

**EMAB meeting**  
**EMAB Boardroom, Yellowknife**  
**December 7, 2005**

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association  
Florence Catholique, Vice-chair, Lutsel K'e Dene First Nation  
Eddie Erasmus, Tlicho Government  
Tom Beaulieu, Environment & Natural Resources, GNWT  
Lawrence Goulet, Yellowknives Dene First Nation  
Gord McDonald, alternate, Diavik  
Sheryl Grieve, North Slave Metis Alliance  
David Livingstone, Canada (In and out throughout the meeting.)  
John McCullum, Executive Director, EMAB

Guest:

Valerie Meeres

Regrets:

John Morrison

Minutes:

Michele LeTourneau

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Started: 9:15

Opening comments from Chair. EMAB has busy days ahead. Welcome.

Opening prayer: Lawrence Goulet

**Item 1: Approval of Agenda & minutes**

Add to agenda:

- minutes for Dec 2
- Board members to attend technical meeting – add to item 2
- translation costs – add to action items or financials.
- guidelines a consultation with Terriplan... survey and workshop – item 4

**Motion 01-05-07-12**

**Approve agenda as amended.**

**Moved: Tom Beaulieu**

**Seconded: Florence Catholique**  
**Carried: Unanimous**

**Motion 02-05-07-12**  
**Approve minutes of Sept. 20-21, 2005 as presented..**  
**Moved: Eddie Erasmus**  
**Seconded: Tom Beaulieu**  
**Carried: Unanimous**

**Motion 03-05-07-12**  
**Approve minutes of Nov. 16, 2005 teleconference as presented..**  
**Moved: Tom Beaulieu**  
**Seconded: Florence Catholique**  
**Carried: Unanimous**

**Motion 04-05-07-12**  
**Approve minutes of Dec. 2, 2005 teleconference as presented.**  
**Moved: Tom Beaulieu**  
**Seconded: Lawrence Goulet**  
**Carried: Unanimous**

Noted that North/South Consultants are all booked so EMAB won't have technical experts present at the Diavik water licence renewal technical meeting next week.

**Item 2: Status of water licence renewal review and approach to intervention**

Discussion on technical session: who will go?

- Executive Director (ED) hands out proposed agenda and discussion/presentation points for technical sessions next week.
- Mentioned at the teleconference that government EMAB members will likely represent government at meetings, so they should not represent EMAB.
- Sheryl wanted to attend on behalf of EMAB.
- Can be someone from out of town.
- Florence has expressed interest to represent EMAB.
- (Anyone can go but some are going with their Party.)

**Motion 05-05-07-12**

**To incur expenditures to have Sheryl Grieve, Florence Catholique and Doug Crossley sit for EMAB at technical meetings for Diavik water licence renewal application.**

**Moved: Eddie Erasmus**

**Seconded: Tom Beaulieu**

**Carried: Unanimous**

ED walks board through issues EMAB has raised in relation to the technical meeting agenda. (Handout.)

Concern is expressed that if the AEMP becomes a “for approval” report, that reporting deadlines may need to be changed to ensure that there is adequate time for review, changes and approval.

**ACTION ITEM: Raise at technical meetings: if the AEMP becomes a “for approval” report, that reporting deadlines need to be assessed to ensure that there is adequate time for review, changes and approval.**

#### Term of Licence

- Who can request amendments to the licence, because the licence is written so that Diavik is the only party that can initiate change.
- EMAB and Diavik want it written so that any stakeholder can apply for change.
- There are discrepancies between what should be or can be in the water licence and what is enforceable.
- EMAB could request a “ruling” on this matter (initiating change) from the Mackenzie Valley Land and Water Board.
- Diavik’s representative notes that Diavik’s 15-year request is based on stakeholders’ having the ability to apply for change.
- Technical issues are science issues – not process or legal.

**ACTION ITEM: ED to comment on technical meeting agenda informing MVLWB re: what EMAB expects to deal with under certain headings.**

At the meeting, EMAB needs to be recognized as the watchdog. That is EMAB’s role under the agreement.

Process: attend technical meetings. Make it clear that EMAB is expecting answers and positions at the technical sessions (see action item below). Have a conference call and a letter drafted for the Minister to send

before Feb. 3 if EMAB is not satisfied that it has received answers and position.

