

SHARED VALUE
SOLUTIONS



LINE 3 INDIGENOUS ADVISORY AND MONITORING COMMITTEE WISE PRACTICES REPORT

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EXECUTIVE SUMMARY¹

The following report summarizes a collection of “Wise Practices” to inform Indigenous participation in project-related consultation and engagement activities with the Crown and proponents. The report is informed by interviews with over 30 Indigenous representatives from across Alberta, Saskatchewan, and Manitoba with experience managing lands and resources, consultation and business development activities for their Nations.² Further insights included in the report are derived from interviews with senior management from industry with responsibility for designing Indigenous engagement activities and a comprehensive online literature review of publicly available information.

Key highlights of the Wise Practices Report include:

- The value of early proactive engagement with proponents and the Crown when major projects are still in their planning and design phase.
- Nations stand to reap greater benefits and be more effective in protecting their lands when they approach consultation and engagement processes in two distinct and separate streams: one focused on rights and interests and the other focused on economic opportunities.
- Having designated individuals as key points of contact to ensure smooth flow of information and to build a Nation’s capacity to effectively engage throughout a project’s lifecycle.
- The importance of developing purposeful and reciprocal relationships with industry and regulators focused on identifying mutual interests and building trust.
- The value of curious questions during initial engagement activities with regulators to understand the project review process, available tools and supports, roles and

¹ The information in this report is limited to the ideas and information shared by participants and the results of the literature review. It should be considered a snapshot in time given how quickly things change. The ideas, opinions, and thoughts represented in this report cannot be considered representative of all Line 3 Nations.

² Throughout the Wise Practices Report, the use of the words Nations and Indigenous Nations is intended to be inclusive of all rights-bearing communities, be they First Nations, Métis Nation, or Inuit.



responsibilities and insights from past project reviews.

- The benefit of collaborating and partnering with neighbouring Nations to share information and resources, reflect on lessons learned, and provide mentorship to one another.
- Preparing for success by creating community profiles, business and skills inventories, and consultation and engagement protocols.
- Thinking beyond the project at hand when approaching economic and employment opportunities.
- Building capacity to collect and effectively employ Traditional and Indigenous Knowledge to protect

rights and interests on current and future projects.

- The importance of maps and documenting your Nation's sacred spaces and areas of historical and current use.
- Sharing culture is preserving culture.
- Involving the community members through open and transparent engagement.

The advice and recommendations within the Wise Practices Report are based on lived experiences and provide useful, actionable information to support Nations as they develop strategies to effectively advance their citizens' values and interests when the next major project is announced.



INTRODUCTION

When the Interprovincial Pipeline Company installed the Line 3 Pipeline in the 1960s, Indigenous Peoples were not consulted on the project's potential impacts to their Rights and interests and were deprived of any economic opportunities associated with the project. Since this time, five more pipelines have crowded into what is now known as Enbridge's mainline.

Fifty years later, the Enbridge mainline is the largest crude oil pipeline network in North America transporting approximately 3 million barrels per day out of Western Canada to markets in the American Midwest. Since the first pipes were laid in the right of way, much has changed in terms of how the Crown and proponents interact with Indigenous Peoples when major natural resource and infrastructure projects are proposed in their territories. The Supreme Court continues to clarify the Crown's Duty to Consult with Indigenous Peoples and this has led to greater consideration of projects' potential and actual impacts on physical, economic, and cultural health.



Figure 1: Map of the Enbridge Line 3 Pipeline (NEB, July 2014)

These incremental changes present new opportunities for Indigenous Peoples to protect and advance their Rights and interests and access related economic opportunities at various stages of a major project's lifecycle. Capacity, or a lack thereof, is the underlying factor in Indigenous Nations' ability to successfully navigate complex regulatory and engagement processes to advance positive outcomes that adequately reflect their citizen's goals and values.





Linear intra-provincial projects like Enbridge's Line 3 Replacement Program provide a high-profile, recent example of a major project that produced uneven results among potentially impacted sovereign Indigenous Nations. These discrepancies are as visible between neighbouring communities as they are between regions. In many regards, these differences are grounded within past and current experiences with colonial authorities. In many cases, Indigenous Nations'

experiences with these authorities and the reactions they continue to generate within the community inform different approaches to their interactions with the Crown and proponents. What unites all Indigenous governments is the intention to create favourable conditions to advance their goals and values. However, in far too many cases, Indigenous Nations fail to advance the outcomes they set out to create, and, in a worst-case scenario, some are saddled with debt, the burden of stranded business developments and the dashed expectations of their citizens.

That said, a growing number of Indigenous Nations are successfully leveraging the regulatory process to protect their lands and others are turning initial contracts with proponents like Enbridge into successful economic development corporations with promising long-term outlooks. The following Wise Practices Report is intended to highlight the approaches that contribute to success and to avoid the barriers and challenges many still face. By learning from one another, we can advance known best practices to secure a more promising future for Indigenous Nations.

1.1 LINE 3 INDIGENOUS ADVISORY AND MONITORING COMMITTEE

In late 2014, Enbridge applied to the former National Energy Board (which in 2019 became the Canada Energy Regulator (CER)³) to replace the aging Line 3 pipeline. Throughout 2015 and 2016, the National Energy Board conducted public hearings for the Line 3 application. A total of 36 Indigenous Nations participated as intervenors in the hearing process. In April 2016, the National Energy Board recommended that the Line 3 application proceed to construction subject to 89 conditions. Later that year, the Government of Canada announced its approval of the project and committed to the establishment of an Indigenous Advisory and Monitoring Committee to be co-developed in partnership with Indigenous Peoples along the Line 3 right of way.

³ History of the Canada Energy Regulator: [https://www.cer-rec.gc.ca/en/about/who-we-are-what-we-do/our-history.html#:~:text=The%20Canada%20Energy%20Regulator%20\(CER,1959%2C%20the%20NEB%20was%20born.](https://www.cer-rec.gc.ca/en/about/who-we-are-what-we-do/our-history.html#:~:text=The%20Canada%20Energy%20Regulator%20(CER,1959%2C%20the%20NEB%20was%20born.)



Over the course of 11 months starting in December 2016, over 50 Indigenous volunteers representing First Nation and Métis Nation governments potentially impacted by the Line 3 Replacement Program worked with the National Energy Board and Natural Resources



Canada (NRCan) to co-develop a Terms of Reference that culminated in the creation of the Line 3 Indigenous Advisory and Monitoring Committee (the Committee) in November 2017.

As defined in the Terms of Reference⁴, the purpose of the Committee is to:

1. Support Indigenous Nations' effective and meaningful participation in the monitoring of traditional, environmental, safety, and socio-economic aspects of the Line 3 Replacement Program;
2. Enable a reciprocal exchange of information relating to traditional, environmental, safety, and socio-economic aspects of the Line 3 Replacement Program; and
3. Provide a collaborative forum supported with resources for Indigenous Nations, the Government, and the National Energy Board to enhance the environmental protection and safety of the Line 3 Replacement Program.

The Committee is not a decision-making body nor is it a Rights-bearing entity, rather it is an advisory body that seeks to be a collaborative forum for problem solving, priority setting, and innovation.

In fulfilling its mandate, the Committee immediately began developing an Indigenous Monitoring Program in which First Nation and Métis Nation monitors accompanied National Energy Board/CER inspection officers on every field-based compliance verification activity for the Line 3 Replacement Program. The Monitoring program continues to this day and is responsible for a host of changes to how pipeline inspections are conducted by the federal regulator. The Committee also submitted a comprehensive list of advice to the National Energy Board in late 2018 on how to incorporate Indigenous perspectives into the regulatory oversight of the Line 3 Replacement Program.

In 2019, the first cohort of Committee members completed their initial 2-year term, and a second cohort was selected based on the advice of leadership from Rights-bearing communities potentially impacted by the Line 3 Replacement Program in Alberta, Saskatchewan, and Manitoba.

⁴ Line 3 IAMC Terms of Reference: <http://iamc-line3.com/uploads/2018/09/2017-10-03-Final-Terms-of-Reference-Oct-3-2017.pdf>



1.2 WISE PRACTICE REPORT BACKGROUND

1.2.1 CONTEXT

Over the past six years, the Traditional Territories and homelands of Indigenous Nations in the Prairie Provinces have been the focus of the regulatory review and construction of the Enbridge Line 3 Replacement Program mega project.

Some communities effectively navigated their interactions with Enbridge and the CER and as a result, influenced the project's design and captured economic opportunities associated with the project.

However, many Nations struggled to have their voices heard, or were left on the sidelines as the project was built. Now that the pipeline is in the operations phase of its lifecycle, the Committee wanted to compile the valuable lessons learned from the Line 3 Replacement Program and from other resource development projects into a report of "Wise Practices" that is intended to inform future interactions between Indigenous Nations, the Crown, and proponents when the next major project is announced.

To this end, the Committee engaged Shared Value Solutions (SVS), a human environment consulting firm, to collect data to inform the development of a "Wise Practices Report."

1.2.2 OBJECTIVES

The overall purpose of the Wise Practices Report is to create a guidance document that is driven and informed by Indigenous peoples' in the regulatory and environmental review processes and known best practices. Furthermore, by documenting the challenges, barriers, successes and innovations experienced on the Line 3 Replacement Program and others, the Committee hopes to contribute to a shared understanding between rights holders, proponents and the Crown that results in improved socio-economic outcomes for Indigenous peoples' and greater protection of the natural environment.

1.3 APPROACH TO DEVELOPING WISE PRACTICES

The wise practices identified in this report were developed from interviews with Nations impacted by Line 3 and a literature review of published wise practices. A total of 31 interviews were completed. Some interviews had more than one participant, a total of 40 people participated in the interview process including 20 people from Saskatchewan Nations, 13 from Alberta Nations, and 7 from Manitoba Nations. Nations included First Nations, Métis Nations, and Tribal Councils, and Indigenous Organizations.

Importantly, the interviews sought to capture advice on recommended practices that have led to the realization of opportunities. The interviews focused on the following:

- Suggested best practices and innovations for engagement and communication;
- Ideal targets and practices for Indigenous procurement and employment;



- Ideas on supporting economic participation;
- How Nations and Industry could work together to identify and protect heritage and cultural resources;
- Experiences and lessons learned from the Line 3 Replacement Program and suggested areas for improvement; and
- Ideas on how to create and maintain positive relationships with industry for the lifecycle of a project.

Additionally, the Committee directed SVS to interview senior staff from Enbridge responsible for carrying out Indigenous engagement to seek their perspective on the Line 3 Replacement Program engagement process. This was done to better understand the nature of opportunities available to Indigenous Nations as it relates to the development of linear infrastructure projects and proponents' general expectations of Indigenous Nations that contribute to conditions where outcomes of mutual benefit can be advanced.

Finally, the Committee instructed SVS to engage in an extensive literature review of publicly available online resources related to best practices for participation in project reviews, lands stewardship, industry engagement, and business development.

SVS compiled the “wise practices” gathered during the interviews and literature review into the following report, which the Committee hopes will inform better interactions between Indigenous Nations, the Crown, regulators, and industry when the next major project is announced.

The wise practices identified in this report should not be considered a comprehensive list as many Indigenous Nations not involved in the interview process have taken different approaches that have worked for them. Appendix B provides further details of the methods and processes used for developing the Wise Practices Report.

The following sections are a compilation of the extensive information uncovered by SVS during the interviews and literature review processes:

2.0 WISE PRACTICES: EFFECTIVE ENGAGEMENT WITH REGULATORS AND THE CROWN

There are different strategies and practices for engaging with regulators and the Crown depending on what stage a proposed project is in: before the project is announced, while the project is going through a regulatory process or impact/environmental assessment process, during construction and beyond, into the operations phase, and eventual decommissioning of the project. The following sections describe wise practices for engagement with regulators and the Crown at each of these phases.



2.1 BEFORE A PROJECT IS ANNOUNCED

The initiation of a regulatory proceeding can introduce timelines and other pressures that present difficulty to meaningful engagement. It is, therefore, important for an Indigenous Nation to have as much information, resources, tools, and capacity available as possible before project is introduced.

The following strategies can be applied before a project is announced. Being informed, “taking stock,” building capacity, and getting prepared are all key to this phase.

2.1.1 GETTING FAMILIAR WITH THE INFRASTRUCTURE IN YOUR TERRITORY

Create a database of your Nation’s areas of Traditional Knowledge, land, and resource use and cross reference this database with the location of past, current, or upcoming projects.

Being able to proactively respond to new project notifications takes preparation: once a notification comes through; having a good sense of where the areas of highest importance are to your Nation helps staff and supporting technical consultants determine what approach to take with the Crown and regulators (Interview 13; Interview 21; Interview 27).

Establish a review process to collect information from media sources.

Media scanning by checking online news sources on a regular basis is a good way to stay informed in general about projects that are happening or specific issues or opportunities related to new or existing projects (Interview 16).

2.1.2 GETTING FAMILIAR WITH DUTY TO CONSULT

Understanding the Crown’s approach to the Duty to Consult will support how you can ensure that you are being engaged and consulted in a way that is relevant and meaningful to your Nation.

Being proactive by meeting directly with provincial and federal government agencies helps get ahead of the curve by dialoguing about the Duty to Consult and your Nation’s expectations around engagement, consultation, and accommodation (Interview 23).

How the Duty to Consult works and how the Crown makes decisions about how to consult Nations is important to understand. Knowing where the Crown views your Nation on the consultation spectrum can help you determine what you need to do to advance more in-depth consultation should you need it (Interview 20).

With an understanding of what your interests in the project are – be they protection of rights and interests and/or securing economic opportunities, pose intentional and curious questions during initial engagement activities with the Crown or regulator to understand:

1. their role and responsibilities during the review process,
2. what their expectations of your Nation are during the review process,



3. the concerns and issues Indigenous Nations have brought up in past review processes and related guidance they can provide you in the current process,
4. the timelines and key milestones of the project's review,
5. how to formally submit requests for information from the proponent, and
6. how your Nation can access process support to effectively participate in the project's review.

Getting an agreement in place early with the Crown or regulators further establishes clarity and certainty around what your Nation requires when it comes to being consulted (Interview 3).

Understanding regulatory processes to further self-governance.

Limited familiarity of an Indigenous Nation with regulatory processes can result in a Nation being unable to engage effectively with proponents and regulators or needing to depend on external support to navigate and meaningfully participate in the process. Both can result in an environmental assessment process leaving a Nation no further ahead toward self-governance than it was previously.

Long-term capacity can be developed by way of research or training for a Nation's leadership, staff, and membership on the impact assessment process, the jurisdiction of various regulators, the role of Aboriginal Rights and Indigenous Knowledge in the regulatory process, and the negotiation of consultation and benefit agreements (Rust & McLeod, 2008, p. 20; CIER, 2009, p. 49).

Training of this nature allows for participation in project-specific environmental assessments to be more predictable and focused and provides a basis for more informed and strategic decision-making throughout the process. Indigenous Nations should also familiarize themselves with funding and assistance available to them during the regulatory process, including the support of Tribal Councils, Indigenous organizations, consultants, and legal counsel (Krehbiel, Plate, & Foy, 2009, p. 47).

Establishing community-led planning protocols and approaches to prepare for participation in regulatory processes.

Given the volume of regulatory processes a Nation can be involved in, it can be difficult for an Indigenous Nation to evaluate the acceptability of projects on an ad hoc basis.

Some Indigenous Nations have found the development of a strategic vision, land use plan, or community development plan helpful in establishing an agreed upon philosophy about development within their territory, identifying areas or conditions where development might be acceptable, and supporting assertions of



Having your Nation's values and priorities documented in advance of a proposal for a specific project can go a long way to facilitating a Nation's readiness and meaningful participation in an environmental assessment.

