

***Independent Environmental Monitoring Agency
51st Meeting of the Board of Directors
Wekweti and Yellowknife, NWT
September 20th – 22nd, 2006
Summary of Discussion***

Revised: November 24, 2006

Directors

Bill Ross, Chairperson	Sheryl Grieve
Tim Byers, Vice-Chairperson	Tony Pearse
Jaida Ohokannoak, Secretary-Treasurer	

Staff

Kevin O'Reilly

Information Updates

Bill participated in the Environmental Impact Review (EIR) 2006 site visit in June 15-18, 2006.

Tim was involved with the EIR 2006 site visit June 15-18 and the closure site visit July 7-9, 2006. Tim also was an observer at the closure options evaluation workshop that took place on July 18-21, 2006.

Tony represented the Agency at the closure options evaluation workshop.

Sheryl is working on a report from the reclamation workshop hosted by the Canadian Institute in Yellowknife in May 2006. Sheryl also participated in the closure options evaluation workshop on behalf of the North Slave Metis Alliance (NSMA). She also provided a briefing for the NSMA Environment Committee.

Jaida reviewed draft materials for the Agency's 2005-06 plain language version of the Annual Report.

Kevin worked on several letters including two on the Agency's position regarding the addition of chloride at the process plant. The editing and production of the plain language Annual Report was just completed. Kevin will be giving a presentation on the Agency at the University of Alberta next week. The Agency may receive an invitation to appear before the Mackenzie Gas Project Joint Review Panel on the topic of independent environmental oversight and monitoring. Preparations for the Annual General Meeting in November are also underway. Sean started his parental leave on July 10 with the arrival of his son Archer.

Finances and Administration

The new bookkeepers are Dargo and Associates. In reviewing the final financial statements for 2005-6, it was noted that the figures of the DIAND and BHPB contributions for the Agency's mediation costs were not changed as requested. The amount repayable to BHPB was also not presented in a clear manner. Jaida and Kevin will meet with the accountants to discuss these two matters.

Action Item #1– Jaida and Kevin to meet with the accountants to review the 2005-6 financial statements.

Meetings with Others

September 20—Jane Howe and Laura Tyler, BHPB

Jane provides an operational update, the highlights of which are bulleted below:

- Misery ore hauling was slower than planned due to some safety issues with the contractor and will now continue until next summer.
- Underground production at Koala over the next 11 years was approved by senior management and will cost \$250 million. This underground operation will be sublevel caving rather than the sublevel retreat method used at Panda.
- The caribou monitoring program was changed and there were no flights in May to June. During mid-July there were 20,000 caribou on site, many of which crossed through Cell B.
- More inuksuit were built this past summer and motion sensor cameras were also installed on some. A fence was put in place north of the Beartooth pit. Additional ramps were built on the Fox road, Misery road, near the Nero-Nema culvert and around the Ammonium Nitrate building
- A dead peregrine falcon was discovered under the Grizzly powerline and probably tried to land on it as its feet were charred.
- Fisheries compensation work was done for the Nero-Nema system by building six gravel pads in the stream and will be monitored.
- About 40 people participated in the EIR 2006 site visit.
- BHPB was disappointed with the Ministers' Report and will be responding in due course.
- Dyke C was raised 2 m this past summer. Racetrack water now drains into Cell B and surface water management around Koala was changed to ensure that less water ends up in the pit and underground workings.
- Fox pit water is now going into Cell D.
- Underground saline water now goes to the process plant through a newly constructed line and the calcium chloride levels will be monitored.
- Dust suppressant was applied once this past summer on the Fox road and next year will likely be done twice.

