

EMAB meeting, September 22-24, Yellowknife

September 22, 2010

Present:

Doug Crossley, Chair, Kitikmeot Inuit Association
Ted Blondin, Vice Chair, Tlicho Government
Floyd Adlem, Secretary Treasurer, Canada
Lawrence Goulet, Yellowknives Dene First Nation
Danielle DeFields, alternate, North Slave Metis Alliance
Steve Ellis, Government of the Northwest Territories
Charlene Beanish, alternate, Government of Nunavut

Guest:

Lindsey Cymbalisky

Staff:

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

Meeting started at 11:05.

Item 1: Approval of Agenda and Minutes

Steve requests starting the discussion on governance today because of his availability.

Motion:

Approval of agenda.

Moved: Ted Blondin

Second: Steve Ellis

Carried

Minutes will be approved after mediation update .

Item 2 - Mediation update/discussion

Noted that EMAB has tried to deal with the funding dispute through informal ways. A number of the Aboriginal Parties didn't want to get formally involved due to costs. EMAB has worked hard to find ways to accommodate DDMI. Independence has been a big issue for EMAB.

Everyone present at the mediation, including EMAB, who is a party to the mediation, signed a confidentiality agreement, therefore the meeting needs to go in camera once we discuss the actual meeting.

Motion:
That the meeting go in camera.
Moved: Ted Blondin
Second: Floyd Adlem
Carried

Lunch at 12:00
Back at 1:30

Motion:
That the meeting go ex camera.
Moved: Floyd Adlem
Second: Ted Blondin
Carried

The board discussed mediation. The decision on Diavik's offers will be made on Friday.

Discussion on minutes and the way they are taken. This can be a topic at the board governance workshop.

Item 1 – Approval of Agenda and Minutes (con't)

Motion:
Approve minutes of June 23-24, 2010.
Moved: Ted Blondin
Second: Steve Ellis

Discussion on voting on motions if a member has not read a report. For example: If someone hasn't read should they abstain? Concluded that that's a probably a governance issue, a role and responsibility issue.

Noted that there is nothing on this in rules of order. Members can vote, period

Carried

Motion:
Approve minutes of August 23-25, 2010, with change.
Moved: Lawrence Goulet
Second: Charlene Beanish

Change: On page two add "River"

Carried

Item 3 – Two-year Budget Proposal

Should some thought be put to designating other programs?

Consider making a note that we might revise the budget submission after arbitration decision since revenue availability will change.

Discussion

- Noted that the EA allows EMAB to carry over program funding. Consider designating more programs.
- Question about SOE reporting – this is about EMAB’s report cards and how to report our assessment to communities. TK could be used in WMP reporting.
- Board should review order of priority of various activities and ensure it still reflects their intent. Question about workshop on integration of aquatic information. This was intended to look at all types of aquatic information, including TK, and discuss how they fit together.

Agreed that order of priorities are the same as before: TK, wildlife cumulative effects, air quality, governance, SOE. Board can add issues as it feels necessary.

Discussion

- Wildlife cumulative effects shouldn’t be an EMAB initiative
 - Other sources should be involved in this both for input/buy-in and for funds
 - If we do this we need to be careful and focused
 - If EMAB doesn’t do this it won’t be done History of correspondence; delay of workshop while ENR set up its initiative
 - Would need more detail to flesh out what this workshop on Cumulative Effects is all about. Proposal should address expected outcomes.
 - Maybe this is better dealt with through community updates – a balanced approach
 - The RA’s are also involved – we need to pressure them as well
- Remove “contingency” line

Traditional Knowledge is definitely the #1 priority.

Motion:

Approve two-year budget proposal, with changes.

Moved: Floyd Adlem

Second: Steve Ellis

Carried

Item 4 – EA Review Status

We need to hear back from Tlicho, Nunavut, Yellowknives, and Lutselk'e.

Information in binder recapping what was decided at last meeting.

Noted that SENES is to be contacted to include a table of responses in the report – follow up on this action item.

Q: Should minutes go to the Parties?

