homeland and connection to place, Métis Way of Life, and how unfairly we have been treated historically and in present day. MNO 101 training should be completed annually as part of cultural awareness training to ensure that it is up-to-date.
- **The involvement of Métis monitors in environmental and cultural heritage protection:** Found across all workshops was a common theme of wanting to see MNO citizens involved in project lifecycle oversight and protection through environmental and cultural heritage monitoring. In addition to the theme of monitoring in general, there were commonalities in how these monitors would be hired and who they would be accountable to. In general, the consensus was that these monitors should be hired or employed by the MNO through capacity funding within either an MOU or Impact Benefit Agreement to ensure these

monitors are representing the best interests of MNO citizens when carrying out monitoring and oversight activities. The OPR should include requirements for Métis participation in environmental and cultural monitoring across the construction, operation, and maintenance phases of a project.

- **Commitment to co-developed engagement and communication programs:** Central to conversations across the three workshops is the importance of communication between the CER, including its regulated companies, and potentially impacted Métis communities. Participants spoke to the critical need for this communication to occur across the lifecycle of a project to ensure consistent information sharing and opportunities for shared decision making. Of equal importance is the need for communication to be held to the standards outlined in an engagement and communications program that is co-developed with the respective impacted community. This will allow for the unique communication preferences and requirements of each community to be recognized and upheld by the CER and regulated companies.
- **The inclusion of Métis Knowledge in CER oversight and companies' decision making:** Meaningful consideration and inclusion of Métis Knowledge in project planning and oversight through OPR requirements and other CER regulatory mechanisms was raised throughout all three workshop sessions. Participants from all three workshops spoke to the importance of capacity funding and resources being provided by either the CER or CER-regulated companies operating in MNO territories. Given the large geographic ranges that pipelines and linear corridor projects tend to span (for example, TransCanada's Canadian Mainline spans across the province of Ontario), it was recommended that a province-wide Traditional Knowledge and Land Use Study with the MNO and MNO Community Councils be undertaken to inform both current and future planning and regulatory decision making for CER-regulated facilities and activities in the province of Ontario.
- **The MNO needs to be informed of and involved in emergency planning and response:** Given the potential for major health and safety impacts and concerns to Métis harvesters, there is clearly a need for the MNO to be properly informed and involved in emergency planning and response when it comes to CER-regulated projects and facilities within MNO harvesting territories. The bare minimum requirement is for the MNO and MNO Community Councils to be informed whenever any incidents, accidents, releases, or emergencies occur within MNO harvesting territories. However, beyond notification, all workshops spoke to the need for the MNO, MNO Community Councils, and Métis first



responders to be involved in the planning and response to emergencies in a meaningful and timely manner, including involvement in the remediation process for impacted sites. The OPR should include a requirement for the co-development of emergency response plans and protocols with potentially impacted Métis communities. Plans must be informed by Métis Knowledge as provided by impacted communities.

- **Concerns with remediation and revegetation practices in pipeline rights-of-way:** Across all of the workshops, participants identified concerns with current practices employed by pipeline and other linear corridor project operators around the use of spraying and chemicals to prevent tree regrowth in the ROW. These chemicals impact both vegetation and wildlife in the ROW, including by having the potential to harm species of importance to Métis harvesters. It was recommended that the OPR should consider requirements or guidance to encourage pipeline operators to revegetate ROWs using native and culturally significant species. In addition, it was recommended that, in areas heavy in old-growth forests which function as carbon sequestration sinks, the companies should aim to adjust their route to avoid, limit, and minimize the number of trees and vegetation requiring removal to build the project.

## Region Specific Feedback

### Feedback from Regions 1, 2, and 3

Key themes identified from Regions 1, 2, and 3 include:

- **Distinctions based approach for Métis engagement:** A common theme reaching across several of the Discussion Paper questions is the critical need for Métis respect, recognition, and representation within CER-regulated pipeline projects. Part of this need, as shared by one participant, is to develop Métis-specific processes within the OPR to avoid Métis citizens being grouped together with First Nations. This is especially important for environmental monitoring procurement, where Métis citizens are often left out of the hiring process for projects when companies hire from First Nations only to “check the box” for Indigenous procurements. Another participant noted the language within the OPR itself can lead to grouping and suggested that the term “Indigenous” be replaced with “Métis, First Nation and Inuit”.
- **Communication at the Regional level:** A secondary aspect to Métis respect and recognition identified by participants is the importance of the CER and regulated