Rights or title across Traditional Territories, which together provide initial and general direction to guide reviews of proposed projects (Krehbiel, Plate, & Foy, 2009, p. 23; Assembly of First Nations, 2011, p. 9).

Having your Nation's values and priorities documented in advance of a proposal for a specific project can go a long way to facilitating a Nation's readiness and meaningful participation in an environmental assessment (Noble, 2016, p. 25).

Due to the perceived formal nature of these processes, published results are often taken seriously by regulatory bodies during screenings of project proposals and considerations of project approvals.

Where possible, advocate for regional and strategic assessments to establish baseline conditions prior to project proposals.

Indigenous Nations should also consider initiating or advocating for regional planning, regional assessment, and strategic assessment with the Impact Assessment Agency in areas where a development project is rumoured, or may be of concern but hasn't formally been proposed yet (CIER, 2009, p. 59; First Nations Major Projects Coalition, 2020, p. 99).

Regional planning and regional assessments can be a way to establish baseline conditions prior to a project proposal in a manner that is more transparent to Indigenous Nations than assessments led by industry, and that aren't at risk of the bias possible within the impact assessment process to minimize a proponent's prediction of effects (First Nations Major Projects Coalition, 2020, p. 99).

Regional planning and regional assessments take a broader and longer-term perspective than project-specific impact assessments, which can often scope out underlying development issues and help to better characterize cumulative effects of previously completed development projects that new projects will contribute to (CIER, 2009, p. 60). Outcomes of these processes can involve required mitigation measures for development in certain areas or identified areas that are off limits to development based on culturally or environmentally sensitive features (Noble, 2016, p. 28).

2.1.3 DEVELOPING CONSULTATION AND ENGAGEMENT PROTOCOLS

Have an established consultation policy or protocol that informs the regulators and the Crown on your Nation's process of information sharing, communication, engagement, and consultation expectations.

Setting clear expectations and communicating what those expectations are to regulators and Crown agents sends the message that your Nation's laws and policies need to be followed. When leadership



and all departments involved in any aspect of consultation and accommodation enforce the Nation's processes in a consistent manner, this brings clarity and certainty for all parties. This may involve a high degree of awareness building and education to ensure that both the federal and provincial governments truly understand your Nation's consultation requirements (Interview 6; Interview 18; Interview 22; Interview 24; Interview 27; Interview 30).

Expect and require capacity funding: being clear about what it costs your Nation to engage and be consulted is critical to lay out within your consultation policy – be sure to factor in all costs associated with the activities or studies you may need to undertake to truly understand how a project may affect your community and its citizens. Consider incorporating funding costs to hire staff or contractors if your Nation requires extra support for specific projects (Interview 24).

The involvement of Indigenous Nations in the regulatory process will be far more impactful where their needs and expectations for consultation and accommodation are provided at the initiation of an environmental assessment (CIER, 2009, p. 18; Krehbiel, Plate, & Foy, 2009, p. 18), demonstrating the value of a Nation proactively developing consultation protocols before a project is proposed.

Consultation protocols can set out direction to both proponents and government agencies about what is expected of them and provide clarity where engagement with both is occurring at the same time (Krehbiel, Plate, & Foy, 2009, p. 24). Staff and leadership should be familiar with these documents to ensure they are provided to proponents and regulators in a timely and consistent manner.

It can be challenging to draft and negotiate agreements that inform consultation and engagement during a regulatory process and it is, therefore, recommended that Indigenous Nations also develop template agreements that can be readily provided and used as a starting point with proponents seeking to carry out work in their territory (First Nations Major Projects Coalition, 2020, p. 55). These template agreements could include memoranda of understanding, capacity funding agreements, exploration agreements, bilateral consultation agreements, and benefit agreements.

Establish a staff position for someone to receive all notifications and a communication protocol for informing leadership about the projects.

Having a specific position and role assigned within the Nation that has a mandate for coordinating both internal (i.e., leadership and other departments) and external consultation-related communications (i.e., with community members) helps to maintain a consistent, integrated, structured, and effective approach. This can also include committees and regular briefings (Interview 9; Interview 8; Interview 27; Interview 3; Interview 29).

Provide clear expectations and guidelines to Regulators and the Crown on the differences between consultation and engagement.

Establish clear guidelines and goals for the next seven generations (i.e., how you expect development to happen to ensure future generations have a healthy land) (Interview 12).

If necessary, work with lawyers to establish the parameters of a Memorandum of Understanding (MOU) with the Crown or regulator. Set out guidelines and communicate what constitutes adequate



Just as the Crown determines the depth of engagement and consultation that may be needed with a Nation, your Nation can determine the time and resources you want to put into being engaged and consulted about a Project. Prioritizing where you put your leadership and staff's energy can help determine where you want to scale up or scale down your community's engagement efforts, depending on the nature of the Project at hand.

consultation and accommodation for your Nation, including the need for free, prior, and informed consent (Interview 10; Interview 2; Interview 15).

Just as the Crown determines the depth of engagement and consultation that may be needed with a Nation, your Nation can determine the time and resources you want to put into being engaged and consulted about a Project. Prioritizing where you put your leadership and staff's energy can help determine where you want to scale up or scale down your community's engagement efforts, depending on the nature of the Project at hand (Interview 15; Interview 20; Interview 24).

Outline Nation-to-Nation level expectations for communication protocols reflective of consultation and engagement processes. This includes articulating what information you require and in what format (Interview 10; Interview 5).

2.2 DURING A PROJECT REVIEW PROCESS

This section outlines suggestions for Indigenous Nations once a project has triggered a regulatory process and/or impact assessment/environmental assessment process. It is important to be aware of all available avenues of influencing the decision of whether to approve the project, the design of the project, and the sharing of economic benefits related to the project.

Once you know about a project being proposed, the following strategies and wise practices can bolster your engagement and consultation process and help you achieve the positive outcomes your Nation wants.

2.2.1 PLANNING PHASE

Decide early on how you want to participate and what your objectives of participation are.

When a notification is issued about a regulatory process that will take place for a specific project, an Indigenous Nation has an opportunity to consider the options of participating minimally at strategic points of the process, being fully engaged in the entirety of the process, or not participating at all.



As information related to the project is reviewed, some helpful factors to consider include the proximity of the project to a Nation's territory, the values and resources of a Nation relevant to the project, the level of potential impacts of a project, the benefits of participating, the risks of participating, and the risks of not participating (FNEATWG, 2004, p. 66; First Nations Major Projects Coalition, 2020, p. 45; Rust & McLeod, 2008, p. 21).

If a Nation is significantly concerned about a project, fulsome participation can still be beneficial rather than withdrawing from the regulatory process, as continued participation will enhance the requirement of regulators to seriously consider your perspectives on the project (FNEATWG, 2004, p. 93), while withdrawing from engagement may harm a Nation's position when objecting to a decision issued by a regulator (FNEATWG, 2004, p. 62).

Under the new federal Impact Assessment Act, Indigenous Nations can take up varying roles in the assessment process, including leading or carrying out studies within an assessment led by the proponent, entering a formalized partnership with the proponent and the IAA to conduct a collaborative assessment, or leading an independent assessment in parallel with the IAA (First Nations Major Projects Coalition, 2020, p. 64).

The approaches available to Indigenous Nations depend on the project, its potential impacts, and the capacity of the Nation. When an Indigenous Nation decides to participate in one of the roles mentioned above, identifying objectives in relation to the project before the process commences is a valuable investment of time, as it makes it much easier to determine the strategies, approaches and responses that are used at various junctures of the regulatory process and negotiations with the proponent (FNEATWG, 2004, p. 74; Rust & McLeod, 2008, p. 21).

Educate the regulators and the Crown about your Nation, including lifestyle, traditions, and customs at the outset of a project.

Building a foundation of trust and respect requires two-way awareness building including ensuring that the Crown and regulators demonstrate a commitment to understanding your Nation's history, territory, values, and community (Interview 14; Interview 15; Interview 24; Interview 25; Interview 8).

Incorporating Crown and regulator cultural education into your Nation's consultation protocols and policies is one way to ensure this step is taken to start engagement and consultation processes in a good way (Interview 24; Interview 15).



Set expectations of the Crown and regulator that they need to present information about who they are and what their processes are to your Nation's leadership, staff, Elders, and community members



as appropriate in relation to your consultation protocols and policy (Interview 16; Interview 23; Interview 14).

Having information communicated in ways that everyone can understand is critical: this may mean having translators available at community meetings and making sure that all technical information is presented in layperson terms that are easily understood (Interview 15).

Prioritize intentional listening, ongoing communication, and relationship building with regulators and the Crown both in and out of negotiation processes.

Although challenging when there has been a history of mistrust and disrespect, Indigenous Nations should enter engagements with openness and a willingness to negotiate. Recognize that in being open to sharing, that capacity is being built for both parties in the process, which is beneficial to all (Interview 2; Interview 13).

If the relationship is not working and you are not getting traction, indicate your Nation's dissatisfaction in writing and remind the Crown of the need for a Nation-to-Nation relationship (Interview 27).

Joint participation in a social gathering without a project-related agenda can be a good way to nurture relationships (Interview 14).

Creating opportunities for knowledge exchange through cultural and industry events is another way for both parties to share and learn in a way that contributes to relationship and trust building (Interview 20).

Formally set out the budget limit and scope of work your Nation requires to meaningfully participate in the Review process. Where necessary, bring in external support to meet the objectives you set out.

The impact assessment process can represent a significant amount of work for an Indigenous Nation, including reviewing documents, drafting submissions, attending meetings, negotiating agreements, participating in field work, and carrying out independent studies. The configuration of the internal capacity of a Nation with the expertise of specialists and consultants is a key factor in determining effective engagement in the regulatory process, with a balance needed between an Indigenous Nation maintaining control over their involvement in the process while still participating in an informed manner (CIER, 2009, p. 18).

It is helpful at the outset to assess what time and expertise will be required to participate in the process and engage with the regulator and proponent, a Nation's internal capacity to participate in terms of time and technical expertise, and what resources outside the community must be drawn on externally to support participation (FNEATWG, 2004, p. 69; Rust & McLeod, 2008, p. 21). It is a good practice for Indigenous Nations to formally set out the budget limit and scope of work required of researchers, consultants, or lawyers in a formal agreement (Krehbiel, Plate, & Foy, 2009, p. 25).

Once your budget and scope have been established, prioritize finding and securing funding sources to meet your objectives.



Participating in a regulatory process can represent significant costs for an Indigenous Nation, including costs of community consultation and meetings, human and financial resources involved with the time and administrative attention required to participate, costs associated with the commissioning of independent studies, needed resources to support community representatives who are participating, and the costs of legal or technical expertise. Indigenous Nations should not expect that participating in a regulatory process requires bearing these costs internally (First Nations Major Projects Coalition, 2020, p. 56).

Provincial and federal regulators will often provide funding for participation, but in the event funding is not provided or is not sufficient to cover the costs of participating, a proponent can be an important potential source of funding (First Nations Major Projects Coalition, 2020, p. 57; Noble, 2016, p. 25). Industry standards, expectations for corporate social responsibility, and common law requirements typically make it in the best interests of proponents to establish good working relationships with the Indigenous Nations affected by their proposed project, which may include setting aside and providing funding for their active participation in the environmental assessment (FNEATWG, 2004, p. 71).

It is advisable to request this funding from a proponent as early in the process as possible, to notify the regulator or the Crown⁵ that this request has been made with a clear rationale and to prepare an initial budget for your involvement in the project prior to requesting funds from these sources (Chiefs of Ontario, 2013, p. 35; FNEATWG, 2004, p. 72).

2.2.2 REVIEW/HEARING PHASE

Engage early and become involved in environmental assessment planning.

For most provincial and federal regulators, the first step in initiating an approvals process is the submission of a project description that the regulatory agency will review and make available for comment to determine what approvals process the project will be subject to.

The project description will lay out basic information about the proposed project and is important to review it to better understand the project, determine whether the project is acceptable, and, if possible, to submit comments articulating an Indigenous Nation's position on the project and their perspective on requirements for assessing its potential effects

This phase of the process also represents an opportunity for an Indigenous Nation to make a clear assertion of its Rights and interests potentially relevant to the project, including any asserted or established title in the area affected by the project, putting the regulator and proponent on notice and on the record that Indigenous rights will be a vital component of an environmental assessment process if the project proceeds.

⁵ The regulator or Crown agency responsible is dependent on the type of project and jurisdiction under which it is being reviewed. Who needs to be notified will be dependent on the type and location of the project.



(First Nations Major Projects Coalition, 2020, p. 49).

If an Indigenous Nation is concerned about a project, there are typically mechanisms in this screening process to subject a project to more rigorous review that can be requested such as a “bump-up” or “elevation” request in provincial environmental assessments, or an “alternatives assessment” in the new federal impact assessment process (First Nations Major Projects Coalition, 2020, p. 49).

This phase of the process also represents an opportunity for an Indigenous Nation to make a clear assertion of its Rights and interests potentially relevant to the project, including any asserted or established title in the area affected by the project, putting the regulator and proponent on notice and on the record that Indigenous rights will be a vital component of an environmental assessment process if the project proceeds (Krehbiel, Plate, & Foy, 2009, p. 16).

Multiple organizations identify how critical the involvement of an Indigenous Nation is in the development of documents like Impact Statement Guidelines during the planning phase of a federal environmental assessments and Terms of Reference documents for other regulatory processes (Chiefs of Ontario, 2013, p. 12; FNEATWG, 2004, p. 97; First Nations Major Projects Coalition, 2020, p. 97; CIER, 2009, p. 64).

The ability for an Indigenous Nation to communicate its perspectives on these documents while they are being drafted is an important way of influencing the trajectory of a regulatory process as they become a framework for the assessment process and hold a kind of authority in determining what benchmarks of consultation and engagement are required in each stage.

This phase of the process also represents an opportunity for a Nation to assert its position on the valued components and key potential impacts that need to be the focus of the impact assessment and develop a list of studies and information required for the assessment, including studies and other work they intend to carry out independently (First Nations Major Projects Coalition, 2020, p. 45; Krehbiel, Plate, & Foy, 2009, p. 30).

The new *Impact Assessment Act* includes new requirements for the assessment of cumulative effects, socio-economic and health impact assessments, and rights impact assessments. Engaging early in the regulatory process can ensure that these assessments have an appropriate scope and methodology and that the plans for involvement of Indigenous Nations is adequate (First Nations Major Projects Coalition, 2020, pp. 73–82).

Establish a technical working group or advisory committee and work with other Nations and organizations as necessary.

Have a space and process where Indigenous Nations can gather, exchange information, and provide input on projects both from a western science and Indigenous Knowledge perspective and understand the potential impacts (Interview 10; Interview 15; Interview 6).

Ensure your Nation advocates for capacity funding to create, establish, and implement such a working group or committee (Interview 15).



Build capacity from within your community to decrease dependency on external consultants (Interview 4).

Become an Intervener in the regulatory process.

In this highly participatory role, your Nation's voice will be heard and formalized on the record, and in turn, have greatest impact on the project's design and conditions (Interview 26).



Regulatory bodies typically carry out their work on behalf of a federal or provincial Crown, and, in most situations, present the outcomes of a

regulatory proceeding and their recommendations to a Minister who makes the official decision regarding project approval (Assembly of First Nations, 2011, p. 3). This means that after a regulatory agency has reached a determination about the project, there is an additional opportunity for intervention prior to a final decision about a project being made if an Indigenous Nation has outstanding concerns that need to be addressed. The objection may be made that a legislated decision-maker allowing an Indigenous Nation to be involved in their decisions would amount to delegating their decision-making authority, but it is fully permissible for a Minister to consider any direct input received by Indigenous Nations or negotiate with Indigenous Nations in reaching acceptable conclusions regarding their decision (CIER, 2009, p. 75).

