

***Independent Environmental Monitoring Agency
55th Meeting of the Board of Directors
Yellowknife, NWT
May 23rd, 2007
Summary of Discussion***

Revised: July 16, 2007

Directors

Tim Byers	Jaida Ohokannoak
Sheryl Grieve	Kim Poole
Laura Johnston	Bill Ross

Staff

Sean Kollee
Kevin O'Reilly

Additions to the agenda – A request for comments on an AEMP guideline document by Don MacDonald for DIAND.

INFORMATION UPDATES

In addition to ongoing Agency work including review of Ekati related correspondence and internal communications:

Bill – made presentation to and answered questions from the Joint Review Panel for the Mackenzie Gas Project in Yellowknife. He also participated in teleconference of the ICRP Working Group on May 18 (reported on later).

Kim – Agency annual report review.

Tim – Agency annual report review.

Laura – Agency annual report review and reviewed BHPB's annual report.

Sheryl – Agency annual report review and conferred with the NSMA staff who were doing the reviews of three types of research licences (at their request - since all of them are new and unfamiliar with the file), and provided information on the agency approach and position with regards to those applications.

Jaida – Agency annual report review and met with auditors as part of the more rigorous auditing practices. She also reported information that the concerns by Kugluktuk residents that the numbers of Arctic char being caught appear to be lower. This harvest reduction in the community may be attributed to the weather and ice changes.

Kevin - since the last meeting Kevin attended a SLEMA meeting and provided an Agency update and responded to questions by SLEMA directors about Ekati mine operations and monitoring. He attended the ICRP working group meeting and conference call (BHPB agreed to revisit its objectives structure - WLWB staff will not be recommending separation of VEC and operation requirements – instead they will all be worked through and it can be decided later what is to be approved by the WLWB). He participated in the Agency audit and has a draft audit report, discussed resolving the employer and employee pension contribution to Canada Revenue Agency (the Agency has remitted the 2004-05 outstanding amount), and new T4 slips were issued to Directors. The staff met with Outcrop and approved a cover design for the Agency annual report. The SENES review of BHPB's air quality reports was sent to Brent Murphy (BHPB) to provide an opportunity to discuss technical issues (SENES was not contacted by BHPB or its consultant to date).

Sean – circulated draft annual report chapters and worked on getting the Agency website updated and an Agency FTP site established.

AGENCY FINANCES AND ADMINISTRATION

Kevin reported that approximately \$542k of the Agency 2006-07 budget had been spent and the predicted amount to be returned to BHPB would be about \$6k. Draft financial statements from the auditor were received. It was noted that the Canada Revenue Agency had recently reviewed the Agency's treatment of honouraria and that Canada Pension Plan (CPP) deductions for 2004 and 2005 were assessed and that T4 slips had been issued to Directors to replace the T4As that had previously been issued. The assessment against the Agency included both the employer and employee portions of CPP and the Agency reissued T4's for 2006. The employer CPP deductions are to be allocated to the 2006-7 financial year according to the Agency's auditors.

Motion

Employee CPP contributions for 2004, 2005 and 2006 for current Agency Directors are to be recovered and repaid to the Agency.

Moved by – Jaida Ohokannoak

Seconded – Tim Byers

Carried unanimously

INTERNAL BUSINESS

BHPB 2006 Annual Environmental Report

- In order to determine how best to review the BHPB annual environmental report, the Directors discussed the contents required in BHPB's annual environmental report. It is supposed to contain compliance reports, results of findings of research and monitoring, summary of operations, actions to address compliance, summary of operations for next year and a list and abstract of environmental plans and programs. In review, parties should consider if the annual report is adequate

- and if remedial actions taken are satisfactory (from the *Environmental Agreement*).
- The Directors observed that the EA requires BHPB in its annual report to provide 'results' of the past year. 'Results' can be construed to mean data (measurements), the interpretation of data (what the data mean), conclusions regarding the evaluation of the data (so what?) and management actions (what is being done in view of the results found), not just broad, summary statements.
 - The Directors felt that results are not verifiable as the reports on which they are based are not available yet.
 - Some groundwater/mine water terminology inconsistencies remain outstanding.
 - There is no supporting evidence to allow the Agency to assess whether if conclusions are correct or not.
 - The Directors agreed that the Agency should send a letter to DIAND with the observation that the basis on which the BHPB annual report is formulated is not available so it is not possible to verify.

