

EMAB meeting, Yellowknife
December 11, 2008

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association (phoned in for items 2 & 3)
Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation
Grant Beck, North Slave Metis Association
Lawrence Goulet, Yellowknives Dene First Nation
Tom Biddulph, Diavik
Shannon Hayden, alternate, North Slave Metis Association
Claudia Haas, alternate, Government of the Northwest Territories

Staff:

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

Started at 9:15

Note: Florence chairing in Doug's absence

Prayer: Florence Catholique

ITEM 1: Minutes

ACTION ITEM: Defer minutes of November to next meeting.

Noted: Diavik rep requests a discussion at the next meeting on how minutes are taken.

Verbatim? Record of decision?

Noted that the minutes try to reflect important points brought up during discussion so that readers can be clear how a decision was reached.

Motion:

Approve minutes of November 20th, 2008, conference call.

Moved: Claudia Haas

Second: Grant Beck

Carried: Unanimous

Email motion from November 28, 2008 – Approval of ICRP Workshop Consultant

Motion:

Approve Arktis Solutions Proposal dated November 21, 2008 to provide expertise and facilitation for EMAB's Closure and Reclamation workshop based on their expertise, methodology, and cost estimate of \$11,340 plus authorizable contingency of \$3500.

Moved: Gavin More (November 26, 2008)

Seconded: Floyd Adlem (November 27, 2008 – in person)

| VOTING | For | Against |
|------------------------------------|------------|---------|
| Florence Catholique | _____ | _____ |
| Eddie Erasmus | _____ | _____ |
| Lawrence Goulet (in person Nov 28) | X _____ | _____ |
| Doug Crossley | X _____ | _____ |
| Grant Beck (on the trail Nov 28) | X _____ | _____ |
| Gavin More | X _____ | _____ |
| Floyd Adlem (in person Nov 27) | X _____ | _____ |
| Tom Biddulph | _____ | _____ |

ITEM 2: Group community updates

Doug joins by phone

CC provides an assessment of the update

- Resource people weathered out
- Monday – school and upgrading presentations; good to have Diavik staff present on technical details
- Tuesday – meeting went well; participants liked DDMI and EMAB being together

Florence Catholique reports on Lutsel K'e update November 24-26, 2008

- Outcome with school and adult education was good – participants very happy.

- Wildlife meeting went well.
- Public meeting: WLEC ran the community update; the Council didn't get involved. Diavik's presentation is too similar to EMAB's. Diavik should present results; they used to present whether or not they met the CSR predictions.
- EMAB's presentation is too lengthy – it should just present EMAB's assessment of Diavik's results, whether or not there are any problems and whether EMAB believes DDMI met its predictions. The two presentations should be coordinated.
- Diavik was actually trying to carry out a consultation process. If Diavik wants to know our thoughts on TK that should have been done in different format.
- There is a need for the experts that were going to be there but were weathered out. That would have been very valuable.
- Usually the women ask a lot of question but there were not many women there. Disappointed in lack of questions.
- There was a lot of concern about mercury
- Seth took a number of questions and committed to get back to the community; should track whether DDMI does this.
- Social type workshops are needed.
- At the next update maybe somebody from Diavik HR could be there. Not to be involved in the update, but to take resumes. There is no HR database in the community. Noted that this is really DCAB's mandate.
- Found that having Diavik and EMAB together actually highlighted that they are separate.
- Should keep going with group update. Should have an update with each group.

ACTION ITEM: Seth and Michele debrief re: community update in Lutsel K'e and run it by Florence, then provide to Board.

Michele presents survey results from kit. She got about 8 surveys from the roughly 60 participants. She tried to get a range of ages. She found it was helpful to have a presence in town before the meeting – this helps to get the word out. Handouts were not popular.

Again noted that this was seen as an experiment and a learning experience for future updates

Chair notes that the reports sound quite positive. Something we'd like to try with KIA.

