

WORKING WITH THE PEOPLE FOR THE ENVIRONMENT



Minutes – January 19-20 2021

Yellowknife Boardroom and by Zoom /Teleconference

Present:

Charlie Catholique, <i>Chair</i> (online)	Lutsel K'e Dene First Nation
Marc Whitford, <i>Director</i> (in person)	North Slave Metis Alliance
Violet Camsell-Blondin, <i>Secretary Treasurer</i> (in person)	Tlicho Government
Ngeta Kabiri, <i>Director</i> (online)	GNWT
Gord Macdonald, <i>Director</i> (online)	Diavik Diamond Mines
Sarah Gillis, <i>Director</i> (online)	Yellowknives Dene First Nation

Absent:

Jack Kaniak, <i>Vice-Chair</i>	Kitikmeot Inuit Association
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Staff:

John McCullum, <i>Executive Director</i> (minutes) (in person)	Environmental Monitoring Advisory Board
Janyne Matthiessen, <i>Environmental Specialist</i> (minutes) (online)	Environmental Monitoring Advisory Board

Guests (all by Zoom/teleconference):

Tom Bradbury, Lands (Day 1)
Sean Sinclair, Diavik (Day 1 &2)
Myra Berrub, Diavik (Day 1)
Dan Coombs, DFO (Day 1)
Nick Wasilik, DFO (Day 1)
Derek Gray, Wilfrid Laurier University (Day 1)
Kasey Clipperton, Golder (Day 1)
Abbie Stewart, MSES (Day 2)
Brian Kopach, MSES (Day 2)
Petter Jacobsen, TG (Day 2)
Megan Cooley, NSC (Day 2)
Rainie Sharpe, Golder (Day 2)
Zsolt Kovats, Golder (Day 2)
Kofi Boa-Antwi, Diavik (Day 2)

Tuesday January 19, 2021

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Meeting at 9:00 am at EMAB Boardroom and by Zoom and Teleconference
<p>1. Call to Order</p> <p>Meeting called to order by Chair at 9:10am</p> <p>Moment of silence</p>
<p>2. Approval of Agenda</p> <p>Chair reviews agenda</p> <p>Motion: <i>to approve agenda</i> Moved: Marc Whitford Seconded: Violet Camsell-Blondin Motion carried</p>
<p>3. Conflict of Interest</p> <p>No conflicts declared</p>
<p>4. Minutes of Previous Meeting</p> <p>Motion: <i>to approve December 1-2, 2020 meeting minutes</i> Moved: Marc Whitford Second: Ngeta Kabiri Motion carried</p> <p>ED reviews EMAB action items</p> <p>Noted that MSES received the Angus Smith article on caribou crossing roads; no comments.</p> <p>Discussion on EMAB office lease renewal</p> <ul style="list-style-type: none">• Landlord wanted 5 year lease, ED was able to negotiate 4 year; using mine closure as rationale.• Landlord says Bank wants longer term lease eg. Five years.• Proposed that a shorter-term lease would be better• Q: Would other offices in Yellowknife offer year to year leases?

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- ED has not investigated recently, but prefers not to move. Looked into this a few years ago and at that time we had the best rate in town.
- Can check with lawyer about standard lease conditions
- Noted that no Board concern with the rate; but concerned with term.
- How can EMAB sign a lease for 4 years when they only have secured funding for 2 years?
 - ED views the EA as a measure which guarantees funding
 - Board member notes that ED could use EMAB funding cycle as rationale to get term reduced
- One board member thinks it's better to have a shorter term; others think having a longer lease is better so we have secured space.
 - Current arrangement includes shared boardroom
 - Expect EMAB will be funded until 2029
 - Noted that longer leases often come with lower and/or fixed rates.
 - ED notes current offer includes 2% increase per year; but may be possible to negotiate that.
 - Concern if mine closes early – we would like a termination clause with six months notice
 - If EMAB has a longer lease would still be good to review every year
- Board members wondering if ED has approached landlord with negotiations; or only inquired with EMABs lawyer.
 - Lawyer's comments have been conveyed to new landlord; waiting for response
 - ED will run Board comments by our lawyer to see if they are fairly standard; need to show EMAB is serious about the lease
 - Should try to negotiate
 - Make landlord aware of life of mine issue
- Board will make final decision after information is available

Action Item: Inform Board after landlord responds on lease issues.

Discussion on old EMAB laptops for donating

- Charlie's laptop is packed up ready to go. Was going to bring it but due to COVID restrictions was unable to come to meeting in person.

