

Record of Decisions
Indigenous Advisory and Monitoring Committee – TMX
October 24-25, 2018
Tin Wis Resort
Tofino, 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. WELCOME AND OVERVIEW

1.1 Agenda: IAMC-TMX Meeting, October 24-25, 2018

- The proposed draft agenda was adopted by the Committee.

1.2 Record of Decisions: September 11-12, 2018

- The Record of Decision from September 11-12, 2018 was approved with no amendments.

1.3 Introduction to Workplan Discussions

- Each subcommittee presented their revised work plans, which were approved in principle with the following understandings:
 - The plans as presented are ambitious and not possible to complete in the 5+ months remaining this fiscal year. As a result, the **Committee agreed on priorities** (see below) that form the basis of what the Committee wishes to see achieved first and on a priority basis. Other activities may be pursued as time and resources permit, and may carry over into the next year.
 - Many priorities will require engagement with communities and other parties. Subcommittees will **align engagement efforts** to avoid duplication of work, confusion and added burden on Members and communities as they move forward. The Committee will also pursue coordinated engagement with Trans Mountain Corporation through mechanisms like regularly scheduled “tripartite discussion forums.”
 - Committee and subcommittee work is generally advanced in Tier 2 format and on the basis of consensus. Where Tier 1 discussions are needed, these will be followed by Tier 2 discussions so that **perspectives are shared and work is advanced in partnership**.
 - For plans that involve G&C projects, **project proposals will be reviewed by the G&C Subcommittee** and/or Committee consistent with the framework agreed to by the Committee on Oct 25/18.
 - Not all activities presented are at the same stage of development. Some are well understood from the perspective of scope and budget. Others are at the concept stage. Activity leads will **work pro-actively with the secretariat to execute** from the perspective of contracting, staffing and other implementation support. Subcommittees will also ensure the Committee is kept informed of progress and can provide input on direction as required.

2. SOCIOECONOMIC SUBCOMMITTEE (SESC) WORKPLAN

2.1 Workplan Overview and Priorities

- The SESC Workplan was approved in principle by the Committee in August 2018.
- Following the Federal Court of Appeal Decision the SESC reviewed the workplan and determined that the activities were still appropriate, but that additional time allowed for longer timelines and better collaboration with the other subcommittees on community engagement.
- The SESC Co-chairs provided an overview of their planned activities to March 31, 2019, and identified the following priorities:
 - Work Camp Study (work plan activity: 4.1.1)
 - Labour Market Study (work plan activity: 4.2.4)
 - Engage with proponent to understand opportunities available to Indigenous groups (work plan activity: 4.2.5)
 - Begin community engagement to advise Indigenous groups about potential opportunities (work plan activity: 4.2.1)
- In addition to engagement with Trans Mountain in the “tripartite discussion forum”, the SESC will request a staff member from Trans Mountain Corporation to sit on the subcommittee.
- The Committee reiterated its approval in principle of the work plan with a condition that the SESC develop and share an engagement plan to enable greater alignment with other engagement activities.

3. INDIGENOUS MONITORING SUBCOMMITTEE (IMSC) WORKPLAN

3.1 Indigenous Monitoring Workplan Overview and Priorities

- The IMSC Chair provided an overview of planned activities to March 31, 2019 and identified the following workplan priority:
 - Develop and roll out full monitoring program, including:
 - Agreements between Indigenous groups and regulators to carry out monitoring (work plan activity: 1.2.1)
 - Implement oversight of the line-wide program to ensure consistency in safety/technical standards and effective project management (work plan activity: 1.2.2)
 - Monitor the program to identify successes and lessons learned, and address issues (work plan activity: 1.2.3)
 - Review and provide advice on TMC’s Aboriginal Monitoring Program (work plan activity: 2.2.1)
- Committee members identified an opportunity to share their knowledge and experience with the Marine Shipping Subcommittee related to the development of a Marine Monitoring Program.
- The Committee approved the IMSC workplan in principle.

3.2 Emergency Management Working Group (EMWG) Workplan Overview and Priorities

- The EMWG provided an overview of planned activities to March 31, 2019 and identified the following workplan priorities:
 - Propose a process with partners (including Trans Mountain Corporation) that identifies gaps and develops options and recommendations to address Indigenous inclusion in emergency management (work plan activity: 2.3.1)
 - Develop a pilot project to identify gaps in Indigenous nation's capacity for an all-hazards emergency preparedness and response. The Committee identified an opportunity to work with and learn from communities who are already working in this space. (work plan activity: 4.4.9)

- Initiate discussions on development of policy for Indigenous inclusion in Incident Command systems and facilitate functional Emergency Notification system across all levels of government that works for Indigenous communities. (work plan activity: 3.3.5)
- The committee approved the EMWG workplan in principle.

