

**EMAB Board Meeting Minutes
January 21, 2004
EMAB Board Room Yellowknife, NT**

Lunch: 12:10
Reconvened: 1:30
Recessed: 4:15

Present:

Bob Turner, Chair, North Slave Metis Alliance
Floyd Adlem, Vice-Chair, Government of Canada
Doug Doan, Secretary-Treasurer, Government of the NWT
Johnny Weyallon, Dogrib Treaty 11 Council
Doug Crossley, Kitikmeot Inuit Association
Florence Catholique, Lutsel K'e Dene First Nation
John McCullum, Executive Director

Absent:

Lawrence Goulet, Yellowknives Dene First Nation
John Morrison, Government of Nunavut
Erik Madsen, Diavik Diamond Mines Incorporated

Minute taker:

Michele LeTourneau, Communications Coordinator

The meeting started with a welcome from the Chair at 9:10.

Quorum verified.

An opening prayer was given by Johnny Weyallon

ITEM 1 Approval of Agenda

Motion # 01-04-21-01

Accept agenda.

Moved: Johnny Weyallon

Seconded: Doug Crossley

Carried: Unanimously

Approval of December 11 and 12, 2003, Minutes

It was noted that the minutes were transcribed from tapes, which explains why it's difficult to find highlights. It was established that EMAB has not received a response from the Department of Fisheries. **The direction to look into an annual report on fish was identified as an action item.** John Mc. will take care of that. A discussion took place on attributing comments (in board minutes) made during heated discussions. Such comments will not be attributed.

Also have not received a response from DIAND to the recommendation to reinstate Water Quality Monitoring on the Coppermine River. Noted that DIAND has a duty to respond in 60 days and is now one month overdue. John has built a chart to record when a letter goes out and a recommendation is due. Four items are overdue, including DIAND response.

Cumulative Impact Monitoring Program rejected Taiga Lab's request to study Coppermine River because it was outside the NWT. It was pointed out that only 2 of 7 Aboriginal groups on CIMP were represented when the request was rejected.

It was uncertain if the RWED staff making presentations about the Bathurst Caribou went to Kugluktuk according to the schedule given by the RWED representative at the last meeting.

Motion # 02-04-21-01

Accept December 11 and 12 minutes as amended with action identified.

Moved: Floyd Adlem

Seconded: Doug Doan

Carried: Unanimously

Proposals for events at Diavik TK camp:

Diavik budget (\$150,000) approved for communities to submit proposals to hold events at TK Camp. Diavik is encouraging applications for use of the camp. Deadline is April 15 for next fiscal year. Those funds could be accessed to hold a workshop for the TK Panel, such as on caribou monitoring. EMAB could flesh out a proposal for a TK Panel. Board agreed it was a good opportunity because as EMAB becomes more active, costs go up and at the same time revenue is diminishing. Board Members identified the revenue situation as a problem.

ITEM 2 Update on Status of BHP Proposal to replace IEMA with EMAB (moved from Item 6 on Day Two of Agenda)

Chair updated the Board. BHP said they want to dissolve IEMA and join EMAB, excluding De Beers for now. Diavik doesn't want changes to BHP's agreement, which might negatively affect EMAB. De Beers would love to be a part of a three-way project-specific monitoring agency. SO there are three mines holding three different positions. Also discussions are ongoing about project specific vs. regional agency. Negotiations are currently taking place for De Beers' Environmental Agreement. Aboriginal groups are

taking a stronger position than they did with Diavik for a meaningful structure that has more teeth. Aboriginal groups seem united at the present time as seen at the Aboriginal Caucus on Monitoring of Diamond Mines held last week. Aboriginal Groups want to take the best out of IEMA and EMAB and make another, new model for De Beers.

KIA noted that they attended that Aboriginal Caucus but were not invited to the Snap Lake Environmental Agreement negotiations so they didn't participate. KIA is concerned about that. Though they are not in the watershed they are affected because of movement of animals. Example of Jericho mine and YK Dene input – KIA wants to take a similar approach. Board Members talked about boundaries and acknowledged that a lot of discussions have to take place around jurisdictional issues – people on both sides of the border are concerned about wildlife. DIAND wants to have the De Beers EA done by the end of March -- not much time to work out such details.

It was pointed out that a Bathurst Caribou Management Board might better be able to deal with these kinds of issues.

A question was asked about the concerns raised at the Aboriginal Caucus – in general IEMA is seen as too technical and lacking community orientation, while EMAB is seen as doing well with communities, but not technical enough.

ITEM 3 WEMP Follow-up: RWED Wildlife Presentations (was item 2)

RWED quests

Chris Johnson, Anne Gunn, Ray Case, Stephen Matthews, Robert Mulders, Dean Cluff and Jane McMullen.

