

Record of Decisions  
**Indigenous Advisory and Monitoring Committee – TMX**  
**June 5-6, 2018**  
**Xwchíyò:m Cheam First Nation Multiplex Building**  
**Cheam, British Columbia**

*The Committee's goal is outlined in its Terms of Reference:*

*“The Committee is intended to form the basis of a new relationship between Indigenous Communities, the Government and the NEB in respect of the Trans Mountain Activities. The Committee provides for collaborative, inclusive and meaningful Indigenous involvement in the review and monitoring of the environmental, safety and socio-economic issues related to the Trans Mountain Activities over their lifecycles.”*

## **RECORD OF DECISIONS**

### **1. DISCUSSION WITH THE PRIME MINISTER OF CANADA**

- The Right Honourable Justin Trudeau, Prime Minister of Canada, met with the Committee to discuss the work of the IAMC-TMX. A summary of his opening remarks, are attached.
- The Chiefs of the Indigenous Caucus noted the following for the Prime Minister:
  1. The decision to buy the Trans Mountain system will have huge impacts;
  2. The IAMC must be a real co-management body, consistent with UNDRIP;
  3. The TMX must be built better, if it is going ahead;
  4. The Committee must be improved to remove roadblocks; and,
  5. The Government must consult and accommodate Indigenous nations over the decision to buy the Trans Mountain system
- The Prime Minister and members of the Indigenous Caucus discussed a variety of additional topics, including representation of local Métis communities, inclusion of traditional knowledge, reconciliation with Indigenous peoples, Aboriginal and Treaty rights, partnership with Indigenous peoples, and how the Committee should evolve.

### **2. WELCOME AND OVERVIEW**

#### **2.1 Agenda: IAMC-TMX Meeting, June 5-6, 2018**

- The Committee agenda was adopted with no amendments.

#### **2.2 Record of Decisions: April 24-25, 2018**

- The Record of Decision from April 24-25, 2018 was approved with no amendments.

#### **2.3 Record of Decisions: May 9, 2018; May 24, 2018**

- The Record of Decisions from May 9, 2018 and May 24, 2018 were approved with no amendments.

### **3. COMMITTEE VISIONING AND STRATEGIC PLANNING SESSION**

- Jessica Bratty facilitated a Committee discussion regarding its upcoming visioning and strategic planning session on June 28-29, 2018. The purpose of the discussion was to set the stage for the learning and planning exercise, and to gather the thoughts and experiences from Committee members regarding the Committee's work to date.
- To encourage an open discussion, the session was not recorded.
- Jessica Bratty and Michelle Corfield, the facilitators for the June visioning and strategic planning session, will develop and distribute a survey for Committee members. The survey will be an additional opportunity to share experiences on the Committee.

## **4. UPDATE FROM SUBCOMMITTEES**

### **4.1 Socio-Economic Impacts Subcommittee**

- The Socio-Economic Impacts Subcommittee (SEIS) recommended Tracy Friedel as its chairperson, to which the Committee agreed.
- Ray Cardinal recommended Ron Minks as a member of the SEIS, to which the Committee agreed.
- In light of the recent federal purchase of the Trans Mountain system, the Committee discussed the notion of equity and revenue sharing.
- David Murray provided the Committee with an update on the status of the work camp research that is being led by the Firelight Group. Committee members re-emphasized the importance of having representatives from the Native Women's Association of Canada be involved in the project.

### **4.2 Engagement Subcommittee**

- The Committee stressed the importance of incorporating traditional knowledge in the work of the IAMC, i.e. in the work of the Committee and subcommittees.
- The Engagement Subcommittee will hold a meeting with the subcommittee chairs to discuss their engagement needs and to consider how the Committee can better include traditional knowledge in its work and who is best placed to advance this work.

### **4.3 Marine Shipping Subcommittee**

- Caitlin Kenny provided the Committee with an update on recent activities of the Marine Shipping Subcommittee (MSS), which includes coordinating with other marine shipping initiatives and the work of the Oceans Protection Plan, compiling information that nations submitted for engagement purposes, working with American tribes, and exploring the MNP report to better understand NEB conditions that relate to the work of the MSS.
- The MSS will hold a facilitated work planning session on June 13, 2018.

