

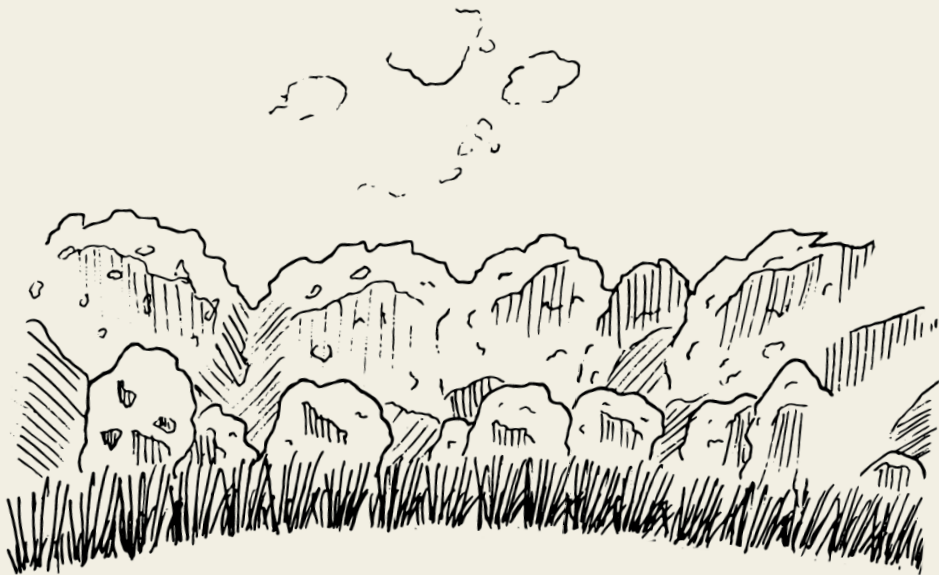


Background

This document presents a summary of the findings, recommendations, and response to the first evaluation of the Indigenous Advisory and Monitoring Committees (IAMCs). The evaluation was conducted by Innovation 7, with leadership from the Natural Resources Canada (NRCan) Audit and Evaluation Branch, and in close collaboration with representatives from the IAMCs. Data to inform findings was mostly collected between September 2021 and May 2022. As a result, the evaluation does not consider more recent events and decisions with an implication on the design and delivery of the IAMCs (e.g., United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan released in June 2023). The full evaluation is available to read on NRCan’s website.

Evaluation Highlights:
Indigenous Advisory and Monitoring Committees (IAMCs)

Prepared by Natural Resources Canada



IAMCs: Tracing the origins of their foundation

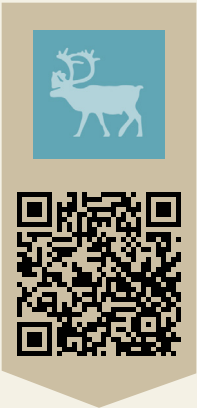
In 2016, the Government of Canada first announced the approval of Trans Mountain Expansion (TMX) project and the Line 3 (L3) Replacement project. Along with these approvals, the Minister of Natural Resources announced the establishment and co-development of an Indigenous Advisory and Monitoring Committee (IAMC) for each project. IAMCs are first-in-kind, unique, and innovative advisory bodies with a membership that includes representatives of Indigenous Nations and communities from regions who participated in – or are impacted by – the TMX and L3 projects. They are one of the mechanisms that the Government of Canada has created to increase Indigenous participation in the lifecycle oversight of these energy projects and play a crucial role in their development and operation.

The IAMCs are structured to have regional Indigenous and federal department representatives, who provide valuable insights and perspectives on various aspects of the energy projects.

To know more about how the selection of representatives was made and why, please see the Terms of Reference (TOR) of each IAMC.

TMX | Terms of Reference :

L3 | Terms of Reference :