Thanks and introductions.

1st Presentation: Regional Assessment.

by Chris Johnson.

Subject: Modelling, distribution and abundance of four important species, grizzly, wolves, wolverine and caribou and incremental effects of development and human disturbances. Effects begin at one site, and then increase site by site - large infrastructures over large areas and large timeframes. Looking at the total effect on ecosystem. The presentation is more about developing a process to study cumulative effects under different scenarios rather than coming up with the true picture at this time. This work will help RWED to figure out where they need to collect more data.

2nd Presentation: Bathurst Caribou Census Report

by Anne Gunn

Anne said that these results represent hard work by many people, that it's more that collaring animals to monitor movement. Communities and elders share their information such as: movement, habitat, trail systems, caribou use, hoof scars on spruce roots. They

have that knowledge: that caribou migration changes from year to year, but is more predictable over time. Anne noted that elders consider collaring disrespectful to caribou and have asked that RWED limit the use of that method. Anne said that RWED always abides by elder wishes on that issue. At any one time there are only between 6 to 18 collars in use.

Fidelity to calving grounds was always talked about but now with collars RWED is also seeing fidelity to post-calving and summering grounds. Where caribou use the land is where the mines and exploration camps are going in.

Also, insect harassment (which in turn is affected by temperature and wind speed) and parasites as well as finding food and becoming food are issues affecting caribou.

Almost three completed reports on analysis of movements. Still too early for firm conclusions about caribou movements relative to the mines.

There is a decline in Bathurst Herd, but Anne noted that it's natural for a herd to cycle in size. Death rate among cows has increased slightly to about 18-20%/yr which is a bit higher than some other herds.

There have been meetings in all NWT communities except Lutsel K'e Anne did not encounter cynicism or disbelief from the community; they are seeing the same things as the study. Also from the communities, researchers must respect caribou and increase community-based monitoring. There is a 2nd draft of co-management plan (Bathurst Caribou Management Planning Committee).

RWED will intensify monitoring the department does and deal with community concerns. For example, there is a concern with large bulls, RWED will go out with community and try to look at what's happening during the rut.

Also, RWED will follow up on Lutsel K'e's approach monitoring condition of animals at harvest. Hunters and biologists will discuss and agree on how fat is fat. Discuss disease and parasites. This is not training but sharing of RWED and community ideas.

Calves/cows: fewer calves surviving compared to 1985-1996. Is it that pregnancy rates declined or actual survival? So researchers will look at pregnancy rates. Method: cows that that calve keep their antlers until calving. Cows not pregnant drop their antlers early and visible new growth in velvet in June.

They will check calf survival at three stages: immediate survival at birth, summer and winter.

Also: following up with work started last year: dust effect on caribou forage from trucks, and blasting and digging pit. Fine particles of dust travel up to 30 km from the site. There is a need for different approaches of determining the zone of effect. Currently collecting fecal pellets and measuring dust and reading the make-up of that dust i.e.: metals. Dust issue came from community concern and specifically Colomac, where caribou are eating tailings high in cyanide, arsenic and salt. Caribou lick the ice and eat

the solid tailing. Complex though, caribou kick up dust themselves. Researchers are collecting caribou pellets from across the annual range.

Colomac offered another opportunity: from community concern DIAND built a fence to stop caribou from eating tailings. Learning experience: it does not stop them from eating forage as tailing dust blows outside the fence. Fences also cause as many problems as they solve:

- people leave gates open and caribou get stuck on the inside,
- caribou may run into fence and hurt themselves.
- if fence not built correctly caribou can get entangled – material has to be under tension
- wolves learn how to use them for hunting – like at Ekati where wolves are using the pit and roads to run the caribou up against.

Monitoring is vital and it's being done by remote cameras.

Nomination of sites for Protected Area Strategy is generally and primarily the responsibility of communities and regions. The role of government is to support resource-wise and assist communities. Declaring Monfwi Trail and Waters of Desnedhe could make a difference to the decline of Bathurst caribou herd. RWED is encouraging these two initiatives to be advanced to the next step. Protected areas could play a role in protecting caribou, as there is no hunting or development allowed in protected areas.

Lunch

Discussion about comparing data of Bathurst Herd with other caribou herds. Some difficulty with that. Some herd don't have any recent data, or little data at all. There have been no studies on the Ahayik (Queen Maud Gulf) herd and little work being done on the Beverly or Qaminuriaq herds. Some herds don't have board structures and management structures. though research/study techniques do tend to be the same. Frequency to which they applied is very different. Some herds are not studied as often as others. Essentially most efforts are going into community based monitoring, which is long-term.

