

Record of Decisions
Indigenous Advisory and Monitoring Committee – TMX
January 15-16, 2018
Douglas Fir Ballroom A, Pacific Gateway Hotel
Richmond, British Columbia

RECORD OF DECISIONS

1. WELCOME AND OVERVIEW

1.1 Agenda: IAMC-TMX Meeting, January 15-16

- The proposed draft agenda was adopted by the Committee with no amendments.

1.2 Record of Decisions: IAMC-TMX Meeting

- The Record of Decision from the December 12-13 was approved with the following amendments:
 - Section 2 sub-bullet 4: *The recruitment, training, and employment of the local Indigenous monitors was discussed at length by the Committee. In an effort to make it easier for impacted communities in Alberta to participate in the pilot program, Committee members expressed the importance of articulating the specific time commitments expected for each monitor (i.e. How long are inspection activities? How many inspections will they take part in?). Committee members also suggested increasing the training budget to account for employee turnover.*
 - Section 2 sub-bullet 5: *Committee members highlighted the importance incorporating Traditional Ecological Knowledge, local Elders, and cross-cultural training for the NEB into the pilot project. There was a suggestion that part of the proposal could be expanded to these items.*

2. PROJECT DECISIONS AND PROPOSALS

2.1 Development of a Framework for Oversight of the Kinder Morgan Trans Mountain Project (MNP LLP)

- The Committee approved to proceed with the revised proposal from MNP LLP to develop a framework for oversight of the Kinder Morgan Trans Mountain project.
- The revised proposal has a narrowed scope, and the Committee has a greater role in developing the framework. A small group tasked with overseeing the project, comprised of Carleen Thomas (Burrard Inlet / Lower Fraser), Caitlin Kenny (Vancouver Island – South), Michelle Wilsdon (Alberta First Nations), Tim Dickson (JFK Law), Brian Chambers (NEB), Naina Sloan (IAMC-TMX Co-Chair), and Gregg Dahl (IPO-West) will engage with representatives from MNP LLP on January 17, 2018 to discuss next steps. The group will adapt the proposal as required and keep it on task. The group will report back to the Committee at the February IAMC-TMX meeting.
- The Contribution Agreement Holder (recipient) for this project still needs to be identified.

2.2 Developing a Network of Experts (Kyle Robertson, IAMC-TMX Indigenous Caucus Technical Advisor)

- The Committee, through Kyle Robertson (IAMC-TMX Indigenous Caucus Technical Advisor), will continue to explore developing a network of local knowledge holders. The primary goals of this project is twofold: (1) to further engage with and build capacity in

the impacted communities, and (2) explore the integration of western and traditional knowledge.

- Kyle Robertson will develop a phased project proposal (phase 1 and phase 2) – phase 1 will focus on finding an expert to develop the network of experts and contract holder(s); phase 2 will focus on developing a project to implement phase 1. The proposal will be presented to the Committee for decision at a subsequent meeting.

2.3 Upcoming Proposals

- Naina Sloan (IAMC-TMX Co-Chair) provided the Committee with an overview of the proposal process for the Committee's community capacity funding program, which involves engagement, assessment, and decision by the Committee. The Committee agreed to allow Committee members to make project decisions between meetings by email.
- The Secretariat, at the meetings, will provide the Committee with updates on all Grants and Contributions projects being developed.

3. UPDATE FROM THE IAMC-TMX MONITORING PILOT

- Raymond Cardinal (Alberta First Nations) provided the Committee with a brief update on the work done on the IAMC-TMX monitoring pilot project. As the TMX construction schedule is still largely unknown, there has been a focus on training and outreach.
- Paul First Nation Industry Relations Corporation (PFN-IRC) met with the majority of the impacted Alberta First Nations and Métis groups. However, to date, only monitors from Paul First Nation have been identified. Raymond has requested that other Committee members to refer possible candidates.
- The Indigenous Monitoring Subcommittee will work with PFN-IRC to develop an overview of the necessary qualifications for an individual to become a Jr. Monitor, and further discuss how to get 'boots on the ground' in the other constructions spread (with special attention to the Westridge Marine Terminal).
- Raymond will provide the Committee a 1-page summary, updating the work of the project, at subsequent IAMC-TMX meetings.