companies respecting and recognizing each distinct MNO Region rather than consulting solely with the MNO. Participants consistently expressed the unique history, culture, and values held by their rights-bearing Historic Métis Communities and stated that all communication and engagement regarding regulated pipeline projects must be at the community or regional level to reflect these differences. One participant shared that they often feel that their community is pigeonholed by companies, which can feel like they are struggling to keep their identity. As part of recognizing and respecting these differences, one participant suggested that companies and their subcontractors should be held accountable to taking a “Métis 101” course facilitated by MNO citizens. Finally, several participants highlighted the importance of Métis representation within CER-regulated projects across all levels.

- **Establishment of Regional Memorandums of Understanding:** Another theme identified by RCC representatives is the significance of requirements for CER-regulated companies to establish either impact benefit agreements (IBAs), memorandums of understanding (MOU), and/or relationship agreements with impacted rights-bearing MNO Regions. Many attendees shared the belief that companies must be held accountable to entering into these agreements both at the project onset as well as retroactively if active projects failed to consult with impacted MNO Regions during the project’s initial assessment under the *Canada Energy Regulator Act*. Imperative to these agreements is that they are developed as regionally specific with all impacted MNO rights-bearing Regions. Participants shared examples of elements to be included within these documents, including specifications for capacity funding, a breakdown of MNO citizen procurement for environmental and cultural monitoring, and procedures for emergency response.
- **Emergency planning and protocol development:** Finally, RCC representatives attending the workshop shared several concerns over the lack of Métis involvement in CER-regulated projects’ emergency response planning and protocol development. One participant shared their frustration in being omitted from this process: they experienced a forest fire occurring within their Region resulting from a pipeline accident. In addition to involvement in emergency planning, several participants expressed the need for stronger commitments from CER-regulated companies to provide Indigenous communities with prompt notifications following a project-related incident or accident. Participants shared a common frustration with emergency notifications often taking days to be communicated. One participant provided the example of flash responses (pre-set responses created to provide information as quickly as possible) used by mining companies as a means of companies improving their notification response times, in addition to quarterly or monthly project incident updates.

The full results of the workshop with Regions 1, 2, and 3 are presented in the following subsection.

## Regions 1, 2 and 3 Results of Workshop

### Discussion Question 1

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

- Companies and the CER must respect the unique differences of each MNO Region and consult with each Region specifically.
- Language used to refer to the MNO (e.g., sites of significance, heritage resources, relationship agreements) should not be “MNO-specific.” Instead, it should be specific to Region or Historic Métis Community
- OPR references to “Indigenous” should be revised to state “Métis, First Nations and Inuit”
- Principles of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and reconciliation must be implemented by both the CER and CER-regulated companies
- Communication improvements are required. Many pipeline stations within MNO Regional territory are unmanned. There is no communication or engagement between the CER or companies and the impacted MNO Region
- Improvements regarding emergency protocols are required. Emergency response protocols must be implemented with the MNO Regions which pipeline projects pass through
- CER-regulated companies must demonstrate additional corporate responsibility when working with Métis communities
- CER-regulated companies should be developing relationship agreements and/or IBAs with each impacted MNO Region. Required sections within these agreements should include environmental monitoring and emergency response notifications

### Discussion Question 2

*How can the OPR contribute to the advancement of Reconciliation with Indigenous Peoples?*

- A percentage of Métis representation should be required within CER-regulated companies
- Requirements for IBAs and/or relationship agreements between CER-regulated companies and impacted MNO Regions for all pipeline projects
- CER and companies must follow the MNO Regional specific processes for consultation, engagement and mitigation.

- Requirements for Métis-specific environmental monitors for all pipeline projects to bolster Métis representation for “Indigenous environmental monitors”
- The MNO has negotiated and executed nine Regional Consultation Protocols for the Regions that are intended to guide fulsome consultation with the government and proponents. In addition, the MNO’s Interim Statement of Principles of Consultation should inform all consultation with the MNO and RCCs. The CER and companies must acknowledge and respect the distinct culture and history of each MNO Region and Historic Métis Community in all engagement and interaction with MNO Regions.