The Board noted that by Lutsel K'e there are four herds. The question was asked whether if one herd was endangered, wouldn't the others be endangered too? It was stated that if the Bathurst herd is in danger today, there is a big problem. Anne answered that herds do go up and down in numbers together. It's a reasonable supposition that herds alongside the Bathurst herd will go down too. Rates of that downturn will vary.

There was a question about whether the RWED team has visited Kugluktuk as they were originally scheduled to do in early January. Dept. of Sustainable Development has indicated it will hold the meetings and the regional director is trying to set something up. It was originally hoped it would be in early January but has had to be re-scheduled and will probably take place in February.

A question was asked about an official written report on the Bathurst caribou census. Anne indicated that a realistic target would be September 2004.

RWED may be able to provide something to the board before then. but they do have a publication process involving peer review that takes some time. summary on website)

It was asked if there is evidence of change of migration of Bathurst herd on the winter range. Anne said that since 1996 the winter range is more to the west than to the east. The cause cannot yet be determined. Most likely climate change or weather – RWED has no idea whether any of the effect can be attributed to the Diavik mine. Also noted by community people that there's been a significant change in calving ground too. Caribou used to calve on east side of Bathhurst Inlet but not anymore. Anne said that the timing of the shift in 1986 to 1992 is clear: 50 per cent overlap between two calving grounds from one year to the next but less and less overlap in successive years. (from WKSS baseline report). What's happening on calving ground is important: such as more lichens over there as opposed to over here. Caribou might also be avoiding their own parasites. Their fecal matter can contain parasite eggs and caribou avoid infecting their calves by moving away. We underestimate how smart caribou are: a caribou can note whether or not a fellow cow has a surviving calf. There's social interaction going on. A whole series of interactions might cause calving grounds to shift. In 1950s, it was also to the west. Shift may be a rotation.

A question was asked about the maximum possible annual rate of increase for the herd. Last April, if all calves survived, 16% of herd could be calves - if all survive. But cows are dying at a higher rate than recruitment. So no net increase of size of herd. It can only decline. Discussion ensued on herd population numbers over time, how they can be deceptive. Partially due to method of counting, which changed sometime in the 70s. Early estimates were based on observers rather than photographs so estimates from the 1970's are considered to be undercounted by about 50%.

RWED says herd population declining is a natural decline but it is very likely that it is exaggerated by human activity. There are people in the picture, more people, and we don't know level of harvesting. Mines and camps have also increased. But it was noted that it was great to finally see the data being used to show something (as in these presentations.)

A study was done on forest fires and regrowth in the Lutsel K'e area. Anne said that RWED could get the results to Florence.

ACTION ITEM: Anne Gunn of RWED will provide results of study done on forest fires and regrowth in the Lutsel K'e area to Florence.

3rd Presentation – Grizzly Bear Research in the Slave Geological Province *by Robert Mulders*

Looking at habitat loss and mortality generally with a focus on the Slave Geological province – 235 000 square kilometres.

It is possible that the decline in Bathurst caribou population might affect the bear population, since it is an important food source.

Their studies show that numbers are so small that even a small increase in mortality could increase the risk to the entire population. Their work indicates 15 bears/yr may be a threshold.

They are studying effects of roads and habitat use by females. They found that there appears to be a 1.5km zone of influence around the Misery rd where bears cross the road at a faster speed than normal and mostly between 1800 and 800 hours.

The Board asked if community members are being used to help out in these bear studies. Robert explained that it's usually only two people, biologists that go out collaring. Though local people do help out at the mine site. With ground work, there is community involvement but with collar work, safety and space in the helicopter do not allow.

After a question from the Board, Robert explained that they don't know yet if bears are territorial by clan or family groupings. Genetic analysis may show insight into familial interaction. RWED has tissue samples but they have not done genetic analysis.

Another question addressed whether or not human handling of bears during collaring, even if the bears are knocked out, increases a bear's likelihood of increased familiarity. That's unknown.

Another question addressed accuracy of collar information and, for example, vegetation data accuracy, and how statistics would be affected by that interaction. Robert explained that they use probability analysis.

It was noted that information about bear boldness could be gathered for Aboriginal people who have first-hand experience in their hunting area. Ray said that RWED's North Slave office is collecting that information. Outfitters have to report contact with bears and community people are encouraged to report encounters. Info such as: number of encounter and type/nature of encounter. At community meetings last fall there was some discussion of what might happen if grizzly can't access caribou, such as are they become more aggressive. The North Slave office is very interested in collecting that information.

It was noted that in Nunavut there is a lack of ongoing public education. There is dissatisfaction with Sustainable Development as there are more bears interacting with communities and the response seems to be to shoot them, with no attempt to deal with the issue of why they were attracted and no attempt to move them off or relocate with helicopters and other means, probably due to costs.

