

Draft Minutes  
EMAB meeting, December 7-8, Yellowknife

December 7, 2010

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association (by phone)  
Ted Blondin, Vice Chair, Tlicho Government  
Floyd Adlem, Secretary Treasurer, Canada  
Lawrence Goulet, Yellowknives Dene First Nation  
Danielle DeFields, alternate, North Slave Metis Alliance  
Charlie Catholique, Lutsel K'e Dene First Nation  
Steve Ellis, Government of the Northwest Territories (by phone)  
Charlene Beanish, alternate, Government of Nunavut (by phone)

Staff:

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

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Meeting started at 9.

Opening prayer – Lawrence Goulet

Chair opens meeting and reviews agenda

**Item 1: Approval of Agenda and Minutes**

*Motion:*

*Approval of agenda.*

*Moved: Steve Ellis*

*Second: Ted Blondin*

*Carried*

Discussion of minutes of September 22-24, 2010

- Noted that Steve was present on the morning of the second day, but not the afternoon.

*Motion:*

*Accept minutes of September 22-24, 2010 as amended*

*Moved: Floyd Adlem*

*Seconded: Lawrence Goulet*

*Carried*

**Item 2 - Arbitration update/discussion**

Secretary-treasurer provides an update on the process. He drew the Board's attention to the questions raised by the arbitrator and to the settlement offer put forward by DDMI.

Chair reviews the offer with the board. Noted that a DDMI employee is present. Chair notes that EMAB has already rejected better offers than DDMI's current version.

Discussion:

- Presence of DDMI employee may inhibit discussion
- Diavik's offer doesn't meet EMAB's requirements
- Independence issue is not dealt with in offer
- Deadlines are coming up. We should inform the arbitrator. EMAB should make a counter-offer to show the board is trying to resolve the issue amicably.
- Offer doesn't address 4.8(g)
- Noted that INAC and GNWT would have to agree

General agreement that the offer is unacceptable and that EMAB will not make a counter-proposal.

Break

### **Item 3 – Budget update**

Executive Director presents budget

Q: why not budget only for DDMI's contribution?

A: budget is based on the plan of anticipated work.

Noted that the arbitration outcome may affect the budget. EMAB needs to produce a rationale for the budget and address the points raised by Diavik in its November letter.

Action: ED to prepare a draft letter to INAC copied to Kim Truter noting that EMAB and DDMI do not agree on the budget and invoking EA 4.8(e)(iv), for review by Executive

Action: ED to prepare a letter to DDMI responding to the concerns raised in letter of November 25. Follow up by talking to Gord Macdonald and Teresa Joudrie

Suggested there be further discussion on the response to the points in DDMI's letter:

- Cooperation with DCAB – DDMI is most interested in things like office space and staff; noted this will be discussed at the next meeting.
- DDMI wants EMAB to do "due diligence" in relation to mandates and costs of other agencies.
- Capacity funding – DDMI's statements are unsupported so EMAB should request more information. A board member noted that the program could be improved.
- Wildlife cumulative effects workshop – this relates to EMAB independence: EMAB decides the most important topics; suggested that EMAB clarify the scope and purpose of the workshop
- Workshops – workshops in communities have a different objective and purpose than those which bring together participants from all Parties. Meetings in communities are good for updating and providing information. Noted that there is not going to be much cost saving if EMAB brings an expert on a particular topic around to the communities, compared to bringing people together for a single workshop.

### **Item 4 – EA Review status**

ED presents item in kit

- a) Table of responses to interview questions addresses concerns raised about improving transparency.
- b) Party responses – still missing 3 Aboriginal Parties.
  - o Need to finalize report

Action: ED to contact each group directly and get their response.

- c) Community engagement and DDMI protocol
  - DDMI has draft agreements with YKDFN and KIA, and are hoping for a draft soon with NSMA
  - DDMI is still working with LKDFN
  - DDMI is meeting with TG tomorrow and hope to have a draft agreement by then
  - The agreement covers a number of different areas – it identifies a DDMI contact and a lead person for each community on each topic. The “leads” will each work with DDMI on the best way to engage the community on their particular topic.
  - The draft agreements are one-page documents that are being reviewed by each community.
  - DDMI considers these agreements confidential and will not release them without agreement from each group. Noted that EMAB should review agreements as part of its oversight role. DDMI not clear on how EMAB review would add value.