Participate in the Oral Indigenous Knowledge Hearing processes and bring Elders and land users to share their stories and educate and inform the Regulatory Process.

Public hearings and panels provide an opportunity to educate regulators and to develop a deeper understanding of an Indigenous Nation's culture, connection to the land, and vital knowledge necessary to inform decision-making about a project (Interview 25).

Take opportunities for written submission and putting information on the regulatory record.

Throughout a regulatory proceeding, several opportunities will be provided for an Indigenous Nation to provide written comments to a regulator related to the proposed project and its potential impacts, the proponent's approach to the assessment process, and the sufficiency of the assessment work submitted by the proponent to date. It is beneficial to understand all the opportunities for written intervention at the outset of a regulatory process to manage time, resources, and leverage (CIER, 2009, p. 49).

Written submissions can clearly set out an Indigenous Nation's position at crucial points in the regulatory process and contribute to regulator's formal and permanent record for the approvals process (FNEATWG, 2004, p. 88).



Specific comments, issues, and recommendations provided in written submissions should be clearly identified so that they can be referenced in later stages of the process if they remain unaddressed (First Nations Major Projects Coalition, 2020, p. 51).

Submissions should be carefully and thoroughly prepared as they will be taken by the regulator as the official position of the Indigenous Nation that submitted them. Written submissions like letters and memos can also be provided to a regulator independent of any formal comment periods, which can provide an opportunity for an Indigenous Nation to provide updates on any concerns with the process or a proponent's approach to engagement that requires a regulator's attention (FNEATWG, 2004, p. 79).

Indigenous Nations should consider including (or cc'ing if by email) regulatory agencies in their correspondence with proponents, especially where the correspondence is relevant to the regulator's jurisdiction, or where a regulator's authority is needed to compel the proponent to take a certain action.

It is also advisable for an Indigenous Nation to require proponents and regulators to provide opportunity for them to review anything that will be published on the record related to them as the written record is what decision-makers will primarily review when considering whether or not to issue approvals related to a project (First Nations Major Projects Coalition, 2020, p. 34). A proponent or regulator may, for example, omit key concerns that were raised at a community meeting when filing a summary of engagement or not properly reflect traditional land use information that is shared during a site visit.

The accuracy of such information should be confirmed before it becomes a part of the official record. Indigenous Nations can also provide their own written summaries of important in-person or telephone conversations where key concerns or issues were identified and discussed. It is important for Indigenous Nations to be a part of maintaining the accuracy and accountability of the written record of a regulatory proceeding.

Establish parameters for decision-making and use this process when deciding your Nation's position on a project.

Whether it be how to prioritize projects to review and to what scale or assessing the project's risks to your Indigenous Rights and interests, developing criteria to base decision-making on in collaboration with your Nation's Elders, land users, and leadership can support and provide legitimacy to your Nation's decision-making process (Interview 24).

Clearly guiding and leveraging your relationships with consultants and your legal counsel can help ensure your Nation's Rights are protected and interests advanced in the way you want them to be.



2.2.3 WORKING WITH CONSULTANTS, LEGAL, AND OTHER THIRD PARTIES

Clearly guiding and leveraging your relationships with consultants and your legal counsel can help ensure your Nation's Rights are protected and interests advanced in the way you want them to be.

Have your technical consultants do what you need for leadership to be fully aware of the project, associated issues, and the regulatory process involved (Interview 27).

Ensure that your consultants prepare effective briefing materials for citizens and leadership so that the most important issues and opportunities are clear. This ensures that all parties have the information they need to make informed choices and decisions (Interview 5).

2.2.4 COMMITMENTS AND CONDITIONS OF APPROVAL

If a project is approved, review all conditions of approval to ensure your input has been heard.

The granting of approval for a project by a regulatory agency is typically accompanied by a list of conditions or granted based on a list of commitments the proponent has made during the regulatory process. It is important that a proponent provides a clear, consolidated list of commitments made, and that these commitments and conditions issued by the regulator are reviewed to ensure they address the concerns an Indigenous Nation has brought forward during the regulatory process (Krehbiel, Plate, & Foy, 2009, p. 38).

2.3 RECOMMENDATIONS TO THE CROWN AND REGULATORS

A wide range of suggestions came forward from interview participants regarding what they need from the Crown and regulators, all of which spoke to inclusivity, transparency, and reconciliation:

Indigenous Nations need to be the first to know about, and the first involved, in any project.

As soon as the Crown or regulator knows about a project development and before any permits or exploratory work is done, Indigenous Nations that may be affected by the development need to be directly involved and a part of the process (Interview 5).

All effort needs to be made to accommodate Indigenous Nations when there are capacity issues with responding to notifications or time to meaningfully participate in the regulatory process.

Many Indigenous Nations noted that they don't have the capacity to respond to all of the Duty to Consult requests and project notifications that come through. Patience, and more importantly, more capacity funding for more staff is needed (Interview 24; Interview 23; Interview 21; Interview 5).

All efforts need to be made to meet with Indigenous Nations in person and to have a point person available for Nations to call when issues arise.



Being present in a community has a lot of value – it demonstrates commitment and respect and helps to build trust (Interview 2).

Having one point of contact that represents the Crown or the regulator also creates a more effective process and clarity when sharing information or trying to find out about a project (Interview 3).

This type of personal relationship building and consistency in contact demonstrate sincerity about engagement – it is about reconciliation and what communities need to see (Interview 2; Interview 3).

Another aspect of reconciliation is understanding and respecting each Indigenous Nation’s unique governance and decision-making process.

The regulator’s timelines are always an issue and a barrier to meaningful engagement and consultation. It is critical to provide the means for Indigenous Nations to take the specific steps and practice the specific customs and protocols they need to go through to get information to feed into the regulatory process and to fully understand how the project may impact them (Interview 24).

Regulators and the Crown need to respect and follow the protocols set out by Indigenous Nations’ Duty to Consult policies (Interview 30).

Regulators need to be flexible in their financial reporting requirements from Indigenous Nations.

There are barriers for Nations to submit expenses in the way that is currently required, resulting in some Nations paying out of pocket for expenses incurred out of frustration with the reporting requirements (Interview 1).

Reconciliation needs to be demonstrated by simplifying these unnecessarily burdensome processes: The Crown and regulators need to make efforts to align their processes with the Indigenous Nations’ financial reporting processes and policies (Interview 1).

3.0 WISE PRACTICES: EFFECTIVE ENGAGEMENT WITH PROJECT PROPONENTS

3.1 BEFORE A PROJECT IS ANNOUNCED

Similar to the strategies outlined for engaging with the Crown and regulators, the wise practices described below support positive processes and outcomes for engaging with proponents well before a project is announced. Knowledge is power and preparation is key to success.

3.1.1 KNOWLEDGE EXCHANGES WITH OTHER NATIONS

Where possible, network and speak with other Indigenous Nations in your region to share information, tips, and wisdom from experience working with proponents and industry in general.



Bringing together different Indigenous Nations to discuss lessons learned, successes, and other strategies builds capacity that is shared, relatable, and validating. This can take place in various ways, such as sharing circles or workshops.

Bringing together different Indigenous Nations to discuss lessons learned, successes, and other strategies builds capacity that is shared, relatable, and validating. This can take place in various ways, such as sharing circles or workshops (Interview 21).

Having the proponent fund such information-sharing opportunities is helpful and demonstrates support for the Indigenous Nations whose Traditional Territories or homelands their projects are being developed in (Interview 21).

Where possible, mobilize through collaborative working agreements with other Indigenous Nations to be able to participate in collective negotiations with proponents (Interview 25).

Identifying and working collaboratively with other Indigenous Nations or representative organizations who share the same objectives related to a project should be considered as it provides an opportunity to share costs of participation, add weight to requests and recommendations made to proponents and regulators, and improve leverage in relationship agreement negotiations (FNEATWG, 2004, p. 79; Krehbiel, Plate, & Foy, 2009, p. 25; Gibson & O'Faircheallaigh, 2010, p. 53). Collaborative efforts can range from periodic information sharing to developing and submitting joint submissions or undertaking joint studies related to the project.

3.1.2 PROPONENT AND PROJECT DUE DILIGENCE

Be proactive with researching projects in your territory and approaching proponents – don't wait for them to notify you.

Scanning the media, talking to other Nations and people in your network, combined with regularly checking regulatory registries helps to stay ahead of the ball by knowing what industry players and projects may be in early phases of exploration or planning (Interview 3).

Be the first to reach out to prospective proponents or established industry parties and set the foundation for communicating your Nation's laws and processes for engagement and consultation (Interview 29).

Research proponents and their projects in advance of engaging, including their track record with Indigenous Nations.



Proponents use consultants and legal teams to conduct their due diligence on Indigenous Nations, why shouldn't you do the same of them? Use outside expertise, such as a legal team, where needed (Interview 29; Interview 23).

Make sure that proponents are legitimate, have a good history working with Indigenous communities, and ensure they have cross-cultural awareness training as a mandatory process (Interview 23).



Let proponents know that you need information about their projects very early in their planning phase and that your Nation needs adequate engagement and capacity funding to participate in engagement (Interviews 23; Interview 28; Interview 22).

Let proponents know that you expect to be treated as partners (Interview 23).

Review and reflect on lessons learned from past projects and think about how they can be applied to the next one.

Identify what worked well in past processes and what could be done differently: create a system to document learnings on past/current project files and apply these learnings to current/future files (Interview 20).

3.1.3 PROPONENT AND INDUSTRY EDUCATION

Educate proponents about your Nation, including lifestyle, traditions, and customs at the outset of a project.

Creating a video about your Nation and its citizens is a good way to educate proponents without having to tell your story repeatedly (Interview 15).

Suggest books to proponents to read about your Nation or Indigenous history and relations in general (Interview 21).

Encourage proponents to get to know your Nation and community: companies need to connect with communities, and this starts by making efforts to understand your community's perspectives and understanding the history, traditions, lifestyle, and perspectives on life (Interviews 21; Interview 3; Interview 8).



Provide opportunities for proponents to get involved and engaged with the wider community through information sessions, community investment activities, or participation in community events.

Set expectations for proponents to connect with the community, provide them with information directly, and respond to the community members' questions and concerns as they will be affected by the project (Interviews 15; Interview 6).

Encourage proponents to invest and support your Nation's community through funding and other initiatives that support community development (Interview 18).

Create opportunities for proponents to join community events and get involved in community initiatives where appropriate to foster relationship building and knowledge exchanges (Interview 20).

3.2 DURING A PROJECT REVIEW PROCESS

Once a project is announced and enters a formal regulatory review or impact assessment process, there are numerous activities and processes you can implement to optimize your Nation's goals.

Have an established point person or liaison to connect the community with the proponent.

Having one key liaison to act as point person is effective, as this creates consistency and supports the relationship by that person getting to know the process – this relationship can then last throughout the project's lifecycle (Interview 3; Interview 4; Interview 1).

Having the same contact person to coordinate communications between leadership, community members, and proponents also supports consistency and effective information dissemination for all parties (Interview 3; Interview 4; Interview 1; Interview 14).

Work with proponents to define the scope of work and resources needed to be meaningfully engaged and to comment on the concerns and potential impacts their project may have on your Nation.

Ensure that a written agreement is in place with proponents that outlines engagement processes, information sharing protocols, capacity funding for that engagement, and a commitment to involving your Nation in environmental monitoring and economic opportunities associated with the project (Interview 6; Interview 31).

Jointly develop work plans with proponents and apply standard staff or consultant costs when developing budgets (Interview 20).

Defining the scope of work and associated resource needs in collaboration with proponents leads to less challenges to the relationship in the future (Interview 20).

Negotiate site assessments or visits in advance of construction activities to inform mitigation and monitoring measures.





Having Elders, land users, or other Knowledge Keepers conduct a site visit prior to construction may help identify sites of ecological or cultural importance to your Nation that the proponent's consultants missed. This will help ensure that important areas are protected through additional mitigation and monitoring measures (Interview 22; Interview 8; Interview 1).

Negotiating and establishing these procedures in writing and early in

the process with a proponent will also support a positive and collaborative working relationship (Interview 22; Interview 23).

Communication is critical. Create a clear communication process or plan with the proponent that lays out your Nation's expectations for how and when they will communicate, and with whom.

Be sure to let the proponent know who, when, and how you want to have information communicated to your leadership, staff, and community members; this may include directives on when to have in-person meetings; when to telephone, and when to have things in writing through email (Interview 18; Interview 23).

Let the proponent know if you expect them to come out to the community in person and how and how often you would like them to share information (Interview 18; Interview 23; Interview 28).

Create opportunities for proponents to engage with community members in smaller groups, such as targeted or issue-based committees to get feedback.

Working in smaller, specialized groups on specific issues is an effective and important means for ensuring the proponent gets proper feedback and input (Interview 15).

Stewardship committees are a long-term approach to ensuring proponents and Indigenous Nations have a forum in which to collaborate, integrate Indigenous perspectives, and resolve issues (Interview 22; Interview 23).

Organizing committees or advisory groups by regional geographies or by Nation is one way to ensure inclusivity (Interview 22).

Leverage staff and/or consultants with technical expertise in negotiations and determining mitigation measures.

Having the right technical and traditional expertise in meetings and negotiations is key to the process and having the facts – data and evidence – readily available is powerful (Interview 27; Interview 15).



Set reasonable expectations but be prepared to be assertive when things are not right.

Although building relationships that naturally create positive outcomes and benefits for your Nation is the ideal situation, this will not always be the case – be ready to adjust your approach if you are not seeing desired results to ensure your interests are heard and addressed (Interview 12; Interview 27).

Asserting strong leadership skills in a negotiation process sets the foundation for respect and increases your chance at success (Interview 12; Interview 4).

Negotiate bilateral consultation agreements with proponents.

Perhaps the single most effective way of raising the standard for engagement beyond what will be provided or enforced by a regulatory body is to negotiate bilateral consultation agreements with proponents.

Many organizations highlight the value of such agreements in setting out commitments related to information sharing and transparency (CIER, 2009, p. 61); funding arrangements to facilitate an Indigenous Nations' participation in meetings; field work and research (FNEATWG, 2004, p. 77) (First Nations Major Projects Coalition, 2020, p. 58); and defining how Indigenous Knowledge, concerns, and input of Indigenous Nations will be addressed and incorporated (First Nations Major Projects Coalition, 2020, p. 71; CIER, 2009, p. 23).

These agreements can also act as precursor agreements to benefit agreements, allowing for a proponent to proceed with initial assessment or exploration work until there is more certainty that a project will go ahead (Gibson & O'Faircheallaigh, 2010, p. 78). This is especially useful in contexts where a Nation's consent is not necessarily required by a regulator before issuing approval.

An agreement of this nature can establish a mechanism for a Nation's consent to be legally required by the proponent, such as a proponent having to wait for a formally written notice of consent before proceeding, or a requirement for the terms of benefit agreements to be mutually agreed upon prior to a proponent commencing construction (FNEATWG, 2004, p. 77). This can address the concern of Indigenous Nations that decisions to approve and proceed with a project are a foregone conclusion at the outset of a regulatory process (CIER, 2009, p. 25) and that their autonomy to issue their own decision about a project is maintained (CIER, 2009, pp. 47, 58). It can also be an effective way of bringing Indigenous groups to the table as legitimate decision-makers in the absence of settled land claims or Rights assertions (Noble, 2016, p. 17).

Although building relationships that naturally create positive outcomes and benefits for your Nation is the ideal situation, this will not always be the case – be ready to adjust your approach if you are not seeing desired results to ensure your interests are heard and addressed.



Bilateral consultation agreements should include a “non-derogation” clause, which make clear that establishing an agreed upon approach to engagement and the provision of funding does not reduce an Indigenous Nation’s right to take action in opposition to the project (Krehbiel, Plate, & Foy, 2009, p. 43).