In the NWT environmental staff promote fencing for camp layout, bear safety classes, and bear safety video as well as talks with mine people and people at exploration camps. Also Ray noted the new endangered species act the feds passed last June.

Management plans now need to be developed for species such as grizzly. They've begun discussion with Nunavut and a desire to include communities to agree on ways that protect and maintain the grizzly population.

A board member noted that in the Environmental Agreement negotiations Aboriginal people said they wanted to be the ones doing those sorts of thing – harvesting but also managing.

4th Presentation -- Wolverines

by Robert Mulders

Robert noted that mines are doing a good job with waste and odour management, and so not attracting wolverines unnecessarily.

RWED monitors harvest levels for most furbearers (i.e. for marten or muskrat) with fur auction data. However, given the large proportion of wolverine pelts that remain in the NWT for domestic use, the fur auction data does not fully reflect harvest levels. Use of an NWT wide carcass collection would provide better information on harvest patterns, as well as additional biological information.

The GNWT is developing a new approach – involving the use of hair snagging – in order to index abundance and learn more about movement patterns.

Genetic testing is more expensive than snow track surveys. Analyzing samples in bulk is more economical (i.e. \$ 70 per sample) than processing a few individual DNA samples.

Adult females typically occupy natal dens in mid-March, which may restrict their movements. They still use snow dens in May and rendezvous sites in June.

Wolverines are valued by Aboriginal people: valued for the fur because it doesn't frost.

Break

5th Presentation – Wolf

by Dean Cluff

In answer to the question of whether or not there was Dene involvement in this study, Dean said that James Sangris was involved in tracking last June. Also, attempts to involve Lutsel K'e, YK Dene, Kugluktuk, and Dogrib at den site observations and in capture, operations in 1999 were unsuccessful due to (strong winds). Dogrib and Lutsel K'e elders have been participants in den site observations during WKSS years.

Summer students have been involved in den site observations and James Sangris will be involved in radio tracking again this summer.

Summary – Ray Case

Since 1996, GNWT has been actively collecting data on wildlife and wildlife habitat in the Slave Geological province.

Data are providing a strong foundation for monitoring programs.

Data can provide a basis for protected area identification.

Also allows us to explore approaches to cumulative effects monitoring and assessments.

Cumulative effects monitoring and assessment is a complex topic.

Human activity can affect wildlife and wildlife habitat in many ways and always interacts with natural changes. Need to understand natural changes better.

The future:

Committed to making progress in cumulative effects.

Focus on sound data bases: not just more data but must be critical about types of data. Identifying specific gaps.

Progress with respect to cumulative effects management – lots of support and cooperation with partners. Processes will be needed.

RWED thanks the board for opportunity to make these presentations.

Chair thanks back.

Florence requests electronic versions of PowerPoint presentation. RWED will provide, but must replace some images due to copyright restrictions.

ACTION ITEM: RWED will provide electronic versions of PowerPoint presentation to Florence, but must replace some images due to copyright restrictions.

***EMAB Board Meeting Minutes
January 22, 2004
EMAB Board Room Yellowknife, NT***

Meeting resumed at: 9:10
Lunch: 12:05
Reconvened: 1:50
Adjourned:

Present:

Bob Turner, Chair, North Slave Metis Alliance
Floyd Adlem, Vice-Chair, Government of Canada
Doug Doan, Secretary-Treasurer, Government of the NWT
Johnny Weyallon, Dogrib Treaty 11 Council
Doug Crossley, Kitikmeot Inuit Association
Florence Catholique, Lutsel K'e Dene First Nation
John McCullum, Executive Director
Rachel Crapeau, alternate for Yellowknives Dene First Nation

Absent:

Lawrence Goulet, Yellowknives Dene First Nation
John Morrison, Government of Nunavut
Erik Madsen, Diavik Diamond Mines Incorporated

Minute taker:

Michele LeTourneau, Communications Coordinator

Guests:

Doug Stewart, Director, Wildlife and Fisheries, RWED
Ray Case, Manager, Technical Support, Wildlife and Fisheries, RWED
Steven Matthews, Assessment Biologist, Wildlife and Fisheries, RWED

Minute taker:

Michele LeTourneau

Chair directs to pick up at EMAB recommendations under WEMP item from day 1.

ED related Erik Madsen's suggestion to hold off on making recommendations until the next meeting so DDMI can participate and because of practical input on what DDMI can and can't do was conveyed to the Board.

It was suggested that with RWED's written recommendations, the Board might want to talk to RWED technical people so as to gain a better understanding on why they're making recommendations. Also noted that for the making of recommendations the Diavik Board Member should be present.

It was noted that RWED work as presented on Day 1 of meeting was impressive. Was Diavik informed in advance - they would no doubt love to work on some of these studies and find it especially interesting since it's in their footprint. (Referring hair snagging/wolverines.)

