

Environmental Monitoring Advisory Board

Minutes – February 26-27, 2020

EMAB Boardroom, Yellowknife, NT

Present:

Charlie Catholique, *Chair*
Jack Kaniak, *Vice-Chair*
Violet Camsell-Blondin, *Secretary Treasurer*
Adrian D’hont, *Alternate*
Laurie McGregor, *Alternate* (Day 2)
Dinah Elliott (Day 2)
Gord Macdonald, *Director* (Day 1 & 2, by phone)
Sean Sinclair, *Alternate* (Day 1 & 2, by phone)

Lutsel K’e Dene First Nation
Kitikmeot Inuit Association
Tlicho Government
North Slave Metis Alliance
GNWT
Government of Canada
Diavik Diamond Mines
Diavik Diamond Mines

Absent:

Sarah Gillis, *Director*

Yellowknives Dene First Nation

Staff:

John McCullum, *Executive Director*
(minutes)
Janyne Matthiessen, *Environmental Specialist*
(minutes)

Environmental Monitoring Advisory Board
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Guests:

Tom Bradbury, Lands (Day 1)
Hamsha Pathmanathan, ENR (Day 1)
Bill Slater, Slater Consulting (Day 1, by phone)
Ed Gullberg, McLennan Ross (Day 1)
Loretta Ransom, ENR (Day 2)
Lorraine Seale, Lands (Day 2)
Lara Fletcher, Brodie Consulting (Day 2, by phone)

Wednesday February 26 Meeting at 9am in Yellowknife
1. Call to Order Sean Sinclair joined the meeting by phone Chair opened the meeting at 9:10am Opening prayer
2. Approval of Agenda Chair reviews agenda

Amendments to agenda:

- Discussion on adding new CIRNAC member to signing authority – added to item 4
- Review of Randy Knapp proposal to review ICRP 4.1 – added to item 6
- Draft OHS Plan (item 19) not ready. Replace item 19 with discussion on proposal for SLEMA staff to move to EMAB office.

Motion: *to approve agenda as amended*

Moved: Jack Kaniak

Second: Adrian D'hont

Motion carried

3. Conflict of Interest

No conflicts declared

Discussion:

- Noted that aboriginal organizations go to technical sessions and hearings that EMAB also goes to, sometimes EMAB's position is different than the organization. Is that a conflict?
- There is a clause in the mandate saying members are not in conflict while representing the general interest of their organization.
- Concern that company (Diavik) could be in conflict at hearings because they know what EMAB's position is ahead of time.
- Noted that lawyer is coming for item 13. Good opportunity for these questions

4. Election of Secretary-Treasurer

Machel Thomas was elected as secretary-treasurer in September but has since been replaced on the Board by Sarah Gillis. EMAB needs to elect a new Secretary-Treasurer.

Nominations:

Charlie Catholique nominated Violet Camsell-Blondin, Violet accepted.

Motion: *to elect Violet Camsell-Blondin as Secretary-Treasurer.*

Moved: Jack Kaniak

Second: Adrian D'hont

Motion carried

Violet Camsell-Blondin acclaimed as Secretary Treasurer

Discussion on signing authority:

- EMAB needs another local member on signing authority.
- Dinah Elliott agreed to be on signing authority

Motion: *to approve Dinah Elliott as a signing authority for EMAB*

Moved: Jack Kaniak

Second: Adrian D'hont
Motion carried

5. Minutes of Previous Meetings, Action items & outstanding recommendations

Motion: *to approve December 3-4 2019 minutes*

Moved: Violet Camsell-Blondin

Second: Jack Kaniak

Motion carried

Motion: *to approve December 16 2019 conference call minutes*

Moved: Jack Kaniak

Second: Adrian D'hont

Motion carried

Motion: *to approve January 9 2020 conference call minutes*

Moved: Violet Camsell-Blondin

Second: Jack Kaniak

Action items

Discussion:

- Concern about YKDFN not attending meetings or responding to emails/phone calls
- Sent letter requesting YKDFN's participation and they responded saying they appointed a new member
- New YKDFN member is less responsive than the person who was replaced. We've never heard anything from them.
- YKDFN alternate asked to be removed from EMAB's email list

Action item: Draft letter to YKDFN chiefs addressing lack of participation from YKDFN board member and alternate.