Action: DDMI to send a copy of community engagement agreement template to EMAB

- d) EA Review recommendations
  - TK will be discussed under item 6
  - Cultural awareness program
    - o There are 4 tiers
      - Introductory
      - ?
      - Supervisory – person from communities comes to site
      - Management – DDMI people go to communities including an on-the-land component
    - o EMAB would like a copy
    - o DDMI notes that leadership component is in development

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Lunch at 12:00

Back at 1:30

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### **Item 5 – WMP Revisions update**

DDMI has received the draft workshop report and is incorporating comments from De Beers and BHP – expect report in 1 – 2 weeks

## Discussion:

- DDMI will provide proposed approach for WMP for 2011 by end of March – it will partly depend on the three-year statistical review so will be hard to have it earlier
  - DDMI wants to be sure the current data support the recommended changes
- DDMI's approach to TK will not be addressed in the workshop report; it will just convey the workshop recommendations and the mines will respond individually
- Noted the concern from the last few years that the proposed WMP changes come out so late the communities and EMAB have little or no time to respond

Action: DDMI will present its expected WMP for 2011 at the next meeting, as well as addressing the October workshop recommendations

**Item 6 – TK in monitoring update**

- a) ED summarizes notes from Oct 15 meeting with DDMI, Ted, Alice and Brenda.
- b) October WMP workshop
  - Links to TK in monitoring
  - TG elders are asking questions about TK involving both Diavik and Ekati
  - BHP and Diavik will both be approach to support a TG project
  - Elders feel much more needs to be done in this area
- c) Aboriginal Party proposals
  - LKDFN has not moved forward due to lack of WLEC manager

Action: LKDFN member will approach Brenda and WLEC Chair regarding proposal

- TG have held meeting and expect to have a proposal ready very soon – in final approval stage. They will provide a copy to EMAB
  - NSMA submitted a proposal to EMAB yesterday for funds to assist in developing a TK monitoring proposal
    - Agreed to discuss NSMA proposal tomorrow after people have had a chance to review it
- d) SLEMA TK Panel
    - ED reports on discussion with SLEMA ED regarding trip to King Rapids to examine dust plots and monitor for caribou
    - Noted that SLEMA may try to go out earlier next year
    - Noted that translation is needed and other improvements have been identified
    - De Beers paid for the camp and provided everything: camp, cooks, firearms
    - Elders would like to have the camp further from the mine
    - DDMI approach to lichen was mentioned
    - Noted that De Beers lichen studies only use TK to identify sampling locations, the rest of the project used a science approach
    - De Beers has taken the position that all data collection must complement its regulatory requirements
  - e) TK Panel options

Discussion of options

- Panel is needed
- Two possible approaches
  - Panel does TK monitoring (SLEMA Panel does this)
  - Communities do TK monitoring and Panel provides advice
- EMAB should investigate SLEMA approach
- Noted that EMAB's TK Panel will likely have the same membership as SLEMA's
- There is also a TK Panel for the Colomac mine – it's role is more advisory
- Noted that SLEMA has discussed the possibility of each monitoring agency taking on a general topic, such as wildlife or water
- It would be useful for EMAB to review the WKSS TK research guidelines

Action: staff to send out WKSS guidelines to board.

Board reviewed the document outlining the various thoughts and suggestion on an EMAB TK Panel that had been made. It was generally agreed that the Panel would not do TK monitoring and its advisory role would include:

- Defining a TK monitoring framework
- Reviewing TK monitoring proposals
- Reviewing TK monitoring reports

The Panel would include elders with a facilitator with expertise in gathering TK. It would convene on an “as-needed” basis.

TK monitoring proposals should not be held up if they are made before the Panel is in place.

f) DDMI response to EMAB TK recommendations

As outlined in the meeting kit, DDMI did not really respond to EMAB's recommendations.

Action: ED to draft letter stating that DDMI has not responded to EMAB's TK recommendations for review and approval by Executive.

Noted that DDMI's proposed desktop study is the same as EMAB's recommended literature review, so it is incorrect to say that DDMI has not responded to any of the recommendations. A consultant will review the background. Once the literature review is complete, DDMI will start working with the communities

**Item 7 – WLWB update**

Kathy Racher provided a verbal update to the board.

a) Water quality policy

Draft policy was revised and is going to the board tomorrow. The working group is recommending approval.

- The policy has been broadened from just EQC to all terms and conditions
- The section on stakeholder involvement was beefed up

b) Response framework

She has met with the mines and IEMA and will meet with the feds soon. Feedback is that it looks good but is a little confusing. There will be a second version with lots of revisions and a second round of reviews.

It has been difficult to set up the framework so that it applies to all existing projects.