At these meetings, it must be identified who holds the regulatory hammer. If there's indeed a reluctance to use that hammer, that should be exposed...

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BREAK 10:30 TO 10:50

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**ACTION ITEM: ED to prepare letter to the MVLWB, CCed to the Minister, before the conference call after technical meeting, raising the three main issues:**

- a) who is responsible for determining compliance**
- b) stakeholders' ability to initiate changes**
- c) what components of the licence are enforceable and by whom**

Noted once again that there is a clause in the EA for EMAB to request more money for research. There is a big gap in Northern research. Also a big gap in aboriginal involvement in research.

Q: Can use some security money for research?

A: Nobody can touch that money until Diavik has not done something they said they would do. However there has been some talk of using the interest for such things as research.

At technical meetings: Doug will talk for EMAB. Florence and Sheryl will note when they are talking for EMAB or their Party.

#### Technical/legal assistance for hearing

ED proposes bringing in our consultant and a lawyer to stand with EMAB. Cost: Approximately \$15,000 to \$20,000 for technical expertise. EMAB would prepare the intervention, expert would review it and they would present their findings (reports on AEMP etc) at the hearing.

Noted that it would be a good idea to have a lawyer present for procedural questions.

190,000 surplus would allow EMAB to hire a lawyer.

Technical people are lined up, however EMAB may need the full team (all the consultants that worked on our reviews) on the AEMP section.

**Motion 06-05-07-12**

**Executive Director (ED) to line up our three technical consultants and investigate the cost of a lawyer, with the understanding that if technical sessions deal with EMAB's issues, EMAB may not need a full team at the hearings. ED to return to Executive with a total cost, including number of people. Executive will make the decision. Upper limit will be \$50,000.**

Discussion:

A lawyer would cost up to \$2000 a day. Not so sure EMAB needs a lawyer. There will be several lawyers in the room. It's highly unlikely a lawyer would have to deal with the credibility of presenters.

There might be some value to having a lawyer but how much is that value going to cost?

Lawyer may also intervene on legal issues on the licence itself:

- o procedural issues of intervention funds, aboriginal capacity to intervene etc
- o is it legally justifiable for the MVLWB to pass on its responsibility to an Environmental Agreement that they don't supervise etc

**Moved: Florence Catholique**

**Seconded: David Livingstone**

**Carried: Unanimous**

Process

Q: How will EMAB get an intervention done and ready before February 3?

ED requests support. Example – have a lawyer or one of our consultants read it and comment.

Suggested: ED will do the broad stuff, outline issues, elaborate on EMAB issues, then turn it over to experts to have them address their issues. Then ED can wrap up with key messages.

Clarification on dates:

- Feb 3 written intervention
- Feb 24 documents tabled and interveners present (PowerPoint slides.)  
NOTE: these slides have to be provided to everyone in advance.

A few rules on presentations:

- Reviews EMAB had done on AEMP etc. need to be summarized, must list key points from consultant's report.
- Can't introduce new evidence

**ACTION ITEM: ED to draft written intervention based on the EMAB comments on the application. Draft to be reviewed by consultants and a lawyer.**

Questions:

Who should go to the presentations?

How far can a member speak for EMAB, without a position having been taken already by the group?

Suggestion: a person should be delegated with the right to make decisions. Should try to ensure there is a quorum of EMAB for hearings in case decisions are required.

Sheryl likely cannot be at technical meetings.

Lawrence will attend for EMAB as well as his Party.

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Break for lunch at 12:00

Back at 1:40

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EA issues

Sheryl wants to compare EA (Environmental Agreement) commitments in relation to the water licence. Suggests that there are items from the EA that should be included in water licence.

We need to make sure items can be implemented and assessed. How do we do that?

Maybe an annual report could be a requirement, report on issues and on successes in meeting commitments. A one-sentence explanation doesn't cut it. (Especially when dealing with Aboriginal involvement.) There's a need to be detailed and specific in what is required in reporting. What were the best efforts? How successful were these efforts? How do we make them successful?

How do we incorporate these three clauses into a recording system that follows through on the Agreement? Clauses 7.1 d), g) and h))

EA issues can be dealt with in another process, not the water licence renewal application. Such as at the five-year Environmental Agreement review that EMAB has been discussing.

