

# Environmental Monitoring Advisory Board

DRAFT Minutes – March 2-3, 2022

EMAB Boardroom, Yellowknife, NT

## Present:

Charlie Catholique, *Chair (in person)*

Jack Kaniak, *Vice-Chair (in person)*

Violet Camsell-Blondin, *Secretary Treasurer (in person)*

Adrian D'hont, *Alternate (teleconference)*

Gord Macdonald, *Director (teleconference)*

Ngeta Kabiri, *Director (teleconference)*

Femi Baiyewun, *Director (teleconference)*

Lutselk'e Dene First Nation

Kitikmeot Inuit Association

Tlicho Government

North Slave Metis Alliance

Diavik Diamond Mines

GNWT

Yellowknives Dene First Nation

## Absent:

## Staff:

John McCullum, *Executive Director*  
(minutes)

Dylan Price, *Environmental Specialist*  
(minutes)

Environmental Monitoring Advisory Board

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## Guests (all by phone):

Ryan Miller, *Observer (teleconference)*

Jan Adamczewski (Day 1)

Wasef Jamil (Day 1)

Kofi Boa-Antwi (Day 1)

Imran Maqsood (Day 1)

Jeffrey Cederwall (Day 1)

Ed Gullberg (Day 2)

Bryana Mathews (Day 2)

Mike Tollis (Day 2)

Yellowknives Dene First Nation

GNWT-ENR, Ungulate Biologist

Arcadis Canada Inc., Air Quality

Diavik

GNWT-ENR, Air Quality

GNWT-ENR, Environmental Assessment

Legal counsel

GNWT-ENR, Waters

Lutselk'e Dene First Nation WLEC

**Wednesday, March 2, 2022**

**Meeting at 09:00 at EMAB Boardroom and by teleconference**

### Call to Order

Meeting called to order at 9:05 by the Chair. Chair gave opening prayer and moment of silence.

### Item 2 - Approval of Agenda

Chair reviews agenda. Two additional items: approve undertaking response from water licence hearing and finalize ED evaluation. Will fit these in as time allows.

**Motion:** to approve agenda for March 2-3'22 meeting as presented

**Moved:** Jack Kaniak

**Second:** Charlie Catholique  
Motion carried

**Item 3 - Conflict of Interest**

No conflicts declared

**Item 4 – Minutes of Previous Meeting**

**Motion:** to approve Nov 9-10'21 meeting minutes as presented

**Moved:** Charlie Catholique

**Second:** Jack Kaniak

Motion carried

**Motion:** to approve Jan 14'22 conference call minutes as presented

**Moved:** Jack Kaniak

**Second:** Charlie Catholique

Motion carried

Email motions added to record.

ED reviewed action items.

ES reviewed outstanding recommendations:

- Recommendation to Diavik regarding qualifications for post-closure monitoring.

Discussion:

- Long-term post closure monitoring at Diavik will begin after full closure, sometime around 2027. Until then, Diavik employees to continue monitoring. After full closure, community members can begin working post-closure monitoring.
- Noted that the Environmental Agreement includes training and monitoring as part of EMAB's mandate.
- People from communities should be involved in monitoring during operations as well as closure.

Q: Will EMAB be dissolved after 2025?

A: Believe EMAB's existence past 2025 is open for discussion.

Q: Will EMAB still be funded by Diavik?

A: Yes.

Section 18 of EA outlines EMAB's obligations after Diavik ceases operations.

- Recommendation to Diavik regarding Diavik's plans for surplus assets.

Discussion:

Diavik to get letter to Board with update about status of surplus assets on the Mine site.

**Item 5 - Finance**

ED presents Variance Report (to February 2022)

- Bottom line surplus of \$67,000 to roll over to 2022-23.

Discussion:

Q: Is it possible to pre-pay this fiscal year for a community visit in the following fiscal year?

A: EMAB staff will need to check with auditors, however, we will have the same budget for community visits next year.

- TG discussing community “Mining Update” and is looking for update from GMOB, EMAB, and IEMA. Originally planned for late March but now will be early April.
- Lutselk’e would like to arrange a community visit in the coming months.
- Noted that EMAB needs a proposal to provide support to a Party for community update.

