

EMAB meeting, Yellowknife, May 18

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association
Floyd Adlem, Secretary Treasurer, Canada
Florence Catholique, vice Chair, Lutsel K'e Dene First Nation
Danielle DeFields, alternate, North Slave Metis Alliance
Steve Ellis, Government of the Northwest Territories, ENR
Erik Madsen, Diavik
Charlene Beanish, alternate, Government of Nunavut

Guests:

Petr Komers, MSES
Ed Jones, NSMA

Staff:

John McCullum, Executive Director
Michele LeTourneau, Communication Coordinator

Meeting started at 9:05

Opening comments by the Chair. EMAB welcomes two new members – Steve Ellis for the GNWT and Charlene Beanish for the Government of Nunavut.

Item 1: Agenda and Minutes

Agenda

Q: What is the situation with the Capacity Fund?

A: Chair says fund is currently still operational. This is the year to review the policy re: no proposal policy. That will take place at the next meeting. Reports are due when the Party wants money.

Minutes

Motion

Approve December minutes.

Moved: Floyd Adlem

Second: Florence Catholique

Carried

Motion

Approve February minutes.

Moved: Florence Catholique

Second: Floyd Adlem

Carried

Motion

Approve teleconference minutes of February 17, 2010 as amended.

Moved: Floyd Adlem

Second: Florence Catholique

Carried

Motion

Approve teleconference minutes of March 3, 2010.

Moved: Florence Catholique

Second: Floyd Adlem

Carried

Noted: Jan 22 email motion.

Email Resolution – January 22 '10

Approve SENES proposal for EA review

Motion: to approve the SENES proposal to review Party satisfaction with implementation of the Environmental Agreement for the Diavik Diamond Project, including the roles of EMAB and DDMI

Moved: Florence Catholique

Seconded: Gavin More

VOTING

	For	Against
Florence Catholique	X	
Eddie Erasmus	X	
Lawrence Goulet	X	

	_____	_____
Doug Crossley	X	
Sheryl Grieve	X	
Gavin More	X	
	_____	_____
Floyd Adlem	X	
(in person Jan 25)		
	_____	_____
Erik Madsen		
	_____	_____

Visitors arrive:

Karin Clark, WRRB

Colleen English, Diavik

Bruno Croft, ENR

Steve Matthews, ENR

Todd Slack, Yellowknives Dene First Nation

Item 2: Wildlife

Colleen English presents Diavik’s Wildlife Monitoring Program results for 2009.

1. Vegetation. Lost 0 .12 this year so up to 9.78 of loss. Not much has been added in infrastructure over the past year. Caribou habitat loss still under prediction of 2.96 units, sitting at 2.46.

Noted: Habitat Units are abstract. Other, actual values are in the report.

Q from Petr: Related to revegetation – what is your sense of success and failures in phase 2?

A: The revegetation didn't work that well in the stage 1 area. That’s the next question we’ll deal with – is looking at where we were successful. What material will we have access to at closure? And what will be the best bang for our buck. The draft report just came in yesterday. We will be sending it out to everybody, likely by the end of May.

Regarding the Zone of Influence – we cannot change the predictions without a discussion with INAC.

Q: So you will continue to test against that original prediction?

A: Yes.

Comment: Not enough is being done to study caribou on the ground. Don't see how a few individuals can do the job.

Q: What is EMAB supposed to re: the "changed" prediction? What are the new predictions?

A: Diavik is looking at the 14-28 km ZOI. Also need to do behavioural studies to see what's happening on the ground.

Noted: I'm seeing presentations on western science but I'm not seeing TK/IQ presentation.

Q: What is a Zone of Influence?

A: It is the effect of a fixed development on wildlife activity such as dispersion. The original prediction was based on work from Alaska.

We still get some caribou on island. We saw 27 caribou that hung out on site and 150 off to the south side of island – 200 metres away from road. We do still see caribou but not great numbers as there were in the past. This makes it hard to do behavioural observations – Diavik has to look further from the mine.

Noted: Diavik should present this information to harvesters for their interpretation/input

Q: How much money is not being used because of cancelling aerial surveys this year? It cost about 40,000 for surveys last year and requires 1 or 2 technicians.

Q: are behavioural observations systematic or ad hoc

A: In between – depends on caribou being present

Q: are there selection criteria?

A: yes

Q: what happens once there are enough samples

A: Diavik does an analytical report every 3 years; next one is March 2011

Q: are there observations outside the ZOI

A: yes

Q: Since there is no baseline, Diavik should use TK. Diavik could build some Traditional Knowledge into behaviour observations? TK observations are much more detailed than the four categories used for scientific behavioural observations

A: Not sure if we can. Diavik and Ekati use the same methods.

