TECHNICAL ADVISORY COMMITTEE
TERMS OF REFERENCE

Oil Sands Monitoring Program
Subject to Review
Last Updated: October 7, 2019

1 BACKGROUND

On December 21, 2017, the Ministers of Alberta Environment and Parks (AEP) and Environment and Climate Change Canada (ECCC) signed a Memorandum of Understanding (MOU), developed with input from Indigenous communities in the Oil Sands Region. The MOU renews the commitment between the provincial and federal governments to work cooperatively on regional ambient environmental monitoring of oil sands development with increased involvement of Indigenous peoples. The MOU includes statements to acknowledge recognition of Aboriginal rights of Indigenous people in Section 35 of the *Constitution Act,* and the key role Indigenous people play in the monitoring, evaluation and reporting of oil sands impacts (Link to MOU). The MOU sets the course for the future of the Oil Sands Monitoring (OSM) Program which includes development of an Operational Framework Agreement (OFA) for implementation of the MOU by working together with Indigenous communities in the Oil Sands Regions.

1.1 OIL SANDS MONITORING PROGRAM OPERATIONAL FRAMEWORK AGREEMENT

Indigenous communities in the oil sands region were invited to join a Task Team to develop the OFA identified in the MOU. Over spring and summer of 2018, Indigenous communities with interest and capacity worked collaboratively with officials from AEP and ECCC to develop the OFA. The OFA defines the governance and implementation model that will be used to guide the decision-making structure and processes, roles and responsibilities, and the monitoring, research mandate, and objectives of the OSM Program. It also outlines the vision, principles, objectives and desired outcomes of the OSM Program with actions, programs and performance measures also described to support and achieve the outcomes of the OSM Program. The OFA is a living document to be reviewed and revised as needed (Link to the OFA).

1.2 OIL SANDS MONITORING PROGRAM

The vision, purpose and objectives of the OSM Program are clearly articulated in the MOU as follows:

1.2.1 Vision
An integrated monitoring, evaluation and reporting system inclusive of and responsive to Indigenous communities, that includes the acquisition and reporting of regional and sub-regional data on baseline environmental conditions, tracking any environmental impacts, and the assessment of cumulative environmental effects from oil sands development to inform management, policy and regulatory action and respects potential impacts to Section 35 Rights.

1.2.2 Objectives of the Oil Sands Monitoring Program are:
- To Track Impacts from Oil Sands Development;
- To Conduct Comprehensive and Inclusive Monitoring;
- To Inform Management and Regulatory Action;
- To Ensure Relevant Monitoring;
- To Implement Rigorous Monitoring;
- To be Cost-effective;
- To Inform Trans-boundary Issues;
- To Ensure Transparency; and

- To Incorporate Indigenous Monitoring, Endpoints, and Community-Based Monitoring.

1.3 TECHNICAL ADVISORY COMMITTEE (TAC)

The OSM Program, as outlined in the OFA, is guided by a governance model consisting of a variety of committees and caucuses including TACs. The mandate, responsibilities, composition, membership and decision making process of the TACs is described in greater detail in this Terms of Reference (ToR) but should not deviate from the OFA.

1.4 PURPOSE OF TECHNICAL ADVISORY COMMITTEES

1.4.1 Role

The Technical Advisory Committees are accountable for designing monitoring programs to address the priorities determined by the Oversight Committee. Technical Advisory Committees will report to the Science and Indigenous Knowledge Integration Committee, and work with that committee to ensure monitoring is integrated between components. These Committees will also work with the Indigenous community Based Monitoring Advisory Committee to identify and develop opportunities. Each Committee will develop work plans, identify delivery agents, direct analysis and ongoing evaluation of programs, and ensure that traditional knowledge and community-based monitoring are integrated where appropriate.

Technical Advisory Committees will be established for, but not limited to, the following program areas:

- Air & Atmospheric Monitoring (inclusive of deposition)
- Aquatics (inclusive of quality, quantity and biological indicators)
- Ground Water Monitoring (inclusive of quality and quantity)
- Wetland Monitoring
- Terrestrial Biological Monitoring (inclusive of biodiversity)
- Data Management and Integrated Analytics

Committees will be formed and dissolved based on the direction of the Oversight Committee and adaptation of the OSM Program.

