

Environmental Monitoring Advisory Board

DRAFT Minutes – November 9-10, 2021

EMAB Boardroom and Zoom/teleconference, Yellowknife, NT

Present:

Charlie Catholique, *Chair*

Jack Kaniak, *Vice-Chair*

Violet Camsell-Blondin, *Secretary Treasurer*

Adrian D'hont, *Alternate (teleconference)*

Gord Macdonald, *Director (teleconference)*

Ngeta Kabiri, *Director (teleconference)*

Femi Baiyewun, *Director (teleconference)*

Łutselk'e Dene First Nation

Kitikmeot Inuit Association

Tłı̨chǫ 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):

Ed Gullberg (Day 1)

Sean Sinclair (Day 2)

Legal counsel

Diavik Diamond Mines

Tuesday, November 9, 2021	
Meeting at 1:00 p.m. at EMAB Boardroom and by teleconference	
Call to Order	
Meeting called to order at 1:05 by the Chair.	
Item 2 - Approval of Agenda	
Chair reviews agenda	
Motion: <i>to approve agenda for November 9-10'21 meeting as presented</i>	
Moved: Violet Camsell-Blondin	
Second: Adrian D'hont	
Motion carried	
Item 3 - Conflict of Interest	
No conflicts declared	

Item 4 – Minutes of Previous Meeting

Motion: *to approve July 7-8'21 meeting minutes as presented*

Moved: Ngeta Kabiri

Second: Jack Kaniak

Motion carried

Email motions added to record.

ED reviews Action Items

- Frame Lake Habitat Enhancement letter of support – LKDFN had this on their agenda but meeting was cancelled.
- Re-send letter to Parties requesting support for EMAB continuing after Diavik operations cease.

Jack noted that he attended the TK Panel meeting in August at the Diavik TK Camp.

No outstanding recommendations.

Item 5 - Finance

Variance Report and Budget Amendment

Proposing to:

- Increase AEMP review budget
- Increase to WMP review budget
- Decrease to CRP review budget
- Decrease salaries because of gap between transition of Environmental Specialists
- Increase insurance budget to match actual costs

Motion: *to approve revised budget.*

Moved: Charlie Catholique

Second: Jack Kaniak

Motion carried

New signing authority to Femi Baiyewun, who has replaced Sarah Gillis as Director representing YKDFN.

Motion: *to approve Femi Baiyewun as a signing authority for EMAB.*

Moved: Violet Camsell-Blondin

Second: Adrian D'Hont

Motion carried

Motion: *to destroy financial records prior to April 1, 2014 as per federal and territorial regulations.*

Moved: Adrian D'Hont

Second: Femi Baiyewun

Motion carried

Item 6 – EMAB Support for Extending Participant Funding

Northern Participant Funding Program

- Previously, the Northern Participant Funding Program was just for Environmental Assessment Hearings
- Discussion on whether to continue, and expand program to include Water Licence hearings

Noted that communities are always short on funds to prepare for water licence hearing and environmental assessments. Money could be used to hire a consultant.

Action Item: ED to send a letter to communities advising them that NPFP funding is available, and that CIRNAC is reviewing the program and that they may wish to send a letter of support to extend and expand the program.

Motion: *to approve sending letter to Northern Participant Funding Program to include Water Licence hearings within scope of funding, as amended.*

Mover: Jack Kaniak

Second: Adrian D’Hont

Motion carried

Break

Item 7 – Conflict of Interest Policy

Noted that EMAB can make good use of the funds repayable to Diavik under the 2020-21 audit. EMAB could provide an alternate budget to use the funds for site visits, Board training, community participation and Board professional development.

Legal counsel, Ed Gullberg joins meeting.

ED refreshes Board on options discussed at previous meeting:

1. No changes to existing policy.
 2. Prohibit employer conflicts.
 3. Prohibit employer conflicts but allow participation in meeting with Board consent.
 4. Exempt employer conflicts where employer is a Party to the EA.
- Ed Gullberg recommends Option 3. Believes it is a good middle ground that allows the Diavik representative to participate in Board meetings with Board consent. Diavik representative cannot vote on items but is allowed to share information.

Discussion:

- Bias, or apprehension of bias is also a concern
 - COI is a type of bias, generally related to a financial interest
 - EA was established to include Diavik in discussions. Option 3 would exclude Diavik.
- Q: would discussion of a monitoring program be a conflict of interest eg. Four rounds of monitoring per year vs. three
- A: reviewing the status of a report would not be a conflict

- Any time Diavik says something a Board member can say they have a conflict. Prefer to exempt Diavik from COI policy
- EMAB does not want to be seen as giving Diavik a special exemption to EMAB's COI policy.
- Either choose Option 4 or list items Diavik can't be involved in discussing.
- Legal counsel prefers to identify the conflict, then specify any specific exemptions.
- Legal counsel recommends the ED review past meeting agendas to identify items where a COI may have occurred, and compile a list to send to the Board members for review. Try to reach consensus on items Diavik can or can't participate in.
- Diavik member gave some examples where Diavik member did not participate due to potential conflict: budget requests, strategy for hearings/negotiations...
- Suggested that staff, Diavik and lawyer discuss further and come back to Board.

