

WORKING WITH THE PEOPLE FOR THE ENVIRONMENT



Minutes – November 29-30, 2022

Yellowknife Boardroom and by teleconference / Zoom

Present:

Charlie Catholique, *Chair*

Jack Kaniak, *Vice-Chair*

Violet Camsell-Blondin, *Secretary-Treasurer*

Marc Whitford, *Director*

Kelly Fischer, *Director*

Gord Macdonald, *Director* (by phone)

Lutselk'e Dene First Nation

Kitikmeot Inuit Association

Tlicho Government

North Slave Metis Alliance

GNWT

Diavik Diamond Mines

Absent:

Ryan Miller, Director

Yellowknives Dene First Nation

Staff:

John McCullum, *Executive Director*

(minutes)

Mohannad Elsalhy, *Environmental Specialist*

(minutes)

Environmental Monitoring Advisory Board

Environmental Monitoring Advisory Board

Guests:

Petter Jacobsen, *Tlicho Government* (Day 2 – in person)

Joe Heron, *GNWT Inspector* (Day 2 – in person)

Tuesday November 29, 2022

Meeting started at 9:00 am at EMAB Boardroom and by teleconference

Chair begins meeting with moment of silence.

Kelly Fischer, the new Board Member from GNWT-ENR, introduces herself and the Board welcomes her.

Item 1: Approval of Agenda

Chair reviews agenda.

Item 11: Update on WLWB/GNWT legal issues (tentative) cancelled.

Item 16: WMMP Addendum motion cancelled.

Motion: to approve agenda for November 29-30, 2022 meeting as amended

Moved: Marc Whitford

Seconded: Jack Kaniak

Motion carried

Item 2: Conflict of Interest



No conflicts declared

Item 3: Minutes of Previous Meeting

Board reviewed minutes of previous meeting.

Jack Kaniak made some comments on Fish Camp Results Workshop:

- The TG biologist who commented that the fish were skinny with big heads did not attend the Camp.
- There were also young fish caught and they also had skinny bodies.
- Shouldn't call Elders observations into question

Q: Does the EA allow Diavik to take control of the TK Panel?

A: No, the EA just refers to EMAB establishing the TK Panel.

- EMAB never discussed whether it agreed with Diavik managing the TK Panel.
- At the last Board meeting, the Board said that they might want to take back the Panel.

ED mentions that the highlighted items were added after the minutes were submitted to the Board.

- After submitting the minutes, Gord said that the two action items related to Kofi should not be considered as action items.
 - Violet says that they should be considered as action items and ED agrees.
 - These requests came from EMAB's consultant "Arcadis" and from ENR representative "Imran Maqsood".

Motion: to approve October 5-6, 2022 meeting minutes as presented:

Moved: Marc Whitford

Seconded: Violet Camsell-Blondin

Motion carried.

None against, no abstentions.

ED reviews action items.

Q: Why is the 2021 EAQMP still pending?

A: EMAB Staff were waiting for our Consultant "Arcadis" to comment on Diavik's responses to EMAB's recommendations.

Gord Macdonald joins the meeting.

ES reviews outstanding recommendations; none outstanding.

- ES reminds the Board about the last letters submitted to the Parties and their responses due date.

Item 4: Finance

ED reviews variance report to Nov'22.

ED presents three main issues:



Proposed budget revisions for November '22.

- Interest estimate increased
- Carry forward amount adjusted
- AEMP and WMP reviews adjusted to actual costs
- Progressive Reclamation amendment adjusted to actual cost (legal fees)
- Natural Drainage amendment added; cost based on Progressive Reclamation amendment
- Other Reviews and Reports budget adjusted to balance changes
- WMP review budget adjusted to actual cost
- AGM attendance budget adjusted to actual cost
- The rough estimate regarding the review of the FCRP is about \$111 K for this fiscal year.
 - Additional cost is required for the next year budget.
 - ED will try to minimize the \$111 K by checking review overlaps between EMAB's consultants.

Motion: to approve the revised budget as presented:

Moved: Marc Whitford

Seconded: Kelly Fischer

Motion carried.

None against, no abstentions

Personnel Committee

- To make recommendation regarding increasing salary range for Environmental Specialist position.