- An internal Health, Safety and Environment audit was conducted against new corporate standards (scored 4.0 out of 5 and in the top 25% of BHPB operations) while an external audit will be done next year.
- BHPB continues to participate in the Multi-Project Environmental Monitoring Agency discussions. Outstanding issues include the fact that KIA and Diavik are not involved, the complexity of the organizational structure, cost savings for BHPB, and lack of inclusion of the Jericho mine.
- The physical transfer of the NTK Project has not taken place yet as KIA is in the process of hiring a staff person. Fifty copies of the final reports have been printed and KIA will be responsible for its distribution.
- The new incinerator has begun operation and the scrubber is to be installed to help with cleaner emissions. Only about a cubic metre of water per week will be produced.
- Two hi-vol air samplers have been installed for summer-only operation near Grizzly Lake and east of Cell B. Continuous air sampling equipment (for TSP, SOX, NOX and PM_{2.5}) has been delivered to site but Environment Canada (EC) and GNWT have declined to assist with its location through a site visit. BHPB is of the view that the CALPUFF model would be of little assistance in siting.
- BHPB has shifted priorities to provide the air quality reports to meet GNWT and EC concerns. There will be a modeling report, monitoring report, and an amended management plan (probably next year for the latter).
- Road construction west of Cell B has begun
- A technical meeting to review the Aquatic Effects Monitoring Program (AEMP) has been tentatively scheduled for late October. Rescan has been doing multi-variate analysis of the monitored parameters and has not found anything different from the results of the univariate analysis.
- The DIAND inspector was to site on June 13, August 23, and will be on site again October 4-5. Other site visits included the Wek'ezhii Land and Water Board on July 12, Kugluktuk elders August 3-8, Fisheries and Oceans August 30-31.
- A number of reports are in preparation including the LLCF water quality studies and the chloride Tier II risk assessment (likely to be submitted in the fall), risk assessment for metal uptake in vegetation, an adaptive management plan (no workshops are planned but the Agency was invited to submit any comments or suggestions), a Metal Leaching Plan (renamed from ARD and Geochemical Characterization Plan), and others.

Discussion

The Agency expressed some surprise that Fox Pit water was being deposited into Cell D. Jane stated that this was necessary due to operational requirements including it is closer to Cell D than Cell C and the amount of water is small. She indicated that BHPB had assessed the risk fully and that there would be no effect on Cell E water quality.

In response to a question from the Agency about the appointment of replacement Directors, Jane replied that BHPB cannot get messages returned to set up a meeting to discuss this issue with GNWT and DIAND. It is BHPB's position that the matter cannot go directly to mediation.

Jane noted a couple of discrepancies with the Agency financial statements, the figures in the mediation schedule and the precise amount of the repayment. The Agency agreed to review the matter and to advise Jane accordingly.

Action Item #2– Agency to reply to BHPB's inquiries regarding the 2005-6 financial statements.

The prospect of an October site visit by the Agency was discussed and it was agreed that the Directors would check their schedules to see if this might be possible.

Action Item #3– Agency to contact Jane Howe regarding an October site visit.

To help improve communications, Bill offered to call Jane on a more regular basis.

September 20—Scott Stewart, DIAND Inspector

Scott indicated that DIAND had begun another competition the previous week in an attempt to recruit another full-time inspector. It is hoped that the position will be staffed in January 2007 but in the interim, Scott will continue on the Ekati file. There is a similar understaffing problem for the Diavik and Snap Lake mines. Darnell McCurdy will move over in October as the new Manager of the North Slave regional office, replacing Ed Hornby who has retired.

He conducted inspections in May, June, August and September. The Misery camp has been cleaned up to his satisfaction. No concerns were noted during the June visit and the a few minor matters were noted during August including some small spills and the need for better calcium chloride storage.

There was a brief discussion of who has the authority to enforce or require compliance with a water licence. It appears to be an area of shared authority between the WLWB and the inspector.

September 21—Zabey Nevitt and Sarah Baines (via teleconference), WLWB

Zabey reviewed the administrative management of the WLWB that now has two regulatory officers, and administrative assistant. All the files for 2005 and 2006 have been physically moved to Wekweti except for BHPB and Diavik where the original files are still kept at the Mackenzie Valley Land Water Board (MVLWB). Once the latter files are scanned, the originals will also be moved to Wekweti. The second floor of the building is available for storing files. There are two high-speed internet service providers in Wekweti.

