

***Independent Environmental Monitoring Agency  
37<sup>th</sup> Meeting of the Board of Directors  
Yellowknife, Northwest Territories  
January 29<sup>th</sup> to February 1<sup>st</sup>, 2004  
Summary of Discussion***

Revised: March 22, 2004

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Directors

Jaida Ohokannoak	Tim Byers	<u>Guests</u>
Bill Ross	Tony Pearce	David Livingstone / Eric Yaxley (DIAND)
François Messier	Dave Osmond	Ian Goodwin / Chris Hanks / Jane Howe (BHPB)

Staff

Carole Mills	Sean Kollee	Steven Mathews / Anne Gunn / Rob Mulders (RWED)
		Latisha Heilman (MVLWB)

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The meeting was called to order by the chairperson at 9:00 am on Thursday January 29<sup>th</sup>, 2004. The agenda was reviewed and accepted.

***Information Updates***

Bill participated in the Agency conference calls and attended the Aboriginal Caucus workshop to present the Agency perspective. He offered advice to EMAB on principles of a technical panel (not as a representative of the Agency). A DIAND contractor investigating 'good news stories' from the north interviewed Bill. The interview will be published in an upcoming DIAND publication.

Dave has been reviewing correspondence related to Agency business and has been occupied by other mine developments in the NWT and Nunavut. He has been invited to meet with the North Slave Metis Alliance to discuss the Agency's annual report and new developments at Ekati such as the water licence renewal.

François has been involved in Agency internal communications and in his role as treasurer. He has reviewed the BHPB 2001 *Abandonment and Reclamation (A&R)* plan and will be reviewing the WEMP report in detail shortly.

Tim has informed the Nunavut Impact Review Board (NIRB) of the Agency annual report comments related to air quality at Ekati. NIRB expressed an interest in the Agency as it is considering a Nunavut monitoring agency. Lutsel K'e has a new wildlife committee (the manager is still Monica Krieger) and it will be meeting with Tim. Rachel Crapeau indicated that the Yellowknives Dene are very happy that the Agency is here to watch Ekati so they don't have to spend their limited time to do this.

Tony worked with Carole on planning the Aboriginal Caucus, drafted a paper on how the Agency could conduct environmental workshops and has reviewed aspects of the water licence renewal application from BHPB.

Carole has been involved in the AEMP third party review, met with the Akaitcho Chiefs and Premier-Elect Handley, participated in the Dene Nation leadership meeting where diamond industry and environment discussions took place, attended a DFO meeting on the use of the fish habitat compensation fund (an approved project was analyzed for merit at Tundra Mine) and assisted in organizing the Aboriginal Caucus meeting.

Action Item #1 - Contact Kevin Degroot at NIRB to offer assistance related to the Agency operation and mandate.

### ***Introduction to the New Agency Director***

Jaida Ohokannoak expressed her eagerness to join the Agency. She discussed her background in Nunavut including employment with the Nunavut Impact Review Board (NIRB) and as a Park Warden for Parks Canada in various northern National Parks. She has lived in Cambridge Bay for eight years and currently works for Nunavut Tourism. Jaida has a Bachelor of Science degree in Physical Geography from Simon Fraser University.

### ***Preparation for Meeting with BHPB***

#### ***Reclamation***

The Directors discussed improvements to BHPB's A&R plan. One objective is that the plan be operational and 'implementable'. While it is accepted that the plan will evolve over time some components of the mine are nearing completion and a clear idea of final, detailed reclamation is necessary. The reclamation plan for components of the mine where development has yet to have begun should be modified by closure needs. Two issues related to road closure were discussed (scarification and the angle of shoulders).

#### ***Exemption Request from BHPB to the MVLWB***

The Directors discussed the Agency response to the request from BHPB to be exempt from a preliminary screening of its water licence renewal application. The Directors view it reasonable that any large project in operation for six years would have been modified. The key is if the project has been "substantially" modified. Major changes at Ekati are described in the yet to be approved A&R plan. It is proposed to flood the pits (rather than fill the pits naturally) using LLCF discharge and water that flows through the panda diversion channel. The natural runoff into the Koala watershed would be diverted for a period of a decade or more to flood the pits. If this were to be approved then there are unknown consequences downstream of the LLCF that are potentially adverse. The Directors agreed to draft a letter to the MVLWB containing the following comments:

- While there have been changes at Ekati, many are of no great environmental consequence. Some changes have resulted in improvements to environmental management as the company and regulators learned through adaptive management.
- Changes to the project that have potential for significant impacts should trigger a referral to the MVEIRB. Of those, the main one is a suggested change in pit filling techniques.
- The MVLWB may require further information from BHPB regarding planned changes before approving the exemption.
- Any screening review should be narrow and focused on the change in question.

