

**Independent Environmental Monitoring Agency
83rd Meeting of the Board of Directors
Yellowknife, NT
September 17-18, 2013
Summary of Discussion**

Directors

Bill Ross
Tim Byers
Jaida Ohokannoak
Arnold Enge
Laura Johnston

Staff

Kevin O'Reilly, Executive Director
Jessica Simpson, Communications
and Environmental Specialist

Meeting commenced at 2:00 p.m.

AGENCY BUSINESS

➤ **Information Updates**

Bill – Not much work for the Agency other than review of e-mails.

Laura – Reviewed the final water licence.

Tim – Reviewed the AEMP and WLWB's Reason's for Decision for the water licence. Tim also met with Dominion Diamond Ekati Corp. (DDEC) representatives for the presentation on the new developments on September 3rd. At the request of the Lutsel K'e Dene First Nation's Wildlife, Lands and Environment Committee, Tim went to Lutsel K'e on June 11. The meeting was mainly attended by the Committee members and staff who expressed that they would like to meet with Kim to discuss wildlife issues at the mine. There were also questions about the new company and the Impact and Benefits Agreement.

Jaida – Reviewed e-mails on Agency business, reviewed Agency's financial reports and reviewed Agency's communications.

Arnold – Reviewed the e-mails on Agency business.

Kevin – Sent a list of community contacts to Helen Butler for DDEC's revegetation workshop, wrote a draft business continuity plan, and along with Kim and Tim, put together comments on the draft policy statement from the Government of the NWT Environment and Natural Resources (ENR) on wildlife effects monitoring and

management. ENR is still getting comments and will be hosting a fall wildlife workshop. Regarding the letter sent to ENR on the Zone of Influence (ZOI) monitoring for caribou, a response was received and distributed. A response was also received to the Agency letter sent to Minister Michael Miltenberger on GNWT nomination to the Wek'eezhii Land and Water Board (WLWB). A letter was sent to DDEC and Aboriginal Affairs and Northern Development Canada about next steps in the financial security review. Agency comments on the DDEC 2012 Annual Report were sent to AANDC. Kevin also helped Jessica with the Request for Proposals.

And on July 9th, Kevin participated in the Board teleconference on Jay and talked with Eric afterwards about preliminary Agency concerns.

Jessica – Worked mainly on the 2012-13 Annual Report, including the brochure version, and drafted a Request for Proposals for an IT infrastructure and document management upgrade for the office. A further report on communication activities was provided later in the meeting.

➤ **Financial Report**

The Agency expects to run a surplus for 2013-14. The Agency is under budget in the areas of Review of Documents and Communications and Consultation. Jaida suggested this surplus could be used for a Geoscience Forum booth, a community visit another communications products.

Once the Agency knows more about the expansion projects at Ekati, it will be easier to plan for the Separate Fund expenditures.

➤ **Business Continuity Plan**

Kevin explained that a Business Resumption Plan is an action item in the Agency's Risk Management Plan. Kevin did some research and realized that it is usually called a Business Continuity Plan. Kevin sent a draft plan to Laura and to Jessica, who commented on it.

The first section of the plan can be shared publicly. The appendices are confidential as there is some confidential and personal information contained that would be used by the Agency to resume normal operations (e.g., bank account passwords).

The plan contains crucial information that could be used in case the Agency needs to re-start after a disaster, such as the maximum allowable downtime, and lists the most critical functions to restart the Agency after a disruption. The plan will be updated regularly by the Executive Director.

The Agency has various insurance policies for Officers and Director's liability and comprehensive and general liability, and travel. The travel insurance policy covers everyone equally, including the staff.

The Board adopted the Business Continuity Plan for the Agency with some small corrections to contact information and typographical errors.

Moved by Laura. Seconded by Tim. Motion carried unanimously.

FOLLOW-UP ITEMS

➤ **Annual General Meeting and Environmental Workshop**

The following dates were set:

- December 3 for a regular Board meeting;
- December 4 for an Environmental Workshop with a wildlife focus and the Open House in the late afternoon and evening;
- December 5 for the Annual General Meeting.