Action: Send final minutes and action items to Parties and members. Add minutes and action items to website. (See Deh Cho website as example.)

Item 14 – Governance discussion

Action: Inform Parties that all new board members have signed a conflict of interest agreement.

Action: Strategic Plan and Communication Plan should be looked at by new members and they should be on the next agenda.

Review and update communications plan – eg. Facebook page

Discussion on what might go into a governance workshop:

- Noted some organisations have a management plan.
- Roles and responsibilities of board members re: Parties.
- A discussion on representing Parties and being arm's length. Representing Parties hampers us in the achievement of our mandate.
- Should we be doing TK or overseeing Diavik doing TK? It's Diavik's job and we need to ensure that it is effective, provides results and that the results are tangible and meaningful.

Our TK panel should be assessing Diavik's TK, not telling them how to do it The Panel could provide advice and do peer reviews of research. Not sure if that's the way we're going. EMAB shouldn't be paying for TK research. Rationale provided for EMAB development of TK proposal – no movement from DDMI, so EMAB felt we needed to provide something to get things going, or at least get some feedback on. Since the EA was being negotiated it has always been clear that TK should be done by communities but paid for by Diavik.

If members are not independent then there would be a lot of division – the only way to make progress is for members to be independent. EMAB was to be in an oversight role.

Further discussion on TK

- EMAB's mandate in relation to TK – 4.2(h) is quite broad.
- Suggested that a single TK Panel could be set up for all mines.
- Need to clearly set out role of panel
- Panel should develop guidelines for TK monitoring
- Companies want to incorporate TK

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 Steve Ellis, Government of the Northwest Territories
 Charlene Beanish, alternate, Government of Nunavut
 Colleen English, DDMI
 Sheryl Grieve, North Slave Metis Alliance

Guests:

Brenda Parlee, U. of Alberta
 Alice Legat, Gagos Social Analysts

Staff:

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

Item 5 – Traditional Knowledge in monitoring

Ted provided some background on the WKSS approach: good studies, successful approach, intended for baseline monitoring. The study had a 5-year lifespan. It would be good to use the WKSS approaches where possible. WMP workshop in October provides a way to move this forward – we should try to have TK monitoring guidelines in place by then. TK may be a way to address some of the limitations of scientific monitoring.

1) Aboriginal Party Proposals

Alice Legat on behalf of Tlicho Government

- Provides background on work with WRRB to design a TK monitoring program for the environment
- This program has been approved by the Chiefs; TG will start fundraising immediately
- They will start by monitoring caribou behaviour and migration routes at water crossings around the mine and up the Coppermine River
 - Caribou use of area
 - Habitat
- This approach allows comparison with other areas
- Specific locations haven't been chosen yet, but will go with the general locations developed at the EMAB TK workshop
 - They will look at harvest levels, caribou health, pregnancy rates, foraging etc.
 - TG would like to work with other groups
- Proposing a number of camps working in all 4 seasons.

Brenda Parlee on behalf of Lutsel K'e Dene First Nation

- Met with WLEC and Chief

- Might set up a pilot study
- Identify caribou crossings within the ZOI on the SE side of Lac de Gras
- Take a landscape ecology approach
 - How do hunters “read” landscape
 - Look for indicators of how caribou are using the sites
- U. of Alberta has access to some funding sources
 - NSERC, which likes partnership funding
 - NSERC needs a scientific hypothesis
 - Could use grad students to assist communities.
 - Could be an opportunity to integrate science and TK
- EA commits Diavik to fund TK studies but this hasn’t happened yet
- Each community can develop its own approach, hopefully with some overall coordination
- Suggests identifying sites within the ZOI along a transect
 - Caribou use
 - Cultural use
 - Crossings are part of a cultural or “kinship” network
 - Communities have always monitored so the project builds on those existing practices