There are currently five members appointed to the WLWB, two by the Tlicho Government (Joseph Judas and Alphonse Nitsiza), one nominated by the GNWT (Joyce Rabesca), and one by the federal government (Violet Camsell-Blondin). Ms. Camsell-Blondin has been selected by the members to serve as the Chairperson. The federal government must now backfill that position but has not done so to date.

The Board meets about every six weeks for full day. Earlier meetings were held more often to work out implementation matters. The WLWB maintains a close working relationship with the MVLWB as it still provides access to technical assistance, staff, and training. The WLWB members are automatically on the MVLWB and occasionally sit on panels that deal with projects in the regions outside settled land claims areas.

To provide an idea of the workload, there are 83 active files, 24 of which are major operations (power, mines, advanced exploration projects). By comparison, the Gwich'in Land and Water Board has about 20 active files.

The WLWB is dramatically underfunded for the work that is required. The current funding level is about \$610 k including six staff. There are not enough funds for retention of legal and technical expertise but the MVLWB has assisted with these services. The budget for the WLWB was set out in the implementation plan for the Tlicho Agreement but is not adequate. There was additional funding available for implementation of the Agreement and this came right at the end of the last fiscal year in February and was allowed to be carried over. This surplus should carry the WLWB through for two or three years with the current level of activity but additional funding will be necessary after that point. A proper budget including legal and technical assistance would be around \$1 million. Separate funding is available for the purposes of public hearings but must be applied for on a case-by-case basis. This funding would cover any additional staffing, Board meetings, legal and technical assistance, but does not include intervenor funding.

Zabey confirmed that the WLWB is still committed to a public hearing on the Ekati Interim Closure and Reclamation Plan (ICRP). The WLWB staff continue to include the Agency on the distribution list for any matters related to Ekati. The WLWB staff have no objection to BHPB including the Agency directly on any materials it submits to the WLWB, but would not insist that BHPB do this either.

Sarah mentioned that BHPB has indicated verbally that it will seek an extension for a number of reports due over the next while including the Tier II risk assessment for chloride, the adaptive management plan (AMP), metal leaching plan, and hydrocarbon and contaminated materials management plan. Bill mentioned that BHPB was seeking input from the Agency on the AMP. Sarah stated some expectations for the AMP.

Tim mentioned that the Agency found out yesterday that BHPB is depositing Fox pit water into Cell D. Sarah was just informed of this too and indicated she would check the Wastewater and Processed Kimberlite Management Plan.

Sarah mentioned that the WLWB staff are preparing a draft terms of reference for an on-going working group to better review the several new plans and requirements under the new water licence for Ekati.

There was a discussion of how the Agency may be able to better assist the WLWB and its staff. It was suggested that more specific comments that include examples and recommendations on expectations, solutions and outcomes would be helpful. It was also suggested that the Agency may try to rebuild a better working relationship with the company.

The WLWB is not involved in the issue of the outstanding letter of credit for security under the new Ekati water licence. BHPB is not fighting the requirement but trying to work out the form and details with DIAND.

September 21—Agency Visit to Alexis Arrowmaker School

Tim, Sheryl and Kevin went to the school and gave a presentation on the Agency to the senior class of seven students. Many students were absent as there had been a couple of elders pass away in Behcho Koe. The students in attendance asked several questions about the size of the pits, kinds of fish found at the site, what happens to fish when they decompose, and the size of zooplankton.

September 21—Agency Open House Community Meeting

The Agency hosted an evening open house with a presentation on the work of the Agency and current issues. The Agency arranged for an interpreter to assist in translating the presentation and discussion into Tlicho. Unfortunately, many people were out of the community due to some recent deaths of elders in Becho Koe.

There were seven adults and several children that attended, including the former chief and a worker currently employed at Diavik. Almost all of the discussion centred on observed changes and concerns regarding the Bathurst caribou herd. It commenced at 19:30 and wrapped up at 21:45.