4. COMMUNICATIONS

- Walter Quinlan (IAMC-TMX Indigenous Caucus Communications Manager) provided the Committee with an overview of the IAMC-TMX social media presence. The Committee discussed protocols for dealing with negative comments, it was understood that the IAMC-TMX should welcome a diversity of views; it would not be tolerant of threatening language.
- A press release detailing the development of the IAMC-TMX monitoring pilot will be released before the end of January. Committee members were reminded of the IAMC-TMX media protocols.
- The Committee, through Walter Quinlan and the Secretariat, will explore developing brief video clips for each of the Committee members.

5. SUBCOMMITTEE FRAMEWORK POLICY

- The Committee approved the policy with the following amendments:
 - Membership section, a paragraph will be added that reads:
 - *Similarly, a subcommittee may invite representatives of Indigenous communities to participate as "Observers" in an effort to inform Indigenous communities not directly involved in the IAMC, of the work being undertaken by the IAMC.*

- Guiding principles on membership section, a fourth principles has been added which reads:
 - *Integration of Indigenous perspectives: Subcommittees will facilitate the integration of Indigenous knowledge, values and perspectives into the monitoring, regulation and performance of the TM activities. To this end, subcommittees will be guided by s. 35 of the Constitution Act, 1982 and the principles of the UN Declaration on the Rights of Indigenous Peoples. The subcommittees will also work to support honourable and respectful relationships; reconciliation; recognition of Indigenous and treaty rights; and the meaningful participation of Indigenous Communities in the oversight of the TM Activities.*
- The Committee acknowledged that this will be a living document and may co-evolve with the work of the IAMC-TMX; the policy will be reviewed in six months.

6. ENGAGEMENT

- The Committee emphasised the importance of using existing events, forums, workshops and bodies to conduct engagement work. The Secretariat has included this as a key consideration for the Engagement Advisor and has asked that they identify a way to monitor engagement opportunities and track IAMC engagement in the engagement strategy and/or implementation plan.
- The contract for IAMC-TMX Engagement Advisor will be awarded in February. The Engagement Advisor will be invited to attend the February IAMC-TMX meeting to be introduced to the IAMC-TMX members, have the opportunity to meet informally with them and build an understanding of the work of the IAMC-TMX.

7. BUDGET REVIEW, G&C UPDATE

7.1 Update on re-profiling

- Tim Dickson is preparing a letter to the Treasury Board on behalf of the Indigenous Caucus seeking off-cycle budget re-profiling for the Committee. Tim will share this with the Indigenous Caucus for comments and approval.
- The Committee will explore developing fixed agreement capacity funding options for communities. These fixed agreements will provide communities with specific capacity funding streams with a limited budget. Using template projects will reduce the necessary time to review. Norine Saddleback (Alberta First Nations), Tracy Friedel (Alberta Métis), Kyle Robertson (IAMC-TMX Indigenous Caucus Technical Advisor), volunteered to work with the Secretariat on framing these fixed agreements.

7.2 IAMC-TMX Promotional Material

- The Committee approved the proposal with no amendments.

7.3 Videoconferencing and In-Room Amplification System

- The Committee approved the proposal with no amendments.

8. TIER 1 – INDIGENOUS CAUCUS & FEDERAL CAUCUS

- The Indigenous Caucus discussed how to address the absence of a British Columbia Métis member on the Committee. The Indigenous Caucus decided that Chief Ernie Crey (IAMC-TMX Co-Chair) will engage with the three identified Métis organisations to ensure that they are fully aware of the variety of opportunities to be involved with the Committee (e.g. participation on subcommittees).
 - Chief Crey will provide the Committee with an update at the February IAMC-TMX meeting.