### **Discussion Question 3**

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

- Companies must procure Traditional Knowledge and Land Use (TKLU) studies from each impacted MNO Region during a pipeline project. Studies should be Regionally led and the report should reflect the unique values and concerns of each impacted community
- Métis environmental monitors/liaisons should be employed directly by the impacted MNO Regions (not by the CER-regulated companies). Funding for these positions should come from Region-specific IBAs

### **Discussion Question 4**

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

- Engagement with MNO Regions must occur for company activities related to spraying application on lands within the impacted Regions’ territory
- Companies and the CER must acknowledge if an MNO Region is asserting that a project is occurring on their traditional land
- Companies must provide capacity funding to all impacted MNO Regions throughout a project. Capacity funding must be inclusive of TKLUS and environmental monitoring
- Preference for pipeline project environmental monitoring that is conducted by Métis citizens and is tailored to the Region that is impacted by the project
- Companies must be held accountable for adequate (i.e., approved by the impacted MNO Region[s]) cleanup and regrowth of the lands in which they occupy once the project finishes
- Companies must respond to MNO Region requests for meetings and/or on-site tours for projects occurring within their territory

### **Discussion Question 5**

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

- The OPR must stipulate that the CER and its regulated companies take a “Métis 101” training course at the onset of a project. Companies should provide impacted MNO Regions with capacity funding to facilitate the course
- Companies must be held accountable for providing funding and adequate time to impacted MNO Regions to appropriately review reports, complete technical reviews, and conduct TKLUS. Feedback and inclusion of Indigenous Knowledge should be MNO Region specific.

### **Discussion Question 6**

*How can the OPR address the participation of Indigenous peoples in pipeline oversight?*

- Environmental monitoring requirements should be Region specific (rather than MNO-specific)
- MNO Regions must be involved in the planning and process for a company’s closure plan
- OPR should include specific language and requirements regarding Métis participation in pipeline oversight (rather than “Indigenous”)

### **Discussion Question 7**

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

- Collaborative interaction between companies should be Region specific (not MNO-specific)
- Companies must request Métis feedback for all phases of a project’s emergency planning. Companies should also provide capacity funding for impacted Historic Métis Communities to hire their own emergency responders in project areas
- Companies should be required to notify impacted MNO Regions of a project accident as soon as possible. Responses should be within a matter of hours

### **Discussion Question 8**

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

- Companies must be held accountable to regular communication requirements with impacted Métis communities, including communication regarding relationship agreements and capacity funding

### **Discussion Question 9**

*How could the CER improve transparency through the OPR?*

- Companies must be held accountable to notifying impacted Métis communities (regardless of whether an IBA is in place) as soon as a project-related incident occurs. Additional regular reporting [e.g., monthly or quarterly reports] should also be made available
- Indigenous Advisory and Monitoring Committees must include representation from MNO citizens
- The OPR should include requirements for existing pipelines to retroactively engage with impacted Métis communities if engagement was not implemented during the project's initial design and assessment

## Region 1, 2, and 3 Recommended Actions

The recommendations listed below reflect the common themes and suggestions that emerged from RCC representatives attending the Regions 1, 2 and 3 workshop. While the suggested recommendations are reflective of shared feedback among attendees, they are by no means indicative of a fulsome and comprehensive review of the Discussion Paper. MNO Regions 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 the feedback from each MNO Region with a technical review and recommendations report.

Several Regional representatives expressed their concern that the feedback provided throughout the workshop will stay idle in a report. It is therefore imperative that the recommendations provided throughout the report be acknowledged by the CER and incorporated into the revised Onshore Pipeline Regulations.

Recommendations specific to Regions 1, 2, and 3 are provided below:

- OPR requirements for lifecycle and relationship agreements with impacted Métis communities. Agreements should include, at a minimum:
  - Participation in environmental monitoring and oversight
  - Participation in emergency response planning and process development
  - Emergency response capacity and resources
  - Representation in Indigenous and advisory monitoring committees (IAMC)
  - Linear corridor restoration
- OPR requirements to promote Métis representation throughout a project's lifecycle oversight, including throughout procurement for environmental monitoring, IAMCs, and employment through CER-regulated companies.