1.4.2 Responsibilities

- Develops a Terms of Reference for this Committee that is reviewed and updated as needed and provides to the Oversight Committee for final approval;
- Provides objective, professional, scientific and technical advice to the Science and Indigenous Knowledge Integration Committee;
- Provides technical design that addresses priorities identified by the Oversight Committee;
- Supports the 5-year Strategic Plan and ensures performance relative to the plan;
- Develops recommendations for funding of component area work plans to the Science and Indigenous Knowledge Integration Committee on an annual basis;
- Supports implementation of an OSM risk-based framework;
- Interface with Indigenous Community Based Monitoring Advisory Committees as needed to identify work planning synergies and opportunities;

- Works with the Indigenous Community Based Monitoring Advisory Committee and/or Indigenous representatives and/or identified Knowledge Holders to integrate Traditional Knowledge or Indigenous perspectives into work plans as appropriate;
- Oversees execution of monitoring, analysis of data, and reporting on environmental condition relative to limits of change as appropriate and in accordance with the OSM reporting plan and schedule as determined by the Oversight Committee;
- Recommends focused studies or methods development studies to improve monitoring;
- Supports key program monitoring questions and priorities and directs these through the OSM governance structure to direct work planning efforts;
- Supports performance measures for the OSM Program;
- Supports accurate and timely reporting of environmental condition including cumulative effects and relative to a reporting schedule;
- Supports alignment of monitoring activities with the scope of the OSM Program;
- Supports data and information are evaluated using appropriate scientific and Indigenous expertise; and
- Supports development of the OSM Annual Report.

1.4.3 Technical Advisory Committee Expectations

The TAC Co-Leads:

- Determine meeting dates, location and draft agendas that are respectful of TAC members' availability and schedules, as well as the TAC mandate.
- Collaborate with the TAC members to set agendas.
- Provide coordination and facilitation to achieve effective operation of the TAC during and between meetings.
- Serve as spokespersons upon request and as required to speak to approved, non-confidential briefing content on behalf of the TAC.
- Encourage appropriate TAC member participation, commitment and cooperation.
- Determine decision points and participates in discussions and decisions regarding the TAC.

Members

- Members will make every effort to prepare for and attend all meetings, understanding that each meeting builds on the work from the previous meetings, including decisions that have been made.
- If an alternate is attending, that alternate will be informed of progress to date and be prepared to move forward.
- Members of this committee will respect access to confidential and sensitive information which is presented and/or discussed at Committee meetings.
- Committee members are expected to raise concerns and issues at Committee meetings in order to address them at a programmatic level before pursuing alternative venues.
- Finally, it is understood that there will be the requirement for in-person meetings as the Agreement is implemented, but that with time members can move more to virtual meetings thereby allowing resources to be focused towards monitoring and communicating results.

1.4.4 **Logistics**
- The Technical Advisory Committees will meet no less than four times per year or at a frequency determined by the Oversight Committee and in accordance with the Operational Framework Agreement timelines;
- To the extent possible, positional documents will be provided 7 business days prior to a meeting of the SIKIC.
- Invitations for membership will be circulated and posted by the OSM Program Office and applications will be reviewed by the Technical Advisory Committees; membership will be determined through a consensus decision and on the basis of the qualifications of the applicants relative to the membership criteria. Indigenous participants will be determined by the First Nation and Métis Sub-Caucuses through a consensus decision and on the basis of the qualifications of the applicants relative to the membership criteria. Recommendations of successful applicants will be made to the Technical Advisory Committee.
- Members will be selected to serve a maximum 3-year term allowing for a period of transitional overlap. Membership terms will also strive to be staggered.
- Capacity funding for Indigenous committee members will be provided based on Appendix C of the OFA.

1.5 GOVERNANCE OF TECHNICAL ADVISORY COMMITTEES

Technical Advisory Committees will undertake decision-making using a collaborative and consensus-based approach as defined in the OFA.

1.5.1 Decision-Making

Technical Advisory Committees will adopt a consensus-based decision-making approach within their organizational structure. To support this approach, the following elements[1] will guide and facilitate consensus:

Inclusive: A sufficient number of committee members are involved for effective group discussions.

Participatory: All participants are allowed a chance to contribute to the discussion.

Collaborative: The group constructs proposals with input from all interested group members. Any individual authorship of a proposal is subsumed as the group modifies it to include the concerns of all group members.

Agreement Seeking: The goal is to generate as much agreement as possible. Regardless of how much agreement is required to finalize a decision, a group using a consensus process makes a concerted attempt to reach full agreement.

Cooperative: Participants are encouraged to keep the good of the whole group in mind. Each individual's preferences should be voiced so that the group can incorporate all concerns into an

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[1] as defined by The Basics of Consensus Decision-Making by Tim Hartnett
http://www.groupfacilitation.net/Articles%20for%20Facilitators/The%20Basics%20of%20Consensus%20Decision%20Making.pdf

emerging proposal. Individual preferences should not, however, obstructively impede the progress of the group.

1.5.2 Consensus Decision-making Due Diligence Guidelines[2]

Members of the TAC must be familiar with consensus decision making, understanding that each member will endeavor to reach consensus in the interest of all.

It is the responsibility of the TAC to determine whether a non-consensus decision [issue] should be identified, escalated and under what terms.