Ray noted that hair snagging is a pilot project by RWED. It was not done in Diavik area but there has been some discussion of it for that area. Concern from Diavik and BHP re: the cost of doing the DNA analysis. Collections is in line with where mines' programs trying to go – but additional cost of DNA will have to be negotiated with mines. RWED is working out statistical design: post distribution, minimum # of sample that need to be analyzed for best efficiency, so that they are well-prepared when they go to companies.

Steve made the point that RWED is always looking for ways to improve monitoring programs; that Diavik is always receptive. But money is always an issue. There is a need to find ways to work with partners to get the work done and get good results.

Broad discussion on:

- Developing standard research/stat protocol so that data collected from single sites can be used together for cumulative effects monitoring
- Timing of individual mine annual wildlife report and availability of draft document to actually improve/revise programs from year to year, and process for revision
- Workshops with all stakeholders, timing of the workshops, purpose of workshops, and the fact that BHP has cancelled its annual workshops. Who is responsible for taking initiative.
- Talk of a "Regional Monitoring Agency" – is there a way to achieve benefits of regional monitoring without one eg. standard protocols, single workshop to present all results
- Role of mines in regional workshops: interested spectator or putting forth results
- Communication to Parties, input from Parties (not just the rep.); the need for the community to know what's going on with the wildlife
- How can EMAB facilitate the effort of a Party who wants to do something but doesn't have resources
- Money/ funding models/funding partnerships
- Annual workshops could identify any gaps or incompatibilities

BHP is now suggesting a wildlife workshop every three years. RWED satisfied with annual workshops, but finds that every three years would be insufficient. Perhaps there could be a portion of funds from each mine plus RWED to have a single annual

workshop, rather than each having a workshop every three years. Same cost with better result.

It was noted that annual reporting might be insufficient. Desire to make recommendations to mine throughout the year. But noted that EMAB already does this, with workshops and also by reviewing and discussing reports as they come out. What is the added benefit of a workshop?

RWED notes that timing of reporting on monitoring programs is also out of sync between mines.

RWED is working on developing the hair-snagging technique for use by companies. They would like to see the companies be prepared to monitor caribou that come close to their site late in the season. They are generally satisfied that the BHP and Diavik programs are compatible at this time.

It was suggested that there would be benefits in a regional cumulative effects workshop. Initially, mines might be invited guests along with winter road people, exploration camps, and outfitters. Such a workshop would be a full-blown effort to inform the public about cumulative effects. Sees a need for people to get serious about monitoring and management. The end product of a large-scale workshop would be recommendations.

There was a suggestion that monitoring funds need to be treated differently. Right now the information is not getting back to communities. The EA gives EMAB a role in the way DDMI carries out its programs, and commits DDMI to make best efforts to involve Aboriginal Peoples in Environmental Monitoring Programs – design, training, employment. If an EMAB member indicates a need for more workshops, that is valid.

It was also noted that the presentations indicate a possible danger to wildlife. EMAB should consider publicizing this in the media.

Is there a way that EMAB can support RWED to do a better job by helping them get more funds for their work?

Noted that as soon as you have multiple projects and multiple reasons for change – site specific info becomes meaningless in a regional context. By focusing on an individual site, one doesn't get the full story. If programs are not compatible then the data produced will not be useful regionally. This was generally agreed, and that EMAB should push for such compatibility.

The example of Northern Alberta was given, where it has been possible to change company attitudes. They are working together now. The big stick was a policy by the Alberta Government: activity couldn't go on without assurance that there was no environmental degradation.

It was pointed out that the MVRMA requires that cumulative effects be addressed. EMAB should focus on cumulative effects rather than talking about regional monitoring. Industry is one of the stakeholders with a responsibility to participate in monitoring CE.

The GNWT does not have a cumulative effects policy.

The MVRMA deals mostly with the “front end” before permits are issued. Companies, who have all sorts of studies and numbers at the front end, need to not feel like they are off the hook once they have their licences. There is a need to bring all those involved together and make efficient use of resources.

Doug Stewart noted that there are a number of different levels at which this issue has to be looked at:

- political – marshal a wide range of stakeholders to bring issues to federal government
- industry involvement – we have to focus on making sure what is being done at sites is done consistently and that data are compatible – towards regional assessment – wildlife and fisheries staff work with mines to make sure consistent and good information Get ready for next few years... make sure this is in place as quickly as possible...

It was suggested that EMAB move away from using the word “regional” as the mines react negatively to that. Focus on compatible data collection.

To have info collected, manipulated, stored – RWED needs the money for this.

Is there a need for EMAB to make that recommendation again for compatibility of studies. It was noted that section 7.4a of the EA requires that DDMI provide data in time frames and formats developed in consultation with EMAB.