Regarding the Environmental Workshop, the Agency has not yet contacted the potential presenters. The Agency Executive Director will work with Claudine Lee and Harry O'Keefe at the DDEC Environment Department to finalize the agenda. Tim also suggests that wildlife deterrence be added to the agenda. It would be beneficial to have an expert, like Andy McMullen, present and be able to speak to that topic.

Action Item # 1: Kevin will get in touch with potential speakers, including the DDEC Environment Department, ENR staff and Andy McMullen.

It was also suggested that there could be presentations on Traditional Knowledge and wildlife if there is interest from any of the communities.

Action Item # 2: Kevin will send out the AGM notice to our Aboriginal Society members and information on the wildlife workshop. He will also confirm their attendance.

➤ **Update on the 2012 AEMP Dioxins and Furans Fish Sampling Results**

Tim explained that there have been a lot of e-mail exchanges with DDEC to get an explanation of the results of the fish sampling program. Because the company only sampled one fish from Kodiak Lake, instead of three, it is difficult to make any conclusions. The Agency asked DDEC to conduct a sampling program to answer this

question. The sampling done does not provide sufficient data and now the fish sampling season is over.

Tim explained that this is important because the dioxins and furans in Kodiak Lake sediments are above the CCME guidelines. Our Society Members, such as the Lutselk'e Dene First Nation and the Yellowknives Dene First Nation, are concerned about the health of fish. DFO has also expressed some concerns. DDEC recently committed to do a risk assessment for Kodiak Lake fish that may be exposed to dioxins and furans in the Environmental Impact Report Close-out Report (see page 3-2). It was agreed that the Agency should write DDEC for further details on this risk assessment.

Action Item #3: Tim will draft a letter to DDEC requesting further details on the risk assessment to be carried out for Kodiak Lake fish exposure to dioxins and furans.

➤ **Zone of Influence Caribou Monitoring**

In May 2013, the GNWT's Environment and Natural Resource sent out a letter stating that the diamond mines would no longer be required to monitor the ZOI for caribou surrounding the mines. The Agency responded with a letter on July 16, 2013 stating our concerns with dropping this monitoring.

ENR responded August 22, 2013 in a letter stating that the monitoring program will be revisited at an upcoming wildlife workshop in November 2013. The diamond mines will also be supporting the Bathurst barren-ground caribou program for 2013-14 only. The Agency remains concerned with the lack of progress on caribou monitoring programs and mitigation. The Agency will ensure it has representation at the November 12-13 workshop (possibly Director Kim Poole and staff). Another workshop is being planned for November 26-28 to continue discussions on guidance and protocols for wildlife monitoring programs (Kim Poole may be available but Agency staff will participate).

➤ **Communications Update**

Jessica briefed the board about the Agency's communications activities. These activities included:

- Updating the current printed posters with a sticker to inform the reader of the new ownership of Ekati;
- Updating the website and the timeline with incoming and outgoing correspondence; and
- Completing the Agency's annual report project, including the mail-out and posting the reports to the website.

Jessica also got a start on the next phase of the document management overhaul. A Request for Proposals was written and sent to three local IT companies. The Agency

received two proposals, from Cold Mountain Computing and Tamarack Computers. The Tamarack proposal is best suited for our needs and purposes.

Tamarack proposes that each Agency director and staff be upgraded to Office 2013 to ensure that we are all using the same software to author and read documents. They propose that we use Dropbox for Business for remote document access. We would have a server at the office, with a backup system. The server would be backed up onto tapes that could be stored offsite in a fireproof box. The installation of this system could take about 3 months. It would begin with an initial office set up that would be tested in the office only by the staff to work out any glitches, followed by a setup for the remote users followed by another test period to work out any additional glitches. The total for the equipment and services would be \$7585.00. Additional service and support/month (based on 2 hours) would be \$382.00.