- Clear OPR requirements for regulated companies to co-develop a communication and engagement protocol with impacted Métis communities
- OPR requirements for the participation of impacted Métis communities in emergency planning and response
- Capacity funding requirements for the inclusion of TKLUS data integration from each impacted Métis community throughout the project's lifecycle
- Requirement for CER-regulated companies and their subcontractors to undertake cultural competency training, including providing capacity funding for impacted Métis communities to facilitate the training.
- The OPR must be revised to demonstrate an explicit commitment to considering the context of the UNDRIP to promote reconciliation with Métis Peoples

The recommendations stemming from the MNO Region 1, 2, and 3 workshop are grounded in the CER's Strategic Plan and thus, are within the purview of the CER to implement through its OPR regulation revisions. For example, one of the priorities identified by the CER in its Strategic Plan is reconciliation with Métis Peoples, which includes "building renewed relationships based on the recognition of rights, respect, co-operation, and partnership." The recommendation above requiring the OPR to include lifecycle and relationship agreements with impacted Métis communities provides a meaningful path forward for the CER toward building renewed relationships with rights-bearing MNO Regions. Further, the respect, cooperation, and partnership required in building these renewed relationships must be rooted in collaborative decision making and information sharing, as demonstrated in the recommendations for co-developing communication and engagement protocols and emergency response plans and protocols.

Within its Strategic Plan, the CER commits to advancing reconciliation with Métis, First Nations, and Inuit Peoples through improving the Indigenous cultural competency of the organization of its staff. While this aligns with Truth and Reconciliation Commission call to action #57, and is a positive step forward toward reconciliation, it fails to include the CER's commitment to enhancing reconciliation through their regulated companies.

Within the CER's presentation to Regions 1, 2, and 3 on June 26, 2022, the CER slideshow presentation stated that the CER is "transforming the way we, and our regulated companies, work with Indigenous peoples across the lifecycle of regulated facilities." As such, the recommendation provided above relating to the need for OPR requirements on cultural competency training for their regulated companies and their

subcontractors should fall within the CER's commitment to advancing reconciliation through the ways in which its regulated companies are working with Indigenous Peoples.

## Feedback from Regions 4 and 7

Key themes identified from Regions 4 and 7 include:

- **Meaningful engagement:** The overarching theme identified by participants in Regions 4 and 7 is the need for consistent involvement and meaningful consultation with the CER and its regulated companies. Participants expressed frustration about tight timelines and felt that these timelines were unrealistic and even purposefully built to exclude the MNO. A desire for capacity funding to support a team of technical experts was expressed, along with the desire to be included within project emergency planning and response plans.
- **Comprehensive notifications on regulatory changes:** Another area of importance highlighted by participants was the need to be kept updated on changes made to their regulations and policies based on MNO feedback and input. Changes made based on First Nations and Inuit input should also be communicated to the MNO.
- **Regulator education and awareness:** Participants were very clear that they expect proponents to have done their research prior to meeting with the MNO. The CER and its regulated companies need to have completed MNO's "Métis 101" training to ensure equitable treatment. The CER and proponents need to know who the MNO are, and need to understand the MNO Community Councils and Regions. They also need to be aware of the MNO's geography and how unfairly the MNO has been treated both historically and in present day. A province-wide Traditional Knowledge and Land Use Study (TKLUS) should be completed to educate the CER and capacity should be provided to support this important study.
- **Stronger standards for environmental protection:** Several participants raised concerns over the environmental protection and remediation responsibilities of regulated companies and shared stories of where these regulations did not provide enough protection. Participants highlighted the importance of protecting wildlife habitat throughout project construction and maintenance activities, highlighting that harvesting lands should be avoided for such activities.



- **Consultation prior to project fieldwork:** Regarding heritage resources, participants stressed the need for consultation prior to all archaeological field work, capacity for archaeological and cultural monitoring programs, and the need for chance find protocols to be developed prior to fieldwork. An MOU should be a requirement between the MNO and CER regarding archaeological protocols.
- **Equitable consideration for Métis:** A final note regarding the workshop from Regions 4 and 7 is the absolute requirement that they no longer be left out of discussions. Participants expressed concern that federal bodies consider First Nations to be more important than the MNO and assurances that this is not the case need to be expressed through action and meaningful consultation.

The full results of the Regions 4 and 7 workshop are presented in the following subsection.

## Regions 4 and 7 Results of Workshop

### Discussion Question 1

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

- More information about the CER needs to be provided
- Desire for the MNO to have a team of technical experts ready to deploy in case of emergency
- The MNO cannot be left out of consultation where the rights and way of life of MNO citizens may be impacted.
- The MNO and MNO citizens need to be treated with the same respect as First Nations and Inuit

### Discussion Question 2

*How can the OPR contribute to the advancement of Reconciliation with Indigenous Peoples?*

- Input from the MNO on consultation and engagement protocols needs to be considered prior to the final draft
- The MNO needs to be involved in every step of the process for any project that impacts Métis traditional lands and waters
- The MNO wants to see how regulations are updated based on MNO feedback. We also should see how input from First Nations and Inuit is incorporated
- Questions of what and who is being funded and how the CER will do this in the future: Will the MNO as a whole get funded or will specific communities/regions/ community councils be funded too?



