

TERMS OF REFERENCE FOR PHASE 2 OF THE PLAN AMENDMENTS

This Terms of Reference outlines the purpose, scope and process for development of Phase 2 of the Plan Amendments required by Ministerial Order No. M232-2024 (Order M232).

As required by Order M232, Phase 2 of the Plan Amendments will be prepared by the Ministry of Environment and Parks (ENV) in accordance with the Terms of Reference approved by the Minister of Environment and Parks.

Phase 2 of the Plan Amendments will be completed and submitted to the Minister of Environment and Parks for approval on or before December 6, 2027.

1.0 Introduction

The Elk Valley area based management plan (“the Plan”) was established in 2014 under Section 89 of the Environmental Management Act (EMA) to remediate water quality effects from past coal mining and to support continued mining in the Elk Valley. The Plan is a Ministry of Environment and Parks policy that informs statutory decision-making under the EMA in the Designated Area. The Designated Area was established in 2013 and is described in Schedule E of Order M232. A copy of Order M232 is attached as Appendix A.

On July 9, 2024, the Minister of Environment and Parks initiated two phases of amendments to the Elk Valley area based management plan by issuing Order M232.

Phase 1 of the Plan Amendments was developed by ENV from July 2024 to July 2025. ENV addressed requirements of Order M232 and developed the 2025 Elk Valley Water Quality Plan (2025 EVWQP). On July 30, 2025, the Minister of Environment and Parks approved the 2025 EVWQP as the amended Elk Valley area based management plan.

Phase 2 of the Plan Amendments is the subject of this Terms of Reference. Order M232 requires ENV to develop recommendations for a Terms of Reference for Phase 2 of the Plan Amendments. This Terms of Reference defines the purpose, scope, process, responsibilities and timelines for development of Phase 2 of the Plan Amendments.

Ministerial Order No. M3-2026 (see Appendix B) requires a Terms of Reference to be submitted for approval to the Minister by June 30, 2026.

2.0 Purpose of the Plan and Phase 2 of the Plan Amendments

2.1 Purpose of the Plan

The purpose of the Plan provided in Order M232 is as follows:

“The purpose of the Elk Valley area based management plan is for the Ministry of Environment and Parks to establish environmental outcomes and objectives, including

targets for selenium, nitrate, sulphate, cadmium, and calcite, in the Designated Area that will:

- remediate the effects from past activities that are impacting the Elk River watershed by improving water quality; and,
- guide the regulation of effluent discharges into the Designated Area from current and future mining and other dischargers.”

The 2025 EVWQP describes the Plan’s goals, which are represented by outcomes, objectives and targets.

2.2 Purpose of Phase 2 of the Plan Amendments

The current water quality target for selenium in the Canadian portion of Koocanusa Reservoir was established in 2013 through Ministerial Order No. M113-2013 (Order M113). At the time, British Columbia’s approved water quality guideline for protection of aquatic life was the best available information to inform a target that would be protective of known values and uses of the reservoir.

Since 2014, new scientific information related to the reservoir has been collected and developed. This includes but is not limited to:

- Water quality sample results collected in accordance with Permit 107517 monitoring requirements.
- Biological data and related data collected in accordance with approved study designs for aquatic effects monitoring in the reservoir, as required by Permit 107517.
- Reports and studies carried out in accordance with Permit 107517.
- Draft synthesis of data and knowledge collaboratively assembled by ENV and the Ktunaxa Nation Council Society in 2021 to support development of a proposed selenium water quality objective.
- Selenium bioaccumulation modelling framework developed by the United States Geological Survey (USGS) and other work generated through the selenium technical sub-committee of the Lake Koocanusa Monitoring and Research Working Group.

The purpose of Phase 2 of the Plan Amendments is provided in Schedule C of Order M232 and is as follows:

“The purpose of Phase 2 of the Plan Amendments is to review the Plan’s existing selenium water quality target for the Canadian portion of Koocanusa Reservoir based on consideration of the best available information, and to recommend any amendments to the Plan’s existing target if indicated through the review.”

3.0 Background

The Plan's Designated Area (Schedule E of Order M232) includes the Canadian portion of Koocanusa Reservoir. The Plan's surface water quality target for selenium in Koocanusa Reservoir applies to the Canadian portion (British Columbia's jurisdictional area) of the transboundary reservoir.

