

**Independent Environmental Monitoring Agency  
89th Meeting of the Board of Directors  
Yellowknife, NT  
March 11-12, 2015  
Summary of Discussion**

Directors

Bill Ross  
Tim Byers  
Jaida Ohokannoak  
Arnold Enge  
Kim Poole  
Tony Pearse

Staff

Kevin O'Reilly, Executive Director  
Tee Lim, Communications  
and Environmental Specialist

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*Meeting commenced at 9:00 am*

**AGENCY BUSINESS**

**Information Updates**

Bill: Attended Jay Developer's Assessment Report (DAR) information session in Yellowknife in December. Developed Information Requests (IRs) for Jay. Worked with Laura and Kevin on the security under the Environmental Agreement. Interviewed by CBC regarding Jay timeline. Took part in the review of the draft Wildlife and Wildlife Habitat (WWHPP) and Wildlife Effects Monitoring Program (WEMP) guidelines. Participated in Agency conference call about Jay Project IRs, February 12, 2015. Attended Environmental Agreement implementation meeting by phone, February 20, 2015. Bill was notified by GNWT that his appointment would end in March 2015. Worked with Laura and Kevin on the 2014 Interim Closure and Reclamation Plan (ICRP) Progress Report comments from the Agency. Received a call from Joel Holder, GNWT on March 9, 2015, extending his appointment as a Director until after AGM in December.

Kim: Reported that he has worked on many of the same things as Bill, including the Jay DAR and drafting of IRs. In addition, he attended Slave Geological Province Wildlife Workshop, March 9-10, 2015. Also attended the Zone of Influence (ZOI) Technical Task Group Meeting, February 1-2, 2015. A draft ZOI document was circulated, and the group discussed who should monitor ZOI on caribou, when is monitoring technically appropriate, and study design considerations. Kim also attended a Mackenzie Valley Environmental Impact Review Board (MVEIRB) workshop reviewing the protein-energy

modelling for caribou as related to the Jay Project. Like Bill and Laura, notified by GNWT that his appointment would be ending in March, 2015.

Arnold: Reviewed the Jay DAR and produced a few IRs. Together with Bill and Jaida, conducted performance evaluation of Executive Director. Also reviewed Agency financials and projected forecasts over the next two years.

Tim: Reviewed the Jay DAR and drafted IRs. Visited Lutsel K'e March 9-10, 2015. Two Elders and the Chief were present, among other community members. The Jay Project and Agency Director changes were discussed. The community expressed a desire to have more monitoring of caribou for noise disturbances and smells. The community is wondering whether caribou might avoid the mine site because of the diesel smell, in the same way that caribou avoid burn areas because they know there isn't going to be any food there.

Tim also reported that Lutsel K'e resident Albert Boucher (corroborated by others in community) had said that their relationship with the federal and territorial governments has changed for the worse in recent years. He felt that these governments used to work together with the community on different problems in the past, whereas now he feels like those governments dictate to the community what is going to happen, and expect them to go along with it.

Tim also reported that the community was interested in dust issues, including what happens when dust goes into lakes. Is it settling on the lake bed and affecting the fish and fish habitat?

Laura: Reviewed the Jay DAR and drafted IRs. Worked with Bill and Kevin on the 2014 ICRP Progress Report, as well as on the issue of security under the Environmental Agreement. Also worked on the Agency Comment on the Land and Water Boards' Draft Guidelines for Closure and Reclamation Cost Estimates for Mines. Like Bill and Kim, notified by GNWT that appointment would be ending in March, 2015.

Jaida: Reviewed the Jay DAR and drafted IRs. Together with Bill and Arnold, conducted performance evaluation of Executive Director. Attended Environmental Agreement implementation meeting, February 20, 2015.