Discussion on Government of Canada representative

- Seems like the Canada Board Alternate/Party Representative may not understand the difference between board members and party representatives

Action item: ED will contact Government of Canada Alternate/Party Rep and clarify EMAB roles.

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ES reviews outstanding EMAB recommendations

- Responses for 2019 EAQMP recommendations due in March, not February.

5. Finance

ED reviews 2021-2022 Budget

- Noted Diavik accepted EMAB's recommended budget for 2021-23 and did not request cut

Motion: *to accept 2021-22 EMAB budget*

Moved: Marc Whitford

Seconded: Charlie Catholique

Motion carried

ED reviews draft 2021-22 Calendar

- Noted may not need April meeting
- Noted this is very tentative (re: COVID)

Motion: *to approve Board Calendar for 2021-22*

Moved: Ngeta Kabiri

Seconded: Marc Whitford

Carried

ED performance review – Board in Camera

Board ex Camera

Motion: *to approve Personnel Committee recommendation to increase Executive Director salary by 5% effective November 2, 2020 following Performance Evaluation from November 2, 2019 to November 1, 2020*

Moved: Gord Macdonald

Seconded: Marc Whitford

carried

6. Inspectors Report

Tom Bradbury joined the meeting



Tom presents Inspectors report: spill close-outs; PKC spillway; general inspection. Next inspection January 28.

Q: has there ever been a spill over the spillway?

A: not to my knowledge.

All areas were in good shape: Ammonium Nitrate storage, WTA. One spill kit was open with oily rags and liquid in it, and there was one leaking fuel nozzle. These have both been fixed.

BREAK

7. Update on DDEC Insolvency

Diavik provides update on DDEC insolvency

- DDEC will remain 40% owner and Diavik will continue to operate with a 40% partner that is insolvent. DDEC creditors keep indirect rights to any excess production of diamonds
- Diavik holds a \$105 M letter of credit (LOC) from DDEC to cover closure costs
- Diavik sells DDEC share of diamonds to cover operating costs; rest of diamonds are returned to DDEC.
- DDEC's 40% ownership of Diavik is now valued at zero. The value of expected assets equals the closure costs.
- Noted the DDEC LOC is renewed annually; last time was November 2020
- Diavik provides 100% of security deposit; DDEC LOC will pay for DDEC's share of closure costs

8. Fish Habitat Compensation – Frame Lake Project

Sean, Myra, Kasey, Derek, Dan and Nick joined the meeting

Diavik presents on Frame Lake Rehab Project

- Diavik is looking to rehabilitate Frame Lake in Yellowknife as a part of their Fish Habitat Compensation Program.
- No fish in Frame Lake. Likely due to low oxygen levels in winter caused by higher nutrient levels and reduction in inflow/outflow due to urban development. Would install an aerator that would be the first of its kind in North America
 - Also considered dredging and ways to increase flow-through, but these were very expensive
 - Also investigated arsenic
- Next steps: install aerator and monitor; if oxygen is adequate add local fish

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- Long term commitment required from an organization to keep this going
- Have support from City of YK and have had discussions with NSMA and YKDFN. Would need a local partner to maintain the aerator in the long term
- Requesting letter of support from EMAB
- Strictly for allowing Frame Lake to support fish. Would need to control local fishing to prevent overfishing. Would not make lake safe for recreation.

Discussion:

- Concern about runoff causing other contamination in Frame Lake – this was a concern at Long Lake. Not much draining into Frame Lake any more.
- Diavik has been collecting sediment samples to identify contaminants
- Similar to aerator used at Colomac Pond 3 for reclamation.
- Water used to flow out of Frame Lake though Niven Lake to Great Slave, but with city development that doesn't happen anymore.
- Noted that Aboriginal Governments and communities should be consulted
 - Local communities should be involved. Diavik should call up NSMA and YKDFN for their skills
- Concern about people fishing out all the fish
 - Diavik noted this is not intended to be subsistence fishery. Perhaps catch and release. They want to make the lake healthy for people to enjoy, possibly even swim; but not intending to have it be for subsistence fishing.
 - Noted that Yellowknife fishermen have requested permission to fish near Behchoko; local Yellowknife lakes are fished out.
- Concern with the level of Diavik's presentation – more plain language please
- Q: has aerator been tested somewhere this cold?
- A: no, but they have some in Northern Europe. So they are in pretty cold places but not as cold as here. Would only aerate when there is ice cover
- Concern that this doesn't offset fish habitat lost at Lac de Gras. Quality of fish habitat lost through mining is not equivalent to what will be restored in Frame Lake
 - Diavik noted that this is not the only area they will rehab. DFO uses habitat quality units and they have to return as many units as we took. The frame lake project is just a fraction.
 - Diavik would have to apply to DFO to use this as offsetting
- People need to know things like if oxygenating the water and adding fish will make it safe to swim.
- Any testing of sediment? WLU has looked at contaminants in invertebrates