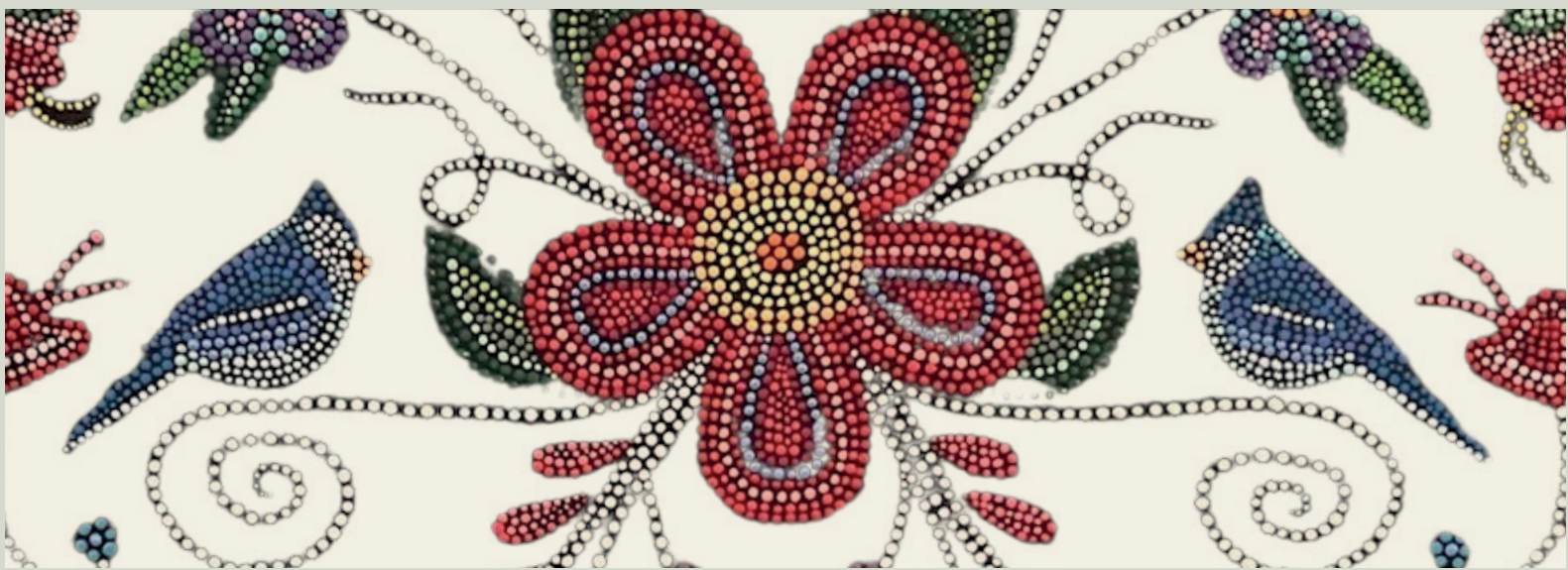
DISTINCTION

IAMC created prior to start of construction on the project and remains active	TIMING	IAMC started after construction was completed in Alberta and remains active
Comprised of 13 Indigenous members and 6 senior federal government representatives	MEMBERSHIP	Comprised of 16 Indigenous members and 2 federal government representatives
During the ToR co-development process, representatives of Indigenous leadership held regional meetings to select Indigenous Caucus members by vote or acclamation to represent their region	PROCESS	While it varied based on region (province) and between First Nations and Métis Nation, the process to appoint members was coordinated by the IAMC-Line 3 Secretariat
NRCan, Canada Energy Regulator (CER) Fisheries and Oceans Canada (DFO), Canadian Coast Guard (CCG), Transport Canada (TC), and Environment and Climate Change Canada (ECCC)	FEDERAL DEPARTMENTS AND AGENCIES	NRCan and CER
Twinning of the existing pipeline and expansion of the Westridge Marine Terminal to increase the capacity of the pipeline system	PURPOSE OF ENERGY PROJECT	Replacement of existing pipeline with a new pipeline built to modern specifications
Trans Mountain Corporation (a federal Crown corporation)	PROPONENT	Enbridge Inc. (private sector)
TMX spans across Alberta & British Columbia through terrestrial and marine environments	PROJECT LOCATION	L3 spans across Alberta, Saskatchewan and Manitoba
129 potentially impacted Indigenous Nations and communities on the Crown consultation list	IMPACTED NATIONS AND COMMUNITIES	109 potentially impacted Indigenous Nations and communities on the Crown consultation list

Governance

While each IAMC is separate and distinct, they both include an Indigenous and Federal Government Co-Chair. NRCan co-chairs both IAMCs and acts as a Secretariat to support their operations, including administration of the IAMCs’ contribution funding programs.

The CER is actively engaged in both IAMCs, including supporting the IAMCs’ Indigenous Monitoring programs. Technical and scientific support is provided by NRCan and CER. Specific to IAMC-TMX, other federal departments involved as Regulators in the project : DFO, CCG, TC, and ECCC.



