***Independent Environmental Monitoring Agency***

***85th Meeting of the Board of Directors***

***Dettah, N’dilo and Yellowknife, NT***

***March 12-13, 2013***

**Summary of Discussion**

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| --- | --- |
| Directors | Staff |
| Bill Ross | Kevin O’Reilly, Executive Director |
| Tim Byers | Jessica Simpson, Communications |
| Jaida Ohokannoak | and Environmental Specialist |
| Arnold Enge |  |
| Laura Johnston |  |
| Kim Poole |  |
| Tony Pearse (by Phone) |  |

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*Meeting commenced at 9:00 am (Dettah).*

**AGENCY BUSINESS**

* **Information Updates**

Bill: Attended a meeting of the signatories to the Environmental Agreement on January 17, where the Agency gave a presentation on recommendations and findings over the last year. There were no objections or queries from the signatories. There was also some discussion on financial security. Eric Denholm (Dominion Diamond Ekati Corp. or DDEC) said that the proposal that went to the federal minister dealt with the form of security, rather than amount of security, and it did not deal with security for the Environmental Agreement.

Jaida: Worked on the Agency budget and work plan, attended the Jay-Cardinal scoping session, and a conference call regarding changes to the Environmental Agreement. Also worked on Kevin’s performance evaluation and helped Jessica with choosing promotional items.

Kim: Planned to attend the Lynx hearing in February but missed it because of a cancelled flight. Attended the Bathurst Range plan meeting, February 20-21. This was the second meeting of a long process; a summary was sent out. Kim thinks that he no longer needs to attend any further of the larger meetings, as Kevin can keep his eye on this process.

Tim: Attended the Lynx hearing with Laura, Kevin and Jessica. He reviewed the Interim Closure and Reclamation Plan (ICRP) Annual Progress Report. Tim also looked at the Aquatic Response Framework and has some comments on that as well.

Arnold: Kept up to date on Agency correspondence that was circulated and worked with the NSMA to make sure they understand the Jay-Cardinal Project and how the Mine Plan is evolving.

Laura: Participated in the Lynx hearing and coordinated the Agency's intervention. Reviewed the ICRP Progress Report and material on the Jay-Cardinal Project.

Kevin: Submitted the Agency’s comments on the draft water licence and land use permit and attended the Lynx public hearing in February. For the Jay-Cardinal project, he attended the scoping session January 6-8 and submitted the Agency’s comments on the draft Terms of Reference. Kevin attended the Environmental Agreement Implementation Meeting on January 17 and the second Bathurst Range Planning meeting February 20-21. Kevin arranged for legal advice and counsel regarding changes to the Environmental Agreement. He also sent a letter to the Wek’eezhii Land and Water Board (WLWB) regarding the fish sampling. Kevin also gave an Agency update at the last Environmental Monitoring Advisory Board meeting, and provided a letter of recommendation to the Towards Sustainable Mining program for DDEC’s grizzly bear monitoring program. Kevin also arranged for Chris Burns to provide comments on the Pigeon Waste Rock Pile design and submitted comments to the WLWB on the latest ICRP Progress Report.

Jessica: Consulted with Jaida on what promotional items to order, organized for the Agency board meeting in Dettah and Open House in N’Dilo and attended the last IACT meeting, January 20, 2014.

Also, Alan Ehrlich of the Mackenzie Valley Review Board invited Jessica to give a presentation to the Review Board members about the roles and responsibilities of the Agency. The presentation will take place March 19.

* **Financial and Variance Report**

The Directors reviewed the expenses for 2013-14 and projections to year-end. Kevin was authorized to purchase a new laptop if required as the old one is in for repairs currently. A draft budget and work plan for 2014-16 was reviewed and discussed. With some minor changes, the document was approved.

*The Board of Directors approve the 2014-16 Agency budget and work plan as amended.*

Moved by Laura, seconded by Kim. Carried unanimously.

There was a general discussion of the authority of Directors to expend Agency funds and regarding approval of travel on behalf of the Agency which must take place beforehand. It was agreed that Jaida and Kevin would review existing Agency policies to ensure that these matters are clearly set out.

