NEB Modernization:
A Proposed Indigenous Engagement Plan
“No relationship is more important to our government and to Canada than the one with Indigenous peoples. Today, we reaffirm our government’s commitment to a renewed nation-to-nation relationship between Canada and Indigenous peoples, one based on the recognition of rights, respect, trust, co-operation, and partnership”

- Justin Trudeau, Prime Minister of Canada

June 21, 2016
What is NEB Modernization?
An Expert Panel has been appointed by the Minister of Natural Resources to examine:

1. Governance
   - Composition and expertise of the NEB, roles and responsibilities, and mechanisms for policy direction

2. Mandate
   - Defining the public interest, energy information and analysis, and potential expansion of the NEB mandate to other aspects of energy regulation

3. Decision Making
   - Roles of the NEB, Minister, and Cabinet regarding projects, licensing and compensation disputes

4. Legislative Tools
   - Legislative tools for lifecycle regulation, including oversight, public engagement, safety and emergency preparedness, and land acquisition

5. Indigenous Engagement
   - Indigenous engagement, including participation in all aspects of the energy infrastructure development lifecycle and the balance of interests in decision making

6. Public Participation
   - Public participation, including to support greater stakeholder and public participation in NEB activities
Indigenous Engagement Objectives

Enable the Panel to understand the context for the involvement of Indigenous peoples in informing and helping to shape NEB modernization.

Gain insight from Indigenous peoples on the mandate, structure and roles of the NEB to inform Panel recommendations for the Minister and hear Indigenous traditional knowledge.

Demonstrate a robust, responsive and transparent review process that respects Indigenous cultures and rights.

Inform and build awareness of the NEB and energy regulation among Indigenous peoples.
Engagement with Indigenous peoples is key to the Expert Panel

This plan outlines how the Panel wishes to seek input and have dialogue with Indigenous peoples to inform its recommendations to the Minister of NRCan on how to modernize the NEB. This Plan does not encompass post-report consultation activities to be undertaken by the Crown.

In December 2016, the Panel held preliminary discussions with the five national Indigenous organizations (NIOs) and governments to discuss how to collaborate on the Indigenous Engagement Plan, and determine how best to engage with Indigenous peoples.
What the Expert Panel has heard from the NIOs:

- There must be acknowledgement that Indigenous peoples are rights holders.
- Engagement with Indigenous peoples must be sought through existing Indigenous governance structures and mechanisms.
- Respect for the Nation-to-Nation relationship means giving all Indigenous communities an opportunity to contribute input.
- Learning from Indigenous Elders, women and youth will enhance Panel recommendations to the Minister.
How is the Expert Panel trying to be different?

The Expert Panel recognizes that meaningful engagement must be built by respecting and honouring that each Nation, each community, will have a unique story, perspective and experience.

In recognition of this, the Expert Panel will be guided by:

- **Respecting UNDRIP**: In keeping with the Government of Canada’s support for the UNDRIP, the Expert Panel will be guided by relevant provisions in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to help guide engagement.

- **Nation to Nation**: The Expert Panel will be guided by the Government’s commitment to a renewed relationship with Indigenous Peoples, one based on the recognition of rights, respect, co-operation, and partnership.

- **Rights-Based Lens**: The Expert Panel will familiarize themselves with the recent court cases regarding duty to consult and Indigenous title.

- **Indigenous Collaboration**: The Expert Panel will work through existing governance structures within the national and regional Indigenous organizations and governments to planning and hosting engagement activities.
The Panel recognizes Indigenous interests conducting engagement activities. The Panel wishes to have a dialogue with technical groups to gain additional expertise.

The Panel wishes to hear from individual First Nations, Métis and Inuit communities on their experiences, concerns and interests.

The Panel believes input from Indigenous youth is imperative to providing recommendations on how to improve Indigenous participation in NEB processes.

The Panel would like to seek ongoing guidance and direction from the national Indigenous leadership on its engagement activities and recommendations.

The Expert Panel wishes to collaborate with P/T Indigenous organizations and governments to invite participants to engagement sessions.

The Panel wishes to speak to organizations and groups representing the interests of Indigenous women that can provide a gender-based lens on how the NEB can be modernized.

The Panel would like to look to Indigenous Elders to share knowledge on the Indigenous way of life, the importance of understanding the connection to the land.
What questions would the Expert Panel like to ask to Indigenous peoples?

- What are the positive and negative aspects of the approach the Government of Canada has taken in recent years to engage and consult Indigenous groups on projects regulated by the NEB?
- How can Indigenous traditional knowledge and information be further integrated into the NEB application and hearing process? Are there potential constraints to this integration?
- How can Canada enhance its approach to Indigenous engagement and consultation to inform decision-making on NEB-regulated projects?
- How the Government’s approach to engaging and consulting Indigenous groups on NEB regulated projects support the Government of Canada’s goal of renewing the nation-to-nation relationship with Indigenous Peoples and moving towards reconciliation?
- How should the Government best consider and address the principles outlined in the UN Declaration on the Rights of Indigenous Peoples when undertaking efforts to modernize the NEB?
- What could be done to enhance the involvement of Indigenous peoples in the full life cycle of NEB-regulated projects (e.g., ongoing monitoring of the operation of existing projects, economic development opportunities/participation, or other roles)?

National Energy Board Modernization: Expert Panel
Recommendations must be provided to the Minister of NRCan by May 15, 2017. The recommendations will include how to improve in the following areas:

### Relationship Building
- Enable early conversations and relationship building between the Government of Canada and Indigenous peoples whose rights and interests could be affected by a project under the NEB mandate.

### Facilitating Dialogue
- Facilitate and strengthen dialogue between the Government and Indigenous peoples on projects to inform effective decision making.

### Traditional Knowledge
- Further integrate Indigenous traditional knowledge and information into the NEB application and hearing process.

### Respecting Rights
- Develop methods to better access how the interests and rights of Indigenous peoples are respected and balanced against many and varied societal interests in decision making.

### Enhanced Monitoring
- Enhance the role of Indigenous peoples in monitoring pipeline construction and operations, and in developing emergency response plans.
What might an engagement session look like?

Dialogue sessions with Indigenous facilitators

Regional Indigenous meetings with Indigenous leadership

Community gatherings, including gatherings with Elders and Knowledge Keepers

Optional bilateral dialogue with organizations

Based on feedback from regional Indigenous organizations, the Indigenous engagement sessions can take a form that suits the needs and interests of the local peoples being engaged.

Online Awareness and Participation

The Expert Panel will also reach out to Indigenous peoples through social media and Indigenous news portals such as NationTalk and Wind speak.
The Expert Panel plans to conduct engagement sessions in these locations.

To the extent possible, the Expert Panel will explore options to increase its availability to meet the needs of the Indigenous community.