Erik needed to be present for that discussion.

ITEM 4 Harvesting (was item 3)

Doug Stewart presents on GNWT Harvest Support Programs

Provided a list of existing RWED contributions for harvesting programs.

All programs RWED currently has, and the dollars involved, are in RWED’s Main Estimates. No changes – except in the Genuine Mackenzie Valley Fur Price Program: the scope has been enlarged. Before, limited species -- some not eligible for advance payment. Now all fur species are eligible.

Money allocated within the fiscal year to be spent in that fiscal year. Most funds dispersed via regional allocation – supplied to regional superintendent then goes to communities.

Western Harvester program: a fund established after division. Timelines for access: flexible. Last ten years: 11.2 million dispersed. Still some communities and region that have not accessed this money.

Wildlife act still being drafted by GNWT's Justice Department, as well as, hopefully, a new species-at-risk act. Should be drafted by summer then they will go back and discuss it with land claims groups to make sure the right stuff is incorporated. That should be done by fall. Then it will go to Legislative Assembly. Leg will decide if more consultation is necessary. RWED will get that direction probably the following summer.

This is the end of the fiscal year. Very little money left.

Florence expressed concern over the WAAG document, that Lutsel K'e was not consulted. Doug S. said that every community received information on this over 3 years ago. The process has been over for a year.

The issue of accessibility to caribou harvesting was raised. Florence noted that she'd talked to Diavik, had presented to GNWT, gone to GNWT, but there's no money. It's stated that BHP has said they don't think there's a problem, that it needs to be proven. But there's no scientific support at this time to get mines to accept responsibility for decline in accessibility to caribou.

RWED hopes to have the draft BCMPC recommendations out by the end of the week.

Florence noted the beautiful presentations from RWED, and that she wants to take them back to her community, translated and voiced.

Discussion on technicalities of translation, such as funding. It is suggested that capacity funding might be a way.

ITEM 5 Discussion on Proposed Expert Scientific Review Panel

With Laura Johnston (Environment Canada) and IEMA Chair Bill Ross on phone.

Bill Ross:

The first observation Bill made is that he is pleased/supportive that EMAB is moving forward in the creation of some form of Scientific Panel

4 comments or concerns related to the draft version of the proposal:

- **Joint collaboration makes interventions more effective.** First comment relates to the effective interaction of Scientific Panel with folks like Diavik and other stakeholders. The way the terms of reference are written, the panel would report to EMAB and not have much interaction with others. IEMA's best success: meet as group, DFO, Environment Canada and aboriginal people in workshops. Terms of reference could be used/written to facilitate meetings between scientific panel and others they need to consult.
- **The interdisciplinary discussion and collaboration.** AT IEMA: a diverse group of individuals makes our ideas sounder. On terms of reference draft,

the idea of choosing scientific experts in accordance with the issue at hand makes it more difficult to get joint discussion and collaboration. A wider team of experts would influence and improve the quality of the ideas that come out of the group.

- **Knowledge of peripheral matters - not only technical but also knowledge of related policy matters and regulatory matters.** The argument here is that an expert panel needs to understand more than some technical issues related to caribou, for example. Also need knowledge on Environmental Assessment, Water Licence, the way Diavik does things, the way the regulators expect things etc. Harder to get that when you get people for specific matters.
- Implement and develop capacity in the communities. Scientific Panel might be able to help in that and this might be added to the purpose in the terms of reference.

Laura Johnston

Said she had similar thoughts and provided her comments in writing as well:

- Had the sense the EMAB was describing a list of available reviewers rather than a panel. There would therefore be no continuity, no chance to develop as a unit, as a panel. All the rest of what's going on around the issue would be lost. That not most beneficial
- Uncomfortable with the word "independent" in referring to the panel. Choose rather "balanced" or "unbiased" – there is no such thing as independent.

Regarding structural changes to terms of reference:

- If membership is strictly scientists, academics and government, and then integrating traditional knowledge – that would be a challenge.
- Chair – suggests a variation on option one. Might give the balance.

Two things that could be more clearly defined:

- Meetings, conference calls, email...? Or how will the work be carried out. That's not explicit.
- What do you want the panel to do and how do you want the advice given back? – Verbal report, written report?
- Based on EC's experience with the Diavik Technical Committee – some synergy there? There are some of the same people. It would be wise to at least know what they're doing. Is it complimentary? Do not create another similar body.

Discussion:

Question and Answer Session

The cost of a permanent and diverse panel questioned. Also, wouldn't it be more effective to choose people according to issue.

Laura said that it can be effective, but using the word panel implies a standing body. A list of experts is very valid but it isn't a panel. Both can work but a decision needs to be made.