**Action Item: ED to check with auditor regarding pre-paying expenses for community update.**

ED updates Board on the stolen checks and attempts from suspect to fraudulently cash them.

- Break-in to IEMA office in mid-December after EMAB had closed. Must have accessed EMAB office as well.
- Cheques were in a chequebook used for community visits
- EMAB has not lost any money as a result of this. Cheques were never cashed.
- Old account has been closed, and a new one has been opened.
- RCMP investigating.

BREAK 10:30-10:45

**Action Item: send letter regarding extending EMAB after closure to KIA rep to pass on to KIA management.**

ED updated Board on contribution repayable from 2020-2021

Discussion:

Diavik is supposed to pay the full amount according to EA, deductions should have gone through Board.

Q: Would Board like staff to follow up with this?

Q: Did arbitration process that EMAB/Diavik went through conclude Diavik could withhold funding?

A: Will check, but arbitration shouldn’t override the EA.

ED looking for guidance from Board on how to proceed regarding Business Rules and deduction from annual payment. Item moved to following meeting.

**Action Item: Determine whether results of the arbitration process allow Diavik to deduct contribution repayable from annual payments.**

**Action Item: circulate arbitration award to Board members.**

## **Item 6 – Workplan & Budget for 2022-2023**

ED reviews Draft Budget for 2022-23

Discussion:

Q: Is EMAB responsible for out of territory travel?

A: EMAB pays for Board members travel costs.

Q: Is there something in EMAB Operations Manual? Thinking back when former Board member moved south– EMAB wouldn't pay for his travel.

**Action Item: ED to check on Operations Manual for out of territory travel costs.**

Q: How much of travel costs are out of territory?

A: Roughly half

Q: Could we adjust out of territory travel costs from Fort McMurray and Whitehorse to put under "other Reviews"?

A: Are people in favor of that adjustment?

Q: Do we have the ability to adjust the budget after approval?

A: Through a motion, yes.

**Motion:** to approve the 2022-2023 budget as presented.

**Mover:** Jack Kaniak

**Secunder:** Adrian D'Hont

Motion carried.

Against: Gord Macdonald, Femi Baiyewun

ED presents 2022-2023 Board Calendar to Board.

**Motion:** to approve the 2022-2023 Board Calendar as presented

**Mover:** Violet Camsell-Blondin

**Secunder:** Jack Kaniak

Motion carried.

### **Unscheduled Item – Water Licence Hearing Update**

ES updates Board on Public Hearing for Diavik's Water Licence Amendment for Progressive Reclamation.

Discussion

- People would like to see discharge controlled
- Diavik can monitor discharge at point of discharge or at edge of mixing zone

ED Reviews draft Undertaking for approval.

Discussion:

Q: Has the WLWB stated what the other ways to regulate runoff are?

A: Alternate ways would be to use the Closure Criteria SW1 and SW2

A: Non-point sources can be managed by Management Plans rather than Effluent Quality Criteria.

- Add that closure criteria would supersede EQCs.

Q: what was decision on whether EQC's are required in the licence?

A: MVLWB draft effluent management policy says discharge does not have to be managed by EQCs. (confirm this).

- Noted that Diavik didn't propose EQC's, GNWT did.

Undertakings are due March 4.

**Action Item: ED to edit the Undertaking response and provide to Board for approval tomorrow on Day 2 (March 3) of meeting.**

**LUNCH BREAK**

12:00 – 1:00

**Item 7 – Caribou Population Status and Factors**

Jan Adamczewski presents GNWT caribou update for the Board.

Presentation Includes:

- Status of Barren-Ground Caribou
- Factors Affecting Caribou Numbers
- Development and Caribou: An Overview

Much more mixing and herd-switching going on between herds than in the past.

Barren-ground caribou are designated as threatened by COSEWIC and NWT SARC. This designation requires development of a recovery plan. Bathurst and Beverly caribou are in slow decline, and Bluenose East is stable.

Main factors affecting population: natural cycles, weather, development, harvest, predation.

Caribou go through population cycles with length varying from 30 to 80 years or more.

Weather, climate and fires can have several effects. Noted that warble fly activity levels are largely controlled by weather, and can have a big effect on caribou health by reducing eating and increasing activity.