Towards continuous improvement

The IAMCs support Reconciliation by **providing a forum** to express and understand different perspectives, for Indigenous representatives to provide **direct advice** to the federal government, and to help government and Indigenous peoples make **informed decisions** about the two energy projects. IAMCs also play a vital role in advocating for **policy reforms and institutional changes** that prioritize Indigenous rights, interests, and concerns in the regulatory oversight of energy projects. By influencing decision-makers at the community and national levels, IAMCs contribute to the development and implementation of **more responsive policies**.

With a membership comprised of participants from Indigenous Nations and communities and federal departments involved in the regulatory oversight of two energy projects, the IAMCs are a **first-in-kind innovation** for collaboration on major energy projects in Canada. This new model required an important time investment from both federal and Indigenous partners to support co-development and build positive, trust-based relationships. While adjustments were made in response to lessons learned over the first five years of operation, **ongoing challenges require continuous improvement** of the delivery model.

To be effective, this collaboration requires an **appreciation of differing world views**, including regular meetings with supportive resourcing, and a **commitment to work together** to ensure that everyone’s voice is heard and respected. The evaluation sought to balance and present the story of the establishment and implementation of the IAMCs, as seen through two very different world views and experiences.

Collaborative approach

The joint delivery of actions (outlined in the *Management Response and Action Plan*) is an example of the collaborative approach of **co-development** between federal departments and IAMCs, critical for achieving objectives and ensuring effective implementation. This partnership underscores the importance of **coordination and cooperation** in advancing the goals of the IAMCs.



RELEVANCE

Strengths

The Government of Canada has a stated commitment to the IAMCs over the lifetime of the projects. The evaluation found that the IAMCs are perceived as an **important step** in the Government of Canada’s commitment to **Reconciliation** and increased inclusion of Indigenous peoples into Canada’s economy. It also highlighted the ongoing relevance of the IAMCs in supporting the federal government’s commitment to improve the involvement of impacted Indigenous peoples in reviewing and monitoring major resource development projects.

Challenges

- **Adjustments** and improvements are needed in the IAMCs’ design.
- Perspectives differ on how the IAMCs should evolve, particularly regarding decision-making processes: While Federal Caucus members want the IAMCs **continuing on the path as outlined** until a new vision is co-developed and endorsed, the Indigenous Caucus members expressed a **desire for greater delegation of decision-making** to the IAMCs and a new power dynamic that reflects joint decision-making and sharing of authorities. This vision emphasizes the **importance of Indigenous leadership and agency** in shaping the direction and outcomes of the IAMCs.

EFFICIENCY AND ECONOMY

Strengths

Processes and tools have been developed to support the IAMCs in their functions, including frameworks for engagement, decision-making processes, and mechanisms for addressing concerns raised by Indigenous Nations and communities. Additionally, IAMC contribution agreements have facilitated projects aimed at **enhancing Indigenous access** to information, tools, and resources related to energy infrastructure development.

Challenges

- Indigenous Caucus members would benefit from **more training** and knowledge on the function and machinery of the federal government.
- Federal representatives would benefit from additional training, knowledge, and awareness of **Call to Action #57** of the Truth and Reconciliation Commission, and in understanding the impacts of intergenerational trauma.
- Current IAMC Secretariat efforts, effectiveness, and delivery are **not meeting expectations**.
- There is a need for long-term and appropriate **funding** of the IAMCs for the full lifecycle of the projects. Absence of this has contributed to a lack of financial and strategic planning required to sustain the IAMCs as permanent advisory bodies.
- A **governance review** is needed to identify and prioritize IAMC governance policies, procedures and practices that require strengthening, and develop a plan to address any gaps.
- There are **shortcomings in how information is being shared** with the IAMCs. Information related to the IAMCs’ operations and results are not accessible to Committees, and Indigenous Caucus members are not provided with regular financial updates.

EFFECTIVENESS

Strengths

The evaluation highlights how the IAMCs, in their own unique ways, are addressing Indigenous concerns for two energy projects:

- The IAMCs **improved** the way Indigenous peoples were engaged on these large projects affecting their lands. Specifically, the IAMCs have implemented **groundbreaking** on-the-ground Indigenous monitoring programs, which have been deemed effective in delivering results to address environmental, direct monitoring, and capacity building barriers that have historically occurred on major projects. Indigenous Caucus members of both IAMCs expressed wantinf to see a **continuation of these approaches** implemented across future projects.
- The IAMCs have **influenced changes** in how Regulators work with impacted Indigenous Nations and communities, enhancing the regulatory review process and oversight of energy projects. This indicates a shift towards more inclusive and collaborative approaches to regulatory decision-making and away from any adversarial process.
- The IAMCs help to drive broader **systemic change**, including organizational change within the CER and consideration of expansion of the Indigenous Monitoring programs to other energy projects.
- Participating Indigenous leaders have reported **increased comfort and confidence** in the regulatory process because of their involvement in the IAMCs. The IAMCs may have helped the projects **progress at a pace faster** than what would have been without the IAMCs. The Indigenous Monitoring program and related capacity has supported this result.