Send a letter of thanks to Band council and wildlife committee.

ACTION ITEM: Thank you letter to Lutsel K'e band council and wildlife committee.

Query: is there a schedule? Only firm timing is KIA in first two weeks of February. May be useful to contact staff – Jolene at TG and Jennifer at YKDFN.

ACTION ITEM: Continue contacting NSMA, Yellowknives and Tlicho for community updates.

ACTION ITEM: Streamline EMAB's presentation to avoid redundancies and make additions where necessary.

ITEM 3 – Wildlife Update

WMP letter from Diavik

Information in binder.

ACTION ITEM: Defer response letter to Diavik until the next meeting.

Regarding frequency of monitoring for the WMP: There is some urgency because Diavik did indicate at an EMAB meeting that they would go ahead and make changes for 2009 field season. The key first step is missing – DDMI has not provided any proposals.

Q: What is the type and what scope of changes? If they already plan to go ahead with changes for 2009, what exactly will they be doing?

A: Unknown.

ACTION ITEM: Prepare a more detailed briefing note on the WMP issue for next meeting.

ENR meeting update

Information item. ED's notes from ENR meeting in binder.

DDMI proposal for WMP review with other mines and ENR

Letter from Colleen English (Diavik) in binder.

The meeting will take place December 17.

Petr Komers is available to attend by conference call, if necessary.

Q: What is the role of the EA, the Parties and what is the role of EMAB?

Q: If this is a Party issue, what is EMAB's responsibility to the Parties?

Noted that EMAB has been pushing the regional approach for some time.

Agreed that Parties need to be kept in the loop.

There are no references to the Environmental Agreement. Each WMP is set up under an EA and must meet the requirements in the EA. Any changes must involve consultation with the Parties. If there is talk about changes to the WMP, there are other people that need to be involved in the process.

ACTION ITEM: Write a letter to Diavik and CC Susan Fleck (ENR) and all other CCs on the letter. Add Parties as CCs, and note in the letter that they should be kept informed and there should be the give the opportunity to participate in the process and be given full consideration in any decisions.

ACTION ITEM: Write a letter indicating that EMAB's executive director and a member will attend the Dec 17th meeting and note that there has to be an opportunity for Party involvement at future meetings.

Discussion on funding and who attends.

Noted that it is commendable that Susan Fleck, at that high level, is taking the lead on this matter. EMAB should not lose that opportunity to participate.

Motion:

Send Florence Catholique to the ENR/mines meeting on wildlife monitoring programs.

Moved: Lawrence Goulet

Seconded: Grant Beck

Carried

ACTION ITEM: Decide whether to involve Petr Komers at this early stage after the agenda comes out.

ITEM 4 – DFO update

Bruce Hannah updates on Department of Fisheries and Oceans activities.

Coppermine River – Char monitoring has been going on. They are looking to do more this year and wanting Diavik and Ekati participation.

Shoal utilization study at Diavik is wound up. Inadequate wording in the Fisheries Authorization and lack of baseline data made it impossible to tell whether the mine affected use of the shoals for spawning.

Dike monitoring – There has been back and forth communication with Diavik. Barry Zajdlik is putting a design together that puts all those comments into one. A draft is coming out in January and there will be discussions with Diavik for 2009 monitoring. They hope to link these requirements more closely to those in the AEMP.

Habitat Compensation and community projects – There has been a lot of progress on the project in Kugluktuk (char monitoring – Glen Zelinski is the DDMI contact) and there will be a project starting in Lutsel k'e. The details for the Lutsel K'e project will be available in January. The complete assessment will take place in the spring. The project is a little more involved than first thought – Gord Macdonald (Diavik) will look at the site in the spring. The projects involve developing skills in communities.

The University of Alberta and DFO are combining efforts for the work on the m-lakes (on the mainland across Lac de Gras from the mine site). They are drafting a proposal for monitoring the effects of the project on fish. The baseline studies on fish habitat will take place in 2009. Also, a reference site will be selected. DDMI will likely provide its detailed engineering design in 2009.

