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Notes and Policy Recommendations for RAD Network Dialogue Sessions: Offset Projects on Public Land

Background:

This briefing note was collaboratively drafted by Wahkohtowin Development and is intended as a thought and discussion piece for the RAD Network and policy working groups. It includes policy recommendations on Consent, CATS Account Ownership, and Technical Carbon Protocol Elements. Two examples of different Improved Forest Management (IFM) activities are also presented to share this knowledge and highlight how IFM project activities can vary in type, quality, and market value. It is also hoped that this will show how policy, carbon project design, and sustainable forest management can intersect and interact on the landscape where individual Nations and their Lands and Resources Departments will make decisions about whether and how to engage with carbon markets.

General Comments:

The language in the paper as it relates to the *function* of a marketplace for ecosystem services, on traditional-use territory, is already prescriptive with respect to the roles that each market actor will play. Consider the paragraph describing a hypothetical process for determining rights and benefit allocation:

From ECCC:

We are seeking comment on the following questions

- 1. Will the proposed approaches address the issue of assigning entitlement to claim offset credits issued for GHG reductions from offset projects on Crown or public land from a province or territory to a project proponent?***
- 2. Are there other approaches that could address entitlement and ensure there is no potential double claiming of offset credits for federal offset projects on Crown or public land?***

“One approach could be for a project proponent to come to an agreement with the province or territory on the allocation of offset credits from a project, on a project-by-project basis. This agreement could support the project proponent’s assertion of exclusive entitlement to claim offset



credits issued in the federal Offset System. The proponent would then be responsible to distribute offset credits to the province or territory and Indigenous nations or communities according to any agreements.” (Facilitating Projects on Crown and Public Land in Canada’s Greenhouse Gas Offset Credit System, Environment and Climate Change Canada. 2024)

The three categories of market actors in the one hypothetical example in the document are:

1. Project Proponent
2. Province or Territory
3. Indigenous Nations or Communities that may be part of an agreement

The assumption is that the Nation is not the Project Proponent and that this is an outside technical service that few, if any, Nations could take on as a contractual role.

If the thinking were more balanced, and rights focused, there could be an example where the Nation is the Project Proponent, and, as the Proponent, holder the CATS account and also responsibility to distribute benefit according to an agreement. Hypothesizing that a negotiation between a private company and a Province/Territory would be a first (or early), and necessary, step in the project design process, and that a % distribution to a Nation or Community is the ultimate benefit flow structure, presumes that the negotiation would not be between the Nations and the Province/Territory in the first place. It also emphasizes, as the discussion paper does, that the Province has codified rights to carbon and other ecosystem market commodities which is a disputed assertion.

There are technical elements of an offset protocol that can ensure a higher quality of process with respect to rights and landscape management decision making, including forest management. These technical elements in a nascent IFM ‘public land’ protocol, that could be highlighted by the RAD Network in the November feedback submission, connect to direct measures of net forest carbon gains, and continuous measurement and monitoring requirements. In a more general view of ‘public land’ carbon projects, there are policy positions such as dynamic consent, and First Nations and Indigenous Communities as the only CATS account holders for public land projects, described below, that can apply to all carbon offset project types.

The answer to question 1 above is: No, the proposed approaches will not address the issue of entitlement claim.

Note that in question 2 above, there is a request for information on other approaches to address the entitlement claim but here, rights and entitlement are coupled with the technical issue of ‘double counting’, an issue that is distinctly separate from the determination of rights and entitlement claim. There are many technical solutions to mitigate double counting and, with respect to rights and entitlement, there are other approaches that empower First Nations and Indigenous Communities as the rights-holders, and position Provincial Governments and other actors as secondary in the structuring of a term sheet for a specific project or series of projects on public land.



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Dynamic Consent Linked to Critical Carbon Project Validation and Verification Stages:

Relevant to feedback questions (1-3 and 2-2):

How should Indigenous consent obtained by the project proponent be confirmed?

Are there other approaches that could address entitlement and ensure there is no potential double claiming of offset credits for federal offset projects on Crown or public land?