Motion: to approve increasing the salary range for the Environmental Specialist position to \$65K to \$80K as recommended by the Personnel Committee:

Moved: Marc Whitford

Seconded: Gord Macdonald

Motion carried.

None against, no abstentions

Break

Item 4 (cont.)

Contribution Repayable

Diavik representative says Diavik will provide the \$58K that EMAB requested be rolled over from 2020-21 to 2021-22. The cheque has been issued and will be delivered soon.

- Diavik response to management letter is acceptable as documentation of the deduction from Diavik's payment for 2022-23.
 - Diavik proposed that EMAB must return any contribution repayable within 30 days of approving the Financial Statement.
 - This does not leave room for discussions where there is disagreement over rollover of funds from the previous year.
 - ED recommends that EMAB should respond to Diavik's letter.

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- EMAB will plan to return contributions repayable within proposed timeframe while noting there may be exceptional circumstance where more time is required, such as disagreement over a requested rollover of funds. ED will draft a letter and circulate it to all Board members for their review.
- EMAB and Diavik are not on the same page on this, funds must always be available so that EMAB can plan and work properly.
- Diavik needs to be more receptive to EMAB proposals and not disagree without consideration.

Action Item: send letter responding to Diavik's November 15 letter -agreeing to return contributions repayable within timeframe, with some exceptions.

Item 5: Two-year Budget

ED presents item

- The FCRP will likely extend into the 2023-25 budget period.
- EMAB should include review of FCRP in the 2023-25 recommended budget.
- Diavik has said it will not provide supplemental funding for core activities.
- Recommendation for additional budget items for 2023-25:
 - Participation in Technical Session and additional FCRP 1.0 review - \$40K
 - Review of revised FCRP 1.1 if required - \$20K
 - Natural drainages water licence amendment review - \$10K
 - TK Fish Camp workshop
- Preliminary estimate is \$128K-\$146K, not including costs of scientific expert participation.
- ED thinks it is not well enough planned to include in the budget.
- two suggestions to the Board:
 - Sending a response to Diavik's comments on Nov 8'22, copied to the Parties.
 - Adding estimated costs for FCRP review and Natural Drainages Water Licence Amendment review to 2023-25 budget
 - Don't include the TK Fish Camp Workshop in the 2023-25 budget, but address Diavik's comment that if it will take place in the 2023-25 budget period it should be included in the budget (Diavik email of November 8).

Diavik Party rep provides some context:

- Diavik doesn't tell EMAB how to allocate funds.
- Diavik is concerned about lack of Party involvement in the budget and workplan
- Diavik doesn't think EMAB runs efficiently
- Diavik strongly thinks the budget should include review of the FCRP
- Additional fund under EA 4.8(f) is only for unforeseen conditions, so Diavik won't provide additional funding for FCRP review.
- Diavik accepts EMAB's recommended budget for 2023-25. Letter is coming.

Discussion:

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- Benchmarking of EMAB costs is not appropriate
- Comparison with GNWT Honorarium rates is not appropriate
- Diavik letter looks like a budget-cutting exercise
- Tone of Diavik letter is disrespectful of EMAB
- Diavik should be more respectful. Try to improve relationship with EMAB.
- Concern that Diavik member is also writing letter on behalf of Diavik. Possible conflict.
- Diavik thinks EMAB could get more value for money by being better run.
- ED suggests Board consider budget increases to cover review of FCRP
 - Diavik submitted the FCRP to the WLWB in October 2022, after EMAB submitted the recommended budget.
 - The WLWB will conduct a workshop on the FCRP roughly in the first week of April.
 - The deadline for the parties to send their reviews to the WLWB is probably the end of April.
- The estimated budget for the FCRP review until April 2023 is \$40 K.
- The estimated budget for the review of a revised FCRP in 2024 is \$20 K.
- There are two ways to add the extra \$60 K to the budget:
 - add them to the budget.
 - adjust the budget through re-allocation from other budget lines so total budget doesn't change.

Q: would a vote be required?

A: yes a vote would be needed to change the budget.

- EA provides for 60-day budget review period
- Diavik rep noted that if EMAB thinks the 2023-25 budget should be larger than EMAB would be disagreeing with Diavik, so goes to Minister. Diavik does not agree an increased budget is reasonable.
- Diavik should show some flexibility; don't be too hard line
- Diavik says it won't consider any additional funds

Discussion on increasing recommended budget tabled to tomorrow.