### **4.4 Indigenous Monitoring Subcommittee**

- The Indigenous Monitoring Subcommittee (IMSC) held an 'inspection process workshop' April 10-11, 2018 with the NEB hosted by Tsuu T'ina First Nation. The purpose of the workshop was to support the co-development of processes and reporting of IAMC monitors.
- An 'expression of interest' for Indigenous Monitors, has been sent to all potentially impacted communities in BC and AB.
- The IMSC will hold its next in person meeting on June 12-13, 2018 in Kelowna, BC.

## **5. IAMC MONITORING ACTION PLAN**

- At the April Committee meeting, in response to recent monitoring activities, the Committee struck a small working group to develop an action plan to address the following issues:
  - Consistency of monitoring standards;
  - Protocols for chance finds;
  - Communications protocols and actions;
  - Independence of monitors;
  - Scope of inspections and surprise inspections; and
  - Processes for corrective actions.
- Naina Sloan provided the Committee with an update on the work of the small working group and discussed the latest draft action plan. Committee members stressed the importance of the IAMC Indigenous Monitoring Pilot, and emphasized that the action plan should address a range of issues, which include: clear reporting processes for the

IAMC monitors to the Committee and to communities, protocols for chance finds, further work to develop inspection processes with other regulators, dealing with differences of opinions and other issue resolution processes, formalizing the inspection processes and responsibilities, and translating regulatory information for communities.

- The working group will recommend an IAMC monitoring action plan for Committee decision by July 2018.

## **6. BLACKPOOL EMERGENCY MANAGEMENT**

- In May 2018, an IAMC monitor was on site for the Kinder Morgan emergency management exercise in Blackpool, BC. The monitor provided the Committee with an overview of their experience during the exercise. In the update, the monitor discussed serious concerns regarding respectful and professional behaviour while on site, cultural sensitivities, and the role of the IAMC monitor.
- Committee members discussed ways the Committee could help and better support the IAMC monitors (e.g. ensuring that everyone onsite is properly briefed on the IAMC monitors their role, offering cultural training programs).

## **7. PROJECT DECISIONS, PROPOSALS, AND PROCUREMENT**

### **7.1 Lower Nicola Indian Band: Conduct research and data collection on land use and environmental stewardship**

- Lower Nicola Indian Band (LNIB) requested funding to contract LGL Limited and Dr. Najmedin Meshkati to review existing technical reports and data collected for TMX to identify gaps in knowledge related specifically to LNIB's land use priorities: water protection and management, natural resource protection, fish and wildlife conservation, cumulative impacts and climate change. Documents to be reviewed include environmental baseline reports and TMX Environmental Plans developed to meet the project's NEB Conditions.
- The project was approved by the Committee with a consideration.

### **7.2 Halalt: Employ an emergency response coordinator**

- Halalt First Nation requested funding to recruit and hire a full-time Emergency Response Coordinator for a period of four years. The coordinator would be responsible for 1) Search and Rescue (SAR)/Emergency Spill Response training, employment, and equipment allocation; and 2) support, as needed, for the completion of additional Foreshore Contemporary and Traditional Use Studies to inform spill response activities.
- The project was approved by the Committee.

### **7.3 Executive Director**

- In November 2017, the Committee confirmed its need for an Executive Director to shape and implement its agenda. This individual will play a central role in understanding the diverse interests represented on the Committee (Indigenous and government) and subcommittees and find opportunities to meaningfully advance the shared goal of improving the safety of the project to protect the environment and Indigenous interests.
- The Committee discussed the difficulties related to using procurement mechanisms to retain staff and expressed a desire to explore other mechanisms to resource the Committee (eg Interchange). The existing Committee Resourcing Working Group consisting of Chief Crey (Fraser Valley), Ron Minks (Alberta First Nations), Naina Sloan (Natural Resources Canada), Brian Chambers (NEB) and Tim Dickson (JFK Law) will discuss alternative approaches to Committee resourcing.
- The Committee noted the cost of the proposed procurement contract and did not approve the proposal.