A. Discussion on TK Panel

- Panel would not do the TK work
- Panel might provide a peer review role
- One panel could consider proposals from Snap Lake and Ekati as well as Diavik
- SLEMA’s TK Panel does research – they are on the land right now
 - TK Panel can also review science studies from a TK perspective
- Possibility of a panel for Diavik effects and a panel for cumulative effects
 - Would likely be same people on TK Panels for all mines so it might be a single panel in practice
 - Scope would be different – costs covered differently
- Noted that all three mines are considering revisions to the WMP – there is movement towards combined approaches or coordination. This is especially true for cumulative effects.
- Need to ensure scope for panel doesn’t get too broad
- Panel could provide peer review
- It would be useful if a panel for all three mines could agree on an approach – the WMP revision process might fit here
- Elders are helpful with peer review but tend to be more positive and less critical

EMAB is also looking at the closure plan – need to find a way to reconcile elders input

B. Discussion on who is driving the process: communities, EMAB, Panel, EA?

- An overall approach is needed that is broader than DDMI
- EMAB’s TK proposal was useful, but too much a “Cadillac” version
- Tlicho proposal will be ready in a couple of weeks
- Is the Panel needed to support the proposals? Answer: no.
- If a proposal comes now the Panel won’t be in place – we don’t want to delay monitoring by waiting for a panel

Q: how will it be decided how TK monitoring information is incorporated into Diavik's monitoring programs?

A: it would be good to present science and TK together

C. Discussion on EMAB proposal

- noted that Diavik has not said they won't fund EMAB's TK proposal. Have any other possible funders been approached?
- Diavik said they would not fund the proposal in its current form.
- No funders have been approached. EMAB was looking for feedback from Aboriginal Parties before putting proposal to funders.
- It was useful that EMAB coordinated development of the proposal
- The Tlicho proposal is a lot like the EMAB proposal
- Noted that EMAB would not reject community based proposals
- Concern that if individual Parties submit proposal Diavik may say they are duplicating.
- Q: what follow up should be done with the EMAB proposal
- EMAB has developed an umbrella proposal – each community can refine the method and do monitoring its own way
- There is a need for a coordinated approach
- Lack of comment on EMAB proposal may be the need to further explore what each Aboriginal Party wants to do
- All Aboriginal Parties in Kugluktuk supported the proposal; the approach is very similar among all of them. Lack of response may have been a capacity issue.
- TK needs to be practiced in order for it to be passed on
- The panel could help the Parties develop proposals
- Parties could suggest guidelines for TK monitoring – maybe a writing workshop to prepare the panel's terms of reference
 - Mines are hoping that will happen at the WMP workshop in October
- EMAB should support Aboriginal Parties to develop their own proposals while moving the panel approach forward
- There seem to be two parallel paths – submission of proposals and development of panel. No need for development of panel to delay proposals.
- Noted review of proposals could be done through the Aurora Research Institute process.

D. Discussion on Tlicho request for funds to support review of proposals

- Noted that NSMA had already requested information on how to apply
- Additional information is needed for Tlicho request – a budget showing how funds will be spent and some idea of the expected outcomes
- Tlicho will provide more details later today

BREAK

2) TK monitoring funding mechanisms

- If TK funds were more centralized it might be possible for NSERC to contribute
- Brenda needs a sense of whether EMAB and Diavik support this approach before preparing a proposal

- NSERC generally funds about 50-75% of the proposals it receives and could match 3:1 for funds
- U. of A. likes to involve corporations in research
- The proposal could evolve over time to involve other groups – it would need to be framed in scientific language for NSERC. NSERC is not known for funding TK.
- Proposals are due Nov. 30

LKDFN proposal – they hope to involve grad students to provide data collection capacity

- They will provide a “concept paper” to EMAB and Diavik to see if there is a willingness to contribute
- Ekati and other sources could be involved too, but this possibility shouldn't be allowed to delay the work

Q: would this be a stand-alone proposal from U. of A.? Once DDMI is involved there can be safety and liability issues. This would need to be ironed out.