Outstanding recommendations

Discussion:

- Concerned that the GNWT is unresponsive to EMAB recommendations on WMP. Almost a year since we sent them recommendations and we haven't heard anything back.
- Diavik is rightly saying they are waiting for the GNWT to tell them what to do, specifically in regards to wildlife monitoring.
- Note that this could be raised at the water licence amendment hearing
- EMAB is an advisory environmental watchdog, we need the government to be more effective and help us do our job. We're supposed to work in cooperation.
- All board members can do is go back to communities and say we are still waiting for cooperation from the government.

Action item: Draft letter to GNWT about their unresponsiveness to EMAB WMP recommendations from March 2019 for board approval. CC it to all of the communities.

Action item: Include section on WMP and GNWT participation in WL intervention.

ES reviews outstanding recommendations

- GNWT response to March 2019 WMP recommendations
- Diavik response to 2017 EAQMP recommendations: EMAB sent follow-up letter, response is due Mar 27

Noted that Aboriginal People have concerns about lack of GNWT leadership with regard to proposed development on caribou calving grounds in Nunavut as well as the Slave Geological Province road, Teck Resources oil sands mine etc.

Noted that it reflects badly on GNWT when they don't participate since they are a partner/signatory to Environmental Agreement.

6. Financial Report

ED reviews 2019-20 financial statement and budget.

Discussion on ICRP 4.1 review:

- With Diavik's agreement, funds for closure plan review in 2018-19 budget were rolled over to 2019-20 budget due to delay in release of ICRP Ver 4.1.
- ICRP 4.1 still being checked for conformity by WLWB.
- About \$24K of budget for ICRP review needs to be used this fiscal year, or returned to Diavik, but we don't know when WLWB will release ICRP.
- Diavik is reluctant to roll over the funds to 2020-21. They recommended EMAB do a technical review of ICRP Ver 4.1 as submitted to WLWB, before the WLWB conformity check is complete. They provided the submitted version to EMAB
- Requested proposals from Randy Knapp and Slater Environmental to review submitted version of ICRP Ver 4.1
- Looking to approve Knapp's proposal.
- Slater has time to do a partial review before end of March; haven't received his proposal yet.
- EMAB can use most of the remaining funds if Randy and Bill review the ICRP before it is released by the WLWB.
- Board agrees with undertaking reviews before ICRP is released by WLWB
- Noted that EMAB could also hold a meeting at the end of March to discuss Randy's review and use up more of the remaining funds.

ED reviews Randy Knapp's proposal

Motion: *To approve Randy's Knapp's proposal to review ICRP 4.1.*

Moved: Adrian D'hont

Second: Jack Kaniak

Motion carried.

ED continues review of revisions to 2019-20 budget

Discussion on planning a Tlicho community update:

- Money in budget for meeting with communities
- Have not done a Tlicho update for a while

- Noted that it is better to do the update when we can use the winter road to access communities
- Tlicho board member to see if Tlicho would like EMAB to come to the community.

Motion: *to approve revisions to 2019-20 budget*

Moved: Violet Camsell-Blondin

Second: Jack Kaniak

Motion carried.

Discussion on budget rollover for ICRP review:

- ED has drafted letter about rollover request
- Note to make letter clear why the funds can't be spent this year and the reason is beyond EMAB's control
- Special meeting on ICRP planned for March 27, 2020

Action Item: Organize EMAB meeting on March 27, 2020 to go over the findings of the technical reviews of ICRP Ver 4.1.

Action Item: finalize draft letter regarding roll-over of remaining ICRP review funds from 2019-20.