- The CER and regulated companies should complete MNO 101 training before working with the MNO to ensure equitable treatment
- MOUs need to be negotiated as part of this process and the CER and companies need to know:
  - Who we are as MNO, MNO Community Councils, and Regions
  - Our geography
  - How unfairly we have been treated historically and in present day
- A province-wide TKLUS should be completed so the CER knows our relationships to the land. Capacity must be provided to support this study
- The MNO needs relationships with the ministers responsible for the CER and the leadership at the CER
- We need to consider future scenarios and possibilities that include pipelines and more CER projects in Ontario

### **Discussion Question 3**

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

- Examples 1 to 3 (on the presentation slide) are all applicable and MUST be done:
  - E.g., #1: Consultation prior to archaeological fieldwork
  - E.g., #2: Archaeological and cultural monitoring
  - E.g., #3: Requirements for chance find protocols
- An MOU is needed between the MNO and CER regarding archaeology and archaeological protocols, especially if/ when companies are crossing areas of importance to the Métis
- The CER needs to understand that the MNO needs a team who can respond to these matters. Currently we lack the technical expertise and there are also legal considerations and protections here too
- The MNO and as community councils/RCCs need to get more familiar with companies and regulators. This includes setting expectations with them around how we wish to be treated and how our information is used. As well as long term goals and expectations including monitoring and economic opportunities

### **Discussion Question 4**

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

- Harvesting land needs to be protected. We expect companies to go around or protect areas of importance to the Métis

- We need to be notified of spills and repairs
- We are fighting to be recognized and are a rights-bearing people
- We need proper consultation with companies and regulators. There needs to be agreements in place, such as MOUs
- We need to be consulted as early as possible
- The MNO needs to have a team of experts in place to be prepared to respond

### **Discussion Question 5**

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

- It is the duty of the MNO to protect the land and water. Métis Knowledge reflects this duty
- Métis Knowledge must be incorporated into companies' emergency response plans
- Métis Knowledge should be used for cultural training for subcontractors involved in the projects
- An MNO technical expert team needs to be ready to respond
- Companies need to provide assurances that the work they are doing will not damage the land so much that it cannot repair itself
- The MNO needs to be involved every step of the way
- The MNO is not required to share the exact location of significant locations (gathering, burial, etc.) and instead will only provide a radius so that our information is kept private
- Heavy machinery needs to be washed down when moved to new locations to avoid the tracking of invasive species across regions

### **Discussion Question 6**

*How can the OPR address the participation of Indigenous peoples in pipeline oversight?*

- Monitoring programs are required
- Suggestion that the MNO seek to partner with First Nations on projects that impact both their interests so that their shared voice will be stronger
- There needs to be a list of requirements, designed by the MNO, that should be met prior to any company approaching the MNO
- Companies need to do their own homework prior to engaging with the MNO. It is not the MNO's job to educate proponents during engagement
- Citizens need to be consulted prior to decisions being made
- The MNO needs capacity to have experts available to explain technical issues to citizens so that citizens are better informed before voting
- Meaningful consultation needs to be had

- The duty to consult is on the shoulders of proponents; they need to meet their legal commitments
- More time needs to be provided for the MNO to provide feedback on issues
- Capacity needs to be provided to the MNO to meet timelines

### **Discussion Question 7**

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

- A package of information should be available prior to a first meeting with a proponent
- More Lands, Resources, and Consultations (LRC) staffing support
- Representation on environmental committees is required
- The new regulation needs to have capacity building built into it
- Information is required for meaningful participation

### **Discussion Question 8**

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

- Questions 8 and 9 were combined

### **Discussion Question 9**

*How could the CER improve transparency through the OPR?*

- An MOU between the MNO and CER is required
- The current timelines, as suggested, need to be rethought. It is not possible to have such a quick turnaround. The uniqueness of the MNO needs to be reiterated to the CER
- Technical expertise and support from the MNO on project applications
- The National Council should be consulted as pipelines span across regions. Building partnerships with Métis from BC and Alberta could help the MNO be prepared for the future

## **Region 4 and 7 Recommended Actions**

The recommendations listed below reflect the shared concerns identified among RCC representatives attending the Regions 4 and 7 workshop. While the suggested recommendations are reflective of shared feedback among attendees, they are by no means indicative of a fulsome and comprehensive review of the Discussion Paper.

