

Environmental Assessment Revitalization Indigenous Implementation Committee Meeting February 7, 2020 – 8:45 AM to 2:00 PM

Attendees:

Co-Chairs: Scott Bailey and Ang Smith

Attending IIC Members: Sunny LeBourdais, Anna Usbourne, Bruce Muir, Nicole Kapell, Angel Ransom, Jackie Thomas, Melanie Walker, Dave Nordquist, Ang Smith

EAO Attendees: Amy Avila, Trish Sterloff (phone), Danielle Smyth, Nathan Braun (phone), Mark Haines (phone), Melissa Westaff

FNLC Observers: Paul Blom, Zaria Stoffman, Sara Millman (via phone)

Committee Administration

- EAO noted that another in-person meeting is scheduled for February 26 and is intended to be the last meeting.
- IIC member asked for clarity regarding the Progress Report and suggested that if no further meetings will be scheduled then the report should not be named Progress Report as this name suggests that it is not a final report.
- EAO advised that its understanding was that the committee's scheduled meetings would be concluding and added that despite this, the intent is to continue engagement in some manner. From EAO's perspective, two or three meetings were to be held in the New Year as the work on the IIC's list of priorities is close to being complete.
- IIC members noted that they would like to receive formal guidance from the political level on the timing of the conclusion of the IIC and the scope and mandate of any further work, particularly in relation to any of the topics that the FNLC has identified for discussions at the political level.
- IIC members suggested that the IIC could draft a letter to FNLC seeking this direction.
 - IIC members agreed to caucus following the IIC meeting, to discuss amongst members about sending this letter.
- EAO advised that all meeting notes up until December 10 have now been posted online and reminded the committee that notes from the January 16 meeting have been circulated. **ACTION** - IIC members to provide comments on notes to Danielle by February 20.
- Action items were discussed. IIC member asked if the action item "EAO to recirculate Intentions Paper" was the Dispute Resolutions Intentions Paper and if this was distributed.
 - EAO confirmed that this was sent out as part of the previous package of materials on January 16. **ACTION** – EAO to re-circulate the DR Intentions Paper and put DR Intentions Paper on SharePoint site.

- IIC member asked if the committee will discuss Capacity Funding.
 - EAO noted that it has engaged with many communities over the last year and collected a lot of input. EAO is looking for a collaborative way forward to capture the diversity of views on Capacity Funding into a single model and this is a complex task that will take time. Currently EAO is seeking ways to address Capacity Funding in the short-term to ensure that EAs are properly funded.
- IIC member added that some of the technical aspects of Capacity Funding, including what activities require funding, are not very complex. IIC member requested that EAO provide a list of the EA components and deliverables that Nations would require capacity funding to support their participation.
 - **ACTION** – EAO (Trish) to provide a list of activities that are likely to require capacity funding to the IIC.
- IIC member asked what EAO is doing in terms of Capacity Funding for current projects under the new Act.
 - EAO answered that it has not funded anything yet under the new Act.
- IIC member asked about the status of the action relating to FOIPPA and alignment with DRIPA.
 - EAO clarified that this action was for EAO to bring this comment forward to the responsible agency for consideration.

IIC Progress Report and Review Priorities

- EAO noted that an outline for the Progress Report was circulated to the IIC and that no comments have been received.
 - IIC member noted that the document still says “Final Report” in the outline’s header. **ACTION** – EAO will remove final from the title of the report. IIC member added that they agree that the report should still be named Progress Report, at least in draft.
 - IIC members commented that:
 - in the section of the report that speaks to themes of feedback, that unresolved issues should be stated, and those issues that were identified as being outside the scope of the IIC should be distinguished, noting items that remain unresolved.
 - the themes section should include or an additional section should be added that speaks to the “path forward” and/or “recommendations.” The recommendations subheading could alternatively be used instead of “conclusion”.
- IIC member asked what the timeline and plan is for completing the Progress Report.
 - EAO confirmed that it will create a first draft of a fact-based report and will provide it to the committee on February 19 (one week in advance as part of the materials package for the meeting on February 26). **ACTION** – EAO to create first draft of the Progress Report and provide to IIC by February 19.
- EAO provided an update on Dispute Resolution, noting that the topic has been identified by the FNLC for discussion at the political level. EAO provided a principles document for

IIC review prior to discussions at the political level. **ACTION** – IIC members to review the DR principles document and provide EAO with feedback.