Development may have a number of different effects: caribou avoid mines, communities and roads. Zone of influence size is up to 30km. Roads seem to have the biggest effect on caribou movement, depending on the level of traffic.

Harvest is likely not the main reason for population decline, but once a population is low it can have a big effect.

Predators also seem to have a greater effect once population is low.

Discussion:

- It would be helpful if we could have a copy of this presentation to share with our communities.

**Action Item: Jan to share presentation with EMAB.**

Q: Is there a difference between crossing behavior at all-season roads vs. ice roads?

A: Caribou weren't crossing unless there was an extended break in heavy truck traffic. Although, all roads tend to act as a barrier to caribou.

Q: Of all the factors listed affecting caribou, what are the most important?

A: Weather trends in summer, climate change (big unknown but likely important). Multitude of effects.

Q: What about development, is that a big one?

A: Roads associated with development are the main issue. Mines are a point source and Caribou do tend to avoid those areas, but roads act as serious barriers that can affect migratory patterns.

Q: Seeing caribou in winter at Diavik in last few years, are these likely Beverly herd?

A: Bathurst range has contracted with less southern movement in winter; Beverly range is expanding west, even west of Lac de Gras.

Q: do wolves go through population cycles too?

A: not much success studying wolf abundance. Note that tundra wolves move with the caribou while those south of treeline have a more defined territory.

#### BREAK

#### Item 8 – Review of 2020 EAQMP Report

Kofi from Diavik presents their 2020 EAQMP Report and results. Generally similar to 2019. Notes the removal of TSP monitoring, and EMAB's request to Minister to investigate EAQMP.

Discussion:

Q: What is the composition of the dust monitored in the EAQMP?

A: The focus of the EAQMP has always been dustfall, we look at metals in the dust based on analyses of water quality.

Q: Has Diavik considered looking at more historical data to inform your decisions?

A: We compare data collected each year to the previous years data.

Possible EMAB recommendation for Diavik to report on changes to dust composition over time.

Wasef Jamal from Arcadis presents overview of their review of the 2020 EAQMP.

Greatest dustfall is near roads, airport and A21 pit. Effects of dust suppression activity are not reported – this should be evaluated.

Question about dustfall station far from mine showing high dustfall. Should put in a temporary station between mine and far station to try to find source of dust.

Still recommending to update dispersion model.

Still not getting enough information to evaluate stated emissions.

Discussion:

Q: What was the percent reduction on overall dust that being dispersed/how effective is dust suppression?

A: that was one of Arcadis's comments, we did not see how well the dust suppression worked. Noted there seem to be data gaps.

Q: Would the Board like to adopt Arcadis recommendations during meeting, or through an email motion?

A: Assemble Arcadis recommendations and approve through an email motion.

**Action Item: Assemble Arcadis and EMAB recommendations on 2020 EAQMP report and circulate to Board for approval by email motion.**

## Yellow Haze

ES updates Board on the Yellow Haze investigation

- During the July 2021 meeting the Board agreed that monitoring the yellow haze through hand held NO<sub>2</sub> monitors was the best option.
- Confirming a presence of yellow haze was also determined necessary, and was decided that EMAB staff and Arcadis would discuss possible ways to confirm.
- Recommending the most effective and cost-efficient way to confirm a presence of yellow haze was for Diavik staff to take a daily picture of the mine from the ice road. Diavik has requested EMAB make a recommendation that they can respond to.

Discussion:

- We need pictures. Yellow haze can be seen from Ekati and from Diavik. March is the best time to see it.

Q: Is there a way to solicit dash-cam video from haul trucks?

A: That's a good point, however, the idea is to get a photo from a distance from site to capture the yellow haze phenomenon.

- Also good to take pictures from other areas accessed by skidoo; make sure sun is behind

Q: Is the idea that we identify with a camera when/if there is a yellow haze and then do NO<sub>2</sub> sampling when yellow haze is present?

A: A picture would need to be taken daily, along with daily measurements so that a comparison can be done with the data on days where yellow haze is present, versus days that it is not present.