### **7.4 Budget Overview**

- Naina Sloan provided the Committee with a summary of actual and forecasted expenditures for both the Committee's Grants & Contributions budget and Operating & Maintenance budget for the 2017-18 and 2018-19 fiscal year. For work planning purposes, the Committee discussed how its priorities aligned with the financial allocations.
- The Committee indicated a desire to revisit this conversation as part of the visioning and strategic planning session.

## 8. COMMUNICATIONS

- Walter Quinlan and Bernée Bolton provided the Committee with an update on communications activities, including the launch of the new website, processes for crisis communications, and regular community updates.

## 9. UPDATES FROM REGULATORS

### 9.1 National Energy Board

- Chris Loewen provided the Committee with an overview of approved nesting deterrents and chance finds procedures. Chris will provide Committee members a written copy of this overview following the meeting.
- Committee members discussed the chance finds procedures and opportunities for the Committee to help reshape these procedures to better align it with the expectations of Indigenous communities.
- In light of the recent federal purchase of the Trans Mountain system, Committee members expressed a desire for the new owners to go 'beyond compliance', Kyle Robertson will draft advice on NEB Condition 98 to better reflect the needs of Indigenous communities. Kyle will share a draft with the Committee for review before its September meeting.

### 9.2 Fisheries and Oceans Canada

- On June 6, 2018, Fisheries and Oceans Canada (DFO) issued a warning letter to Trans Mountain Pipeline ULC regarding non-compliance with conditions of the *Fisheries Act* Authorization for construction of the Westridge Marine Terminal Expansion. Through a review of Trans Mountain's construction monitoring reports and follow-up with Trans Mountain between April 3rd and May 29th, DFO identified non-compliance with conditions of the Authorization requiring Trans Mountain to:
  1. Ensure that impact pile driving activities do not result in exceedances of underwater sound levels beyond a threshold that could result in injury to finfish and, in the event that such exceedances occur, that impact piling activities are to cease and mitigation measures are to be reviewed in consultation with DFO.
  2. Maintain a suitable marine mammal exclusion zone based on underwater noise measurements during impact pile driving activities to ensure that behavioral disturbance to marine mammals (e.g., Harbour porpoise, Steller sea lion, etc.) is avoided;
  3. Share monthly construction monitoring reports with the IAMC; and
  4. Report any non-compliance and associated remedial actions or measures to DFO and the IAMC.
- The Committee discussed its own information management processes. These processes should not only be in place to review the reports but would also ensure the reporting commitments to the Committee are being upheld.

## 10. GOVERNMENT OF BC REFERENCE CASE

- Tim Dickson provided the Committee with an overview and update on the recent Government of BC reference case. The BC government submitted a reference question to the BC Court of Appeal regarding provincial autonomy, particularly the rights of British Columbia to regulate the environmental and economic impacts of heavy oils, like diluted bitumen, transported through the province. Although the hearing date has not yet been set, a decision is expected by fall 2018.

## PARTICIPANTS

### **IAMC-TMX Members:**

- Chief Ernie Crey (Fraser Valley)
- Chief Marcel Shackelly (Mid-Fraser/Thompson)
- Chief Russell Chipps (Vancouver Island – Southeastern)
- Chief Harvey McLeod (Okanagan)
- Ron Minks (Enoch Cree Nation, alternate for Michelle Wilsdon)
- Carleen Thomas (Burrard Inlet/Lower Fraser)
- Raymond Cardinal (Alberta First Nations)
- Norine Saddleback (Alberta First Nations)
- Tracy Friedel (Alberta Métis)
- Caitlin Kenny (Vancouver Island – South)
- Kristine Pearson (Vancouver Island – Western Approach)
  
- Naina Sloan (Natural Resources Canada)
- Chris Loewen (National Energy Board (NEB), alternate for Brian Chambers)
- Ian Chatwell (Transport Canada)
- David Heap, Canadian Coast Guard
- Garth Mullins (Environment and Climate Change Canada, alternate for Barry Jeffrey)
- Cheryl Webb (Fisheries and Oceans Canada)