4. MARINE SHIPPING SUBCOMMITTEE (MSSC) WORKPLAN

4.1 Workplan Overview and Priorities

- The NEB Member and staff recused themselves from the MSSC Workplan discussion.
- The MSSC provided an overview of planned activities to March 31, 2019 and identified the following priorities:
 - Explore and develop an Indigenous marine stewardship program: explore the idea of an Indigenous Pilotage Partnership through information gathering and engagement with communities, marine regulators and other relevant organizations. This priority work would include development of cultural training for pilots and support for building Indigenous capacity, coordinating efforts, and integrating Traditional Knowledge in marine monitoring. (work plan activity numbers: 1.4.1, 1.4.2, 1.4.3, 1.4.4)
 - Provide advice on Indigenous inclusion in spill response: engage with relevant agencies; review the proponent and government's spill notification system, response and crisis communications plans; and provide advice to improve those plans. (work plan activity numbers: 2.3.2, 2.3.3, 2.3.4, 2.3.5, 2.3.6)
 - Provide advice on marine-related conditions: examine the marine-shipping related project conditions. The Indigenous members may assess the proponents' fulfillment of those Project conditions and provide advice on improvements to the conditions or proponent's plans. (Workplan activity numbers: 3.3.2, 3.3.3)
 - Enhance Indigenous Capacity: support community member training with the Canadian Coast Guard (in coordination with OPP Marine Training), and review programs targeted at Indigenous marine training and related capacity needs such as equipment, in order to recommend areas for potential IAMC support. (work plan activity numbers: 4.2.7, 4.4.3, 4.4.4, 4.4.5, 4.4.7, 4.4.8)
- The committee identified work on the Incident Command System and Notification as areas for collaboration between the IMSC and MSSC in order to reduce the risk of duplication and maximize impact.
- The Committee approved the MSSC workplan in principle.

5. ENGAGEMENT SUBCOMMITTEE (ESC) WORKPLAN AND SPEC REPORT

5.1 Workplan Overview and Priorities

- The ESC provided an overview of planned activities to March 31, 2019 and identified the following priorities:
 - Onboard two Regional Engagement Coordinators for the Pilot Project to engage with communities on the IAMC-TMX work, capacity funding and check-in on emerging priorities (work plan activity: 7.1.2)
 - Align and support subcommittee engagement (work plan activity: 7.1.1)
 - Expand regional engagement coordinator project to onboard 2-3 additional RECs (e.g with a focus on marine shipping or a particular region) (work plan activity: 7.1.8)

- The Committee noted the need to evaluate the results of the various pilots as part of the process of moving forward to onboard additional resources.
- The Committee approved the ESC workplan in principle.

6. OTHER WORKPLAN ACTIVITIES

6.1 Other Activities Workplan Overview and Priorities

- The Secretariat provided an overview of other planned activities for the Committee, Indigenous Caucus, and Secretariat, and identified the following priorities:
 - Develop methods for selection of Indigenous Caucus members and initiate a process for Indigenous communities to determine a method to select future members and terms (work plan activity: 5.1.2)
 - Implement committee resourcing decisions (Executive Director, Science Advisor) (work plan activity: 5.3.1)
 - Develop subcommittee specific Terms of Reference (work plan activity: 5.4.2)
 - Complete Annual Report (work plan activity: 5.5.3)
 - Review of Honouraria Policy, Conflict of Interest and Confidentiality Policy (work plan activity: 5.5.4)
 - Hold Line Wide Workshop (work plan activity: 5.1.3)
- The Committee approved the activities in principle.

6.2 Communications Workplan Overview and Priorities

- The communications team provided an overview of planned activities to March 31, 2019 and identified resourcing as a priority to deliver on all activities in the workplan.
- The Committee approved the activities in principle.

7. OVERVIEW OF CAUCUS DISCUSSIONS

7.1 Report from Indigenous Caucus

- On November 28, 2018 Caucus will present evidence at the NEB reconsideration hearing.
- To select Indigenous caucus members for the next term, some regions will hold a meeting and Communications Manager Walter Quinlan is coordinating.
- Discussions are ongoing regarding caucus involvement in researching models for Indigenous equity in infrastructure.
- A Regional Engagement Coordinator for Alberta has been hired as part of the engagement pilot project.
- Questions have arisen regarding the IAMC ToRs, specifically the Annex listing eligible communities.

