

EMAB meeting July 27-29, 2009, Whatì, NWT

July 27, 2009

Doug Crossley, Chair, Kitikmeot Inuit Association  
Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation  
Floyd Adlem, Secretary Treasurer, Canada  
Lawrence Goulet, Yellowknives Dene First Nation  
Grant Beck, North Slave Metis Alliance  
Tom Biddulph, Diavik

Staff:

John McCullum, Executive Director  
Michele LeTourneau, Communications Coordinator

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Departed Yellowknife at 7:30 a.m. for a tour of the Diavik mine site. The morning was devoted to an underground tour and the afternoon was devoted to a surface tour.

At 4 p.m., the Board departed by charter to Whatì.

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July 28, 2009

Doug Crossley, Chair, Kitikmeot Inuit Association  
Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation  
Floyd Adlem, Secretary Treasurer, Canada  
Lawrence Goulet, Yellowknives Dene First Nation  
Grant Beck, North Slave Metis Alliance  
Tom Biddulph, Diavik (arrived at noon)

Staff:

John McCullum, Executive Director  
Michele LeTourneau, Communications Coordinator (also minutes)

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Meeting started at 9:05

Opening prayer: Florence Catholique.

Noted: Tom Biddulph will be joining us and will arrive by Twin Otter at approximately 11:45.

The mine site visit was very positive. Specifically, to have an opportunity to go underground see that part of their operation that is their major activity at site. The guides were very positive and knowledgeable and responsive to Board questions. Thanks to Diavik for giving us the opportunity.

ACTION ITEM: Write a thank you to Diavik for the site tour and their hospitality – note that we've been trying to do have an underground tour for some time.

Noted: The Board's last time in Whati was in 2003 for a governance and team building workshop.

### **ITEM 1 Agenda and minutes**

#### Agenda

Items to add to the agenda:

Florence wants to discuss:

Enforcement re: closure.

Regarding No Net Loss: Yesterday, during the Diavik site visit, would have been a good opportunity to view progress on the M-lakes. Also, nothing is happening yet for Lutsel K'e re: fish compensation.

Also, would like to discuss training and Lutselk'e's capacity funding.

Noted: At the July 16 meeting between Diavik president Kim Truter and EMAB executive, he stated Tom is Diavik's representative. Not arm's length as stated in the EA. This creates a situation where it feels like the company vs. the other Parties. This could be a problem if one member is the representative of the Party and the rest of the members are arm's length. This needs to be discussed. The Diavik representative tries to cover off all issues re: Diavik. When there is a financial issue, for example, they should send in a financial person. We will have to get into Diavik presence at Board meeting if we enter into dispute resolution.

Sheryl Grieve's letter re: CBM camp should be discussed.

Doug also wants to discuss CBM camps.

Items 7, 8, and 9 moved to replace Item 3, which was moved to the afternoon.

***Motion:***

***Approve agenda with amendments.***

***Moved: Florence Catholique***

***Second: Grant Beck***

***Carried***

Approval of minutes from June 2-4, 2009 meeting.

**Motion**

**Approve minutes from June 2-4, 2009 meeting.**

**Moved: Florence Catholique**

**Second: Floyd Adlem**

**Carried**

**Motion**

**Approve minutes from June 23, 2009 teleconference.**

**Moved: Florence Catholique**

**Second: Floyd Adlem**

**Carried**

Two email resolutions read into the minutes.

**Email Resolution – July 13 '09**

**Approve ICRP review proposal**

**Motion:** to approve the SENES proposal dated July 2, 2009 to review DDMI's draft ICRP in the amount of \$21,305 and a site visit to Diavik costing an additional \$6,360.