Break 10:55-11:10

6. Financial Report (continued)

ED reviews the 2020/21 workplan

Discussion on A21 review/workplan:

- Only budgeted \$5000, this could change
- This water licence amendment is not as concerning as the PK to Pits proposal
- Not sure if EMAB will want to intervene

Motion: *to approve 2020-2021 workplan & budget as presented*

Moved: Jack Kaniak

Second: Adrian D'hont

Motion carried

ED reviews draft Board calendar for 2020/21

Discussion on possible Securities Workshop

- At December meeting idea was to have Securities Workshop in January
- That didn't work out so we planned it for this meeting
- WLWB was not available. Diavik originally was not available but they are now.
- Idea to include securities meeting with WLWB, Diavik, GNWT and EMAB onto proposed March 27 ICRP meeting

Discussion on EMAB meeting with TK Panel

- Idea to have a meeting with EMAB and Diavik's TK Panel
- Note that Janyne attended the TK panel last September

- In the past EMAB had a meeting with 2 TK Panel members and the Panel facilitators Natasha Thorpe and Joanne Barnaby.

Rest of item postponed due to arrival of Inspector

7. Inspector's Report

Tom Bradbury joined the meeting

- New Inspector for Diavik as of November 2019

Inspector presents report - no concerns

Discussion on contaminated soil

- Presentation noted contaminated soil in the WTA was going to be drummed and sent off site
- EMAB's understanding is Diavik wants to bury contaminated soil on site after landfarming.
 - Diavik confirms the plan is not to ship contaminated soil off site. Diavik staff told inspector wrong information.
- Inspector also asked Diavik staff if the soil was going to be landfarmed. Their answer was no.
 - Diavik confirms that they are looking into landfarming so they can clean and bury the soil on site.

Q: How often do you (inspector) go to site:

A: Once per month routinely. Also go for extra visits if an event such as a major spill happens.

Q: So you go to Diavik and other mines all in a month?

A: There is one inspector designated to each mine.

Q: Do you do more visits in summer than in winter?

A: No

Q: Did you see any caribou there?

A: No, but I did hear from some of the workers that the caribou were nearby shortly before we got there.

Q: Any spills?

A: No real spills. Just some human errors like fuel dripping from nozzles. Diavik has tight operations compared to what I've seen at Snap Lake.

Inspector is going to Diavik the week of March 16 for an exploration related inspection.

Q: Do WLWB or MVEIRB staff ever come with for the inspections?

A: Not yet with him. This has happened in the past. He wouldn't be opposed to having someone join him occasionally. It requires more planning and slows Inspection, so less efficient. He would not want them to come on every inspection. Noted that he gives presentations to the WLWB.

Lunch 12-1:20pm

8. WMP Updates

Meeting resumed at 1:20pm

Hamsha Pathmanathan from ENR joined the meeting. Hamsha's position has changed; she is now the Environmental Assessment Wildlife Biologist replacing Andrea Patenaude while she is on leave ES presents item from kit.

Hamsha notes that ENR has drafted a response to EMAB's WMP recommendation from March 2019.

- Diavik to follow ZOI Task Group Guidance Document
- Generally support EMAB's recommendations

Discussion:

- Concern that elders predicted mine would drive away caribou. Now that there are fewer caribou Diavik says it is too difficult to monitor them. This is disturbing.
- Idea to recommend that Diavik collaborate with GNWT, EMAB and the TK Panel for developing the WMP program description.
- Workshop would be useful for the collaboration.
- Noted that the original EA assured aboriginal groups that effects to caribou would be mitigated, but look where we are now.
- Noted that asking Diavik to collaborate in development of the Program Description might increase the amount of time it takes to develop it.
- Involve TK Panel in workshop / development of program description

Q: Is the idea to get Diavik to retain Diavik specific monitoring or all of the monitoring (i.e. regional plus Diavik specific)?

A: We don't really know. We need to have a discussion on what needs to be done. If old programs are not working then we need to figure out what to do instead, not just drop all the programs.

Action item: In response to Diavik's program description response, recommend that in preparation of the Program Description that Diavik hold a workshop and invite the TK Panel, ENR and EMAB to collaborate on the development of the program.

9. NSC Proposal to assess Mercury in Lake Trout

ES presents item from kit.

Discussion:

- Is there a control lake? No.
- What happens if Diavik doesn't cooperate on Tasks 2 & 3?

Q: What is the idea to raise this at the Water Licence Proceeding?

A: Idea is that people need to feel safe about eating fish that have been in the pit-lakes. They need to know mercury levels are low enough. If Diavik isn't monitoring then we don't know the levels. Alternatively EMAB doesn't have to wait for the proceeding; we can just go ahead and do the analysis ourselves.