Action Item #1 – Directors to send comments on BHPB annual report to staff by June 1st, 2007. Major point in the letter to DIAND is that the Agency cannot complete its review until the monitoring reports are submitted.

Aquatic Effects Monitoring Program (AEMP) Guidelines Outline by Don MacDonald

Don MacDonald had contacted the Agency for feedback on an outline prepared for his work on AEMP guidelines that will be submitted to DIAND. The guidelines result from a northern resource management audit by the Auditor General.

The Directors agreed to provide a copy of a letter sent to BHPB on its upcoming adaptive management plan. The Agency has also taken the position that there is a need for collaborative review of monitoring program results by stakeholders to improve programs. This should be a part of the process of AEMP development and refinement.

Action Item #2 – Directors to send any comments they have to Don MacDonald by mid-June.

Survey Questions from SENES Consultants on WLWB Procedures and Mandate

Kevin reported that he and John McCullum (EMAB) had met with SENES to attempt to respond to a set of challenging questions regarding WLWB procedures and mandate. The questions had previously been forwarded on to the Directors for their consideration but no feedback was provided. Accordingly, Kevin provided known Agency positions and experiences.

MEETINGS with OTHERS

DIAND (Inspector Jason Brennan)

Jason commented that he appreciated the annual report of the Agency as a tool to help get background information and to help identify key issues at Ekati. Since his start on January 8, 2007 he has made five trips to Ekati, the first for orientation, and four inspections including two reports on winter and spring drilling activities. He noted that BHPB staff do weekly internal inspections of drilling operations and this is a good practice for the company. Jason mentioned that the underground mining operation was the cleanest he had ever seen. He noted that the fuel storage area was very clean in his initial site tour although some clutter was evident on the winter road storage depot area (now called Laydown 6). In his inspection of winter on ice exploration drilling he felt that BHPB needed to scrape additional drill material from the ice. BHPB will be attempting to deter foxes from entering the underground mine area using ultrasonic noise devices. A 2400 litre fuel spill on dyke D of the LLCF was reported but no additional information is currently available. The inspector mentioned that BHPB might consider replacing the diesel pumps with electric ones.

He will also have some involvement in the ICRP working group as time permits. DIAND has opted to speak collectively through the ICRP process (Lionel is facilitator).

Approvals – March 2nd there was a request for approval of temporary glycol storage until September 2007 for underground heating and cooling (across from Koala Pit in ‘B train’ tankers). The inspector approved the request and although not anticipated, any leakage of the antifreeze would run into Koala Pit.

He also approved a request to collect pre-discharge samples underneath ice in cell E prior to pumping. This pumping is part of an attempt to more accurately mimic freshet flows and to lengthen discharge by one month over past practice. It would also reduce the risk of overtopping at the outlet of Long Lake.

On April 30, BHPB requested approval to repair a surge sewage tank that could not happen last year due to logistical issues. There was a brief period of deposition of some untreated sewage into LLCF. BHPB is also requesting approval to begin discharge of water from cell E to Leslie Lake.

Jason reported that BHPB is seeking a recommendation from the inspector for final closure of some 67 exploration sites including Boxcar, Cougar and Norm’s camps. The Directors questioned whether DIAND has adequate closure criteria as this may set a precedent for other closure and reclamation activities at the mine site.

It was mentioned to Jason that the Agency in the past received copies of the letters authorizing BHPB requests. Jason undertook to investigate copying the Agency of future authorization letters to BHPB.

DIAND (David Livingstone)

The Directors asked David to comment on the overall Agency usefulness. He felt that independent oversight and the ability to keep government 'honest' are key contributions of the Agency.

In order to make the Agency more useful, he felt that there should be a better relationship with BHPB.