- Noted that introducing fish might reduce leech population
- Concern that people have had ideas like this before, but they fall through.
- Concern about Diavik looking to pass of the project once its running; who will do the upkeep and what resources will DDMI provide them?
- Concern that Diavik is 300km for Yellowknife. How far away can be considered offsetting; this seems like a stretch
 - DFO notes there is a ranking system. Preference is within the watershed area, but we also really want to tackle areas affected by human impact. Project should be in NWT
 - There is a lack of impacts to fix at Lac de Gras.
- Q: Whats the dollar value of the project?
- A: not known; but noted there are no pay out options to provide someone else with funding to do it. Diavik has to do the work.
- Diavik would identify a partner to take over before they take it over. Hoping will be taken over by a community, gnwt, or city of Yellowknife. Someone would have to build the capacity to take it on.
- Q: will the aerator help with cleaning other contaminants from runoff?
- A: not sure, but Diavik will get the info
- Q: is this offsetting proposal a result of PK to Pits? Or more general?
- A: its general; but the idea came up when we were discussing the best options considering the new increased risk of pits not being reconnected. We came across this idea as a result of PK to Pits discussions; however we now think this is a good idea regardless of PK to pits outcomes.
- Diavik will meet with all communities to discuss.

Diavik is requesting EMAB provide a letter of support, ideally before March meeting.

9. EAQMP – Yellow haze sampling

Tabled for later meeting; consultant unavailable due to length of previous item

8. Fish Habitat Compensation Options (cont.)

Discussion

- Q: will Diavik go to other communities?
- A: could do; would need to figure out engagement plans
- DFO noted that any suggestions for habitat offsetting opportunities would be welcome



- Question about BHP Fish Habitat Compensation Fund
 - This was a one-off
- Q: would aerator help with contaminated runoff entering Frame Lake?
- A: aerator won't degrade contaminants; WLU plans to study effects on availability of contaminants
- Q: what was City of YK's view on proposal
- A: very supportive
- Q: what is the basis for the deadlines?
- A: objective is to install aerator in September, so working backwards from there regarding applications, approvals etc. March deadline for letter of support is project-related, not regulatory.
- Q: is this related to the possible loss of offsetting areas due to the PK to Pits project if pit is not reconnected to Lac de Gras?
- A: that was the original reason; now it is a stand-alone project
- Q: has this proposal gone to communities?
- A: NSMA, some TG people; still working on engagement
- Q: when will LKDFN see it?
- A: date not set yet
- Q: Proposal identifies need for partners; what happens if no partners are in place by 2026
- A: Partners must be in place; this might not involve a cost to the organization. Lots of time to figure this out.
- Q: would Diavik provide long-term maintenance?
- A: would need to build capacity in partner; could be a benefit. This would be the first use of this aerator in North America, so could be an opportunity.
- Noted that part of the security deposit would be allocated to building and maintaining capacity.
- DFO staff notes that another DFO group would be involved in approving the project.

Meeting Adjourned for the day at 12:50pm

Meeting opened at 9am on Wednesday Jan 20 by Secretary-Treasurer

10. 2019 AEMP

Kofi, Sean, Megan, Zsolt and Rainie joined the meeting

Diavik presents 2019 AEMP (in meeting kit)



- Highlights
 - Effluent: reached Action Level 1 for 16 parameters; Action Level 2 for 9 of them
 - Some indication of cumulative effect of Diavik and Ekati.
 - Eutrophication – chlorophyll a exceeded normal range in 0.1% of LdG
 - No toxicological effects in plankton, benthics or fish
 - Noted parasites were present in all fish collected for sampling regardless of distance from mine
 - Some fish tissue showed some metals above the normal range
 - Special Study on Dust showed P in dust not likely available at pH level found in LdG, so likely a negligible effect
 - Overall conclusion is that the effects seen are due to nutrient enrichment, not toxicity. Some effects on fish could be either, or just due to natural variability

Discussion

Q: overall conclusion in plain language?

A: results are similar to previous years; no significant effects

North-South presents review of the 2019 AEMP

- Highlights
 - Report well-organized with good descriptions of methods making it easy to understand how they came to the conclusions
 - Dust control sites are affected, so ZOI may be larger than predicted
 - Larger ZOI might change results of analysis
 - Some lab issues and data integrity concerns
 - Change in approach to analyzing fish may mean 2019 results can't be compared to previous; need better justification for conclusion that effects are not mine-related
 - Minor questions about Special Study on Dust

Discussion:

Q: NSC raised some issues about data integrity. If the data are compromised, does that have any huge effect on Diavik's conclusions?