Action Item #1: Jaida and Kevin will review existing Agency policies for authorization of travel and expenditures by Directors.

* **Communications Update**

Jessica coordinated the Agency’s Board meeting in Dettah and the Open House in N’Dilo, hiring the translator, caterer, sound equipment and arranging the meeting spaces. There will be no school visits this year. Jessica did speak with the school principals of the Kalemi Dene School and Kaw Tay Whee School, and both said that because of the timing, making a school presentation was not going to work out because of the school schedule. March break is a few days away and the schools are busy with activities that week.

Jessica also worked with Jaida on ordering some promotional items. It was decided to focus on ordering smaller items that are good for “give-aways” and easy to travel with. The Agency is expecting to receive pens, lip balm, office kits and neck-warmers by the end of March.

Jessica also updated the Agency’s website with correspondence and used the Facebook page to advertise for the Agency’s Open house.

**FOLLOW-UP ITEMS**

* **Lynx Project**

After closing arguments (submitted in writing on March 13, 2014), the next step will be to wait for the WLWB final water licence and land use permit.

Action Item #2: Laura, Tim and Kim will work together on the closing arguments that are due March 27, 2014.

* **Jay-Cardinal Project**

The Review Board’s interim work plan lays out the steps in the environmental assessment process for this project. The next step is the Developers Assessment Report (DAR), which is due in June 2014 according to the Review Board’s work plan. The Agency should plan to look at it fairly quickly to prepare for technical sessions that will follow.

Once the Review Board receives the DAR, it will check to see if it is in compliance with the Terms of Reference, and then there will be a series of technical sessions, usually on a series of different topics. The Agency will need to be present for the technical sessions and prepared to ask questions. These meetings are informal and we get to ask questions of the developer and other government agencies, and then formulate information requests, for which there is a special format to use. Depending on the answers, there might be either more Information Requests or more meetings and ultimately a public hearing.

The Agency can use the work plan and schedule to track expenditures of our budget. It was recognized that there will likely be some slippage in the work plan.

* **Amendments to the Environmental Agreement**

The Agency received legal advice from Gavin Fitch on the proposed changes to the Environmental Agreement.

Following the meeting with the federal and territorial government representatives and the company held on March 13, the Directors discussed a letter to send to the signatories of the Environmental Agreement that would outline the Agency’s position. The Directors decided that the overarching principle for the Agency with the proposed changes would be our ability to fulfill our mandate under the Environmental Agreement. The Directors decided that the proposed changes would have an adverse effect on the ability of the Agency to fulfill its mandate as a result of the withdrawal of Canada from the Environmental Agreement. The Directors also decided to seek the views of the Society members about proposed changes to the Environmental Agreement. The Directors decided to call a Special Meeting of the Society Members to obtain the views of the Agency’s Aboriginal Society Members on the proposed changes to the Environmental Agreement.

In a recorded vote, the majority of the Directors agreed with the above actions.

In favour: Bill Ross, Tim Byers, Jaida Ohokannoak, Kim Poole, and Laura Johnston.

Opposed: Arnold Enge.

* **Pigeon Waste Rock Pile Design**

Tony sent his review of the design to the Directors, and the Agency hired Chris Burns (Carleton University) to provide a review. The Wek’eezhii Land and Water Board is meeting this week to consider the issue, and it may have some direction about this proposal as early as later in the week. John Brodie (a consultant retained by Aboriginal Affairs and Northern Development Canada) raised the issue of whether water may start to build up between the till and the waste rock, forming ice lenses and possibly causing solifluction or slumping. Some of the waste rock piles are already not freezing so further study may be warranted.

* **2013 ICRP Annual Progress Report**

Agency comments on the ICRP Progress Report were sent to the WLWB on March 5, 2014. DDEC submitted the LLCF Pilot Study to the WLWB in December 2013 but it was only recently posted to the public registry. Lukas Novy, DDEC, has already sent us the report after he noticed the Agency’s request for a copy of the Study in our comments on the Progress Report. DDEC is also willing to meet with the Agency and others to discuss the 2013 Annual Progress Report.