Q: how long are observers out for

A: usually for the day

Q: how does information about caribou behaviour near Ekati help us understand the effect of Diavik

Noted that Diavik did collect baseline data on caribou

People want to know why caribou aren't there and what would affect this. The lead female determines where the herd goes, so the question is how does the mine affect her. Harvesters need to understand this.

Suggested to study the ZOI in relation to habitat and habitat degradation. Noted that Diavik has a report on this.

This all relates to closure – that's why Diavik did the workshop at site with community people last summer.

- There were no mine-related caribou mortalities.
 - There was one group of 150 caribou seen one day on the island last year and a group of 27 at the airstrip for a day. One animal had to be escorted down from the Type 1 rockpile.
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BREAK

2. Grizzly bear. Direct loss of habitat was 0.12 in 2009. 8.67 is the prediction and 7.18 is the total so far. No plot surveys were done in 2009 due to significant safety concerns. On the existing plots we will be placing wood tripods wrapped with barbed wire and collecting hairs. Ekati is also doing this. At the end of June they will be set out, then checked every two weeks. The final check will be at six weeks. The same work is being done in the Kitikmeot. They are lured not baited – it's a scent lure with no reward. We will archive the hairsamples – they will not be analyzed at this time. We are just looking for presence or absence. Ekati is doing DNA analysis because they have a different prediction.

Zol: The prediction was 10 kms. There were 22 observations on site, although these could all be the same bear. One sighting off-site. On the aerial survey at less than 10kms – 1 sighting. At greater than 10 kms: 8 sightings.

No grizzly mortality in 2009.

During the duration of the production shutdown there was a family of three bears. Moved when everyone came back to site.

3. Wolverine – nothing new. Did not conduct track survey in December. Spring survey was cut short due to broken skidoo – saw 12 tracks.
4. Waste management – we saw improvement this year. Attractants 40% of the time at landfill, with wildlife seen 11% of time. At the waste transfer area they saw food waste 24% of the time and wildlife 52%.

Q: why more waste at landfill but less wildlife seen

A: landfill is on rockpile, so less accessible

Comment from Petr: It's one of the best stories in the report.

Q: What about having more ravens?

A: Birds were not on the radar at the beginning. With waste, we are very dependent on the individual. Diavik now has better thorough training. It's skewed in terms of data collection. Changes are also related to permanent and semi-permanent sources of food.

5. Raptor. 4 of 6 nests were occupied. 2 of 6 were productive. Results are similar to Daring Lake and similar to previous years.

No raptors nesting in open pits.

6. Waterfowl no loss of habitat and no measurable change in presence

The need for TK/IQ was reiterated.

Revisions to WMP:

- History
- Next steps: follow-up technical sessions
- Community workshops
- Return to communities for open meetings for community input with independent facilitator
- Finalize plan and attach to 2010 report
- Submit 2011 wildlife research permit in April

Noted: Diavik should also involve youth.

Signatories to the Environmental Agreement are the ultimate decision-makers regarding the WMP.

Q: what information will be presented to the communities

A: CE's idea is to take the current program along with any technical suggestions and ask for a response from the community – will be discussing this possible approach with the other mines tomorrow.

Q: Is ENR the regulator?

A: ENR issues the Wildlife Research Permit, There is no regulatory authority.

Q: Who is driving the process? Nothing has happened since the workshop in September

The WRRB makes recommendations but the WMP is a creature of the Environmental Agreement. DDMI should respond to the September workshop report.

Q: Regarding community engagement – will that involve all three mines?? That might complicate the whole issue?

A: each program belongs to an individual mine – from a regional perspective it would be good to coordinate

In first step, the TK specialists will be involved with this from the get-go. Diavik could contract expertise to do this.

Q: What's really on the table in terms of revisions? What's open? New questions to be tested? Same questions and new methods?

A: Depends on the programs.

A suggestion from the September workshop was to re-analyze the data.

It's important to keep the dialogue going – exchange of letters doesn't seem very effective

EMAB needs to protect wildlife. Data should lead to responses to changes. The EA is taken too lightly. What is Diavik doing in relation to adaptive management?

Lunch 12:10

Back at 1:30

Petr Komers presents the review of the WMP 2009 report.

Notes that it's time for the changes to happen. Monitoring has been taking place for over 10 years. They are either below or at the effects they predicted.

However, we did learn from monitoring that the disturbance to caribou seems to be bigger. The whole issue about what to do when an effect is larger than predicted needs to be discussed with Diavik and ENR. From a scientific view this means either the caribou are more sensitive than expected or the mitigation isn't working as well as expected. More detailed work could be done on this.

The main issue for the YKDFN and LKDFN is whether the effect of caribou avoiding the mine harms the caribou. Elders don't like to see animals on site.