The target was established in Order M113. It was set at 2 µg/L, which is B.C.'s approved chronic water quality guideline for protection of aquatic life, and it was applied at a location south of the mouth of Elk River at Order Station LK2. As indicated in Section 2.2, the aquatic life guideline represented the best available information to inform a target that would be protective of uses of the reservoir. Since aquatic life was identified as the most sensitive use of water in the Canadian portion of Koocanusa Reservoir, a target protective of aquatic life was expected to be protective of all other water uses as well.

Since the target was established, B.C. collaborated with partners including the State of Montana through the former Lake Koocanusa Monitoring and Research Working Group to advance monitoring, research and information sharing about water quality and site-specific conditions in Koocanusa Reservoir. Through this work, administration of Permit 107517, and other efforts, including by industry, governments, First Nations and academia, new scientific information related to the reservoir has become available.

There is now improved understanding of selenium, how it bioaccumulates, potential risks to human consumers of fish from Koocanusa Reservoir, hydrologic and mixing conditions in the reservoir, influence of dam operations, selenium transport, and selenium removal and treatment technologies. A review of the selenium water quality target allows new scientific information and improved understanding to be integrated to ensure the target remains relevant and effective towards achieving the Plan's goals.

In 2026, ENV prepared a report entitled "Selenium Conditions in the Canadian Portion of Koocanusa Reservoir 2015-2025" ("2026 Selenium Conditions Report") attached as Appendix C. The 2026 Selenium Conditions Report compiles, assesses and summarizes site-specific selenium science and surface water quality, sediment, fish tissue, zooplankton and benthic invertebrate selenium data and hydrological information. The report summarizes the current status of water quality in relation to selenium in the Canadian portion of Koocanusa Reservoir, including potential risks to aquatic life and to human health. The report provides background information relevant to Phase 2 of the Plan Amendments.

To support review of the selenium target, ENV also initiated development of an ENV Selenium Bioaccumulation Model for the Canadian portion of Koocanusa Reservoir ("ENV Selenium Bioaccumulation Model") using the modelling framework developed by the USGS and building on earlier models including a draft model developed by ENV and Ktunaxa Nation Council Society (KNC). Information about the work done by ENV and KNC in 2020-2021, and ENV's recent work towards an updated ENV Selenium Bioaccumulation Model, is summarized in ENV's report entitled "A Review of Selenium Bioaccumulation Modelling for Koocanusa

Reservoir” (“2026 Selenium Bioaccumulation Modelling Review”) attached as Appendix D. The ENV Selenium Bioaccumulation Model will inform Phase 2 of the Plan Amendments.

4.0 Issues to be Addressed in Phase 2 of the Plan Amendments

This Terms of Reference is informed by the 2026 Selenium Conditions Report, 2026 Selenium Bioaccumulation Modelling Review, and work towards development of the ENV Selenium Bioaccumulation Model. Phase 2 of the Plan Amendments will build upon the baseline information, recommendations and conclusions provided in the 2026 Selenium Conditions Report and the 2026 Selenium Bioaccumulation Modelling Review and will address the issues described in Sections 4.1 to Section 4.14.

If indicated through the review, amendments to the Plan’s selenium target for the Canadian portion of Koocanusa Reservoir will be recommended if necessary.

4.1 Background Information

Background information and context is summarized in the 2026 Selenium Conditions Report (Appendix C). The 2026 Selenium Conditions Report will be carried forward into the review process. ENV may consider other relevant sources as appropriate.

Information about how a selenium bioaccumulation model may be applied to support review of the selenium target for the Canadian portion of Koocanusa Reservoir is provided in ENV’s 2026 Selenium Bioaccumulation Modelling Review (Appendix D).

4.2 Elk Valley Area Based Management Plan Goals

The selenium target review will ensure the Plan and decisions informed by the Plan support progress towards achievement of the Plan’s goals. The Plan’s goals are represented by outcomes, objectives and targets, including outcomes for the protection of aquatic ecosystem health and for the protection of human health.

The Plan’s goals contribute to the purpose of the Plan (Section 2.1) and strive to achieve the vision for the Designated Area:

“The vision for the Designated Area is for water quality that is safe for ʔa·kxam’is q’api qapsin (All Living Things), supports healthy communities and ecosystems, and is protective of Ktunaxa rights and the uses and values of all who live in the watershed and have relationships with the water.”

4.3 Water Uses

The selenium target will continue to apply to the Canadian portion of Koocanusa Reservoir. Water uses in the Canadian portion of Koocanusa Reservoir include:

- aquatic life (freshwater, including sensitive fish species),

- fish harvesting and consumption for personal, recreational, subsistence and cultural purposes (including at Ktunaxa preferred diet consumption rates),
- drinking water,
- recreation,
- agriculture, and
- wildlife.

The most sensitive water uses with respect to selenium are aquatic life for sensitive fish species, and for human consumption of fish when Ktunaxa preferred diet consumption rates are used. Thus, supporting protection of aquatic ecosystem health, and human health from fish consumption, are considerations for the selenium target review.

By supporting protection of the most sensitive water uses, it is expected that the selenium target review will support protection of other water uses, including drinking water, recreation, agriculture and wildlife.

The selenium target review will consider the water uses of freshwater aquatic life and human consumption of fish alongside the broader Plan purpose of informing decisions that support progress towards the goals of the Plan while mining is ongoing.

4.4 Conceptual Site Model

A conceptual site model for selenium in the Canadian portion of Koocanusa Reservoir will be developed based on information provided in the 2026 Selenium Conditions Report and other relevant sources, and with consideration of input from the Advisory Committee.

The conceptual site model will be developed in consideration of the water uses in the Canadian portion of Koocanusa Reservoir (see Section 4.3).

The conceptual site model will be used to support common understanding about relationships between sources of selenium, exposure pathways, and receptors, and will be used to inform the development of target options.

4.5 Selenium Target Media

Phase 2 of the Plan Amendments will review and consider different target media including the following.

Surface Water

Use of surface water as a target media will be reviewed for continued relevance and in consideration of water uses, current science, feasibility, the goals of the Plan, and alignment with provincial scientific, regulatory and policy frameworks.

Fish Tissue

Use of fish tissue as a target media will be assessed in consideration of water uses, current science, ENV's province-wide guidelines that apply to all fish species, species-specific effects concentrations, feasibility, the goals of the Plan, and alignment with provincial scientific, regulatory and policy frameworks.

Consideration of target media will be informed by an ENV Selenium Bioaccumulation Model (see Section 4.6).

4.6 ENV Selenium Bioaccumulation Model

An ENV Selenium Bioaccumulation Model for the Canadian portion of Koocanusa Reservoir will be developed and will describe a relationship between selenium concentrations in water and in fish tissue. The model will support understanding of potential risks to water uses arising from specific surface water selenium concentrations bioaccumulating in fish tissue.

The ENV Selenium Bioaccumulation Model will be used to inform the development of surface water quality target options by determining the likelihood that surface water quality target options will result in attainment of specific fish tissue endpoints. It will also be used to predict water quality concentrations that could result in attainment of specific fish tissue target options, to inform achievability analyses which rely on predictions of water quality in the reservoir.

The model will be finalized with consideration of input from the Advisory Committee.

4.7 Selenium Target Options

Selenium target options shall align with the Province of British Columbia's scientific, regulatory and policy frameworks, including the Plan. Target options will be developed in consideration of water uses (see Section 4.3) and will be informed by the conceptual site model (see Section 4.4).

Where relevant, target options should be derived from site-specific data and approaches and linked to water uses. Target options should consider the spatial and temporal variability of water quality. Each target option will include its scientific basis, expected ecological and/or human health outcome(s), and calculation period (i.e. numeric maximum, minimum, or average values for specific averaging period, seasonal average, etc.).

The recommended monitoring and calculation methods for determining attainment will be provided for each target option.

At a minimum, the following target options will be assessed using the ENV Selenium Bioaccumulation Model during Phase 2 of the Plan Amendments:

1. The Plan's current surface water quality target of 2 µg/L (maximum monthly average), measured as chemical concentration of total selenium in water samples collected at LK2;
2. Surface water quality selenium target option(s) representative of current conditions as characterized using selenium concentrations measured within the Canadian portion of Koocanusa Reservoir downstream of the Elk River;
3. Target option(s) (for water and/or fish tissue) related to a fish tissue selenium concentration endpoint of 5.6 mg/kg (dry weight) to support protection of the water use of aquatic life for sensitive fish species, measured as chemical concentration of selenium in whole-body fish tissue; and,
4. Target option(s) (for water and/or fish tissue) related to a fish tissue selenium endpoint of 5.2 mg/kg (dry weight) to support protection of the water use of human consumption of fish when Ktunaxa preferred diet consumption rates are used, measured as chemical concentration of selenium in whole-body fish tissue.

ENV may develop and assess target options for other endpoints, with consideration of input from the Advisory Committee, and with approval from the Order Manager.

For each surface water quality target option, changes to the location and/or sampling design of the surface water quality Order Station for the Canadian portion of Koocanusa Reservoir may be proposed.

If any changes are proposed to the Order Station's location or sampling design, the effects of those changes on the surface water quality targets for the other Order parameters (nitrate, sulphate and cadmium) at current Order Station LK2 should be assessed.

Any target option(s) with fish tissue as a target media will be accompanied by proposed monitoring and calculation methods for determining attainment.

4.8 Screening of Selenium Target Options

Selenium target options developed in accordance with Section 4.7 will be evaluated using a structured, two-step evaluation process, with a screening step first (Section 4.8), followed by detailed evaluation (Section 4.9).

Evaluation criteria are listed in Tables 1, 2 and 3 and are intended to ensure that any target recommendation is scientifically defensible, environmentally protective, achievable, feasible, and aligned with the Plan and its goals.

First, target options will be screened using the criteria in Table 1. Target options passing the screening step will then advance to detailed evaluation (Section 4.9).

The screening step will be a rapid assessment of target options to remove options that clearly do not meet the screening criteria in Table 1. A comparison matrix will be used to screen target options against the criteria. The pros and cons of each target option will be compared to identify any limitations or trade-offs and narrow down the options for the detailed evaluation (Section 4.9).

Table 1. Screening Criteria for Selenium Target Options

Screening Criteria	Description
Water Uses	A target should support the protection of water uses, including the most sensitive uses of the Canadian portion of Koocanusa Reservoir, which are: ▪ aquatic life (sensitive fish species), and/or ▪ human consumption of fish (at Ktunaxa preferred diet consumption rates).
Best Available Science and Site-Specific Information	A target should: ▪ be based on the most up to date and relevant available science, and incorporate site-specific information, modelling, monitoring results and understanding of selenium bioaccumulation.
Target Media and Value	A target should be based on media: ▪ that are relevant and reliable for assessing environmental effects and evaluating human health risks, and ▪ that are measurable and practical to implement. A target value for a specific media should be scientifically defensible and appropriate for assessment endpoints.
Target Attainment Monitoring	Target monitoring should: ▪ align with B.C. sampling, monitoring and data quality standards, ▪ use methods and calculations that provide data that appropriately represent the intentions of the target, ▪ identify the location(s) where target attainment should be monitored, ▪ allow for evaluation of trends, ▪ minimize influence of factors not directly related to mining activities in the Elk River watershed, and ▪ minimize and describe residual uncertainties that may be associated with attainment determinations.

4.9 Detailed Evaluation of Selenium Target Options

Target options passing the screening step (Section 4.8) will advance to the detailed evaluation step (Section 4.9).

The detailed evaluation will first assess environmental effects and risks, and evaluate human health risks, against the criteria in Table 2. Then, based on the risk evaluation (Section 4.9.1), a limited number of candidate targets will be selected to evaluate how they could be achieved (Section 4.9.2) using the criteria in Table 3.

4.9.1 Risk Evaluation

For each target option passing the screening step (Section 4.8), environmental effects and risks will be assessed. Each target option will be evaluated for biological relevance, expected ecological outcomes and predicted effects to aquatic life in the Canadian portion of Koocanusa Reservoir. The following will be provided for each option:

- Potential effects on individual organisms and populations of aquatic life.
- Potential effects will be compared to the predicted level of effects associated with the current selenium water quality target (2 µg/L), as applicable.
- Species-specific sensitivity will be evaluated.

For each target option passing the screening step, human health risks from consuming fish from the Canadian portion of Koocanusa Reservoir will be evaluated. Human health risk evaluations will consider B.C. fish consumption guidelines. The following will be evaluated for applicable target options:

- Potential risks to human consumers will be evaluated for the following ingestion rates: high (220 grams/day), medium (110 grams/day), and low (30 grams/day), and the Ktunaxa preferred diet rate (245 grams/day).

Although other water uses in the Canadian portion of Koocanusa Reservoir are understood to be less sensitive than for aquatic life for sensitive fish species and for human consumption of fish when Ktunaxa preferred diet consumption rates are used (see Section 4.3), target options will also be compared against applicable B.C. water quality guidelines for those other uses.

Risk of cumulative effects will be described for each target option passing the screening step. Factors in the reservoir that may influence exposure and risk should be considered for each option.

Target options passing the screening step (Section 4.8) will be evaluated against the risk evaluation criteria listed in Table 2. A structured comparison matrix will be used to evaluate selenium target options passing the screening step against the criteria in Table 2.

Table 2. Risk Evaluation Criteria for Selenium Target Options

Evaluation Criteria	Description
Environmental Risks	Target options should be evaluated for: ▪ predicted risks of effects to individuals of sensitive species, using species-specific information where possible, ▪ predicted risk of effects to populations of sensitive species, using species-specific information where possible, ▪ predicted risk of impacts to overall ecosystem health and functioning, and ▪ risk of cumulative effects.
Human Health Risks	Target options should be evaluated for: ▪ predicted selenium-related risks to human health from consumption of fish, and ▪ risk of cumulative effects.

Based on the risk evaluation, a limited number of candidate targets will be selected for achievability evaluation against the criteria in Table 3 as described in Section 4.9.2.

Given that the achievability evaluation work may be time and resource intensive, efforts will be made to limit the number of options for this analysis, and/or it may be necessary to “group” possible targets into similarly-achievable categories. The Order Manager will make a final determination on the reasonableness of the number of candidate targets selected for achievability evaluation, in consultation with EVR Operations Limited (EVR) and Ktunaxa First Nation Governments in Canada. The Order Manager may consult with the Minister if needed.

4.9.2 Achievability Evaluation

Candidate targets should be demonstrated to be achievable through an implementation framework with timelines to achieve the target.

Under the Plan, the regional water quality model is the tool that informs water quality planning and assessment for the Designated Area, and it will be used to assess the achievability of candidate targets. Under ENV’s direction, EVR will review mine plans and water quality management plans (including measures for source control, water management, and use of treatment facilities) to identify and describe best achievable approach(es) to meet each candidate target. The regional water quality model will be used to predict and demonstrate how the candidate target may be achieved. ENV will set the modelling assumptions and evaluation parameters, with consideration of input from the Advisory Committee.

Management actions should consider ministry policy, including policy for best achievable technology assessment methodology and interim technical guidance on technology readiness assessment.

As part of characterizing the management actions needed to achieve each candidate target, EVR will also describe the associated:

- financial costs,
- key considerations affecting technical feasibility,
- implementation timelines,
- environmental impacts and risks, and
- other relevant impacts, risks or benefits.

ENV will use this information to evaluate the achievability of each candidate target against the criteria listed in Table 3 using a structured comparison matrix. The achievability evaluation will be used together with the risk evaluation from Section 4.9.1, to identify a draft target recommendation. Economic and social costs and benefits, including implications for existing permittees, will be considered to the extent practicable within the time limit for development of Phase 2 of the Plan Amendments (Section 7.0), and any relevant information will be used to inform the draft target recommendation (Section 4.10) and/or will be provided to the decision maker.

Table 3. Achievability Evaluation Criteria for Candidate Selenium Targets

Evaluation Criteria	Description
Achievability	Candidate targets should be assessed to understand: ▪ management actions needed to achieve the target, ▪ the extent of actions required to achieve the target, ▪ incremental environmental risk of implementing the management actions, ▪ incremental economic costs for existing dischargers, ▪ other associated social and economic costs and benefits, ▪ achievability timelines, and, ▪ any uncertainties and recommended adaptive management actions to help address the uncertainties.

4.10 Draft Target Recommendation

At the conclusion of the detailed evaluation (Section 4.9) a draft target recommendation will be identified.

The draft target recommendation should clearly align with the Plan, including its purpose, framework, goals, and implementation strategy. Any draft target recommendation will need to be justified using the evaluation criteria and supported with documented rationale.

Residual risks to aquatic life and human health of managing to a candidate target will be evaluated in consideration of the achievability (including feasibility, risks, costs, benefits and timelines) of the management actions required. Balancing achievability and risk considerations will be done in consideration of the Plan's policy framework, and if needed in consultation with the Minister.

The detailed evaluation will guide the development of recommendations but may not be the sole determinant. Trade-offs, risks and qualitative factors may be considered. A target recommendation may need to balance environmental protection with ongoing mining in the watershed, and there may be a need for adaptive management and continuous improvement while supporting progress towards the Plan's goals.

4.11 Target Review Report

ENV will summarize the evaluation of selenium target options (Sections 4.8 and 4.9) and the draft target recommendation (Section 4.10) in a target review report.

The target review report will:

- Include the conceptual site model developed under Section 4.4.
- Include the finalized ENV Selenium Bioaccumulation Model under Section 4.6.
- Integrate and summarize the findings from the screening and evaluation of selenium target options.
- Document rationale, assumptions, and information sources informing any draft target recommendation.
- Document uncertainties and limitations associated with any draft target recommendation.
- Address whether the current selenium surface water quality target should be retained, revised or replaced, and provide justification.

The target review report may propose other related changes to the Plan, with approval from the Order Manager.

4.12 Outcomes to be Achieved

As indicated in Order M232 Schedule C, the recommended selenium target(s) for Koocanusa Reservoir will apply to the Canadian portion of the reservoir and should achieve the following outcomes:

- support protection of relevant uses of the water body, including but not limited to aquatic life, human consumption of fish, drinking water, recreation, wildlife and agriculture,
- include one or more numerical target(s) using one or more media,
- be accompanied by recommended monitoring and calculation methods for determining attainment, and,
- be demonstrated to be achievable through an implementation framework with timelines to achieve the target(s).

4.13 Implementation

Phase 2 of the Plan Amendments will provide recommendations for how any draft target recommendation under Section 4.10 may be implemented through ENV's regulatory processes.

4.14 Coordination with Other Management Plans

ENV will:

- (a) Consult with the holders of any environmental assessment certificates requiring development or implementation of management plans applicable to the Designated Area to determine what if any coordination is appropriate in relation those plans;
- (b) Consult with the Ministries of Forests; Mining and Critical Minerals; and Water, Land and Resource Stewardship to identify any plans applicable to the Designated Area under other enactments for which coordination is appropriate;
- (c) Where ENV deems it appropriate, ensure coordination with the persons responsible for such plans.

5.0 Responsibilities

ENV is responsible for drafting Phase 2 of the Plan Amendments under the supervision of the Order Manager appointed under Section 4.0 of Schedule B of Order M232 and under directions of the Minister.

The Order Manager is the Director of the Southeast Coal Mining Team in ENV. If the Director is unavailable, the Deputy Minister of ENV may appoint another person as the Order Manager.

The Order Manager is responsible for overseeing the work of ENV in relation to Phase 2 of the Plan Amendments, managing the process for development of recommendations for Plan Amendments including consultation, tracking fulfillment of any directions provided by the Minister, and facilitating the delivery of recommendations for amendments to the Minister for approval under Section 90.2(3) of the EMA.

6.0 Process for Consultation

ENV will engage with Ktunaxa First Nation Governments on the recommendations for Plan Amendments in accordance with the Province of British Columbia -Ktunaxa First Nation Governments Engagement Plan for Amendments to the Elk Valley Area Based Management Plan, June 14, 2024. ENV is committed to advancing British Columbia's commitments to reconciliation with Ktunaxa First Nations and implementing the Declaration on the Rights of Indigenous Peoples Act.

ENV will chair and consider input from an Advisory Committee when developing recommendations for the Plan Amendments, as described in Section 6.1.

ENV will publish a public notice of the draft recommendation for Phase 2 of the Plan Amendments and establish a process for public and stakeholder input on the draft recommendation.

ENV may hold meetings with, or request information from, relevant organizations or individuals on an as-needed basis to inform the draft recommendation for Phase 2 of the Plan Amendments.

ENV will consider input received through consultation in developing and preparing the recommendations for Phase 2 of the Plan Amendments.

Final decisions and approval of Phase 2 of the Plan Amendments will be made by the Minister of Environment and Parks.

6.1 Advisory Committee (AC)

The Order Manager will establish an AC to provide technical and policy input from First Nations and stakeholders in Phase 2 of the Plan Amendments. To be clear, the AC is not a decision making body and its role is advisory in nature. ENV will consider input from the AC when developing recommendations at the following stages of development (see Section 7.0):

- Stage 1: Initiation
- Stage 2: Target options
- Stage 3a: Risk evaluation
- Stage 3b: Achievability evaluation and target review report

ENV will notify the AC of the draft recommendation for Phase 2 of the Plan Amendments before publishing a public notice for input.

The AC is to consist of a maximum of two representatives from each of the following organizations:

- (a) British Columbia, Ministry of Environment and Parks;
- (b) British Columbia, Ministry of Mining and Critical Minerals;
- (c) ʔakisq̓nuk First Nation;
- (d) ʔaq̓am;
- (e) yaq̓an nuʔkiy First Nation;
- (f) Yaq̓it ʔa·knuq̓liʔit First Nation;
- (g) Government of Canada, represented by Environment and Climate Change Canada with support of Natural Resources Canada and other federal government departments as needed;
- (h) EVR Operations Limited;
- (i) United States Federal Government;
- (j) Montana State Government;
- (k) Idaho State Government;
- (l) Confederated Salish and Kootenai Tribes; and,
- (m) Kootenai Tribe of Idaho.

If a Ktunaxa First Nation Government listed in subsections (c) to (f) so indicates, it may be represented by the Ktunaxa Nation Council Society (KNC).

Within 14 days of being notified of the Minister's issuance of the approved Terms of Reference for Phase 2 of the Plan Amendments, each organization listed in subsections (a) to (m) in this Section will provide to the Order Manager the name of their representatives on the AC.

Organizations may be represented at the AC by either one or both of their appointed representatives. If any listed organization fails to nominate a representative within the time specified, the AC will consist of the representatives that have been nominated. After 14 days following the Minister's issuance of the approved Terms of Reference, the appointment of a representative to the AC for an organization listed in subsections (a) to (m) in this Section may be permitted by the Order Manager.

The Order Manager may invite additional organizations and/or individuals to any meeting or to participate in particular elements of the review and input process as deemed appropriate. Meeting regularity, frequency, and duration will be determined by the Order Manager.

The term of the AC commences on the date the Minister issues the approved Terms of Reference and expires on submission of Phase 2 of the Plan Amendments to the Minister for approval.

6.2 Strategic Advisory Committee (SAC)

The SAC established by the Order Manager for Phase 1 of the Plan Amendments under Schedule B of Order M232 will continue its functions in relation to Phase 2 of the Plan Amendments.

The chair of the SAC is the Order Manager.

The SAC is established to provide strategic advice as needed to inform the development of recommendations for Phase 2 of the Plan Amendments. The Order Manager may bring unresolved strategic-level issues from other committees or meetings to the SAC for discussion and advice. The SAC is not a decision-making body.

The SAC's role is to help address issues and challenges and provide guidance on the development of recommendations for Phase 2 of the Plan Amendments to meet the directions and requirements in Order M232 and the approved Terms of Reference.

The SAC consists of one senior representative, and one alternate, from each of the following members of the SAC:

- (a) Government of British Columbia;
- (b) Government of Canada, represented by Environment and Climate Change Canada;
- (c) ʔakisq̓nuk First Nation;
- (d) ʔaq̓am;
- (e) yaqan nuʔkiy First Nation;

- (f) Yaq̓it ʔa·knuq̓li'it First Nation; and,
- (g) EVR Operations Limited.

If a Ktunaxa First Nation Government listed in subsections (c) to (f) so indicates, it may be represented by the Ktunaxa Nation Council Society (KNC). For clarity, Ktunaxa First Nation Governments are invited to participate on the SAC in recognition of B.C.'s commitment to advance reconciliation by engaging deeply with and seeking consensus with Ktunaxa First Nation Governments.

For clarity, the Government of Canada, represented by Environment and Climate Change Canada, is invited to join and participate on the SAC to facilitate sharing of information and science, build awareness, and support improved understanding across jurisdictions.

For clarity, EVR Operations Limited is invited to participate on the SAC in recognition of being the author of the 2014 Elk Valley Water Quality Plan, holding significant waste discharge authorizations relevant to the Plan in the Designated Area, and being responsible to develop and maintain the regional water quality model for the Designated Area in accordance with a signed memorandum of understanding between ENV and EVR.

An organization's appointed representative, alternate representative, or both representatives may attend SAC meetings.

The Order Manager may invite additional organizations and/or individuals to participate in any meeting. Meeting regularity, frequency, and duration will be determined by the Order Manager.

The term of the SAC commenced on July 9, 2024. The term of the SAC expires on submission of Phase 2 of the Plan Amendments to the Minister for approval.

6.3 Independent Technical Experts

The Order Manager may appoint Independent Technical Experts to support Phase 2 of the Plan Amendments.

If appointed, Independent Technical Experts will provide independent technical input on methods, criteria and recommendations for the selenium target for Koocanusa Reservoir.

The Independent Technical Experts may also be asked to review other data, assessments and recommendations assembled by ENV.

One or more experts, including but not limited to, from the following fields may be selected:

- Selenium toxicology in aquatic environments
- Risks to human health
- Water and/or wastewater treatment
- Selenium source control and treatment/removal

- Water quality modelling
- Socio-economic analysis

ENV will consult with Ktunaxa First Nation Governments and EVR Operations Limited on the expertise and qualifications required for the Independent Technical Experts. Where consensus cannot be reached, the Order Manager may appoint any Independent Technical Experts.

Independent Technical Experts will be procured through British Columbia's standardized procurement process.

6.4 Independent Facilitator

ENV will appoint an independent facilitator to support the amendment process, including but not necessarily limited to, facilitating meetings of the AC.

The independent facilitator will provide notice of meetings to Advisory Committee members, receive and distribute meeting information to Advisory Committee members, and prepare agendas and meeting notes of Advisory Committee meetings.

The independent facilitator may be a Province of British Columbia employee from outside the ministry's Southeast Coal Mining Team, acting in an independent manner.

7.0 Time Limit for Development of Phase 2 of the Plan Amendments

Phase 2 of the Plan Amendments will be completed and submitted for approval to the Minister on or before December 6, 2027.

Recommendations for Phase 2 of the Plan Amendments will be developed through a five stage development process. Key milestones and target dates for achieving the milestones are listed in Table 4.

The Order Manager is responsible for keeping Phase 2 of the Plan Amendments on schedule.

Table 4. Stages of Development, Key Milestones and Target Dates

Stage	Key Milestones	Targeted Completion*
Stage 1: Initiation	1 st , 2 nd and 3 rd Advisory Committee meetings. Advisory Committee written input. <u>ENV Deliverables:</u> - ENV Selenium Bioaccumulation Model - Conceptual Site Model	December 2026
Stage 2: Target Options	4 th Advisory Committee meeting. Advisory Committee written input. <u>ENV Deliverables:</u> - Summary of screening - Target options for Stage 3a risk evaluation	February 2027
Stage 3a: Risk Evaluation	5 th Advisory Committee meeting with input. <u>ENV Deliverables:</u> - Summary of risk evaluation - Candidate targets for Stage 3b achievability evaluation	March 2027
Stage 3b: Achievability Evaluation and Target Review Report	6 th Advisory Committee meeting. Advisory Committee written input. <u>ENV Deliverables:</u> - Summary of achievability evaluation - Draft target recommendation - Target Review Report	June 2027
Stage 4: Draft Recommendation	Advisory Committee notification and optional meeting. Publishing and public input. <u>ENV Deliverable:</u> Public notice of draft recommendation	October 2027
Stage 5: Final Recommendation	ENV to submit Final Recommendation to the Minister	Due date: December 6, 2027

*Targeted completion may be further defined as Phase 2 of the Plan Amendments proceeds.

8.0 Amendments to Terms of Reference

ENV will seek approval from the Deputy Minister for any proposed minor amendments to this Terms of Reference, and from the Minister for any significant amendments such as those which may adjust the scope or timelines for Phase 2 of the Plan Amendments.

Appendices:

Appendix A – Ministerial Order No. M232-2024

https://www.bclaws.gov.bc.ca/civix/document/id/mo/hmo/m0232_2024

Appendix B – Ministerial Order No. M3-2026

https://www.bclaws.gov.bc.ca/civix/document/id/mo/mo/m0003_2026

Appendix C – ENV report entitled “Selenium Conditions in the Canadian Portion of Koocanusa Reservoir 2015-2025” dated June 2026

Appendix D – ENV report entitled “A Review of Selenium Bioaccumulation Modelling for Koocanusa Reservoir” dated June 2026