In the document the concepts of consent and discovering/documenting rights are both taken as static, point in time, concepts. In plain language: Once the project boundaries have been determined and “consent” received and confirmed (likely through a benefit sharing agreement), the project proponent has all the required consensual elements to move forward with project execution and management across the life of the project.

But what if a Nation, after auditing the execution of the Project Design Document activities, determines that this is not in the best interests of people, or ecosystem? Is there the ability to withdraw consent? Is there a mechanism for the dynamic (ongoing) re-assessment of consent that is connected to project outcomes?

The way the document describes consent from Nations looks like a decided topic: Once consent is signed that is the task complete. In working on long term (50-100 years) projects, having a one-time consent mechanism may not serve the interests of the Nation wishing to steward its land in the best way possible.

This could be brought forward in the submission to ECCC with the policy recommendation that consent be re-assessed and re-affirmed at intervals aligned with the re-assessment of the project and baseline scenarios.

Another important note, made by one of the Policy Circle participants, at the last meeting convened by RAD, relates to the assumption that if the Nation or Indigenous Community is the project proponent, consent is assumed. The comment in the Network Circle was that this should not be the case, particularly given the long-term nature of carbon offset contracts. The recommendation was to have a mechanism for rights-holders to give their consent even in cases where a Nation or Indigenous Community is the project proponent.

Policy Recommendations Re: Consent

1. That consent been viewed as a dynamic concept across time with regular *requirements* of consent demonstration and affirmation throughout the life of a project listed on the ECCC CATS.



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2. That the consent requirement, and reaffirmations, across the crediting lifetime of the project on public land, be aligned with the technical requirements at Validation and credit issuance events.

3. That the traditional-use rights-holders have the option, but not obligation, to evaluate on their own terms the project's performance against the project design and validation documents as a component of the credit verification process.

Indigenous Communities and Indigenous-Led Organizations as Project Proponents on Public Land IFM Projects

From ECCC:

“We are seeking comment on the following questions

- 1. How should project proponents go about identifying the Indigenous nations or communities holding rights in the project area so that they can engage with them to obtain consent?***
- 2. What documentation would be required to demonstrate confirmation of consent?***
- 3. How should Indigenous consent obtained by the project proponent be confirmed?”***

Under the “key considerations” pillar of aligning with the principle of recognizing and upholding Indigenous rights, the above questions have more to do with how project proponents “*go about identifying the Indigenous nations [sic] or communities holding rights in the project area...*” than they do about recognizing (as a level of government, representing all people in the country) rights. Question 2 is about documentation that could/should be required to confirm consent and (3) how this consent should be confirmed by the Registry before volume can be registered on the CATS system. All the questions are seeking feedback on what project proponents must do to get the required consent (assumed to be a point in time consent document) in order to complete the requirement and get registered with the Federal Offset System.

The language in these questions suggests, inter alia, that the project proponents and the rights holders are separate entities. There is mention in the paper about leadership of or participation in the project by Indigenous Nations or Communities, but these examples are the minority. The questions themselves are framed in a way to gain knowledge on what consent standards of engagement and consent should be met for an outside party to act as a project proponent without specific mention of FPIC or UNDRIP principles.

Also noting that the consent requirement, and questions related to it, are only relevant to the registration of the project offsets on the Federal system (CATS). ECCC did not seek feedback on the second key consideration in the document: the purview of the Provincial levels of government. The



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preamble about rights and UNDRIP and issues that the Federal Government interacts with seems vacant if there is no intention to leverage these principles to codify these rights across all Provinces and Territories.

If there were a regulation that an Indigenous Nation, Community or Indigenous-Led Organization had to be the main project proponent and account holder, the issue of consent would be a Nation-to-Nation discussion and negotiation, not a private company to Nation negotiation where the power dynamic is unequal.