Slimy sculpin – Regarding the mercury issue: The testing of lake trout has been completed. The data will be analyzed. Diavik is in contact with Health Canada and they will release a statement if there are no issues.

Whitefish testing – The process to monitor whitefish has involved partnering, acquiring funding and program design. They will study Round whitefish and are considering lake trout, sculpin. They will compare results with rainbow trout. Funds have been committed by DFO, INAC,

Diavik, Ekati and some from DeBeers. They are also looking for some from EC. Waiting on contribution agreement.

Q: Is there Aboriginal involvement in the community projects?

A: DFO wants community involvement. The project in Kugluktuk is set up as a training program. The project in Lutsel K'e is still in the area of planning but DFO sees community involvement both in the project and the monitoring of effects. DFO and Lutsel K'e agree that is one of the most important aspects of the project. The whitefish study is in the lab, so not much opportunity there.

Q: What about working with the CABIN program?

A: This might fit with CIMP; DIAND is working on a simplified CABIN protocol that could be implemented by communities.

DFO confirms Diavik's assertion that it's very difficult to get round whitefish eggs.

ITEM 5 Inspector's Update.

PowerPoint presentation and hand-out. Available at EMAB office.

Mostly fine. Main issues were:

- The fire at the paste plant and the runoff and cleanup water – it will be analyzed and an appropriate treatment identified
- the collection ponds – a number of them leak, and the tears are costly and difficult to fix. They manage the seepage by pumping it to PKC – need to have all-weather pumps to ensure this works. There will be a report with options for solutions in 2009.
- Elevated temperatures in the NI dyke – DDMI will install thermosiphons and thermistors in 2009

Lunch break: 12:00

Meeting resumes: 1:20

ITEM 6 – AEMP update

Information in binder.

Q: Any follow-up action on AdMP?

A: Diavik needs to address concerns related to the 2008 AEMP since the AdMP won't be in effect.

ACTION ITEM: Write a letter indicating that EMAB is hoping to see Diavik address effects from 2007 and any responses in the 2008 AEMP report. There is a description of the process in the AEMP to help them do that. ED to draft for Chair review.

Regarding INAC's AEMP Guidelines work, specifically in relation to Traditional Knowledge – there are opportunities to do cooperative work in TK: Diavik, INAC's Water Resources, and EMAB.

ITEM 7 – Monitoring with TK

Alice Legat walks the Board through the revised draft funding proposal: Monitoring the Land by Watching and Using Caribou and Fish.

Important points:

- Proposal is written to allow a more regional approach. There would be five sites (one per Aboriginal Party) with three ten-day monitoring periods at each every year for the life of the mine.
- Take your time on the research. Do it from the bottom up to include as many people as possible.
- We can see EMAB's role regarding Diavik but do not see clearly the role of EMAB regarding cumulative effects.
- TK is linked to the area that you're from. Each Aboriginal group has its own TK.
- EMAB is the only one that's used a panel (referring to EMAB's use of TK Panels re: specific issues).
- A TK monitoring project should be spearheaded by harvesters. Elders are sounding people.
- Scientists keep their raw data. Same thing should happen with TK research. What should go to mines and government are the reports. Each region would write their own report.

Then the larger group puts together an overall report. We'd see local trends and the larger trend.

- Q: Who is the larger group?
- A: Made up of people from each Aboriginal Party, ideally they will have been involved from the very beginning (i.e.: TK Workshop participants).
- On the use of word "regional" in the funding proposal: use "Aboriginal Parties" instead.

Next steps:

Workshop in the communities

Noted that EMAB has already budgeted for a TK Workshop involving participants from all the Aboriginal Parties.

Noted that WRRB will allow Alice to continue helping as the Wek'èezhii area is involved.

ACTION ITEM: ED and AL to draft a Terms of Reference for a TK Workshop to be held either late February or in March.