**Action Item: Send written draft recommendation to Board of method Diavik should use for sampling yellow haze, and method for confirming presence of yellow haze.**

## Item 9 – Air Quality Guideline Update

Imran Maqsood from ENR updates Board on the GNWT's Air Quality Guidelines

- Guidelines are in the review stages – still waiting for input from Ekati and Gahcho Kue Mines that requested an extension to comment. Comments by March 4.
- Comments received from advisory boards and Diavik.
- Next step is to review comments that were received and prepare "what we heard" document by the end of this month (March 2022).
- Final Guideline by end of April (2022).

## Item 10 – EA Amendment Update

Jeffrey updates the Board on the status of the EA Amendment Update.

- Amendment still has not been signed by all Parties. Some wanted to do a legal review.
- Next step is to send a letter to signatories saying that if there is no response it will be taken as not agreeing to sign.
- If there is no agreement, then the GNWT will stop pursuing this and follow the existing EA and transfer of authority agreement with Canada.
- Letter should be sent out to parties with the next month.
- NSMA only party to sign so far.

**Adjourned for the day – 4:00 pm**

**Wednesday, March 3, 2022**

**Meeting at 9:00 am at EMAB Boardroom and by Zoom and Teleconference**

Chair reviews agenda

**Item 11 – Conflict of Interest Policy**

ED drafted a list of topics of potential Diavik COI from recent Board agendas, as directed at the previous meeting. In general, COI policy would apply to Diavik except where an exemption is agreed.

- Legal counsel, Ed Gullberg online for any questions on the policy.
- Board to go through the list to decide whether Diavik should/should not be exempt from each item
- Noted that Diavik has agreed not to participate in budget requests or strategy for hearings or negotiations with Diavik.

Discussion:

Q: What does not participate mean?

A: Normal COI policy means no participation and no vote; the Board can request input if it chooses.

Q: So Diavik could stay in the meeting but not participate?

A: The best practice is to leave the meeting, but this is not a requirement.

- Diavik shouldn't be involved in budget discussions or drafting of the two-year budget.
- Whole list puts Diavik in a COI, however, Diavik has a lot of information and clarification to give the Board but shouldn't vote
  - Some communities have worked well with Diavik on TK monitoring that has enhanced community prospective.
  - Diavik shouldn't participate on discussion related to the water licence or amendments.
- Not allowing Diavik participation goes against Environmental Agreement where it says a member is not in COI for representing the general interests of the Party.
- Legal: if there is no specific financial component then there is no COI
- Decide on Diavik participation on technical reviews on a case-by-case basis.
- Where the Diavik member has a different view than other members it is not a COI
- Legal: It is possible to paint every item on the list as a COI. Cannot use hypothetical situations. Board members must look at the items and ask whether their primary function is financial for Diavik, or has financial implications for Diavik.
  - Discussing money for the budget could be a COI, while determining how much is spent on a technical review may not be a COI.
  - The conflict must relate strictly to the issue being discussed, not to hypothetical effects resulting from the decision.
  - Note that Diavik only has one vote on any issue

- If there is a pending request to Diavik for funds the Diavik member would be in conflict on that.
- When EMAB prepares its budget, it is just a proposal. EMAB will not know the full cost until the reports etc. are received.

Q: Are there any circumstances where any funds EMAB receives from Diavik would be returned?

A: After the two-year budget period, additional funds are either rolled over, or returned to Diavik.

EMAB has returned substantial amounts before.

- It appears the only things on the list that would have direct financial implications for Diavik are the draft budget and budget revisions.

**Action Item: prepare a motion summarizing discussion, in consultation with legal counsel, and send to Board for review and approval by email motion.**

### **Item 12 – MDMER Exemption for Northern Mines**

Bryanna Mathews from GNWT gives the Board an update on exemptions for Northern Mines from the MDMER regulations under the Fisheries Act.

- The GNWT has developed an equivalency agreement with ECCC, where MDMER limits would stand down, although they would still be the minimum standard.
- The GNWT and MVLWB requirements tend to be more stringent. The agreement reduces oversight and associated costs, is more efficient, and would also provide regulatory clarity for the mines.
- MDMER Regulations require Environmental Effects Monitoring; these are similar to AEMP's.
- Water licences will need some updating to bring equivalency into effect eg. effluent limits would be required (pH from 5 to 6), add biological monitoring, no dilution of effluent.
  - GNWT will send a request to the LWB's to update the licences.
- ECCC to produce a "What We Heard" document to be circulated within a few months.
- Bryanna to send over documents that provide more information.