Regarding the DTC, EMAB's own scientific panel was seen as only coming into play if there was controversy or if EMAB was dissatisfied. So in the case of a second look being needed.

Roster or list of names vs. a panel of people. Both are seen as having their positives. Some members originally thought of this as a type of roster, but can see now that a standing group is better.

Points that were made:

- The information that EMAB gets, whether from separate specialists or a larger panel, should not be tempered or filtered before being handed over to the Board. This is seen as happening with the DTC. That might be solved by having someone from EMAB on the actual panel.
- EMAB is the final filter of the information that comes from the panel. EMAB needs to hear the positions of all panel members.
- It is important for panel members to have access to regulators etc. for context, facts, etc. but not to be influenced by their opinions.

Options:

- Consensus report
- Majority and minority reports
- Unfiltered report

It was noted that DTC is not a good example because their members are not meant to be independent, they are there representing each organization

It was agreed that continuity of membership is important.

Also: discussion on who has the power to act on the acquired information. The Parties have the power to do that, not EMAB.

Regular panel meetings would far exceed anything EMAB currently has in its budget.

Laura suggested EMAB could have the best of both worlds: on occasion have the larger group together as in an annual meeting then when there is a specific question, it can go to the one or two reviewers that would be in a position to do that.

On "independent" issue. Individuals do have their own credibility to guide them.

The need to develop consistency and a long-term relationship was pointed out. A scientist would have his/her own continuity in regards to their own expertise.

Scientific experts must have a broad picture of the North.

Discussion on how to deal with cost: partners who would be willing to contribute financially and benefit from the information from the scientific panel.

Laura dubious as the advice Environment Canada provides is their best advice. To hire additional advice would imply their advice is deficient.

GNWT? From policy perspective... if it's used on an exception basis yes, there would be a benefit. Especially in an area of controversy with the need for additional assessment.

How about MVLWB? Environmental Impact Review Board? Same answer is imagined as coming from them: Diavik Technical Committee already exists. No need for something else playing the same role for them.

Concern expressed about differing advice – what to do when, as when GNWT and Government of Canada had opposite views on whether or not the water around Lutsel K'e was contaminated. The more recent ammonia amendment was cited: when the Dogrib had an issue with the ammonia application, they presented their case. Their action caused a change.

Lunch

DIAVIK presents satellite photo of mine to Chair

By Tom Hofer

Meeting resumes with DAVID LIVINGSTONE of DIAND in attendance

Discussion on Proposed Expert Scientific Review Panel (con't)

Recap for David on pre-lunch discussion re: scientific panel.

David notes that he looked at the role the panel would fill not so much the expertise of panel, specifically the **advisory function** and its **independence** from this board, and other groups and government.

Looking at the roles and responsibilities of this board, it's always been clear that a Traditional Knowledge Panel and a Scientific Panel would be needed, that more specific expertise would be needed from time to time.

- The question is how would a scientific panel be created so that it is independent and at the same time under the umbrella of EMAB.
- Important that the Panel be independent and its advice also be seen as independent.
- Government gets criticized that they clean up advice of scientists. EMAB doesn't want to be accused of that.

So **objective** and **arm's length** and **credible**.

- EMAB needs to set up a structure so that the information is unfiltered.
- You could have a standing group of people or you could go completely ad hoc. tap consultants from time to time.
- But you need core capacity to draw on short notice who are:
 - familiar with project but expert in fish, water, wildlife or mine site reclamation for example (because there's ongoing reclamation) – that's the core.
 - augmented by other experts where an issue comes up when expertise is not available in core group.
 - a panel responsible to the board that meets as required. (not regularly but David isn't absolutely certain of that).

Tempering/filtering discussion resumed. Point made again that the information must come to the board as is, unfiltered.

David made the points:

- That the more you temper the more vulnerable you are to accusations of filtering to serve your needs.
- That the original advice be available on the record – post to website.
- That the original advice be available to anyone.

TK Panel advice should also be available to anyone

Then the Board can come up with its own position. That provides transparency and credibility. Scientists would be concerned with their own credibility. Board is concerned with its credibility.

David mentions the possibility of EMAB using IEMA members, which would be politically difficult but a step towards regional agency.

Bob wrestled with the benefits of a "list" vs. a panel that meets regularly. David notes that it could depend on the issue. On remediation, you might want people to meet and on other things you may just want singular advice.

An example was given of the value of an expert having more broad knowledge, referring to Tony Pearse for the Dogrib on the ammonia issue. Tony was part of the Environmental Agreement and water licence, heard the commitments and so was better equipped to deal with the issue. The more broad the knowledge the better for EMAB.

Reports should be available on website. Ex: fencing, fishing.