Moved: Gavin More (July 13, 2009)

Seconded: Floyd Adlem (July 14, 2009)

<b>VOTING</b>	For	Against
Florence Catholique	X _____	_____
Eddie Erasmus	_____	_____
Lawrence Goulet	_____	_____
Doug Crossley	X _____	_____
Shannon Hayden	X _____	_____
Gavin More	X _____	_____
Floyd Adlem	X _____	_____
Tom Biddulph	_____	_____

**Email Resolution – June 15 '09**  
**Approve ICRP review ToR**

**Motion:** to approve the June 15, 2009 Terms of Reference for the draft Interim Closure and Reclamation Plan review.

Moved: Gavin More (June 15, 2009)

Seconded: Floyd Adlem (June 15, 2009)

<b>VOTING</b>	For	Against
Florence Catholique	<u>  X  </u>	<u>      </u>
Eddie Erasmus	<u>      </u>	<u>      </u>
Lawrence Goulet (by phone June 17)	<u>  X  </u>	<u>      </u>
Doug Crossley	<u>  X  </u>	<u>      </u>
Shannon Hayden (by phone June 17)	<u>  X  </u>	<u>      </u>
Gavin More	<u>  X  </u>	<u>      </u>
Floyd Adlem	<u>  X  </u>	<u>      </u>
Tom Biddulph	<u>      </u>	<u>      </u>

**Item 2 : Wildlife**

Executive Director reminds the Board of the issue of the extra slice of aerial survey. Background. Yesterday, Colleen English said Diavik has applied for an amendment to cover that extra slice to fly the 30 Km. Diavik accepted our recommendation.

1. ENR mines working group

Info in binder.

Noted: Probably not 100% of what EMAB has been pushing for but at least it shows progress towards compatibility of data and methodology. Don't think the mines the mines have ever sat down with ENR. It's new and about time.

Q: With regards to EA 7.6 (Aboriginal Community Involvement) Should EMAB play the role of go-between for Diavik in communication and consultation?

A: The ENR mines working group will give information to the board. It is not EMAB's job to go to the Aboriginal Parties.

Q: How will the Aboriginal Parties participate in reviewing and implementing the design of the WMP program and plans?

A: It is the responsibility of the government and company to consult with communities directly.

Noted: In the ENR workshop proposal there is no mention of TK/IQ.

Also, the Diavik workshops in August at site on fish tasting and caribou and now suddenly we hear it's all going to be geared to the ICRP.

ACTION ITEM: Confirm that TK/IQ is a part of each component of the ENR / mines WMP workshop. Draft letter to ENR. Change the word stakeholder.

Noted: A lot of data, if it isn't used, means nothing. Very happy with Susan Fleck. She is serious about this subject and to the point.

Discussion on the 2<sup>nd</sup> recommendation is deferred until later in this item.

2. Conference call – EMAB/Diavik on wildlife issues

Info in binder.

The meeting was useful.

3. WMP revisions/Wildlife Research Permit/Caribou aerial surveys.

a) *Consultation process for WMP changes in 2009/10*

See binder for background

The Board reviews the recommendation from June 2008 (in kit), which was put on hold.

4<sup>th</sup> bullet – There is agreement with this recommendation. There might be the possibility of consultation other than the standard consultation, which could take into account that each community is different. This could also deal with languages.

Instead of changing the recommendation, which was approved by motion, such add-on could be included in the conveyance letter.

Discussion on timelines: Is it enough to say “in a timely manner” or would it be better to have more specific dates?

Pre-consultation could take place by mid-October and consultation by mid-December.

Also, this has to be real, meaningful consultation – this needs to be added to the conveyance letter.

**ACTION ITEM:** Convey the four recommendations about WMP consultation and add the extra information into the conveyance letter.

*b) 2009 WMP*

In relation to information in binder on the issue of the aerial survey – Diavik has already informed us they have submitted the application to make the change and add the extra bit to be surveyed, as per EMAB’s recommendation.

Q: EA says “consider TK” – what does that mean. TK collection can’t be done in a single workshop – it needs to be ongoing.

*c) Consultation on WMP changes in 2008/2009*

Info in binder.

Suggestion that EMAB might like to clarify that EMAB and Parties were not consulted.

**ACTION ITEM:** Add this part to the above-noted conveyance letter, that EMAB was never consulted on the specific changes that were proposed to the WMP in 2009. Also ask Diavik about their plans to consult on these changes.

**Item 7 – Seepage and PKC update**

Colleen English gave the Board an update at the site. There is nothing to add although it is noted that all dikes leak and that they are called unexpected releases.

Q: Does EMAB have a say in the unexpected construction of roads – like the one that was put in after the seepage?

A: The inspector might have something to do with that.