Participants expressed concern that recommendations made throughout workshops were not going to be incorporated into the OPR in any meaningful way. Continuous consultation and assurances through visible action are required to help ease these

concerns. It is therefore imperative that the recommendations provided throughout the report be acknowledged by the CER and incorporated into the revised OPR.

Recommendations specific to Regions 4 and 7 are provided below:

- OPR requirements for lifecycle and ongoing relationship agreements with impacted Métis communities. Agreements should include, at a minimum:
  - Participation in environmental monitoring and oversight
  - Participation in emergency response planning and process development
  - Technical expert capacity and resources
  - Representation in IAMCs
  - Requirement for chance find protocols and capacity support for archaeological and cultural monitoring
- Clear OPR requirements for regulated companies to co-develop a communication and engagement protocol with impacted Métis communities
- OPR requirements for the participation of impacted Métis communities in emergency planning and response
- Capacity funding requirements for the inclusion of a province-wide TKLUS requirement for CER-regulated companies and their subcontractors to undertake cultural competency training, including providing capacity funding for impacted Métis communities to facilitate the training
- If the CER is dedicated to facilitating meaningful engagement, the OPR must incorporate more time into expected deadlines for recommendations and comments from the MNO

The recommendations arising from the Regions 4 and 7 workshop are centred within commitments to reconciliation with Métis Peoples. For the CER to uphold these commitments and advance the priorities identified in its Strategic Plan, the recommendations provided above must be meaningfully acknowledged and incorporated into all aspects of the OPR.

The recommendations listed above call for Métis participation and collaboration across most areas within regulated project oversight and require a consistent commitment to ongoing communication and meaningful engagement. Respect, cooperation, and partnership is required to build relationships rooted in trust. Collaborative decision making and ongoing transparent information sharing, as demonstrated in the recommendations for co-developing communication and engagement protocols, must

be at the forefront of changes made to the OPR. Meaningful engagement requires appropriate expectations from timelines. To date, participants have felt that “quick timelines” have actively worked to remove meaningful engagement.

Participants expressed frustration at regulated bodies “checking the box” when it comes to consultation. This needs to be remedied if the CER is committed to reconciliation. These recommendations are inextricably linked to the actions outlined by the CER and as such, represent a step forward for the CER that both builds confidence and advances reconciliation with Métis Peoples.

## Feedback from Regions 6, 8, and 9

Key themes identified from Regions 6, 8, and 9 include:

- **Consistent communication:** The overarching theme identified by participants from Regions 6, 8 and 9 is the need for regular and direct communication with MNO Regions from both the CER and its regulated companies. Communication with MNO Regions should include updates on upcoming projects in addition to notifications on regulated projects throughout their lifecycle.
- **Accessible communication:** Regional RCC representatives also shared that communication must be as direct as possible— meaning in-person communication or direct notifications through email. Participants shared frustrations with the CER and proponents by being directed to lengthy or confusing websites for project information rather than being informed directly. RCC representatives also noted that adequate communication involves reaching out to all impacted Métis communities, including each impacted MNO Region.
- **Transparent communication:** Finally, participants stressed that communication from the CER and proponents should be based upon the principles of honesty and transparency. One participant shared a relevant example of proponents exemplifying these principles during a project where a burial site was identified during project construction. The company immediately notified nearby Indigenous communities of the chance find and paused their project until all communities had the opportunity to assess the appropriate next steps.
- **Collaboration in emergency planning:** Another area of importance identified by workshop participants is the desire to be included with project emergency planning and response. One participant shared their experience in working within a local health centre and viewing several emergencies stemming from a project

accident, but never receiving formal communication from the company related to the incident. Participants agreed that companies must be held accountable to informing nearby MNO Regions of any accidents or spills as soon as the incident occurs. In addition to communication regarding emergency response, there must be an opportunity for interested Métis communities to meaningfully participate in emergency planning processes.