LUNCH

Item 6: Yellow Haze Monitoring Update

ES presents item

- DDMI decided to put yellow haze monitoring on hold until the GNWT Air Quality Guideline is finalized.
- The Final Air Quality Monitoring Guideline will be issued by ENR in February 2023.
- Diavik agreed to sample yellow haze - letter of May 16 2022.

Discussion:

- EMAB should get/take a picture of the yellow haze.

Q: How long will it take after the Guidelines are approved

A: it will depend on the Guidelines. It may take up to 6 months. So, Diavik may start sampling in winter 2023-24.

- Guidelines completion date keeps slipping; GNWT doesn't give a reason

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- A suggestion to send a letter to the ENR reminding them with the previous timelines and that they have been pushed back a number of times.
 - should Cc the Minister.

Action Item: EMAB should send a letter to ENR reminding them about slippage on the Guidelines timeline and asking them to finalize the Air Quality Guidelines soon. Also note that closure is coming soon and to ask ENR for a quick response.

Item 7: Discussion and update on Expression of Interest for TK Monitoring Plan

ED presents item

Diavik representative updated the Board on engagement with communities on EOI:

- Diavik has talked to 6 communities so far
- Expecting Expressions of Interest by Dec 16
- Diavik distributed EMAB's comments to the Parties – these were helpful for conveying information
- There were lots of questions and clarifications at the meetings.
 - Lots of comments about making sure all communities provide input and can participate in monitoring
- Most communities supported the EOI process, but very few felt they could lead the work.

Discussion:

- Noted Diavik came to TG. The EOI will be brought to the Senior Manager for decision on Dec 5. Might refer matter to leadership.
- NSMA very busy, not too enthusiastic
- KIA rep hasn't heard of any meetings on EOI
- LKDFN haven't met yet. Diavik rep thinks they met with WLEC.

Action Item: ED to draft a letter to Diavik regarding EMAB's comments/concerns regarding Diavik's answers to EMAB's questions on the EOI process for Board review and approval. Include a recommendation for Diavik to convene a meeting of the Parties to provide direction, and propose a date.

Item 8: TK Panel Issues

ED presents item

TK Fish Camp Results including the video

Discussion:

Q: Did any party receive a raw footage from Diavik?

A: Diavik only received one request from YKDFN while other parties did not ask about the raw footage.

Diavik rep notes that Diavik has made a decision on whether to proceed with the video. Diavik will contact the TK Panel first, then respond to EMAB.

Q: Did Diavik already communicate with the TK Panel?

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A: Not yet, Diavik will contact the TK Panel.

Workshop on Fish Camp Results

ED updates – item was tabled from October meeting

Discussion:

- Suggestion for EMAB to get quotes from facilitators before sending proposal costs to Diavik.
- Have facilitators propose design
- People need to see the full video from the Fish Camp

Q: What does Diavik mean by “the suggested facilitation approach does not include experience/science”?

A: Not sure, but one of the comments Diavik received was that the facilitators should provide some scientific information to the Panel so that the meetings can go smoothly.

Q: Why is Diavik saying the facilitation of the 2021 TK Fish Camp may have affected the conclusions?

A: Diavik heard that the facilitators should have provided more scientific information at the camp.

- Noted that there were fish biologists from DFO and Diavik at the camp.
- Diavik made this comment based on a comments from a TG fish biologist
- TG had to choose an Elder for the camp at the last minute due to COVID issues with regular Panel participants.
 - Elders are careful with food. They see signs that the fish aren't healthy so won't eat them.
 - TG fish biologist wasn't at the camp, but saw the video
 - TG Elder didn't want to sign off on the video
 - People didn't see these kinds of problems with fish at Lac de Gras in the past.
- Reduce number of participants to about 20.
- Comments from Diavik and fish biologist appear to be questioning Elders' statements. Elders don't lie, so why question them?
- What is the purpose of the workshop? Scientists should be listening to Elders and study the areas they are concerned about. Participant numbers of 30-35 would be good. There were about 20 people at the Fish Camp plus community representatives and scientists who should all participate.
- Changing the facilitators is creating problems to the communities and elders.
 - Diavik doesn't replace their aquatic consultants
- Support sending RFP for workshop
- Diavik should be more cooperative with EMAB.
- Diavik reminds Board that if the workshop is not done in 2022-23 it won't qualify for Diavik funding under EA 4.8(f) in 2023-24.
 - EMAB respectfully disagrees with that, it is kind of dismissive.
 - Diavik says that they raise it as a potential concern.
 - Suggest discussing this under two-year budget tomorrow.