EMAB has requested that when the inspector finds out about something like seepage, to let us know immediately rather than leaving EMAB to find out 6 months later.

## **Item 8 – Closure Plan update**

There was a letter from the WLWB Friday afternoon informing of a change to the deadline from August 1 to November 1, to allow for consultation  
EMAB's consultant (Randy Knapp) will be available for discussion and the review.

Q: Who enforces the closure plan? The WLWB?

A: The WLWB approves closure plan. The INAC inspector is the enforcer – the one responsible to see that the closure plan is carried out. EMAB's role is to review the plan and comment.

ACTION: EMAB should ask Diavik to report on its consultation with the communities on closure planning.

Randy will have the plan for review for two or three weeks. We will have his review by the end of November. Comments will have to be in by mid-December.

## **Item 9 – Reports**

ACTION: Draft a letter to ENR for consistent involvement at meetings. The member responds consistently and well to issues but hasn't been attending meetings. Perhaps an alternate could be appointed to do so. This should be a letter of encouragement. EMAB is getting into a phase where we are engaging with significant wildlife issues and we will need ENR to participate. Send a reminder to the Government of Nunavut, also.

## **Financial Report**

EMAB is a little bit under-spent.

Q: Why isn't money in capacity fund going out?

A: In process.

### ***Motion:***

***Accept the financial statement as presented.***

***Moved: Floyd Adlem***

***Second: Florence Catholique***

Q: With regards to the 150,000 Diavik withheld – will that affect operations?

A: Not this year, but next year. We wouldn't be able to do anything next year.

### ***Motion:***

***Accept the financial statement as presented.***

***Moved: Floyd Adlem***

***Second: Florence Catholique***

YKDFN capacity funding

***Motion:***

***Approve YKDFN report for 2008-2009 capacity funding.***

***Moved: Florence Catholique***

***Second: Grant Beck***

***Carried***

In this budget discussion with Diavik, Capacity Program is Diavik's main issue. The amount being withheld is the amount budgeted for the program annually. The program always comes up. To operate a program with no operating guidelines is relatively dangerous. It is dangerous to write a check and hand it over without knowing what will be done with it. EMAB needs to be careful to maintain capacity funding accountability using the operating guidelines.

Diavik is the one company that clearly understands the need for capacity at the Party level. They have provided Party-level support and that has allowed the Aboriginal Parties to be involved. The other two mines, not so much. The Capacity Program is important.

As the funding agency, Diavik wants to control our budget. They want to approve all our line items. They want to approve any changes.

Action Items

Updated.

Break for lunch

**Item 3 – Communication Plan**

CC noted that changes from the last meeting were made and the revised draft was sent out. She checked the key messages and they are in line with the EA and strategic plan.

Several editorial comments were made on the preamble to the plan

- Under "strategic considerations"
  - 4<sup>th</sup> bullet – add "as appropriate"



- 5<sup>th</sup> bullet – discussion on whether EMAB should engage in “loud diplomacy.” Noted that these approaches are general policy and that there is a media policy that still applies in any particular instance

Noted that the narrative section is a preamble largely to show the transition from the Communications Strategy developed in 2002/2003 by Outcrop to the current Communications Plan, and to show how Outcrop’s recommendations have been implemented. The “background” section will be changed to clarify this and provide a little history.

- Under “Goals” last bullet should be “informed Parties, including Diavik”
- Refer to “items” or “topics” rather than “issues” throughout
- Under “Target audience...” Affected Communities
- Translation - the need for the material to be understandable to community people was raised again. It was noted that the plan could make a reference to translation at community meetings (under “informed communities”), but that translation can only be provided within the available resources so will have to be done “as board sees fit.”
- It would be helpful to community people if there were audio accompaniments to information on the website
- It would be useful to provide a visual perspective of the mine; possibly an audio/visual tour of the mine in the Aboriginal languages. This could also be available on CD.
- The need for the material to be understandable to community people was raised again. It was noted that the plan could make a reference to translation at community meetings, but that translation can only be provided within the available resources so will have to be done “as board sees fit.”
- noted that the newsletter and use of community radio are connected
- under radio change EWMAB to EMAB

Question about why “done” appears beside some items and not others. This is a reference to the Outcrop recommendations and will be clarified in the background.