At EMAB's water licence workshop in November the question was asked: Is the EA being adequately implemented? No one there raised his or her hands to indicate the EA is being adequately implemented.

The EA can fill gaps in other licences and leases. The MVLWB is interpreting their mandate very narrowly.

Regarding EMAB's questions on compliance, stakeholders' ability to initiate changes and what components of the licence are enforceable and by whom – these questions should be asked of a lawyer vs. going the formal ruling route. EMAB needs to formulate an opinion first. Then EMAB will have something to compare to the MVLWB answer. EMAB will be better informed.

Suggested that EMAB and Diavik could meet on the above-mentioned EA clauses and work something out.

Also suggested that those three clauses could be moved to the AEMP section of the water licence.

It might be better to keep them in the EA. The EA is a legal contract. EMAB has more control if an item is in the EA vs. the water licence. Why move those three clauses to the water licence? EMAB should use the EA to raise these issues.

Regarding the community-based monitoring camp – one week of monitoring is not aboriginal involvement in monitoring.

Suggested that a Traditional Knowledge “senate” could be created that Diavik would have to work with. This could create a guided process.

**ACTION ITEM: Legal counsel can provide an opinion about the implications of moving these clauses from the EA to the water licence, then provide info to Aboriginal Parties.**

**ITEM 5: Update on regional wildlife research**

**Mathieu Dumond** with GN in Kugluktuk presents on wildlife research and monitoring in the West Kitikmeot. (Presentation available.)

**Steve Matthews** (Wildlife Biologist with ENR) presents on falcon monitoring being done in conjunction with BHP and Diavik. Daring Lake is the control site. They are monitoring for occupancy and productivity.

There was one productive pair of peregrine falcons this year.

We're at the bottom of a prey cycle – very few small mammals. Weather also a factor.

There is a nest in the Diavik pit. Pits create habitat.

Staff-wise: At ENR Anne Gunn is retired and not replaced yet. Bruno Croft is the new Bathurst Caribou Biologist (North Slave Office).

**Robert Mulders** speaks on wolverines monitoring. In 2004, they put in an intensive effort re: the hair snatching program to identify DNA. Cell sizes are 3 km by 3 km. Mines are in for two years. There are 38 wolverines in the Daring Lake area, 26 individuals at BHP and 24 individual at Diavik. Fifteen were overlapping into 2 or 3 study areas.

Human activities in the Diavik area are affecting population.

Genetic study is more efficient, though there is a higher cost with the genetic study than the snow track study.

ENR doing a program review, which will result in new research proposals including cumulative effects. Environmental Impact Assessment conference in late January.

**Dean Cluff** (biologist, ENR) on wolf monitoring and a few other wildlife categories.

On bears: there has been one “accelerated natural mortality” that took place at Ekati. The bear was dying near the mine and would not survive, so he was put down.



**Approved by Motion 01-06-25-01**

Wolves – monitoring fidelity to den site and abundance. The question now being asked is : as caribou population declines will wolf population decline also?

There are about 1000 wolves among the Bathurst herd.

Meeting ended at 4:30, followed by EMAB's Christmas open house.

**EMAB meeting**  
**EMAB Boardroom, Yellowknife**  
**December 8, 2005**

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association  
Florence Catholique, Vice-chair, Lutsel K'e Dene First Nation  
Eddie Erasmus, Tlicho Government  
Tom Beaulieu, Environment & Natural Resources, GNWT  
Lawrence Goulet, Yellowknives Dene First Nation  
Gord MacDonald, alternate, Diavik  
Sheryl Grieve, North Slave Metis Alliance  
David Livingstone, Canada (In and out throughout the meeting.)  
John Morrison, Government of Nunavut  
John McCullum, Executive Director, EMAB

Minutes:

Michele LeTourneau

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Meeting started 9:10.

**ITEM 3: Intervener/participant funding campaign**

What are EMAB's next steps? Executive Director (ED) walks the Board through what has been done so far. (In meeting binder.)

EMAB is waiting for a letter from DIAND.

