



The Board's Vision: A healthy and diverse aquatic ecosystem for the benefit of present and future generations.

Mackenzie River Basin Board Secretariat

Mackenzie River Basin Board Meeting No. 73

October 19 and 20, 2022

Yellowknife, NWT

Hybrid Meeting

Participants

Nadine Stiller	Government Member	ECCC
Nick Mitchell (virtual; day 2)	Alternate Member	CIRNAC
Laurie Wein	Government Member	PCA
Nathen Richea	Alternate Member	Northwest Territories
Leon Andrew (day 2)	Indigenous Member	Northwest Territories
Corrine Porter (virtual)	Indigenous Member	Yukon
Heather Jirousek	Government Member	Yukon
Amelie Janin	Government Alternate	Yukon
Lana Lowe (virtual)	Indigenous Member	British Columbia
Ted Zimmerman	Government Member	British Columbia
Thon Phommavong	Government Member	Saskatchewan
VC Joseph Tsannie (virtual)	Indigenous Member	Saskatchewan
Andrew Wilson	Government Member	Alberta

Secretariat

Paula Siwik	Executive Director	ECCC
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Guests

Bradley Summerfield	SOAER Committee Chair	ECCC
Morna Hussey	in-coming member	Alberta
Rasel Hossain (Oct 19)	CIRNAC	
Annie Levasseur (Oct 19)	Transboundary Implementation Advisor	Northwest Territories
Richard Grieves (Oct 20)	Reconciliation and Strategies Branch	British Columbia
Ann Marie Sam (Oct 20)	Reconciliation, Transformation and Strategies Division	British Columbia
Emily Arthur (Oct 20)		
Heather Matthews (Oct 20)	Director of Generation Operations	B.C. Hydro
Sherri Helgason (Oct 20)	Director Governance and Reporting	Department of Justice
Randy Way (Oct 20)	Senior Program and Policy Analyst	Department of Justice

Meeting Opening

- Yellowknives Dene First Nation was unable to attend, as there was a death in the community. N. Richea opened the meeting with a land acknowledgement.

73.1 Welcome Roundtable

- M. Hussey (Director, Watershed Resilience and Transboundary Waters, Alberta Environment and Protected Areas) will replace A. Wilson as the member for the Government of Alberta. A. Wilson is retiring and moving to a different position in Ontario.
- A. Janin has been appointed as the alternate member for the Yukon Government.

73.2 Agenda and Membership

- Several MRBB members attended the NWT-AB BMC Traditional Knowledge framework session.

Motion to approve the agenda for October 19 and 20, 2022 (A. Wilson, T. Zimmerman; passed)

73.3 Approval of Minutes

i. Meeting #71

Motion to approve the minutes from Meeting 71 with minor edits (H. Jirousek, A. Wilson; passed)

73.4 Approaches to Indigenous Reconciliation through Northern Federal Remediation

(Presentation included in member meeting package)

- R. Hossain, Director of the Contaminants and Remediation Division, shared a presentation entitled “Approaches to Indigenous Reconciliation through Northern Federal Remediation”.
- On February 23, 2021 the Canada-Déjîñę Great Bear Lake Remediation Governance Agreement was finalized.
- Q: How does the Agreement embody co-governance?
- A: Government policy and process is not always conducive to true co-governance so a flexible approach that includes both grants and contributions, and procurement has been adopted. One example is the co-development of Best Management Practices and frameworks. Funding challenges remain as work progresses. Self-governance to self-determination is the goal.
- N. Richea: Many contaminated sites are the sole responsibility of the federal government and there are on-going negotiations about other legacy sites. The cultural importance of Great Bear Lake is significant, and the government of the Northwest Territories wants to ensure those values are supported.
- Q: How has Traditional Knowledge been included in this process given that it is held with the community?
- A: Traditional Knowledge summaries are shared and a roadmap is being developed to guide the process. The copyright remains with the community.
- V.C. Tsannie: Reconciliation should start with treaties and a discussion about what was promised, and what was honored. First Nations people need to truly benefit. There is still a lot of work to be done to clean up former industrial areas and sometimes contracts are awarded to people who do not understand the needs of the people living in the area. Accountability for those decisions is not clear. There is a need to build local capacity in

the communities, and to continue discussing how to measure the successes, gaps and challenges. The TRC calls to action should guide action.