- Under “Key messages”
  - EMAB also provides advice and gives recommendations – add this
  - 1<sup>st</sup> bullet - Add regulators to EMAB’s watchdog role
  - move “constructive relationship” higher in the list (and add regulators?)

Noted that at least one Board member had not reviewed the communications plan itself, so it was agreed to approve it by email motion.

#### **Item 4 – Budget Dispute Status**

Info in binder.

1. *Follow-up February recommendation for dispute resolution*

- ED has a template letter for member use.
- Show of support or non-support is needed
- If the Party doesn't understand the issue, EMAB can explain it.

ACTION: Write a follow-up letter, re: budget situation, to Parties and ask them to state whether or not they feel dispute resolution is needed.

EMAB members need to discuss this with their leadership.

Floyd updates members on executive activities regarding this issue. Noted that Diavik is now saying that EMAB needs their approval before changing any budget line items.

The Diavik member offers to leave. The Board says it's not necessary at this point.

Issues:

- Legal advice and accounting advice? EMAB would need to request funds for this from Diavik
- This will become an item for the press. Will have to decide how to deal with that. This is not going to go away.

What's the worst case scenario?

- EMAB lose 150 000 from contribution for 2009-2010, we use all unrestricted assets this year, Diavik withholds 150 000 again in 2010-2011, and we'll be about \$250,000 short.
- If EMAB makes changes to budget lines and Diavik does not approve these they might withhold more funds.
- EMAB would not be able to address closure review.

This can't continue. EMAB will not be able to function as a Board.

2. *DIAND initiative*

Info in binder.

3. *Meeting with Diavik president*

Notes from the meeting in binder.

Noted: Diavik has added issues beyond the original issue of the unrestricted net assets.

EMAB is not interested in stalling the DIAND process.

ACTION: Write a letter to DIAND re: MacKay's report. Executive to go through it recommendation by recommendation. Letter for review by the Board.

ACTION: Respond to Diavik's July 10, 2009 letter to DIAND saying we do not agree with the Diavik budget. The EA says the Minister shall choose a budget when there is a disagreement. Revenue lines are not the same. Send to Board for review.

EMAB could meet with the Diavik president again, with a clear agenda.

In the letter to DIAND Add: We're still willing to work with them and keep this process open. Acknowledge and thank them for their efforts to date – tie that in to the letter of response to Diavik's letter.

ACTION: EMAB chair to send an email to the Diavik president thanking him for meeting with us.

#### 4. *Legal advice*

Discussion:

- Diavik always has access to lawyers and accountants.
- The Parties need to meet to discuss the budget dispute before they will respond to EMAB's request. INAC can call a meeting of the Parties. There is no communication among the Parties. An opportunity to meet has to be given to the Parties.
- EMAB needs a lawyer at this stage, otherwise we are not on the same level.
- A lawyer may be a bit premature. Perhaps we haven't exhausted every avenue of communication.
- In the IEMA budget dispute process they were given budgetary independence.

ACTION: EMAB members will speak to their Parties.

- Either you are a Board member or you're not. It would be better to have Diavik staff at meetings to present Diavik's positions instead of putting Tom in a difficult position.
- We must be cognizant of the time and energy this has taken.
- Far and away the most difficult year EMAB has ever had.

#### **Item 6 – Annual Report**

Discussion on annual report text.

July 29, 2009

Doug Crossley, Chair, Kitikmeot Inuit Association  
Florence Catholique, Vice Chair, Lutsel K'e Dene First Nation  
Floyd Adlem, Secretary Treasurer, Canada  
Lawrence Goulet, Yellowknives Dene First Nation  
Grant Beck, North Slave Metis Alliance  
Tom Biddulph, Diavik

Staff:

John McCullum, Executive Director

Michele LeTourneau, Communications Coordinator (also minutes)