A: proposal is led by the community and supported by U. of A. It's often easier if the university is not directly involved

ACTION: ED to talk to Colleen, Brenda, Allice and Aboriginal Parties about a conference call to discuss practicalities of TK research

3) Revised TK Recommendation

Motion:

Approve TK recommendation as amended

Moved: Floyd Adlem

Seconded: Ted Blondin

Circulate revised draft before voting on motion to make sure everyone is clear on the wording

4) TK Panel

ED presents item in kit.

Discussion

- this assumes a standing panel – it would be better to bring the panel together as and when required.
- SLEMA panel has been focused on its own monitoring. They are in the field right now.
- Some questions about how the panel communicates and about intellectual property rights will need to be addressed.
- It would also be helpful to meet with the SLEMA panel and find out what they see as the strengths and weaknesses of that approach.
- The panel should be able to provide guidance on how to incorporate TK into the mine's monitoring programs and management plans.
- EMAB needs to get on with this – just do it.
- good to spend some time brainstorming on the panel. Invite SLEMA panel
 - This could be done at a workshop on TK monitoring
- The panel needs to be practical – we need to put some thought into this.
- EMAB doesn't have a science panel either

- A workshop would be good – try to piggyback on the next time the SLEMA panel is meeting

ACTION: ED to talk to SLEMA ED about their TK Panel camp
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LUNCH

3) TK motion (continued)

Revised motion circulated. The motion and second are above.

Carried.

Item 8 – Capacity Funding Update

Info in binder

NSMA report: they haven't linked the activities to the program.

Tlicho Government – Ted will follow up.

Item 11 – Inspector’s Update

Inspector reviewed reports back to May (June, July, August, September). A few highlights:

- There is no water in the bottom of A154 – it all goes underground
- PKC has had lots of repairs done
- Hydrocarbon impacted material is in lower Type 3 dump
- Test holes in main wasterock pile to see how they match with test piles
- Excavation started for new incinerator pad

Item 7 – Closure

Gord Macdonald joined the meeting by phone.

DDMI made some changes to objectives and looking for feedback before putting them in the revised closure plan. Changes are based on WLWB comments: tried to remove modifiers like “as appropriate” or “guided by” – if objectives turn out not to be achievable then they will have to be modified. Combined some objectives into site-wide objectives.

Criteria are a work in progress and largely haven’t changed – they are not expecting feedback on these. There is quite a bit of work to do on them. The main change is to clarify. Diavik will be looking for comments by the end of September. Diavik will be soliciting comments from communities directly and looking for comments from the Board.

Is there a need for a technical review? No, but it would be good to get comments from Board members.

ACTION: ED will complete comments on revised objectives and incorporate board member comments when received.

Noted that Randy Knapp from SENES is available to do a technical review of the revised ICRP expected at end of December.

Revegetation report

Current version presents data with no context or evaluation of results... so Diavik did not send it out. they hope to have a revised version by end of October early November. There will be a summary in next WMP report

Q: Will TK be included in closure and revegetation plans?

A: Yes, Diavik has identified various areas where it will include TK: fish habitat, wildlife movement, re-vegetation.

Once the revegetation report comes out Diavik will develop a plan for next steps.

Item 6 – WMP workshop

Ted has encouraged Alice and Brenda to attend the workshop. He feels it would be useful to have people there who community people can express their preferences to.

The summary document will go out very soon. Joe Handley will chair but it would be useful to have someone like Alice or Brenda co-chair.

Who will represent EMAB at WMP TK workshop?

Doug will take part for EMAB. ED to identify TK expert to attend for EMAB.

DDMI Community engagement on WMP

DDMI's process has been face to face meetings followed up with a questionnaire. They have met with all Aboriginal Parties except NSMA. The results will tell DDMI how to deal with communities on changes to the WMP.

Noted that the WMP Revision workshop could include a discussion on how to engage with communities.

Conference call 12th October on TK. Noted that the DDMI letter that said they are acting independently to develop TK monitoring refers to internal discussions.

Item 9 – Air Quality and Lichen Monitoring

Air quality: Information in binder.

ACTION: ED to draft a letter to Diavik re: the EA requirement for an air quality monitoring program may 19 2011 that is not being met, and EMAB's expectation that there will be a draft AQMP by May 19, 2011.