Noted that there is still no date scheduled for the WL Hearing, it could be a while before EMAB could raise this.

The idea is that even though the WLWB has agreed that Diavik doesn't need to sample Lake Trout for mercury, the results of this analysis would support EMAB making a recommendation to Diavik that they do sampling for mercury outside the AEMP.

Motion: to approve NSC to complete Task 1 of the Mercury Analysis Proposal

Moved: Violet Camsell-Blondin

Second: Adrian D’hont

Motion carried.

10. Follow-up on EMAB expectations for responses to EMAB recommendations

ED/ES present item

Noted that it may be useful to include 0’s before single digit numbers (e.g. 01 or 001) to help with filing and sorting. Would ensure that number 1 occurs before 10.

Break 2:30-3pm

11. Report on MVRMA Workshop on Engagement

Board Query – status of letters of support for EMAB to stay open after Operations are finished.

Action Item: Re-send letters requesting support for EMAB to stay open after Operations are finished to all Parties that have not responded.

Gord joined the meeting

ES presents item from kit

Discussion:

- Noted that group sessions were rushed
 - EMAB staff did not attend this session
- Noted that the way the panels were organized was different than in the past
- The event was busy, a lot of people participated

12. A21 Deep Application update and next steps

Bill Slater joined the meeting

Bill presents his review of Diavik’s responses to EMAB’s A21-Deep recommendations

Discussion:

- Noted that some of the data Diavik provided was provided in PDF format, not Excel. Bill has seen similar and in those cases the data got sent back to proponents for them to fix.
- Technical session on application coming up on March 3
- Bill will participate in technical session by phone.

Q: Were you satisfied with the info Diavik provided for comment 4?

A: I think it is reasonable for them to assume they can manage the TSS and other water quality parameters for the flooded-pit options using their current water treatment system.

Staff will be looking for Board input on whether EMAB should prepare an intervention and what it should contain. Results from Tech Session will help EMAB to decide which issues are important and whether EMAB should intervene at all.

Bill left the meeting

13. EMAB Procedures: Conflict of Interest

Ed Gullberg from McLennan Ross with experience with Conflict of Interest (COI) law joined the meeting.

ED: I was directed to get some advice on how to address situations where a Board member feels another Board member is in a conflict of interest but doesn't declare. Direction from Action Planning session in December 2018.

Ed Gullberg makes his presentation

Notes:

- EMAB covered under Societies Act. This is dated legislation and does not cover conflict of interest. So common law decisions apply to EMAB.
- Directors are fiduciaries; they have to act in the best interest of the society (EMAB), not the appointing party, when representing EMAB.
- Directors can present the interest of their Party, but EMAB interest must come first.
- If it appears another director is in conflict it is reasonable for the rest of the board to challenge them. Board can then work through this.
- Best practice is to have an early item to declare conflicts. EMAB does include this on our meeting agendas. Sometimes conflict doesn't become clear until discussion starts on the item. If that happens Directors should declare conflict and best practice is to leave the room so they can't influence discussion.
- Members can set policy direction on what they consider is a conflict.
- Directors cannot use their position to gain direct or indirect personal benefit. (e.g. benefit someone close to oneself, such as their employer)
- Representing general community concerns is not a conflict.
- Representing concern of a community member is not a conflict as long as the director does not have a close connection with that person.

Q: say more about conflict through indirect benefit to the employer.

A: If a director's employer has interest in an issue the director is involved in, the director advocating for that issue can indirectly benefit the director because their employer is being benefitted by the director's position on the Board.

Diavik representative would like to discuss 2 examples:

1. Say the issue is the number of samples that Diavik needs to collect/analyze for an environmental program. There is a difference in opinion on the number of samples that should be taken. Diavik director is interested in a lower number of samples. There could be a financial benefit for Diavik to do less sampling. Would that be a conflict?