Action Item: ED to review several past agendas and identify items that might be a conflict, or might not. Send these to the Board for review.

Item 5 – Finance Continued

Review of Business Rules

ED presents item from kit.

- Issue raised about whether or not funds could be rolled over from one fiscal period to the next. Would like clarification of some elements of the business rules that seem to be misinterpreted by Diavik.
- Rules do not do a good job of specifying situations where reports and plan submissions are delayed or occur after two-year budget is submitted

Diavik representative would be happy to consider EMAB clarifications of the Business Rules

Q: how much time and effort is spent on requests for funding roll-overs.

A: not a great deal of time. Suggested that EMAB propose wording clarifications with decision on return of repayable contribution based on the clarified Business Rules.

Noted that governments allow carry-over of funds in contribution agreements where the situation is beyond the recipient's control. Important that EMAB have sufficient funds to monitor Diavik.

Action Item: ED to send proposed Business Rules wording clarifications to Diavik.

Diavik representative raises clause 4.8(f) where EMAB can apply to Diavik for additional funds. He thinks EMAB should follow the accountant's recommendation to return funds, in most recent audit.

Q: how quickly could Diavik turn around a funding request under 4.8(f)? Does Diavik representative have authority to make that decision?

A: Diavik representative has the authority and can turn around a request within 24 hours.

Q: Has there ever been a technical review that EMAB couldn't pursue because they didn't have enough funds?

A: No, although there have been some technical reviews where an in-depth review was not done as a result of funding.

Noted that this is positive, and it is good to work in partnership.

Concern expressed about perception that EMAB is trying to kick Diavik off the Board. This is not the case.

Adjourned for the day

Wednesday, November 10, 2021

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

Chair opens meeting at 9:10 and reviews agenda

A question was asked about continuing the meeting entirely by Zoom since the members with poor broadband access are all in Yellowknife. Kabiri noted that he is able to participate in afternoon Zoom calls, but not mornings.

Item 8 – Status/Timeline of Closure Plan Submission

Chair asks about a site visit (last Board visit was June 2019 due to the Covid-19 Pandemic)
Diavik: Heading towards April 2022 to getting “back to normal” for site visits. He will confirm.

Gord Macdonald presents status/timeline of Closure Plan Submissions (see presentation in meeting package)

- PKC Closure Design in January 2022
- 2021 Reclamation Completion Report in March 2022
- All other submissions scheduled for October 2022 will be submitted with the Final Closure and Reclamation Plan
- 2020 reclamation completion report has been submitted to the WLWB and should be circulated within a week

Discussion

Q: What has changed in the closure concept?

A: Not a lot has changed from the original EA – things like filling the pit were all part of the plan in the original EA. More detail has been provided through updated closure plans. PKC has changed; original plan was to make a large dome of rock over the PK, but Diavik is now evaluating a wet cover that would be a pond in the middle of the facility. Most changes have been associated with the PKCF.

Q: What percent of the land mass has been altered?

A: The whole mine footprint has changed to some degree. The least change would be within the roads and laydown yards. 100% of the footprint will be changed during closure.

Q: What percentage of the PKC will be wet cover?

A: The wet cover is what is currently approved, but expect to be changing that in the Final CRP coming in October 2022.

Diavik plans to engage with communities and EMAB on the final CRP; just getting started on this. There will be lots of material to go over. He suggests a standing closure item for next few EMAB meetings where Diavik will go over various aspects with Board.

Q: Effectiveness of reclamation to date?

A: Hard to say. Some aspects are straightforward such as removing the acid from the water treatment plant. Others, like the waste rock pile, will take a long time before the effectiveness can be evaluated.

Q: What seed is being used for revegetation?

A: Mixed grass seed – a blend of about 8-10 local grasses.

Discussion on Presentations to EMAB

Gord suggests making a different closure presentation at each of the next four meetings leading up to submission of Final CRP

- Suggested that EMAB inform technical consultants so they can attend the presentations
- Diavik to provide a schedule of presentations
- It would be helpful to include a presentation on performance of closure to date
- Diavik will try to arrange for the Board to go to the site. In addition they will present Board with aerial site footage taken by drone.

Diavik expects the NWRSA cover will be complete by end of 2022. Right now about 80% of till has been placed, and about 20% or rock cover. They have removed the acid from the NIWTP. Next phase is Zone 1 of the PKCF.

Action Item: Diavik to provide a schedule of closure presentations to EMAB.

Action Item: EMAB to inform closure consultants about presentations so they can attend.