Lichen Monitoring: Information in binder.

DDMI did monitoring from September 7 – 13. They went to 20 points close to the mine and 20 points far away to see if there is a difference. They took soil and lichen samples at each location. They were accompanied by a YKDFN elder who identified areas where caribou would feed, and the kinds of lichen they would eat.

Now they will take all the data and look for a difference. The report on the monitoring will be in next year's WMP report and will be incorporated into the three-year summary report which is also next year. The locations are as described in the document they circulated – that document is the only description of methods for the research.

DDMI did washed and unwashed samples this time - the 2005 samples were washed so the washed samples allow a comparison.

Suggested that TK could be more directly included in the research.

BREAK

Item 12- IEMA/SLEMA updates

SLEMA

Zhong Liu presented for SLEMA.

- SLEMA is predicting that TDS will exceed the water licence limits by 2026 and possibly a lot earlier. There are already large changes compared to reference areas, but they are not seeing changes downstream
- De Beers is already exceeding CCME guidelines for fluoride one third of the time.
- SLEMA is recommending De Beers take action now by reducing minewater output
- De Beers will submit an updated AEMP at the water licence renewal hearing – their 5-year report will be submitted by end of September
- Fish tasting was completed. Three of six fish were considered unhealthy but no change in taste was noted.
- SLEMA is doing a wildlife and dust monitoring camp right now at King Lake, about 25 km downstream from Snap Lake

De Beers is proposing to decrease AEMP sampling in Snap Lake and increase downstream sampling. The stakeholders don't want to see a decrease in Snap Lake sampling.

IEMA

Kevin O'Reilly presents.

Introduces IEMA's new employee, Monica Krieger.

Focus is on wildlife, water, air, and closure planning.
The Board visited the mine site last week.

- Ekati is trying out surface mining machines.
- Ammonium nitrate building was corroding so Ekati did a huge retrofit – million bucks.
- IEMA AGM on Nov 18th
- IEMA is hoping to have an air quality workshop in the afternoon of November 17
- open pit and underground mining has stopped at Panda and Beartooth is also finished.
- new wildlife fence around the airport... 3 or 4 caribou entangled in the old fence two died and two had to be shot. They are now using a plastic fencing
- fewer caribou at site over summer and fall...
- water: some buildup of nitrate in tailings area... last summer spread some phosphate... promotes algae and helps decay nitrate. They tried again this summer but it did not work as well. They are now pumping the minewater with high nitrate into the Beartooth pit
- Misery – being dewatered into king pond so they can push back the walls for deeper mining. At the same time they are dewatering the pond etc. The inspector has stated concern about this
- Air quality – submitted in 2009. SENES had the same concerns as the last time they reviewed it. Company will do more work...
- Closure – WLWB public hearing on plan next week..... This version was submitted in 2007. There was a legal challenge by the company re: fish and fish habitat in pit lakes. BHPB wants to install fish barriers and IEMA disagrees. BHPB has said the WLWB doesn't have jurisdiction....

Noted that the agency supports the use of TK in monitoring. BHPB has been discussing possible projects with communities.

Diavik member leaves.

Discussion on Diavik proposals for solutions to the funding dispute.

Motion:

Move meeting to go in camera.

Moved: Floyd Adlem

Second: Ted Blondin

Carried

Motion:

Move meeting to go ex camera

Moved: Ted Blondin

Second: Charlene Beanish

Carried

Motion:

Having fully considered Diavik's offers re: funding dispute, EMAB formally rejects the offers. Moved: Ted Blondin

Second: Floyd Adlem

Carried

ACTION: ED to draft a letter rejecting the offers and providing the Board's rationale: two of the offers had already been made some time ago and had been rejected by the Board; the other proposal was based on the variance of a single budget line and included an interpretation of the EA that the Board did not agree with. Having noted Diavik's statement that it would not move far from these proposals the Board will not make a counter-offer.