Comments from IIC on the Dispute Resolution Principles Document

- IIC member requested clarification on bullet point 4 with regards to a potential facilitator being required to provide a reference from communities in which they have worked, as a means to verify qualifications.
 - EAO responded that this would aid in creating a roster of facilitators. This requirement was suggested during the last conference call meeting on January 16 wherein potential facilitators would have the ability to demonstrate experience working directly with Indigenous communities.
- IIC member asked that EAO address disputes that may potentially require co-facilitators. This ties in to the broader idea that the selected facilitator needs to be trusted and have the qualifications necessary to work with Indigenous nations. Another IIC member noted that this is more like a solution to a principle, rather than a standalone principle. The principle itself is around trust.
 - EAO agreed this is a good suggestion. The intent is to leave bullet point 2 more open ended. This relates to the discussion around “walking in two worlds” and creating a model that is flexible enough to allow for co-facilitation is necessary.
- IIC member added that EAO should also consider if bullet point five is to be considered a solution or a principle. Perhaps the principle in this case is that the facilitator is more flexible in how they report.
- Another IIC member referenced bullet point 6 with regards to the notion of facilitation being without prejudice. It was noted that it may be difficult to resolve a dispute in the future without looking back at how past disputes were resolved. Facilitators will need to work with communities and understand how to work with them. It was suggested that another principle around context be added that explains how DR is to be taken within context of that particular dispute. Disputes should be scoped in terms of context and the project, which would apply to a specific resolution and refrain from being broadly applied.
 - EAO made note of this.
- Expanding unresolved topics of the IIC, an IIC member added that issues that have been unresolved due to being out of scope of the committee need to be brought to the political oversight committee.
- IIC member added that they want to ensure that the political oversight committee does not take over the work of the IIC and that this should be communicated in the letter.
- Before the winter holidays, a briefing was provided to FNLC on the current state of the IIC’s priorities for review. IIC member suggested that the letter to FNLC describe which items are left outstanding and seek direction on the ongoing mandate of the IIC and the timeline for completion.
- The FNLC observer noted that if there are other issues that are intended to go to the political oversight committee outside of the list that the FNLC has provided to the EAO,

such as Capacity Funding, these additional issues will need to be raised with the FNLC directly.

- EAO clarified that capacity funding has not been identified as a topic for discussion at the political level and that a broad political discussion on Dispute Resolution is planned however, there has not been a specific request by the EAO, the IIC or FNLC for review of the Dispute Resolution Intentions Paper.
- EAO provided an update on Process Planning and Effects Assessment policies. Both documents were provided to the IIC ahead of the last meeting on January 16 and discussed during the meeting.
- Comments and revisions have been received and EAO is currently in the process of addressing these comments and finalizing the first versions that will be posted publicly by the end of February. EAO noted that there have not been any substantial edits since they were provided to the IIC.
- EAO noted that it aims to incorporate diagrams in the Effects Assessment Policy that are tied to the Indigenous Knowledge guidance.
- EAO noted that it wants to avoid redundancy of information in the guidance documents while also balancing the need to have each policy stand on its own.
- An IIC member asked how Indigenous Knowledge is currently being referenced in the other guidance documents.
 - EAO noted that it is currently looking at examples or graphics to convey Indigenous perspective of effects pathways and how Indigenous Knowledge can be applied to the effects assessment. A placeholder for this has been added to the Effects Assessment Policy draft. There are also references to the IK Guide in the EA Policy and Process Planning Policy. Each of the policy documents are being released in draft in order to provide direction on projects that are currently underway, recognizing that information will evolve. EAO hopes to have linkages to diagrams that will be incorporated in the Indigenous Knowledge guidance and updates on this will continue to be tracked.
- An IIC member acknowledged the idea of EAO wanting to avoid redundancy in information but noted that it is important to ensure there is a clear connection made to the IK Guide in the broader policy documents. For example, policy documents could include a line that states “for more information, please refer to this policy document...”
- Another IIC member added that some of the policy documents are quite bureaucratic in language, which makes them challenging to digest.
 - EAO noted these comments and suggested that incorporating diagrams and providing past or examples will be useful.
- An IIC member added that providing diagrams and examples will help for those nations that have never participated in an EA before.
 - EAO agreed and noted that an Indigenous Participation Guide is being developed that will point to where to find more detailed information in other guidance materials.
- An IIC member noted that FNMPC is currently working with Canada on creating a series that features short videos and a guide that will assist in helping people navigate through

