

Terms of Reference for Bilateral Management Committee Members – Bilateral Water Management Agreement between BC/YT

Finalized July 24, 2020

1. Background

In 1997, the Governments of Canada, British Columbia (BC), Alberta, Saskatchewan, Northwest Territories (NWT), and Yukon signed the *Mackenzie River Basin Transboundary Waters Master Agreement*, in order to promote cooperative water management across the Mackenzie River Basin. The Master Agreement commits all six (6) governments to work together to maintain the ecological integrity of the aquatic ecosystem of the entire Mackenzie River Basin and develop bilateral water management agreements (BWMA). These BWMA are world-leading examples of provincial and territorial governments working together with Indigenous governments to manage shared aquatic ecosystems in a sustainable manner for present and future generations.

The [Bilateral Water Management Agreement signed by the Province of British Columbia and the Government of Yukon](#) (BC/YT BWMA) mandates that the Province and territory will establish a Bilateral Management Committee (BMC) to administer the Agreement and report on its achievements. Indigenous groups from BC and YT are key members of the BMC.

2. Purpose of Terms of Reference

These Terms of Reference (ToR) are intended to supplement section 13 of the Agreement, which specifies BMC administration. The ToR is intended to guide the scope of work for BMC members and Technical Committee members related to classifying transboundary waters, establishing learning plans, setting, monitoring and assessing the achievement of transboundary water objectives in the Mackenzie River Basin, and providing a mechanism for information sharing, notification, and consultation; as well as administering the Agreement and reporting on its achievement. The ToR outlines the membership, roles and responsibilities, principles of engagement, communication protocols, and decision-making structure.

3. BMC Membership

Section 13.1.1(c) of the BC/YT BWMA sets out that the BMC will consist of relevant expertise from each Party, including at least one senior water manager, and may include subject to section 13.1.1(d) First

Nation or other Aboriginal organization representation. For the purposes of this BMC, this will include representation from the following Aboriginal organizations:

- Tahltan First Nation
- Acho Dene Koe First Nation
- Teslin Tlingit Council
- Kaska First Nation

Alternates and additional members may be appointed as needed. Membership is subject to change.

The BMC meetings will be supported by working groups that prepare materials in advance of the annual meeting. Each Party is encouraged to have representation on any working groups formed to support the implementation of the Agreement.

4. Roles, Responsibilities, and Functioning of the BMC Working Group Members

As stated in section 13.1.2 of the Agreement, several duties are required of the BMC:

- a) *The BMC will develop and implement its internal working procedures including chairing, meeting records and financial tracking as needed.*
- b) *The BMC will meet at least once annually and may invite other participants, including individuals from First Nations, Aboriginal organizations, senior officials, advisors, and technical staff to the meeting as required to inform the decisions of the BMC.*
- c) *Each party will ensure a mechanism is in place to solicit and bring forward, in advance of the annual meeting, any input and interests from their public and First Nations and/or Aboriginal organizations.*
- d) *The BMC may establish committees to ensure the efficient and effective application of the Risk Informed Management (RIM) approach and to undertake other duties as required. Further details regarding the RIM approach will be developed by the Bilateral Management Committee (BMC) over time*
- e) *The BMC will document outcomes of the bilateral consultations, track the achievement of the commitments in this Agreement, and prepare an annual report to be submitted to the responsible Ministers and made publicly available, that may identify issues and recommendations as required.*
- f) *The BMC will develop and approve a 3-5 year work plan that includes a review process as required to continually improve the Bilateral Water Management of Transboundary Waters.*
- g) *Each year, the BMC will approve an annual budget subject to the provisions in section 13.2.*
- h) *The BMC will undertake other activities as required to fulfill the commitments under this Agreement.*

4.1 BMC Member Responsibilities

Each BMC member is expected to prepare for BMC meetings. Each member will:

- be familiar with the contents of the BC-YT BWMA and Appendices,
- review relevant information and be fully prepared to participate in meetings,
- make every effort to represent and speak for their organization,
- be willing to seek areas of agreement and uphold agreements that are reached,
- be committed to understanding and working to balance the interests of each member while seeking consensus on decisions among all members of the BMC,
- be committed to attending BMC meetings in person, unless otherwise agreed to, and
- ensure the alternate is fully prepared to take part, as and when required, should the member be unable to attend a BMC meeting in person.