Policy Recommendations Re: Project Proponents and Registration with the Federal CATS:

1) That, in alignment with Canada's UNDRIP and FPIC commitments, all carbon projects on Traditional-Use territory have a First Nation, Indigenous Community or Indigenous-Led organization as the Project Proponent and Account Holder with the CATS.

a) Rationale:

The project proponent and CATS account holder is the last node in the value chain of credit production-issuance-retirement. The project proponent is also the central hub of benefit distribution. Vesting this oversight and authority relating to land-use decision making and carbon project performance, with First Nations and Indigenous Communities, codifies the appropriate recognition of the traditional-use rights that exist in Canada.

Technical IFM Protocol Design Elements as Rights and Benefit Securement

Technical details matter when it comes to public land forest carbon projects. Foundational questions connect to both philosophical and technical dimensions:

- What activities improve forest management?
- Who benefits from 'Improved Forest Management' projects delivered on traditional-use territories (public land)?
- How is project-generated benefit distributed to First Nations and Indigenous Community Partners? And how might this be a technical design consideration?

As a thought exercise, please consider two examples of Improved Forest Management project activities for Carbon and how these project activities are, or could be, aligned with self determined principles of land stewardship in a given First Nation/Indigenous Community jurisdiction:

1.0 Extended Rotation Length (ERL) IFM Carbon Projects:

The most common Improved Forest Management (IFM) carbon project activity is "Extended Rotation Length" (ERL). The theory of change is to avoid the release of emissions and store more



carbon on the landscape by lengthening the rotation (time between harvest events). These projects can be done over very large landscapes that are actively being managed for forest product production. Over time, there is a cumulative effect of having less harvesting events in a given time scale, leading to more carbon storage in the forests. It also means that there are more polygons of forest in an older age-class that can have additional habitat and biodiversity co-benefits on the landscape. An example are the mature forests that serve as late-winter moose habitat. Most of the 'work' for this type of improved forest management carbon project is done by modifying forest stewardship and forest management plans. With the planning documentation complete, a third-party validation firm can confirm that the numbers are accurate and the project can proceed to the verification stage and then credit issuance. It is important to note that the mechanism of positive impact on emissions is the avoided release of Green House Gasses (GHGs) which can be contrasted with the other type of carbon project category: carbon removal projects.

1.1 Potential Benefits of Extended Rotation Length Projects for First Nations and Indigenous Communities

An older age class of mature forests on the landscape has many benefits for ecosystem health including, additional carbon storage, biodiversity, traditional-use, fire suppression and other co-benefits to a carbon financed activity. Moose, as an example, are very important for food and nutrition security and culture in many First Nations and Indigenous communities. An age class distribution on the landscape that is older on average than the baseline scenario is potentially very beneficial for moose population health. Late winter moose habitat is often in mature stands which afford some relief from deep snowpack covering winter food sources. Extending the average age of trees at the harvest stage of the rotation can increase the total area of late winter moose habitat available on the landscape.

1.2 Significant Discounts to Total Carbon Volume:

Extended Rotation Length IFM projects are challenged by uncertainty and leakage discounts that are often over 50% of the total credit volume. This means that for every 1,000 tons of carbon emissions avoidance estimated to be a result of extending harvest rotation lengths, 500 tons is not able to be certified because of uncertainty, activity shifting leakage or market-based leakage. All these categories represent discounts to the total volume. In simple terms, the project proponents can only justify 25-50% of the total, additional carbon, estimates in the Project Design Documents. This is a feature of this activity type that is important to communicate to Nations when looking at total tons of carbon dioxide sequestered vs carbon volume that will be certified and available for sale.

1.3 Modelled Forest Management Improvement:

Much of the 'improvement' in forest management and additional carbon storage outcomes in an ERL carbon projects, using most methodologies and protocols, are modelled values. The quality of this type of avoided emissions project is challenged given the significant (up to 80%) levels of uncertainty/leakage discount required to certify offset volume. There is a way to directly measure the benefit and net-carbon storage but most projects do not employ this method due to cost. This approach is logical with some activity types but there



are limited legal mechanisms to prevent a forest company from reversing this stewardship and management paradigm and abandoning the carbon project completely if the company is sold. A drawback of the modelled approach to carbon quantification is that impacts on growth and yield curves due to climate change are not internalized into the model in an efficient way.

