

DRAFT Record of Decisions
Indigenous Advisory and Monitoring Committee – TMX
April 24-25, 2018
Pacific Gateway Hotel: Red Cedar Ballroom C
3500 Cessna Dr., Richmond, BC

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, April 24-25, 2018

- In an effort to assist Committee members manage their travel and conflicting meetings, the Committee members have requested to receive earlier drafts of the agenda.
- The proposed draft agenda was adopted by the Committee with the following amendments to accommodate travel schedules for participants:
 - The MNP presentation (item #18) on April 25th will be moved from 2:30pm to 1pm, and agenda items #15, #16, and #17 will be moved to 2:30pm.

1.2 Record of Decisions: March 13-14, 2018

- The Record of Decision from February 14-15, 2018 was approved with the following amendments:
 - Inclusion of a section for Communications, which will provide an overview of the quarterly report given in March and an update on the website.

2. ENGAGEMENT

- Carleen Thomas and IAMC-TMX Engagement Advisor, Gail Murray, provided an overview of the proposed Engagement Strategy and Implementation Plan for the Committee.
- The Engagement Strategy will be delivered over 3 phases. Phase 1 will begin immediately and last until the end of September 2018. The Committee approved a budget for Phase 1 of up to \$260,000. Additional funds from existing Secretariat, IAMC-TMX, Engagement Subcommittee, and Communications budgets will also be used to deliver core activities outlined in Phase 1 of the strategy and implementation plan, including:
 - Hire the initial Engagement Coordinators (up to 5);
 - Support the first Line Wide gathering;
 - Gather needs and priorities from the 117 impacted First Nations and Indigenous communities;
 - Launch engagement focused social media; and
 - Develop activities and budget for Phase 2.
- Committee members emphasized the importance of this work and reiterated that engagement should focus on long-term relationship building. Members also highlighted the need to help translate technical project information for community members to better communicate what is happening with the project. Finally, members re-stated their

interest in further engaging Kinder Morgan and Parks Canada in the reactivation work being done in Jasper National Park.

3. IAMC-TMX INDIGENOUS MONITORS

- In response to recent monitoring activities, the Committee created a small working group to develop an action plan to address the following issues:
 - Consistency of monitoring standards;
 - Protocols for chance finds;
 - Communications protocols;
 - Independence of monitors;
 - Surprise inspections; and
 - Processes for corrective actions.
- The small working group will consist of: Chief Shackelly, Carleen Thomas, Raymond Cardinal, Vincent Rain, Norine Saddleback, Naina Sloan, and Brian Chambers, and will be supported by the Secretariat, members of the NEB, and others as appropriate. The Committee approved a budget of up to \$50,000, in principle, to support the work of this working group.
- The working group will work with the NEB Inspectors and IAMC-TMX Monitoring Leads to explore actions the parties could take to clarify and support the roles of the IAMC-TMX Monitors, such as:
 - Clarify the respective roles of IAMC-TMX monitors and regulators, focusing on processes for defining the scope of inspections (e.g. discuss what IAMC-TMX monitors and regulators' inspectors look for during inspections);
 - Establish protocols for sharing IAMC Monitors' communications and reporting with the Committee, the First Nations, and other audiences;
 - Outline a process for 'redress' (e.g. how to deal with concerns and issues that may arise during inspections);
 - Determine how to incorporate findings based on Traditional Knowledge into inspection reports; and
 - Recommend training for regulators and Kinder Morgan monitors on protocols for chance finds.
- The action plan produced by the small working group will be brought to the Committee for decision at the June Committee meeting.
- Committee members also discussed broader issues, such as racism and substance abuse, and have asked the Socio-Economic Impacts Subcommittee to further explore how the Committee can make a positive impact in these areas.

4. COMMUNICATIONS

- Walter Quinlan, Jacquie Béasse, and Vananh Nguyen provided the Committee with an update on communications activities, including: attendance at recent Indigenous Monitoring inspections; responses to social media posts; protocols for taking photos and posting them online; women in leadership; the launch of the new website; and key messages being developed regarding Kinder Morgan's April 8th announcement.
- The Committee discussed developing regular reports to help members inform community members and brief their leadership on the important work of the Committee.

5. PROJECT DECISIONS

5.1 Métis study of TMX environmental, safety and socio-economic impacts

- The primary aim of this project is to develop a study of the environmental, safety, and socio-economic impacts of the Trans Mountain project on Métis communities along the project right of way in BC. Activities would include community engagement sessions to develop qualitative and quantitative measures to inform the study. A study of the impacts

of the TMX project would enable the organization to provide recommendations to Trans Mountain to address the well-being of BC Métis Federation (BCMF) communities and members.