Meeting ended at 4:45

EMAB meeting, September 24 2010, Yellowknife

Present:

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Ted Blondin, Vice Chair, Tlicho Government
Floyd Adlem, Secretary Treasurer, Canada
Danielle DeFields, alternate, North Slave Metis Alliance
Charlene Beanish, alternate, Government of Nunavut
Steve Ellis, Environment and Natural Resources, GNWT
Colleen English, Diavik

Staff:

John McCullum, Executive Director
Michele LeTourneau, Communications Coordinator

Meeting started at 9:05

Item 13 – EAAR update

- Timing

Info in binder.

Action Item: As the watchdog on implementation of the EA, EMAB will write a letter formally noting the late submission of the EAAR to Diavik and the Minister once the final report comes out.

- Wording of aquatic predictions

Info in binder.

Action Item: Email original and re-worded water predictions to board for feedback. Include feedback in letter on final report.

Item 10 – Reports

Financial Statement

Change “actual expenditures” to “actuals”.

Change “50 % of previous unexpended contributions” to current audit number

Noted that EMAB usually does a revised budget in the fall but not clear how to revise until dispute is settled. Same with capacity funds – shouldn’t reallocate until we’re clear on the financial situation.

Secretary Treasurer presents the financial statement.

Motion:

To accept the financial statement as presented.

Moved: Floyd Adlem

Second: Ted Blondin

Noted that the 229% expenditure for the executive committee is due to the numerous meetings caused by the budget dispute.

Carried

Action items

The Board goes through the action items.

Action Item: Write a letter raising the question of responsibility re: standardization and combining data with ENR.

Action Item: Invite the WLWB to update and ask about their funding situation. (In relation to action 2 in the action item table.)

Action Item: At community updates ask if community members understand the AEMP.

Noted that it would be helpful to Aboriginal Party members to have plain language summaries of the monitoring programs.

GN request to split costs

Charlene presents proposed GN approach

Motion:

Approve that for the Nunavut member EMAB will pay three of six meetings for this fiscal year to a max of 5K, to be reviewed annually.

Moved: Floyd Adlem

Second: Danielle DeFields

Carried

Personnel

Update on hiring for Communications coordinator

Motion:

To approve a 10% salary increase for Martha Kodzin effective September 27/10 as recommended by the Personnel Committee.

Moved: Ted Blondin

Seconded: Charlene Beanish

Carried

Follow up question regarding sampling on the Coppermine River –

ACTION ITEM: Try to get all water quality data from the river for Charlene

Regarding Tlicho proposal re: TK budget.

Q: will Tlicho Government contribute resources?

A: the full project will cost 27,508 – the difference after our 14,000 will be covered by the Tlicho Government.

Q: when will this happen

A: expected within the next few weeks

Motion

Accept Tlicho proposal for \$14,000, which is to include the following: a report, accounting, and a copy of the proposal, when ready. Any unspent funds to be returned.

Moved: Floyd Adlem

Second: Danielle DeFields

Carried

Item 14 – Governance

Conflict of interest

Discussion on conflict of interest related to a board member employed by DDMI. Noted that employer is actually a contractor to DDMI, so no direct relationship.

Noted that COI is about perception of conflict as well. Also, if a board member asks the question “I wonder if I’m in conflict” they probably should declare.

Suggested that questions about whether any board members have a conflict should be asked at the beginning of each meeting. Might be worthwhile to get some legal advice.

Governance workshop

NSMA has proposed October 12 to 14. Inform them that is too soon.

Suggested governance issues be added to December board meeting. Include minute-taking.

Suggestion that EMAB consider requesting Rebecca Chouinard (WLWB) present a workshop she has done before describing the mining process from staking through to closure.

Item 10 – Reports (cont.)

CC will finish up outstanding business and leave a detailed list of what needs to be done. She will also review the Communications Plan for upcoming tasks and provide a list of contacts for the next person.

Next meeting – December 7 - 9

Closing prayer:

Motion:

Adjourn meeting

Moved: Danielle De Fields

Carried

Closing prayer: Ted Blondin