Tony: Reviewed the Jay DAR and drafted IRs

Kevin: Prepared notes from December 1, 2014 meeting with DDEC and Wek'eezhii Land and Water Board regarding Ekati seepage and waste rock management, including the Ecological Risk Assessment and thermal modelling. Attended meeting with Carla Conkin and Robert Jenkins from the GNWT on the surety bond issue. Attended the

DDEC Jay Project DAR Information Sessions, December 11-12, 2015. Reviewed the Jay DAR and drafted IRs. Developed submission on Environmental Agreement Financial Security and Article IV – Agency Operations into Post-Closure. Worked with Kim on Agency’s Comments on the 2014 Final Lac de Gras Regional Grizzly Bear DNA Report and 2013 WEMP Addendum – Wildlife Camera Monitoring Summary Report. Drafted DDEC nomination for the Mining Association of Canada’s Towards Sustainable Mining Award, for DDEC’s Regional Grizzly Bear DNA Study in collaboration with Diavik. Spoke with Andrea Patenaude regarding holding a meeting on post-construction monitoring along the Misery Power Line. Drafted Agency Comments on the Ekati Aquatic Response Framework, the Land and Water Boards’ Draft Guidelines for Closure and Reclamation Cost Estimates for Mines, the draft WWHPP and WEMP guidelines, the Aquatic Effects Monitoring Program (AEMP) Design Plan Update for the Lynx Project, and the 2014 ICRP Progress Report. Met with Tamarack with Tee – automatic back-ups now happening and off-site backup storage in place. Coordinated Agency teleconference February 12, 2015 regarding changes in board appointments. Attended the MVEIRB EA Practitioner’s Workshop, February 16-17, 2015. Coordinated Environmental Agreement implementation meeting, February 20, 2015. Attended the Slave Geological Province Wildlife Workshop, March 9-10, 2015. Drafted Agency 2015-17 budget and work plan.

#### Changes in Directors

The Directors discussed the changes in appointments. Bill explained that he had been asked by the GNWT if he was willing to stay on in his current capacity until the next AGM in December. Steve Matthews has indicated he is unavailable, for personal reasons. Bill and Kevin met March 10, 2015 with Joel Holder and Rick Bargery (DDEC). It was unclear whether Steve Matthews would be appointed in December. Bill reported some key points conveyed by Joel and Rick in the meeting: an apology was made for the clumsiness of the process, but GNWT and DDEC were emphatic about appointing northerners. They talked about how to make such changes smoother in the future, and mentioned that they have in mind some possible by-law changes that could affect the nature of appointments to the Agency. Rick and Joel talked about term limits, noting that Emery and Doug would be appointed for two years. Bill observed that the Agency committed at the last AGM to look at our by-laws and make some recommendations as appropriate. Rick and Joel suggested that the Agency could consider a committee to look at the bylaws. Kevin noted that it would be better to involve the other Society members, most notably the Aboriginal governments.

Action Item #1: Kevin to begin an informal review of the Agency’s by-laws and to propose option for further review.
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Kim observed that his role in the last eight years has largely been as the Agency's wildlife expert. Because Steve Matthews was the most likely to replace that skill set but it is now unclear how the Agency can continue to be effective on wildlife issues as part of the Jay Project environmental assessment including the fast approaching Technical Sessions in April 2015.

Kevin noted that he and Bill raised this with Rick and Joel, as well as the fact that the three outgoing Directors were responsible for writing significant portions of the Agency's annual report, and were leaving right at the end of the financial year.

Tim mentioned that the Lutsel K'e Chief had made a request for Kevin to visit the community April 21, 2015, while Minister Miltenberger will be visiting. They were hoping he could present on the history of IEMA, provide some background on the Jay EA, and also discuss the dismissal of the three directors, which the community highlighted as a major topic of concern.

Kevin replied that while the Agency could certainly provide Lutsel K'e with a briefing note for this meeting, he would be unable to attend in person due to the Jay Technical sessions.

Action Item #2: Kevin to prepare a briefing note providing background on the Agency, the Jay EA, and the changes in board appointments.
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### **Financial and Variance Report**

The Agency's finances for 2014-15 were reviewed including projections to year-end. A budget and work plan for 2015-17 for the Agency was discussed.

Jaida moved a motion to approve the 2015-17 budget and work plan for the Agency, seconded by Kim. Carried unanimously (subject to minor corrections).

### **Performance Evaluation**

The Directors went *in camera* to discuss the performance evaluation of the Agency's Executive Director.

Action Item #3: Arnold to debrief Kevin on his performance evaluation.

## **FOLLOW-UP ITEMS**

### **Jay Project DAR and Agency Participation in the Environmental Assessment**

DDEC reported that 150 of the over 500 IRs will be responded to by March 20, with the rest completed by April 7. The MVEIRB took the IRs and categorized them by subject matter, according to the sections of the DAR. Kevin noted that there is the potential for a second round of IRs depending on the outcome of the Technical Sessions and the adequacy of the responses from the company.