Board member sitting on panel? David likes the idea of Board member sitting in on discussions because they have an awareness of all issues. Consultants can sometimes miss a big point, ignore or misinterpret it, so advice can be inflammatory or misguided. EMAB not there to direct but to ensure these guys have all the info. Tricky, careful dance.

In that case, a Board member has to:

- want the best possible advice on issue – so you don't want to interfere with the process
- act like a facilitator – keeps them in line with what was set out by the board.
- also have the ability to be flexible – you may not want to hear what you end up hearing.

David congratulates the Board again, adding that we will end up with a regional monitoring agency in one form or another and this will help.

General discussion followed.

- By providing the best possible advice EMAB can to all parties, the more credible it becomes and the more desirable. EMAB will be trusted.
- MVLWB and MVEIRB are new and don't necessarily end up with the right decisions – so EMAB needs to provide the best advice it can
- EMAB not a power on the DTC, but an observer. Brings info back to the Parties.
- EMAB vs. Party intervening on matters before regulators – if EMAB plans to make a recommendation they should be sure it is supported by all Parties.
- EMAB will look at ammonia amendment process. EMAB role is to make sure regulators doing it right.
- Intervener funding is an issue/EMAB is not responsible for funding
- Would rather minister see the mining company as rocking the boat rather than seeing community people as rocking the boat.
- The more this office does, the less work for the community. Communities have a hard time finding money to find their own experts. If the community is going to have to trust experts, they'd rather trust the EMAB experts.
- Yellowknives elders have discussed pushing traditional knowledge panel along with scientific panel. Elders want to be there, want the cohesive approach.
- Concern that the scientific panel be included in the community engagement and strategic planning process, rather than providing the ToR in advance (From the Wha Ti workshop – the need was identified for a community engagement process.) Mistrust comes from things not being done the right way.
- Note that part of the reason for creation of EMAB was distrust of the role of regulatory agencies for other projects – regulators also need to be monitored.

ACTION ITEM: Reply to letter from Lutsel K'e and suggest funding sources they can apply to participate in water licence amendment meeting.

ACTION ITEM: To revise Scientific Expert Panel draft Terms of Reference according to discussion.

ACTION ITEM: EMAB letter to new Minister of DIAND and DDMI about lack of resources for intervention and the gap as a result.

Motion # 03-04-21-01

That EMAB recommend that DDMI and DIAND provide sufficient capacity funding for Aboriginal peoples to fully participate in Diavik's water licence amendment hearing on March 23/24, 2004.

Moved: Doug Crossley

Seconded: Florence Catholique

Carried: Unanimously

These items deferred to next meeting:

- Develop detailed plan for strategic planning and community engagement and board calendar.
- Operations Manual.
- Financial reports.
- Review of outstanding action items.
- Report tracking.
- Julian's Kanigan's report

Elders TK Attendance/Payment

That delegates for traditional knowledge no net loss meeting be given their per diem and honorarium up front because usually they do not have funds on arrival.

Moved: Florence Catholique

Seconded: Johnny Weyallon

The question arose about whether or not the elders that are prepaid could be counted on to attend both days. The consensus was yes.

Also, the question of why was discussed. If expenses are the issue, the per diem is supplied in the morning. The honoraria are usually what are paid upon completion, as set out in EMAB policy in the Operations Manual. John added that the honoraria could be paid on a daily basis rather than at the end of the two-day workshop within the policy.

Another issue was payment/type of payment for the Wekweti representative, who, because of flight schedule, would have to spend extra days in Yellowknife. The policy is that he would be paid accordingly for his time – travel days/per diem etc.

Motion withdrawn. Elders will receive per diem in the morning and honoraria for the day at the end of the day on each day. There's no need for prepayment and making an exception.

Facilitators for Workshops/Request for Proposal

To do: go through list of proposals to see if board members have had positive/negative experience with any of them.

Board went through people they've had experience with: Terriplan, Terrafirma, Dargo, and Outcrop. Agreed to only consider facilitators from NWT/Nunavut to avoid additional costs for travel.

ACTION ITEM: John will get references on Terriplan, Terrafirma, Dargo and Outcrop.

Final business

Discussion on how to deal with unfinished business. Plan for a meeting to deal with Strategic Plan and debriefing etc. on Wha Ti workshop on Board Development.

Important to base that meeting on availability of people who were not able to be in Wha Ti.

Environmental Agreement will be translated in plain language.

Next meeting: February 11 & 12

A conference call will take place between now and the next meeting to deal with incidentals such as the Executive Reports. This should be limited to an hour.

The Lutsel K'e representative requested information on the harvesting provisions in the Tli Cho claim

Action Item – provide information on harvesting provisions in Tli Cho claim

Meeting adjourned: 4:13

Closing prayer: Florence Catholique