1.4 Considerations for Extended Rotation Length-Improved Forest Management Registry Choice

A key technical consideration for this IFM activity type is the level of discount the project will have to absorb for leakage, uncertainty, and pooled buffer/ecosystem integrity insurance based on how individual registries design their IFM protocols. There are many other co-benefits and positive outcomes associated with an older age-class average in blocks on a working landscape. Below is a description of considerations for two Voluntary Methodologies (VERRA) for Extended Rotation Length IFM projects, and the IFM protocol from the Canadian government on IFM projects on private land, as indicative of the technical elements that could be included in the IFM public land protocol. A strength in the IFM Private land Protocol from ECCC is the benefit to the project proponent if they can secure a carbon/conservation easement on the project area, securing the project activities as part of the title or land ownership documents.

- **VERRA VM003:** If the project is employing the VERRA VM003 methodology that is specifically designed for ERL-IFM projects, **no activity shifting leakage is permitted. This means that to activate a carbon project, the Forest Licensee has to agree to transition all of the area under their management to an extended harvest age.** This could impose a production limitation if the Annual Allowable Cut (AAC) volume can not be met in the extended rotation age class.
- **VERRA VM045(1.1):** If using VERRA methodology VM045, with dynamic performance baselines, there is a requirement to establish project plots on the landscape to measure actual net carbon gains from the extension of rotation age. These continuously measured plots are compared to permanent sample plots maintained by a third party agency to dynamically, and continuously, quantify net carbon removals and emissions reductions.
- **FEDERAL IFM (private land) Protocol:** If using the IFM private land Federal protocol there is no requirement for Dynamic Performance Baseline plots and continuous monitoring of baseline and project conditions over time. There is also no requirement for forest licence holders (Forest Companies) to convert their entire operational area to IFM activities. There is, however, a table in the private land protocol that outlines standard market shifting leakage discount rates by Province. The range for Ontario is 47-68% for this one leakage category.



1.5 Potential Pros and Cons of Extended Rotation Length-Improved Forest Management for Indigenous Nations and Communities

Pros:

- Lower establishment costs
- Relatively easy to implement and operationalize
- Large landscape areas (forest licence tenure scale)
- Project activity promotes more polygons of mature forest on the landscape
- No need to do extensive field measurements and continuous monitoring under the current Canadian Federal Private Land IFM offset protocol
- Can be low demand for personnel from Indigenous Nations/Communities
- Indigenous Nations/Communities can be the project proponent with little to no technical knowledge 'in-house'

Cons:

- Reliability issues with project design assumptions and huge discounts make projects of this type lower quality (lower market value)
- Little actual activity on the land improving (holistically) how forests are managed: business as usual for harvest operations
- Little to no need for robust Indigenous Nation/Community input
- Not much activity 'on the land' to operate
- May limit intensified forest management and forestry revenue dividends for communities