Internal Agency Discussions

EIR 2006 and Closure Planning Site Visits and Closure Options Workshop Debriefing

Tim noted that BHPB Vice-President Richard Morlan attended the EIR 2006 site visit and that he clearly stated that the company was a guest in Canada and offered an “iron-clad guarantee” that environmental protection would not be sacrificed. Tom had a discussion with Andy McMullen, wildlife consultant, during the closure planning visit. Andy is interested and would be available to assist with any meetings or workshops that may focus on wildlife deterrence. Andy was also of the view that the wolverine problems

at Ekati and other mine sites, may relate to the removal of the oldest problem animals from the sites that would have previously kept younger animals out.

Bill noted that there were good exchanges and interactions during the closure planning visit but that correspondence on various issues, especially closure, seems to be on the increase. This may be attributed to the lack of a regular forum for all interested parties to learn and discuss environmental matters at Ekati—an opportunity previously afforded through the environmental workshops.

Agency Core Budget and Work Plan 2006-8 Review

There have been some additional activities identified over the last few months that are not included in the current work plan. The AEMP technical review meeting is not in the work plan but current resources should allow for Director participation. In the absence of new director appointments, the Directors agreed that the Agency should look at retaining some additional expertise (Dave Osmond) to assist in reviewing the AEMP and any potential changes suggested by BHPB. The Manager will also approach DIAND to see whether it may be able to involve Barry Zajdlik.

Action Item #4– Agency to approach Dave Osmond with regard to assistance with the AEMP review and DIAND for Barry Zajdlik.

There was a discussion on the need for and possible topics for an environmental workshop during 2006-7. There are no funds identified in the current budget but the Directors supported the concept of a workshop and approaching DIAND for assistance. The topics that might be covered include:

- Results of the 2005 monitoring programs as these reports were not received in time for discussion at the EIR 2006 meeting and this meeting did not have any technical discussion of the monitoring program results;
- Results of the 2006 monitoring programs but with the assumption that, contrary to recent practice, BHPB will actually deliver the report before March 31;
- Traditional Knowledge studies including the NTKP, work by the Tlichio, Lutsel K'e and others;
- Wildlife deterrence best practices including other agencies and jurisdictions; and /or
- Closure and reclamation topics that might include detailed discussions of the ICRP.

The Directors decided that this issue of whether to hold an environmental workshop and the possible focus, should be raised at the upcoming AGM.

Action Item #5–The Agency will raise the issue of an environmental workshop for 2006-7 at the AGM.

The AGM preparations were discussed. It was decided to hold a special session for the Aboriginal Society members following the AGM to allow them to bring any matters on concern to the attention of the Directors.

Action Item #6– Agency to add a special session for Aboriginal Society members following the AGM.

Seepage Report Review

The Directors reviewed the BHPB response to the Agency’s position that the 2005 Seepage Report does not comply with the terms of the new water licence. It was agreed that a further letter to the WLWB was necessary to outline the Agency’s expectations around how monitoring should be conceptually linked to management plans through the identification of potential issues, with follow-up actions or research within a defined timeframe. This approach will also assist in building public confidence in BHPB’s environmental management

Action Item #7– Agency to send a letter to the WLWB setting out our expectations in linking seepage monitoring to relevant management plans.

Other Items

The Directors agreed on the following work assignments over the next several weeks:

Action Item #8—Bill and Kevin to review the DIAND mine site reclamation guidelines for the October 31, 2006 comment deadline.

Action Item #9– Tim to prepare comments on the current AEMP for use in the upcoming review.

Action Item #10– Agency to write a letter to GNWT and the Wek’ezhii Renewable Resources Management Board conveying the concerns regarding caribou expressed in the community meeting and suggesting a community workshop.

Future Board Meeting Schedule

The Directors agreed on the following meeting schedule:

- January 31, 2007 am for a potential meeting on Environmental Agreement implementation as required under the mediation Resolution Agreement;
- January 31 pm to February 2, 2007 for a regular Board meeting;
- Week of March 19-23, 2007 for a possible environmental workshop; and
- April 16-20, 2007 for the Annual Report writing session on Mayne Island.