

**11th Environmental Agreement Implementation Meeting
Yellowknife, NT
Summary of Discussion
June 17, 2011**

Revised: August 16, 2011

Participants

Lionel Marcinkoski, Indian and Northern Affairs Canada (INAC)
Lorraine Seale, INAC
Patrick Clancy, Government of Northwest Territories (GNWT)
Bill Ross, Independent Environmental Monitoring Agency (IEMA)
Tim Byers, IEMA
Kevin O'Reilly, IEMA
Monica Krieger, IEMA
Karl Schubert, BHP Billiton (BHPB)
Eric Denholm, BHPB

Meeting commenced 9:00am.

INTRODUCTIONS AND SELECTION OF CHAIRPERSON

Round-table introductions were made. Eric Denholm was selected to serve as the chairperson for the meeting.

REVIEW AND APPROVAL OF PREVIOUS MINUTES

The minutes of the January 21, 2011 meeting were reviewed. Eric Denholm had submitted some changes to the draft minutes.

Motion to accept the minutes of January 21, 2011 with suggested changes incorporated.

Moved by Bill Ross. Seconded by Lionel Marcinkoski. Carried without objection.

REVIEW OF PURPOSE AND AGENDA

The purpose of the meeting as set out in the 2006 Resolution Agreement was reviewed (i.e. to discuss BHPB and IEMA communications responsibilities and current status, and to discuss preliminary content of IEMA Annual Report).

IEMA PRESENTATION ON COMMUNICATIONS RESPONSIBILITIES AND PLANS

Bill reviewed the Agency's mandate and communications responsibilities arising from the Environmental Agreement, Resolution Agreement, Agency Society bylaws, and Agency Communications Protocol (see PowerPoint presentation for details, distributed before the meeting and available from the Agency).

Kevin clarified that the Communications Protocol was created in the late 1990s, and is meant to ensure that all parties to the Environmental Agreement are copied on any Ekati-related correspondence. Lionel added that in the past, there were issues with the Agency not being copied on correspondence between BHPB and government agencies. Lorraine asked whether this also applied to documents submitted to the Wek'èezhii Land and Water Board (WLWB), as these are usually circulated anyway by WLWB staff. Kevin responded that the Agency copies all Society members on all its correspondence and would like the same courtesy (e.g. inspection reports, wildlife incident reports). The Agency is not copied on BHPB's submissions to the

Wek'eezhii Land and Water Board and does not receive wildlife incident reports or communications with the inspector. It was agreed to circulate the protocol for discussion at the next meeting, including suggestions for updates if required.

[Note: The official document is titled "IEMA Policy Statement – Information Exchange, Communication and Coordination" and dated January 20, 1998.]

Bill presented a chart summarizing the Agency's communications activities for 2010-11. He noted that discussions with BHPB staff during site visits (including the most recent June 15-16) are an important aspect of Agency communications with the company. As well, the snow sampling discussions have been a good example of working collaboratively to improve methodology.

The Agency's Annual Report is currently being written and will be distributed in August, including technical and plain language versions and a summary brochure. A Board meeting and community visit to Whati is tentatively scheduled for September, and the Agency's annual general meeting and environmental workshop will take place in November or early December. All agreed that an environmental workshop focused on a specific topic (e.g. air quality in 2010) was much more useful. This year's topic has not been decided yet. Other community visits and meetings may occur if requested by Society members. The Agency also participates in regular updates with the environmental monitoring agencies for the other diamond mines (Environmental Monitoring Advisory Board for Diavik and Snap Lake Environmental Monitoring Agency), and collaborates with them as appropriate. For example, the recent wildlife monitoring program review provided opportunities to work together on common issues.

There was a discussion regarding collaboration between BHPB and Diavik on air quality monitoring programs, especially since Diavik recently received a Minister's Report for an inadequate air monitoring program and BHPB plans to restart mining at Misery pit. Eric noted that Diavik did request air quality data from Ekati and this was provided. Kevin also mentioned that the Agency spoke with Keith McLean (BHPB) during the site visit regarding grizzly bear monitoring, and the benefits of having all parties agree on a common methodology for monitoring. Eric agreed but added that BHPB's first priority is to focus on its own site and business. Opportunities to work with others and to look at more regional scale issues will be considered as they arise.

BHPB PRESENTATION ON COMMUNICATIONS RESPONSIBILITIES AND PLANS

Eric summarized BHPB's recent communications activities and future plans (see PowerPoint presentation for details, distributed before the meeting and available from the Agency). He noted that these activities are more focused on environment and permitting topics, but BHPB also has additional discussions with communities on Impact Benefit Agreement (IBA) obligations.