the federal Impact Assessment Act. This could be something that BC consider as sometimes documents are hard to interpret.

- EAO agreed to integrate as much as possible into the policy guidance, and that a standalone piece that is higher level and more graphically focused may be useful.
- EAO provided an update on the Guide to Consensus Seeking in EAs. A draft is being targeted to be finalized by the end of March and this topic has been identified by the FNLC for discussion at the political level.
- IIC and EAO agreed that discussion of Consensus Seeking would be tabled to allow time for discussions at the political level to occur.
- FNLC observer noted that it was their understanding that there would be no further internal policy work on consensus seeking guidance document.
 - EAO noted that the FNLC had identified consensus and consent as topics for discussion at the political oversight committee. EAO clarified that the Guide is specific to the technical aspects of the EA process and only scoped to the consensus-seeking requirements of the Act rather than consent, which is a decision of an Indigenous nation. EAO will continue to respect that political discussions will occur while ensuring that EAO can provide guidance for current projects on the legislated requirements for consensus seeking as necessary.
- IIC member commented on their views both as an IIC member and as a representative of the Nation they work for directly. For the purposes of their role on the IIC, the IIC member expressed that they would prefer to review the Guide after discussion on consensus seeking has occurred at the political level. However, for the purposes of their role working for an Indigenous nation directly, they would intend to review the Guide and discuss further with the EAO through direct engagement.
 - EAO noted that it will continue use of the draft Guide to Consensus Seeking in EAs for the purpose of providing guidance for current projects and for working directly with Indigenous Nations. For the purpose of receiving advice from the IIC, the EAO will hold off on providing the next draft of Guide to the IIC until after the discussion has occurred at the political level.

Indigenous Knowledge

- EAO noted that a clean copy of the updated Indigenous Knowledge guidance has been distributed to the group, along with a document that summarizes the revisions that have been made. A track changes version is available.
- EAO noted that the intent is to use case studies and examples from the IIC to flush out details of how IK could be applied at each phase of the EA, recognizing that this will be different for each Nation and project.
- Further notes about revision:
 - Added references to show that Indigenous knowledge rests with nation and is communicated by nation's chosen representative.
 - Confidentiality piece has been clarified. There are still details needed to confirm piece in relation to the Information Management Act. This includes when

information is provided to EAO, there will be requirements for the EAO to maintain records, during and after a decision is made.