The directors had a few questions regarding Tamarack Computers proposal:

1. How would the “back-ups” and file redundancy work exactly? Could we have a “cloud” option, or is the cloud necessary?
2. We need Tamarack to clarify the subtotal and total.
3. What does it take, and how much would it cost to transfer the website from one website host to another?

It was agreed that the Agency staff will work with Tamarack to carry out the upgrade and report progress to the Board.

- Social Media:

Jessica made a brief presentation on how the Agency can effectively use social media to engage the general public in Agency activities. It was agreed that the Agency will create a Facebook page on an interim bases for a six month period. Before invitations go out to people to “like” the page, it will be sent to Directors first for any comments. To avoid privacy or confidentiality issues, the postings should verified by a second person. Jessica will also assess the amount of time it takes to maintain the page.

Action Item #4: Jessica will create a Facebook page. It will be sent to Directors before it is shown to the public.

➤ Site Visit Lessons

Prior to the Board meeting, the Agency Directors and staff visited the Ekati Mine. The following facilities and locations were visited:

- Beartooth pit where minewater and processed kimberlite is deposited;

- The incinerators which were in operation and there was a discussion of the recent stack tests;
- A helicopter tour of the Lynx, Jay and Cardinal areas, a ground stop at the Lac du Sauvage-Lac de Gras narrows, and a fly-over of the Jay and Cardinal area;
- Pigeon Stream Diversion and habitat enhancements;
- Natural revegetated areas in Cell B of the LLCF and the new pilot revegetation study area in Cell B of the Long Lake Containment Facility; and
- Extensions to spigot points into the LLCF for the discharge of processed kimberlite.

There were several opportunities for informal discussion with Ekati environmental staff during the site visit. It was agreed that a letter of thanks should be sent to senior DDEC staff for the cooperation of the staff.

Action Item #5: The Agency will send a letter of thanks to DDEC for assistance and cooperation during the site visit. The Agency would also like to specifically mention Rodney who was particularly helpful at the incinerator facility.

In a debriefing after the site visit, the Directors noted the much improved waste separation and handling practices at site. There is an interest in reviewing the revised Waste Management Plan (or Incineration Plan) with a view to hearing input from Environment Canada (Dave Fox) and ENR (Aileen Stevens). The Agency was told that air quality monitoring at the site has improved with better maintenance of equipment, training of staff and weighing of filters before they are used for high-volume sampling. The Agency is still interested in obtaining a response to the SENES review of the 2011 Air Quality Monitoring Program report.

It was mentioned that drainage ditch that is supposed to be around Cell B is not there. There are also supposed to be engineered channels for internal drainage within the LLCF as approved in the Interim Closure and Reclamation Plan. There was also some discussion as to whether the LLCF revegetation pilot study was to be circulated and reviewed by the WLWB before the commencement of the work.

BRIEFINGS BY VISITORS

- **GNWT Presentation on Devolution** (Kevin Campbell, Departmental Devolution Lead; Joel Holder, Manager Environmental Assessment; and Melanie Burgess, Devolution Environmental Policy Advisor)

The Agency thought it would be important to better understand the recently signed Devolution final agreement, especially as to how environmental management roles and

responsibilities at Ekati may change. GNWT staff were invited to brief the Agency on Devolution.

Kevin Campbell explained that this is not the first time Devolution has occurred in the Northwest Territories. There is an implementation committee in place to ensure the existing Aboriginal rights will be protected and remain the responsibility of the federal government. The present resource management system will also remain in place although some roles and responsibilities will change.

There are 24 federal acts that will be “mirrored” by the territorial government, except for the *NWT Act*, which will be amended like in the Yukon process. If there any changes that AANDC makes to its legislation before Christmas 2013, the GNWT will have to mirror those. GNWT will receive some delegated authority under the *Mackenzie Valley Resource Management Act (MVRMA)*. This arrangement is subject to a review five years after the implementation date. Under the delegated authority arrangement, a GNWT Minister will sign off on water licences and have responsibility for inspections and enforcement (except for some contaminated sites which will remain with the federal government). GNWT will also be responsible for the Cumulative Impact Monitoring Program. GNWT will also receive most environmental assessment reports from the Review Board, including those from possible expansion of the Ekati Mine. Funding of the system, board appointments and binding policy direction authority to the Boards under the *MVRMA* will stay with the federal government. The federal government will also retain the right to change the *MVRMA*.