Distribution is not as important as the effect of distribution on population and health. We need to know the difference between behaviour outside the Zone of Influence compared with behaviour inside – that's where you need Elders going out there and seeing. It is a clear entry point into WMP for Traditional Knowledge. We need to get a better understanding of pre-disturbance behaviour – TK could help us out there. Caribou behaviour study could be the centerpiece of traditional knowledge studies.

Noted that Diavik has collected behaviour data in 2009 but has not reported it.

Noted: Aboriginal people would prefer to see a health study. Not clear to them what the value of behavioural observations is. Monitoring needs to be done over a whole season. We need to monitor the health of the land – the current approach doesn't make sense.

The problem with studying a migratory species is that there are many things that affect them leading to a cumulative effect overall. This goes beyond Diavik – other mines, roads – health is more of a regional monitoring issue.

Agreed: Need to know what's going on with the abundance and condition of caribou. Behavioural measurements can serve that, but the scientific methods being used may not give enough information. Hunters can assess condition – eg. Work of Phil Liver (sp?). EMAB could consider a CIMP proposal, or even an all-Party proposal.

Side discussion on new GNWT rep. Does he speak for the GNWT.

Noted that the situation is not any different for the Canada rep.
EMAB as a group should direct the GNWT to provide funding.

Noted that funding from CIMP is determined by a working group.

Discussion on monitoring caribou health

- concern about caribou feet a few years back
- EMAB's mandate is restricted to Diavik
- Diavik commended for reporting larger ZOI
- GNWT samples caribou for health indicators
- health can be assessed visually during behavioural scans

Q: if more caribou are unhealthy near the mine than far away, does that show a mine effect

A: no – health is a cumulative effect

Regarding revisions to WMP: Petr made several requests for clarification from Diavik. Such as:
The data they are collecting now – will it test new predictions? Can effects be reversed?
Detailed behavioural observations are needed near the mine.

Diavik has already made some changes to the WMP: Grizzly study

Regional cumulative effects can't be assessed by EMAB. So what can EMAB do? Community people can be involved in behavioural studies. Noted that there are published, peer-reviewed methods – Diavik doesn't have to invent this.

Query about MSES recommendations. They are only about the current report, not the revisions.

The EA says the Parties must be involved in design of the monitoring programs – that hasn't happened.
We need to know why the caribou avoid the mine: dust, noise, roads

Noted that it might be confusing to communities if the three mines going into community workshops together regarding WMP revisions. EMAB can be involved in this.

Noted: Come to community meetings with a proposal, a “straw dog” instead of asking “what do you want.” so people have something to react to. The Parties want to help Diavik.

Petr thinks it would be useful for him to have a phone call with John Virgl and Colleen as they did last year to answer some questions. The revegetation studies may be an issue. He goes on to explain habitat units and states he doesn't find them very useful.

BREAK

Item 3: A21 Amendment

Kathy Racher (WLWB) presents.

Guests:

Gord Macdonald, Diavik (on speakerphone)

Jane Fitzgerald, Environment Canada

Jen Potten, INAC inspector

Explanation of the withdrawal of the amendment request and a shift to breaking up the project in two and requesting a modification for the rock barrier.

Gord: The technology: barge or self-propelled cutter is still to be determined.

On the plus side of the proposed way of mining the A21 pipe:

- Smaller footprint than a dyke with open pit mining
- No waste rock
- No explosives
- Less fuel and emissions

Down side:

Experimental/not proven

It has been proven that it can cut the material (kimberlite) – but dry and in sand. There is no specific application to kimberlite in a lake.

Diavik is requesting a modification to the water licence to accommodate building the rock barrier. But the question is: Is it a modification? That's not clear even from a legal perspective if less environmental impact is the question. It's a huge change.

Q: Why did Diavik withdraw the wet-water mining scenario from the application?

A: We didn't know which part of the licence needed to be amended for the mining method – it probably needs to go to environmental assessment. Wanted to break the project into two and build the rock ring under the existing licence

Diavik can submit a plan for the rock structure and have the licence modified but that would not guarantee that the mining plan for A21 would be approved.

The structure design will be submitted June 1. The WLWB would like to hear from all the parties on that. The rock management plan is out now. The rock is potentially acid generating. There is a big financial benefit and small environmental benefit to doing it this year.

Gord notes that the mining method was mentioned in the environmental assessment and supported by DIAND.

Noted that this is not mentioned anywhere in the comprehensive study report – where was it mentioned, and where did DIAND give support?

There was a report by CANCOR commissioned by DIAND – the CSR mentions that alternative methods should be investigated but no specifics.

Florence expects EMAB to ask that question: What is the purpose of the wall (rock barrier)? Who will come and explain all this to the community?

If the rock ring should go ahead using Type 3 rock, then fresh rock is the best way.