Discussion:

- How would this address the issue of mercury in fish
  - DDMI has been very responsible on this, although the issue is still outstanding
  - The framework does provide for responses to unexpected effects
- Question about effect of breaching dikes; the technology worked well for building the dikes, so any effect would be unexpected
- Significance spectrum – the environmental assessment did not specifically define significant adverse effects so the intent is that mitigation makes effects non-significant

Action: ED to follow up with any additional questions and provide answers to board
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Break at 4 for EMAB/IEMA/SLEMA Open House

December 8, 2010

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association  
 Ted Blondin, Vice Chair, Tlicho Government  
 Floyd Adlem, Secretary Treasurer, Canada  
 Lawrence Goulet, Yellowknives Dene First Nation  
 Danielle DeFields, alternate, North Slave Metis Alliance  
 Charlie Catholique, Lutsel K'e Dene First Nation  
 Steve Ellis, Government of the Northwest Territories (by phone)  
 Charlene Beanish, alternate, Government of Nunavut

Guests:

Aileen Stevens, ENR  
 Dave Fox, EC  
 Steve Bourn, DDMI (by phone)

Staff:

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

### **Item 8 – Air quality update**

ED introduces item in kit

a) Air quality monitoring

Steve Bourn updates on current status of modelling. DDMI's consultant has all the model inputs, but is still sick.

Discussion:

- Does consultant just have to “push the button”? Steve will follow up, likely next week
- DDMI is considering an alternative consultant if necessary
- Model input information: EC and ENR would be happy to review.
  - Steve wants to confirm with consultant that all the inputs are correct before distributing them
- Question on DDMI's Nov 23 letter – reference to ambient monitoring. Has DDMI been monitoring NO<sub>2</sub>? No.
- How do lichen studies fit in? Colleen is the best person to answer that. Noted that the findings link to dust monitoring work
- Question to confirm that DDMI is not doing any ambient air quality monitoring. EC notes that dust monitoring is just about the particles that fall out – there is no air quality monitoring. DDMI is not meeting its commitments on this.
- Steve will not comment on whether DDMI is meeting its EA commitments
- Concerns raised about dust monitoring methodology. Have there been any changes? There have not been any recent changes

### Incinerators

- DDMI will do stack testing once the incinerators are set up
- EC makes some recommendations on incinerators.

Chair states EMAB's wish to get the modelling completed according to EMAB's recommendation.

#### b) DDMI letter on AQMP – Nov 23

#### Discussion on EMAB response

- EMAB should raise its concerns with DDMI
- EC is supportive, but INAC speaks for Canada with respect to EA
- Noted that comments on the EAAR are due Jan 13 – ENR will likely comment on commitments related to the AQMP
- Question – have the governments already stated concerns that DDMI doesn't have an AQMP? EC did so a long time ago. ENR mentioned it in the last EAAR review.
- Air quality is a big issue. It's very dusty in the pits – workers are affected. The vegetation needs to be monitored. Noted that effect on workers is a safety issue
- DDMI seems to have been out of compliance with the EA both on ambient air and dust. EMAB recommendation gave DDMI six months, to November 19, to complete the model and they have not met this deadline.
- Suggested that EMAB send a letter to the Minister. DDMI's consultant is not getting the job done.
- Noted that Ekati started doing air quality monitoring in 2006 and now has a good program

Action: ED to draft a letter to the Minister stating that DDMI is in non-compliance with the EA regarding AQMP for review by the Executive

Noted that air quality could be studied using TK.

### **Item 9 – Inspector's update**

- Reviews recent problems with PKC liner
  - Tailings did not enter environment and the tear is being fixed
- Effluent failed two toxicity tests in September, although there was no apparent change in makeup. As a result DDMI will go to monthly toxicity testing (from quarterly) for a year. Could be a lab problem. Has not checked October SNP results yet.
- Paste plant – cold rock creates a problem with the paste – not related to Type. DDMI will now use rock directly from underground.
- Pond 5 does not show seepage, so repairs to the PKC
- Upcoming:
  - Water management plan
  - PKC management plan
  - Revised closure plan
  - Security deposit is being reviewed
  - DDMI offsite exploration program in winter 2011.

### **Item 11 – EAAR**

Review of draft comment letter to DIAND

- Looks good
- Noted that the letter is to the Minister, but the recommendation in it is to DDMI. Letter also needs to go to DDMI conveying the recommendation.

Motion: To approved the recommendation to DDMI in the December 10, 2010 draft letter to the Minister, and to send the letter as presented.

Moved: Steve Ellis

Seconded: Ted Blonding

Carried with one abstention

### **Item 11 – SLEMA/IEMA update**

SLEMA

- Preparing comments on De Beers' EAAR
- Held TK camp – quite close to Mackay Lake Lodge. Flew all around Mackay Lake by helicopter and did not see any caribou.
  - Five elders, De Beers' staff, SLEMA staff
  - May move camp to Aylmer L. next year, but this is outside the claim block
  - Use of TK in lichen monitoring is interesting
  - Noted that the elders determined the TK monitoring methods – DDMI's lichen analysis is done in an outside lab – SLEMA's is more focused on the elders observations of lichen
  - Still need to reach agreement with company – elders and company don't have same objectives. The mine needs to understand the value of TK monitoring.
  - How did SLEMA Panel end up doing actual monitoring? It was just a natural process – De Beers didn't want to pay for additional people
  - SLEMA would like the Panel to go out every year; De Beers wants it to go every 3 – 5 years.
- Also a concern about fluoride in conate water. DFO is not concerned.