A (NSC): not a huge impact; but haven't teased it out so not sure what potential impacts are.

A (Golder): the integrity issue was because of the preservative. Since 2019 reporting we have completed the AEMP Re-Eval. The reassessment discussion in the re-evaluation indicated data was compromised to an extent that it should not be included in comparative year to year results.



Q (NSC): Wondering about the affect on biomass?

A (Golder): we retained biomass values, just not species richness

Q: can you (Golder) comment on the comments about chlorophyll a in relation to cumulative effects?

A: chlorophyll a is not assessed with cumulative effects, and it wouldn't be warranted since the extent doesn't reach the area where Ekati effluent enters LdG.

Q: so effects to the fish are not from the mine?

A: that is Diaviks conclusion, yes

- Noted that fish were tested before the mine was opened and they were all OK
- Noted that baseline fish data for slimy sculpin are not as detailed as the current monitoring so hard to compare. They are not seeing differences in fish near the mine and far away.
- Concern that data do not allow us to compare the health and condition of fish before the mine started to now. This is important. What about changes in larger fish?
- Noted fish tasting is important; Diavik plans to have a fish-tasting camp this summer.

Discussion on whether Board should approve NSC report and recommendations

Q: does North-South accept the conclusions in the 2019 AEMP report?

A: NSC had some questions but answers are not likely to affect the overall conclusions

Noted that this question is beyond the scope of NSC's review and is not part of the WLWB review. EMAB and NSC have never commented on acceptance of the AEMP reports before.

- Lots of discussion on whether NSC should state whether they accept Diaviks conclusions
- NSC noted that if there is not a recommendation related to a conclusion, it could be inferred that NSC accepted it.

Motion: Approve NSC Comments and Recommendations on 2019 AEMP Report for submission to the WLWB

Moved: Violet Camsell-Blondin

Second: Marc Whitford

motion carried

Megan, Rainie, Zsolt, Kofi, and Sean left the meeting



Item 11: Boots on the Ground

Petter Jacobsen, Abbie Stewart and Brian Kopach joined the meeting
Gord noted he has to leave meeting from 11-11:30am

Petter Presents TG's Boots on the Ground TK monitoring program (see presentation in meeting kit)

- Highlights
 - All travel is by boat or walking; doing what people have always done
 - Watch everything
 - Best place to see caribou is water crossings and land crossings
 - Indicators:
 - weather/vegetation – cool weather is good, loss of summer snow is negative
 - caribou health – big antlers early in season
 - calf abundance – few calves after 2018; normal would be one calf per cow
 - presence of predators – wolves were present; increase in bald eagles
 - program expansion – Point Lake Camp, more people, more time on land

Questions:

Q: With more moose on the land have you noticed any change in wolves?

A: we didn't see any kill sites or noticeable change in wolf behaviour. We saw some moose calves; I think wolves would go after them as well. Also an abundance of muskox around which the wolves would go for. Not only the caribou they're after.

Q: Are there any recommendations you could make to the Board about how they can guide programs for TK monitoring at closure?

A: let them do it the traditional way, sit on a hilltop or high area and watch, lots of walking and spending time on the land observing over time and through seasons. Not sure what to say about the closure aspect

Q: any thoughts on why there are low calf numbers if caribou seem healthy otherwise?

A: could be wolves in the Contwoyto area just waiting for them. We saw bones of calves at the Crossing. People aren't sure why calf numbers are low.

Q: which years did you see lots of caribou?

A: 2016, 2017. 2018 we saw some big herds, last couple years we have still seen lots of caribou, but they are more scattered in smaller herds. We still see them all over Contwoyto.

Item 12 – TK monitoring at closure

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ED introduces item from kit. Recommendations from Board to Diavik about TK monitoring programs would be helpful.

Diavik notes they are using a similar approach as for developing the cultural criteria for the PK to Pits project.