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Meeting started at 9:05

**Item 6 – Annual Report** (cont.)

***Motion:***

***Approve 2008-2009 annual report text, with changes.***

***Moved: Florence Catholique***

***Second: Lawrence Goulet***

***Carried unanimously***

**Extra agenda item**

**CBM camps:**

- Members received a request for participants for these workshops (former CBM Camps) and Diavik has not received names. They need them soon to make sure security clearances are done.
- It is important for all participants to be aware of what's expected. Participants must also be aware of all logistics.
- Unlike in past years, EMAB is not involved. These workshops are between the Parties and Diavik.
- The inclusion of ICRP discussion and the request for elders for TK is a concern. (Same as the NSMA email.). Will this be considered as collection of TK for inclusion in the ICRP?
- It may be worthwhile for EMAB to articulate its expectations re: inclusion of TK in closure re: wildlife.
- Without seeing the workshop/program detail, it's hard to tell what's going on exactly. In the past, there were detailed proposal submitted by EMAB.
- The EA says that programs need to be reviewed and commented on by EMAB and Parties. EMAB has the responsibility to say we want to look at the details. But maybe because we aren't organizing it they don't expect us to say anything at all.
- Some groups have communicated. One group has raised doubts about participating.
- We can't go ahead and participate and at the end say it wasn't adequate. We would need to give comments and suggestions right away.

- It's a given that we will need to review and comment on the ICRP re: wildlife and TK collected at the workshop.

Noted: EMAB staff is not involved in these workshops.

### **Item 5 – TK monitoring proposal**

#### Discussion

- Suggestion that EMAB state it fully supports the TK Workshop we held in Kugluktuk and the direction given by participants.
- Does EMAB run projects for the Parties? Or should EMAB say this is the outcome of the TK Workshop that the Parties (with Party approval) want to do and here it is?
- Not sure EMAB should be running TK studies for Parties or Diavik. It's not in our mandate. We can push it.
- Not for us to look for the funds.
- We could help get funding to see this move forward if proponent won't provide them.
- ENR has a mandate to do TK work. They are going forward with BHP and Diavik on WMP work together. We should go that avenue – push this proposal to ENR and have them support the study.
- EMAB could support Diavik in seeking funding from ENR.
- EMAB's role is advisory. We make recommendations. We did the workshop. We have the information. Now we advise. And make a recommendation. We don't have the TK expertise to say this will work. Our job is to make sure Diavik includes TK. We don't want to get involved in running TK.
- EMAB can review the study but shouldn't deliver the program or fund it.
- The research has to be done by the communities. Diavik, ENR – they are the ones that signed the agreement.
- Mandate is open enough that we could manage this. The reality is we're eight years down the road and there is no TK happening. What do we do next then? We've gotten to a starting point. We've come this far.
- The TK can only come from the communities. EMAB must go to the Parties.
- We can be an advocate. EMAB should call a meeting of the Parties, the leaders, the people that make the decisions. Perhaps the promotional role for EMAB is not over. Members must make it a stronger issue.
- Communities need to see an example of a TK study in action, with results. Even if not all the Aboriginal Parties are initially involved, if we can do that then we can create an appetite for TK studies in all Aboriginal Parties. EMAB continues to have a role in encouraging and supporting communities; communities need to take ownership. A demonstration project would be good. The proposed funding requirement for the full project are large.
- The fencing issue at Diavik is a good demonstration of TK inclusion in environmental monitoring. That's something we can highlight and promote.

- We could be fundraisers and help get the demonstration project going.
- EMAB is the only organization that has had input to the proposal. Diavik was told by the Board that they could only observe the Kugluktuk workshop. Diavik feels this proposal has a lot of problems.
- People at the regional level should be involved rather than targeting a specific mine site, which won't show that much in terms of caribou.
- TK is not saying the mine is the cause of change – it's about collection of information.
- The study is only proposing to look at tens of kilometers around one mine site and looking at an animal that migrates 1000s of miles. Other mines would not want to contribute to Diavik-centric proposal.
- This proposal would introduce increased mortality but if we attach the program to existing community hunts, we would reduce that possibility while providing data over a larger area. These concerns were raised early on by Diavik.
- TK could answer some of the questions re: zone of influence, such as: are they staying further away from the mine for their health?
- It is incorrect that Diavik was not allowed to speak at the TK workshop.
- Communities have to drive this. Researchers are community people –not just any kind of people but they have to have certain skills.
- We should update the parties.
- Regarding Diavik's options: They deserve proper weight and proper consideration.