Multi-Project Environmental Monitoring Agency (MPEMA) – David reported that a budget proposal is complete and has been distributed to working group members. However, no meeting to discuss the budget is planned until the fall. A 12% overall savings may be available to the funders but it remains possible that opposition to some items cut may surface. The next meeting of the MPEMA working group would be to go over the MPEMA Terms of Reference and the budget. A proposal will go back to the parties after that meeting for ratification. April 2009 could be a possible implementation date for MPEMA.

The Directors mentioned that the Environmental Agreement five-year review is due in 2007 and the Agency recommendation would be that some amendments are in order. The Agency view is that the EA should place a deadline on BHPB's submission of the monitoring program reports (March 31st of the following year). The Agency rationale is that the annual environmental report (that does have a due date) is not complete without the data, and not verifiable as there are no supporting documents currently available and these documents are essential to properly review the annual environmental report.

Bill thanked DIAND for funding the Agency presentation at the Joint Review Panel event related to the Mackenzie Gas Project.

Issues for disputes

The Directors discussed the ongoing financial disputes with BHPB. This included the funding of 'good citizen' activities where BHPB is of the view that prior approval is necessary and the Agency feels that prior notification is sufficient. David mentioned that DIAND's preference is for the Agency and BHPB to sort it out. DIAND does have a philosophical disposition on that topic.

Other Issues

David acknowledged that little progress had been made on securing funding for the cumulative impact monitoring program.

WLWB (Sarah Baines and Lynn Carter)

The Directors asked Sarah to comment on the overall Agency usefulness. She felt that the Agency had recently demonstrated its usefulness in its comments on section 1 of the ICRP. More generally she felt that there is less 'grandstanding' at meetings and this helps with an atmosphere of cooperation at Working Group meetings.

A means of improvement would be for the Agency to continue to provide reasons for what it is suggesting and to continue to dialogue with BHPB staff (try to understand that BHPB staff are extremely busy and managing a workload with short staffing issues).

ICRP working group update

Sarah mentioned that a staff advisory document is to be sent to the WLWB tomorrow (faxed to the distribution list to request corrections). The next WLWB meeting is June 12th.

BHPB must update its reclamation objectives tables and provide new versions for the review of section 2 topics for the ICRP Working Group. The review period for section 2 will start when the materials are distributed by the WLWB staff. There is the Tlicho assembly in July to schedule around and other WLWB activities dictate that there may be five instead of four week review periods for ICRP sections. The Agency should expect changes in the reissued schedule.

The Directors noted that the DIAND inspector plans to visit BHPB exploration sites in the attempt to conduct final inspections of areas covered under land use permits. The Agency asked what criteria would be used to close these sites as the inspector has not identified any regulatory guidance. It was not clear whether the Inspector could or should be using criteria developed as part of ICRP during the closure process for those activities regulated by land use permits. Sarah replied that the closure of drill sites is relatively simple compared to the mining operations. Cutting off casings and other standards practices are expected. It was observed that the scale of revegetation activities that may be required at exploration sites are much smaller than at operational mining areas so it is difficult to transfer closure criteria.

OTHER BUSINESS

Agency Board members (including Tony Pearse) and staff participated in an Ekati Site Visit following the board meeting on May 24-26, 2007.

The Agency Directors and staff visited several areas of the mine site including Cells A and B of the LLCF, an underground tour of the Panda operations, Fox open pit mining operations, exploratory drilling at Pigeon, the Panda Diversion Channel, Grizzly Lake, Bearlaw seepage area, and the Pigeon culvert.

Information was also received about BHP's restructuring of its environment department, departures of key staff, life of mine planning and the regulatory system.

The Board decided to wait until the end of June 2007 to see whether BHPB would respond to the technical review of the air quality reports conducted for the Agency by SENES. The Board will then release the review to all Society members.

The next meeting Board meeting was scheduled for October 2-4, 2007.

Summary of Discussion Approved by

-ORIGINAL SIGNED BY-

Jaida Ohokannoak, Secretary Treasurer.