3.3 DURING PROJECT OPERATION AND POST-OPERATION

While much engagement and consultation between the Crown, proponents, and Indigenous Nations is focused on planning and impact assessment phases, engagement and involvement needs to continue through and beyond construction into the operational and decommissioning phases.

Negotiate your Nation’s participation in monitoring activities at the project site with a mandate to report back to leadership and community members.

It is important to have community members on site as monitors to see what is happening firsthand (Interview 31).

Having environmental or cultural monitors report to leadership and the community about construction activities helps everyone stay up to date through a trusted source such as a community member (Interview 31; Interview 16; v27).



Although regulators have established conditions, history has shown that contractors may miss things or accidents may occur that need to be addressed by local monitors (Interviews 31; Interview 27).



Relationships work best when time and energy is put into building trust. Knowing people by their first name, meeting for coffee or lunch beyond just project work, building trust by telling the truth and following through on your commitments, and spending time getting to know and supporting the Nation will all go a long way

Monitoring is the foundation of a continued relationship and creates a level of trust by being on the ground together (Interview 27).

Negotiate an agreement that covers the lifecycle of the project, not just the first few years or phases.

Being directly involved in the project's development process as it continues right through to the decommissioning is critical to exercise any opportunities and advantages the project represents (Interview 11).

Ensure you have access to important information such as reports, maps, or data from proponents throughout the lifecycle of a project, including testing, monitoring, and accident or malfunction results (Interview 6).

Get involved in emergency management programs, including having community members trained in emergency preparedness (Interview 11).

3.4 RECOMMENDATIONS TO PROPONENTS AND INDUSTRY REPRESENTATIVES

A wide range of suggestions came forward from interview participants regarding areas where they feel industry representatives and proponents can do better.

Develop communication protocols with each individual Indigenous Nation to ensure information is received in a format that is approachable and usable. This includes communication protocols that detail how lines of communication will be established.

Understand your audience and ask your contact within the Nation how they would like to be communicated with (Interview 1).

Recognize that proponent and industry emails are not always the priority but that doesn't mean an Indigenous Nation doesn't want to be involved (Interview 16).

Early and frequent conversation, even when the project is in the idea phase, is helpful for Indigenous Nations to prepare and get organized (Interview 19, Interview 26).



There needs to be a better understanding of the cost of engagement to Indigenous Nations. All effort needs to be made to provide adequate capacity for Indigenous Nations to participate.

Intentional relationship building will go a long way. Industry leaders and proponents need to do better at building intentional relationships with Indigenous Nations and move away from the box-ticking mindset.

Relationships work best when time and energy is put into building trust. Knowing people by their first name, meeting for coffee or lunch beyond just project work, building trust by telling the truth and following through on your commitments, and spending time getting to know and supporting the Nation will all go a long way (Interview 12).

Employ more Indigenous Peoples across the entire company and make more effort to understand Indigenous Nations. This is especially important when hiring for Indigenous relations positions.

Build opportunities for Indigenous staff across the entire company, not just at lower labour jobs. There needs to be more Indigenous Peoples at the corporate level (Interview 27).

All efforts need to be made to understand and learn about the Indigenous Nations that you are engaging with.

Better understanding Indigenous cultures and relationships with the land is essential (Interview 2).

4.0 WISE PRACTICES: SECURING ECONOMIC DEVELOPMENT OPPORTUNITIES

Securing economic development opportunities with industry can involve several different practices, from building your Nation's economic development office to negotiating agreements and economic benefits with proponents, building joint ventures and other business partnerships, and supporting community members and citizens in accessing and retaining employment opportunities. Different approaches to economic development can be effective depending on your Nation's specific goals and interests.

This section outlines wise practices for effectively securing economic development opportunities with industry, as well as some over-arching wise practices that can be applied to economic development in your Nation more broadly.

4.1 PREPARING YOUR NATION FOR ECONOMIC DEVELOPMENT OPPORTUNITIES

Create an internal economic development structure (department, office, corporation, etc.) focused on identifying and negotiating economic development opportunities with proponents.



Creating a structure dedicated solely to economic development in your Nation is helpful for effectively identifying project-related opportunities in your Nation's Traditional Territory or homelands (Interview 22; Interview 25). An economic development structure should also be responsible for engaging and negotiating economic development opportunities with proponents on behalf of the Nation (Interview 25).

Some wise practices to consider in developing this structure include:

- **Separating economic development initiatives from political processes.** In looking at economic development initiatives, it is recommended to separate them from political bodies and processes (Interview 9). This separation allows those responsible for economic development matters to move and respond to business opportunities more quickly (Interview 9). Where political processes are designed to look after community interests and the consultation aspects of a proposed project, economic development initiatives should be focused on understanding and taking advantage of business opportunities (Interview 22; Interview 24). These two processes can work alongside one another while remaining largely separate by providing updates and communicating with the Nation's leadership where appropriate (Interview 9).
- **Work in stages to create a sustainable economic development structure that will grow and build capacity over time.** Building an economic development structure or pursuing new opportunities can be difficult with limited capacity and resources available. To manage these challenges, you can create a plan to work in phases on smaller pieces and build toward a long-lasting initiative such as an economic development corporation, department, office, or other entity (Interview 22).

Some ways to do this include:

- Creating a plan that outlines the sequence of how and when things need to be done (Interview 22).
- Spend time building a solid foundation that is accepted by others in the community (Interview 22).
- Look for sustainable funding sources including those from government, NGOs, and industry (Interview 22).
- Apply often to grants and funding programs (Interview 22).

Create and leverage strong relationships and networks with government and industry/proponents.

Networking to create connections Indigenous Nations can draw upon to support economic development opportunities is crucial (Interview 14). Building respectful government-to-government relationships with key politicians and the province can benefit Indigenous Nations in getting work and projects when opportunities arise (Interview 23; Interview 14). Similarly, having strong relationships with industry and proponents can be critical in making things related to economic development happen on a project, and getting answers when you call (Interview 27). One way for Indigenous Nations working on economic development initiatives to build this web of connections is



to work with a mentor who has existing relationships or knows how to network to learn how this can be done (Interview 14).

Do your research and draw upon the right expertise when preparing for economic development opportunities.

Conducting background research and having the right people and partners involved in an economic development initiative are important to its success (Interview 23). Especially if the opportunity or initiative is new or unfamiliar to your Nation, it is critical to have knowledgeable people or experts to put together proposals and know exactly what they're dealing with (Interview 23). This process could also include sitting down with Ministers or members of government (Interview 23).

Be proactive with reaching out and creating relationships with industry, even when there are not ongoing projects happening in your territory. Let potential partners know who you are and what you have to offer.

Reaching out and opening the lines of communication with industry and potential partners in your area is an effective way to make them aware of who you are and what services you can provide in advance of a project being announced or underway (Interview 6). Being proactive in this way by selling your Nation's skills and services and "knocking on doors" can help your Nation identify, and be ready to bid on, different economic development opportunities (Interview 7; Interview 23).

4.2 SECURING AND PREPARING FOR EMPLOYMENT OPPORTUNITIES

Be prepared for employment opportunities by thinking ahead and getting your people trained in advance.



Different phases of a project require different skillsets and training qualifications to leverage employment opportunities for your Nation. For example, people can get hired to work on the construction of a project but then have to figure out what to do when that phase is over (Interview 27). Navigating this requires thinking ahead of the curve, communicating with members and citizens about what is coming next, and getting your Nation's people trained on



what the proponent will need ahead of time to ensure they are ready when needed (Interview 27; Interview 19).

Getting your Nation's economic development, training or employment departments involved can help facilitate training sessions (Interview 4; Interview 19). Proponents also may offer training and certification courses that your Nation can access to meet their requirements (Interview 4; Interview 19).

Take the initiative to leverage economic development and employment opportunities through contractors, not just the proponents.

Building and securing business relationships with contractors, and taking the initiative to contact them right away, can help ensure that people in your Nation have an opportunity to be trained in order to secure employment opportunities (Interview 29; Interview 19). Sometimes issues can arise with proponents promising employment or other opportunities that they fail to make progress on (Interview 19). In these instances, it can be more effective to bypass the proponent and contact contractors and sub-contractors directly to push for opportunities for your Nation (Interview 19).

Focus on building long-term employment opportunities and prosperity across projects and industries.

Skills and training qualifications that are built for the purpose of one project can be applied to the next project that comes up in your territory. For example, community members and citizens who are trained to work on the construction of one pipeline can get involved in the next one (Interview 27). Focusing on long-term employment opportunities and prosperity also includes supporting people from your Nation in pursuing opportunities beyond labour positions to work as supervisors, foremen, and for proponents in their companies where they can work toward creating change (Interview 27; Interview 28).

Provide support through recruitment and retention initiatives for community members and citizens facing barriers to employment or entering the workforce.

Economic development staff or structures (department, office, corporation, etc.) within your Nation can help support community members and citizens in retaining jobs and addressing systemic barriers to employment that they face (Interview 29). This can serve as a place where people from your Nation can go if they face issues in the workplace, feel as though they are being treated differently, or are experiencing challenges (Interview 29). It can be helpful to address these concerns with people up front and be honest about what they might experience in the work force, while working to address these issues at a systemic level (Interview 29).

4.3 PREPARING SKILLS AND BUSINESS INVENTORIES

Be prepared for project opportunities by building an inventory of businesses in your Nation and providing training on how to bid and respond to Request for Proposals.



There are often many different Indigenous-owned businesses in a Nation that could leverage economic development opportunities (Interview 3). Reaching out to members and citizens to get information about their businesses and building a database can assist in having a list of viable candidates ready for project or procurement opportunities (Interview 7; Interview 26).

One barrier that business owners may face is uncertainty with how to leverage opportunities in a project or get involved in the bidding process. Providing training opportunities for business owners on how to respond to these requests can be effective in preparing them for the next opportunities that arise (Interview 4).

Be prepared for employment opportunities by building a skills inventory.

Your Nation can be prepared to leverage employment opportunities related to a project by keeping an up-to-date inventory of community members with specific skills, training experience, and qualifications (Interview 15; Interview 19). One way to connect these members with industry when opportunities arise is to set up networking opportunities in a “speed dating” format (Interview 15).



Having updated resumes reflecting these skills and experiences on file is also helpful in being prepared for and accessing employment opportunities with industry (Interview 15; Interview 19). Some community members and citizens face barriers to being ready for job opportunities, and having training available to them on resume development, interview skills, cover letters, etc. is important in preparing them for this process (Interview 19).

4.4 NEGOTIATING BENEFITS FOR YOUR NATION

Get involved in securing economic development opportunities as early as possible in a project process.

If your Nation gets involved in securing potential economic development related to a project too late in the process, you could miss out on potential partnerships, business, and employment opportunities (Interview 7; Interview 2). Identifying and pursuing these opportunities as early as possible in a project process is critical to being able to bid on contracts (Interview 2), lobby with contractors, and get construction monitors hired (Interview 7).

Get familiar with the proponent’s policies as they relate to economic development with Indigenous Nations and use them as leverage if things are not being done correctly.



Over the course of a project, issues can arise with economic development opportunities not being carried out with Indigenous Nations the way they were intended, including scenarios where contractors were not given clear information or are not following the practices agreed upon with the proponent.

Over the course of a project, issues can arise with economic development opportunities not being carried out with Indigenous Nations the way they were intended, including scenarios where contractors were not given clear information or are not following the practices agreed upon with the proponent (Interview 6). In these situations, it is helpful to be familiar with the proponent's policies that apply to Indigenous procurement and use these to point out exactly where practices are not reflective of their commitments (Interview 6). This can result in proponents improving their policies or communicating more effectively with general contractors about their expectations with respect to Indigenous involvement in the project (Interview 6).

When negotiating agreements, ensure that your Nation's leadership are meeting with the right people in industry.

When your Nation's leadership are in the process of negotiating and trying to get agreements with industry or proponents, it's important to ensure you're engaging with leadership or top-level staff at the company (Interview 24). This is to ensure agreements reflects the needs of the Nation as well as industry, including relationship agreements and Impact Benefit Agreements (Interview 24).

Be proactive about letting proponents know what your Nation's economic interests are and the things you have to offer, including joint ventures, previous experience, and existing partnerships.

During a project review process, being proactive and having sustained engagement with proponents is important for keeping the lines of communication open and working toward opportunities for economic development (Interview 6).

Some ways to be proactive and let proponents know what you have to offer include:

- Being persistent with letting them know your economic interests (Interview 6).
- Sending them information packages to formally tell them about who you are and what services you can provide (Interview 6).
- Highlighting any joint ventures or existing partnerships your Nation is part of (Interview 6).
- Giving proponents the contact information for the people they should contact about economic development moving forward, and keeping those lines of communication open (Interview 6).



Secure Impact Benefit Agreements and economic development opportunities that cover the lifecycle of a project.

A benefit agreement (often referred to as an Impact and Benefits Agreement or Long-Term Relationship Agreement) can represent the terms of an Indigenous Nation's consent for a project and provides legally binding measures to allow for their oversight of the project's operations, a share in the economic benefits of the project, and compensation to the Nation for the risks and impacts the project presents. Focusing on securing economic development opportunities and agreements that cover the lifecycle of a project, not just a specific phase such as construction, is important to avoid quick agreements with proponents that will result in a one-off opportunity for your Nation.

- Develop a Term Sheet when establishing a relationship around economic development goals (Interview 22).
- Develop a Master Service Agreement (MSA) with a proponent that covers the lifecycle of a project (Interview 29).
- Read the fine print on any agreements before signing. Avoid agreements based solely on the company's level of production (Interview 31).
- Get input from community members and citizens, including Elders, on what they would like to see in an agreement (Interview 31).
- Apply any lessons learned from past experiences and agreements to developing new ones (Interview 31).



It's important to negotiate benefit agreements with the support of legal counsel or an experienced negotiator to ensure they are structured appropriately, and to ensure a plan and personnel are in



place to implement the agreement once it is finalized (FNEATWG, 2004, p. 265). It should be understood and made clear to a proponent that beginning negotiations of a benefit agreement does not imply support of a project (Gibson & O'Faircheallaigh, 2010, p. 11).

Depending on the context, a benefit agreement can be negotiated before a proponent begins a regulatory process, during a regulatory process, or after a proponent has received approval from a regulator. There is no formula for when agreements are reached but aligning the impact assessment process with the negotiations of a benefit agreement requires careful consideration to manage the workload each process presents while maintaining leverage (Gibson & O'Faircheallaigh, 2010, p. 43).

An ongoing permitting approvals process can be a key source of leverage in negotiation as it represents a context where an Indigenous Nation can apply pressure to a proponent that is not making satisfactory progress toward agreement (Gibson & O'Faircheallaigh, 2010, p. 46). It can also be helpful to garner the support of regulatory agencies or Ministers involved in a coinciding approvals process who can informally or formally require reasonable efforts to be made to conclude an agreement before they issue approvals (Gibson & O'Faircheallaigh, 2010, p. 35).

Benefit agreements should make provisions for all remaining stages of a project, including design, construction, operation, closure, and reclamation, or include commitments to negotiate further agreements before those phases of the project commence.

Have an individual or group acts as a liaison between your Nation and the proponent.

Having a designated individual or group within your Nation that acts as a liaison with the proponent can be helpful in actioning the terms of the agreement you have set up, accessing employment and training opportunities, and making the community aware of what opportunities are coming up next so they can be ready to bid on work (Interview 13). This could take the form of a committee (Interview 13) or a staff member (Interview 31, Interview 25) dedicated to engaging with proponents that works out of your Nation's administration.

The strength of a Nation's position in the negotiations process is affected by numerous factors. It is critical that a community and an experienced negotiation team mandated to represent the Nation is united in its perspective on the project and its negotiation objectives (Gibson & O'Faircheallaigh, 2010, p. 12). It is also beneficial if the risks and potential environmental and socio-economic impacts of the project are clearly documented and understood by all parties (FNEATWG, 2004, p. 268).