2.0 Advanced Silviculture (conifer release and thinning) Improved Forest Management Carbon Projects

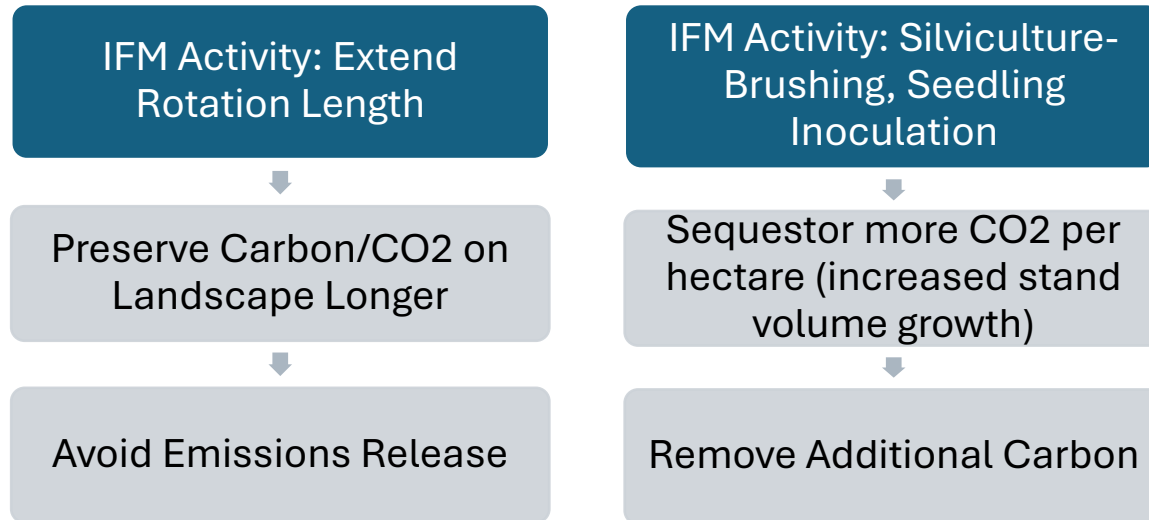
A well-documented improvement to boreal forest management is the (a) release of conifer trees from competition trees and brush, and (b) reducing the number of stems per hectare to increase the volume per tree and hectare. In plain language: After the trees are planted, the carbon financed project activity for (a) is to move across the planted stand and clear a 1-2m circle around the planted trees with brush saws or chainsaws. For activity (b), the job at year 10 is to move through the block and reduce the number crop trees (conifers) to a prescribed, optimal density for maximizing stand volume, and carbon sequestration. This conifer release project activity type (a) also has the potential co-benefit in some jurisdictions of avoiding the broadcast use of herbicide, that kills all understory tree and shrub species, creating biodiversity deserts in the forest.

2.1 Removal vs Avoided Emissions Carbon Volume

Advanced Silviculture carbon project types remove additional carbon from the atmosphere through project activities compared to project types that avoid the release of emissions. Removal carbon offsets currently have a higher value in the market and are easier to directly quantify and monitor over time. Any activity or intervention within a silviculture system that can increase the total volume of timber grown per hectare (and total carbon sequestered per hectare) compared to a baseline



scenario is a removal project type. In this project type there are no discounts to carbon volume from activity shifting or market leakage in this project type because the claimed/credited volume is a measurable removal connected to carbon financed project activities, not an estimate of avoided emissions. Depending on the quantification approach, these volumes are also demonstratable within the project boundary compared to the control baseline.



2.2 Dynamic Performance Baselines

One market trend on the voluntary side of the market is the shift to “Dynamic Performance Baselines” for IFM projects. In basic terms this means that a project proponent must show that their improved forest management activities are either (a) avoiding carbon emissions or (b) removing more carbon dioxide equivalent than a series of continuously monitored baseline plots in the forest. Some technical protocol questions to consider:

- 2.2.1 What would a Federal protocol requirement for active measurement of carbon removal/avoided emissions outcomes mean for Indigenous-led stewardship and use of the land?
- 2.2.2 How would the data collected as a time series benefit Nations’ future landscape management decisions?



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2.3 Potential Pros and Cons for Indigenous Nations/Communities

Pros:

- Higher quality forest management outcomes and offset product
- More activity options for active Nation/Community stewardship of the landscape: connection to exercising rights
- Workforce development: forest science, technical carbon, Guardians, SME development
- More accurate assessment of real-world outcomes
- Low uncertainty and leakage discounts
- Higher value of offset product

Cons:

- Higher capital and operational expenditure costs
- Need for personnel and local workforce
- Need to have a high number of baseline-project plot pairs to accurately capture the net gains from project activities
- Longer time frame to realize benefits---trees have to grow and put on the additional volume vs forest management policy driven project activities
- Potentially less total volume of offset credits in comparison with ERL projects