A draft construction environmental management plan has been submitted for review.

Another advantage of this method is that no dredging is required.

Item 4 – CIMP update

Marc Lange presents. (See presentation on other laptop.)

Q: have any caribou studies been proposed?

A: yes, but they only get funded if they have a cumulative effects element

Q: are there priorities for study

A: they haven't had any in the past, but may need to develop some

Q: can GNWT access funds?

A: yes, usually in partnership with a community.

Meeting ended at 4:30.

EMAB meeting, Yellowknife, May 19/10 – Day 2

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association
Floyd Adlem, Secretary Treasurer, Canada
Florence Catholique, vice Chair, Lutsel K'e Dene First Nation
Danielle DeFields, alternate, North Slave Metis Alliance
Steve Ellis, Government of the Northwest Territories, ENR
Erik Madsen, Diavik
Charlene Beanish, alternate, Government of Nunavut

Guests:

Jen Potten, INAC inspector
Craig Fazakas (consultant)
JaneFitzgerald, EC
Seth Bohnet, Diavik
Gord Macdonald, Diavik (by phone)
Ed Jones, North Slave Metis Alliance
Dave Fox, EC
Aileen Stevens, ENR

Staff:

John McCullum, Executive Director
Michele LeTourneau, Communication Coordinator

Meeting started at 9 am.

Item 5 – AEMP

Seth Bohnet presents Diavik's results for Aquatic Effects Monitoring Program for 2009.

- Completed 100% of samples
- Similar results to previous years
- Main effect is nutrient enrichment
 - Shows map indicating smaller affected area than last year

Q: why is chlorophyll a different from 2008?

A: water treatment plant is very effective at removing phosphorus

Seth continues

- Benthics also show increased nutrients
- Some metals show changes

Q: does Diavik test for dioxins and furans?

A: no

Noted that Ekati found levels of dioxins and furans in Kodiak Lake that were 10 times higher than a control lake.

Inspector notes that the new incinerators have not been installed due to engineering problems at site.

Q: does anyone sample beyond Lac de Gras

A: INAC used to sample on the Coppermine

Noted that Diavik is updating the dispersion model for air quality sampling and that EC would like to set up a meeting to discuss progress.

EC recommends that Diavik change its dust sampling collection period to the standard 30 day period rather than the current 120 day period they are using.

Q: why is there so little statistical analysis done on the dust sampling compared to other data? Suggested that there be a meeting to discuss revising the dust sampling.

A: revamping sampling should wait until the three-year AEMP review

Diavik's Recommendations

- No changes to study design
- Plume delineation study in 2010
- Sculpin survey in 2010
- DFO mercury study coming out mid-2010

Q: has TK been incorporated into AEMP

A: Diavik tried but didn't get any

Noted that Diavik offered funds during a short period over Christmas a number of years ago and has not done so since. Diavik recently started discussing providing funds to LKDFN.

Noted that the map of nutrient enrichment is misleading – extent of chlorophyll a is larger than 2008 and much greater than the extent of phosphorus. This could be because the phosphorus is being used in the production of chlorophyll a.

Noted that the air quality monitoring program discussion will have to be moved to June since DDMI wasn't able to get its consultant to the meeting, or provide a knowledgeable staff person.

Ammonia levels continue to be low. Diavik is still working on ways to break down ammonia in the North Inlet. – switching over to the new emulsion system for underground so less ammonia being produced. Pipeline from north inlet to process plant so ammonia water is being used in processing.

Break

Seepage from pkc... repairing liner. Dewatered that section of the pkc. The seepage from June 2009 was reported to parties.

Discussion on communication – seepage. EMAB asks to be informed when a seep occurs into Lac de Gras, not to have to wait until the report comes out many months later.

Diavik takes the position that they immediately communicate any seepage to the inspector. The inspection reports should include the reports of seepage. Neither Diavik nor the inspector will make special efforts to inform EMAB. Aboriginal Party members state that communities want to be informed. EMAB's role is to ensure the EA is implemented and Parties are informed. The issue is about transparency and communication.

Results from test waste rock piles should go into rock management plan. Flow doesn't happen until piles thaw out. More flow than expected. Need more detailed reporting of results.

Fish habitat compensation: studies are being done at the M-lakes – they are assessing dynamics of ecosystem. Last year they did baseline stream surveys, stream discharge, lake water levels, soils, benthics etc. They found 8 species of fish – trout, whitefish, burbot, sucker, grayling...

Community projects: water crossings on trail to Bloody Falls near Kugluktuk. Bridges were built but these are not part of Diavik's compensation. Seth will be assessing some possible projects there next week.

Schedule a meeting for the students to present their results for this year and last year. December or January will be best.