4.5 ADDITIONAL CONSIDERATIONS FOR ECONOMIC DEVELOPMENT OPPORTUNITIES

Consider becoming part of the *First Nations Land Management Act* (Land Code).

Being a *First Nations Land Management Act* Band can allow your First Nation to have full control over your lands and the industries, businesses, or commercial ventures you choose to pursue on them (Interview 23). This can alleviate some barriers to economic development opportunities such as



requesting approvals and can make it easier for industry to do business with First Nations (Interview 23).

Build joint ventures with good partners to avoid becoming dependent on industry and proponents for economic development opportunities.

Building joint ventures can help Indigenous Nations move away from being dependent on industry by getting involved in economic development opportunities (Interview 2) and creating more revenue (Interview 1). In selecting partners, it's important to look for professional experience, what they've done in the past, and what they can bring to the table for your Nation (Interview 6). Joint ventures can work on many different aspects of a project including tendering and commissioning, problem-solving issues that might arise during a project, building camps, managing camps, and other initiatives depending on the needs of a project (Interview 29).

Get involved in a diverse set of economic development opportunities including natural resource development, purchasing assets, and creating own-source revenue.

Getting your Nation involved in several economic development opportunities or initiatives across industries can be beneficial (Interview 23). In addition to projects related to natural resource development such as oil and gas, forestry, and mining (Interview 23), Indigenous Nations can also consider becoming involved in buying and building assets (Interview 9) and creating own source revenue through means such as Treaty Land Entitlements (Interview 16). Thinking outside the box and pursuing opportunities that other Nations may not go after can help alleviate the pressure to compete for routine contracts (Interview 12).



4.6 RECOMMENDATIONS TO PROPONENTS, REGULATORS, AND THE CROWN

Better oversight on hiring and retaining Indigenous Peoples for employment opportunities is needed. Mechanisms need to be put in place to ensure that promises made by proponents are carried through, even if sub-contractors are used.

There have been issues in the past where Indigenous Nations were told they would have employment opportunities, but these promises were not fulfilled. Sub-contractors who don't follow hiring protocols has been an issue (Interview 19).



5.0 WISE PRACTICES: EFFECTIVE ENGAGEMENT OF COMMUNITY MEMBERS AND CITIZENS

Engaging your Nation's community members and citizens throughout a project review process is important in developing an understanding about a project and gathering community perspectives, thoughts, or questions. Different approaches to community engagement can be effective before a project is announced, throughout the regulatory review process, and during project operation or the post-operation phase. This section outlines wise practices for effective engagement with community members and citizens at each of these phases, as well as some wise practices that can be applied more generally.

5.1 ENGAGING WITH YOUR NATION OVER THE LIFECYCLE OF THE PROJECT

Hold general meetings on a regular basis to provide updates and information to community members and citizens.

Regular open community meetings are an effective way for leadership to provide updates and information to community members and citizens including Elders, land users, and youth about a project and related consultation activities (Interview 24). Hosting these meetings at regular intervals helps keep community members and citizens informed and updated as a project moves along, with some interview participants recommending this happen quarterly (Interview 14, Interview 24; Interview 31).

For Indigenous Nations with members and citizens who may live in different regions or cities, it is important to host additional community meetings in locations where they can attend (Interview 23; Interview 29). Incentives, such as contests, prizes, draws, and the opportunity to have a meal together, can be effective ways to get a good turnout at a meeting and encourage people to attend and participate (Interview 23; Interview 10).

In advance of and throughout a project review process, use a wide variety of communication methods to share information with all members or citizens.

Engaging with community members and citizens about projects within your Nation's traditional territory or homelands is crucial to keeping them informed, increasing their understanding of a project, and building awareness about opportunities for them to get involved and provide their input (Interview 4; Interview 31). Using a wide variety of communication methods to engage community members is critical in ensuring you reach different audiences within your Nation, including Elders, youth, members who may live in different areas, people who use technology such as the internet and



cell phones, and those who don't have access to technology or choose not to use it (Interview 4; Interview 3; Interview 19).

Effective communication methods for engaging community members and citizens include:

- **Using Social Media platforms that community members or citizens use, such as Facebook and Twitter, to share information and increase awareness about projects.** Creating or using an existing Nation-specific page that members and citizens look at is an effective way to share information about projects such as updates, events, opportunities for input, and general information. A staff member can be designated to manage these pages and the content that goes out on them (Interview 15; Interview 19; Interview 24; Interview 29; Interview 14; Interview 18; Interview 4).
- **Using your Nation's website, or create a new one, as a place where members or citizens can go to get information about projects.** Webpages specific to consultation can also be created and password protected for use by members and citizens only (Interview 31; Interview 4).
- **Using newsletters to provide information to community members and citizens on a regular basis.** Newsletters can be sent out either online or on paper and provide a way to get information out monthly, bi-weekly, or weekly (Interview 4; Interview 7).
- **Using community radio and/or TV to provide information, updates, and public service announcements.** Radio and TV can also provide an opportunity for community members to ask questions or give their input if you provide a call-in number (Interview 4; Interview 31).
- **Calling and texting community members directly to give them information, ask for their input, or let them know about important events and updates.** Keeping a list of community members' and citizens' phone numbers, and adding to it regularly, is a good way to build the number of people you can reach (Interview 19; Interview 3).
- **Distributing physical/paper copies of materials and mail outs to reach members who aren't online.** These could include flyers, brochures, and newsletters mailed out, delivered door to door, or posted in high-traffic areas in the community such as schools, offices, health clinics, gyms, or bingo halls (Interview 19; Interview 3; Interview 14; Interview 16; Interview 18).

5.2 DURING A PROJECT REVIEW PROCESS

Use Nation and culture-specific processes and ceremonies to engage with community members and citizens.

Each Nation will have a different process for engaging with community members and citizens in a culturally appropriate way (Interview 22). Ceremonies can serve as the foundation for consultation and decision-making practices with community members and citizens (Interview 30). Making space in engagement for cultural practices could include smudging, prayer, feasts, and other ceremonies or practices (Interview 22).



Create opportunities focused on engaging youth in the community for them to both learn about and participate in the process.

Engaging youth during a project review process is important in gathering their perspectives and input, as well as ensuring there is continuity with the transfer of knowledge (Interview 15). Connecting youth with Elders, who can teach them about their Nation's history and culture, is an effective method of engagement that can motivate youth to learn more about topics such as the Duty to Consult and other technical aspects of a project review process (Interview 13).

Engage with community Elders early in the process to listen to their stories of the land and get their thoughts. Ensure that translators are available when needed.

Engaging Elders in a project review process can be critical in gathering stories about a Nation's Traditional Territory and land use (Interview 31). Engaging Elders early within this process helps ensure there is enough time to talk to everybody that should be involved and that the knowledge gathered can help inform leadership and the larger community as a project review process moves ahead (Interview 1; Interview 11; Interview 21).



It is also important to ensure that translators are available for Elders where needed, and that these services are paid for by the proponent as a cost of doing business when engaging your Nation during a project review process (Interview 15).

Ensure there are opportunities for proponents and regulators to visit the community in-person and engage directly with community members and citizens to provide information, answer questions, and offer visual presentations and demonstrations.



Direct engagement by proponents and regulators with community members and citizens can help build an understanding of the project and related regulatory process while alleviating the Nation from having to devote its resources to compiling this information itself.

Direct engagement by proponents and regulators with community members and citizens can help build an understanding of the project and related regulatory process while alleviating the Nation from having to devote its resources to compiling this information itself (Interview 14; Interview 22). These opportunities for in-person engagement can also contribute to building good relationships (Interview 2), establishing your community's identity with the proponent and regulator (Interview 22), drawing parallels between the western science underlying the project and Indigenous Knowledge, and working together in a more transparent way (Interview 22; Interview 20).

Interview participants suggested several ways to facilitate this engagement, including:

- Having an “industry and government day” where different regulators and proponents come to the community to talk about their projects (Interview 1).
- Calling special community meetings for proponents to come and give updates (Interview 14).
- Encouraging proponents to engage with different groups within the community such as Elders (Interview 16).
- Asking proponents to come and deliver visual presentations and demonstrations so people can learn about how the project will work (Interview 19; Interview 2).

Create a system through which community members and citizens can provide input and feedback on a project.

While getting information out to community members and citizens about a project is important, it is also extremely valuable to have a system through which they can provide input or give feedback so that leadership can gauge their thoughts (Interview 2). Using short surveys and questionnaires either online or delivered to people's homes are one effective way to gather this information and get basic feedback (Interview 2; Interview 10; Interview 18). Using incentives such as prizes and draws can help encourage participation (Interview 18).



6.0 WISE PRACTICES: EFFECTIVE COLLECTION OF INDIGENOUS KNOWLEDGE, LAND USE, AND OCCUPANCY (IKLUO) INFORMATION

Collecting Indigenous Knowledge information by way of a formal study or compiling previously collected Indigenous Knowledge related to a project is important whether an Indigenous Nation is opposed to a project, supportive of a project, or still undecided. The First Nation Environmental Assessment Technical Working Group lists several ways gathering Traditional Knowledge can be helpful (FNEATWG, 2004, p. 188):

- Develop a better understanding of the potential impacts of a project, which can be used to inform internal decision-making about a project and substantiate concerns about the project presented to the proponent and the regulator.
- Better characterize the environment to improve the design of mitigation measures and monitoring programs.
- Provide evidence for the impacts of the project on Indigenous Rights, which strengthens an Indigenous Nation's position in negotiating benefit agreements.

The following section describes some of the ways that Indigenous Nations that were impacted by the Line 3 pipeline effectively collected and used their Indigenous Knowledge and Land Use and Occupancy (IKLUO) information.

6.1 ENGAGING KNOWLEDGE KEEPERS

Make sure you have a good representation of knowledge keepers and land users when collecting Indigenous Knowledge and Land Use and Occupancy information.

The two factors most important to the success of an Indigenous Knowledge study are community engagement and the selection of participants. If your Nation is invested in a study from the outset, it will better reflect your interests and, therefore, be most influential in the regulatory process (FNEATWG, 2004, p. 200). Identifying and interviewing people who have knowledge relevant to the area affected by the project is critical to using the study's time and resources efficiently and having the results of the study being relevant to the project.



If you are undertaking an IKLUO study, speaking with a variety of Knowledge Keepers will give you a good cross-section of information. By having an even representation of Elders, youth, younger harvesters, men, women, and family groups, you will be able to collect diverse knowledge, land use, and occupancy information that will tell a bigger story of how your lands and waters were used in the past, how they are used today, and how they need to be protected for the future.



During the interviews, some participants shared their experiences and advice on how they engage Knowledge Keepers and some of the successes they have seen:

- Rotate Knowledge Keepers and Elders so that there are multiple family groups providing information. To ensure good representation you should speak with and interview Elders, youth, younger harvesters, men, and women from across multiple family groups (Interview #1).
- Ask Elders to provide information on how the land and waters have been used in the past. For example, asking Elders who remember stories from their grandparents can provide you with centuries of information (Interview # 5).
- If you are a First Nation with a reserve base, engage with Knowledge Keepers both on and off- reserve (Interview # 8).
- Have a list of Elders and other Knowledge Keepers (like environmental monitors) and know where their land use occurs. That way, when a project is in a specific area you can contact those who use the areas the most and speak with them first (Interview #15).



An Indigenous Knowledge protocol is a set of community-designed principles and approaches to collecting, sharing, and protecting Indigenous Knowledge. It can be a helpful tool to proactively develop in order to have a process in place for a Nation to guide the gathering and integration of Indigenous Knowledge for upcoming projects and to clearly set out for the proponent the role of Indigenous Knowledge for any development activity taking place in a Nation's Traditional Territory or homelands

- Consider interviewing Knowledge Holders from the community (Interview 19) and those who have a background in environmental work, people who currently use the lands and waters, and those who do work on the land (Interview #21).

6.2 DOCUMENTING AND COLLECTING IKLUO

Develop IKLUO protocols that identify your Nation's principles and approaches to sharing and protecting IKLUO data.

An Indigenous Knowledge protocol is a set of community-designed principles and approaches to collecting, sharing, and protecting Indigenous Knowledge. It can be a helpful tool to proactively develop in order to have a process in place for a Nation to guide the gathering and integration of Indigenous Knowledge for upcoming projects and to clearly set out for the proponent the role of Indigenous Knowledge for any development activity taking place in a Nation's Traditional Territory or homelands (First Nations Major Projects Coalition, 2020, p. 70).

Protocols should consider measures for the ownership, control, access, and possession of information (First Nations Information Governance Centre, 2018); expectations for how a Nation will be involved in and benefit from any Indigenous Knowledge gathering or sharing; and requirements for consent to collect, use, or interpret a Nation's knowledge (First Nations Major Projects Coalition, 2020, p. 70; Assembly of First Nations, 2011, p. 10).

Develop budgets that reflect what you feel you need to complete your work for collecting and documenting IKLUO. Negotiate funding agreements with proponents, the regulators, and the Crown to ensure adequate funding is provided.

The primary challenges in completing Traditional Knowledge research are typically related to having adequate resources and time to complete a study. It is becoming increasingly common for a proponent to provide funding for a study by way of a bilateral consultation agreement, but without strategic and persistent negotiation, the amount of funding provided may not be adequate to complete the scope of research necessary, especially if the project is in a location where Indigenous Knowledge has not been documented previously (FNEATWG, 2004, p. 197).



It can be helpful to leverage the requirements set out in a regulatory process for the inclusion of Indigenous Knowledge in a proponent's impact assessment when making requests for funding by providing coinciding updates to the regulator about the proponent's level of willingness to provide adequate financial support (Gibson & O'Faircheallaigh, 2010, p. 100).

It is also important to make these requests for funding and commence Indigenous Knowledge research as early as possible in the regulatory process, to ensure that it can be integrated into the characterization of the baseline environment, the identification of valued components and other foundational parts of the impact assessment, and not simply considered retroactively (Krehbiel, Plate, & Foy, 2009, p. 31; FMA Heritage Resources, 2008, p. 15). The environmental assessment process can present a tight schedule to complete research, but there is opportunity to negotiate timelines with the proponent and the regulator if a strong case can be made that time is needed to provide information (FNEATWG, 2004, p. 192).

There are a variety of approaches that Nations used for conducting and collecting Indigenous Knowledge and land use and occupancy information from their Knowledge Keepers and land users. One thing that came out very strongly in the interviews was that adequate funding is essential for Nations to complete their studies, regardless of how they choose to approach them (Interview #4, Interview #8, Interview #14, Interview #27, Interview #29). Approaches that some Nations have used to negotiate and secure funding for collecting and documenting TKLU include:

- **Insist that proponents provide adequate funding for your studies.** There is a responsibility on the proponent to engage with Nations and fund the collection of IKLUO information (Interview # 27). Insist that if a proponent wants IKLUO information they must provide the support to do so, which includes adequate funding dollars (Interview #4).
- **Include all of your costs and expenses in your budget.** When building your budgets, include things such as administration time, ATV rentals, drones, translators, transportation, and other supplies that you need to complete the work (Interview #8).
- **Collaborate with neighbouring Nations to find efficiencies in your work.** If you choose to work with neighbouring Nations, you can find efficiencies across your budgets and open up space for other costs. For example, if you are doing a site visit, you could collaborate with another Nation to do your site visits on the same day and share translators, transportation, and other gear you might need (Interview #8).

The environmental assessment process can present a tight schedule to complete research, but there is opportunity to negotiate timelines with the proponent and the regulator if a strong case can be made that time is needed to provide information.