- The Committee understands the relationships between First Nations, the Métis and the land are complex. Issues surrounding settlements, harvesting rights, creation stories, treaties, and overlapping traditional territories were all discussed with the understanding that the Committee may need a greater understanding of the context of the proposed study, and time to consult with other knowledgeable organisations to better understand these complexities and sensitivities.
- Gregg Dahl will further discuss the proposal with Chief McLeod, Tracy Friedel, and Carleen Thomas to help discuss revisions that could be supported by the Committee.

5.2 Pipeline inspection training and certification, National Association of Corrosion Engineers (NACE)

- The project would deliver pipeline inspection training and certification for up to 13 Stó:lō community members. The training would specifically focus on coating integrity and corrosion inspections, which are critical for safeguarding pipelines from leaks and spills. The online and in class modules would be delivered through the National Association of Corrosion Engineers (NACE), an internationally recognized professional organization for the corrosion control industry.
- The project was approved with considerations.

5.3 Proactive Disclosure

- As of May 31, 2018, all Committee agreements will be posted on the open.canada.ca website, including member participation agreements. Grants and contributions are posted on the Government of Canada website on a quarterly basis according to the date an agreement was signed. If Committee members have any questions, please contact Vananh Nguyen.

5.4 Executive Director and Senior Science Advisor

- The Secretariat is working with members of the Committee who sit on the IAMC-TMX evaluation team for the Executive Director (Chief Ernie Crey, Naina Sloan, Tim Dickson, Michelle Wilsdon, Brian Chambers and David Heap) and Senior Science Advisor (Kyle Robertson, Caitlin Kenny, Tracy Friedel, Robert Steedman [NEB] and Martin Nantel [DFO]) to complete the procurement processes for these positions. The Secretariat will proceed with procurement of these resources as directed by the respective IAMC-TMX evaluation teams.

5.5 Program Officer

- The Program Officer will work within the Secretariat to assist communities develop and implement Capacity Building Program proposals. Unlike the procurement process for the Executive Director and Senior Science Advisor, this is a hiring process for a position within the Secretariat.
- The Secretariat is committed to applying employment equity provisions to seek qualified Indigenous candidates. This position will be posted externally and can be circulated widely (including through social media and the line-wide email list) once posted.
- The Secretariat has requested feedback from the Committee on:
 - A representative from the Indigenous Caucus to help with the interview and evaluation process.
 - Expressions of interest by members to support the interview process should be provided via email to Vananh Nguyen by Friday, May 11th, 2018.

5.4 Printing the IAMC-TMX Preliminary Work Plan

- The Committee approved a budget of up to \$10,000 to procure professional desktop publishing and printing services for the *2017-18 Preliminary Work Plan* (the final draft of

this document was included in the materials for this meeting). The document's potential audiences are: leadership (Indigenous and non-Indigenous); Indigenous community members; media; general public (e.g., via the IAMC-TMX website); Committee and Subcommittee members; and staff.

6. REPORT FROM INDIGENOUS CAUCUS

- The Indigenous Caucus would like to provide Dr. Michelle Corfield, the facilitator for the upcoming visioning and work planning meeting being held on June 4, with input on the meeting agenda (specifically for the UNDRIP visioning portion of the meeting).
- The Indigenous Caucus would like to be advised of hiring within the NRCan Secretariat and asked the NRCan Secretariat to include Michelle Wilsdon in all hiring processes.
- Coastal Indigenous communities have requested one-to-one consultations regarding the Oceans Protection Plan. To date, they have not received a favourable response and the Indigenous Caucus would like to address this concern.