A brief discussion was had about who from the Agency would be attending the Jay Technical Sessions in April. Arnold indicated he could attend the first three days. Jaida said she will consult her schedule, while Tim noted he is available to attend.

Bill asked what the most important things that the Agency wants to deliver at the Technical Sessions were. Bill observed that the Bathurst caribou have suffered a potentially significant adverse cumulative effect already, putting that herd at risk. He wondered if there shouldn't be management plans in place that should be complied with. Given the commitment to the precautionary principle and the lack of certain knowledge, Bill felt that we should err on the side of assuming there has been a significant adverse cumulative effect, and that there should be much more pressure put on DDEC to find adaptive management strategies.

Bill returned to what the Agency's big issues are for the Jay Project. He noted that the Agency's IR on significance is incredibly important, in principle, and that it was important for MVEIRB to explicitly state how it will determine significance.

Laura felt that there had been poor Risk Assessment of the potential failure to meet water quality objectives for Misery Pit discharge. She suggested that the consequences of the company's proposed water management not working had been underestimated, and that there was nothing in the DAR about contingency. Laura also questioned the definition of base case for water quality, noting that MVEIRB refer to a creeping baseline problem. She suggested that the Agency should pay attention to a number of MVEIRB's IRs around this issue. Finally, Laura queried DDEC's assessment of significance with regard to water quality, that the company may have underestimated water quality impacts.

Tim suggested that fish health should be a measurement indicator for aquatic biota. One example is parasite infestation, which is not mentioned in the DAR. In the last

AEMP looking at fish monitoring, DDEC used parasite infestation as a potential indicator of stress. Tim felt that the other important aspect pertaining to lakes is whether meromixis is going to occur, and wondered whether there are certain things that could disrupt the chemical barriers.

Kevin mentioned that is hard to see how the project has been designed in a way that minimizes its footprint in relation to caribou. If caribou is indeed a big issue, how do we get at the questions of mitigation, adaptive management and design?

Kevin observed that DDEC has made a series of commitments in the DAR, and explained that MVEIRB can make these binding upon the company and regulators to incorporate those terms and conditions. The question is, are the commitments made by the company sufficient? If not, a) is there significant public concern, or b) are there significant adverse environmental effects. Without a) or b), MVEIRB can't impose any measures. They can say, with the imposition of certain measures that the project could go ahead. Or they could refer the project to an Environmental Impact Review under the *Mackenzie Valley Resource Management Act*.

The Directors discussed the impending loss of Agency wildlife expertise, and acknowledged Kim's excellent knowledge of this topic. It was agreed that outside expertise would be required in the area of wildlife. Kim stepped out of the room, and the Directors further discussed who the Agency might retain as a wildlife expert. It was agreed that the Agency should approach Kim Poole to serve as the Agency's expert with regard to wildlife for the upcoming Technical Sessions on the Jay Project scheduled for April 20-24, 2015. It was also decided to seek input on this arrangement with the incoming Directors.

Kim returned to the meeting. Regarding MVEIRB IR#77, it was suggested that the Agency had already provided a response, by way of one of its original IRs. However, Kevin and Bill agreed to confer and draft a response.

Action Item #4: Kevin to discuss Agency's intention to retain Kim Poole as an expert wildlife consultant with incoming Directors and then proceed with the necessary arrangements to secure his services for the Jay Project Technical Sessions.

Action Item #5: Bill, Kim and Kevin to draft the Agency responses to the Jay Project IRs directed at the Agency.

## **Financial Security Review**

The Directors discussed the status of the Environmental Agreement security review. The Agency submitted its views and calculations on future funding for the Agency until full and final closure, at the end of January 2015. The company submitted its position shortly thereafter. DDEC increased its figures to about \$8 million, an increase of a couple of million. There are still some significant differences of opinion between the Agency (~\$47 million) and DDEC (~\$9 million) estimates regarding the Environmental Agreement financial security.

During the meeting, an e-mail was received from GNWT that outlined the next steps in finalizing the Environmental Agreement security. GNWT thanked the Agency for its efforts to date but indicated it would prepare its position and share that only with DDEC. GNWT then expects to finalize the security through direct negotiations with the company. GNWT offered to explain its position and decision to the Agency after it has been made.

