

WORKING WITH THE PEOPLE FOR THE ENVIRONMENT



Minutes – October 20-21 2020

Yellowknife Boardroom and by teleconference / Zoom

Present:

Charlie Catholique, *Chair*

Jack Kaniak, *Vice-Chair*

Marc Whitford, *Director*

Joline Huskey, *Alternate*

Laurie McGregor, *Alternate* (by phone)

Gord Macdonald, *Director* (by phone)

Lutsel K'e Dene First Nation

Kitikmeot Inuit Association

North Slave Metis Alliance

Tlicho Government

GNWT

Diavik Diamond Mines

Absent:

Sarah Gillis, *Director*

Yellowknives Dene First Nation

Staff:

John McCullum, *Executive Director*
(minutes)

Environmental Monitoring Advisory Board

Janyne Matthiessen, *Environmental Specialist*
(minutes) (by phone)

Environmental Monitoring Advisory Board

Guests (all by phone):

LeeAnn Malley, GNWT (Day 1)

Abbie Stewart, MSES (Day 2)

Megan Cooley, NSC (Day 1&2)

Tom Bradbury, Lands (Day 1)

Louis Beland, Diavik (Day 2)

Kofi Boa-Antwi, Diavik (Day 2)

Sean Sinclair, Diavik (Day 2)

Tuesday October 20, 2020

Meeting at 9:00 am at EMAB Boardroom and by teleconference/zoom

1. Call to Order

2. Approval of Agenda

Chair reviews agenda

Noted that item 11 (Boots on the Ground) will be postponed till the December meeting

Motion: to approve agenda for Oct 20-21 2020

Moved: Jack Kaniak

Second: Marc Whitford

Motion carried

3. Conflict of Interest

No conflicts declared

4. Minutes of Previous Meeting

Noted that Marc Whitford was present in person, not by phone.

Motion: to approve Sept 9-10'20 meeting minutes as amended:

Moved: Marc Whitford

Second: Jack Kaniak

carried

ED reviews action items

Motion: EMAB staff to draft letter to minister stating EMAB has no further concerns with 2019 EAAR

Moved: Marc Whitford

Second: Jack Kaniak

carried

Discussion on item for GNWT to seek aboriginal input on TK monitoring

- Communities being engaged by Diavik
- Diavik is consulting w/ communities. What is the GNWT supposed to do?
- Noted that current Diavik engagement is about cultural criteria, not TK Monitoring at closure. EMAB could send a letter to reinforce thoughts
- ED notes some context is missing and he will put together an item on this for the next meeting
- Noted that EMAB commented on this in submission on ICRP 4.1.
- Issue includes budget line for TK monitoring in Additional Security Deposit. This is GNWT role.

Action item: Put together meeting item for December on TK monitoring, GNWT securities and aboriginal input

ES notes that there are no outstanding recommendations

5. Finance

Noted that recommended two-year budget for 2021-23 has been submitted to Diavik. No response yet.

Q: is there a deadline for Diavik's response?

A: EA is silent on this.

ED reviews Variance Report

Discussion on honorarium for EMAB members who attend Diavik community meetings

- Most years community engagement budget is not used up. This year especially (covid-19)
- Noted that Charlie got an honorarium from LKDFN for the Diavik meeting in Lutsel'ke, but Marc and Jack did not get honoraria for attending the Diavik meetings in their communities.
- Diavik should pay the honorarium for these meetings.
- EMAB's community engagement funds were cut back in 2016 due to EMAB budget reduction. They used to be available to cover Board members attending meetings like this, but now they are specifically for one community update meeting for each Aboriginal Party.
- Up to board to approve if they want to reallocate community engagement budget for EMAB member honoraria for community meeting. Would need a motion.

- Could reallocate the funds for one time only; don't want to set a precedent. Option to change definition of what community engagement budget can be used for.
- Today board will approve one time honoraria for Jack and Marc for attending those Diavik meetings. Will discuss at a later meeting if this should be ongoing.

Action item: Add agenda item to discuss using community engagement budget to pay EMAB directors' honoraria for other meetings than EMAB community updates.

Motion: *To pay Jack and Marc honorarium for attending recent Diavik meetings on cultural criteria*

Moved: Charlie Catholique

Second: Joline Huskey

Carried

6. Inspectors Report

Tom Bradbury joined the meeting

Tom Bradbury presents inspectors report for June, July and September inspections.

Inspections focused on: collection ponds and water management, and closing out spills, including 2020229 from South Country Rock Pile. Collection ponds all looked good. All spills are closed except 2020229.

Noted that a letter of warning was issued to Diavik for not being in compliance with their Water Licence when they began construction of a PKC spillway without notifying Inspector/WLWB.