Key Takeaways from IFM Project Activity Comparison

- The type of “Improvement” in forest management matters for more than just carbon outcomes on the landscape: Rights and Benefit Delivery pathways are woven into project design and technical protocol/methodology elements
- Some activities have measurable benefits
- Not all IFM activities have an active field component
- Most extended rotation project types will be limited in co-benefits associated with project activities: biodiversity, Guardians on the land, large data sets re: climate change

Policy Recommendations Re: Technical Carbon Protocol Elements:

1. That ECCC consider a shift to Dynamic Performance Baselines and a continuous monitoring paradigm, informed by and integrated with, Indigenous traditional knowledge and relationships with the land, in developing the Public Land IFM protocol and do the same for other nascent Agriculture Forestry and Other Land Use (AFOLU) protocols.



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2. That ECCC couple and codify FPIC and UNDRIP principles within protocol and project registry processes so that Nations and Indigenous Communities are empowered to contribute to technical elements of projects on their traditional-use territories.

Rationale: The integration of this local knowledge will help projects meet and exceed performance targets and keep the locus of authority for landscape management with Traditional-use rights holders.

3. That ECCC increase the incentive percentages for First Nations/Indigenous Community engagement in project risk assessment and mitigation, ecosystem integrity insurance volume, project proponent and project operator status in public land carbon offset projects. More on this point below.

Incentivizing Engagement with Traditional-Use Rights Holders in Carbon Projects: Environmental Integrity Account Deposit Discounts-IFM Private Land Table 4 and Implications for Public Land Projects

Background:

In Table 4, Section 11 of the IFM Private Land Protocol, Environmental Integrity Account (EIA) deposits are discussed. The Environmental integrity account is the federal offset system's equivalent of a 'pooled buffer reserve' in the VERRA system. This is an offset deposit account to insure against 'reversal risk' or the likelihood that the emissions reductions will not happen or that emissions removals will be lost. Reversal events fall into two categories: 'voluntary reversals' like overharvesting where the annual cut was planned to be less, or 'involuntary reversals' like forest fire. There is a baseline 3+24% deposit requirement for projects meaning that in addition to any leakage discounts that must be applied, an additional 27% of total credits must be deposited to the EIA.

Interaction between Indigenous Engagement, Ownership, Risk Management, Monitoring and Environmental Integrity Account Discounts from Project Volume

"Table 4: Discounts to the contribution to the environmental integrity account" of the IFM Private Land Protocol can be found here for reference: [Improved forest management on private land \(protocol version 1.0\) - Canada.ca](#)



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What it describes is the ability for project proponents and developers to retain more of the total offset volume by engaging indigenous communities in the following ways:

Reversal risk mitigation measure	Discount %
1-Indigenous Community Monitoring	4%
2-Use of Conservation Easements or other restrictions on forest/land use change	4%
3a-Indigenous-led project	2%
3b-Indigenous involvement in risk management planning	2%
4-Natural disturbance mitigation measures	2 or 4%

For reference, an Indigenous-led project is defined in the protocol:

Indigenous-led project:

means a project for which the proponent or the forest operator is registered in the Indigenous Business Directory (IBD) and can provide a registration number, or is a Certified Aboriginal Business as identified in the Canadian Council for Aboriginal Business (CCAB) member directory.

(Environment and Climate Change Canada: Section 2.0, Improved forest management on private land (protocol version 1.0). [Improved forest management on private land \(protocol version 1.0\) - Canada.ca](#))

Policy Recommendations Re: Environmental Integrity Account Discounts

From a policy perspective there are multiple pathways for engagement with technical elements in a published offset protocol. Three important comments specifically relevant to the Environmental Integrity Account discounts that the RAD network may consider are:

1. Deeper % discounts (more financial incentive) for projects that operate with the above listed activities
2. A broader list of activities and discounts informed by First Nations, Indigenous Communities and Indigenous-led organizations
3. A more relevant definition of “Indigenous-led project” than the one presented in the IFM private land protocol (1.0) recognizing that some Indigenous communities/Nations/Organizations are not aligned with ‘registration’ or participation in a member directory as the benchmark for Indigenous leadership.