Diavik member requests that all paperwork to be used at a Board meeting be passed on to members in advance.

Noted that paperwork often arrives at the EMAB office at the last minute and that most organizations provide information the day of the meeting.

Carole Mills from INAC will be speaking to EMAB tomorrow about TK in aquatic monitoring.

ITEM 3 – WILDLIFE UPDATE con't

WMP responses

In Binder.

ACTION ITEM: Defer to next meeting.

ACTION ITEM: Consider having another meeting on the WMP.

ITEM 8 – Closure Workshop/discussion

Information in binder.

Joe Murdock of Arktis Solutions is present to update Board on the status of the Closure Workshop . He walks the Board through the draft agenda.

Q: Why is the site visit not in the middle day?

Discussion on the merits of having the Diavik site visit on Day 2 or Day 3.

Joe is flexible.

Board agrees that the site visit should be on day 2.

Q: Who signs off on the closure plan?

A: WLWB, but DIAND determines if closure is satisfactory.

EMAB meeting, Yellowknife

December 12, 2008

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association

Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation

Lawrence Goulet, Yellowknives Dene First Nation

Tom Biddulph, Diavik

Shannon Hayden, alternate, North Slave Métis Association

Eddie Erasmus, Tliche Government (arrived at 9:40)

David Livingstone, Canada, alternate (arrives at 9:40)

Staff:

John McCullum, Executive Director

Michele LeTourneau, Communications Coordinator (also minutes)

Meeting started 9:15

ITEM 9 – Air Quality Monitoring update

Modeling is ongoing

ACTION ITEM: Invite someone to EMAB's meeting to report on the status and relate target dates for Air Quality Monitoring.

ITEM 10 – Capacity Funding update

Information in binder

KIA: Working on report. Probably won't be able to continue water quality monitoring. Looking for opportunities for other projects such as TK and training.

ED offers assistance from EMAB staff if needed.

KIA may be moving towards TK and youth involvement etc.

Lutsel k'e – Youth fish workshop led by a teacher from school.

YKDFN: Held a very successful youth monitoring workshop.

Policy update – ongoing

ITEM 11 -- Reports

Financial statement

ED walks through the statement. Query regarding benefits allocation and science panel expense.

Revised budget

ED walks through proposed revisions.

Motion

Approve revised budget as presented

Moved: David Livingstone

Seconded: Lawrence Goulet

Carried

Two-year funding submission

ED walks board through recent correspondence and section 1 of item in kit. Noted that some crucial letters were received the day before the meeting started, so the analysis is not very detailed.

Noted that Gord Macdonald's email does not state that Diavik is in agreement with the budget. Diavik is not taking a position, discussion will continue, in the meantime here's some money. It's not clear that EMAB needs explicit support for the budget and it's doubtful that EMAB will get it. If that's not the case EMAB has no alternative but to go to the Minister.

MOTION

Draft a response to DDMI as outlined in the kit item changing DDMI agrees to budget to DDMI has "accepted" budget

Moved: David Livingstone

Seconded: Shannon Hayden

Carried with

One abstention and one against

Discussion on section 2 of item in kit

Discussion focused on interpretation of 4.8(g) of the EA in relation to DDMI's letter saying it will deduct \$150K per year from EMAB's 2009-10 and 2010-11 budgets.

Generally agreed that 4.8(g) refers only to unexpended contributions, and does not cover interest earned.

Noted that 4.8(g) only applies to the current budget period, so any unrestricted net assets from before the current budget period are EMAB's to use. EMAB has made DDMI aware of the unrestricted net assets for years, and has provided audited financial statements etc. If DDMI had wanted to apply the unexpended funds to EMAB's budget they had plenty of opportunity. They can't go back now.

If the audit shows that by March 31 2009 EMAB has spent the full amount for the 2007-09 budget period then the next year there are no unexpended funds for the budget period to apply to EMAB's budget, or DDMI's contribution to it.