ACTION: ED to contact Colleen to determine best time for students to present.

Q: where will the fish tissue results from the 2009 fish palatability study be analyzed and reported, specifically for mercury?

Q: Problems with fish palatability study methods were noted by Golder – will they be changed?

A: Up to communities...

Not good study design – should be refined.

Noted that the M-lakes studies provide a good opportunity to involve Aboriginal people. The studies should include a TK component.

Q: what are DDMI's plans for the CBM camp?

A: looking for community input on projects.

Discussion on use of TK. DDMI wants EMAB to provide suggestions for TK monitoring. Noted it is DDMI's responsibility to address TK. DDMI should advance proposals with assistance from a TK consultant. DDMI is responsible for making progress on TK. EMAB put a lot of effort into providing an option. The Aboriginal Parties want this to happen. It's up to DDMI.

Lunch at 12:50

Started at 1:25

Item 5: AEMP con't

Craig from North/South presents their analysis of the 2009 AEMP report.

- Some analysis could be improved – include dust as a loading source
- Noted the dust decrease in 2009 was probably due to the summer shutdown
- DDMI should provide a full metals scan for dust – this would be included in the lab report
- DDMI needs to do better on getting sampling done in a short time period – the water temperature dropped six degrees during the middle summer sampling period
- Monitoring results should be reviewed as soon as possible after collection to identify any issues.
- Water sampling ended before the new diffuser came on line

Phosphorous measuring may be misleading? If phosphorous is being consumed by phytoplankton it may not be a good indicator of change to the lake. Phosphorus loadings in 2009 were a lot higher than in 2008 yet the extent of Lac de Gras affected decreased in the same period.

The fish palatability study should be reviewed.

Plankton data were reported but not analyzed – this could affect the weight of evidence report.

Zooplankton results were more than 20% different after being re-run. This is a big difference so should be checked.

The weight of evidence report was very good.

Generally North-South did not have any major concerns.

Transparency of results.

Due date for comments is in July 22.

ACTION: ED to prepare a draft letter commenting on the 2009 AEMP report using the N-S report and EMAB comments on use of TK for the next meeting. Check to confirm there is no disagreement between N-S comments and EMAB views.

Note on fish palatability study: Communities wanted it every year; the Fishing Authorization requires it to be done every five years.

Noted that the June meeting with DDMI could include a discussion of the CBM camps and the fish palatability study.

ITEM 6 – Inspector’s Report

The PKC leaks have been largely fixed and the pipeline from the North Inlet is working well. DDMI has built a sump in the dike so they can pump water out to avoid seepage – they are monitoring the seep area daily. DDMI is installing a geogrid membrane to strengthen the PKC dike. Inspector is satisfied with the PKC, Pond 5 and Pond 13.

Inspector provides a presentation on A21 proposal. She is concerned about a point of control. Water can move in and out anywhere along the rock ring and through groundwater. The silt curtain must be removed before freeze-up so there will be an unprotected period between when the curtain is gone and the lake freezes.

There is no information on the settling pattern of the A21 clays – so far A154 clays settle fast and A418 clays settle slower. We need a better idea of how the clays will settle out and DDMI hasn’t provided any information.

Inspector plans to explore dust control alternatives with DDMI.

Break

ACTION: ED to draft a letter requesting further clarification on changes to the Waste Rock Plan to allow use of Type 3 rock in underwater construction and run by Executive.

ITEM 7:

Colleen English presents on lichen.

- Original lichen study was done in 2006. The biggest misunderstanding about the study (between EMAB and Diavik) had to do with objectives and scope.
- EMAB’s comments were provided to the University of Alberta team that ran the study.
- The intent of the study was to find out whether lichen was a good bioindicator
- It was recommended that the study be done every three to five years – Diavik has decided on every five.
- ED to forward reference for modelling uptake of contaminants from lichen to DDMI

- Traditional Knowledge component (ie: caribou food) should be included. Which in turn can feed into WMP.
- Actual work would be done in August.

Q: does dust sampling tell us what's falling on the lichen

A: dust is done through the AEMP

AQMP:

- Emission information has been collected – DDMI is waiting on consultant to do the model.
- 6 months will be finished modelling
- 6 months to have a design

Motion:

Recommend to DDMI that the dispersion model be completed within six months and a draft AQMP be submitted to the Parties for review within a year, with the understanding that if this deadline is not met EMAB will ask the Minister to determine whether DDMI is in non-compliance with the Environmental Agreement.

Ask that DDMI consult with EC and ENR.

Moved: Floyd Adlem

Second: Danielle DeFields

Carried

Incinerator's dioxins and furans emissions should be included in air quality monitoring.

More on the incinerator Thursday afternoon. DDMI noted that there is an engineering problem with the pad for the incinerator – need to find out more from the engineer.

EMAB meeting May 20/10 – Day 3

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association

Floyd Adlem, Secretary Treasurer, Canada

Florence Catholique, vice Chair, Lutsel K'e Dene First Nation

Danielle DeFields, alternate, North Slave Metis Alliance

Erik Madsen, Diavik

Charlene Beanish, alternate, Government of Nunavut

Guests:

Ed Jones (NSMA)

Jen Potten, INAC

Kathy Racher, WLWB

Patty Ewaschuk, WLWB

Staff:

John McCullum, Executive Director (and minutes for the a.m.)

Item 8 – ICRP Update and Discussion

Patty Ewaschuk updates Board on current status

- there will be at least two more interim plans before the mine closes

Q – Is this an issue for the company? Lots of work required.

A – There are lots of uncertainties, and many other factors. Can't be sure. Notes that the WLWB rejected the 2006 plan which partly led to the current process. The WLWB has received 550 comments so far. The company has responded. The staff produced a 220 page comment table. Many of the reviewers disagreed with the plan. WLWB hired a closure expert – John Gaddsbay (sp?) WLWB met on draft ICRP yesterday – they did not approve the draft ICRP; it will be going back to DDMI for revision.

Q & A

7. When does it go back to the WLWB? Expect DDMI will have about 3 months, then the revised plan will go back to the public for review
8. Why not make it a living document? It is in a way – the experts will give their views of what is needed now and what can wait until later
9. Could the WLWB approve the concepts but not the whole plan? The WLWB can do a conditional approval

Jen – This one wasn't approved because it left too many questions

PE – WLWB will provide Reasons for Decision

KR – Notes that the 550 comments were distilled down; many reviewers raised the same or similar issues

PE – if there are any questions after the WLWB package comes out, please feel free to contact them

What about progressive reclamation? A number of reviewers asked why there wasn't more progressive reclamation. The company said it doesn't see many opportunities for it.

What about revegetation: expected that once the study was done this would start; why is that not happening? Many of the reviewers wanted to know where revegetation will be done.

Are the comments on the website? They have been compiled into a big table

Was Diavik present at the WLWB meeting? No. They have an opportunity to respond later.

KR – many of the comments resulted from a lack of clarity in the plan.

PE – many comments were similar

Brief discussion on the Ekati fishery court case in relation to Diavik. This was a very different situation that resulted from BHPB's agreement with DFO.

Question about who has authority to make the final decision on Diavik's ICRP and does it relate to the Environmental Agreement. It's done under the MVRMA.

Does the Northern Regulatory Improvement Initiative have any bearing? This is not clear – it's possible they will try to open the MVRMA.

Noted that water quality in the pits will be important because they connect to Lac de Gras

FC – requests WLWB do a terminology workshop on closure for translators to make sure they translate the same english words in the same way. WLWB has not done this, but they do prepare glossaries with translation and the MVLWB has a very big living glossary.

Item 9 – Adaptive Management Plan

KR – The WLWB has taken a long time to develop guidance on AdMPs. They want something that applies to all MVRMA boards and all decisions. They started with comments submitted on the Ekati and Diavik AdMPs. People want a way for companies to respond to changes; at what level of change is a response needed. Right now they are trying to translate what they have into plain language. They were supposed to meet this week, but now expect to meet next week.

Q: Will this be done by the time of the DDMI 3-year review? Yes. Keep in mind that just because a response framework isn't in place doesn't mean companies aren't responding to changes. The responses need to be more consistent and transparent. The WLWB has taken the lead on this, but it will go to the other boards as well.

Discussion on whether setting a standard results in never going beyond.

What is the scope of the response framework? It just applies to the AEMP results.

KR – the term adaptive management can be interpreted in many ways.

Noted that the word response is not always translated consistently.

KR – next step is to review the draft guidelines and get comments.

Q – When is Diavik's response framework expected to be in place? There will be a lot of discussion about significance – the level of change that requires a response. Unlikely the framework itself will be in place by the time of the 3-year review.

PE – Framework will have some responses built in.

Q – Does it deal with TK? Not really – TK would be an input.

Noted that WLWB needs to consider how TK holders will be involved in the decisions at the board/staff level. Need to find a way to bring the two knowledges together.

Discussion on values – action levels don't have to be numbers.

Q – How long will the review period be? Probably less than six months – may involve a workshop.

PE, KR and JP leave.

BREAK

Back to ICRP

Discussion on Rio Tinto letter to communities regarding community closure plan workshops.

EMAB could respond congratulating Diavik on the proposed approach.

Item 10 - Budget dispute update

Floyd provides update – document circulated.

There has been some progress on how budgets might be reviewed in future and how to resolve disputes about whether budget items should be included. No progress on the rest of the dispute.