Q: Does EMAB want the workshop to go ahead? The workshop could lead to debate between elders and experts, so might not be a good idea.

- No one got to see video – not enough information provided at the time. Need to be sure of a worthwhile outcome.

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- The workshop is not intended to challenge Panel observations of the fish. Focus should be on why the Panel members saw these effects and what was the cause – Diavik? Natural changes? Diavik agrees it would be good to have the workshop.
- Information must be presented well in plain language, so people can better understand.
- There is a great value to conduct the workshop, but it should be planned, organized and coordinated well. Need a good RFP.
- Should have a meeting of the Parties to discuss these issues as well as EOI, TK Panel, direction for EA after closure. This could provide direction to EMAB and Diavik.
- Diavik should convene the meeting of Parties, and EMAB would monitor.
- Can Diavik invite all parties to the meeting and convene them with the TK Monitoring Plan?
- Diavik rep notes that the Parties have been saying that EMAB should lead development of the TK Monitoring Plan.
- Diavik should attend the meeting to answer some relevant questions.

Q: Can the workshop be done this fiscal year?

A: Not sure, but EMAB will do its best to be done this fiscal year.

This sub-item is tabled to the next meeting.

BREAK

Item 8 – TK Panel (cont.)

Draft Letter on TK Panel Governance

- This item was tabled from August to October meeting, then to this meeting.
- Consider withdrawing letter
- EMAB did not authorize Diavik to convene TK panel.
- Board has authority to convene TK Panel, but does not have resources.
- Need direction from Parties – meeting of Parties.

Q: should Diavik be involved in meeting of Parties?

A: Yes

- Board has agreed to recommend a meeting of Parties in the EOI letter. Should we propose a date?

Does EMAB Want to Take Back the TK Panel

- This item was tabled from August to October meeting, then to this meeting.
- Diavik says that the TK Panel is on a pause.
- EMAB can set up a TK Panel at any time under Section 4.9 of the EA.
- EMAB does not have sufficient funds to convene a TK Panel meeting (approx. \$150K).
- If communities say that EMAB should do the TK Panel, then EMAB can decide on that.

TK Panel Reports Approval Process

This item is tabled to tomorrow.

Action Item: ED to draft a scope for the proposal for the workshop on the TK Fish Camp Results.



Item 9: Debrief on closure information sessions – planning for closure review is tabled for tomorrow.

meeting adjourned at 4:05 pm

Wednesday November 30, 2022

Chair opens meeting at 9 am (EMAB Boardroom and by teleconference)

Chair reviews the agenda. Several items tabled from yesterday to today:

- TK Panel Governance and EMAB Fish Camp recommendations will go to Item 11
- Debrief on Closure Information Sessions and FCRP review will go to Item 16
- Two-year budget revision will fit in at end of day

Item 10 – Water Licence Amendment Application for Natural Drainages

Gord Macdonald presents.

- Diavik will present a rationale for why EQC are not required.
- Draft water licence will remain as WLWB proposed in June with added information on EQC in Schedule 8.

Discussion

Q: licence needs to be re-done?

A: yes – difference of opinion between GNWT and WLWB/TG

Q: timeline?

A: WLWB will circulate application. Responses likely required by early January. Limiting factor is venues for technical session and hearing. Technical session planned for early April. Hearing will likely be 2-3 days.

- Concern that licence might be approved too late for Diavik to do any monitoring in 2023
- EMAB to consider pushing back on timing of tech session
- Any other venues?

Q: What are other alternatives Diavik can transfer to the WLWB to hold the session earlier?

A: Hotels and the Armed Forces mess hall.

- Note that review of information for WL application is the same as in relevant sections of FCRP. Good to coordinate reviews.
- The Minister has 45-90 days to approve and sign the Application.
 - WLWB may ask the Minister to shorten the timeline.
- Diavik wants to avoid perpetual water treatment.
- Diavik will ensure that the runoff is not harmful to the LdG.
- If some adverse impact occurs, then Diavik will change their approach.