- **Accountability to environmental remediation:** Several participants raised concerns over the environmental protection and remediation responsibilities of regulated companies. Specifically, some participants highlighted the importance of protecting wildlife habitat throughout project construction and maintenance activities. Remediation of vegetation, including replacement of old-growth trees, is of critical importance to some participants. One attendee shared that companies must be held accountable to a higher standard for vegetation offsets during remediation phases of a project.
- **Adequate knowledge sharing:** A final note regarding workshops from Regions 6, 8 and 9 is that many of the attendees shared that they lacked the adequate knowledge or experience with the CER or regulated companies to answer all the Discussion Paper questions. This further emphasizes the need for consistent and accessible communication between the CER and its regulated companies with MNO Regions.

The full results of the Regions 6, 8, and 9 workshop are presented in the following subsection.

## Regions 6, 8, and 9 Results of Workshop

### General Feedback

- General concern over loss of harvesting as a direct impact of species' migration resulting from pipelines (e.g., species movement into a hunting Region that citizens do not have access to)
- Interest in adequate compensation for the impacts of pipeline projects on hunting areas
- Interest in having CER-regulated companies being held to International Standard for Organization (ISO) certification standards

### Discussion Question 1

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

- Environmental protection and remediation measures (e.g., protection of wildlife habitat and revegetation of old-growth trees) could be improved.
- MNO citizens require further information from the CER to be kept informed on pipeline projects

### **Discussion Question 2**

*How can the OPR contribute to the advancement of Reconciliation with Indigenous Peoples?*

- MNO Regions must be informed of projects as soon as possible. Regions should also be given appropriate time to consult with their respective communities to inform consultation.
- CER and companies must be honest and transparent with MNO Regions
- Results of company audits (by the CER) should be made publicly available
- Additional communication is required between the CER and MNO.

### **Discussion Question 3**

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

- Companies and the CER must notify and consult with Indigenous communities if heritage resources (e.g., graves) are found. Projects should be placed on hold while the company consults with the impacted communities as to their preferred next steps.
- Companies and the CER must communicate with all impacted Métis communities regarding heritage resources
- MNO citizens should be hired for the construction, maintenance, and operation of pipelines to directly observe heritage resource concerns on-site

### **Discussion Question 4**

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

- Companies must develop protocols for chance find procedures
- Companies must abide by the seasonal requirements of MNO citizens while planning their construction, operation, and maintenance activities (e.g., harvesting periods)

### **Discussion Question 5**

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

- Archaeological surveys must be conducted prior to project construction



- Indigenous Knowledge can be utilized [for projects] to predict impacts on water and water flow
- Companies must provide recognition and advance notice when surveying areas used by MNO citizens

### **Discussion Question 6**

*How can the OPR address the participation of Indigenous peoples in pipeline oversight?*

- No themes identified by Regional representatives

### **Discussion Question 7**

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

- In-person meetings between CER/companies and MNO Regions should be prioritized over social media or emails
- Requirement for MNO citizens to be notified of all new projects and their locations
- Requirement for consistent communication between CER/companies and MNO Regions
- Companies are not adequately communicating with MNO citizens about their projects
- MNO citizens must be involved in emergency planning and be notified of emergencies as soon as they occur

### **Discussion Question 8**

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

- Participants would like to see the new OPR include information requirements that demonstrate efforts toward reconciliation through language revitalization (e.g., Michif)
- Participants would like to see the new OPR include a requirement for a co-developed engagement and communication program with potentially impacted Métis communities

### **Discussion Question 9**

*How could the CER improve transparency through the OPR?*

- CER to provide MNO Regions with specific notifications that include sufficient information when there are anticipated project impacts
- Proponents must be transparent with MNO Regions when there are anticipated impacts



## Regions 6, 8, and 9 Recommended Actions

The recommendations listed below reflect the shared concerns identified among RCC representatives attending the Regions 6, 8 and 9 workshop. While the suggested recommendations are reflective of shared feedback among attendees, they are by no means indicative of a fulsome and comprehensive review of the Discussion Paper. Recommended actions are centred around four key themes: enhanced communication, chance find protocols, environmental monitoring, and emergency response planning.

- OPR to include a requirement for a co-developed engagement and communication program with potentially impacted Métis communities throughout the project lifecycle
- OPR to include descriptive requirements for the co-development of chance find protocols in collaboration with potentially impacted Métis communities
- OPR to include requirements for Métis participation in environmental and cultural monitoring across the construction, operation, and maintenance phases of a project
- OPR to include a requirement for the co-development of emergency response plans and protocols with potentially impacted Métis communities. Plans must be informed by Indigenous Knowledge as provided by impacted communities.