The Directors noted this change in process was not consistent with earlier statements by GNWT where it indicated that it would prepare its position and send it to both the Agency and the company for a final opportunity to comment before making a final determination. The Agency has never been apprised of GNWT's position on Environmental Agreement security. The Directors decided to send a letter to GNWT that encourages completion of adjusting the financial security under the Environmental Agreement, but noting the changes in the process whereby the Agency would not be apprised of GNWT's position until after a decision has been made. The Agency will also indicate it is interested in meeting to discuss the decision whenever it may be made.

Action Item #6: Kevin to draft a letter to GNWT on the change in process for setting Environmental Agreement security.
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## **2014 ICRP Progress Report and Supplemental Information**

The Directors discussed the 2014 Interim Closure and Reclamation Plan Progress Report. Continued slippage of most of the reclamation research plans was noted. The company continues to push for significant reductions in the financial security held under the water licence through changes to the closure methods. The Agency does not support some of these changes and has requested additional information.

## **Review of Revised AEMP Response Framework**

The Agency had some issues with the first AEMP Response Framework, which were outlined in its comments to the WLWB December 19, 2014. The WLWB has directed that DDEC answer a further set of questions and respond in time for a workshop to be held in May 2015.

## **Lynx Project – AEMP Design Plan Changes**

The Agency had raised the issue of dust impacts from Lynx on water quality and sediment in Lac de Gras and the possibility of an AEMP station. The company rejected this suggestion and indicated it would monitor dust from Lynx operations. It was noted that the WLWB are pushing DDEC to address dust thresholds for water quality impacts in the context of the changes to the AEMP in relation to Lynx Project. It is now expected that the company will discuss the thresholds at the Aquatic Response Framework workshop sometime in May 2015.

## **CARC BHP NWT Diamond Project Files**

Kevin informed directors that the relevant files have been transferred to the Agency office.

## **COMMUNICATIONS UPDATE**

Tee provided a brief communications update. Noteworthy items included the progress being made on building the new website, following a long-delayed meeting that Tee and Kevin had with Tamarack Computers. Also, following Tee and Kevin's discussion with Tamarack, it was decided to move away from the Access database that Jessica was working on for cataloguing our Resource Library materials, towards an online database within our website. Such a database would likely be more user-friendly, and accessible by a wider range of people.

## **NEW BUSINESS**

### **Transition Planning**

Arnold was added as a signing authority on the Agency's bank accounts. Motion moved by Jaida, seconded by Laura. Carried unanimously.

It was pointed out that it will be important to orient the new Directors for the Agency's upcoming annual report and other administrative matters.

Action Item #7: Kevin to contact the new Directors and arrange a convenient time for an orientation.
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## **2014-15 Agency Annual Report**

A preliminary table of key issues and topics for the Annual Report, and the assignment of sections was discussed by the Directors. Kevin committed to editing the draft Annual Report writing table and to send it to all Directors prior to the meeting in May.

The Directors felt the Agency would have to contemplate engaging a wildlife expert to review the WEMP and assist with the corresponding section of the Annual Report. Kim Poole stepped out of the room during the further discussion of this point. The Directors agreed to hire Kim to review the 2014 WEMP and to assist with drafting of the wildlife section of the 2014-14 Agency Annual Report. However, regarding the AEMP review and writing, Laura felt that the incoming director with water expertise should tackle this, together with Tim.

Action Item #8: Kevin to edit the Annual Report writing table and distribute to Directors. Kevin is also to take the necessary actions to engage Kim Poole to review the 2014 WEMP report and to assist with the 2014-15 Agency Annual Report section on wildlife.
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## **Environmental Monitoring Advisory Board (EMAB) Briefing**

Brenda McDonald and Robin Heavens (Environmental Specialist) from the Environmental Monitoring Advisory Board for the Diavik Mine provided the Agency with a briefing on their recent activities. Brenda mentioned the budget dispute between EMAB and Diavik, in which the GNWT had selected the company's budget, which was \$150,000 less than EMAB's proposed figure. Diavik's justification for this was the removal of EMAB's Traditional Knowledge Panel, which they had taken over previously.