EMAB has been pushing DIAND to initiate dispute resolution – mediation and/or binding arbitration. We have been told they are drafting a letter to do this but nothing has come out. Still not sure that EMAB will be able to participate in the dispute resolution, once it starts.

Q – What were Diavik's reasons for reducing the contribution? Explanation of Diavik's rationale regarding capacity funding and not agreeing that EMAB can reallocate funds.

BREAK

Item 12 – EA Review

Shelagh Montgomery from SENES presents an overview of their report.

Board members – Ekati agreement says Parties can't appoint employees.

EMAB should follow up on responses to recommendations – update the report card. This allows Parties to put pressure on.

ACTION ITEM: EMAB to request feedback from participants by June 7.
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- Suggested that ED review draft – it may be difficult for Parties to respond.
- Noted that the people who attended the workshop need to comment. Discussion on how the review process would work in Lutsel K'e.
- KIA rep will offer to go through the report with the KIA participants. He expects he will get some feedback. Noted that each Party has a different way of handling these things.

Discussion on EA work-planning letter:

- Would Parties be invited? Yes.
- Diavik wants to know how the communities want EMAB and DDMI to engage with them on a number of issues. This is part of Erik's new job. The Tlicho have told DDMI how they want to engage. DDMI wants to develop some protocols.

If we're going to bring in the Parties we will need more than the two hours proposed by DDMI. EMAB should request this. Suggested a full day may be needed. Erik offers to call Gord to clarify DDMI's intent.

Agreed that EMAB and DDMI may not have exactly the same intent, so this will be an exploratory meeting.

LUNCH

Item 11 – Board calendar

Motion:

Approve Board calendar as presented.

Moved: Floyd Adlem

Second: Erik Madsen

Carried

Item 13 – TK monitoring update

1) EMAB letter and DDMI response (all following up DDMI Dec '09 letter)

- Requested more info on community projects under discussion
- Requested constructive comments on EMAB proposal
- Disagreed with \$45K annual limit for LKDFN; requested rationale
- No response from DDMI

2) Status of proposals

- Possible proposal being developed by LKDFN based on previous monitoring
- No comments received from Aboriginal Parties on EMAB proposal. Potential funders have not been approached.
- DDMI has made a lot of statements about TK (see attached) but there continues to be little progress in implementing TK monitoring.

3) Possible recommendations regarding TK

Following up the EA Review – some areas to consider

- DDMI to compile all existing TK data regarding the Lac de Gras area
- DDMI to develop a program to support Aboriginal Parties to develop proposals for monitoring wildlife and aquatic effects using TK
 - This should include making expertise available to assist as requested
- DDMI to contract an independent expert to assist with development and implementation of a TK research and monitoring program, including closure planning.
- DDMI to provide comprehensive documentation of its use of TK in monitoring and other environmental plans and programs.

TK/IQ RECOMMENDATIONS from EA Review

- *The WKSS model establishes that a balanced approach to professional peer review and funding of best practices in both TK/IQ and scientific research and monitoring can be well supported by all parties in a multi-stakeholder process. EMAB should play a strong role in defining research and monitoring programs so that TK can be “fully considered” along with science. The funding structure for scientific and TK programs should be made transparent so that the Parties are fully informed about the relative support for science and TK, and the criteria for establishing “reasonableness” in proposed activities.*
- *A recognized specialist in TK research and monitoring should be contracted as an “independent expert” to review TK processes sponsored by DDMI and EMAB to date in relation to the broader literature on methodologies and best practices, and develop preliminary recommendations for next steps. One step in the review should be a workshop at least three days in length, in which EMAB perspectives on the framework for TK research and monitoring based on existing best practices can be collectively developed. This work can include a review of the Terms of Reference for TK Panels, a “decision-flow” structure for accommodating TK in environmental planning, and identification of TK research and monitoring priorities.*
- *The availability of TK/IQ baseline data for the area impacted by DDMI operations should be fully documented as a key resource in TK/IQ monitoring.*
- *A strategy for working with aboriginal communities and accommodating TK/IQ perspectives in closure planning and closure monitoring should be developed and implemented by DDMI as soon as possible. It is suggested that the starting point for this be a closure planning/reclamation workshop involving TK and scientific specialists, but taking TK/IQ perspectives as the starting point. The workshop would have dual objectives of educating all parties about reclamation and the contributions of TK/IQ, and developing a work plan for developing TK/IQ components of the closure/monitoring plan.*
- *Taking from a recent IEMA recommendation (2008/09 Annual Report), DDMI should carry out and make public a review of its use, since the EA came into effect, of TK/IQ in its environmental plans and programs. This review should document how the company has given full consideration to the incorporation of TK/IQ into environmental plans and programs, the successes and lessons*

learned from the TK/IQ studies, and what changes or improvements in adaptive management can be attributed to TK/IQ.