- **Negotiate funding for all stages of engagement and consultation.** For example, if you are doing a preliminary site visit and then mapping interviews, make sure you budget for both and negotiate funding upfront. Have your costs explained so that proponents can see exactly how much activities costs. Make sure that any agreements you negotiate have budgets and workplans for the lifecycle of the project (Interview #8; Interview #27; Interview #14).
- **Negotiate funding early.** Use your initial relationship or cooperation agreement to spell out what your funding expectations are (Interview #29).

Make sure the territory and lands you are documenting include all the areas your ancestors traditionally used.

Having a clear map with your Traditional Territory/Homelands is important for determining which major resource projects you feel you will be impacted by, even if they are not within the province or territory that you are located in (Interview # 8). These maps, if you choose to share them, can be powerful tools for engaging and educating the provincial and federal governments and proponents. Some further suggestions on how to document and use your Traditional Territory or Homeland map include:

- **Always show the extent of your Traditional Territories or Homelands and document the ways your Nation has used the lands and waters.** If you are a Nation with a reserve, you should look beyond just your reserve boundaries and document your traditional boundaries. Document the locations where your ancestors traditionally roamed, where they hunted, gathered, camped, fished, and used the lands and waters for ceremonial and spiritual purposes. This will help tell your story and give a clear picture of your Traditional Territory or Homeland (Interview # 6).
- **Look beyond Provincial boundaries to map your Traditional Territory or Homeland.** It is important to look beyond colonial boundaries drawn on a map. Consider your ancestors' movement and archaeological features or historic features (Interview #8).
- **Use Oral History and archival research to tell your Nation's story about your Traditional Territory or Homelands.** Use a mix of Oral History and Traditional Knowledge and couple this with Western approaches to recording history like archival documents. When telling your story, acknowledge that your history goes beyond archival and historic documentation that is used by the Crown, and that your story started before the arrival of Europeans and the signing of Treaties (Interview # 8; Interview #21).
- **Put your Nation's story and history on the public record.** Seek opportunities to document your Nation's historic presence on the land and consider putting this on the public record to use as leverage and ensure your Nation is included on project reviews and proponent engagement (Interview # 20).

Collect IKLUO early and often. Find multiple entry points to collect and document your Nation's TLKUO.

There are lots of ways that you can collect and document your Nation's IKLUO information. The earlier you engage with proponents, and the earlier they engage with you, the more time you will



have for preparation of your approaches to data collection. There are a variety of ways you can collect IKLUO early and often:

- **Visit project sites as early as possible to document what is in the area and plan how you want to further document IKLUO in the project area.** If given the opportunity, go out early with the proponent to visit project sites (i.e., during the project planning phase). If the opportunity isn't provided, make a formal request to the proponent to do a site visit with you. Invite Knowledge Keepers and land users to do site visits with you. Share whatever information you feel comfortable sharing in the moment and take the opportunity to collect IKLUO with Knowledge Keepers and land users (Interview # 1).
- **Use field site assessments as a way to collect and identify IKLUO.** Some Nations have been successful by using field site assessments to mark significant sites and areas of concern. In one example with a linear ROW, a participant spoke about how their Nation was successful in negotiating funding to do ground truthing for the entire length of a ROW in their Traditional Territory and marked off prayer flags, water crossings, medicines, and other species that they felt were important and needed to be protected. Once you have identified these sites, you can put forward recommendations for mitigation measures (Interview # 12, Interview #24, Interview # 23).
- **Use mapping and Oral History interviews to collect IKLUO from Knowledge Keepers.** Desktop mapping interviews will provide your Nation with a snapshot of land use and occupancy sites and help tell the story of how your Nation could be impacted by proposed projects. There are many tools that can be used to map your Nation's land use and occupancy and having internal collaboration between various departments of people within your Nation can be helpful in ensuring the process runs smoothly (Interview #19, Interview # 23, Interview #24).

Develop a database for your Nation's IKLUO and continually add information after each study you complete. Use and build on this database for each new project.

Having a dataset that you continually build upon and go back to will set your Nation up well for the future, especially when proponents come looking for your Nation's IKLUO. When you keep your IKLUO in the same dataset, it allows you to go back into the information and use it to tell your Nation's story and history. When the next project is happening, you can go back to your dataset and see what you have already collected and what kinds of gaps you might want to fill (Interview #2). Here are some other ideas on how to use your IKLUO database:

- **Use your mapped IKLUO data to overlay other project footprints to see where it might intersect with information you have already collected** (Interview # 2).
- **Use your IKLUO dataset to create maps as conversation starters** (Interview # 8).
- **Have team members who are well-versed in GIS and can put all your data into a database** (Interview # 8).



The information you collect from your Knowledge Keepers may need to be protected. Develop data-sharing agreements with the proponent to make sure your information is protected and being used in the way that you want it to be. Be sure to have strong data-sharing agreements that indicate your Nation owns the information and explicitly states how it can and cannot be used. Develop your own data-sharing agreements that you require proponents and regulators to sign onto.

- **Make sure all the data you collect comes back to your Nation.** If you are working with external consultants or proponents to collect IKLUO, make sure that you have agreements in place that require them to return all information collected to your Nation (Interview # 16).
- **Use your IKLUO dataset to develop an internal protocol for identifying and tracking sites of interest and have communication plans on how you want these sites to be treated.** Identify these sites and prepare cultural mitigations that need to be applied (Interview # 22).
- **Use your IKLUO dataset to know where certain knowledge keepers or families use the lands and waters.** If you have this information available, you will know who to speak to when a project comes through those areas (Interview # 25).

The information you collect from your Knowledge Keepers may need to be protected. Develop data-sharing agreements with the proponent to make sure your information is protected and being used in the way that you want it to be. Be sure to have strong data-sharing agreements that indicate your Nation owns the information and explicitly states how it can and cannot be used. Develop your own data-sharing agreements that you require proponents and regulators to sign onto.

Developing a data-sharing agreement is an essential step in determining how the information you share with proponents is used. If you are signing onto a data-sharing agreement, be sure to review closely, or even engage with legal council, to make sure you remain in charge of your own information. Here are some other things to keep in mind when developing data-sharing agreements:

- Hold onto your own records and information, if the proponent needs information, they can come to you (Interview # 2).
- Develop a data-sharing agreement that protects sensitive sites from public access (Interview # 3).
- For some Nations, confidentiality is an important part of the data-sharing agreement and they, therefore, add confidentiality clauses to their data sharing agreements. It protects the information from being used for any purpose other than what is outlined in the agreement. Be clear with the proponent, the Crown, or regulator on which project the information is



informing (Interview # 4). Don't let people take your information and leave, use consent and data-sharing agreements to ensure the data stays in the community (Interview # 16).

- Ensure that capacity funding is provided before data-sharing agreements are signed (Interview # 20).

6.3 USING IKLUO INFORMATION TO PROTECT AREAS OF INTEREST

Knowledge is power. Once IKLUO has been collected and documented, the next step is to use it to inform project design. The following are some approaches that Nations have used their IKLUO in powerful ways.

Stay up to date on upcoming regulatory hearings and participate by presenting evidence at the oral hearings (Interview # 1).

Influence project planning and design through early engagement with proponents. Your Nation's IKLUO can help to support your recommendations to proponents.

Use your IKLUO to protect your community's interests and influence project design and location (Interview # 2). In some instances, IKLUO data has been used as a tool to move projects to areas that may have less impact on harvesting and land use rights (Interview # 4).



Until recently, only regulatory bodies in more progressive jurisdictions, such as the Mackenzie Valley Environmental Impact Review Board required Indigenous Knowledge to be integrated in a proponent's characterization of the environment and the potential impacts of a project (Mackenzie Valley Review Board, 2005, p. 7), while in other jurisdictions Traditional Knowledge remained an optional feature in a project assessment. Key changes have been made in the new federal

Impact Assessment Act (22(1)(g)) that now require more direct involvement of Traditional Knowledge and its meaningful consideration alongside western science (Impact Assessment Agency of Canada, 2020).

However, the *Impact Assessment Act* and legislation governing other regulatory processes does not determine a formal process by which Indigenous Knowledge is integrated. It is often up to an



Indigenous Nation to advocate for how Indigenous Knowledge is considered and treated in the assessment (First Nations Major Projects Coalition, 2020, p. 67).

The absence of mapped or documented IKLUO does not mean there isn't use of the lands and waters in that area.

Preface all of your communications that include IKLUO with a disclaimer indicating that an area without data doesn't mean impacts won't occur (Interview # 2).

Use the information you collect in your TKLU to develop mitigations and accommodations that work for your Nation. Inform the proponent of your concerns and require that they co-develop a plan for protecting sites of importance. This kind of work takes capital, relationship agreements, and good communication between proponents, your Nation, and the Crown. When you provide information to the proponent on how sites need to be protected, make sure you also involve the regulator and the Crown. Ultimately, they need to make sure that the plans are carried out (Interview # 29).

Use Indigenous Environmental Monitors from your Nation to be on the line before and during project activities. Make sure the Monitors know what they are looking for and how the sites are to be protected.

The best people to identify areas of cultural and environmental importance are members of your Nation. Use environmental monitors to make sure protocols are being followed and sites are being protected (Interview #29).

The best people to identify areas of cultural and environmental importance are members of your Nation. Use environmental monitors to make sure protocols are being followed and sites are being protected.

6.4 SHARING IKLUO WITH PROPONENTS AND REGULATORS

Protection of Indigenous Knowledge is of the utmost importance.

Some Nations want to protect their Indigenous Knowledge from misuse and misinterpretation. To address these and other concerns Nation's may have with sharing Indigenous Knowledge, organizations like the First Nations Environmental Assessment Technical Working Group (FNEATWG) and First Nations Major Project Coalition (FNMPC) recommend developing written agreements between an Indigenous Nation, a proponent or agency who might be accessing the information, and anyone that is a part of completing the study that sets out how the information will be presented and used, who will have access to the information and how long they will have access



for (FNEATWG, 2004, p. 196; First Nations Major Projects Coalition, 2020, p. 68; Krehbiel, Plate, & Foy, 2009, p. 32).

Know what to share and how to share it.

It is also possible to limit the information that is shared to only what is relevant to the impact assessment process and to present any sensitive information in a way that does not give away specific locations or the identity of the individual who shared the information (FNEATWG, 2004, p. 197).

To balance the need for Indigenous Knowledge to be meaningfully considered by proponents and regulators while still protecting information, Indigenous Nations will often submit information to a regulator or proponent by way of a stand-alone report. This allows for results to be compiled in a systematic way, for a Nation to have control over what is submitted and how it is presented, and for a Nation to provide its own interpretation of how the results of the study relate to the potential impacts of the project (FNEATWG, 2004, p. 204).

The results can be collaboratively integrated into the impact assessment or provided as a separate section of the impact statement, even if perspectives conflict with the results presented by the proponent (Noble, 2016, p. 26).

Hold proponents and the Crown accountable for including Indigenous Knowledge in project reviews.

To ensure that Traditional Knowledge provided has been adequately included in the impact assessment or draft impact statement, assessment reports published by the proponent and regulatory agency should be reviewed (First Nations Major Projects Coalition, 2020, p. 69).

Collection of Indigenous Knowledge informs so much more than your participation in the project review at hand.

It is also important to consider how completing an Indigenous Knowledge study will meet not only the goals of an Indigenous Nation in a specific regulatory process, but also their longer-term goals related to land and resource management. In this regard, it is important that any study that requires the external support of a researcher or consultant involves training and capacity building to further a Nation's ability to complete future research independently (FNEATWG, 2004, p. 202).

When designing an Indigenous Knowledge study, it is also important to keep in view any future regulatory proceedings that the research may be relevant to and ensure the information collected is accessible to a Nation for future use in the long-term (FNEATWG, 2004, p. 97).

6.5 RECOMMENDATIONS TO PROPONENTS, REGULATORS AND THE CROWN

Proponents, the Crown, and regulators need to make more effort to learn about the Nations that they are engaging or consulting with.



Right now, providing Oral Traditional Evidence is transactional, not reciprocal but Indigenous cultures are reciprocal, not transactional. For proper understanding and trust to be developed, regulators, Crown, and proponents should do more to learn about the Nations they engage with by participating, where invited, in traditional ceremonies or practices (Interview 22).

How and where IKLUO information is used by proponents, the Crown, and Regulators need to be established early with direction coming from the Nations themselves.

When Indigenous Nations' information is not used properly, or at all, in a project decision it leads to broken trust. Regulators need to understand that repeated and constant government intervention with the intention to marginalize and control has led to distrust. Now, regulators want Nations to freely participate and share in project reviews. Indigenous understanding of the intent of treaties was to share the land; however, the settler understanding of treaties was to gain access to Indigenous resources by creating entities for corporations to deal with. There is an inherent imbalance (Interview 27).

7.0 GUIDANCE ON DEVELOPING CONSULTATION AND ENGAGEMENT PROTOCOLS

A recommendation that arose from the interviews and literature review was that the development and use of Nation-specific consultation and engagement protocols was an effective tool to enhance consultation and engagement processes. By employing this tool early in a project's engagement and consultation process, Indigenous Nations can communicate their expectations of proponents and the Crown and ensure negotiations are able to efficiently start by confirming key points of contact and providing relevant Nation-specific information.

While there certainly is not a "one-size-fits-all" approach to the creation of a consultation and engagement protocol, the interviews and literature review provided some useful guidance that Indigenous Nations may wish to consider should they contemplate their own Nation-specific set of rules around consultation and engagement. Links to publicly available examples of Indigenous consultation and engagement protocols and instructions on how to develop a community profile are included in Appendix A: Further Reading.

DISCLAIMER: *The following information should be considered only as guidance for creating an initial draft of a consultation and engagement protocol. Should your Nation consider developing a consultation and engagement protocol, ensure that a trusted legal advisor provides a legal review of the document before sharing it with a proponent or the Crown.*

1. Introduction/Preamble



A consultation and engagement protocol introductory section or statement describes key background information about your Nation and may include:

- A written description of Traditional Territories or Homelands.
- Pre-colonial connections to Traditional Territories or Homelands, including stewardship over lands and resources therein.
- Historic relationship with the Crown and associated agreements.
- Inherent and constitutional Rights.
- Statements of expectation that the Crown and private sector proponents seeking to conduct activities within your Nation's Traditional Territories or Homelands only do so in accordance with this Protocol, the Duty to Consult, and with your Nation's free, prior and informed consent as per Canada's adherence to the principles of the United Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Statements of expectation that the Crown and private-sector proponents respect your Nation's obligation to honour and abide by traditions and practices and respect your Nation's citizens and Traditional Territory or Homelands.

2. Description of the Purpose of the Protocol

This section briefly outlines the purpose of the Consultation and Engagement Protocol to ensure that all interactions with the Crown and proponents consider your Nation's responsibility to protect your Rights and interests, including the stewardship of your Nation's lands and waters and that the Crown and proponents respect and abide by the Protocol in all interactions with your Nation.

3. Community Profile

A section with a detailed community profile is an effective tool for communicating with the Crown and proponents as it provides detailed information on your community's natural environment, land uses, economy, social history, and cultural traditions. It also provides useful information to proponents and the Crown that enables proactive identification of your Nation's needs, available resources, and challenges.

4. General Principles to Guide Consultation and Engagement with the Crown and Proponents

This section of a protocol is intended to provide specific information to the Crown and proponents about your Nation's expectations as it relates to appropriate consultation and engagement processes. It may include (but are not limited to) statements related to:

- A requirement that consultation must result in your Nation being fully informed about projects and decisions that may impact your Rights and interests.
- That adequate funding be provided to conduct cumulative impact studies and IKLUO studies.
- That cumulative effects analysis be incorporated into any project decision.