Challenges

- To empower the IAMCs, the Committees’ Terms of Reference (TORs) need to **clarify** who has the authority to make recommendations to government.
- Improvements are needed when it comes to the federal government’s **responsiveness to the advice** provided by the IAMCs. Faster responses from federal departments would support effective decision-making and timely recommendations. Issues also exist in how federal responses to advice are being tracked and reported on to partners.
- There is a need for **continued, senior-level government engagement** and less turnover of responsible government representatives.
- There are issues with the sustainability of the Indigenous Monitoring programs, including for training and retention of Indigenous Monitors. The IAMC **logic model*** should be reviewed and updated to reflect Indigenous priorities.

* A **logic model** is a **systematic and visual** way to present and share your understanding of the **relationships** among the resources you have to **operate** your program, the **activities** you plan to do, and the **changes or results** you hope to achieve.

The evaluation makes **10 recommendations** to improve the design and delivery of the IAMCs.

It is recommended that each IAMC:

- Conduct strategic discussions, led by the IAMC-TMX and IAMC-L3 Indigenous co-chairs, to agree on future visions, shared decision-making areas, and co-development opportunities.
- Review and strengthen governance policies, procedures, and practices.
- Create long-term plans that identify strategic priorities and expected results focused on the longer-term nature of the energy projects.
- Establish a shared definition of “consensus” for providing advice to government departments, as well as a formal process to support the intake and tracking of IAMC advice and recommendations to government.

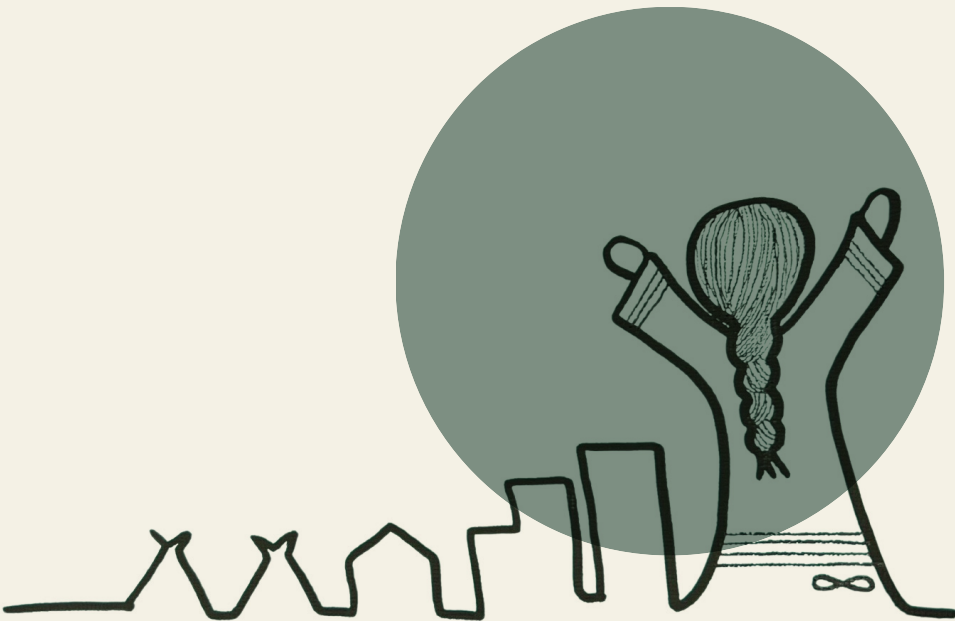
It is further recommended that NRCan:

- Initiate discussions regarding longer term funding arrangements for the IAMCs and the optimal location for the IAMC Secretariat to ensure efficient operations.
- Ensure the Indigenous Caucuses are effectively resourced to engage with potentially impacted Nations and communities.
- Work with the IAMCs to reframe the logic model to align with Indigenous values.
- Monitor and report on the economic benefits realized by Indigenous Nations and communities from these large energy projects.
- Undertake discussions with IAMCs to determine where the IAMC Secretariat should be placed for effective operations and results. If the decision is for the Secretariat to keep being housed within government, it is recommended to develop a staffing plan.