Q: When will the water treatment plant be closed?

A: It will continue until 2029. Diavik will keep it until everything else is removed.

Item 8 – TK Panel Governance (cont.)

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Two sub-items were tabled from yesterday:

- Does EMAB want to take back the TK Panel?
- What is EMAB rationale for convening a TK Panel meeting?

Propose including recommendation to convene a meeting of the Parties in the letter to Diavik regarding the EOI.

Discussion:

- Consider discussing this at the next Board meeting in February so EMAB has more background and Diavik hears more from the communities.
- Prefer to have meeting sooner to hear from Affected communities. Suggestion to set a date and time.
- Noted that WLWB will cover one participant from each community to attend the Natural Drainages amendment technical session.
- EMAB needs direction on whether communities want EMAB to continue after the commercial phase of the project
 - TG will discuss with leadership

Q: Should EMAB organize the meeting?

A: In principle, it may be a good idea, but administratively EMAB does not have enough budget and resources.

- Proposed meeting topics: TK Monitoring, EOI, Environmental Agreement, closure, and water licence.

Q: Is the intent for Diavik to organize the meeting, or EMAB?

A: Diavik should organize the Meeting.

- EMAB to include recommendation for meeting of Parties in letter commenting on EOI process.
- Diavik can cooperate with EMAB in the Agenda.
- Invitations should also be done by Diavik.
- Suggestion to the Board Members to advise their leadership in this issue.

Diavik will do a proposal for this meeting by the end of January 2023.

TK Panel Reports Approval Process

- ED presents the concern: the last three reports were not posted in EMAB's website as they did not follow the usual verification process where the Panel reviews the final version of the report and approves it.
- The Panel reports were not considered final until this verification step took place.
- Two options regarding the three reports:
 - Don't post the reports to the EMAB website
 - Post the reports to the website with a disclaimer that they have not been verified by the Panel.

Discussion:

- General agreement that EMAB should post the reports with a disclaimer.

Q: can Diavik provide information on the verification process used on the three recent reports?

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A: Gord will check at his end then he will tell the Board, then the Board can choose one of the options.

- Hold off on posting reports to website until Diavik reports back.

BREAK

Item 12 – Discussion on EMAB role during / after closure

ED presents item.

- EMAB will continue reviewing reports after closure:
- At least from reporting perspective, there is need for EMAB to continue.

Discussion:

- EMAB has a role in approving final closure reports
- Regulators may not have decided exactly how this will be done
- Diavik will have responsibility to monitor PKC dam for the foreseeable future
- Security will be released, but with a holdback until proper performance is shown
- Does Inspector sign off?
- WLWB signs off on water licence; GNWT signs off on land leases
- Less focus on adaptive management after Operations cease
- EMAB activity will slow down starting in 2025; once PKC cover and rock pile cover are completed the only major activity will be demolition
- Parties may want to re-consider some conditions in the Environmental Agreement
 - Legislation has changed since the EA was developed
 - Might reduce or remove some security under EA
- EMAB should develop its own vision of the future
- EMAB plans to continue after closure; role will change

Action Item: Invite GNWT Lands, ENR and WLWB to address closure sign off at next meeting.

Item 9: Debrief on Closure Information Sessions and FCRP review

ED presents item

Discussion

- EMAB should support smaller communities in review of FCRP
- Does EMAB have enough resources to do review?
- ED notes consultants have provided scope and estimates just before meeting; need to review
 - Plan to complete reviews by February, then arrange to update communities on findings.
- Make sure scope includes identifying any significant issues
- Are FCRP reviews included in 2023-25 estimates?
- No. Need to decide whether to re-allocate funds or add in FCRP review.

Item 17 – PK to Pits Update



Gord updates Board

- A418 mining should be complete in December
- Remove any potential contaminants and salvageable equipment – 2-3 months
- Then, the Inspector will check.
- Then start depositing PK.