- The Secretariat will schedule a half-day Tier 1: Indigenous Caucus meeting every second IAMC-TMX meeting starting in March 2018.

Cathy Chalupa (Policy and Engagement Lead for the IAMC-TMX Secretariat) and Walter Quinlan (IAMC-TMX Indigenous Caucus Communications Manager), with input from Michelle Wilsdon (Alberta First Nations), will provide the Committee a summary of the November 2017 IAMC-TMX leadership meeting with Grand Chief Littlechild.

9. UNDRIP, TRC AND TREATY

- Tim Dickson (JFK Law) provided the Committee with an update from discussions with Michelle Wilsdon (Alberta First Nations) concerning how the IAMC-TMX can become a reflection of the principles outlined in the United Nations Declarations on the Rights of Indigenous Peoples; the calls to action from the Truth and Reconciliation Commission; and Treaty rights.
 - Tim Dickson will provide the Committee with a discussion paper outlining these issues at the February IAMC-TMX meeting.
 - The Committee approved a budget of up to \$15,000 to support the work being conducted for the discussion paper (e.g. travel costs, etc.)
- The Committee expressed a desire to hold a facilitated visioning session in either the late spring or early summer of 2018. The session will inform how the Committee will engage with these guiding documents (i.e. UNDRIP, TRC, and Treaty). Importantly, members stressed that this will be the beginning of a regular and ongoing discussion on the topic.

10. UPDATE FROM SOCIOECONOMIC IMPACTS SUBCOMMITTEE

- Due to the breadth of work for the Socioeconomic Impacts Subcommittee, the subcommittee may be structured slightly differently to other subcommittees. The subcommittee will use a small core group of permanent members, which includes representatives from a few Indigenous organizations, Kyle Robertson (IAMC-TMX Indigenous Caucus Technical Advisor), David Murray (Indigenous Partnerships Office – West), and a representative from the National Energy Board. The core group will liaise with temporary project-based working groups comprised of subject matter experts.
- To provide the subcommittee a mandate, the Committee will need to define what it means by ‘socioeconomic’. The subcommittee will provide the Committee with options at a subsequent IAMC-TMX meeting.
- To reduce possible overlap with other subcommittees, David Murray will consult with other subcommittee chairs regarding the scope of their respective subcommittee; this, in turn, will inform the scope of the Socioeconomic Impacts Subcommittee.
- The Committee indicated that there is a need for the subcommittee to focus on employment training and contracting opportunities for local communities. The subcommittee will ensure there are established linkages with the Economic Partnership Program.
- The subcommittee has begun to engage with local experts (including Francyne Joe, the president of the Native Women’s Association of Canada; and representatives from the Province of British Columbia) regarding the impact of work camps on Indigenous communities.
 - Tracy Friedel (Albert Métis) and Garth Mullins (Environment and Climate Change Canada) have volunteered to join the work camp research working group. Others interested can submit their names to David Murray.

11. EMERGENCY MANAGEMENT

- David Murray (IPO-West) provided the Committee with an introductory overview of the current emergency management regime applicable to TMX. The presentation provided Committee members brief overview of the roles and responsibilities within the emergency management regime, and will inform a deeper discussion at a subsequent IAMC-TMX meeting. Committee members are encouraged to send emergency management related topics to David Murray.
- Brian and/or Margaret (NEB) will present emergency response planning from an NEB perspective at a subsequent meeting.
- Tracy Friedel (Alberta Métis), Bryant McDonald (alternate for Michelle Wilsdon, Alberta First Nations), and Kyle Robertson (IAMC-TMX Indigenous Caucus Technical Advisor) will participate in Kinder Morgan's Full Scale Emergency Management and Response Exercise on January 30th and 31st, 2018 in the Jasper area on behalf of the IAMC-TMX. Chief Crey and/or Naina will inquire with Kinder Morgan whether non-Committee members (IAMC monitors) are able to attend.