Lastly, it is recommended that the Canada Energy Regulator, in conjunction with the IAMCs:

- Continue to evolve and develop more sustainable Indigenous Monitoring programs, with an emphasis on consistency in pay and skills development for monitors.

Although this recommendation was written to the CER, it applies to the other Federal Regulators and will be Indigenous Caucus led & driven, as written in the MRAP.



“

We are pleased to provide comments for the Management Response and Action Plan (MRAP) to the Evaluation for the Indigenous Advisory and Monitoring Committees on major projects. Although the IAMCs focus on condition compliance for different projects, and involve different regulators, the framework of federal laws, regulations and policies that govern oversight of project construction and operation are common to both – in fact, all – projects involving federal regulation.

We need to do more, be more and be better in building created spaces for Indigenous expertise and excellence in oversight of major projects. This is the mandate we have from communities across the pipeline and marine shipping routes impacted by the TMX and Line 3 projects. We have repeatedly heard from communities that they do not have trust in oversight of major projects unless Indigenous peoples are involved, every step of the way.

—Richard Aisaican
Chair, Indigenous Caucus
IAMC on Line 3

—Raymond Cardinal Chair,
Indigenous Caucus IAMC,
TransMountain

”

Responsive Government Actions and Next Steps

The action plan to respond to the evaluation’s recommendations was co-developed with the IAMCs and includes specific commitments from participating federal departments. These actions are expected to begin being implemented in 2024 and 2025.

Some actions to respond to the findings and recommendations of this evaluation have already begun. For example, more responsive funding models for both IAMCs were adopted in April 2022. The development of the future vision of both IAMCs is also already underway, with ongoing discussions and regular engagement events with leadership from impacted Indigenous Nations and communities to ensure alignment, participation, and co-development. Further work to update the Terms of Reference of the two IAMCs, discuss long-term forward planning and the appropriate structure of the IAMC Secretariat will be supported by the allocation of a total of \$44 million over 3 years (2024-25 to 2026-27) to all departments supporting the IAMCs.

To address concerns regarding lack of timely communication, limited performance information, and team member turnover, federal departments will be taking actions to improve the administration and delivery of the IAMCs supports. This includes establishing a communication loop to receive and respond to advice, and developing a reporting dashboard to track IAMC grants, contributions, and related impacts.

Future Line Wide Gatherings will serve as a forum for sharing progress against these actions and validating directions with impacted Nations and communities, ensuring the IAMCs’ actions remain aligned with community interests.



What is Action Plan Measure 34?

Co-developed by the Indigenous Caucus of IAMC-TMX, NRCan and the CER, Action Plan Measure (APM) 34 calls for First Nations, Métis, and Inuit communities, governments and organizations to work in consultation and cooperation to (i) enhance the participation of Indigenous Peoples in; and (ii) set the measures that could enable them to exercise federal regulatory authority in respect of, projects and matters that are currently regulated by the CER.

To learn more about APM 34, please use this QR code to access the United Nations Declaration for the Rights of Indigenous Peoples Act Action Plan:





JC Bear

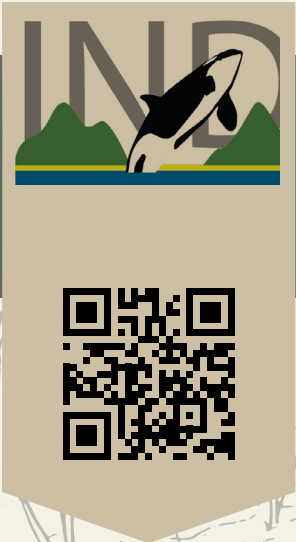
JC Bear is a two-spirit nêhiyaw/settler self-taught beader with an education in Fine Arts and Graphic Design born off-rez in Alberta, from Muskoday First Nation in Saskatchewan, now living and practising in Tio’tia:ke, or Montreal, Quebec. In April 2021, they established “Tansi Maskwa” with the intention of giving back a portion of profits to the Indigenous community of Turtle Island. The lack of representation during JC’s art education inspired them to start a small business centered around Indigenous themes and humour.

Jennifer Brown

Jennifer Brown is a Métis artist and educator from Prince Albert, Saskatchewan. She is the daughter of AnnaLou and Mervyn Brown and a direct descendant of James Curtis Bird from the Red River Settlement. Her artistic passion grows from her love of history and her autistic desire to fill in the blanks. Jennifer holds a Bachelor in Education and a Masters in Curriculum and Instruction. As an artist and educator she strives to have her students grow their art with their identity.



TMX IAMC website :



L3 IAMC website:



To view the full report of the evaluation of the implementation of the IAMC:

