

EMAB meeting, September 24, 2009, Yellowknife

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association
Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation
Floyd Adlem, Secretary Treasurer, Canada
Lawrence Goulet, Yellowknives Dene First Nation
Tom Biddulph, Diavik
Sheryl Grieve, North Slave Metis Alliance (arrived at the break).

Guests:

Gord Macdonald (Diavik)
Petr Komers (EMAB's wildlife consultant)
Kathy Racher

Staff:

John McCullum, Executive Director
Michele LeTourneau, Communications Coordinator (also minutes)

Meeting started at 1:25.

ITEM 2 – Wildlife

Gord Macdonald presents proposed changes to Diavik's WMP. Notes that Diavik has been going to communities. The main changes proposed are:

Vegetation – no change

Caribou – aerial survey and behavioural scans reduced to every 2nd year

Grizzly – hair snagging to replace field surveys (no DNA analysis). Start with two years in a row, then every 2nd year.

Wolverine – will add DNA survey but frequency has not been decided

Falcons – include reference work at Daring Lake

Waterfowl – only monitor during peak season

Waste Management – no change

Petr Komers comments: DDMI's background paper is a good document. There are pros and cons. The rationale is good. He reviewed the discussion at the ENR/Mines workshop that took place Sept 22 & 23.

If proposed changes are accepted you may not be testing the predictions made during the environmental assessment. Need to consider how to handle this.

Grizzly monitoring as an example. Prediction is a ZOI of 10 km. Proposed sampling grid is 10 km square so won't test ZOI. Perhaps stratify posts by habitat type as opposed to using "grid thinking." This would test the ZOI.

Baiting might affect the results but it would be systemic, so all are equally affected.

To mitigate you have to understand small scale interaction.

Wolverine: Snow tracking works well to test the predicted effects. Just one snow tracking survey may not be enough. The DNA testing is good, but is more aimed at population level effects rather than effect of the mine.

Falcons: Agree with ENR. Five-year standardized survey – continent-wide. EA predictions have been tested and answered. Question about whether data is adequate. PK feels it is good and notes that the pit wall surveys will continue.

Caribou: There has been a lot of effort to coordinate with Ekati. There are still many questions to be answered. Surveys have never actually addressed the small scale zone of influence predictions, addressing only the enlarged zone of influence. You need to decide whether it's OK that the ZOI is much larger than originally predicted.

The issue of change of behaviour as a function of distance from the mine is very difficult. This fine-scale information is what will tell you whether the mitigation is working. You would need a tighter survey closer to the mine re: distribution of wild, free-ranging ungulates.

Question: Is the aerial survey creating the zone of influence. That could contribute to additional disturbance. Answer – it would be a systemic effect.

Recommends reducing aerial survey and increasing on the ground monitoring.

ITEM 3 – Closure plan update

Gord Macdonald presents on Diavik's Interim Closure and Reclamation Plan.

Discussion on Diavik's workshop at site with elders. Noted that the elders refused to discuss use of TK for closure during the workshop.

The questions Diavik wants to ask are focused on post-closure wildlife movement on the rock pile and PKC. The current shapes prevent access but they could be re-shaped to provide access to the whole rock pile or develop routes caribou could follow. There is no clear consensus on the best approach

Comments:

- Could filling of the pits from Lac de Gras affect the water level? No.

- EMAB's role is to make sure the company involves the Aboriginal people. That seems to be happening. But it has already been decided that pits will not be filled with rock. Aboriginal people don't have a say. Is the pit clean enough to fill it with water?
- We don't see value in creating a crossing again. To bring the site back to something that won't be useful (migrating routes have changed) is a waste of time.
- Diavik is looking at freezing as a part of closure. They are now creating models, looking at current climate and superimposing a global warming condition.

The Wek'èezhii Land and Water Board will require Diavik to answer all these questions as part of closure planning.

Question: which communities have been visited: Whatì, Gameti, and Ndilo/Dettah so far.

Question: what about frozen structures and the effect of increasing temperature and possible permafrost melting? Diavik has developed thermal models of each structure to see the possible effects.

WLWB haven't planned anything after review comments come in December 18. The process will depend on what they hear from people.

Q: If the final plan is due two years before final closure, how can you do progressive closure?

A: We only make decisions we are comfortable with now. We don't want to make a permanent decision that we will regret later.

The objective of the ICRP was not increased detail.

Discussion on the draft closure criteria put forward by Diavik. Some of these do not fulfill commitments made in the CSR, such as no on-site burial of machinery, buildings or equipment.

Q: Isn't the CSR conceptual?

A: For the WLWB, the environmental assessment is heavily used to guide in decision-making.

ACTION: Draft a letter re: CSR commitments as pertains to proposed closure criteria to send to Diavik and WLWB.

Regarding EMAB expectations for consultation on closure: Diavik is doing the consultations, and will continue to do so. EMAB's role is to make sure the consultation occurs.

ITEM 4 – Land Use Permit renewals

Gord Macdonald presents on land lease renewal on CBM camp and exploration claims. They are applying. He noted that in its community presentations Diavik is suggesting people contact their EMAB rep if they have any concerns.

Item 5 – A21 mining option

Gord Macdonald presents info on a possible new technology to access the A21 pipe: the vertical cutter. This would not involve going underground or open-pit mining. Rather the pipe would be accessed through the water and rock with this cutter. A dike would be built around the area to contain silty water. Still in preliminary stages of consideration.

Item 6 – Traditional Knowledge

Switched to 11 a.m. tomorrow.

EMAB meeting, September 25, 2009, Yellowknife

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association
Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation
Floyd Adlem, Secretary Treasurer, Canada
Lawrence Goulet, Yellowknives Dene First Nation
Tom Biddulph, Diavik

Staff:

John McCullum, Executive Director
Michele LeTourneau, Communications Coordinator (also minutes)

Meeting started at 9:10

ITEM 1 – Minutes

Motion

Approve minutes of July 27-29, 2009.

Moved: Floyd Adlem

Second: Lawrence Goulet

Discussion on Diavik participation at TK workshop. Diavik was not asked not to participate.

Carried

To record email Motion:

Approve sending the letter to DIAND dated August 7/09 on DDMI's July 10/09 letter regarding the budget dispute.

Moved: Gavin (August 7, 2009)

Seconded: Floyd Adlem (August 10, 2009 in person)

VOTING	For	Against
Florence Catholique	<u> X </u>	<u> </u>
Eddie Erasmus	<u> X </u>	<u> </u>
Lawrence Goulet	<u> </u>	<u> </u>
Doug Crossley	<u> X </u>	<u> </u>
Shannon Hayden (by phone)	<u> X </u>	<u> </u>
Gavin More	<u> X </u>	<u> </u>
Floyd Adlem (in person)	<u> X </u>	<u> </u>
Tom Biddulph	<u> </u>	<u> X </u>

ITEM 7 – Communications Plan

Communications Coordinator presents Communication Plan.

Highlights:

- The assessment of implementation of the previous Communication Strategy has been moved to the back of the document.
- Some minor changes were made to the media strategy
- The identification of high profile and low profile approaches has been removed from the strategic considerations
- All requested changes from the July meeting have been incorporated
- A communication plan for community updates has been added – this has not been reviewed yet.

Comments

- Change media strategy reference from “Yellowknife” to “NWT”

- Posters for distribution to communities would be good
- Change “apply pressure” in the media strategy purpose bullet 2 to “highlight”
 - Add “or overlooked” to third bullet, after “ignored”
- Add community radio as a means of communication

Discussion postponed due to arrival of scheduled guests

ITEM 8 – Mercury in Lac de Gras

Duane Fleming of Health and Social Services, GNWT, is present to answer questions.

Discussion:

Mercury in fish is not uncommon, especially in fish that eat other fish. It is naturally occurring in nature as well. It is not unexpected that there is some mercury in Lac de Gras.

NWT goes by Health Canada’s commercial guidelines of 500 mg/g.

EMAB: In the CSR the GNWT said they would use subsistence level numbers of 200 mg/g.

GNWT: Even if that commitment was made we wouldn’t use it now. It doesn’t make scientific sense. It was a mistake. It’s scientifically not justifiable. It’s a mistake in the document. You would want to correct that. Write to the Chief Medical Health Officer. Fish all over the territory would be at that level.

Fisheries: Background mercury in other lakes.

Above 500 there would be a consumptive advisory: it’s not that you can’t eat the fish, it would be about how much fish you eat.

There is an advisory right now on a couple of lakes. April of 2007 – Thistlethwaite Lake. .Discovery Mine a tailings pond was released into Giauque Lake.

ACTION: contact Health Canada – status of subsistence level for mercury

ACTION: Follow-up with GNWT (Minister or CMHO) on commercial vs. subsistence level on mercury for Lac de Gras.

Q: if levels exceed 500 is a health advisory automatically issued?

A: if fish are only used in the NWT then CMHO issues advisory

ITEM 6 – TK monitoring proposal

ED presents item in kit

1) Review of DDMI suggestions from July

Alice Legat joins the meeting.

Noted: Joanne Barnaby reviews proposals for Diavik and for the Gordon Foundation. Diavik could get the proposal to Joanne if they want an independent review. It's difficult for a biologist to review it because they are not trained that way. It's easier for someone who knows how it works.

- Re: joining hunting camps to conduct TK study – There has to be consistency in gathering information (including noting when caribou come through or don't come through) and locations – hunting camps move from place to place.
- Joining hunting camps would not reduce the costs – consistency in this research is necessary like in any kind of research. And you have to use the same researchers. You have to look elsewhere to reduce the costs.
- Re: ENR WMP Workshop earlier this week – Issues that were raised that scientists can't get at could be got at through TK. Baseline is an issue, for example. Elders can talk about what used to happen. But you need trained researchers.
- Lutsel K'e: In Kugluktuk we said we wanted to be at Lac de Sauvage. That's where we went last week. Diavik was too slow. We could have done the pilot project.
- Yellowknives: Are not hunting caribou, because of the steep decline in caribou population.
- Alice noted the Tlicho are saying: Because of the decline, there should be no collars, nothing. Leaving the caribou alone.
- Noted: EMAB does not carry out research. Somebody else does the research. Same with training – that's somebody else's responsibility. The diamond mines indicated interest at the WMP workshop but there seems to be fear regarding the money it takes to do TK. But there is definitely a need for coordination –ENR could do that.
- To be meaningful to our mandate the camps need to be in the impact area of Diavik.
- Example: Wild reindeer change behavior 15 km from a cross country ski hut. Everybody is having a hard time determining the zone of influence – TK could help with that.
- Training and researching is the same as university – it needs to be full-time. The initial training takes a lot of time. Once trained, there is a lot of demand for these researchers – if they don't have full-time jobs they will go somewhere else.

- Regarding salaries: the proposed budgeted \$35,000 a year for one person is not a whole lot of money. It might be possible to reduce the project coordination role.
- There is a need to go to communities and ask their thoughts re: researchers etc. How do they think this should/could be done? It might be possible for communities to make a contribution.
- EMAB needs to convey the proposal to the Parties, with questions attached: location, regional approach, part-time vs. full-time researchers
- Question about Diavik's offer of funding to develop a TK study for the AEMP – are those funds still available? Answer – not sure
- Noted that each Party will need funds to get the discussion going
- Noted that funds Diavik contributed for the CBM camp could go to TK monitoring.

The Board goes through Diavik's suggestions:

- Diavik proposes removing fish from the study. This would not reduce costs. The study would just as easily be done together rather than separate.
- EMAB could ask communities this question as well.
- If you had two researchers, one would focus on fish and one would focus on caribou. When people talk about caribou mostly they also talk about fish and when they talk about fish they also talk about caribou. DFO might be willing to be a partner if fish are included.
- The further away we get from Lac de Gras the less Diavik will want to support this. And EMAB couldn't dispute that. A couple of the proposed camp locations are closer to Ekati.
- Noted: A regional study is more than the Lac de Gras area.
- This is about monitoring caribou around the mines, and EMAB's mandate is Diavik. People are concerned about whether the mines have an impact. The further we get from Diavik the less relevant the data will be. Ekati is nearby so it makes sense to try to include them.
- BHP wants to get into Tk. They are offering money. It's up to the community to choose how to spend it. Perhaps that could be used toward such a proposal.
- The proposal is designed to monitor the effect of the mines on caribou

- Communities want to play a role in monitoring Diavik. They have knowledge that would benefit the companies
- Plants are growing sooner and faster and mother caribou cannot get the enough nutrition for the calf. Also ice formation is different.
- Take into account the questions that are baffling the scientists in reviewing and re-formulating the questions in the proposal because TK could answer those questions.
- The Tlicho are having a wildlife workshop next week and WRRB doesn't need all the time allotted. Maybe EMAB could ask to get on the agenda and talk about the proposal.
- DDMI rep noted that he has raised concerns about the proposal in its current format. The proposal is fatally flawed – it's too expensive. If the proposal isn't going to work and Diavik's suggestions are not going to work we need to come up with a process to come up with something that will work.
- EMAB's role is to ensure that Aboriginal people are involved and that TK is considered equally with scientific information.
- EMAB has had traditional knowledge panels, but for very small specific activities.
- EMAB needs to go forward with this proposal and get feedback from various people. Around this table only one member has issues with it.
- You could have a tight demonstration proposal involving those who are obligated to look at TK. If you send out the original proposal everybody will say we won't pay this amount of money. The demonstration project could take place somewhere else and then could then be adapted to any mine.
- EMAB has not sat down with Diavik and discussed this. They should do this. Gord or Colleen would be the best people to talk to.
- EMAB needs to develop a set of questions directed at people to whom the proposal will be conveyed – funders and Aboriginal Parties. Refine the proposal and research questions, suggest a demonstration project, and ask the questions to the Aboriginal Parties (location, regional vs. LdG area, part-time vs. full-time researchers, inclusion of fish and offer EMAB funds to get discussion going. Nobody is doing anything right now. The revised proposal and cover letter should be worked out with the Executive then approved by conference call before being sent to Parties and discussed with funders.

- Allice and John could sit come up with a demonstration project, with this one on the back as the overall vision. Then sit down with Colleen and Gord (Diavik) and talk it out. We could also talk with Sue Fleck (ENR) and Carol Mills(INAC) and David Abernathy (BHP).
- The fact that the caribou numbers are in turmoil might incite others to put some money into it.

ACTION: Work with Executive tout a TK proposal package together for Board approval, then convey to Aboriginal Parties and potential funders.

Lunch at 12:00

Resumed at 1:20

ITEM 7 – Finalize Communication Plan

Noted: This is a living document.

Motion:

Approve the Communication Plan as amended.

Moved: Florence Catholique

Second: Floyd Adlem

Carried

Introduction of Brittany from NSMA who will be Sheryl's alternate.

ITEM 8 – Mercury

Mercury data analysis : Information in binder.

ACTION: Write a letter requesting clarification letter from GNWT about their commitment in the CSR to use the subsistence mercury level for advisories.

ACTION: write a letter to the Wek'èezhìi Land and Water Board and Diavik clarifying that it is not possible to compare the 1996 and 2008 mercury concentrations in fish

ITEM 9 – Budget dispute status

- Secretary Treasurer brings everyone up to date. Info in binder. DIAND is engaged and hopes that the dispute can be resolved without going to formal dispute resolution.
- Recap for the Board of the lunch meeting with Gord Macdonald and the executive. Lists the three options suggested by Diavik. KIA position may be workable. MPEMA option isn't likely to work. EMAB not very keen on Diavik's proposal to re-start the two-year budget submission process
- Mediation is still an option. Also, the minister has started the process of choosing a budget.
- Diavik has mentioned it wants to be able to approve any budget changes by EMAB. This compromises EMAB's independence and we think the Mackay report supports our interpretation.
- EMAB received a call from Carole this morning – she had originally intended to be here for this conversation but felt that there was no value if Gord wasn't here.
- Diavik's initiative gives EMAB the opportunity to make a list of our own objectives and options.
- Agreed to hold off on a letter asking DIAND to proceed with choosing either EMAB's or DDMI's budget

ACTION: The executive will produce objectives and options and share it with other board members by email for review and approval, then send to Parties.

Timing to be discussed.

Item 11 – Reports

Financial statement

Added a line item: unexpended funds from 07-09: 71,792

Motion:

Approve financial statement as presented.

Moved: Floyd Adlem

Second: Florence Catholique

Carried with one abstention

Motion:

Change budget line items of TK/IQ and science to “program” designation.

Moved: Florence Catholique

Moved: Lawrence Goulet

Carried with one abstention

Action items

In binder

Member reports

Kia: in binder

Diavik: Diavik has returned to normal operations since 25 August and last week announced that the mine won't be shutting over Christmas. Working to have the underground up and going in first quarter of next year. Recruiting a workforce for the underground operation. Safety performance improved over last year. Environmental monitoring went very well this summer. Operating costs exceeded our revenue stream over the past year.

Canada: Met with INAC with regard to budget for several hours last month. Brought them up to date. Will meet with Carole again probably Monday. Will encourage them to keep Carole on the file.

LKDFN: Still have a capacity problem – WLEC manager and SAO positions still need to be filled. Our Chief requested an update on the budget dispute. Strongly talked about a review of the EA. There continues to be a lot of concern about the caribou.

YKDFN : The chiefs are pretty busy. Shut down the community hunts to set an example to government and outfitters to scale back. Opening new buildings – school and community hall.

NSMA: Staff changes. Required board appointment changes. Figuring out who should do what and what should be the requirements. Probably going to have to change the alternate frequently. We'll have Grant when we can and divide the work up between staff or community members. The community wants continuity and community involvement. It would be great if EMAB's traditional panels were more active.

Chair: Appreciation and thanks for Grant's participation.

ITEM 12 – Inspector's Report

Jen Potten presents.

The summer went really well. A lot of the snow sublimated – essentially evaporated instead of running off.

No seepage. Drained out the north cell of the PKC too pond three after draining pond 3, then moved some to the North Inlet.

New diffuser. Questions as to whether LdG is still ultra-oligotrophic.

Spent one week in July and did lease inspections. Good time because of operations shutdown. Got to move all over the site. There are some fuel storage issues and since operations started again there have been some spills from big machinery, but not like it was before shut down. That was one of the reasons for the shut down – to overhaul the big shovels and do maintenance.

Land use inspection of CBM camp: fuel behind the tent frames had no secondary containment.

On Monday there will be a discussion about securities with INAC and Justice. Could be a recalculation of security – it could increase.

AEMP had a 100% success rate re: collection.

A21 and the new plan to mine it: turbidity in water is the only real issue.
80-90% of her time has been taken up with other projects since mid-April.

ACTION: Write a letter to INAC referencing the continued availability of a dedicated inspector.

Date of next meeting: 26th-27th Nov.

Closing prayer – Florence Catholique

Motion

Adjourn meeting.

Moved: Floyd Adlem