12. COAST GUARD AREA RESPONSE

- Roger Girouard, the Canadian Coast Guard's Assistant Commissioner of the Western Region, delivered a presentation to the Committee outlining several Coast Guard initiatives and the integration of the Oceans Protection Plan. A central question in the presentation was: how do the Committee, Marine Shipping Subcommittee, and Indigenous communities want to be involved in the work of the Coast Guard?
 - The Committee acknowledged that it was critical to incorporate Oceans Protection Plan in the work of the IAMC-TMX.
- Committee members identified the collection of baseline data to support the "domain awareness" aspect of the OPP as a key opportunity for involvement. Project(s) to fill in gaps in existing BC Shoreline Data. Specific opportunities identified include collecting and/or mapping data related to: kelp beds, fisheries stocks, shipping traffic, water incidents. Committee members identified projects on the integration and sharing/dissemination of data using technology as other opportunities for involvement with the OPP.

13. UPDATE FROM REGULATORS

- **Environment and Climate Change Canada**
 - Garth Mullins from Environment and Climate Change Canada (ECCC), and Jennifer Huxter and Kim Jones from the Canadian Wildlife Service, delivered an update on an emergency order application filed under the Species at Risk Act related to caribou near Wells Grey Provincial Park.
 - Garth will work with Raymond Cardinal and Tracy Friedel to develop a future agenda item to discuss Indigenous involvement in the protection of caribou and other species at risk.
 - Representatives from Parks Canada will be invited to a subsequent IAMC-TMX meeting to discuss their regulatory role, and opportunities for the IAMC-TMX to engage with them.
- **Transport Canada**
 - Ian Chatwell from Transport Canada (TC) delivered an update on the NEB/TC/DFO memorandum of understanding to advance measures to benefit the recovery of the Southern Resident Killer Whale through the Trans Mountain Expansion Project Conditions. DFO, TC are planning to send a letter to Kinder Morgan to open up some dialogue regarding NEB conditions #134 and #132, those being the conditions with respect to an Updated Tanker Acceptance Standard and a Marine Mammal

Protection Program. Ian will bring the response to the Committee, through the Marine Shipping Subcommittee.

- An Oceans Protection Plan workshop is being tentatively scheduled in April, further updates will be provided as details are available.
- **Port of Vancouver**
 - Laura Strand, Patrick Coates, and Andrea MacLeod from the Port of Vancouver delivered an overview of the Port's regulatory role in relation to TMX, specifically addressing the concerns over the construction of a boom with razor wire at the Westridge Marine Terminal.
 - Committee members inquired if there are any permits required to sell, buy, or install razor wire fencing. Representatives from the Port of Vancouver will follow up with Committee members through the Secretariat.
 - The Committee is welcome to submit other questions to the Port of Vancouver through the Secretariat.
- **Fisheries and Oceans Canada**
 - Tracey Sandgathe (alternate for Diana Trager) from Fisheries and Oceans Canada (DFO) delivered an update on regulatory reviews made by DFO; and compliance monitoring at the Marine Terminal construction.
 - Committee members raised concerns about the limited DFO presence in Alberta, specifically that their Vancouver team has responsibilities in Alberta as well; and the importance of the steelhead salmon stock.
- **National Energy Board**
 - Brian Chambers from the NEB delivered an update on recent TMX construction activity; the Burnaby Mountain tunnel portals; the Notice of Motion and constitutional questions; detailed route hearing process; a request for temporary access to certain lands; route change applications; recent engagement by Peter Watson, and the recent hiring of the NEB's Engagement Specialist Angelina Silver.
 - The Committee approved the watercourse crossing workshop proposal with no substantive amendments.

14. POTENTIAL ROLES AND RESPONSIBILITIES FOR A PROPONENT'S INDIGENOUS MONITOR UNDER UNDERIP

- Kyle Robertson (Robertson Environmental Services) provided the Committee with a detailed overview of the theoretical Indigenous monitoring model that exemplifies the principles in the United Nations Declarations on the Rights of Indigenous Peoples. A central concept raised in the presentation was the importance for communities to have independent monitors.
- Committee members raised concerns surrounding a community's capacity to deliver the necessary training and resources to operate an independent monitoring program.