- That your Nation's Indigenous Knowledge be given equal consideration to Western science in project decisions.
- That your Nation and its citizens be provided meaningful roles in any project-related environmental and/or impact assessment in your Traditional Territories or Homelands.
- That sufficient time will be provided for your Nation to ensure full participation.
- That all parties to the consultation and engagement process treat one another with respect and conduct themselves in good faith.
- That your Nation has the ability to determine the level of consultation and accommodation it considers necessary.
- That the Crown and proponents engage early in the planning to enable input into the identification of alternatives to proposed project activities (including the alternative of no activity occurring).
- An understanding that the Crown will always maintain an oversight role even if certain aspects of consultation are delegated to a proponent.
- That the Crown provide adequate funding to enable your Nation's participation in an environmental and/or impact assessment process.
- That in addition to project proposals, other triggers for consultation include decisions related to the co-management of resources, protection of watersheds and ecosystems, and land use planning within your Nation's Traditional Territories or Homelands.

5. Expected Notification Procedures

This section outlines the expected procedure for receiving notice of projects and decisions which may potentially impact your Nation's territories/homelands. This is an opportunity to communicate who in your Nation is the lead contact (be it an individual or department) responsible for receiving project-related communications, expectations related to timeliness of receipt of notification (ideally in the planning phase), and clarity of purpose/intent of the notification. This section may also outline the steps your Nation will take should the Crown or proponents not provide appropriate notification.

6. Policy on Costs of Consultation and Engagement

It is well understood that participation in a project-related consultation and engagement process is a costly endeavour for Indigenous Nations. This section outlines your Nation's expectation that the full cost of your participation in project-related consultation and engagement processes is to be borne by the Crown and/or the proponent. This includes but is not limited to internal costs associated with staff time, Elder honoraria, community meetings, administration, and external costs associated with technical and legal support.

7. Confidentiality



This section is an opportunity to communicate your Nation’s expectations that proponents enter into a confidentiality agreement to ensure sensitive information, like Indigenous Knowledge, that is collected during a project-related consultation and engagement process remains the sole property of your Nation and is only to be shared with the proponent at the sole discretion of your Nation.

8. Dispute Resolution

During a consultation and engagement process, disputes may arise that require resolution. This section outlines your Nation’s suggested measures to reach a negotiated resolution. It would also outline the recommended steps needed should a resolution not be reached and how and when it should be referred to mediation. Finally, should mediation not result in resolution, this section would set expectations that the matter be referred to arbitration with the expectation that at this point the Crown would become involved. Importantly, this section would note that the proponent shall bear responsibility for all costs associated with the phases of a dispute resolution process.

9. Maps of Traditional Territory or Homelands

By providing a map(s) of your Nation’s Traditional Territory or Homelands into a consultation and engagement process, you create a record of current and historical land use that informs not only the process at hand but future processes for projects yet to be announced. It provides a signal to the Crown and proponents that they need to involve you in future consultation and engagement processes for future projects that are contemplated in your Traditional Territory or Homelands as a result of them being known and understood.

10. Consultation Budget

A spreadsheet detailing the costs associated with your Nation’s involvement in a consultation and engagement process can be useful tool for setting expectations and concluding agreements with proponents and the Crown. Some of these costs can be fixed – like staff salary recovery fees, per diems, and honoraria, while expenses associated with travel, meetings, and administration will vary from project to project.

8.0 BEST PRACTICES FROM THE PERSPECTIVE OF A PROPONENT

One interview was conducted with senior staff members from Enbridge responsible for carrying out Indigenous engagement for the Line 3 Replacement Program. The interview was focused on understanding a proponent’s perspective related to best practices in engagement and expectations of Indigenous Nations during a project’s planning, construction, and operations phases.



Historically, interactions between Indigenous Nations and project proponents have been limited transactional affairs. Typically, a proponent would engage potentially impacted Indigenous Nations only during the construction phase of a project and once it had met the expected regulatory requirements, that relationship would end. Industry best practices have evolved considerably as it relates to building a relationship around a project, which has resulted in a range of key considerations Indigenous Nations should be mindful of when the next project is announced in their Traditional Territories or Homelands.

Building relationships through early engagement

Proponents are increasingly aware that for their projects to proceed, they need to build relationships with potentially impacted Indigenous Nations founded on meaningful engagement. An emerging industry best practice employed by Enbridge during the Line 3 Replacement Program was to commence engagement early during the planning and pre-filing process, well before there was any regulatory requirement to do so. Enbridge approached its project-related engagement with the intention of creating a multi-year operational relationship with potentially impacted Nations that provided an opportunity for information exchange on the project and associated engagement process and sought to identify shared interests at various stages of the project's lifecycle.

Be clear on how your Nation wants to receive information and participate in engagement processes.

In recognition of individual Indigenous Nation's preferences related to the method of receiving project-related information, Enbridge provided multiple avenues and occasions for engagement. This included workshops, community meetings, and one-on-one discussions. In all cases, Enbridge took direction from Rights Holders on who they should be engaging with (for instance, if they should include Tribal Councils or other representative organizations) and how.

Indigenous Nations who decided early on how to participate in engagement and the regulatory process – whether it be through the Nation, a company, or Tribal Council – typically achieved greater success in the process. The initial engagement process was iterative and additional Indigenous Nations, Tribal Councils, companies, and other representative organizations were scoped into the process as Enbridge became aware of their interest in participation in engagement activities.

When possible, aim for shared understandings.

Indigenous Nations who decided early on how to participate in engagement and the regulatory process – whether it be through the Nation, a company, or Tribal Council – typically achieved greater success in the process.



As can be expected, the interests of potentially impacted Indigenous Nations and Enbridge were rarely in perfect alignment. However, the engagement process provided an opportunity to identify areas where interests were compatible and areas where they were in conflict. Only through engagement were parties able to advance a shared understanding on the project's impact to Rights and discuss potential mitigation processes to minimize those impacts.

Have one point of entry for project-related information.

Enbridge recognized the various levels of capacity within different Nations and the challenge that presented to comprehensive participation in a regulatory process.

A key best practice advanced by Indigenous Nations that Enbridge observed was that those Indigenous Nations who proactively dedicated an individual to manage all project-related files and act as the primary point of contact found greater success in building relationships with the company that led to project agreements to address capacity gaps during the early stages of the engagement process. Enbridge indicated during the interview that it signed 58 project agreements with 95 communities, which provided funding for participation in the engagement process including the collection of Indigenous Knowledge and Land Use information.

Develop realistic expectations of your Nation's economic participation in the project.

Another key consideration that Indigenous Nations should be mindful of when engaging a project proponent, particularly a pipeline proponent, is in relation to expectations of economic participation.

Enbridge clarified that on a project like the Line 3 Replacement Project, which was the replacement of an active pipeline within an existing right of way, opportunities associated with construction, procurement, contracting, and employment are typically the only opportunities that can be made available to Indigenous Nations. Whereas opportunities for equity or direct participation in a pipeline project are usually limited to greenfield projects and new builds on Crown lands.

Determine what your Nation's economic interests in the project are and take advantage of the opportunities provided to you by proponents.

Large companies like Enbridge typically have supply chain teams embedded within the company dedicated to securing Indigenous economic participation. These teams participated in the early engagement process to learn about Indigenous Nation's project-related areas of interest, related capacity, and businesses. These teams helped Indigenous businesses understand the standards and expectations of companies who work with Enbridge and in many cases facilitate introductions to larger corporations who can help fill any capacity gaps that may exist. Again, it was noted that proactive Indigenous participation early in the engagement processes is important for successfully capturing economic opportunities.

Project-related economic opportunities with the highest dollar amount are typically the shortest in duration.

In addition to setting realistic expectations of economic opportunities associated with pipeline projects, Enbridge stressed that Indigenous Nations should understand that despite the high dollar



amounts associated with a pipeline's construction (close to \$9 billion for the Line 3 Replacement Program), this phase of a project lasts for only around 6 months before the contractors and equipment move to the next spread.

Turning short-term opportunities into long term prosperity.

Indigenous-owned businesses are recommended to think long term beyond their involvement in the project at hand and translate the short-term economic opportunity they've captured into a long-term strategy to grow their company sustainably. As described in the interview, *"Enbridge can be a good trigger, but one project can't support a long-term business."* Enbridge suggested that proponents need to play a role in setting expectations; however, through a solid understanding of the opportunities at play, proponents can play a role in setting Indigenous businesses up for success.

Pipeline proponents typically aren't able to commit to a specific amount of work over a 10-year period because of the eventual "cliff" that happens — there's a huge amount of work and opportunity at the beginning of a project, but then it drops away.

Leverage short term employment opportunities and skills development into long term careers.

As it relates to employment opportunities on pipeline projects, the same principles hold true as those discussed above. The opportunities are all at the beginning of a project then rapidly taper off.

Indigenous Nations need to take a long-term approach to supporting the skills development of their citizens in a way that captures the short-term benefits from the project and sets them up for success in the long term.

Proponents are keen to provide equipment operator and pipeline 101 training, but in most cases, this is not a job for the rest of an individual's life. It does, however, provide valuable experiences that a career can be founded upon. It was noted that collaboration between proponents and Indigenous Nations on training and career development is a great way to cement long-term relationships.

Throughout the review process, keep discussions on Rights and interests separate from discussions on economic opportunities.



Importantly, Indigenous Nations do not need to disclose the specific nature of the sites they identify, just ensure they are identified in a general sense so that construction teams and contractors can halt work accordingly. Indigenous construction monitors are charged with ensuring that proper protocols are engaged when construction or maintenance work near a site is occurring.

Another key consideration for Indigenous Nations is to approach project engagement from two distinct standpoints: 1) economic participation and 2) impacts to Rights. It is important that these two conversations remain separate throughout the engagement process. Indigenous Nations can miss out on substantial opportunities to protect and advance their Rights and interests when they are focused solely on business opportunities.

Early engagement = early identification of impacts to Rights.

Again, early engagement during the planning phase is key to being effective in protecting cultural resources as this is the time when changes to the route can be made. Cultural walks, bus tours, bringing your Elders and Knowledge Keepers onto the right of way are all effective ways of identifying valued components that could be impacted by a project and influence a route change during the planning process.

When sites are identified during the construction phase, it is difficult to change plans at this point and instead, mitigating impacts becomes the only option.

Enbridge agreed that proponents need to be more purposeful in ensuring these opportunities are available to all potentially impacted Indigenous Nations early in the process. There were thousands of route changes incorporated into the Line 3 Replacement Program as a result of public input, but only a minority of these changes were as a result of Indigenous input.

Being specific about sharing site locations doesn't mean you need to fully disclose the nature of the site.

As it relates to the effective use of IKLOU studies, proponents prefer receiving specific information about sites that require protection. The usefulness of an IKLOU study depends on it being specific as opposed to broad and regional. By providing specific information, proponents are able to include this on alignment sheets that inform project activities during the construction phase and throughout lifecycle operations.

Importantly, Indigenous Nations do not need to disclose the specific nature of the sites they identify, just ensure they are identified in a general sense so that construction teams and contractors can halt work accordingly. Indigenous construction monitors are charged with ensuring that proper protocols



are engaged when construction or maintenance work near a site is occurring. These protocols include identification of the site, respectful removal of the object (if a chance find) and involving Knowledge Keepers from regional Indigenous Nations to provide ceremonial mitigation.

Protecting Indigenous Knowledge

Individual Indigenous Nations ultimately determine whether they will trust proponents like Enbridge. When providing sensitive IKLUO information, Indigenous Nations should be fully apprised of how proponents are protecting this data and how it will inform project activities. This is typically done through the development of proprietary agreements between proponents and Indigenous Nations.

As an emerging best practice, Enbridge stores all IKLUO information on a unique password-protected SharePoint site removed from Enbridge's main IT system. Generic polygons are applied to alignment sheets to identify sensitive sites and if work is happening in that area, the polygon informs contractors to halt work and contact Enbridge to get more information. Enbridge then contacts the Indigenous Nation(s) responsible for that polygon with information on the planned work activities and operational maintenance in that area, which enables Indigenous Peoples' input into mitigation activities for that site and, depending on its location, full access could be granted.

While Enbridge advocates that sharing information, even in a general sense, helps Indigenous Nations protect what they care about, it is ultimately at the discretion of individual Indigenous Nations to provide whatever level of information they are comfortable with.

Ongoing purposeful engagement with proponents builds relationships and capacity that are of benefit to your Nation.

As for ongoing operational engagement, Enbridge indicates that a best practice is to ensure quarterly meetings are held between proponents of infrastructure and Indigenous Nations whose Traditional Territories or Homelands are impacted by said infrastructure.

Typically, the individual(s) who had responsibility for their Nation's participation in the regulatory process and led proponent engagement should continue to play a role as key contact ensuring the capacity built during those processes is not lost.

While Indigenous Nations have innumerable competing priorities, a willingness to continue discussions and site visits during the operations phase leads to continued opportunities to develop technical knowledge that benefits engagement in future projects and builds capacity on important topics like emergency management.

As it relates to emergency management, Indigenous Nations should ensure Enbridge has the right contact information for a dedicated contact outside of political leadership. This makes a huge difference in ensuring Indigenous Nations are actively consulted and involved in a response activity.



9.0 CONCLUDING STATEMENT

The information in this report of wise practices reflects the moment in time within which we currently find ourselves. For years to come, Canada's economy will be reliant on the development of natural resources on Indigenous territories and homelands. However, the journey of reconciliation is slowly changing the nature of the interactions between Indigenous peoples, the Crown and proponents.

This report is developed in recognition that the resource sector and the work of Indigenous Nations within this sector is constantly evolving. As the viability of major project proposals are now more than ever reliant on clearly defined criteria of environmental social governance (ESG), new methods of working together that enable a sharing of both the benefits and responsibilities are being advanced.

The Wise Practices Report is intended to contribute to this ever-changing conversation by providing information intended to 'level the playing field' as it relates to Indigenous peoples' participation in future major projects proposed in their Traditional Territories or Homelands. By creating opportunities to learn from one another, we create shared capacity and opportunities to support one another and make possible a better future for all people who call Turtle Island home.

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"Moose going under the Alaska Pipeline" by J. Stephen Conn is licensed under CC BY-NC 2.0 (report Page 48)



Appendix A: FURTHER READING

The following resources are recommended to further understand the role of Indigenous Nations in the impact assessment process, strategies for maximizing effective engagement, and approaches to establishing protocols for consultation and Traditional Knowledge.

Regulatory process strategy toolkits

[Guide to Effective Indigenous Involvement in Federal Impact Assessment, First Nations Major Projects Coalition](#)

[First Nations Environmental Assessment Toolkit, First Nations Environmental Assessment Technical Working Group](#) This toolkit is designed to provide practical support to First Nations in British Columbia who are participating in environmental assessments, but much of the information it contains is relevant to Indigenous Nations across Canada.

[Environmental Assessment Toolkit, Chiefs of Ontario](#) This toolkit is designed to provide practical support to First Nations in Ontario who are participating in environmental assessments, but much of the information it contains is relevant to Indigenous Nations across Canada.

[The Impact and Benefit Agreement Community Toolkit, Gordon Foundation](#)

Consultation protocols by Indigenous Nations or Organizations

[Alderville First Nation Consultation Protocol](#)

[Chippewas of the Thames Consultation Protocol](#)

[Taykwa Tagamou Nation Consultation and Accommodation Protocol](#)

[Northern Secwepemc te Qelmuw Consultation Guidelines](#)

[Federation of Sovereign Indigenous Nations Consultation Policy](#)

[Vuntut Gwitchin First Nation and Government of Yukon Consultation Protocol](#)

[Anishinabek/Ontario Resource Management Council: Reaching Effective Consultation](#)

Community Profile Templates and Resources

<http://indigenousplanningstudio.ca/assets/creating-a-community-profile.pdf>

<https://labrc.com/wp-content/uploads/2018/09/LG-Community-Profile-Form-English.pdf>



Indigenous Knowledge protocols by Indigenous Nations or organizations

Assembly of the First Nations of Quebec and Labrador (AFNQL): First Nations of Quebec and Labrador Research Protocol

Dehcho First Nations Traditional Knowledge Research Protocol

Gwich'in Social and Cultural Institute Traditional Knowledge Policy

Nova Scotia Mi'kmaq Chiefs Mi'kmaq Ecological Knowledge Study Protocol

NWT Métis Nation Traditional Knowledge Policy

Sambaa K'e Dene Band: policy regarding the gathering, use, and distribution of traditional knowledge

Assembly of First Nations Aboriginal Traditional Knowledge and Intellectual Property Rights

<http://indigenousplanningstudio.ca/assets/creating-a-community-profile.pdf>

Federal and provincial consultation guidelines and policy

Impact Assessment Agency of Canada: Indigenous Knowledge under the Impact Assessment Act – Procedures for Working with Indigenous Communities

Impact Assessment Agency of Canada: Collaboration with Indigenous Peoples in Impact Assessments

Impact Assessment Agency of Canada: Indigenous Participation in Impact Assessment.