Item 9 – Proposed Water Licence Amendment – Closure

Diavik presentation on Water Licence Amendment Application (see presentation in meeting kit)

- Diavik views the Water Licence Amendment as administrative
 - Amendments will provide the ability to conduct certain progressive reclamation activities
- Filling pits with water
- Decommissioning ponds
 - Three primary options:
 - Use current Effluent Quality Criteria (EQC) for closure runoff (requires further licence amendment)
 - Develop EQC for closure runoff that would be approved/updated through reviews of closure & reclamation plans (no further amendment necessary)
 - Develop pond decommissioning approval process with closure criteria and transition long term management to the AEMP and response framework (no further amendment necessary)
- Water quality criteria would be developed later, likely in 2022. No decommissioning until the criteria are approved.

Discussion:

Q: were quantities of water for filling pits included in the CRP?

A: Yes. Just not included in water licence.

Diavik representative can meet offline with Board members to provide more information.

Q: When would Diavik plan to decommission first pond?

A: Open water season of 2022 – Diavik would like to monitor the water quality from Pond 7 into Lac de Gras. They were unable to get permissions for 2021 due to licence wording. The licence allows

most progressive reclamation activities; after the amendment the WLWB will have the authority to approve all closure activities.

Q: Is there a timeline for closure, with information and a schedule of decommissioning ponds?

A: They plan to start with Pond 7. No schedule for the rest of the ponds.

Q: Before the Pond is breached, will Diavik be determining the water quality?

A: Diavik will propose water quality criteria that must be met before breaching can occur.

ED presents schedule of the Work Plan for the Water Licence Amendment Application and summarized initial comments and recommendations on the application to the Board. Chair and staff will attend Technical Session December 8-10. Noted that Slater Environmental is doing a review that is expected late Friday or early Monday. These comments will be incorporated into draft Recommendations Table and circulated to Board for comment and approval.

Noted that there are a few major reviews going on right now. Small communities don't have the resources to participate effectively.

Break

Item 10 – PKC Management and Design Approach

Diavik updates Board on PK Management Plan Version 6.0.

- New approach of sloping PK towards spillway (leading to Pond 3) – after closure, water will flow from pond to spillway. Very shallow slope; similar to PK beaches that used to slope towards central pond.
- Fine PK deposition expected to end next year when PK starts being deposited in A418 pit.
- Zone 1 PKC cover would begin to be placed in 2022. Zone 1 can support a cover; they have already pushed roads out onto parts of the fine PK beaches.

Discussion:

Q: Are there any incidents that would result in poor water quality?

A: Everything is still contained within a completely closed, managed system of collection ponds while sloping work is done.

Q: are dam structures reliable?

A: they are engineered structures approved by the CDA and WLWB.

Noted that the purpose of the cover is to keep wildlife away from the PK.

Item 12 – TK Monitoring for Closure

ED introduces item.

Note action items for Diavik to update on status of discussions with communities on TK Monitoring, and Board members to go back to leadership and ask how they want to handle engagement with TK monitoring ie. should there be a joint meeting of all communities to discuss TK Monitoring.

Discussion:

- Most of Diavik's discussions with communities have been on the socioeconomics of closure. Nothing on TK monitoring except input from TK Panel.
- Possibility of multi-community engagement sessions (with Covid-19 in mind).
- Diavik's approach has been to work with each community. They find larger group engagement becomes less effective.
- TG has not made progress on the TK Monitoring Plan due to COVID restricting in-person meetings.
 - Would like to bring a group of community members together, beyond the TK Panel members. Agrees with bringing all communities together.
- It would be good to bring people from all communities together to discuss TK Monitoring
- What would EMAB's role be?
 - EMAB would attend workshop
- Is EMAB recommending this large workshop in addition to individual community engagement?
- If multi-community engagement session is preferred, it should be recommended by each community, not EMAB.

Action Item: ED to draft a letter to Aboriginal Parties on the idea of a multi-community engagement and forward it to the Board for approval.

Noted that consensus is best. If the community engagements all come up with the same recommendations there may not be a need to bring all groups together.

Also noted that EMAB members can bring this idea back to their communities for discussion.

Additional Item – Wildlife Management and Monitoring Plan Follow-up Recommendations

ES presents item

Proposing follow-up recommendations to ENR on three items, based on Diavik's responses to comments.

- Grizzly hair snagging should be done frequently enough to show whether population is stable.
- Wolverine hair snagging should also be done often enough to show population is stable – every 4 to 6 years
- Diavik should develop a deterrence plan for waterfowl in pits where PK is being deposited.

A motion was proposed to send the recommendation to ENR but was not finalized.

Action Item: follow up with email motion to Board to approve follow-up WMMP recommendations.

Meeting Ended at 12:00 pm

Following an emergency situation the Chair adjourned the meeting.

Tentative dates for next meeting are January 11-12, 2022