Recent communications in 2011 include two Environmental Agreement implementation meetings and the IEMA site visit June 15-16. Eric agreed with Bill that on-site discussions between the Agency and BHPB are very useful and appreciated. Discussions are ongoing for various community-based Traditional Knowledge (TK) projects. These are at different stages of development and are indirectly connected to Ekati. They focus mainly on the preservation of existing TK knowledge including translation, transcription and digitizing from various media and development of GIS and database systems.

Charles Klengenber started in January as the Environment Advisor-TK. A joint site visit involving all communities was held in May to discuss the Air Quality Monitoring Program (AQMP), and snow and dust sampling procedures were demonstrated. Participants also viewed the Panda Diversion Channel (PDC) slope enhancement project and talked about other topics, and a summary report was produced and distributed.

Individual communities have also been invited for a week-long site visit, now being scheduled throughout the summer. One adult and one youth from each community take direct part in environmental monitoring programs at Ekati such as caribou observations, water sampling, or grizzly bear hair snagging. Kugluktuk visitors are on site this week. These site visits are an improved version of those conducted in the past. Adults were targeted as elders sometimes have difficulty getting around the site, the youth were identified with assistance from the schools, and the visits are more structured and over a longer time frame. Having a staff member dedicated to these initiatives has greatly improved organization.

Bill asked how BHPB is documenting these meetings. Eric replied that Charles is recording observations and comments throughout the week, and a wrap-up meeting is held before visitors return home. Summary reports for these visits will also be produced and distributed. One of Charles' priorities is to share information and follow-up with participants, which makes people feel they contributed. Karl said that the Kugluktuk visitors got a lot of benefit from the site visit, and BHPB staff also appreciated the opportunities to learn more from them (e.g. identifying caribou health from an Aboriginal perspective). It will be interesting to put the information together after all the community visits are complete. Eric added that getting people out on the land for these types of discussions is also an important aspect of TK work, not just formal discussions about what constitutes TK.

Tim asked about status of the Caribou and Roads project. Eric replied this is no longer a stand-alone project, but lessons learned will be incorporated into site visits and other wildlife monitoring initiatives. BHPB felt the project had run its course for the original design purpose, and had become more of a Kugluktuk-oriented program. The company would rather have people from all communities on site more regularly, to discuss purposes and objectives for that type of information and have more direct conversations with Environment department staff. Tim said there is still an outstanding question about the effectiveness of inokhoks in deflecting caribou away from mining activities or dangerous areas, and wondered whether this aspect would now be included in the Wildlife Effects Monitoring Program (WEMP). Eric answered that BHPB agreed it was a good idea at the time but has been unsure how to evaluate it. The inokhoks remain in place and are not hurting anything, and BHPB has other mitigation measures and monitoring programs under the WEMP for when caribou are passing through the site.

BHPB plans to continue supporting community-based TK projects for the remainder of 2011. The plain language summary of the 2010 Annual Report will be complete in July and distributed to all parties. BHPB is also planning a July technical meeting on the processed kimberlite deposition plan, specifically on proposed revisions to further defer use of cell D in the Long Lake Containment Facility. The preferred option involves relocating the road and deposition pipeline along the west side of cells A and C where there is more capacity, in combination with the use of Beartooth pit. Another option exists for expanding use of cell B but this is not preferred. BHPB would like agreement on concepts and plans so that a revised Wastewater and Processed Kimberlite Management Plan can be submitted to the WLWB. The target is to bring up any required equipment on the winter road. The meeting will be held in Yellowknife and communities invited to participate.

A follow-up AQMP site visit for community members is planned for August, specifically for discussions on lichen species and sampling. Direct visitor involvement in sampling may not be as intensive depending on helicopter availability. BHPB is currently using helicopters which can hold four passengers, two pilots and gear. A summary report for this visit will also be distributed.

The WLWB is scheduled for a site visit in August, and early fall is being targeted for the Environmental Impact Report workshop. In preparation for the water license renewal in 2013, BHPB is planning a series of pre-application engagement activities in the second half of 2011. These may include community visits, workshops and meetings. The Environment department will also conduct community updates around that time, which are usually coordinated with socio-economic updates.