**ITEM 4: Approach to AEMP revision process**

As presented by the ED – there are two issues regarding the AEMP revision process that EMAB should consider:

1. This is the hands-on chance to revise the AEMP so that everyone is satisfied that it meets its objectives. EMAB needs to consider its role here particularly in relation to how active we wish to be and whether we should have technical advice/support.
2. As discussed at the water licence renewal workshop and in EMAB's letter to the MVLWB, there is likely a problem for some of the Aboriginal Parties in participating in the AEMP revision without funding support.

Q: Does EMAB want to bring technical support to AEMP revision?  
Suggested that EMAB continue to use North/South Consultants as they are the ones that conducted the review.

Diand is conducting a retrospective power analysis; DTC has agreed to meet when this is completed.

Diavik Technical Committee (DTC) has agreed AEMP needs a revision.

Comment: Redesign could start in parallel with water licence hearings.

Tlicho position: AEMP should be redesigned before licence hearings.

DIAND is working on guidelines for AEM. A workshop is scheduled for March.

The guidelines workshop is the place to influence designs, the place to include Aboriginal involvement.

It would cost between \$3-5000 per meeting for technical person to participate in meetings on redesign.

Q: Does EMAB need its own technical expertise with all the experts already on the DTC?

EMAB review of the AEMP is the definitive critique.

EMAB is taking a wait and see approach for now.

**ACTION ITEM: ED to contact Terriplan to recommend that they contact Aboriginal Parties and include them in guideline interviews.**

### **Item 5: Update on regional research**

#### **Wildlife Cumulative Effects Workshop**

Noted that there is a lot of monitoring but no analysis of the overall data, no sense of results.

- Possibility that EMAB can host, but not before March/April because water licence hearings are priority.
- Or EMAB could push RWED and DIAND to host.
- EMAB could host and ask for funding from DIAND.

Comment: Probably the most important and significant impact is on caribou. Is it important to do all this monitoring work on wolverines? Are all the mines actually going to have impact on wolverines and, if there is, of what significance is that? Not sure that at ENR we're focused correctly – do we need to spend as much time on mice and raptors as caribou??

Comment: Someone has to pull together all the separate data. Who's pulling it all together and answering the hard questions?

**ACTION ITEM: Talk to Dave Abernathy (ENR) and get him to come and explain cumulative effects on caribou to us in preparation for a workshop. Let ENR and DIAND know we are doing this. A workshop will be a new fiscal year initiative.**

Outstanding letter from 9 months ago. Still waiting for follow-up response from ENR.

#### **ITEM 6: Community-based monitoring camps**

ED walks the Board through the caribou camp recommendations. (In binder)

**ACTION ITEM: In caribou report, ensure that there is a sentence that states that the recommendations are the camp's and not EMAB's and that EMAB is considering them.**

Issue of problem of continuity of participants in camps. People who have attended before don't want to repeat information but new people don't have background. This is beyond EMAB's control since Aboriginal Parties choose participants.

Proposals for 2006: discussion on format of camps, such as one two-week camp, alternating years, match money from other funders to expand, integrate topics into a larger picture format (ie: fish, dust, water etc.) for combined camps

Diavik does see camps as Aboriginal involvement in monitoring. Noted that that isn't enough to meet EA obligations.

At camps:

- include site visits for all camps
- combine TK and science
- should be a learning experience – pull in other experts
- should involve a mix of elders and youth

Could do an EA workshop at the camp.

**ACTION ITEM: Have camp reports out to board members in early January, after getting them scanned – and copied. Board members will take these back to their communities and comments from communities will help determine the use of the camp for the 2006 field season.**

### **Item 8 – No Net Loss.**

No movement.

### **Item 9 – Planning**

Board calendar is a separate document from minutes.

### **Community engagement**

NSMA – Possibly February. Public meeting/dinner. NSMA would then meet with community and group feedback would go back to EMAB.

Tlicho – Possibly April. Combined update and engagement.

### **Item 11 - Inspector's report**

In binder and CD available.

Inspector enforces date of AEMP report hand-in and checks components.

### **Item 7 – Aboriginal involvement in monitoring**

ED walks the Board through the workshop Terms of Reference.

Workshop will be held in Gameti, pending confirmation from TG.

Other resources EMAB could draw on for presentations – such as, what's going on elsewhere, other places where aboriginal participation is taking place.

There should be a heavy emphasis on brainstorming using EA as a basis rather than arriving at recommendations.

The workshop will have a higher cost because of advance preparation and locating it in Gameti.