4.1.1 Appointing Co-chairs

Each Party appoints a Co-chair(s). Co-chairs are selected from among the BMC members, and may be a provincial, territorial, or Indigenous member. Co-chairs for the next BMC meeting will be identified at the conclusion of each BMC meeting, and confirmed during the planning phase for each meeting.

4.1.2 Meetings and Quorum

There will be a minimum of one face-to-face BMC meeting per year. Teleconference meetings will be used to prepare for face-to-face meetings, and to address issues or developments between the BMC meetings, as needed. Quorum on key decisions is achieved when all BMC members are in attendance or have agreed to a decision through email.

The location of BMC meetings will alternate between the jurisdictions who are party to the Agreement.

4.1.3 Technical Support, including Guests

Any BMC member may invite technical or support staff to attend BMC meetings. Technical or support staff have no decision-making role.

As stated in section 13.1.2b of the BC – YT BMWA, guests may be invited to give presentations, answer questions, or engage in discussion. Guests may include people with technical, Indigenous or policy knowledge that is relevant to the BMC meeting topics. Guests may attend BMC meetings at the request of a BMC member and subject to approval by all BMC members. Guests will have no decision-making role.

4.1.4 Decisions

As outlined in section 13.1.1(e) of the Agreement and Section 5: Principles of Engagement, the BMC will make decisions by consensus and decision-making will be based on each Party having one vote. In the event of a dispute or question, either Party may seek resolution outlined in section 14 of the Agreement. Yukon and British Columbia will document and share with BMC members reasons for any decisions that are not made as a result of consensus of the BMC.

Decisions delayed beyond the in-person annual BMC meeting(s), or decisions that need to be made regarding preparatory work, can be communicated by email to all relevant members so as to not hold up progress.

4.2 Working Groups

Working Group(s) may be struck to support the implementation of the Agreement. Working group members will comprise provincial, territorial, and Indigenous representatives, and other subject matter experts as needed.

Members of the working groups commit to working together to assist in preparations for and readiness of the BMC members for the annual BMC meetings. Working group meetings will also take place as required.

It is anticipated that the working group(s) will meet (in person or by teleconference) several times throughout the year to prepare for BMC meetings and undertake implementation work that includes work planning, annual reporting, learning plan research, collaboration, drafting communications plans and related materials and knowledge sharing. As per section 13.1.2(d), the technical committee(s) will also work to ensure the efficient and effective application of the RIM approach and undertake other duties as required.

Responsibilities of Technical Committee(s) members include:

- Attending and participating in all meetings. Where possible, members will arrange for an alternate if they are not able to attend.
- Reviewing relevant information and being prepared to fully participate in meetings.
- Addressing and completing actions that they have agreed to in a timely manner.
- Making every effort to represent and speak for their agency by keeping their BMC member and/or senior management informed on progress and seeking direction as required to support upcoming decisions and recommendations.
- Seeking areas of agreement and upholding agreements that are reached.
- Ensuring that their alternate member is fully informed and prepared to represent them, as and when required.

The technical committee(s) will seek consensus on decisions, which can be communicated by email to all members. Should the technical committee members be unable to reach consensus, they will seek guidance and direction from the BMC.

4.3 Communication Protocols

4.3.1 Discussions with other BMC or Working Group members

- Each government (provincial and territorial) is responsible for staff to provide secretariat duties to the BMC. The secretariat will help prepare meeting, communication, and briefing materials, annual reports and other such duties, and ensure they are sent to participants in a timely fashion for consideration and review. The secretariat will ensure coordination between the

BMC and working group(s), as well as communication and approvals between Indigenous members.