Lionel asked whether the amended Interim Closure and Reclamation Plan is still on track to be submitted in August, so that INAC can move on with calculating security deposits. Eric confirmed that revisions are on schedule, and that securities will be calculated on the basis of the approved work plan. Karl added that integrating reclamation and closure activities into work plans also helps with mine planning.

IEMA PRESENTATION ON PRELIMINARY CONTENT OF 2010-11 ANNUAL REPORT

Bill reviewed preliminary content and focus of the Agency's Annual Report (see PowerPoint presentation for details, distributed before the meeting and available from the Agency), as well as the three recommendations directed at BHPB and Government of the Northwest Territories (GNWT). BHPB and GNWT have both provided preliminary responses.

Recommendation 1: The Agency recommends that, before the end of 2011, BHPB make its new site incinerator operational.

Bill stated this is long overdue as the equipment was purchased in 2006. It is a legitimate concern as Environment Canada's study clearly shows dioxins and furans in Kodiak Lake sediments, and it was raised at the November environmental workshop as a major concern for community members. GNWT has supported the recommendation. Karl replied that BHPB's financial year begins on July 1st. The incinerator is definitely on the priority list and budgets are approved. It will likely be commissioned in the beginning of 2012.

Recommendation 2: The Agency recommends that BHPB implement in 2012 a monitoring program with the objective to determine the influence of mine related activities on the relative abundance and distribution of grizzly bears.

Bill noted that the Agency wants to see movement forward and more work on a regional basis, and sees little need for further testing of a proven technique (i.e. hair snagging for DNA samples). There was a good discussion during the Agency site visit between Director Kim Poole and BHPB staff. Kim expressed support for this summer's planned work, and gave helpful suggestions for next year. For example, Kim said it was important to know what the objective of the expanded program is to determine the size of sampling grids and number of posts. Eric and Karl mentioned that the Kugluktuk visitors went out with Brian Milakovic (Rescan), and posts will be relocated several times within each grid block over the study period. BHPB was glad to get positive reinforcement for its plans and was encouraged from the discussions. Eric added the studies this year will provide data to support further conversations.

Recommendation 3: The Agency recommends that BHPB and GNWT-ENR agree to a regular (we suggest every three years) formal review of wildlife monitoring and management at the Ekati mine.

Bill stated this recommendation is related to provisions in the new NWT *Wildlife Act*, where WEMPs will be put on the same status as Aquatic Effects Monitoring Programs are now in terms of a regular review. There is a requirement for programs that are reviewable and therefore enforceable under the changes to the *Wildlife Act*. BHPB's response indicates they are supportive of the concept with more discussion about process and timeframe. Eric clarified that the company needs stability in the monitoring program, and there is a difference between major reviews and changes like those undertaken recently and regular updates to keep the program current.

Lionel stated that although no recommendations were directed at INAC this year, INAC supports all of them and has been pleased to see progress on many issues.

Kevin said that Directors have reviewed the final proofs for the technical version of the Annual Report, and the Agency is awaiting finalized responses to recommendations and the financial statements. Once final changes are incorporated, work will begin on the plain language version and summary brochure. Printing and distribution usually occurs in August, with the financial statements sent separately to INAC, GNWT and BHPB. All agreed that printing the responses to recommendations in the report is very useful.

DISCUSSION

Lionel said that the Irrevocable Letters of Credit (ILOCs) were finally signed off with INAC for the Ekati Mine. He also congratulated BHPB for winning the Mine Rescue Competition for the second year in a row. Karl said that this competition is designed to practice situations where people need to be rescued, but that BHPB teams also regularly practice for major environmental emergencies such as spills.

Lorraine noted that INAC has officially changed its name to Aboriginal Affairs and Northern Development Canada (AANDC), effective June 21st. Staff e-mail addresses will stay the same, and the pre-INAC name of Department of Indian Affairs and Northern Development (DIAND) continues to apply for all legal and formal agreements unless the enacting legislation is changed. She will forward information that was sent to INAC staff. Lionel is on leave from June 24th to September 6th, and Lorraine is on assignment with another division within the Department so a new contact over the summer will be identified.

Tim asked whether the frequency of Jason Brennan's inspections at Ekati will be affected, since the department is short-staffed and Jason is also inspecting Diavik. Lorraine responded that they are trying to find a replacement, but currently Jason is sharing responsibility for Diavik with the Snap Lake inspector. The priority remains to get all inspections done, although there may be some delays in writing up reports.

DATE OF NEXT MEETING

The date for the next meeting will be in January 2012.

Meeting concluded 11:00am.