- Q: Please share an example of a project that included the idea of copyright in regards to Indigenous Knowledge.
- A: One example is a winter road that was developed in collaboration with elders. Indigenous Knowledge informed the route of winter road and considered caribou and muskox migration. Relationships and trust are very important in the process.
- Identifying a liaison within the community has worked well in some instances.
- Q: What products are being created? Will Indigenous Knowledge be represented on maps?
- A: Maps are an effective way to share information and a starting point for discussion. Making decisions based only on science is no longer acceptable. There is an opportunity to make better decisions collectively.
- V.C. Tsannie: Some maps under development in northern Saskatchewan include products that share hunting areas and methods, burial sites, and migration routes. The land is shared with trappers who have information and knowledge.

73.5 Review of Action Items not Addressed Elsewhere

- N. Stiller reviewed action items. The items directed at the SOAER Steering Committee will be retained until complete.

73.6 Administrative Items For Approval

Annual report

Motion to approve the 2021-22 annual report (T. Zimmerman, T. Phommavong; passed)

Notification Information

Motion to post the notification graphic in the resources section of the MRBB website (A. Wilson; H. Jirousek, passed)

73.7 Presentation by the Government of B.C. on DRIPa implementation (Presentation included in meeting package)

- R. Grieves is the executive lead on reconciliation and implementation of *the Declaration on the Rights of Indigenous Peoples Act* (DRIPa) for the Government of British Columbia.
- A. M. Sam is the ADM in the Ministry of Indigenous Relations and Reconciliation, Government of British Columbia.
- The UN Declaration on the Rights of Indigenous Peoples (the UN Declaration) does not create new rights but enshrines what should be existing rights and explains how human rights that apply to all should apply to Indigenous Peoples.
- B.C. is the first province or territory to pass legislation to support the UN Declaration. The legislation was passed unanimously to ensure that the laws of B.C. uphold rights of the UN Declaration, and enabled changes to legislation, regulations, and policy in order to align with the UN Declaration.
- Section 3 of the DRIPa legislation enables the alignment of laws with the UN Declaration. B.C. is taking a whole of government approach.
- Section 4 of the DRIPa legislation focuses on an action plan that will achieve the objectives of the UN Declaration. It outlines 89 tangible achievable actions to be implemented between 2022-27

- Sections 2.6 and 2.7 speak specifically to water stewardship and management, and co-development of a watershed management security strategy. A water table has been established with delegates from across B.C. that meet monthly. The ToR of the water table was co-developed with Indigenous leadership.
- Section 5 commits the province to produce an Annual Report on implementation progress.
- Sections 6 and 7 enable the government of B.C. to enter into Agreements with Indigenous nations and groups, in addition to governments. Indigenous peoples can engage with specific government entities within the B.C. government.
- Q: Are the Agreements created under sections 6 and 7 analogous to creating a regulation under legislation?
- A: It is a similar legal instrument and in instances where there is a regulation and an Agreement, the Agreement takes precedent.
- Q: Are there other examples globally where co-decision making is embodied in legislation?
- A: There are some examples of shared jurisdiction, but each is unique. The Haida Gwaii Reconciliation Act was the template for that section of the DRIPa legislation.
- Q: Is a section 7 agreement required for each topic or agency, or is there an opportunity to negotiate one broader umbrella agreement?
- A: Currently it is a statute-by-statute process but exploring ways to create broader mechanisms.
- Q: Are the water tables regional or provincial? How do you implement regional contexts?
- A: The tables include 8 to 9 delegates and are multi-scale in approach. They contemplate and establish a joint approach to modernize policy and regulatory instruments. Delegates are not there to represent the specific rights and interests of their nations as those discussion happen at the government-to-government tables. The development of a regional decision-making model is underway. Indigenous Nations have stated a preference to engage with the Province of B.C. before working with municipalities.

73.8 Administrative Items – Progress Updates

- i. Financial update
 - Expenses are coming in under budget.
- ii. Map project team progress
 - The team has met. Team members are from the Government of B.C., CIRNAC and the Government of Alberta. The current plan is to work with ECCC experts to produce updated maps.
- iii. Contract updates

Enhancing Indigenous Knowledge on the SOAER – Contract with the Tracking Change program

 - The MRBB entered into a contract with the Tracking Change program to identify Indigenous Knowledge not currently included on the 2021 SOAER. That contract was complete at the end of May 2022.
 - There are notable differences in the availability of information from different sub-basins, and for different indicators. This information will address some data gaps but not others.