Lengthy discussion on whether unexpended funds as defined in 4.8(g) should be applied to EMAB's budget or to DDMI's contribution.

- ED believes wording means the unexpended funds should come off the bottom line of the budget and only apply to DDMI's contribution if there is any left over
- DIAND rep was part of negotiation of EA and believes the intent was that the unexpended funds would be applied to DDMI's contribution. A legal opinion may be needed.

Two-stage approach: Put people on notice that we are seeking legal advice and that we won't know what the amount will be March 31. Executive will continue to work with Diavik to figure out what if any amount will be the claw back. When we have the audit then we discuss. At this point it's premature to discuss a claw back. EMAB expects DDMI to pay the full amount.

The letter should follow the recommendation in section 2 with the following changes/additions: Diavik will have to complete the full amount. Interest is not covered by 4.8(g). We won't know the final amount of unrestricted net assets until the audit is complete for 2008-09. We are seeking advice. EMAB expects DDMI to make the full budget contribution EMAB would prefer to receive the full amount and settle up later in the year if necessary

EMAB is an independent board. Also noted that there is an EA security deposit, which can be used by the Minister if DDMI doesn't fulfill its obligations under the EA.

ACTION ITEM: ED to draft a letter as above, pass it by the board as a whole for comment, then approved by motion and sent to DDMI

ITEM 12—SLEMA/IEMA updates

SLEMA update by Dave White

- Doing a major review of the AEMP – Barry Zajdlik

- Contaminants are elevated around the diffuser. They are within guideline limits but there are elevations. There may be a hot spot around the diffuser.
- Issue of fish palatability protocol is resolved – De Beers will follow SLEMA approach.
- De Beers wants to stop winter sampling of benthics and just go with summer sampling.
- DFO would like to cost-share a review of the AEMP and AdMP.
- SLEMA is quite a bit underfunded – need to review budget.

SLEMA is informed about EMAB's trial approach to group community updates. SLEMA also has a requirement to update communities, IEMA also does updates. The agencies could do group updates. Agencies could then pinpoint common issues. Take one week where it all gets done. SLEMA would be happy to update in communities with EMAB, but they would be very leery about going in with the company.

ITEM 11 – Reports con't

Workplanning 2009

Workplan to be based on Strategic Plan.

There should be discussions re: mutual efficiencies with Diavik.

- January: review strategic plan and proposed activities
- February: prepare draft budget for 2009-2010 and Board calendar for review
- March: confirm budget for 2009-2010

ITEM 6 – AEMP update con't

AEMP guidelines

- Nathen Richea and Carole Mills of INAC arrive.
- Carole Mills discusses the inclusion of TK in AEMP guidelines.
- TK component of Guidelines needs to be built up and there needs to be an Aboriginal and industry presence. It does need to be incorporated but a lot of work needs to be done eg. examples from other jurisdictions, protocols for collection of TK – a toolbox.

- INAC would like to create a working group that would involve representation from the monitoring agencies. Would like to get some work done by end of March.
- Many initiatives out there feed each other. Mackenzie Valley Basin Board, for example, also sees that this needs a lot of work. There's a lot of political will and we need to take advantage of this.
- Guidelines will deal with both design and implementation. The document will focus on process as well as indicators. They will involve TK holders throughout. There is a connection to CIMP.
- There has to be active, meaningful involvement of Aboriginal people at the decision making table. They expect the WG will have about five people, possibly including industry.
- There is a budget for small costs.

IEMA has appointed Jaida Ohokannoak (KIA) to the working group.

Motion:

That EMAB agrees to appoint someone from EMAB to INAC's TK Working Group.

Moved: Florence Catholique

Seconded: David Livingstone

Carried

Member reports

Florence Catholique/LKDFN: She has stepped down from the position of wildlife manager. Counselors cannot hold managerial positions. Lutsel K'e is working on restructuring services into a combined board with the intent to have more control in health and housing. They are still pushing for Aboriginal training in monitoring and in parks. They are teaching kids on the land where they can.