- Clarified the confidentiality provisions, including that confidential IK that is submitted to the CEAO cannot be shared with EAO staff without the permission of the nation. This may create logistical issues that will need to be considered but can be sorted out.
- Further edits made to ensure that guidance was aligned with the Act and edits based on comments that were received. **ACTION** – Nicole to review and confirm if comments were sufficiently addressed.
- IIC member expressed concern for potential administrative problems to occur at EAO that could lead to a breach of the UN Declaration regarding Indigenous control of their knowledge. IIC member asked if the FNLC will be seeking changes to the Act to address this.
 - EAO expressed that at this time the issue does not appear to be one that would require a legislative fix and through clear guidance and internal processes can be managed without putting nations at risk of losing control and ownership of their knowledge. There will be internal business practice standards in place and the potential for nations and the EAO to establish confidentiality agreements.
 - IIC member asked if this issue could relate to the process to identify Acts that need to be amended under DRIPA.
 - EAO clarified that the changes made to the IK Guide (to align with the requirements of legislation) result in *increased* protection and confidentiality of IK rather than *decreased*. Knowledge provided confidentially to the CEAO will not be shared amongst EAO staff.
 - IIC member expressed that items that may require a legislative amendment should be identified in the IIC letter to FNLC.
- IIC members discussed having a graphic included in the guidance that represents key concepts and principles. IIC members agreed that it would be useful to have a half-day in person session with a graphic artist while facilitating discussions to inform the artist's rendering. This infographic produced from the session would serve as a companion piece to the guide.
- An IIC member added that smaller visuals could be incorporated throughout the document, in addition to creating a standalone infographic piece. IIC members added that they would like the illustrations to show interconnectedness. It would be useful to have visuals outlining the whole document along with the text, for example quotes could be integrated throughout in boxes aligned with visuals.
- IIC member asked if this idea of a graphic, along with the guide has been presented to the SIC.
 - EAO confirmed that the guide, along with a slide deck, were presented to the SIC in December and that it was well received.

- IIC member suggested that the introduction of the document be written within an Indigenous context through incorporating a few lines or a quote that would signify that this document is different from other policy pieces.
 - EAO agreed that the title page is to look different.
- IIC member explained that each nation will have a different perspective to provide. Using one story from one nation would unlikely capture all nation's perspectives. IIC member asks if the selections will be high-level non-specific indigenous stories or nation-specific stories.
 - EAO noted that different perspectives should be reflected in the document. It would be good to incorporate stories, however it would be difficult to include multiple stories in a short document.
 - IIC member agreed that quotes are the most impactful. It would be useful to have a summary of perspective, with quotes focused around responsibility, stewardship, etc.
 - It was agreed that it would be best to include quotes to capture broad representation.
- EAO asked if there is an overarching concept that is most important to focus on for the quotes and graphic.
 - IIC noted the idea of pulling together concepts like the ideas of walking in two worlds or seeing with two eyes. A graphic that represents this would be best. Many concepts can be included on one page. It was suggested to look at the quotes being provided through the UN as a starting point and consider using key words from the principles dispersed throughout the document.
- EAO noted that when the draft is posted online, there could be an invitation for Nations to submit quotes to incorporate into the document in a future version.
 - IIC member agreed and suggested that a form could be attached to the document inviting others to submit a quote.
- **ACTION** – IIC members to put a call out to contacts for requesting quotes.
- IIC member asked if there could be a call out to all nations in BC from EAO.
 - EAO noted that it would be best to have the document available as soon as projects are starting. The document could be posted online while at the same time putting out a call out for comments and revisions.
- IIC member noted that a graphic designer will need to be selected. There was a suggestion to use Drawing for Change. **ACTION** – Angel to send contact information for Drawing for Change to Amy and Danielle (complete).
- **ACTION** – Sunny will begin writing introduction paragraph.
- IIC member noted that there is a section entitled “Applying Indigenous Knowledge” in the guidance. In this section, information should be laid out about what one should do at each stage. There are efforts to say how indigenous knowledge will be integrated, but the principle does not speak to application of the knowledge.