### **Item 6 –TK monitoring update (continued)**

Review of NSMA proposal for TK funding

- Reporting issues need to be addressed
- Concern that proposal is to carry out TK monitoring rather than preparing a proposal.
  - Intent is to prepare a proposal, but to do it on the land
  - Concern that this makes proposal development more expensive – need a clearer idea of what will be done during the five days
  - Suggested that board needs to speak to Sheryl
- Camps on the land that NSMA wants to use will likely be closed up.
- EMAB provides support for development of proposals only, not doing the monitoring
- The intent of bringing people on the land is to put them in an environment they are comfortable in.
- Noted that NSMA is also contributing
- NSMA rep will arrange with Sheryl to call in.

### **Item 10 – Capacity funding update**

Board will review NSMA proposal on December 17 by email review and motion

Some concern about the Coney project component of YKDFN capacity report where the supplementary funds were used. ED explains link and notes that the full report was too big to send by email so board has not seen it.

Motion: to approve the 09-10 capacity funding reporting from YKDFN for the initial \$30K contribution

Moved: Steve Ellis

Seconded: Lawrence Goulet

Carried

Question about admin funding percentage.

Action: ED to request YKDFN better identify linkage between Coney project and capacity building guidelines.
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Lunch at 12:00

Back at 1:30

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### **Item 11 – EAAR (continued)**

Discussion on wording of predictions. Deferred.

### **Christmas hours**

EMAB office will close from December 23 to January 4.

### **Item 12 – Governance**

ED presents item from kit

Review of strategic plan

- Add interaction with WLWB
- Report card development should proceed, depending on the arbitrator's decision

### **Item 6 – TK in monitoring (continued)**

NSMA TK proposal discussion

- The focus is on Diavik and the area surrounding it, especially as related to caribou crossings. They want to view potential monitoring locations.
- Proposal should be revised to include the additional information
- This is not meant to be a monitoring activity; it will be a planning and design activity
- The proposal should be revised to include the verbal explanation given today.
- Noted that NSMA will try to use existing camps but will have all the equipment to camp on the land
- Suggested that EMAB provide a template for proposals
- Proposal will be re-drafted; approval process through email motion

## **Item 12 – Governance (continued)**

Continue review of strategic plan

- Community meetings
  - EMAB is confused about how to work with DDMI on presenting to the communities – it is not clear how DDMI’s community engagement protocol provides for joint presentations
  - Noted that DDMI should be going to communities with EMAB, not on its own
  - Suggested that EMAB meet with DDMI on this.
  - DDMI notes that it always does community visits in fall, but is trying to move these to the spring. DDMI works with the community people identified in the Participation Agreements.
  - Noted that communities have said they like EMAB and DDMI to report at the same time
  - DDMI notes that it must go to all communities every year; EMAB hasn’t been able to do that, so DDMI decided to go on its own.
  - Noted that DDMI should inform EMAB of their meetings so EMAB can participate where possible
  - DDMI notes that its community meetings are comprehensive, not just on the environment. There isn’t time for additional presentations. DDMI is willing to also present with EMAB if staff are available
  - Suggested that the appropriate EMAB board member and a staff person attend the DDMI presentations
  - Consider developing a recommendation on this.
- Annual review of EA
  - Staff may be able to do initial work to make this review faster

Any additional input on strategic plan?

- Oversight of regulators?
- Bring in GNWT to discuss wildlife management
- Plan is a bit overwhelming, and costs are a factor
- Noted that the funding dispute has taken up a lot of time that could have gone into accomplishing elements of the plan

Review of Communications Plan

- Noted there are a few parts of the plan that relate to communications, but not the communications coordinator, such as circulation of documents
- Update on website traffic
  - 11,300 page loads since the beginning; about 12 visitors a day

## **Item 13 – Reports**

Review of financial statement

Motion: to approve the financial statement including the revised budget

Moved: Floyd Adlem

Seconded: Steve Ellis

Carried with one abstention

Next meeting – February 1 – 3. First two days in Lutsel K'e, last day in Yellowknife

Closing prayer:

***Motion:***

***Adjourn meeting***

***Moved: Ted Blondin***

***Carried***

Closing prayer: Charlie Catholique