DDEC has recently submitted an application to the WLWB to develop Lynx pipe. The permitting process for this application, and the future applications for Jay and Cardinal, will unfold in normal fashion.

GNWT is developing a new organizational design in anticipation of Devolution. A new Lands Department will be created. There is a working group with AANDC that is meeting every two weeks to advise on the new design. Reasonable job offers will be made by October 1, 2013 to AANDC staff whose positions or functions are to be transferred to GNWT. The target date for implementation remains April 1, 2014.

The Directors asked what, if anything, would change in the Environmental Agreement in light of Devolution. The GNWT representatives could not say but indicated that AANDC is considering what sort of residual role it will have after Devolution. The Agency also asked about what effect Devolution would have on any trans-boundary agreements. The GNWT representatives said they would get back to the Agency on this question

- **DDEC Presentation on Lynx and Jay-Cardinal Expansions** (Brendan Bell, External Affairs; Eric Denholm, Superintendent of Traditional Knowledge and

Permitting; Bob Overvold, Environment and Communities; and Ori Wah-Shee, Team Leader of Community Development).

Brendan delivered a presentation that described the Lynx and Jay-Cardinal Expansions. This was the same presentation that Bob Gannicott delivered on September 3, 2013 to Jessica and Tim, and all of the communities.

The highlights included:

- The Lynx project will buy the company time by maintaining the Misery workforce, until the Jay and Cardinal expansion begins and is economical in itself.
 - The company is planning 3 years for permitting.
 - The Yellowknives Dene First Nations had questions about how the road along the North Arm would impact nearby eskers if the water level is raised.
 - The company is still looking at how the caribou move throughout the area.
 - The narrows between Lac du Sauvage and Lac de Gras is culturally sensitive and it is important to caribou. The company does not intend to use the area around the narrows. The JP4 dyke will stay away from the narrows.
 - People in the communities have been asking about the expansion potentially creating new jobs. Bob Overvold mentioned that DDEC's goal is to keep the current number of jobs but increase Aboriginal employment, particularly in the underground operations.
 - For the Lynx expansion, the company is hoping to not have to go through the environmental assessment process. They hope to go from Preliminary Screening straight into permitting. The company understands that the Jay and Cardinal expansion will have to go to environmental assessment.
 - Jay and Cardinal would have at least 10 years worth of open pit mining.
 - The granite from Lynx pit would be used for earthworks.
 - The North Arm would be a settling pond.
 - The company noted that there are some implementation issues for the IBAs but they are good for the life of the mine. DDEC is open to the idea of "IBA plus" where legacy projects might be considered.
- **Aboriginal Affairs and Northern Development Canada** (Robert Jenkins and Lindsay Armer)

The Directors had some questions regarding changes that may results from Devolution. Robert Jenkins answered these.

There continues to be a number of questions that both AANDC and the GNWT are trying to sort out and there is a working group set up to do so. This group is still trying to work out any overlap in legislation, and what will happen to the Environmental Agreements that cover the diamond mines. As it stands right now, it looks as if the application for the Lynx pipe will follow the new regime, if the process extends past April 1, 2014.

Regarding the issue of financial security for Ekati, a determination has been made by the WLWB as to how much needs to be held to carry out the Interim Closure and Reclamation Plan as approved. AANDC now needs to look at the form of security and how much may be required under the Environmental Agreement. AANDC needs to ensure that both the Water Licence and the Environmental Agreement have their obligations fulfilled, but not duplicated. This requires an analysis of Environmental Agreement security.

There are instances where there is clear overlap. AANDC commissioned Stratos to provide some advice on what additional security may be required under the Environmental Agreement (as was done for the Diavik mine). It is possible that this work may need to be updated in light of the WLWB decision on the global security amount.