- IIC member added that perhaps a new principle should be added that speaks to how indigenous knowledge is to be used, how it was used in an EA and how it has informed decision-making. Providing a clear example of how indigenous knowledge was used would be useful.
- IIC member noted that feedback they provided on the document noted that providing a rationale or statement of what was done in the process will not inform decision-making or final part of the methodology. The word “inform” is better to use instead of “incorporate”.
- EAO noted that on page 5 of the guidance there is a section on why Indigenous Knowledge is included under the Act. It discusses pieces around the decision-making informing the EA. This piece may need to be clarified to make clear to the community of how Indigenous knowledge is informing decision-making at all phases. **ACTION** – EAO to look at Process Planning guidance and other materials to see if this can be clarified.
- IIC member added that it is important to note why Indigenous knowledge is crucial to being included in undertaking the impact assessment. This is as important as looking at biophysical or human health effects and should be connected to cumulative and rights impact.
- An IIC member noted that the document should touch on post-EA pieces and include information around permitting. It needs to be emphasized that the work of applying Indigenous knowledge can be useful to inform subsequent regulatory processes. The EA process does not end when an EAC is issued. It may be also useful to include information on life of mine agreements.
 - EAO answered that it would have to work with each individual nation to determine if they would like to share Indigenous knowledge to permitting agencies. There will be a permitting plan that bridges in to the EA process which will be later discussed called “regulatory continuum.” **ACTION** – EAO to add additional language in guidance around permitting and monitoring.
- IIC member presented case studies specific to the Nation they work for that could potentially be incorporated into and support the Indigenous Knowledge guidance.
 - The Nation worked with proponent and EAO in Early Engagement and discussed creation of valued components. An example was discussed that “water” was not simply used as a VC, due to the idea that fish and fish habitat were considered a broader perspective of a VC. Hydrology and fluvial geomorphology were selected with specific meaning to the Nations that water flow was sacred and central to life.
 - Emphasized idea that measuring VCs can incorporate Indigenous knowledge. Four governance pillars were used as VCs. In specific example, geomorphology was found to be linked to impacting each of the four pillars.

- In the example shared by the member, project effects, mitigation and significance were all pulled together by the Nation with baseline information that was provided by the proponent.
 - EAO noted that in terms of sequencing, governance pillars will be looked at in Early Engagement and then VCs will be articulated to proponent and linked to pillars in terms of the potential effects of projects. Following this, baseline information should be discussed.
- IIC member made note that VCs are often improperly characterized and measured. EAO to work on how things are being scoped.
- IIC member noted that the example is essentially showing a basic effects assessment with supporting cultural information. It was further noted that a lot of time and money was spent in developing the baseline information in the example that was shown. The example can be extrapolated to any community, but the issue is that proponents may be resistant to this approach. The fundamental issue in this model is that certainty in funding for Nations needs to be there.
- **ACTION** – Nicole to write a short case study to be included in the EA policy and IK guidance. The information shared is also publicly available online and she has received permission to use this case study as an example. Nicole to circulate links to the IIC.
- IIC member noted that the characterization of residual project effects should be put in a table which is easier to see. The table has been condensed to show VCs, impacts, mitigation etc. The whole table was provided to proponent and they inserted a paragraph of information into each section.
- EAO confirmed that there would be interest to have a case study in the document that shows how Indigenous knowledge can be incorporated throughout the EA process from beginning to end. **ACTION** – EAO to work together (with Nathan) and the IIC (Nicole) on developing a case study.
- IIC member noted that it would be useful to have VC examples from different nations as VCs may vary from nation to nation.
 - EAO noted that ESI has created VCs that can be useful to pull from.
- Guest speaker Morris Prosser joined the meeting via phone at this time. Prosser's working documents on broad principles and guidelines for the application of Indigenous Knowledge across the provincial natural resource sector agencies were distributed to the group as part of this meeting's materials.
- Prosser noted that he is working to create policy and guidelines of how public servants can protect and apply Indigenous knowledge in initiatives projects and decision making.
- Prosser added that he has been working to bring together those that work with Indigenous knowledge policy by holding monthly meetings on this topic. Guidelines have been developed with Indigenous employers working on Indigenous knowledge pieces at the Ministry of Environment and Indigenous youth interns.