Action Item #2 – Draft a letter to MVLWB recommending the BHPB exemption request

not be granted due to the inclusion of Leslie Lake in the application and the major changes described by the *A&R plan*.

*BHPB's Annual environmental workshop cancellations*

The Directors observed that BHPB is not required in any licence to carry out annual environmental workshops, but that the workshops provided an excellent way for all parties to review last year's work and plan for next. It has also contributed to informing our Aboriginal members what was happening with environmental monitoring at the mine. A number of Agency Aboriginal members also wrote to BHPB that the workshops were beneficial. The Directors agreed that cancellation of the annual workshops is not acceptable, and that the Agency should respond accordingly to BHPB.

Action Item #3 – Draft a letter to BHPB condemning its cancellation of the annual environmental workshops

***The Aboriginal Caucus Workshop***

*Summary*

Carole mentioned that the participants viewed the workshop as an extraordinary success. The Directors thanked Carole for her effort in organizing the event. They agreed that the workshop was extremely effective and led to a useful document which relates the views of our aboriginal members concerning the proper means of achieving effective environmental management for Ekati. Bill Klassen (facilitator) and Louie Azzolini (consultant) also contributed to the success of the workshop. Independent technical expertise (a key Agency principle) was reported to have been identified by the participants as necessary in the regional monitoring agency (RMA).

At the workshop, Bill opened the meeting by stating the dual purposes:

- To provide an opportunity for Aboriginal Peoples to determine how they want (diamond) mines monitored and managed.
- For the Agency, to obtain advice from our Aboriginal members concerning the monitoring and management of Ekati.

He also observed that the Agency involvement was driven by BHPB's request to trigger the regional monitoring agency clause in the Environmental Agreement.

A full summary of the outcomes of the workshop will be publicly available on the Agency website in February. Highlights include first order principles such as:

- Independent technical expertise.
- Capacity building – monitoring by communities themselves and occupying positions on the board.
- A disparity between TK and western science must be improved upon.

An issue was raised among participants at the workshop that the Agency honorarium policy is outdated. The policy was unable to be changed at that time because the Board had not had a chance to meet and revise it. The Board discussed the matter and agreed that honoraria for the caucus should be increased retroactively.

***DECISION*** Honoraria for invited participants to IEMA events is now increased to \$250/day.

Action Item #4 – Carole to compose a new honorarium policy reflecting this increase plus other details including funding of travel days, accommodation and per diems and collection of receipts from air travel.

***Future Relationship between the Aboriginal Caucus and the Agency***

The Directors authorized Carole to consult with DIAND with a view to entering into a contribution agreement to act as a funding conduit for future Aboriginal Caucus events. The agreement would be contingent upon a principle of cost recovery. The benefit to the Agency would be more effectively meeting our obligations to convey aboriginal member views to governments and to BHPB.

The Directors agreed to continue to host Aboriginal Caucuses if asked by the Aboriginal members.

***Bill Ross' Comments on an EMAB technical panel proposal***

Bill Ross was requested by EMAB to provide his views on policies that could be used by EMAB to create a panel of scientific experts. Bill provided EMAB a variety of comments including:

- Engagement with stakeholders – meetings between the panel and other project stakeholders is necessary
- Interdisciplinary makeup – include experts from various disciplines on the panel
- Non-sporadic utilization – the panel should meet regularly and the membership stay consistent over time to develop a broad understanding of environmental issues related to the mine.
- Capacity building – there should be a role within the panel to increase the technical expertise of those on the EMAB Board and in the communities.

Bill noted that EMAB wanted the technical panel to provide information to it that would then be carried forward by EMAB. He felt the ability to interact with the regulators, company and community to reach consensus or develop recommendations is an important role for the panel. The panel could have a dual capacity building role by aiding in community development while allowing the panel members to learn from the communities' TK and concerns.

***Traditional Knowledge (TK)***

The Directors asked Carole to request a written account of TK projects in 2003 from Chris Hanks. The Directors noted that the 2002 TK report is not yet available from BHPB and that the Agency has requested the report on multiple occasions.