### **Indigenous Caucus Staff:**

- Kyle Robertson (Technical Advisor)
- Walter Quinlan (Communications Manager)

### **Regrets:**

- Michelle Wilsdon (Alberta First Nations)
- Brian Chambers (National Energy Board)
- Barry Jeffrey (Environment and Climate Canada)

### **Support:**

- Cathy Chalupa (Natural Resources Canada's Indigenous Partnerships Office – West (IPO-W))
- Bernée Bolton (IPO-W)
- Karolina Pol (IPO-W)
- Chris Sheppard (IPO-W)
- Angela Preissl (IPO-W)
- Nancy MacWhirter (NEB)
- Melanie Debassige (NEB) (day 2)
- Jacquie Béasse (IPO-W) (phone)
- David Murray (IPO-W) (phone)
- Gregg Dahl (IPO-W) (phone)
- Sarah Meurrens (IPO-W) (phone)

### **Invited Guests:**

- The Right Honourable Justin Trudeau (day 1)
- Cheryl Cardinal (Natural Resources Canada (NRCan)) (day 1)
- Philip Jennings (NRCan) (day 1)
- Peter Watson (NEB)

### **Observers:**

- Peter Hilton (Upper Nicola Indian Band)

### **Other Participants:**

- Gail Murray (Engagement Advisor)
- Tim Dickson (JFK Law)
- Vincent Rain (Paul First Nation)

## OPENING REMARKS FROM PRIME MINISTER (TRANSCRIPT)

Thank you Chief. Good morning everyone. I want to thank Councillor Andrew Victor for starting us off in the right way and welcoming us onto traditional indigenous territory. It's a real pleasure to be here today. It's a real pleasure to have the opportunity to sit down with this committee that has been doing good work and work that for me goes to the heart of something that is important not just to indigenous Canadians, not just to this government but to all Canadians which is reconciliation.

Which is the way we figure out how to turn the page on decades, generations, centuries of a broken relationship that didn't have the partnership, the respect, the collaboration and the shared path that I know all Canadians, indigenous and non, want to see in the coming years. Obviously this requires an openness and an engagement and this Indigenous Advisory and Monitoring Committee is really important for exactly that. This committee has been set up so that all the different communities along this Transmountain expansion pipeline route for example are able to weigh in and participate in the decisions that are made that will affect them as we move forward with this project.

This does not mean obviously that everyone is unanimous in their perspective on this project. I know there are folks around this table and certainly across this country that go from strongly opposed to somewhat opposed to kind of neutral to somewhat supportive to strongly supportive. I think that's really important that we continue to talk and listen and dig into the concerns and the issues that underlie some of those positions.

But I think we can all agree that as this project moves forward it's important that it be done right, that it be done in a way that minimizes concerns and negative impacts, that maximizes benefits and partnerships and that we move forward in a way that is grounded in this spirit of reconciliation. I'm very much looking forward to hearing from all of you around the table, particularly the indigenous representatives.

To share your perspective, to reflect some of the diverse voices most likely in your communities as well on this issue and demonstrate that particularly now that the federal government has a more direct role in the construction of this pipeline expansion that we get it done right, that we get it done in a way that does benefit everyone and minimize some of the concerns and potential negative impacts.

That's very much what we are doing this indigenous advisory and monitoring committee is a direct mechanism that we have to engage with you, for you to engage directly with us as we move forward together as we must.

I don't take your presence here, any one of you, as direct and immediate support for this project but I do take and I think I'm right to take your presence here as support for the idea of reconciliation, that we need to work together on and create spaces in which everyone can make their voices heard and highlight the path forward that we do together.

I want to thank you for being here today. I want to thank you for the conversations you'll have not just today but on an ongoing basis with this committee as in the coming months and years this pipeline gets built and we ensure that the way that it does move forward is as much as possible in collaboration and coordination with everyone around this table and everyone that you represent. I thank you very much for being here today and thank you in advance for all the work we're going to be doing together in the coming months and years. Merci beaucoup.