Reports on status of proposal for each Party

KIA: The member:

- Provided proposal to KIA.
- Talked to environment staff. They have not provided much feedback.
- Talked to a participant from workshop (the other participant died in June). Will get Joseph to talk with environment staff.
- Reports to main contacts at KIA: the president and the manager of environment, has informed them of this proposal but haven't heard back yet.

LKDFN:

- WLEC wants to know when this is going to happen.
- Having a problem with money.
- Emphasized that a Lutselk'e would be community based. Their info is not the same as other community's info. Geographically different. Use our own people, our own language. Very strong on community control.
- They are ready to go. Thinking of just moving ahead on it.
- Will report back on EMAB position after this Board meeting.

YKDFN: Nothing yet. Could go to the new chief and explain the proposal.

NSMA: Nothing.

Florence – Tlicho Government is fully supportive.

More discussion:

- This should go ahead as a demo project. Might be possible to incorporate Diavik suggestions.
- Cost of current proposal is an issue. It would be easier to promote if it was less costly.

Discussion on next steps

- Invite Diavik to go through the options they proposed. Noted that these are not options, they are all one package.
- It's good to discuss it. Sometimes expectations can be misunderstood. Community hunts have a huge cost. (This is regarding Diavik's counter-proposal that TK be gathered at existing hunting camps.) For us (Aboriginal Peoples) to provide that TK information will cost Diavik.
- John (EMAB ED), Colleen English (Diavik) and Allice Legat should get together and analyze the Diavik options.
- Or have Diavik attend a Board meeting.
- Perhaps Diavik should engage TK expertise or have a dedicated TK employee

**ACTION:** Put the TK proposal item on the agenda for the next meeting. ED to contact Colleen to find out who drafted the DDMI suggestions

More discussion:

- Colleen English was seen involved at the TK workshop in Kugluktuk. She is a good person to be involved.
- Defer approval of proposal until discussion including Diavik has happened.
- There is 70,000 allocated for community workshops around this proposal – we need to discuss how that money will be allocated.

**Extra items:**

M-lakes – LKDFN needs Glenn Zelinski to contact them about community habitat enhancement project.

Training

Regarding the Mine Training Society's proposed curriculum on contaminated sites: Will this program meet the original needs identified by the training committee? It's probably too limited  
The MTS board did not approve of this curriculum. The process was not carried out with board approval.  
The Executive Director was directed to look closer to home for curriculum development (ex: Aurora College).

Arm's length issue

- It is appropriate that Diavik staff be available at meetings as opposed to the Diavik member being expected to provide all Diavik information and defend its positions.
- What do we bring as members of this Board are our collective backgrounds. It improves dialogue, adds context to the meeting as appointees of their Parties.
- Diavik member notes that if the Board agrees to something, he doesn't feel that he will have problems internally with the company.
- Noted that most members are not employees of their Party

#### Capacity funding

- Diavik rep noted that in the YKDFN proposal, they feel only 2 500 of the 30 000 is applicable to capacity building. We should be leveraging that money as best we can and I think there's an opportunity to do a lot more than that.
- If the program principles apply to their proposal then we need to review principles. It's the principles that are the problem in that they allow too much latitude.

**ACTION:** Add the status of the security deposit to the agenda for the next meeting (DIAND presentation). Also invite Gord Macdonald to the September 24-25 meeting.

Next meeting: September 24-25. AGM, with the audit presentation and the release of the annual report, slated for the morning of the 24<sup>th</sup>.

**ACTION:** Invite Parties to the AGM.

For the ENR workshop, EMAB can send two people. Six Community people are to be invited by the three mines. Restriction is said to be due to size of room – should be easy to get a larger room.

EMAB should consider sending Petr Komers as a technical representative because this workshop will be very technical.

Concern that the mines have been asked to invite the community reps. Note that all five Affected Communities must be fully represented.

**ACTION:** Request of ENR that more seats be opened – at least 3 for EMAB.

**ACTION:** Confirm with Colleen English about how community reps will be chosen for the wildlife workshop.



***Motion:***

***Approve the costs of Petr Komers attending the ENR workshop.***

***Moved: Floyd Adlem***

***Second: Grant Beck***

***Carried***

***Motion***

***Adjourn the meeting.***

***Moved: Floyd Adlem***

***Closing prayer – Lawrence Goulet***