Laura mentioned that security is required under the Environmental Agreement but there is still some confusion between the parties as to what exactly needs to be covered. All parties involved in the discussion need to agree on the approach that will be taken to determine the amount. AANDC needs to make the lines of authority clear. Some of the items that the Agency thinks may need to be covered under the Environmental Agreement are air quality, wildlife, ongoing Agency costs, and consultation with our Society Members. In the past, the Environmental Agreement was used to cover any gap in financial security between what was estimated by AANDC and that held under the water licence.

In the case of Diavik, there was detailed breakdown and reasons provided for security to be held under the Environmental Agreement. As a result of the prompting from the Agency, a meeting of interested parties (DDEC, AANDC, GNWT, WLWB and the Agency) on the issue of financial security has been suggested for September 26. Agency staff confirmed that the boardroom was available for that date and that DDEC staff had indicated their availability for such a meeting.

There are three forms of security that can be accepted by the Minister. They can be promissory note, a certified cheque or a performance bond. There are some ongoing

discussions regarding the form of security for Ekati, but AANDC staff were not aware of any of the details.

➤ **Snap Lake Environment Monitoring Agency** (Dave White, Executive Director)

Highlights from Dave's presentation and the discussion appear:

- Dave White, the current Executive Director, has resigned effective October 31. SLEMA is now hiring a replacement.
- The MVLWB approved the use of a second diffuser for treated water into Snap Lake.
- The ICRP version 3.2 is still under review.
- The North Pile (a processed kimberlite storage area) is now full, so the company has applied for a 3.5 metre rise for additional storage capacity.
- The original plan was to use processed kimberlite to make paste backfill for the underground. The company has brought in new staff to work on the formula.
- On September 12, 2013 the fish palatability test was conducted. The company caught 12 fish. They found that there were parasites (round worm) on two of the fish.
- TDS (total dissolved solids) and chloride continue to rise in Snap Lake. The company is simply monitoring it right now and it is trying to increase the allowable limits in the water licence. The limit was not predicted to be reached until 2019. So far, nothing can be detected downstream.

➤ **Environmental Monitoring Advisory Board** (Mark Fenwick, Executive Director)

Highlights from Mark's presentation and the discussion appear:

- EMAB will be reducing its staff to two positions. The communications and administrative support positions will be combined into one. EMAB is currently in the process of hiring for the position.

- Diavik had placed development of the A21 pipe on hold pending the sale of the mine. Now that Rio Tinto is not selling the mine, EMAB is waiting to hear about the design for the A21 dyke and whether the project will move ahead.
- Regarding the budget dispute between the company and EMAB, the budget proposed by the company was accepted by the Minister and EMAB will see its funding reduced. The letter regarding this budget dispute is available on the EMAB website.
- The company has proposed a much shorter Annual Report under the Environmental Agreement. Both AANDC and EMAB are not supportive and have questioned whether the current proposal meets the requirements of that Environmental Agreement.
- Oil was discovered in August during testing of effluent from the water treatment plant, but the source has not been identified.

OTHER BUSINESS

➤ Future Meetings

The Annual Report Writing Session was discussed. The two suggestions were Mayne Island, BC May 5-9, or Kananaskis, AB May 12-18.

Action Item #7: Kevin will contact Tony Pearse about the availability of meeting places on Mayne Island.

A community visit was also discussed in conjunction with the Board meeting in February or March 2014. The Agency would like to have the visit before March 31. However the community's schedule must also be considered. Staff will circulate a doodle calendar for that Board meeting and contact the staff at the Yellowknives Dene First Nation and North Slave Métis Alliance about the possibility of a community visit.

Action Item #8: Staff to circulate potential dates for the next Board meeting using a Doodle calendar. Arnold will contact Eric Binion to discuss a date that would work well for NSMA and Kevin will contact Todd Slack.

Meeting adjourned at 4 p.m. on September 18, 2013.

**Summary of Discussion Approved by
Jaida Ohokannoak, Secretary Treasurer.**