Q: Do you have any photos showing haze over the mine

A: Will check his photos and get back to us. He will also watch for the haze on future trips and take photos if he sees it.

Noted that it usually has to be very cold to see the haze; could possibly take a picture during winter road inspection.

BREAK

7. PKMW Intervention

Megan Cooley from NSC joined the meeting

ED introduces the item – noted that the results and the Independent Review Panel report were only received the day before the meeting, so haven't been reviewed.

Diavik presents updates on PKMW modelling and hearings. Used four different models. Presenting results for surface and at 40 meters below surface. None of the parameters go over the AEMP benchmarks – nitrite is the closest just after the freshwater cap is placed, and it drops over time. Sensitivity tests showed results don't vary much. They looked at the porewater input, the runoff input and the exchange with Lac de Gras.

Diavik summarized the IRP review:

- Modelling software is best practice
- Modelling effort is appropriate
- Agreed that results from to 40 meters will not exceed AEMP benchmarks
- Some parameters need ongoing testing
- Several recommendations for future modelling

Discussion

Q: how close is PK to surface?

A: hundreds of meters down

Q: how is it being deposited in the pit?

A: by pipeline

Q: what was the highest wind speed used in the model?

A: 72 km/hr continuously over years.

Q: Did you model contingency plans for hurricane-like situations?

A: We modelled continuous wind. Felt that long-term continuous wind was more of a concern rather than extreme short-term events.

Noted that with climate change changing conditions, it would be good to model other extreme weather conditions, like hurricanes. Diavik notes that the TK Panel also said this.

Q: in the high wind scenario did the pit de-stratify?

A: Thermally yes, but the chemocline stayed intact.

Q: are these results for the 2D model or 3D?

A: 2D

Q: do the results vary in different areas of the pit lakes?

A: haven't done these kinds of finer scale model runs

ED reviews the draft PKMW intervention

Issue 1 - Water quality thresholds – will need to be updated after reviewing the model results. Noted that plankton will go right to the bottom of the water so Diavik will need to meet AEMP benchmarks at much lower depths than 40 m.

Issue 2 – Modelling predictions – to be prepared after report review

Issue 3 – Freshwater cap – noted that model assumes complete mixing of freshwater and PK porewater. Stratification develops over time.

Issue 4 – Benchmarks for unanticipated mixing – this was done for the MVEIRB review so Diavik believes this has been addressed.

Discussion on TK pit-lake criteria not being proposed as part of the WLWB hearings:

- Diavik's original intent was to present these at the hearing, but engagement has taken longer than expected
- Want TK to be taken seriously.
- Better to address these during the hearing before the project is approved
- ED to add Recommendation 5.4 to require EMAB review of cultural criteria

Action item: Add recommendation 5.4. to PKMW intervention

Remainder of item postponed to 10am October 21.

Megan Cooley left the meeting

8. EA Amendment Update

LeeAnn Malley joined the meeting.

LeeAnn Malley presents an update on the EA amendment

- Addendum was circulated Sept 23 to Chiefs/Presidents as outlined in EA
- Proposing 90 day review period

- Making contact with working level staff to address issues, questions, need for engagement or additional support.
 - Contacted two Parties so far

Q: Are you planning to share comments you receive?

A: Sharing would need to be coordinate; any edits would need to be shared with all Parties

Q: How do we make edits?

A: Not sure, could make edits on the documents and send back or send edits as a letter, or call GNWT to discuss. Suggestion to share any proposed edits with the distribution list.

Noted that 90 day review period will be just before Christmas.

Lee Ann will reach out to parties to see if they want edits.

Lee Ann confirms appropriate working level contact people for Parties.

- She has contacted YKDFN, TG and Diavik
- KIA – contact Executive Director and Lands Manager
- NSMA – Jessica Hurtubise
- LKDFN – Hanna Catholique
- TG – Brett Wheler. Also Longinus Ekwe

Q: EMAB has an action item to consider recommending a meeting of the Parties – was GNWT planning a meeting?

A: No – would consider if need is demonstrated.

- No need for meeting of Parties
- Possibly if there is a need to review edits

Does EMAB want to recommend a meeting of the Parties?

Noted that EMAB isn't a party to the Agreement so it's not clear why we're so involved in this.

Discussion:

- Parties/Communities have the power here
- EMAB doesn't have to sign
- Is there a requirement for EMAB to be consulted with?
- EA does not give EMAB a role. Remove this from EMAB's agenda.
- EMAB organized review of EA in early 2000's

Noted that Lutsel'ke was not in favour of Devolution, so they may not want to sign the new EA.