**NEW ITEMS**

* **Community Engagement Plan**

Comments on the engagement plan are due April 17. This is the second version of the Engagement Plan as the first version was rejected by the WLWB. The WLWB wants to know what the triggers will be for the company to conduct community engagement. Jaida and Tim will review the Plan for the Agency with assistance from Kevin.

Action Item #3: Jaida and Tim will review the Community Engagement Plan.

* **Old Camp Closure and Reclamation Plan**

At the urging of the Agency, the WLWB directed that DDEC submit a closure plan for the Old Camp area. This was done on December 31, 2013. Comments are due on March 20.

Action Item #4: Laura will review the Old Camp Closure and Reclamation Plan for the Agency.

* **Fox Sump Water to Cell D**

The Agency discussed the recent movement of water from the Fox pit to Cell D of the Long Lake Containment Facility (LLCF). This development is noteworthy and will be included in the Agency’s annual report. It is not clear what variables will be analyzed in the water samples and how the results will be reported.

Action Item #5: Kevin to send an e-mail to the company to ask what will be analyzed and request that the Agency receive a copy of the analysis.

Kevin will send an email to the company asking for a copy of the report.

* **Aquatic Response Framework**

The document has been received by the WLWB and will be reviewed for approval. The guidance provided to date by the WLWB has not been clear as this is a newly evolving field. It might be helpful for the Agency to look at the Diavik Response Framework.

Action Item #6: Bill, Tim and Laura will review the Response Framework for the Agency.

* Nitrogen Response Plan

**BRIEFINGS BY VISITORS**

* **DDEC Update** (Eric Denholm and Claudine Lee)

The highlights included:

* DDEC provided some details on moving water from the Fox pit to the LLCF. Fox pit is now at a depth where there is water coming into the pit and impacting the ability to complete mining. The plan is to complete the work in Fox pit before the 2014 freshet begins, and then the equipment will be transferred to Pigeon pit. Normally water accumulates at the bottom of the pit, and is pumped to Cell C of the LLCF in the summer.

In the winter there is usually very little water and the pipes that are used to pump the water are not heat traced, so pumping is not necessary and is not an available option. As Fox is reaching the end of its life, more water has been encountered so the company began trucking the water to Cell C but switched to Cell D as it is closer. The water at the bottom of Fox pit is high in chloride. The work for this operation began March 4 and has been surprisingly efficient so trucking is no longer necessary. This method was discussed with both the AANDC inspector, Marty Sanderson and Ryan Fequet at the WLWB.

The company predicts there will be no changes to water quality in Cell E because the Fox pit water quantities are relatively small and the additional water from freshet that will mix with the water from Fox pit. Monthly samples are to be taken of the Fox sump water and a report will be provided at the end of the sampling period, expected in the summer of 2014.

* A review of dust suppression methods is now in its third draft. The final draft is to be released soon. The company is looking at several methods for assessing and gathering data on dust and dust suppression including the effectiveness of DL-10, timing of its application, road construction, and road watering (effort and how long water works at reducing dust). DDEC is also looking at the possibility of using visual data from the camera studies and the dust monitoring stations.

Action Item#7: Kevin will send the dust mitigation study that De Beers did at Victor and Snap Lake to Claudine.

* The report on the results of the incinerator stack test will be released in about 2 weeks.
* Other reports should be available as follows:
  + Wildlife Effects Monitoring Program, March 31;
  + Wildlife Camera Report, June 30;
  + Grizzly Bear hair sampling report, June 30;
  + Annual Report, April 30 (maybe earlier) and plain language summary three weeks after that; and
  + Aquatic Effects Monitoring Program, March 31.

As the Agency is getting prepared for its Annual Report writing session, DDEC were requested to provide copies of these report as soon as possible directly to the Agency, as the WLWB sometimes takes a week or more to post to its public registry.