4) Terms of reference – EMAB TK Panel

- EMAB's existing TK Panel ToR include a standing TK Panel so the main focus needs to be on what the Panel will do.
- Relationship between EA review recommendations regarding TK and the TK Panel

Florence: LKDFN discussed funds to prepare a TK proposal with Gord and Colleen. LKDFN wanted funds to consult with elders and political folk. Diavik presented to the WLEC guidelines and conditions on how funding could be accessed. Because of that there was a difficulty re: Diavik's understanding of TK is different from what it means to Lutselk'e (LKDFN has done TK research before). LKDFN requested a meeting with EMAB and Diavik. The issue was about how to meet Diavik's needs and trying to accommodate a need that was deficient. Gord still stuck to his guidelines. There was no resolution at that point. The WLEC met with council and council instructed the WLEC to outline the TK it wants to do and access funding, regardless of the criteria and guidelines that were not appropriate. Expend up to \$8000 (approved by Diavik) to conduct an exploration process. LKDFN would like to see a full year caribou monitoring program.

Florence is to seek support from EMAB as a partner.

LKDFN sees a difficulty with EMAB's approach of involving all Aboriginal Parties in one proposal.

Lutselk'e will likely send a proposal to Diavik for EMAB to endorse.

LKDFN wants to get started right away. They need an expert writer – a person that can solicit the knowledge then can put it into a format that can be understood by western science . Stephen Ellis is an example – he had the interest in TK in light of his field and we were interested in him as the writer.

TK Panel can't just be TK holders, must involve people with academic background. Consider WKSS TK Panel as an example.

EMAB proposal – why it's not moving forward is a mystery. EMAB's role is to ensure the EA is implemented, to tell the Parties, especially Diavik: do your role. Where should EMAB put its efforts? Suggest asking the Parties.

EMAB's role is to facilitate and monitor. The Panel could assist the discussion between DDMI and the Aboriginal Parties.

Diavik says it is going forward with TK directly with the Aboriginal Parties. It will keep the board updated.

The EMAB proposal was designed so that each Aboriginal Party could take it and make it uniquely theirs, but allow for combining the data. It would give each party support to get funding from Diavik. The workshop was a model for developing a TK proposal.

A TK project has to be built from the ground up. It has to come from the people setting their priorities.

We need to have the exploratory meeting on EA workplanning with Diavik first and then think very carefully about what we want to say, formulate a clear recommendation at the next meeting or even the meeting after. We should set timelines and support community initiatives.

EA Workplanning meeting

June meeting with Diavik on EA workplanning has been moved from 15th to the board meeting dates – 22nd in the morning and we'll go until we're done.

ACTION: EMAB should send an email proposing the date and location to Diavik. EMAB should also encourage the Parties to attend.

Item 14 – Reports

Financial statement:

Motion:

Approve financial statement as presented.

Moved: Floyd Adlem

Q: Who is paying for Steve Ellis? Steve is great to have on the board but why?

A: It's the same situation as Floyd/Canada.

EMAB can't dictate who the Parties assign.

Second: Erik Madsen

Carried

Policy item

Motion

Approve new policy on review and approval of draft documents, as amended.

Moved: Erik Madsen

Second: Danielle DeFields

Carried with one abstention

Motion

Approve paying translators up to \$500/day.

Moved: Floyd Adlem

Second: Charlotte Beanish

Carried

Members report

Letter to minister of INAC re: the budget dispute but don't think it got out

Florence/LKDFN: Hand out.

Doug/KIA: Community update in Kugluktuk in March went well. There was a good turn-out. There is usually good participation in Kugluktuk.

Doug was involved with selection of candidates for EA review.

Floyd/Canada: In previous years he has set meetings with INAC, DFO and EC around EMAB issues. Ran into the issue where there was no interest and so he gave up but he will start visiting with each one of them and strike up that contact again.

Erik/Diavik: Diavik was awarded the 2009 national John T. Ryan Award for the overall safest mine. Our longest target was 80 days. We are now at 155.

Met with YK Dene and NSMA. Had a similar meeting with grand chief and four other chiefs of Tlicho.

These are changing times at Diavik – their new vision is to work toward closure and provide a post-closure legacy.

ACTION: Write a letter of appreciation re: Gord Macdonald as alternate for all his years of service to the EMAB board.
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Winter road presentation by Erik.

Motion:

Effective June 1, 2010 the executive director will receive a 5% increase in salary and a \$2000 performance bonus.

Moved: Floyd Adlem

Second: Erik Madsen

Carried

Next meeting June 23-24 with EA workplanning meeting on June 22.

Adjourn.

Moved: Floyd Adlem