Brenda noted EMAB is also preparing for its financial audit, and putting together annual reports for the last two years. EMAB is also undertaking a website update, producing posters and brochures for community visits, updating its electronic library, and hoping to do some training with its board members. There are currently Kitikmeot Inuit Association, Diavik and Tłıchq vacancies on the board. EMAB is also hosting a workshop the week of March 16, 2015 on air quality, water and wildlife. There will be presentations on EMAB's recommendations from the last 3-5 years, the responses from Diavik, while soliciting feedback from the communities. Agency staff will attend when possible.

Robin noted that she is working on Diavik's water licence renewal, as EMAB has decided that it will intervene. She has been working with North-South Consultants on

drafting an intervention. Robin has also been closely involved in developing the EMAB workshop agenda and materials.

Kim asked for copies of Petr Komers reviews of the Diavik WEMP reports since 2011. Brenda said she would send those to Kim. There was also some discussion of dust suppression at both Diavik and Ekati.

Action Item #9: Kevin to send Kim's presentation on dust suppression to Robin and Brenda.

### **GNWT Land Water Inspector's Briefing**

Marty Sanderson, Manager of Diamond Resource Management with the GNWT Department of Lands, provided the Agency with a briefing on his recent inspections of the Ekati Mine.

Marty reported that the road is in place at Sable for the exploration program, and the sump is in a good location. Two holes have been drilled already, and DDEC is pumping out around 50 'mega-bags' per day of kimberlite bulk samples. There was one fuel tank that was not double-walled, and Marty has asked DDEC to rectify this. Otherwise, everything is fairly clean at Sable.

Marty reported that the winter road is being used for Jay, at Portage 56, a well-maintained overland route. There are currently four drills turning, and Marty visited all of the sites where active drilling is taking place, noting that a few holes have been punched through the ice. A few drills did not have proper spill kits, which was noted. Drip trays or spill pads are needed underneath and the company has provided assurances that this will be done.

While inspecting the landfill, some waste from the underground was noted including contaminated styrofoam, rebar and other materials. This waste should not be in the landfill and the company was notified and has undertaken to rectify the issue.

Marty mentioned that the company is very responsive to recommendations from the inspector. He also reported that things were more or less business as usual since devolution and transfer of inspectors from AANDC to the GNWT.

### **GNWT and Jay Project Environmental Assessment (EA)**

Lorraine Seale, Manager of Project Assessment with the GNWT Department of Lands, provided a briefing for the Agency on the GNWT's role in the Jay EA. She noted that the

Jay IRs were not the topic of discussion, but rather she was intending to provide some general background.

Lorraine made two commitments to obtaining additional information for the Agency including explanations on the status of lands for the proposed East Arm National Park and the Thelon Game Sanctuary.

Lorraine said that the GNWT Lands Minister would sign off on the Jay Project Environmental Assessment with concurrence from federal ministers, possibly through Aboriginal Affairs and Northern Development Canada or the Northern Major Project Management Office. Bill raised a question regarding whether GNWT-Environment and Natural Resources staff can participate in the EA process providing expertise, given that department's regulatory responsibilities. He wondered whether regulatory responsibilities would lead to diminished roles for ENR staff who could otherwise provide important expertise to the EA process, e.g., around wildlife, water and land. Bill requested that the GNWT provide any resolution that they can on this as soon as possible.

## **OTHER BUSINESS**

### **Future Meetings**

Annual Report Writing Workshop dates confirmed for May 6-8, 2015. Staff will do some further research and costing on location options with a view to keeping cost down.

Action Item #10: Agency staff to prepare cost estimates for the May 2015 Annual Report writing session location options to be distributed to Directors as soon as possible for a decision.

Working towards a June site visit. Tony available first and last week of June. Jaida unavailable June 12-14. Try for week of June 22 (June 23-24).

Action Item #11: Kevin to request a June 23-24 Ekati Mine site visit for the Agency.

A community visit in September (to be timed with a board meeting) was suggested. This will likely be to a Tłı̄chq̄ community, with Wekweètì being suggested. Kugluktuk was also considered but will likely be beyond the Agency's budget this year. Staff will further investigate options.

Tim Byers was authorized to participate on behalf of the Agency in a Fisheries and Oceans workshop on the new fisheries protection regime to be held in Winnipeg on May 12-13, 2015.

*Meeting adjourned at 4:00 pm on March 12, 2015.*

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A handwritten signature in cursive script, appearing to read "Arnold Enge", is enclosed in a light gray rectangular box.

**Summary of Discussion Approved by  
Arnold Enge, Secretary Treasurer.**

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