Specific criteria to be considered are:
1. The number of members supporting the consensus decision.
2. If a member is not in support of the decision, can they abstain from participating in the decision?
3. Whether the block(s) to consensus is related to a specific [technical] issue(s) or a broad fundamental issue.
4. The likelihood of reaching consensus if additional work is directed towards resolving differences through technical or facilitated effort.
5. If the answer to # 4 is positive, the question to be asked is if the timeframe needed to reach consensus will have negative implications to the production of outcomes.
6. Whether or not details supporting non-consensus positions by members will be put forward.
7. Would a third-party mediator help to achieve consensus?
8. What are the ramifications if the decision [issue/element] is eliminated from the outcome? Is it desirable?

1.5.3 In the Event of Non-Consensus

The OSM Program governance is structured to facilitate the retention of decision making within its committees. Nonetheless, the potential for non-consensus exists, particularly in a multi-interest forum.

Decision-making at the TAC may result in non-consensus upon which the issue is escalated to the Science and Indigenous Knowledge Integration Committee, the committee of the next level of authority.

If consensus is not reached, the TAC will first and before escalation:
1. Ask clarifying questions.
2. Implement the Consensus Decision-making Due Diligence Guidelines above.
3. Confirm the boundaries within which the proposal is bound (see Figure 1 and Section 1.5.3).
4. Reframe the decision.
5. If consensus is still not reached, the Committee will identify and document options and areas of disagreement, which will be taken by the Committee Lead to meet with the Committee at the next level of authority for a decision. The decision will be final and documented unless key considerations related to the process (*e.g.,* boundaries) or issue have changed or new information becomes available. In this case, the proposed decision is to be tabled within the

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[2] Adapted from Cumulative Effects Management Association Decision Making Policy – Due Diligence. 2009.

Committee of origin to determine if consensus can now be reached based on the new or additional information.

6. Acknowledge and implement, where appropriate and required, Indigenous protocols and ceremony in support of ethical decision making processes.
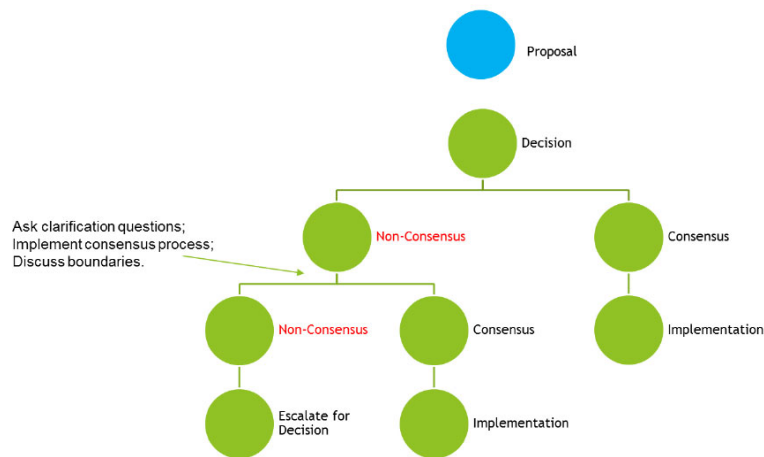
Figure 1. Decision Tree for the Oversight Committee sourced from Oil Sands Monitoring Program Operational Framework

1.5.4 Boundaries

Decision-making through consensus can be facilitated by testing assumptions and confirming the

Members of the [insert thematic area] Technical Advisory Committee as of [insert date]

boundaries within which decisions are being made or positions are being established on a particular issue.

Key requirements and boundaries for all TAC decisions include:

- Is the issue aligned with or fits within the 5-year Strategic Plan?
- Does the issue address monitoring needs or requirements related to regional or sub-regional, ambient conditions potentially affected by oil sands activity?
- Is the issue aligned with the determination of environmental changes due to oil sands activity?
- Is the issue ethical and will not cause undue harm to the environment or local communities?
- Does this issue answer a key question(s) identified by the OC?
- Does this issue stand up to financial audit?
- Is the issue scientifically rigorous?
- Does the issue fit within the scope of the Oil Sands Environmental Monitoring Program Regulations?
- Is this issue being influenced by historical relationships, challenges, or factors? Are these factors still relevant, and if so what can be done to alleviate or address them?
- Is it essential to resolve or escalate this issue for the vision, objective and outcomes of the OSM Program to be realized?

1.5.5 [SECTION FOR ADDITIONAL TAC SPECIFIC INPUT]

> **Commented [A1]:** To be added by TAC

1.6 MEMBERSHIP OF THE TECHNICAL ADVISORY COMMITTEE

Names	Organization / Community

1.6.1 Membership Criteria

In identifying membership of the Technical Advisory Committee, the following criteria will be considered:

- Expertise in a technical discipline (air, land, water, biodiversity, wildlife, etc.)
- Expert in their field, holding a technical degree and/or professional expertise in a relevant discipline that is current
- Familiar with the region, oil sands and environmental monitoring
- Experience in governance and consensus decision-making