Claudia Haas/GNWT: There will be a North Slave update on February 4 and 5. A workshop on community-based monitoring is in the works. This is a photo census year for the Bathurst caribou herd. ENR now has a TK specialist, Bea LePine and they have a WG on TK incorporation – all GNWT departments are supposed to have a policy on this. She will provide a copy of the experiential science curriculum being used in NWT high schools.

Doug Crossley/KIA: Kugluktuk capacity funding proposal will soon happen – should be ready by next meeting. It does not look like it will involve the same project as past years. KIA will ensure that it has people prepared and motivated to participate in the upcoming Closure Workshop.

Tom Biddulph/Diavik: Provided a written report. He would like others to provide written reports. Noted that it is up to each member whether they provide a written report or not.

ACTION ITEM: Invite a winter road person to talk about winter road.

Lawrence Goulet/YKDFN: It's hard to find members to man the winter road station. Trying to get their own security truck to go up and down the winter road. There are no caribou around. They get feedback from people who have camps out on the land and it seems like there are a lot of exploration companies on their territory. That might have an effect on hunting and trapping. Trying to keep Yk Dene in the area to take jobs within the First Nation.

Shannon Hayden/NSMA: Environment section is having some difficulty due to lack of staff. Attended the AEMP Guidelines Workshop held by INAC. DCAB has been experiencing troubles but this year but they are supposed to do the toolkit survey again. The last one was in 2003. Working on a quarterly newsletter and hoping to get it out soon.

Eddie Erasmus/TG: Regarding caribou monitoring – a lot of people are interested in monitoring. Always have two people at the station and rotate them, trying to use as much as six people. The Lands Protection Department is in the middle of land use planning, which includes workshops and training (GPS/GIS), mapping. The TK portion of land use planning is mostly completed. They collected over 2000 Tlicho place names. The TG puts TK first then gets into modern science. They are starting the science component of LUP. WLWB WRRB, lands and working groups all get together to chat and make sure they all know what's going on with each other.

IEMA report by Kevin O'Reilly

List of activities:

- Scott Duguid is the new environmental analyst. Comes from the Sahtu Land and Water Board.
- They held their annual Environmental workshop on Dec. 3 – 2007 AEMP, WEMP, Air Quality
- Annual General Meeting/Board meeting was on Dec 4

- They are commissioning an external review of the agency by Mar 31 – last one was done in 2000 by the McLeod institute. The goal is to be more effective and more efficient.
- Water: tailings spill in Fay Lake – It was decided not to proceed with prosecution but there was letter of warning. The inspector has requested the investigation results.
- BHP was asked to do some work re: chloride toxicity and water that has different hardness – the amount of dissolved chemical. BHP is proposing 218 parts per million of chloride – significantly lower than what they were proposing before.
- AEMP Guidelines Workshop – IEMA are prepared to sit on the working group.
- November 4 and 5 there was a technical session on the water licence renewal. Trying to bring BHP's two licences together and harmonize the EQCs. Public hearing has been scheduled for March 4-5.
- Wildlife: overall commitment that BHP will work with ENR on wolverine DNA monitoring. BHPB did not do snow track surveys this year.
- WM Programs: will attend meeting next week with mines. Kim Poole/IEMA director will come up for that meeting. IEMA agrees that it's important that companies talk to communities before they make changes.
- Final draft of ICRP due today.
- Received a copy of report from Neil McCrank. Most points IEMA raised were not included or addressed.

Motion:

Close the EMAB office from December 24 to January 4, 2009.

Moved: Florence Catholique

Seconded: Claudia Haas

Carried

Next meetings: Second week of February in Wha Ti and in Kugluktuk for TK workshop last week of March, possibly 24-25.

Motion:

Adjourn the meeting.

Moved: Florence Catholique

Closing prayer: Lawrence Goulet.