A: It would depend on whether the rationale for doing less sampling is for professional/scientific reasons or simply to save money. The rest of the board members do not have the same financial interest. The financial interest of the Diavik representative is a bit more grey. If the rationale presented has to do with adequacy of environmental monitoring then it would be tough to say it's definitely a conflict. By nature, goals of the board have more financial consequences to Diavik as an organization than the other Parties. Ultimately the Diavik Director has to have the same interest as everyone else on the board; to make sure the mandate of the board is met. Concept of Community of Interest. City Councillors setting property taxes is not a conflict because they are members of a community of interest. Conflict depends on the definition of general interest.

Societies Act and Environmental Agreement (EA) do not give guidance on definition of conflict and general interest. Noted that the by-laws do not include the wording from the EA regarding Conflict of Interest.

Lawyer's view is that because the issue has financial consequences for Diavik but not the others, it would be difficult to say Diavik has the same community of interest as everyone else at the table. The interest might not be a conflict if it is looked at on a broader level and the argument for 2 samples vs 10 was in the general interest of the Board. The law isn't clear here. I think in the example provided it would be difficult for the Diavik representative to argue that they can participate in the discussion.

2. The Board reviews compensation to Board Members and approves changes. They benefit from this, so is there a conflict?

A: The Board would normally not be able to vote on that themselves. The Society members could waive the conflict on behalf of the Directors. In EMAB's case members are directors at the same time so the board can authorize that for themselves.

Question about EMAB's budget:

- EMAB proposes budget to Diavik.
- EMAB's budgets have been reasonable considering our workplans. But there have been cutbacks that prevent EMAB from being as effective and efficient as it could be.
- Concern that Diavik representative proposes EMAB budget to the company, so is in conflict.
- Board can recommend a budget but final decision is Diavik's.
- Lawyer says this is not a conflict for the Diavik rep. Diavik is making decision as an organization separate from EMAB. The EA does not say that Diavik must fund everything that EMAB asks for.

Lawyer notes it would be good for EMAB to have a COI Policy

- Excluding Diavik from items could be useful in some scenarios, in other cases if they are excluded the Board may not be able to have a comprehensive discussion about the issue.

ED has an example:

for Diavik's closure plan, a consultant report comes to EMAB and Board has to decide if they want to send those comments to the regulator. It may be hard for the Diavik representative to separate what Diavik's consultants say from what EMAB's consultants say. I feel like there

could be a conflict there. But how do we determine where the line gets crossed? What can we do about it?

A: In that case it goes back to what the EA says about representing general interest, and to the common law. Diavik can advocate for one plan and EMAB and their consultants may advocate for a different plan. It would not be a conflict unless the sole reason for advocating for different plans is financial. If the intent is particular to Diavik it is more likely to be a conflict.

Noted that EMAB participates in regulatory interventions. Diavik member also participating on behalf of the company. Diavik could be benefitting by knowing what EMAB's intervention entails prior to the hearings. Lawyer does not believe this is a conflict.

Noted that it is hard to apply the common-law to EMAB's situation because we are a Society. It is hard to reconcile the EA and the common-law together.

- Advocating for a particular approach doesn't necessarily violate the general interest.
- The general interest means it benefits everyone involved.
- Diavik can say their position is better because it will benefit everyone involved. They can't argue their plan is better just because it is cheaper.

Q: Would it help to change the EA?

A: Would recommend looking into changing EMAB's bylaws instead. That would be more productive. And develop policies to address broader conflicts.

Lawyer notes EMAB's current COI Policy is aimed at preventing individual members benefitting from being on the Board. The questions under this item are more about the general interests. EMAB can adopt a policy that goes further than that because the members are also the Directors.

Q: What should Board members do if they think another member is in a conflict?

A: Tell the member they think they are in a conflict. But, if that member does not agree there is not much you can do:

- Delay item and seek legal advice
- Take the vote; if member votes, and is in conflict, EMAB can take legal action
- Could also talk to the appointers and ask if they can appoint someone else who would better recognize their conflict of interest.
- Since there are 8 Directors and only one is from Diavik, the rest of the Board can always out-vote them.

Members have the right to challenge another member but can't prevent them from voting. A court could be asked to set aside a decision where a member votes who is in conflict.