- The analysis also suggests the need to revise some of the signs and signals that inform indicators.

Revised Statement of Work and next steps for Water Governance contract

- P. Siwik addressed feedback and comments received on the Statement of Work reviewed by MRBB members at Meeting 72.

Other Contracts

- The contract for a facilitator to guide the SOAER Workshop has been signed.

iv. Interchange position

- MRBB members approved funds to host an interchange candidate at PM04 level at the spring meeting
- Statement of Merit criteria document has been drafted with essential and asset qualifications. Currently includes locations in or near the MRB with ECCC offices.

v. Website – migration of the current sites and development of a new site for the MRBB

- Students from the Northern Alberta Institute of Technology are recreating the MRBB site in Word Press (same content management system as the SOAER). Provided there is time left in the semester, they will also work on possible enhancements.

73.9 Response to the Strategic and Operational Review report recommendations

- N. Stiller summarized the work done to prioritize the Strategic and Operational Report (SOR) review to date and ongoing need to document the MRBB response.
- P. Siwik shared a dashboard that will track progress of MRBB in addressing SOR report recommendations.
- MRBB members shared comments and suggestions on the products.
- P. Siwik shared a list of seven recommendations that MRBB members identified as not actionable.

73.10 MRBB Video and Knowledge Sharing Symposium

- ECCC has earmarked funds linked to the Freshwater Action Plan that will be used to create a short promotional video on the MRB and the MRBB.
- ECCC has also earmarked funds in the 2022/23 fiscal year to hire a consultant to support, facilitate, and coordinate a virtual knowledge exchange series for the MRB on topics informed by the MRBB's State of the Aquatic Ecosystem Report (SOAER).
- As discussed at Meeting 72, Fred Wrona, Kelly Munkittrick and Ashley Mahffey from the University of Calgary are developing a proposal for a workshop on "State of Environment" reporting.

73.11 Northern Heritage Centre Tour (4750 48th Street)

Day 2 October 20, 2022

73.12 Welcome

73.13 Wood Buffalo National Park Action Plan Update (presentation included in meeting package)

- N. Stiller and L. Wein co-presented.
- L. Wein: The Wood Buffalo National Park (WBNP) Action Plan is a multi-jurisdictional collaboration between Canada, Alberta, NWT, B.C. Hydro and Indigenous partners.
- There are 7 thematic areas and 138 actions. Each action is led by a responsible Crown government or Indigenous partners.
- An environmental flows (e-flows) framework will be developed for the Peace/Athabasca/Slave Rivers that considers innovations such as water control structures for the Peace Athabasca Delta (PAD), and targeted flow releases from Bennet Dam to promote ice jams.
- Cumulative effects studies are needed to understand PAD water levels based on community priorities and management actions. The e-flows framework will include hydro-climatic scales, and natural and human influences.
- Ice jams, required to flood perched basins, are less frequent so the strategic placement of control structures within the park is being investigated.
- Have developed a customizable legal IK agreement that can be adapted as needed. A Structured Decision Making process is underway as is exploratory work on a strategic flow release protocol.
- This is a key example of a transboundary ecological water management issue.
- B.C. Hydro will support strategic release protocols to enhance ice jams. A protocol needs to be developed that guides when strategic releases are appropriate.
- There are questions around accountability for these protocol. Who will make the decision and hold accountability if things go wrong? There is a need to unpack the decision-making structure and accountability for downstream impacts.
- Q: Could a schedule be added to the MRBB master agreement that addresses the need for targeted flow releases?
- N. Richea: The regulation of upstream flow is a significant concern for Indigenous communities in the NWT. The Government of NWT sits on the environmental flows working group and has shared concerned around the degree of uncertainty associated with a protocol.
- Current BWMA's do not include the federal government or other partners which is a challenge.
- There are questions around accountability for the proposed protocol. The Structured Decision Making process could mitigate risk.
- Concerns were raised about whether there are sufficient gauges in the MRB system to inform the risk. The MRBB has a role to advocate for the basin.

