

**BHP Billiton Diamonds Inc.**  
Operator of the EKATI Diamond Mine



BHP Billiton Diamonds Inc.  
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8 February, 2008

Ms Trish Merrithew-Mercredi  
Regional Director General – Northwest Territories

Mr R.P. Bailey  
Deputy Minister, GNWT – Environment Natural Resources

Dr Bill Ross  
Chair, Independent Environmental Monitoring Agency

Dear Ms Merrithew-Mercredi, Mr Bailey and Dr Ross:

**Re: Five year review of the BHP Billiton EKATI Diamond Project Environmental Agreement according to Article 15(2)  
– Response to INAC / GNWT-ENR letter dated January 23, 2008.**

Article 15.2 (a) of the BHP Billiton EKATI Diamond Project Environmental Agreement states “After each of the first five anniversary dates if this Agreement and thereafter on each fifth anniversary date of this Agreement, Canada, the GNWT and BHPB shall reconsider and review in Consultation with the Monitoring Agency the terms of this Agreement with a view to amending provisions of this Agreement, if necessary or appropriate.”

BHP Billiton concurs with the views of Indian and Northern Affairs (INAC) and the Government of the Northwest Territories Department of Environment and Natural Resources (GNWT-ENR) that there are no significant concerns with the existing Environmental Agreement and that no changes need to be made at this time.

BHP Billiton understands the Independent Environmental Monitoring Agency (IEMA) does have concerns around the timing of the issue of the two of the principal reports required to allow full review of the Annual Report, namely the WEMP and AEMP. BHP Billiton is attempting to address these concerns. BHP Billiton does not agree that additional clauses are required in the Agreement around this issue.

BHP Billiton considers that the reconsideration of the Environmental Agreement as required under Article 15.2(a) has been carried out by the co-signatories and deemed not required.

BHP Billiton does not support MPEMA based on the current draft Terms of Reference and would not support such substantive amendments to the Environmental Agreement Article 4 as would be required to remove IEMA.

BHP Billiton would also like to add one note of correction: the signatories to the EKATI Environmental Agreement include Canada, GNWT and BHPB. There are no Aboriginal signatories to this Agreement requiring consultation under Article 15.2 (a). Consultation with Aboriginal Peoples is required under Article 15.2 (b) for substantive amendments to Articles 1, 2, 4, 10, 11 or 16 or 15.2.

If you have any queries regarding the responses detailed in this letter, please call Laura Tyler at 669-6156 for further information.

Sincerely,

**BHP Billiton Diamonds Inc.**

A handwritten signature in black ink, appearing to read 'Ricus', with a long horizontal stroke extending to the right.

Ricus Grimbeek  
President and Chief Operating Officer  
EKATI Diamond Mine

- cc. David Livingstone, Director, Renewable Resources and Environment
- Gavin More, Manager, Environment and Assessment
- Grand Chief George Mackenzie, Tlicho Government
- Chief Adeline Jonasson, Lutsel K'e First Nation
- Chief Eddie Sangris, Yellowknives Dene First Nation (Dettah)
- Chief Fred Sangris, Yellowknives Dene First Nation (Ndilo)
- Bill Enge, President, North Slave Metis Alliance
- Donald Havioyak, President, Kitikmeot Inuit Association