Item 13 – Inspector’s Report

Inspector reports on A418, inspection of exploration sites, PKC

- A418 will shut down in 3 weeks; pulling equipment requires planning – once pumps shut down the underground will fill up with water
- Concern noted about aerial magnetic surveys at Diavik in late August/September, observed by Boots on the Ground team. Helicopters flying low right over migrating caribou and causing disturbance.
 - Diavik plans to change the geophysics protocols so they won’t be flying when caribou could be in the area
- Inspector noted that Transport Canada sets the rules for how low the flights can be. Supposed to be 400 feet.
- A418 Inspections of underground will be supported by additional Inspection staff.
 - Diavik will provide weekly reports
 - Inspector will be on-site more often
 - Inspection report indicates whether Inspector is satisfied with closure
- Noted PKC spillway slumped a little, so Diavik is required to monitor and add armouring.
- The job of the Inspector is to ensure that Diavik is complying with the WLWB Licence Conditions/directions.

Q: was slumping caused by climate change? Has this happened anywhere else at Diavik?

A: Inspector hasn’t seen any other slumping. Engineers inspect this area often.

- Noted that Diavik started placing the cover on PKC Zone 1 on November 16.

Q: any concerns about having sufficient resources to keep on top of closure of A418 underground?

A: Inspector believes he can keep up. The mine is helpful.

- Request for Inspector to take a photo of yellow haze if he sees it.

LUNCH

Item 14 – Boots on the Ground presentation

Petter Jacobsen from TG makes presentation

- They have a new camp at an island in Lac du Sauvage
- Description of methods; boat around lakes until they see caribou then walk in to observe
- Have been seeing good conditions for caribou since 2019; windy, keeping bugs away; caribou are gaining fat early – mostly just grazing or bedded
- Not seeing very many calves
- Some eskers are melting; summer snow is disappearing – caribou use this to cool down
- New species in barrenlands: eagles, moose, lots of musk-ox
- Saw lots of caribou in the Ekati area in August 2022.

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- High proportion of young caribou
 - Lots of good food
 - No wolves or insects
 - Caribou trails are overgrown; caribou are blocked from using them by Ekati, particularly the Misery Rd
 - Trails are also overgrown on East Island
 - Lots of freshly used trails on the west side of Lac de Graz
 - Raised concern about low-flying helicopters disturbing caribou
 - Flights were stopped, but this is only because Elders were in the area and observed them disturbing caribou
 - Had a good dialogue with ENR and Diavik
 - Working with ENR to develop guidelines
 - Elders were too far away to observe specific caribou behavior during flights. Could see caribou moving away from the area
 - Lessons from BOTG for Diavik closure?
 - Rock piles are huge – visible from far away
 - Focus on revegetation
 - Use of walking and boating to observe the area
 - Hope to expand Ekati camp to allow work in winter
- Suggestion for EMAB to consider a recommendation on low-level flying. Elders felt there shouldn't be any flights when caribou are present.

Item 15: Revised WMMP Response

ES presents item

- Comments on Condition 1 of ENR approval – ZOI analysis methodology
- Noted Diavik submitted their methods to ENR on November 10
 - Not clear whether or how ENR intends to distribute for comment
- ENR seems slow to respond on WMMP submissions
- Need to clarify the review process with ENR
- Last section of letter on consultation with ENR on raptor nests affected by PK deposited to pits is unreasonable

Action Item: revise letter and send to Board for review and approval

Item 5: Two-year Budget (cont.)

Diavik member leaves due to potential conflict.

ED presents

Motion: to approve revised recommended budget for 2023-25

Moved: Marc Whitford

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Seconded: Kelly Fischer

Motion carried.

None against

No abstentions

Item 15: Board Member Update and Community Concerns (Roundtable)

Jack Kaniak

- Haven't been very involved since last meeting
- KIA Board seems to be in disarray: President resigned two days before AGM. Lands Manager left; replaced by Winter Kuliktana.

Marc Whitford

- Ongoing concerns with other mines
- NSMA needs to look beyond closure

Violet Camsell-Blondin

- Supports approach
- TG has a regulatory meeting on Friday; leadership meet December 7
- Will raise EMAB concerns and inform EMAB of TK decisions

Charlie Catholique

- Leadership is very busy so no EMAB update scheduled
- Still don't have a Wildlife manager
- Possible EMAB update after Christmas
- ED to send email to Board regarding EMAB Christmas closing.

Motion: *to adjourn*

Moved: Marc Whitford

Seconded: Kelly Fischer

Motion carried.

Closing Prayer – Charlie Catholique

Next meeting, February 7-8, 2023