Meeting adjourned for the day at 12:20pm

Wednesday October 21, 2020

Yellowknife Boardroom and by teleconference / Zoom

9. DDEC Insolvency Briefing

Louis Beland from Diavik Legal joined the meeting

Sean Sinclair and Kofi Boa-Antwi joined the meeting

Louis presented a verbal update on effect of DDEC insolvency on Diavik

- Media coverage is fairly accurate

- Diavik asked court to keep DDEC's share of production since DDEC stopped paying its share of costs
- Diavik will ask the court for permission to sell DDEC's share of production now that the sale to Washington has fallen through.
- The insolvency has no impact on Diavik's obligations. The Diavik Joint Venture, and Rio Tinto by extension, are responsible for all Diavik's obligations, and for management of the mine.
- Diavik's approach is to stay the course and recover what is possible from DDEC.
- Diavik and DDEC will be in court on October 30. Diavik will request permission to sell the DDEC diamonds they have been holding since insolvency.
 - Sales would cover DDEC's share of Diavik expenses, royalty payments etc.
- If court does not approve Diavik's request then Diavik will consider its options for the future.
- Security is 100% backed by Rio Tinto, including for the Water Licence and Environmental Agreement
 - ILOCs are 100% underwritten by Diavik

Q: where do DDEC's other creditors fit in relation to the sale of DDEC diamonds?

A: the court set up the ranking order of creditors; Diavik has first rank, all other creditors are second rank

- Diavik recoups costs first

Legal documents are on insolvency monitor's website. Gord will send a link.

Request for notes from Louis' presentation. Louis will provide something.

Q: How long can Diavik keep operating without a 40% partner?

A: As long as the benefits outweigh the costs. Diavik is currently reacting to day to day updates. We don't necessarily need a partner but need to pay off the burdens.

Discussion on winter road – the annual order is a big expense so Diavik has to consider this carefully.

Orders need to be made soon

- If Diavik doesn't foresee operating next year they won't ship millions of liters of fuel on the winter road

Q: do other parties intervene in the process?

A: any creditor can make a representation. So far, most interest is from the debt holders who lent money for the acquisition of Ekati by Washington. GNWT could intervene.

Noted that GNWT would like Diavik to continue operating and for a buyer to be found for Ekati.

GNWT is satisfied with the security being held for Diavik.

Noted there is no mention of workers in the discussions.

If anyone has questions later they can send them to Gord in writing.

Action Item: Gord to provide link to insolvency monitor's website

10. WMP Description

Abbie Stewart joined the meeting

Noted that GNWT is now requiring Diavik submit a WMMP under new Wildlife Act regulations. It's due April 1.

Abbie presents review of Diavik's recent WMMP

- Most issues with caribou monitoring methods
 - Whether to continue aerial surveys (ZOI Working Group to discuss/decide)

- **Collecting** behavior data
- Energetics and migration – agree with Diavik suggestion to analyze range attributes instead

ES presents summary of TK recommendations

- Helpful to receive feedback / suggestions from Aboriginal Parties

If EMAB wants to make TK recommendation for the WMMP we should aim to finalize recommendations for December. Gives time before April 1 deadline.

- Diavik notes they can suggest to the TK Panel to hold a session on wildlife monitoring during closure. Likely not before April 1.
 - Might be possible to start incorporating any TK Panel recommendations into operational monitoring ie. Before closure

Discussion on Caribou Collars

- Hard to use TK to monitor caribou if they aren't around the mine.
- Questions: When are collars removed; after closure? Who funds collars and tracking/analysis? Does the government track the caribou?
- Diavik contributed to original collar purchases but doesn't fund the program
- Diavik would like TK Panel to focus on closure monitoring
 - A lot of the focus has been water-related; would like to put more effort on wildlife.

Action item: Invite someone from ENR to discuss Caribou Collar program (including when collars are removed), funding, and fate of collar program after mines close.

Action item: write letter to Diavik about value of TK panel making suggestions for wildlife TK monitoring, copied to Joanne and Natasha.

7. PKMW continued

Megan Cooley joined the meeting

ED continues review of PKMW intervention

Suggestion recommendations be framed as changes to the AEMP, including special studies.

- Noted the WLWB is encouraging Diavik to engage on specific changes to the Water Licence
- Noted that WLWB is encouraging participants to provide recommendations on any issues for consideration.

Issue 7 – Wildlife

- Remove from intervention; not WLWB mandate
- Provide any wildlife monitoring comments on PKMW through WMMP review
- Noted that WLWB addresses wildlife through closure objectives/criteria and monitoring

Issue 8 - Monitoring

Action item: Review each item in section 8 of the intervention and identify differences between Diavik's proposed SNP approach and EMAB's recommendations. For review by Megan Cooley

Issue 9 – Contingency Plans

Suggested that EMAB propose which existing plan the contingency plan should be included with.