Board discussion:

- Q: When is Lutsel ke meeting?
- A: already happened
 - Board member concerned that he hadn't heard of the meeting
- Noted each community has their own perspectives; EMAB should hear results from communities before making recommendations
- Diavik notes it could consult communities first, then have the TK Panel integrate the responses
- Suggested that Diavik call a meeting of all communities and Parties in March to discuss development of TK Monitoring Program for closure – need community input
 - Different communities have different approaches
- Noted that many original TK panel members have passed away
- TK panel members don't represent communities; some don't report back to community
 - Diavik needs to clarify what's included in TK monitoring
- Diavik wants a system where we can find consensus among communities and get common recommendations.
 - Suggest workshop with community could be the EMAB member plus a couple of community members
 - This sounds a lot like the TK Panel
 - Or could go to each community and have them develop the program
- Diavik needs to understand the issue of some communities saying the TK panel does not represent community views
 - Diavik noted that if communities don't like the TK panel they can disband it. If all communities want to do something separately let's focus on that.
- Diavik could ask communities if they still support the TK panel. Let them voice their opinion.
- There was more trust in the Panel when it was run by EMAB, less trust with change to Diavik running it
- Diavik would need help from EMAB members. Could do a facilitated workshop with the EMAB members and a couple of people from each community

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- Board member notes *Healthy Country Planning Training* as a possible example for Diavik. They will forward the information
- Diavik should participate with communities in the field, but need to involve more than a few people. Include more elders, more people. Every family has different knowledge. At least 50 people from all communities. The group should decide what is involved in TK monitoring.
- YKDFN feels like decisions being made at the TK Panel level should be made at the community level
- Noted TK panel doesn't receive consultation from communities about Diavik taking over the panel
- Ideally start broad with lots of people from all communities, narrow down the issues using a smaller group of representatives from each community (for example EMAB member plus TK panel members)
- Noted that in Lutsel ke not many healthy elders left. Elders like meetings on the land. Agrees that elders from all communities should be invited to a workshop on TK Monitoring.
- Diavik feels the meeting should happen in 2021.
- Meeting should be in person
- Diavik asks if EMAB would be willing to help come up with a recommendation on how to develop the program.
- Noted it seems like EMAB needs a separate meeting to discuss this.
 - Could Board members consult with their communities before the meeting?
 - Noted EMAB independent from communities, need to be careful to maintain independence
 - Diavik concerned that it seems like EMAB members can provide input on what communities *do not* like but that providing input on what communities *do like/would like* is apparently overstepping.
 - Diavik would need for Board members to come to the meeting with a mandate from community on if they support EMAB members participating
 - EMAB members could observe? That is not Diavik's preference
 - Diavik would like EMAB members to represent the community with recommendations on how to develop the TK Monitoring program. If they don't have a mandate they should not participate.
 - Diavik would not pay for an EMAB session on TK Monitoring program development
- Q: Does there have to be consensus on all aspects of the TK Monitoring? Is there an option to have different program components from different communities?
- A: Could add flexibility for programs for people to participate in. That way people can pick what they are more interested in.

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- Q: how do we let each community speak for itself?
- Noted that TK must be addressed by community(s), not by EMAB
- Discussion on TK Panel
 - It sounds like EMAB doesn't want there to be a TK Panel
 - Noted that when TK panel was changing to being run by Diavik, EMAB had tried to make a motion to stop it. Loss off TK panel to EMAB's jurisdiction was used as rationale for EMAB budget cut.
- Aboriginal Parties have developed ways to monitor sites eg: Giant, Colomac
- This is an opportunity to utilize the Elders' knowledge
- There needs to be a forum to decide how to do this together; the TK Panel could be part of the forum
- Q: is EMAB the forum?
- A: EMAB members should participate
- Have a collective meeting. Possibly involve community corporations.
- Diavik recommends EMAB be the forum for the proposed discussion
- This will be added to the agenda for the next meeting
- The communities must decide how they want to do the monitoring
 - Communities have expressed concerns about the TK Panel approach
 - EMAB members can consult and report back

Meeting overtime, lost quorum.

Action Item: YKDFN rep to forward information on Healthy Country Planning Training

Meeting overtime, lost quorum.

Item 12 (TK WMP) and Item 13 (Yellow Haze) tabled to next meeting

Item 14: Board member roundtable

TG - Violet: Was sick at end of December/early January. Missed 2 TG meetings. Catching up on work.

LKDFN - Charlie: Chief got in a snowmobile accident and is still recovering. Charlie's brother passed away.

GNWT - Kabiri: no updates

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Diavik - Gord: Was busy with undertaking responses for Pk to Pits; concerned about WLWB changing some water licence conditions to recently proposed Standard Conditions. Diavik feels WLWB is not following proper process and will request a ruling.

Action Item: ED will follow up with respect to review of draft water licence and use of Standard Conditions.

YKDFN - Sarah: my main concerns were discussed in the meeting. Will talk with leadership about the TK discussions we had today.

Next meeting: March 9-10 2021