7.2 Report from Federal Members

- Federal members provided an overview of their roles and responsibilities with regard to the IAMC, the NEB reconsideration hearing, and project consultations:
 - The NEB stated that to ensure appropriate separation and preserve the independence of the reconsideration process, the NEB staff assigned to the reconsideration will not participate in the IAMC during this time.
 - Federal members from Natural Resources Canada, Transport Canada, Environment and Climate Change Canada, Canadian Coast Guard, and Department of Fisheries and Oceans stated their ongoing commitment to the IAMC and noted that members and their staff may be requested to provide

information and advice to the NEB reconsideration and project consultation teams as part of their departmental roles and responsibilities.

- Indigenous Members noted that they too often wear “multiple hats” and may be involved in reconsideration and/or consultation for their communities.
- All members reiterated their commitment to clear communication regarding roles.

8. COMMITTEE BUDGET, CAPACITY FUNDING PROGRAM, PROJECTS, RESOURCING

8.1 G&C Subcommittee Draft Terms of Reference and Draft Policy Framework

- Draft Terms of Reference for the G&C subcommittee were approved in principle at the September 11-12 IAMC meeting and the Committee moved to develop a framework for administering capacity funding. A working group was struck to develop the framework.
- The intent of the Terms of Reference and policy framework is to provide greater guidance to applicants, increase access to capacity supports along the line, and increase budget utilization.
- The Committee approved the policy with the following considerations:
 - Availability of funding through existing programs be a consideration during project deliberations
 - Clarify that committee members’ communities are eligible to apply, and that the member would recuse themselves from any discussion or decision
 - Explore a mechanism for subcommittee members or other experts to provide subject matter expertise to the subcommittee
 - The policy be reviewed in 6 months time
 - Further discussion about membership of the G&C Subcommittee.
- Carleen Thomas expressed interest in joining the G&C Subcommittee.

8.2 Project Decision: Enhance Capacity and Undertake Comprehensive Strategic Planning from Esquimalt Nation

- The intent of this project is to enhance capacity and comprehensive strategic planning to better position the nation, its employees, and community members to monitor and respond to all economic development opportunities, including those related to the TMX project.

The Committee provided recommendations on the proposal.

8.3 Project Decision: Enhancing Community Economic Development (CED) Capacity of the Lac Ste. Anne Métis Community

- Tracy Friedel recused herself from all discussions and deliberations related to the proposal.
- The intent of this project is to enhance the community’s internal capacity for CED over a four year period in order to increase opportunities to participate in economic opportunities related to the TMX project. The Committee acknowledged that the Lac Ste. Anne Métis community does not receive core funding from ISC or other government funding sources, and expressed a desire to support the community. The Committee raised questions regarding long-term IAMC funding amidst TMX project uncertainty. Concerns were raised regarding additional training and certifications that may be required for opportunities in oil and gas sectors, and are not reflected in the proposal.
- The Committee provided recommendations on the proposal.

8.4 Project Decision: Feasibility study for monitoring, occupational health and safety training, and data collection from Sxwhá:y Village

- The intent of this project is to conduct a feasibility study to determine the need and interest for field data collection, monitoring, and occupational health and safety training,

to identify how to increase Indigenous participation and stewardship in natural resource development projects and contribute to meaningful monitoring.

- The Committee approved the project in principle with a condition.

8.5 Project Decision: Hire and Train Environmental and Cultural Monitors from Upper Nicola Indian Band

- Chief Harvey McLeod recused himself from all discussions and deliberations related to the proposal.
- The intent of this project is to train four community members in environmental and cultural monitoring, and hire two monitors and a cultural resource manager. The proposal will build Upper Nicola's capacity to participate in environmental and cultural monitoring of the TMX project and existing pipeline.
- The Committee recommended a phased approach in the first year (to March 31, 2019) given the current status of the TMX Project and the implementation of the IAMC Monitoring Program.
- The Committee approved capacity funding for 1) training and related expenses and 2) the Cultural Heritage Manager salary. Proposed activities in future years will require further discussions about monitor salaries and connections to the IAMC Monitoring Program.
- Based on the Committee's decision, the following project activities could be considered eligible in FY 2018-19:
 - Salary for Cultural Heritage Manager (pro-rated March 31, 2019)
 - Equipment for the Manager Position (e.g., laptop/computer, iPad)
 - Professional Services (related to Training, e.g., registration fee)
 - Travel Expenses (related to Training, e.g., per diems, mileage)
 - Equipment/Supplies (related to Training)
 - Administration (up to 10% of eligible expenses)