Issue 10 – Closure Objectives

Q: How would adding an objective change anything? Is the objective just that PK will go into the pit?

Should we instead recommend the objective be revised?

A: intent is to note the issue that closure objectives and criteria need to be reviewed and revised to reflect changes due to PKMW project. Could be new objectives/criteria or revised objectives/criteria.
EMAB Approval Process

Diavik is concerned that the reports submission date, review and EMAB approval are all close to the intervention submission deadline. They would like more opportunity for review.

Noted that the draft reports are not expected to be completed for 3 weeks due to consultant availability. ED will see if consultants can be available earlier but knows Bill Slater is very busy.

- Likely NSC can complete review by Nov 1
- EMAB will try to provide draft reviews to Diavik for response as early as possible; similar approach to ICRP review.

Action Item: ED to try to have consultants' reports on PKMW available earlier than Nov. 13.

Noted that GNWT representative will likely be at IEMA AGM on Nov 19, so try to avoid that day.

BREAK

12. TK Water Quality Criteria

Sean Sinclair joined the meeting

Sean updated the Board on Cultural use water quality community workshops. Engagements are not complete.

- Workshops involve Natasha Thorpe and Joanne Barnaby, the TK Panel facilitators
- Discussions on what makes water good to use and how to monitor water.
- Diavik has been trying to involve TK Panel members and any other community members who want to participate
- Diavik has done workshops with KIA and NSMA
- Diavik started a workshop with Lutsel'ke but second day was cancelled. Need to reschedule.
- Working on scheduling YKDFN and TG
- Discussion on meetings
 - Lutsel'ke meeting was small. 4 people. Everyone walked out on the second day.
 - Participants talked about water: clarity, debris, oily sheen on surface, also fish tasting.
 - Included Madeline Drybones, Ernest Boucher, Glen Guthrie
 - Requested a translator and for youth involvement after first day
 - Decision on participants was made by WLEC manager
 - KIA: facilitators talked to KIA about participants based on TK Panel – 4 participants
 - Noted that KIA facilitator was unexpectedly absent on second day of meeting and they had to rush to find another facilitator, and the second day of the workshop was pushed back 1 day.
 - Agreed that Diavik must meet AEMP Benchmarks down to 40 meters; confirm fish can live in the pit lake before breaching dike
 - Main concern about water chemistry if porewater mixes with freshwater
 - General agreement that if water quality is safe then it would be OK to breach dikes
 - NSMA: We canvassed key members that we know have interest in the Diavik project:

three members plus staff

- Talked about the value of water

13. EAQMP updates

Discussion and presentations on 2019 EAQMP rescheduled to December meeting
Discussion on Yellow haze rescheduled to December meeting

Update on EAQMP minister review

- Minister is reviewing adequacy of Diavik's EAQMP.
- Timeline not determined; not clear if 60 day response requirement applies
- Noted Sept 24 and 29 ENR letters are identical

Action item: request GNWT attend next meeting to explain process for minister review of EAQMP.

14. Roundtable

Jack: wasn't able to attend board meetings in May and July due to COVID. Hard to attend online due to internet issues and lots of big documents coming in at once. KIA office was also closed until recently due to COVID. Notes it seems like there are so many deadlines and not a lot of time, thinks this is an issue. Participated in Diavik workshop for TK water quality criteria for PKMW.

Marc: pretty new to the board. Feels welcomed. Notes that the issues here affect all of us. Concerned if Diavik closes down early how that will affect everyone. In our community we stay connected to the land by distributing our harvests. That way people who do not hunt or go on the land can still be connected to the land by eating food from the land. Members are updated by bulletins from staff.

Charlie: Darryl Marlow was elected again. Councillor nominations are going on right now, election in first week of November. Lots of people were going on the land because of COVID.

Joline: first time coming to an EMAB meeting in person. Finding the meeting very interesting because I work in Tlicho lands department. Has been involved with the TK panel for 10 years, almost since the beginning. Notes how information is provided from Lands Dept to leadership. Also noted that elders are not comfortable communicating using Zoom. She will make sure to update Violet on the meeting.

Jack – noted that KIA had its AGM in Cambridge Bay. Could have been an opportunity to update them.

Gord: no updates

Laurie: GNWT appointed a new member. I will remain the alternate, but the new member should be active so I won't be attending meetings regularly anymore. Thanks everyone for including her this past year and she has enjoyed working with EMAB.

Next meeting scheduled for Dec 1-2, 2020.

Motion: To adjourn the meeting

Moved: Marc Whitford

Carried

Meeting Adjourned 12:10pm