Q: Could EMAB develop a policy that, for example, says when discussing a closure plan, that Diavik could make their presentation about it, but the rest of the board could discuss that without the Diavik representative in the room. Can you exclude people from a discussion or only from voting?

A: I don't think the Societies Act gives you authority to exclude someone just based on board policy. If the Diavik member agreed to follow the policy then it would be OK.

Q: Could declaring a conflict affect quorum?

A: No. Legislation is clear on this.

Overall, the lawyer thinks EMAB could have some policies in place to address bigger/broader conflicts. He could assist with that.

Action item: Develop EMAB policies on conflict of interest. Ed Gullberg can assist.

Meeting adjourned 4:45pm

**Thursday February 27
Meeting at 9am in Yellowknife**

Chair opened the meeting at 9:10am

Item 14. Status of Diavik Security Estimate

Lorraine Seale joins from GNWT Lands.
Loretta Ransom (ENR) joins as observer
Lara Fletcher joins by phone from Brodie Consulting

Lorraine notes that ENR Waters has the lead on security estimate discussions with Diavik.

Lorraine presents on background and current status of Diavik security deposit (powerpoint on file)

Gord notes that WLWB has directed Diavik and GNWT to work towards consensus on a RECLAIM estimate. If they don't reach consensus then each provides its estimate to WLWB for review. The estimates will also go out for public review. In the end, WLWB sets the amount. Intent is to provide transparency.

Q: how secure is an irrevocable letter of credit (ILOC) – form of security for Diavik

A: ILOC's are guaranteed by a bank. As long as the bank is OK, the ILOC is secure.

Noted that legislation dictates acceptable forms of security

Discussion

- There is no difference between GNWT and Diavik on the WRSA security; dispute is in other areas
- Still working out estimates for long term maintenance in relation to holdbacks

Q: are land use permits secured?

A: not sure for Diavik, but there are very few with Diavik. Most activities are covered in the leases.

Noted that the Environmental Agreement includes both an EA Security Deposit and an Additional Security Deposit. These are both beyond the deposit set by WLWB.

Q: how is allocation of deposit decided between Water Licence portion and land lease portion?

A: RECLAIM covers the total. The allocation to Water Licence vs land lease is arbitrary. With Diavik the lease portion stays the same and the WL portion is all the rest.

Noted last GNWT review of EA Security was in 2015.

Q: is EA Security done via RECLAIM?

A: no, it's beyond what is in RECLAIM. GNWT has a list of what is covered under the EA Security Deposits.

Noted that part of the EA Security deposit is related to Diavik fulfilling its obligations under the EA.

Q: which fund pays for long-term monitoring?

A: need to keep in mind that security is only used if Diavik doesn't carry out its obligations (including long-term monitoring)

Q: after a site is reclaimed, who has authority over something like water treatment?

A: this would require a water licence, and a land lease if the site is occupied.

Noted that for any component security would not reach zero until the long-term monitoring is completed.

Q: how is long-term monitoring paid for?

A: see ICRP Ver 4.1

Noted that there is no difference between the GNWT estimate and the Diavik estimate for cost of 20 years of long-term monitoring.

Noted that many of these items are covered in the revised ICRP. There is an appendix showing how long-term monitoring costs have been calculated.

Diavik rep stated that the concept for how long-term monitoring will be paid for does not exist yet.

- The ICRP describes post-closure monitoring.
- Appendix VI describes the monitoring and Appendix VII estimates the cost.
- Diavik plans to develop a TK program for post-closure monitoring but this is not set up yet
- Suggested that this would be a good topic for EMAB to comment on.

Q: is this cost included in RECLAIM?

A: might be in EA Security Deposit

Noted that there is a line in the EA Security Deposit but it is zero

Lara Fletcher from BCL provided an overview of the Diavik and GNWT Security Estimates, focusing on the areas where there are differences.

1) Contingencies

- The amount of contingency for each component reflects the level of uncertainty of the estimate. In some cases Diavik and GNWT disagree on the level of uncertainty and the amount needed for contingency
- Diavik noted that it feels it has followed RECLAIM guidance in estimating contingency amounts

2) PKC Facility

- They will adjust the security following the PKC review
- Diavik and GNWT generally agree on this
- Diavik wants to reduce the cover thickness from two meters to one meter

- GNWT does not agree
- Diavik noted that the WLWB direction allows for a one meter cover
- BCL notes that the quantities of cover material from last ICRP haven't changed; they feel estimate must be based on that.