7. SCIENCE OF DILUTED BITUMEN

- The Committee received a presentation from Dr. Carl Brown (Environment and Climate Change Canada) and Dr. Heather Dettman (Natural Resources Canada) regarding the state of federal science on diluted bitumen.
- The Committee, along with the federal guests, discussed a variety of topics which included diluted bitumen, the scientific practices used to study diluted bitumen, and communications. The Committee asked critical questions regarding:
 - **Properties and behaviour of diluted bitumen:** What is the toxicity of diluted bitumen and its composite chemicals? How does the behaviour change between lighter and heavier oils? How does it behave in the open ocean? How does rain, salinity, ultraviolet light, or particulates affect its behaviour? What is its lifecycle?
 - **Scientific practices:** How is Indigenous knowledge being incorporated in the research? What kind of case studies are being used? What are the long-term and cumulative impacts of a spill? What are the assumptions of impact assessments conducted to date? How does the federal research compare to international studies? After a spill, how are 'clean' and 'safe' defined (e.g. potential impacts on harvesting rights)?
 - **Communications:** How do we communicate this technical information to community members?
 - **Research independence:** Who has conducted the studies related to diluted bitumen that the government references? What measures does the government take to ensure independent and objective scientific findings?
- Members of the Committee emphasized that when toxins are 'dispersed' they remain in the environment, which impacts the air, land, medicine and health. For example, killer whales are absorbing many of the toxins that have 'dispersed' in the ocean over time (cumulative impacts).
- The Committee invited Dr. Brown, Dr. Dettman and interested subcommittee members to a subsequent Committee meeting to continue the discussion and specifically to work together to explore how research design can integrate traditional knowledge.

8. EMERGENCY MANAGEMENT

8.1 Presentation from the NEB

- Kent Lien and Chris Finley from the National Energy Board provided the Committee with an overview of the NEB's emergency management program, responsibilities with respect

to liaisons with Indigenous groups regarding emergency management, and examples of Indigenous involvement in emergency management with NEB-regulated companies.

- The Committee had a fulsome discussion on emergency management. Topics that were discussed included: inclusiveness of Indigenous communities in emergency management; communication protocols with local Indigenous communities; jurisdictional challenges during emergencies; understanding how recommendations made by Indigenous communities are actioned; considering adding a centre for Indigenous knowledge holders to the emergency management framework; and examples of when Indigenous knowledge was successfully used to help with a spill.

8.2 Advancing the Committee priority on Emergency Management

- Kyle Robertson and Cathy Chalupa presented the Committee with a plan to: (1) advance the Committee's priority to identify opportunities for greater Indigenous inclusion in emergency management; and (2) improve Indigenous emergency preparedness through an 'all-hazards' approach to emergency response, with a focus on long-term capacities. Specifically, they recommend that the Committee creates a small working group to develop a strategic plan to address its priorities on emergency management. The work plan would include an overview of emergency management systems, scoping the assessment, and priority focus areas, and would include subject matter experts (Indigenous and non-Indigenous).
- The Committee discussed a range of topics, which included: how the Committee's emergency management plan needs to integrate and compliment existing community emergency management plans; incorporating traditional knowledge; understanding current response rates; communicating the costs associated with participating in emergency management (e.g. personal protective equipment); and connecting this work with the Committee's engagement plan.
- The Committee approved the proposal and a budget of \$50,000 to support 1 to 2 experts/organisations to join the existing working group, which consists of Caucus Staff, NEB staff and Secretariat staff.

9. MNP: DEVELOPING A FRAMEWORK FOR OVERSIGHT

- Germaine Conacher delivered the final MNP report and a brief overview detailing key findings, an orientation of the framework tool, and uses of the tool.
- The Committee discussed how the tool can inform its work (e.g. using it as a key input for the strategic work planning meeting in June) and sharing it with communities.

10. UPDATE FROM SUBCOMMITTEES

- The Secretariat will develop a draft policy on subcommittee alternates for Committee approval at the June Committee meeting.

10.1 Marine Shipping Subcommittee

- The Marine Shipping Subcommittee sought a Committee decision to support the participation of a Committee or Marine Shipping Subcommittee member at three events:
 1. Port State Control Inspection Workshop, April 27, 2018, in Vancouver;
 2. OPP Indigenous Engagement Workshop May 8-9, 2018, in Nanaimo; and
 3. The Canadian Coast Guard-United States Coast Guard Joint Contingency Plan (CANUSPAC), May 15-16, 2018, in Port Angeles, Washington.
- The Committee approved the request with the following amendment:
 - The Committee agreed to support the participation of all interested Marine Shipping Subcommittee members to attend the CANUSPAC workshop on May 15-16, 2018 in Port Angeles.

10.2 Indigenous Monitoring Subcommittee

- The Indigenous Monitoring Subcommittee recommended Raymond Cardinal as its chairperson, to which the Committee agreed.
- The Indigenous Monitoring Subcommittee members unanimously supported a project proposal developed by the Lower Fraser Fisheries Alliance titled *Review of Kinder Morgan Canada's (KMC) spawning deterrent mats monitoring plan and Pacific Salmon Foundation's (PSF) monitoring plan for watercourse crossings*. The project will be brought forward for Committee decision by the June Committee meeting.