Impact Assessment Agency of Canada: Assessment of Potential Impacts on the Rights of Indigenous Peoples

Canada Energy Regulatory: Energy Projects and Indigenous Peoples

Government of Alberta: Guidelines on Consultation with First Nations on Land and Natural Resource Management

Government of Saskatchewan: First Nation and Metis Consultation Policy Framework

Government of Manitoba: Interim Policy for Crown Consultations with First Nations, Metis Communities and other Aboriginal Communities

British Columbia: Guide to Indigenous Knowledge in Environmental Assessments



Appendix B: METHODOLOGY AND APPROACH

METHODOLOGY AND APPROACH

The research team used a semi-structured interview approach to collect information from identified participants. The following sections outline the methodology and approach used to complete this research.

SEMI-STRUCTURED INTERVIEWS

Structured interviews are interviews that followed a set of interview questions. Researchers developed questions that were open-ended in design and allowed for in-depth conversation and natural flow. Participants were all asked the same initial questions and, if needed, follow-up prompt questions were used.

The main questions focused on the following topics:

- Engagement with regulators and the Crown
- Engagement with project proponents
- Engaging community members on the project
- Deriving economic development opportunities
- Funding, collecting, and integrating Traditional Knowledge, Land Use, and Occupancy
- Leveraging relationships with third parties (e.g., consultants, lawyers, landowners, or municipalities)
- Working with regulators and proponents over the lifecycle of a project

A complete list of the interview questions and follow-up prompts is provided in Appendix C

PARTICIPANTS

The Line 3 IAMC provided researchers with the Line 3 IAMC contact list of Indigenous Nations in Manitoba, Saskatchewan, and Alberta. The Line 3 IAMC sent the initial emails to the contact list to inform all Line 3 IAMC Nations about the research project and provide additional information. Follow-up emails to the same list serve were completed by researchers with an invitation to participate in an interview process. A total of 4 emails were sent to the list serve. Researchers followed-up with phone calls where phone numbers were available.

Participants who volunteered for an interview were scheduled for 1-hour sessions; many of these interviews went on for longer than an hour. Participants held various positions with their respective Indigenous Nations, including community liaisons, department directors, band councillors, directors



of economic development corporations, environmental monitors, various positions of leadership, and former Line 3 IAMC committee members. A total of 31 interviews were completed. Some interviews had more than one participant, a total of 40 people participated in the interview process including 20 people from Saskatchewan Nations, 13 from Alberta Nations, and 7 from Manitoba Nations.

PROCEDURE

All participants were contacted first by the Line 3 IAMC and then again by SVS researchers. A request for interviews was made to the entire Line 3 list serve that included representatives from all First Nation and Métis Nations potentially impacted by Line 3. Email recipients were invited to respond to the email if they wanted to participate in an interview. If there was interest, SVS researchers followed-up with each person to schedule an interview. Interview questions were provided ahead of time.

Interviews were conducted via Microsoft Teams or telephone. No audio or video recordings were made, consent to participate was given verbally, and researchers took extensive notes during the conversations. In many interviews, two researchers were present. Before the interviews took place, researchers reviewed the objectives of the project and provided space for questions.

Researchers asked the same questions to each participant; in some instances, participants didn't have information to share about specific topic. At the end of the interviews, each participant was offered an honorarium of \$100.

Researchers analyzed the information by thematically coding the notes from the interviews. A second thematic coding process occurred to further distill down the information. The report outline was developed based on the themes from the interviews. Researchers made effort to not include their own biases and instead relied only on the information provided in the interviews and the literature review.

CONFIDENTIALITY

No names or identifiers have been used in this report. The identity of participants is being kept confidential by researchers.

DATA MANAGEMENT

Extensive notes were taken during the interview. These notes are kept in a secure online location that is password protected and only accessible by computers that are password protected.

Participant information, including their name, contact, home Nation or organization they represent, and their province of residence was recorded in a data management spreadsheet. This spreadsheet is only accessible to researchers and is password-protected.

STUDY LIMITATIONS

Sample Size



The information in this report is limited to the ideas and information shared by participants and the results of the literature review. The intent was to interview up to 60 people for this project but researchers were limited by a lower-than-expected response rate. The ideas, opinions, and thoughts represented in this report cannot be considered representative of all Line 3 Nations.

Interviewer, Participant, and Study Biases

Both interviewers and participants have inherent biases that can affect a research study. This is true for all studies and interviews, no matter the context or circumstance. Interview bias can stem from the social setting of the interview, perceived power imbalances between the interviewer and participant, comfort levels of the interviewer or participant, or the physical location of the interview. Researchers took the following steps to decrease interviewer and participant bias and mitigate the effects that it may have had on the Study:

- SVS informed participants of the interview process again at the beginning of the interview and provided the opportunity for questions to be asked and answered.
- All researchers made conscious choices to use plain language when asking questions, used a standard interview methodology and questionnaire, and limited the use of leading questions or statements.
- Researchers asked clarifying questions when more information or context was required.

LITERATURE REVIEW

A Literature Review was conducted to support the Wise Practices Report. It was used to identify additional key considerations for Indigenous Nations in their engagement with proponents and involvement in regulatory processes based on publications developed across Canada by Indigenous organizations or for Indigenous organizations.

IDENTIFYING KEY LITERATURE

Researchers collected and identified literature sources that discussed best practices based on the following topics:

- Case studies of Indigenous Nations participating in environmental and regulatory proceedings in all jurisdictions
- Wise practice for project readiness
 - Preparing for engagement processes with regulators and industry
 - Development and effective use of consultation and engagement protocols
 - Establishing project notification procedures/community expectations
 - Protocol development (cultural, environmental, etc.)
 - Preparing for economic development opportunities



- Skills and business inventories (developing internal inventories/access to external inventories) (Centre of Excellence EXPORT, Indian Resource Council, Canadian Council of Aboriginal Business, local Chambers of Commerce)
- Territorial opportunity scan (or SWOT analysis) to inform:
 - Joint Ventures
 - Training key personnel/skills development (monitoring, EM, reclamation, remediation, etc.)
 - Developing term sheets with proponents
- Preparing to protect and advance Indigenous Rights and interests
 - Creating capacity to consult
 - Working with consultants and lawyers
 - Writing grants
 - Aboriginal/Treaty Rights and interests assertion process
 - Building relationships with municipalities and landowners
 - Understanding provincial cultural heritage legislation
 - Establishing issue-specific Indigenous Knowledge Teams (gathering community information)
 - Community engagement/TK collection
 - Developing familiarity with regulators (understanding who regulates infrastructure in your territories)
 - Understanding how proponents and regulators speak to one another during a project lifecycle (filings)
 - Making use of UNDRIP/FPIC
- Wise practices during regulatory review processes
 - Planning phase:
 - Developing engagement and partnership plans (with regulators and the Crown)
 - Developing Letters of Agreement/Traditional Knowledge Protocol Agreements with proponents



- Building community awareness of the project and establishing methods for grassroots input
- Using TK to inform project design during the planning phase
- Negotiating Impact Benefit Agreements
- Timelines and milestones during the planning phase
- Understanding regulators' expectations of proponents (Filings Manual)
- Building relationship with proponent
- Participation in Regulatory Process:
 - Timelines and milestones during the hearing phase
 - Effective use of TK during a project's hearing phase (Oral Traditional Evidence)
 - Collaboration opportunities with regulators/proponents (studies, assessments, methodology co-development)
 - Navigating filings and regulatory websites
- Decision Phase
 - Influencing conditions of construction, operation, decommissioning, abandonment (including co-development)
 - Leveraging Nation-to-Nation status (influencing Cabinet's decision-making process, ministerial response)
- Operations and Maintenance/Lifecycle Operations
 - Post-decision collaboration (lifecycle monitoring, advisory committees, compliance, and enforcement)
 - Lifecycle collaboration with proponents (negotiating Emergency Management, environmental monitoring, contracting, and opportunities)

PROCEDURE

Documents were compiled in two ways: from literature that researchers were already aware of and from a web-based search for additional literature, with a focus on publications, websites, and documents that were published by Indigenous Nations or organizations.

Key words related to the topics listed above were used during the web-based search. Once all documents had been compiled, researchers reviewed each document and identified relevant



information. Researchers focused on information that provided context to the topics identified above or supported or complicated the findings of the interviews.

Once the literature review was complete, a list of additional resources and tools was identified. This list, along with the literature review, has been included in this report. Where relevant, information from the literature was used throughout the report to support or add to best practices identified by participants.



Appendix C: INTERVIEW GUIDE





SHARED VALUE
SOLUTIONS

Line 3 Indigenous Advisory and Monitoring Committee

Wise Practices Report

INTERNAL Interview Guide

Thank you for agreeing to take part in this discussion today. My name is _____.

To gain an understanding of the successes and challenges experienced by Indigenous Nations in working with industry around major projects, the **Line 3 Indigenous Advisory and Monitoring Committee (IAMC)** hired **Shared Value Solutions (SVS)** to conduct interviews with impacted Indigenous Nations and develop a report.

Here's a little bit of background before we get in to the questions:

ENBRIDGE LINE 3 REPLACEMENT PROGRAM (L3RP)

- Over the past six years, the regulatory review and construction of the **Enbridge Line 3 Replacement Program** has focused on the traditional territories of Indigenous Nations in Alberta, Saskatchewan, and Manitoba
- The line will have capacity to carry 760,000 barrels of crude oil per day from Alberta to Wisconsin
- Line 3 crosses territory of Treaties 1, 2, 4, 6, and 7, the Métis Nation Homeland, as well as the traditional territories of many Nations that did not sign treaties
- There is a \$5.3 billion investment in the Line 3 Replacement Program

As part of the Line 3 Replacement Program, Indigenous Nations navigated relationships with **Enbridge** and the **Canada Energy Regulator (CER)**. In working with industry, some Nations were able to influence the project's design and capture economic and other opportunities, however, these experiences varied for other Indigenous Nations.

LINE 3 WISE PRACTICES FOR INDUSTRY REPORT

Now that the pipeline is in the operations phase of its lifecycle, there is an opportunity for Indigenous Nations to reflect on their experiences during the Line 3 Replacement Program, as well as reflect on other major project experiences.

This is an opportunity to share stories about the practices that have been used, or should be used, so that Nations can benefit and effectively voice their rights and interests in the future.

The Wise Practices Report for Indigenous/Industry relations will be a tool Nations can use to:

- Have more positive relationships with industry
- Understand how industry should be acting
- Know the leverage points your Nation can use to push industry to carry out wise practices

Key points to mention before the interview:

- This interview will **not** be recorded
- We will take notes and use the key points that come out of the interview to help create what we're calling the Wise Practices Report
- Your identity will remain **confidential** as we will not refer to names in the Report
- We want to know what the best approaches to relationships in resource development have been for your community

We will ask you some questions now to hear about your community's lessons learned.

What has your involvement been with the Line 3 IAMC work?

Please note, that even if you do not have experience with Line 3, your experience and input into these questions is still valuable for our study.

Engagement with regulators and the Crown

1. What are some things you or your Nation does to ensure effective engagement with regulators and the Crown on natural resource projects?
 - a) Does your Nation have positive relationships with regulators?
 - i. If yes, what has worked in facilitating these relationships?
 - b) What should regulators be doing to build better relationships with Indigenous Nations?
 - c) How should Indigenous Nations prepare for engagement with regulators and the Crown?
 - d) What practices have worked well for your community in asserting its rights and interests?
 - e) Can you tell me about a time when your community's concerns and issues were addressed during the regulatory process or via accommodations?

Engagement with project proponents

2. What are some things you or your Nation does to ensure effective engagement with proponents on natural resource projects?
 - a) From the moment your community is notified of a project, what are the elements of effective and respectful proponent-community engagement?
 - b) What are your community's expectations for project notifications and early engagement?
 - c) How does your community track and manage the influx of natural resource development activities within your traditional territory?
 - d) In your experience, what has worked well for you to achieve your community's priorities during engagement with proponents?
 - e) Has your community effectively implemented your own consultation or cultural heritage protocol?
 - i. If yes, has this made a difference in the outcomes in your engagement with proponents?

Engaging community members and citizens on the project

3. What are some things you or your Nation does to ensure effective engagement of community members and citizens on natural resource projects?
 - a) What works to get community input on a major project in your Nations territory?
 - b) What works well to provide the community with information on a major project in your Nation's territory?
 - c) Can you think of any times when a proponent shared information with your community in a really useful way?
 - i. If yes, what made it effective?

Deriving economic development opportunities

4. What are some things your Nation does secure economic development opportunities for your community from natural resource projects?
 - a) What is needed to maximize economic opportunities associated with a project in your traditional territory?

- b) What are the barriers to a community's ability to maximize economic opportunities? How should they address them?
- c) How does your community's administration coordinate between departments to maximize economic development opportunities?
- d) Has your community negotiated a joint venture, impact benefit agreement, or other agreement with a proponent?
 - i. If yes, do you feel it was successful?
 - ii. What steps did you take to make it successful?

Funding, collecting, and integrating First Nation and Métis traditional knowledge, land use, and occupancy

- 5. What ways has your Nation effectively collected Traditional (or Métis) Knowledge, land use, and occupancy information for natural resource projects?
 - a) Has your community successfully negotiated a budget for collecting and integrating First Nation and Métis traditional knowledge, land use, and occupancy data for a major project?
 - b) What, if anything, worked well during your negotiations for a budget?
 - c) What, if anything, worked well in gathering and using your community's traditional knowledge in project planning, during the regulatory process, and in negotiations with project proponents?

Leveraging relationships with 3rd parties (consultants/lawyers/landowners/municipalities)

- 6. What are some ways your Nation has effectively worked with third parties, such as consultants, lawyers, landowners, or municipalities as part of natural resource projects?
 - a) What kinds of things are you looking for from consultants? i.e., what does a successful relationship look like?
 - b) What kinds of things are you looking for from lawyers? i.e., what does a successful relationship look like?
 - c) Do you have positive relationships with neighboring non-indigenous landowners or municipalities?
 - i. If yes, what elements need to be in place to make these relationships positive? Have these relationships been an advantage to your community during your engagement with proponents?

Working with regulators and proponents over the lifecycle of a project (including joint oversight activities, remediation/reclamation, environmental monitoring, participation in emergency management, contracting)

- 7. What are some things you or your Nation does to work effectively with regulators and proponents over the lifecycle of a natural resource project?
 - a) Can you tell me about your community's priorities as it relates to long-term relationships with regulators and proponents over the lifecycle of a project?
- 8. Is there anything else you would like to share with me today on this topic including your experience on Line 3 IAMC and lessons learned or advice you could impart to other Indigenous Nations and industry?

Thank you very much for your time. We will be preparing a Wise Practices Report, which will combine your responses with other people we will be interviewing for this study. Please keep your eyes open for a copy of the report from the IAMC in the coming months.