8.6 Capacity Funding to Support Indigenous Caucus Participation in NEB reconsideration hearing

- All NEB staff recused themselves from discussion and deliberations related to the proposal.
- The intent of the proposal is to provide funding to enhance technical capacity and advice to undertake the work related to participation as an intervener in the NEB reconsideration hearing, and advice to government and regulators regarding project conditions.
- The Committee approved the proposal.

8.7 Attendance at WCMRC Spill Exercise

- Western Canada Marine Response (WCMRC) will be holding an oil spill response exercise for a spill scenario at Turn Point that simulates a spill of 10,000 tonnes of petroleum on November 7 and 8, 2018.
- The Committee approved up to 30 participants in a tour of the spill exercise and up to four (1 MSSC, 1 EMWG, 1 IMSC, 1 Committee member) participants in the full 2 day exercise.

8.8 Attendance at CRHNet Conference

- The Canadian Risk and Hazards Network is hosting a conference titled Dealing with Uncertainty: Innovation and Practice on October 30-November 1, 2018.

- The Committee approved up to 4 members to attend the conference (1 MSSC, 1 EMWG, 1 IMSC, 1 Committee member).

8.9 Committee Budget and Resources

- The secretariat will prepare a reprofile request for unused committee G&C funding to be available in future years
- The Committee is moving forward on hiring an executive director through an interchange, committee members are to provide names of potential candidates to send an invitation to apply
- Committee member Michelle Wilsdon (Alberta First Nations), is returning from leave as of November 2018. The Committee thanked Ron Minks for his contributions in her absence.

9. Line Wide Gathering

- The planning team is seeking a replacement facilitator.
- Indigenous Caucus members are requested to reach out to the Indigenous groups in their region to ensure the invitation has been received.

10. EM Exercise at Westridge Terminal

- The Indigenous Monitoring Subcommittee participated in an Emergency Response exercise at the Westridge Terminal in Burnaby in September 2018.
- Subcommittee members felt it was a valuable exercise, allowing the IAMC to provide input on best practices with regard to chance finds, and improving the relationship with regulators.

13. Communications

- The Committee approved in principle a graphic version of the strategic framework and Canoe (How we work together).

PARTICIPANTS

IAMC-TMX Members:

- Chief Ernie Crey (Fraser Valley)
- Chief Marcel Shackelly (Mid-Fraser/Thompson)
- George Lampreau (BC Interior)
- Chief Harvey McLeod (Okanagan)
- Ron Minks (Alberta First Nations, alternate for Michelle Wilsdon)
- Carleen Thomas (Burrard Inlet/Lower Fraser) (by phone)
- Raymond Cardinal (Alberta First Nations)
- Norine Saddleback (Alberta First Nations) (by phone)
- Tracy Friedel (Alberta Métis)
- Caitlin Kenny (Vancouver Island – South)
- Kristine Pearson (Vancouver Island – Western Approach)

- Naina Sloan (Natural Resources Canada)
- Brian Chambers (National Energy Board)
- Ian Chatwell (Transport Canada)
- Lindsay Funk, (Canadian Coast Guard, alternate for David Heap)
- Garth Mullins (Environment and Climate Change Canada, alternate for Barry Jeffrey)

Indigenous Caucus Staff:

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

Other Participants:

- Tim Dickson (JFK Law)

Support:

- Cathy Chalupa (Natural Resources Canada's Indigenous Partnerships Office – West (IPO-W))
- Bernée Bolton (IPO-W)
- Vananh Nguyen (IPO-W)
- Jacquie Béasse (IPO-W)
- Sandia Wu (IPO-W)
- Twyla Smith (IPO-W)
- Anthony Cotter (IPO-W)
- Kathy Liu (IPO-W)

Invited Guests:

Observers:

- Chief Anne Mack, Toquaht Nation (Day 1)
- Linda Aidnell, Lyackson First Nation (Day 2)
- Bill Adsit, Socio-Economic Subcommittee

Regrets:

- Cheryl Webb (Fisheries and Oceans Canada)
- Chief Russell Chipps (Vancouver Island – Southeastern)