- Prossier is introducing guidelines along with principles surrounding Indigenous knowledge and is wanting to ensure this his work aligns with that of the IIC.
- These principles were developed with inspiration from the IIC's work and are being brought out for engagement with nations across the province. Questions are being asked and discussed such as looking at the priority areas for Indigenous peoples in terms of Indigenous knowledge and policy and whether this is establishing a good foundation for work going forward.
- IIC member asked what the application is of these guidelines.
 - Prosser answered that the application of these documents will be to all natural resource ministries.
 - EAO added that the Province is working on a provincial approach to Indigenous knowledge and that they are looking to take inspiration from the work that IIC has done.
 - IIC member added that the federal government is also working to do this and that everyone should be using a standard agreed upon approach.
- EAO noted that the group should give Prosser direction on using the IIC materials and what he should keep in mind while developing an approach. Are there any opportunities or lesson learned that we can pass on in applying this at a broader level?
 - IIC member replied that they are happy to share this information with others and is proud of the hard work IIC has put into creating this guidance. One area to be cognizant of is that the IIC's guidance has been created within the context of EA and major projects. The consistency of language is also important to consider, yet there will be a need to have the application be customized.
- An IIC member asked if Prosser is looking to receive permission to utilize the IIC's pieces.
- IIC members agreed that they are comfortable with having Prosser use what is needed to apply to his own working guidance documents, though staying in touch will be necessary as there have been edits and the EA Guide is still in draft. It was noted that it will be enhanced with graphics and case studies as well.
 - Prosser agreed that his guidance documents are still changing as well, and have recently been sent to various business areas for feedback.
- IIC member noted that they would like Prosser to reference the IIC documents in his work or reference the IIC itself within the document. It may be useful to provide links wherever necessary.
 - Prosser agreed that this would be necessary to do in the principles document which could include a "For Further Reading" section that references the IIC. Prosser noted that guidance documents were developed on their own.
- IIC member offered feedback to Prosser specific to the guidelines document. It was suggested that the hereditary system should be referenced only as one system. The document should be more inclusive and recognize other systems of governance.
- IIC member also noted that there should be a move away from distinguishing knowledge systems as Indigenous and Western knowledge as it appears too polarizing. IIC member added that both Prosser and the IIC's documents contain this language.

- Another member added that it may be useful to keep the language about the two systems in order to distinguish the two knowledge systems, but work to tie the together and emphasize moving forward in collaboration together. IIC member suggested that the terms could also instead be defined in a glossary, rather than addressing it in the main text of the document.
- Another IIC member noted that there is opportunity in the beginning of the document to incorporate the notion of two-eyed seeing and the importance of reconciliation in bringing these two knowledge systems together to create an enriched picture.
 - EAO agreed that this is what the aim is in incorporating quotes into the document.
- Prosser noted next steps will be to create a smaller policy committee with the natural resource sector branches and include Indigenous voices into this. Prosser aims to start an advisory body with Indigenous peoples.
 - EAO agreed that the group will be interested to hear updates as Prosser's work progresses.

February 26th Meeting Preparation

- Regulatory Continuum will be added to next agenda as there was limited time to speak to this at today's meeting. **ACTION** – Document circulated as part of today's meeting materials. IIC to provide comments on this.
 - Several IIC members noted that they believe concurrent permitting should not be allowed.
- Mitigative Effectiveness Reporting was removed from today's agenda and will be included in February 26 agenda.
- The first draft of the Progress Report will be reviewed together at the next meeting.
- Dispute Resolution update will be provided at the next meeting.

Next Steps and Actions

ACTION - IIC to make recommendations based out of caucus regarding the timeframe of the IIC and seek direction from the FNLC regarding when the mandate is expected to come to a close.

ACTION – IIC members to provide quotes and statements to incorporate into Indigenous Knowledge guidance.

ACTION – EAO (Amy) to follow up with Scott on logistics in terms of graphic piece for the IK Guide.

ACTION – IIC (Nicole) to send list of links to EAs with examples that could potentially be used. Email was circulated prior to meeting that discussed example of consumption of organ tissues/raw tissues and toxicology. Other potential examples could include the case study in adaptive management and sheep migration.