15. IAMC-TMX WORK PLAN

- Cathy Chalupa (Policy and Engagement Lead for the IAMC-TMX Secretariat) and Jacquelyn Béasse (Engagement and Communications Support for the IAMC-TMX Secretariat) delivered a proposed framework for a 2017/18 IAMC-TMX Strategic Work Plan. The document is intended to translate existing work planning documents into a useful communications piece.
- The Secretariat will share a draft of the document with Indigenous Caucus Staff for comments by January 22nd, 2018; then to the Committee for review by January 29th, 2018. With the goal of bringing it forward at the February IAMC-TMX meeting for decision.

16. OTHER

- The Secretariat will share a package with the Committee detailing the regulatory reviews once it becomes available.
 - The Indigenous Caucus has requested that time is provided before the February Indigenous caucus session to discuss these reviews with Indigenous Caucus staff and resources.
 - The Federal committee members have offered to invite representatives from their respective departments to speak to the Committee about the regulatory reviews at the February IAMC-TMX meeting.
- An annual leadership table meeting is being tentatively scheduled to coincide with the March IAMC-TMX meeting hosted at Cheam First Nation.
- The tentative February 13, 2018 Community Visit in Alberta will not be taking place. It will be removed from the Committee calendar.
- The Secretariat will aim to distribute reference binders for Committee members at the February IAMC-TMX meeting. The reference binder will contain foundational documents (e.g. IAMC-TMX Terms of Reference), approved policies (e.g. Subcommittee Framework Policy), Committee budget overview, the IAMC-TMX calendar, and approved decisions (e.g. Memo for Decisions).

PARTICIPANTS

<p><u>IAMC-TMX Members:</u></p> <ul style="list-style-type: none"> • Chief Ernie Crey (Fraser Valley) • Chief Marcel Shackelly (Mid-Fraser/Thompson) • Carleen Thomas (Burrard Inlet/Lower Fraser) • Raymond Cardinal (Alberta First Nations) • Norine Saddleback (Alberta First Nations) • Tracy Friedel (Alberta Métis) • Peter Hilton (Okanagan, alternate for Chief Harvey McLeod) • 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) • David Heap, Canadian Coast Guard • Garth Mullins (Environment and Climate Change Canada, alternate for Barry Jeffrey) • Tracy Sandgathe (Fisheries and Oceans Canada) <p><u>Indigenous Caucus Staff:</u></p> <ul style="list-style-type: none"> • Kyle Robertson, Technical Advisor • Walter Quinlan, Communications Manager <p><u>Other Participants:</u></p> <ul style="list-style-type: none"> • Tim Dickson, JFK Law 	<p><u>Support:</u></p> <ul style="list-style-type: none"> • Cathy Chalupa, Natural Resources Canada (NRCan), Indigenous Partnerships Office – West (IPO-W) • Margaret McQuiston, National Energy Board • David Murray, IPO-W • Jacquie Béasse, IPO-W • Karolina Pol, IPO-W • Chris Sheppard, IPO-W <p><u>Invited Guests:</u></p> <ul style="list-style-type: none"> • Roger Girouard, Canadian Coast Guard • Laura Strand, Port of Vancouver • Patrick Coates, Port of Vancouver • Andrea MacLeod, Port of Vancouver • Jennifer Huxter, Canadian Wildlife Service • Kim Jones, Canadian Wildlife Service
<p><u>Regrets:</u></p> <ul style="list-style-type: none"> • Chief Russell Chipps, Vancouver Island – Southeastern • Chief Harvey McLeod, Okanagan • Michelle Wilsdon (Alberta First Nations) 	<p><u>Observers:</u></p> <ul style="list-style-type: none"> • Laura Sparrow (Musqueam First Nation)