4.3.2 Communications outside BMC/Working Group(s)

- The BMC recognizes the importance of effective communication and will strive to prepare a variety of communications materials that are suitable for multiple audiences, including Indigenous communities and the public. Materials may include the development of videos, pamphlets, a website, infographics, and any other mutually agreed upon materials that may be deemed suitable to support clear communications about activities related to implementing the Agreement.
- The above-described commitment to effective communication is in addition to commitments to carry out annual reporting to the responsible Ministers and the public, as outlined in section 13.1.2(e) of the Agreement.
- All information and records related to the BWMA may be shared, unless otherwise stated. A knowledge sharing protocol may be developed.
- BMC and working group(s) members will, when appropriate, collaborate to prepare communications materials.

4.3.3 Media requests

- Each government (provincial and territorial) will endeavour to apprise the other BMC members of media requests received and communication responses given, related to the BWMA.

5. Principles of Engagement

In addition to the aforementioned specific roles and responsibilities, members of the BMC and working group(s) will be guided by the following principles:

Government-to-government relationships. The BMC members each recognize the importance of the collective government-to-government relationships and strive to work positively together to achieve shared outcomes that meaningfully consider the interests of each member. Members will trust and respect the mutual interests and perspectives and conduct an honest and constructive dialogue to foster a collaborative working relationship.

Mutual accountability and transparency. Each member is responsible for its effective participation in BMC and technical committee meetings and related work activities and work with each other to understand each other's interests and shared goals and to advance tangible results and decision-making in an efficient and timely manner. A clear record of all actions and decisions will be maintained.

Informed, consensus-based decision making. BMC members will work together in ways that seek to align with the intentions and principles of the UN Declaration on the Rights of Indigenous People (UNDRIP) and the Truth and Reconciliation Calls to Action.

Actions and decisions of the BMC will be informed by the best available science and Indigenous knowledge. As per section 3.1 of the BC – YT BWMA, the BMC and working group members will jointly undertake actions and next steps that reflect a commitment to long-term sustainability and the benefit of future generations. The BMC acknowledges and respects the diverse interests of their broader constituencies and is committed to meaningful engagement with Indigenous and other governments, and communities, and interested parties throughout the watershed. Different parties may be engaged in different ways depending on their perspectives on and relationship to a particular issue.

Co-learning, innovation, and adaptability. BMC members acknowledge that they are working together to manage the transboundary waters of the MRB and maintain the ecological integrity of the aquatic ecosystem. The Parties acknowledge and respect the intrinsic value of water and nature to Indigenous Peoples and other Yukon and British Columbia residents. Therefore, they anticipate innovative, proactive solutions will emerge over time as a result of working together in partnership. BMC members will strive to be open-minded and receptive to new ideas and committed to exploring and learning together and openly sharing relevant information, research and knowledge. They view differences of opinion as opportunities to learn. Agreements, structures, and processes, including these terms of reference, will be periodically reviewed, evaluated and adapted based on lessons learned.

Recognition of Indigenous laws, policies, and principles. The BMC is committed to seeking full participation of Indigenous members in the implementation of the Agreement, which may include integrating Indigenous laws, plans, strategies, policies and knowledge for cooperatively managing transboundary waters in the Mackenzie River Basin.

6. Resourcing

The BMC will approve work plans and associated resourcing requirements. Resourcing of implementation tasks will be consistent with Appendix J of the Agreement, where bilateral tasks will be jointly funded and jurisdictional costs will be borne by the individual jurisdiction.

BC and YT will provide funding to support participation of the respective Indigenous members on the BMC and on the technical committee(s). Each respective government will work with Indigenous members to determine the appropriate type and level of support they can provide.

7. Periodic Review of the Terms of Reference

These terms of reference will be reviewed on a regular basis by the BMC to determine if amendments are needed. The BMC will approve amendments.