**ACTION ITEM: Rewrite ToR for workshop, seek money from funding sources, and write the RFP for a facilitator. Break up the budget, fact finding for this fiscal year and the actual workshop for the next fiscal year.**

### **Item 10: Reports**

Financial (see binder)

***Motion 01-05-08-12***

***To accept revised 2005-2006 budget, including water licence renewal cost at 50k and AEMP revision process at 20k.***

***Moved: Tom Beaulieu***

***Seconded: David Livingstone***

***Carried: Unanimous***

Linda Tourangeau

***Motion 02-05-08-12***

***To move meeting in camera.***

***Moved: David Livingstone***

***Seconded: Tom Beaulieu***

***Carried: Unanimous***

***Motion 03-05-08-12***

***Move meeting back to regular meeting..***

***Moved: Eddie Erasmus***

***Seconded: Tom Beaulieu***

***Carried: Unanimous***

Report tracking

In binder.

Outstanding action items

In binder.

Correspondence

In binder.

**ACTION ITEM: Follow-up on request to Diavik re: payment for board charter from CBM camp funds, that included a visit to community-based monitoring camp.**

**ACTION ITEM: Send SENES review of lichen study and air quality monitoring to Diavik and ask them to respond to comments and recommendations.**

Lutsel K'e Dene First Nation

- Waiting for Diavik community update.
- Getting prepared for water licence renewal.
- Held an EMAB update/public meeting and feast. There was a good turn-out and response.
- Had an early Annual General Meeting – had to account for capacity funding. Used excel (course paid for by EMAB). Presented a Powerpoint on EMAB.
- There are still concerns about training of our people.
- Reclamation is a concern.
- There was a request from my alternate to attend this meeting based on EMAB policy – may need to review this policy
- Planning a 2006-2007 youth fish camp.
- Planning a similar kind of project – but looking at caribou.

NSMA

The attention in the community is on Diavik's water licence – whether to intervene or not. There are some pretty diverse points of view. Quite a few people benefit from the mine. Some think they should be kept in line more strictly. There are others who do not benefit and there are others who don't know what's going on. Some have asked what has happened with caribou camp recommendations.

GN

John is still waiting for station 48 info (separated out from the rest of the stations, which is 100s of pages) to show to community of Kugluktuk. This was promised by

Diavik some time ago. Board suggests that John get Simon Awa to write a letter requesting the info from Scott, Diavik's environment manager.

### Canada

Intervenor funding: working on the issue. Staff are contacting boards and agencies to ask for a suggested amount from headquarters. Janice Traynor is doing a similar exercise within a policy context. Response from Minister will be that we're working on it. DIAND feels AEMP needs a re-design. Mentions a workshop on AEMP best practices planned for later this year. DIAND still deciding what will happen with their EMAB member who is on leave – he may return soon.

### Tlcho Government

TG will intervene on water licence. Intervention being prepared by Tony Pearce, Don MacDonald and Art Pape.

The Tlcho Government will have its first session next week

The water licence renewal has taken up a lot of time. The Wekeezhii Land and Water Board is shadowing the renewal process but does not plan to participate directly.

### ENR

They are concerned about air quality monitoring and waste management. They feel the licence should be for a shorter period than 15 years.

Notes there is a meeting of natural resource ministers planned for Oct 2006.

### Yellowknives Dene First Nation

Attended a meeting with elders and other community members and talked about caribou and why there aren't very many game officers patrolling. The elders would like to find a way to allow Aboriginal People to do their own winter road patrols. The monitoring station at Ross Lake is being expanded

### KIA

See handout.

### Item 12 Florence request.



**Approved by Motion 01-06-25-01**

Florence has requested extra days of preparation for October.

***Motion 04-05-08-12***

***To approve two extra days of honoraria for October 2005 for preparation and presentation for Florence Catholique. In future, requests must be preauthorized.***

**Moved: David Livingstone**

**Seconded: Tom Beaulieu**

ACTION ITEM: ED to write a draft policy for Board consideration, stating that if a Board member asks for more than four days then they have to do a complete accounting of those first four days used. A letter indicating that, in future, extra days must be pre-approved should go out to each Board member.

***Carried: Unanimous***

Next meeting: January 24-26

Office closed from Dec 22 to Jan 2