* DDEC stated that it expects to submit the DAR for the Jay-Cardinal Project to the Mackenzie Valley Review Board in July. Golder is the lead for putting the DAR together. In February there was another round of community meetings. The senior corporate managers make an effort to personally visit the communities on a quarterly schedule.
* Jaida said that with the Agency’s meeting with the Yellowknives Dene the night before there was mention of a meeting with the company about the fish-out of Lynx Lake. The company said it will also be meeting with the North Slave Metis Alliance, the Tlicho and the Kitikmeot Inuit Association. The intent of these meetings is that the communities will inform the project and their ideas will be incorporated into the project. There will be reports back to the communities.
* The Agency asked about the status of financial security. The issue is in the hands of the Ministers where a proposal is currently being considered.
* The company is reviewing comments on the ICRP Progress Report. The company is willing to have a meeting on the Report. The reclamation plan for the Old Camp area is currently under review by the WLWB. The company is not anticipating any fundamental opposition and the work is expected to begin this summer.
* The company has a drill program at Lac du Sauvage this winter. The information from this program that will be critical to the DAR for the Jay-Cardinal Project.

* The company is currently preparing for the Wolverine DNA program to begin April 1.
* Snow work for the Air Quality Monitoring Program (AQMP) will also be taking place starting March 26, 2014. Lichen will be sampled in the summer. As the AQMP is a three-year program, the report will be released next year.
* The Agency asked whether a site visit in June or September would be possible. Claudine did not see any problems with a visit for June or September. The Agency should finalize a date and let her know.
* **Snap Lake Environment Monitoring Agency** (Zhong Liu, Environmental Analyst)

Zhong shared some highlights from recent SLEMA activities including the following:

* De Beers has applied to increase the Total Dissolved Solids from 350 ml/L for the whole of Snap Lake to an end of pipe Effluent Quality Criterion. This requires going back to the Environmental Assessment and conducting a new one. A joint work plan between the Review Board and the MVLWB was prepared and the scope of the Environmental Assessment has been limited.
* The company has submitted a proposal for a second tank farm.
* De Beers may need another level on the North Pile which is already 45 m high. As an alternative, a larger footprint may be proposed.
* A landfarm is now used for remediation of contaminated soils as a result of ANFO or blasting residues.
* A modular water treatment plant is being added to the current system at Snap Lake.
* **Environmental Monitoring Advisory Board** (Brenda MacDonald, Executive Director)

Highlights from Brenda’s presentation included:

* Brenda is the new Executive Director and has been in the position since January 20th. Brenda has been a freelance management consultant, and has a Masters in Business Administration and a Bachelor’s in Management.
* Brenda is the only full time staff person at this point. She has undertaken the task of reorganizing EMAB’s files and the resource library using part-time assistants. Brenda will also be updating the website with documents, some of which are very big files. Some office equipment has also been updated.
* There are a few vacancies to be filled on the board. Mike Nitsiza, EMAB’s Tlicho Board member resigned effective December 2013 as he is back on the WLWB. The Nunavut position is vacant; AANDC and GNWT also have vacancies for alternate Directors.
* The current board members are Seth Bohnet, Arnold Enge, Napoleon Mackenzie, Charlie Catholique and Doug Crossley. Recent appointments are Sean Richardson for the Tlicho, and Todd Slack is the new alternate for the Yellowknives Dene First Nation.
* The last board meeting was February 28, 2014. Most of the meeting dealt with administrative items.
* EMAB is now in receipt of the version 3 of the Diavik Annual Report. The original version was a 17 page slideshow and was rejected by all parties, including EMAB, AANDC and the GNWT. The current version is 34-37 pages with no scientific data.
* EMAB drafted a letter in regards to the proposed changes to the Diavik Environmental Agreement. The Board had concerns about the reduction of the number of Directors.
* The EMAB annual report for the 2012-13 was just finished. EMAB will start working on the next annual report right away.
* The next EMAB board meeting will take place at the mine site in late April 2014. EMAB will be working on governance and reviewing its strategic plan.
* **Department of Fisheries and Oceans** (Stu Niven, Senior Fisheries Protection Biologist and Veronique D’amour-Gauthier, Fisheries Protection Biologist)

Highlights from the discussion included:

* Stu introduced himself and the other staff.
* Bill introduced the Directors and explained how the Agency had been formed and the mandate of the Agency. Bill also explained that there are two other monitoring bodies for the other diamond mines. In the past, the Agency had a strong relationship with DFO through Bruce Hanna.
* Before the reorganization, the Yellowknife office for DFO was the Western Arctic Area Office. Now the office covers both the NWT and Nunavut and has become a regional regulatory unit, an extension of the larger regional jurisdiction. Although the office has lost a lot of autonomy and staff, it is a lot stronger regionally.
* In the past, one of the criticisms of DFO was that its programs were different across the regions; now there is regional consistency.
* Amendments to the *Fisheries Act* have been in place since November 25, 2013. The amendments replace the 1986 policy of “no net loss” and the policy now is more of an “investment” policy as it is more about offsetting, and speaks to compensation. The consistent guidance is to make timely decisions.
* The *Fisheries Act* has been amended to focus on managing threats to sustainability and ongoing productivity of Canada’s commercial, recreational and Aboriginal fisheries. Lac de Gras is considered to be on an active fishery because species listed in the NWT Fishing Guide for sport fishing are found there.
* The department is still trying to provide further clarity and certainty on the amendments to the *Fisheries Act* by creating operational policies.
* DFO has a new website that developers and others can visit. The website has guidelines and tools that can be used if there is fisheries issue. If these guidelines and tools do not work, then the company will have to call an office, which will then assign the issue to a regional regulatory unit, or provide further advice. The website address is: [www.dfo-mpo.gc.ca/p[nw-ppe/fpp-ppp/index-eng.html](file:///C:\Users\monitor2\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\7NC07XGW\www.dfo-mpo.gc.ca\p%5bnw-ppe\fpp-ppp\index-eng.html)
* Stu does not know if GNWT will make any agreements with DFO post devolution.
* Stu sees that DFO will be less involved in resource development issues, but where it is involved, DFO will have more power. The acts that govern other federal departments, like Environment Canada and Canadian Environmental Assessment Agency, have been strengthened to fill the gaps that DFO once held. DFO has also enhanced partnerships with agencies and other organizations. For example, the National Energy Board will review impacts to fisheries and the Nuclear Safety Commission will be responsible for fisheries matters related to radioactivity and nuclear sites.
* **Wek’eezhii Land and Water Board** (Ryan Fequet, Regulatory Manager and Elissa Berrill, Regulatory Specialist)

Highlights from the discussion included:

* Elissa Berrill, the new Regulatory Specialist at the WLWB was introduced.
* The reasons for decision and directives on the 2012 Seepage Report and the Pigeon Waste Rock Pile design should be available this week.
* The next WLWB meeting will be April 14. Items to review include:
  + Wastewater and Processed Kimberlite Management Plan with Pigeon updates;
  + Old Camp Closure and Reclamation Plan;
  + 2013 ICRP Progress Report;
  + Fish sampling protocol changes raised by the Agency, for which there will be a 2 week comment period;
  + Community Engagement Plan; and
  + Lynx Project water licence and land use permit.
* In June, the Aquatic Response Framework will be considered, giving people two months to review it.
* DDEC’s comments will be posted today for the draft licence for Ekati’s Lynx Project.
* The Nitrogen Response Framework will be discussed at the May WLWB meeting.
* The Agency asked for clarification on the difference between comments on the draft water licence and draft land use permit for Lynx versus the closing arguments. Ryan responded that the closing arguments are a chance for the Agency to respond to any points or shifts in position from the company and to lay out any remaining issues or recommendations. No new evidence can be introduced, but parties can clarify their positions based on the draft licence and permit and other parties’ comments. A party may have changed its position based on what was submitted during or after the public hearing. The WLWB expects closing arguments from every intervenor.
* WLWB staff will be involved in the Jay-Cardinal Project Environmental Assessment as technical advisors to the Review Board.
* The Agency raised the issue of financial security for Ekati. The WLWB is not aware of any new developments.

**OTHER BUSINESS**

* **Future Meetings**
* Agency Annual Report Writing Session will be held in Sidney, BC. Kevin and Jessica will deal with any further planning and booking of the event.
* Board Meeting and site visit for June or September.

Action Item #8: Kevin will send a doodle calendar to assist with choosing a date that will best suit the Directors.

*Meeting adjourned at 12:00 p.m. on March 14, 2013.*

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**Summary of Discussion Approved by**

**Jaida Ohokannoak, Secretary Treasurer.**