10.3 Engagement Subcommittee

- The Engagement Subcommittee sought a Committee decision to support the participation of up to three IAMC-TMX members in the Assembly of First Nations Special Chiefs' Assembly on Federal Legislation, in Gatineau, QC, on May 1-2, 2018. The members attending would provide information on the role and mandate of the IAMC-TMX through the operation of a shared information booth (trade show), network with delegates, and attend dialogue and plenary sessions.
- The Committee approved the request with no amendments.

10.4 Socio-Economic Impacts Subcommittee

- Following Kinder Morgan's April 8th announcement, the Socio-Economic Impacts Subcommittee and the Firelight Group revised the approach for the work camps project. The first phase of the project will now proceed until May 31st, and the second phase will be premised on Kinder Morgan's decision to proceed.

11. VISIONING AND STRATEGIC WORK PLANNING MEETING AND LINE-WIDE GATHERING

- Given the recent developments on the project, and the already busy Committee calendar, the Committee has decided to move the Line-Wide Gathering to late-September or early October 2018.
- Chris Sheppard will canvass Committee members for possible dates for the Line-Wide Workshop.
- Chris Sheppard will confirm the proposed Committee meeting dates between September 2018 and March 2019. A final and approved version of the Committee calendar will be distributed at the June Committee meeting.

12. CHIEF CREY'S PRESENTATION TO THE STANDING COMMITTEE ON ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

- Chief Ernie Crey and Mae Price (JFK Law) updated the Committee on Chief Crey and Tim Dickson's appearance before the Standing Committee on Environment and Sustainable development, on behalf of the Indigenous Caucus. During the oral submission, Chief Crey provided the Standing Committee with two major recommendations:
 1. The Acts should be amended to allow for the delegation of authority to "Indigenous organizations," rather than such delegation being limited to "Indigenous governing bodies"; and
 2. The Acts should be amended to allow sufficient time to form Indigenous committees to advise government on the assessment and regulation of projects.
- Chief Crey also noted that during a portion of the question and answer period, he was speaking as the Chief of Cheam First Nation, not as the co-Chair of the Indigenous Advisory and Monitoring Committee. This was made clear during the question and answer period.

13. KINDER MORGAN'S APRIL 8TH ANNOUNCEMENT

- On April 8, 2018, Kinder Morgan Canada announced that it will suspend all non-essential activities and related spending on the Trans Mountain Expansion Project. Kinder Morgan also announced that under current circumstances, specifically including the continued actions in opposition to the Project by the Province of British Columbia, it will not commit additional shareholder resources to the Project. However, Kinder Morgan will consult with various stakeholders in an effort to reach agreements by May 31st, which may allow the Project to proceed. The focus in those consultations will be on two principles: clarity on the path forward, particularly with respect to the ability to construct through BC; and, adequate protection of Kinder Morgan shareholders.
- The Committee discussed possible implications this announcement may have on its work (the Committee confirmed it would move forward with its work, regardless of the announcement) and the lack of clarity of what constitutes 'non-essential activities.'

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)
- Brian Chambers (National Energy Board)
- Cindy Hubbard (Transport Canada, alternate for Ian Chatwell – day 1)
- Evan Jones (Transport Canada, alternate for Ian Chatwell – day 2)
- 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)

Other Participants:

- Gail Murray (Engagement Advisor)
- Mae Price (JFK Law)

Support:

- Cathy Chalupa (Natural Resources Canada's Indigenous Partnerships Office – West (IPO-W))
- Margaret McQuiston (National Energy Board)
- Vananh Nguyen (IPO-W)
- Jacquie Béasse (IPO-W)
- Karolina Pol (IPO-W)
- Chris Sheppard (IPO-W)
- David Murray (IPO-W) (phone)
- Gregg Dahl (IPO-W) (phone)

Invited Guests:

- Vincent Rain (Paul First Nation) (day 1)
- Dr. Carl Brown (Environment and Climate Change Canada) (day 2)
- Kent Lien (National Energy Board) (day 2)
- Dr. Heather Dettman (Natural Resources Canada) (phone) (day 2)
- Chris Finley (National Energy Board) (day 2)
- Germaine Conacher (MNP LLP) (day 2)

Observers:

- Tyrone McNeil (Vice President, Board of Directors, Stó:lō Tribal Council)
- Observer 1 (Tsuu T'ina Nation) (day 1)
- Observer 2 (Tsuu T'ina Nation) (day 1)
- Chris Loewen (National Energy Board)

Regrets:

- Michelle Wilsdon (Alberta First Nations)
- Ian Chatwell (Transport Canada)
- Barry Jeffrey (Environment and Climate Canada)