73.14 Discussion on Recruitment and Orientation of Indigenous Members

- The Master Agreement is very prescriptive on the topic of member appointment. There is flexibility in how a jurisdiction engages Indigenous organizations.
- The MRBB needs to be clear in its expectations. It is important for everyone to understand their role.
- MRBB member selection is important. The process needs to reflect that representatives are not simply chosen by Federal/Provincial/Territorial governments.

73.15 Alternates for Indigenous Members

- The Agreement is clear that MRBB members are appointed. The Agreement also states that MRBB members may designate an alternate. It does not state that alternates are appointed. It does not commit any other Party to support the process of identifying an alternate nor does it negate a collaborative approach should one be useful.
- The Agreement is clear that the MRBB will pay for the expenses of Indigenous members. Current policy outlines scenarios under which expenses for alternates are paid. Specifically, if the alternate attends instead of the member, if the alternate is a committee member, or if the alternate member is present at the invitation of the MRBB.
- The time to get a new member or alternate set up in the system is notable as there are several documents that need to be completed for the Finance Branch. Adding several new people into the system will be a moderate amount of work for 2 to 3 months.
- It is important to be clear about an alternate's role. Clear communication is key. Not all Indigenous members currently feel the need for an alternate.

73.16 Advances in implementing Federal the UN Declaration Legislation (presentation included in meeting package)

- S. Helgason and R. Way of the Department of Justice, shared progress on the implementation of the UN Declaration within the Government of Canada.
- On May 10, 2016, the Minister of Indigenous and Northern Affairs announced that the Government of Canada was a full supporter of the UN Declaration, without qualification, and committed to its full and effective implementation in accordance with the Canadian constitution.
- On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA)* received Royal Assent. The UNDA contains three legal obligations, all to be carried out in consultation and cooperation with Indigenous peoples.
- Section 5: Take all measures necessary to ensure consistency of federal laws with the UN Declaration.
- Section 6: Develop an action plan within 2 years of Royal Assent (June 2023).
- Section 7: Prepare annual reports on progress to be tables in Parliament.
- Work is underway to identify and prioritize, through consultation, legislation that will be reviewed. There are over 700 existing laws and regulations.
- The Action Plan will be wide ranging and consider equality, self-determination, lands and resources, civil and political rights, decision-making, economic and

social rights, cultural and spiritual rights, education, the media, implementation and redress. The Action Plan is a federal plan and does not affect provincial and territorial jurisdiction.

- Q: Did the Bill in front of cabinet to enact new Safe Drinking Water for First Nations fall under the provisions of UNDA?
- A: Unsure as the Department of Justice is not the department responsible for that legislation.
- Q: Where are the checks and balances for the UNDA?
- A: Ministers are responsible and accountable
- Q: Is the *Water Act* a priority, and are challenges with capacity given the timelines?
- A: The *Water Act* falls to ECCC and the Minister has been tasked with modernizing that act. Limitations linked to capacity are real.

73.17 MRBB Meetings: In-person, hybrids and virtual meetings

- Discussion deferred. The next face to face meeting will be in Fort St. John B.C. and should include a tour of the Site C project.

73.18 Meeting 74 – Date, topics and format

- Meeting 74 will be a virtual meeting.

73.19 Reflections on 25 years of the MRBB (Roundtable)

- Members shared thoughts and reflections about the work of the MRBB
- People and relationships are key. Partnerships are important as is sustaining relationships and collaboration over time.

73.20 Meeting Close

Goal 1. Evaluate the health of the whole basin

Goal 2. Investigate matters concerning the ecological health of the whole basin

Goal 3. Advocate for the maintenance and improvement of the ecological health of the whole basin

Goal 4. Educate the public, share information, and learn from others about matters concerning the ecological health of the whole basin

Goal 5. Support and facilitate the increased participation of Aboriginal Peoples in MRBB activities

Goal 6. Encourage the development and implementation of bilateral water management agreements

Goal 7. Ministers, Aboriginal leaders and appropriate staff of jurisdictions are informed of and engaged in MRBB activities

Goal 8. Information, knowledge and research are shared among jurisdictions – written reports

Goal 9. MRBB affairs are administered effectively.