Q: Does this stand down section 33 of the Fisheries Act on deleterious substances?

A: Before regulations applied, Diavik was operating under section 36 (3); this section doesn't apply anymore because they are operating under MDMER. LWB's can set lower limits than MDMER.

- After MDMER does not apply, section 36 (3) will apply again.

Comment period on equivalency agreement ended on March 1. GNWT will prepare a "what we heard" document, likely in a couple of months.

### **BREAK**

### **Unscheduled Item – Public Hearing Undertaking**

ED presents the redrafted wording of EMAB's response to the progressive reclamation public hearing Undertaking #7.

**Motion:** to approve the revised text for EMAB's Undertaking #7 response (for WLWB Public Hearing on Diavik's Water Licence Amendment – Progressive Reclamation application).

**Mover:** Violet Camsell-Blondin

**Seconder:** Jack Kaniak

Motion carried.

## **Item 16 – Round Table**

Charlie Catholique:

- New SAO arriving this week (haven't had one for almost two years).
- Leadership and council having conference calls, not many public meetings because of Covid-19.
- ENR conducting muskox and wolf surveys in April in Lutsel K'e.

Jack Kaniak:

- KIA office has been closed since early January.
- Report from TK Panel meeting from past summer (July 31 – August 8, 2021) is attached.
  - 19 participants focusing on fish, fish cutting for examinations, and water sampling.
  - Discussions on water, fish, wildlife and air quality.
  - Environmental conditions were warm and calm for first few days, with a lot of dust visible over Diavik. The rest of the days were windy and much clearer.
  - All fish caught were trout, and almost all were skinny with big heads. When cut open, stomachs were almost empty. Most had water bugs they had eaten. All were infested with cysts, worms, flukes in gills, lives etc.
  - A new parasite was noticed by fish biologist that is not typically seen in the north.
  - TK members remember water being very clear in earlier visits, however, during this trip the water was very dark and could only see the bottom at about a 5-foot depth or less. Lake bottom also appeared dark.
  - One moose spotted near camp, no songbirds or caribou spotted.
  - Old caribou migration routes overgrown from lack of use
  - Water and fish tasting was not done because of poor water quality and fish infestations.

Violet Camsell-Blondin:

- TG has been working with Diavik and Ekati to develop TK water quality criteria.
- TG planning to continue participating in Diavik's closure sessions and is looking forward to visiting the Mine.
- Looking to hire some more technical employees to our staff, and have hired a Uranium consultant, SRC.
- Proposing a trip with elders and leadership to Saskatchewan to learn more about site remediation
- TG would like a community update from EMAB, IEMA, and GMOB to share their involvement with the Mines at a proposed meeting in early April.

Femi Baiyewun:

- Concerns with Diavik's site wide closure criteria SW1 and SW2. Would like to see lab results before setting EQC's.

Adrian D'hont:

- Environmental department very busy.

## **Item 14 – TK Monitoring for Closure**

ED reminds the Board of previous discussions had at Board meetings on whether to recommend all communities come together to discuss TK monitoring.

- Diavik working on TK monitoring for closure with communities but has no update. Not ready to share which communities they have been to.
- KIA member provided info on TK Monitoring Program Development to KIA Lands Dept and ED, and let them know to deal directly with Diavik

Q: is Diavik planning to visit communities on the TK Monitoring program development?

A: Closure Plan update is happening today. Ongoing meetings on socioeconomic mitigations. Ongoing meeting with communities.

Noted that Diavik representative will introduce the Diavik Closure Team at the update this afternoon. Offer to EMAB to introduce Board and speak to update.

**Unscheduled Item: Executive Director Evaluation**

Board goes in camera

Board goes ex camera

Motion: to approve the Executive Director performance evaluation and performance increase of 5% as recommended by the Chair and Personnel Committee.

Moved: Jack Kaniak

Seconded: Ngeta Kabiri

Carried

**LUNCH**

**Item 15 – Diavik Closure Plan Information Session**

Item presented and recorded by Diavik.

**Meeting Adjourned**