3) Building Demolition

- Diavik questions the methods and unit costs in RECLAIM for this item
- RECLAIM says the estimate should be based on a professional contractor
- Diavik says it retained an expert
 - The RECLAIM costs for Building Demolition at Diavik came out very different from Snap Lake and Ekati mines
 - Diavik costs would be three times the estimate for Ekati; this doesn't make sense
 - Need to work on RECLAIM estimates for this component
- BCL notes that the Diavik estimate was done differently than Ekati's. They agree that it doesn't make sense that Diavik's cost for demolition would be higher than Ekati's

Q: when does demolition take place?

A: likely around 5 to 8 years after closure

4) Interim Care and Maintenance

- Difference in estimate is about the number of years to include
- Diavik says it should be two years based on Snap Lake's RECLAIM estimate
- GNWT says it should be three years

Noted that long-term monitoring has been discussed, but not long-term maintenance. Diavik was asked by WLWB to provide costs of long-term water treatment, but this is not part of RECLAIM

Suggested it would be good to hear from WLWB staff on this. Request WLWB describe the process to EMAB. It is quite challenging to review the ICRP and review the security estimate at the same time.

Loretta Ransom and Lorraine Seale leave.

BREAK

Items 15. EAQMP Recommendations and Responses

Sean Sinclair joined the meeting by phone

ES notes letter on yellow haze sampling as directed by Board at last meeting.

With respect to NO2 Sean said Diavik only reports calculated amounts

Motion: to approve the letter recommending Diavik sample the yellow haze that is present at the camp from time to time

Moved: Violet Camsell-Blondin

Seconded: Adrian D'hont

Carried

ES present item from kit.

Noted that some of the discussion items should be added to the workshop agenda.

Item 16. EAQMP Workshop

ED presents item from kit.

Diavik noted they have been doing a special study under the AEMP on dustfall on Lac de Gras. Sampled the lake and took snow cores from a long distance (20-30 km.). Noted that AEMP is delayed so these results will not be available until April 30, so push workshop back until May or June.

Q: have Ekati, Gahcho Kue and/or Giant committed to present at the workshop?

A: haven't approached them yet

Sean felt the agenda looked fine. He suggested the special study be added and should be fairly early in the agenda. Gord noted the agenda could be more specific.

Q: will workshop be facilitated?

A: haven't discussed this

Q: how technical will workshop be?

Noted that it would be good to get enough technical information to inform recommendations.

Suggested that workshop should be facilitated and have a clear deliverable e.g. a report.

Generally agreed that workshop should be facilitated. Then EMAB staff can attend and focus on the workshop instead of worrying about also facilitating it.

The workshop could be added on to a Board meeting. Expect one day is about right.

Item 6. Finance – Board Calendar (continued)

Concern that the March 27 meeting to discuss the review of ICRP Ver 4.1 will be inefficient since Bill Slater's review will not be complete.

- Intent is to meet Diavik requirement to spend funds before March 31.
- Diavik says no need to force a meeting just to meet year end.
- WLWB deadline for comments will determine when to hold the meeting; keep the March 27 date until this is set.

Diavik will follow up on timing for an EMAB site visit.

Calendar will stay draft for now until timing of ICRP review is clarified.

Action Item: Circulate Calendar to Board as draft.

LUNCH

Item 17. Environmental Agreement Amendment Update

Loretta Ransom presents update

Noted that GNWT missed the January 2020 date for circulating the amended document. It will likely be another month or two before it is ready to circulate. It is with the legal department now

Q: will GNWT bring Parties together to review the proposed amendments?

A: once the amendment is circulated, EMAB can request that GNWT convene a meeting

Q: any major changes to EA being proposed

A: strictly related to devolution. Mostly changing original references to Canada to GNWT.

Q: have any other Parties had input yet?

A: GNWT has informed Parties to other agreements that all agreements are being amended.

Board member asks if it would be helpful if EMAB expressed dissatisfaction with the timeline.