Similar to the recommendations developed from the other Regional workshops, the recommendations arising from the Regions 6, 8, and 9 workshop are deeply rooted within the CER's Strategic Plan and commitments to reconciliation with Métis, First Nations and Inuit. For the CER to uphold these commitments and advance the priorities identified in its Strategic Plan, the recommendations provided above must be meaningfully acknowledged and incorporated into all aspects of the OPR.

For example, the CER's Strategic Plan highlights trust and confidence as a priority, and commits to fostering this through robust communications, collaboration, and inclusive engagement. The recommendations listed above call for Métis participation and collaboration across numerous areas within regulated project oversight, including through communication strategy development.

These recommendations are inextricably linked to the actions outlined by the CER and as such, represent a step forward for the CER that both builds confidence and advances reconciliation with Métis Peoples.

# Conclusion

Through engagement with its citizens, the MNO has provided the CER with explicit feedback and actionable recommendations for the first phase of its OPR Discussion Paper review. To ensure that the CER fulfils its commitments to reconciliation and the implementation of UNDRIP, the MNO proposes the following next steps:

## **Participation in Phases two and three of the OPR Discussion Paper engagement:**

The MNO intends to pursue full participation in future phases of the OPR review. Looking forward to Phase 2 of the CER OPR Review, the MNO and RCCs expect that the CER will not only consider but also respectfully integrate the input that has been provided in this submission into the updated OPR, as well as other aspects of the CER regulatory system.

This includes applicable updates to:

- The CER Strategic Plan
- The CER 2022 – 25 Regulatory Framework
- The CER Filing Manual
- The CER Remedial Action Process Guide
- CER Guidance on Management Systems

As a starting point to Phase 2, the MNO expects the CER to demonstrate how and where the input that has been provided to date was incorporated and allowing for the MNO and RCCs to confirm and verify that our concerns, issues, and recommendations have been adequately reflected. As part of this process, it is the MNO's expectation that the CER will provide adequate notification, time, and capacity funding to conduct this verification process and any other activities and engagements associated with Phase 2 of the OPR Review.

In addition, Phase 2 should seek to elicit feedback from a broader representation of MNO citizens, as well as providing the MNO with appropriate funding capacity and sufficient time to engage technical and regulatory specialists to review, analyze, and comment on the updated regulations given the highly technical nature of the OPR and associated documents as part of the broader CER regulatory framework.

**MNO training to the CER and its subsidiaries:** A significant theme identified across MNO workshop participants is the need for the CER and its subsidiaries to develop a

more fulsome understanding of the MNO, including the distinct histories, geographies, and cultures of its respective Regions. The MNO proposes that this need be fulfilled through the provision of "Métis 101" training that is facilitated by MNO citizens. This training will be the first of several steps taken to remedy the current education gaps with regards to understanding the Métis throughout consultation and engagement. The MNO expects the CER to provide appropriate compensation for the preparation and delivery of such training.

**Collaborative pursuit towards a Long-Term Relationship Agreement:** The CER should continue to work collaboratively with the MNO and MNO Community Councils to explore options, processes, and objectives for a Long-Term Relationship Agreement or MOU that may be established with the CER in the future related to both the OPR and the broader lifecycle regulation activities of the Commission.

Put together, the MNO is generally requesting that the CER respectfully engage with our government and citizens in a manner that ensures that the future OPR and the broader CER Regulatory Framework is inclusive of Métis voices and considerate of Métis Rights and interests as part of the CER's commitment to reconciliation.

## **Appendix A – Discussion Paper Questions used in Workshops**

1. What's working well in relation to the OPR, and its implementation, and what could be improved?
2. How can the OPR contribute to the advancement of reconciliation with Métis, First Nation, and Inuit peoples?
3. How can the OPR contribute to the protection of heritage resources on a pipeline right-of-way during construction, and operations and maintenance activities?
4. How can the OPR contribute to the protection of traditional land and resource use, and sites of significance for Métis, First Nation, and Inuit peoples on a pipeline right-of-way, during construction, and operations and maintenance activities?
5. How can the use of Métis, First Nation, and Inuit knowledge be addressed in the OPR?
6. How can the OPR address the participation of Métis, First Nation, and Inuit peoples in pipeline oversight?
7. How can the OPR support collaborative interaction between companies and those who live and work near pipelines?
8. How could communication and engagement requirements in the OPR be improved?
9. How could the CER improve transparency through the OPR?