Noted that various legal people have been away, delaying their review. In the past there were delays due to capacity issues within GNWT and CIRNAC, but now just legal.

Q: any effect on security, or land and water management?

A: no.

Concerns stated about long-term monitoring now that GNWT is the regulator.

Is there enough security to cover long-term monitoring?

Noted that WLWB will approve the monitoring requirements. Security is only used if Diavik defaults.

Noted that Diavik has proposed detailed monitoring.

Noted that amendment process has taken a long time. If not helpful, then EMAB shouldn't send a letter. Also noted that any Party can send a letter expressing concern about the timeline. Would that speed things up or make things take longer?

Process will likely continue at same pace.

Noted that it would be possible to start discussions about any future changes such as credits against EA Security.

Q: has Snap Lake amendment process started?

A: this will happen after the amendment of the Diavik EA.

Amendment may be ready for review by mid-March.

Loretta Ransom leaves.

Suggested EMAB should send a letter of concern about how long amendment is taking.

Action Item: staff to draft a letter expressing concern about how long the amendment is taking and showing timeline so far. Letter will be approved by email motion.

Item 18 – MVEIRB PK to Pits decision and follow-up

Laurie McGregor and Dinah Elliott excused themselves for this item.

ES presents item from kit

ED identifies next steps

Noted that the Minister invited Aboriginal groups to respond to MVEIRB's report. Diavik's response to the letters was just sent in today.

- Suggesting criteria be developed as part of water licence amendment process
- Supporting extension of participant funding
- Generally supportive of MVEIRB Measures

Item 6 – Finance; Board Calendar (cont.)

Dinah and Laurie re-joined the meeting.

June 15 site visit will not work; Sean is away until June 29.

Item 19 – OHS Plan postponed; Discussion on suggestion of moving SLEMA staff person to EMAB office

Discussion

- Would they pay rent?
- How would this affect management of office
- Noted current SLEMA staff is at De Beers' office; this has pros and cons including free rent
- Leave things the way they are.
- Contribution to rental costs is not really worth the extra hassles
- Concern about housing SLEMA files etc.
- There is lots of office space available in YK
- Generally agreed that EMAB is not supportive of this idea

Item 6 – Finance (cont.)

Motion: to approve SEC proposal to review ICRP Ver 4.1

Moved: Violet Camsell-Blondin

Seconded: Jack Kaniak

Carried

Item 12 – A21 Underground Application

Discussion on Board sending a member to Technical Session on March 3:

- Good idea but no one is available
- Staff will attend

Item 13 – Conflict of Interest (cont.)

Suggested that Gord could just say “no comment” when discussing or voting on reports and proposals.

Gord noted he has no issue with voting or not voting on proposals.

Concern expressed that Diavik not be put in an awkward position when sensitive decisions are being made.

Diavik rep noted that he is open to other members saying that they think he is in conflict on a particular issue, then discussing it.

Noted that constructive criticism is valuable.

Item 20 – Round Table

Jack – KIA:

- No updates

Violet – Tlichó

- Busy with monthly Tlichó Resource Management Working Group meeting.
- Next meeting is tomorrow and Violet will report on what’s happening with EMAB.
- Lands Dept. has been doing updates in each community recently.
- Violet to confirm with Gord who is the best person for Diavik to contact to arrange a community meeting with Tlichó.

Adrian – NSMA:

- EMAB community update with NSMA coming up on March 17
- Arnold still away in Calgary

Charlie – Lutsel K’e:

- Community election coming up for Chief and council.
- Checking about an EMAB community update.

Laurie – GNWT:

- Julian still the member. He’s going on deferred leave for 6 months.
- GNWT held a competition to replace EMAB member but they were not successful.

- Ad will be run again.
- For all public boards GNWT has to put out public notice. Anyone can apply.
- There are certain requirements and people submit resumes.

Dinah – Government of Canada:

- Thank you for welcoming me to the Board.

Gord – Diavik:

- No updates

Next meeting tentatively March 27; another meeting tentatively on April 21-22

Decision on meeting dates once WLWB sets deadline for ICRP comments

Meeting adjourned at 2:45pm