***The AEMP Third Party Review***

Carole updated the Directors on the selection of the contractor by the steering committee to carry out the independent review of the AEMP. Both proposals were excellent, making for a difficult choice. The final determination was made after contacting references and Barry Zajdlik was chosen for his vast experience in reviewing statistical programs. BHPB and

Rescan have been cooperative with the contractor and responded quickly to his questions. The final report is due March 31<sup>st</sup>. An update for the steering committee is planned for mid-February. Barry will be meeting the steering committee in March in Yellowknife to present his findings.

*Update from Barry Zajdlik*

Carole relayed correspondence from Barry. Barry has:

- Received the data Jan 15<sup>th</sup>, 2004
- Reviewed the 2002 AEMP report and the AEMP re-evaluation report
- Identified issues of concern such as the removal of data and the lack of gradient analysis and identification codes
- Queried the company and Rescan on data related issues and received responses from both
- Considered including SNP data in the review

Directors remarked that they are eager to view Barry's professional judgment of the conclusions reached by Rescan in the AEMP report.

***Review of BHPB's Water Licence Application***

Directors mentioned a variety of issues to be considered in the Agency's letter to the MVLWB due March 10<sup>th</sup>, 2004 on BHPB's water licence renewal application:

- No recommended effluent criteria for the new licence were included by BHPB.
- The proposal to dewater Leslie Lake requires clarification.
- There is a need to build into the water licence a regular review of the security deposits to provide incentive for progressive reclamation.
- A possible recommendation that there be annual hearings to determine what has been learned from the previous years monitoring programs and how to improve future monitoring. Approval for the project was in part granted based on the principle of effective adaptive environmental management. BHPB relies heavily on its use of adaptive environmental management (very appropriately) in the licence renewal application.
- The absence of a concrete *A&R* plan is troublesome.
- Discussion of an extension to the current licence to provide time to incorporate pending changes to the mine plan may be appropriate.
- The new licence should include a clause that provides for incorporation of the Sable, Pigeon and Beartooth licence in 2009.

Action Item #5 – Staff raise the issue of a possible water licence extension at the next IACT meeting and report on the views of the regulators.
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Action Item #6 – Sean review the revised BHPB <i>Waste Management</i> plan and provide feedback to the directors.
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Action Item #7 – Review the BHPB water licence application for changes from the original approved licence.
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***Working with EMAB***

Carole mentioned the need to better understand the strengths and challenges faced by EMAB and the Agency as momentum gains to form the RMA. The Directors agreed to invite John McCullum (EMAB exec. dir.) to the next Agency meeting to discuss a possible joint meeting of both Boards to be held as soon as can be agreed. Possible agenda items for the joint meeting include the RMA and strategies to influence environmental monitoring programs.

Action Item #8 – Invite John McCullum to the next Agency meeting.
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Action Item #9 – Staff update Directors on EMAB Board discussions.
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***Meeting with BHPB***

Jaida Ohokannoak was introduced to BHPB as the new KIA appointed Agency Director.

BHPB mentioned that Wayne Izok is now president and chief operating officer of BHP Billiton Diamonds Inc. The first trucks are on the winter road, with full use starting Monday February 2<sup>nd</sup>, 2004. RWED is monitoring wildlife along the road and stopping trucks to collect hunting numbers. The road is not restricted to commercial vehicles although BHPB is concerned with non-commercial use for safety reasons.

***Update on Operations***

Jane delivered a presentation to update the Agency on mine operations. Topics included:

- Extremely cold weather at Ekati
- Spills underneath light plants have been linked to high pressures in the fuel lines.
- Koala pit is currently the only ore source being mined
- Small barren kimberlite pockets were discovered while mining Fox pit
- Panda underground work had to stop on the decline below the permafrost line and hot air injected to avoid fog and icing
- Sump water was pumped by accident into the landfarm. Due to the lack of sufficient freeboard the inspector temporarily closed the landfarm. BHPB has excavated the ice lens and will be investigating the landfarm and attempting to improve it
- A snow farm will be constructed for only hydrocarbon (diesel) contaminated snow. This will be skimmed off and the water decanted

The Directors mentioned antifreeze to be a risk factor for animals. BHPB agreed that antifreeze contaminated material would go to the landfill. The snowfarm will have to be covered in some way by BHPB.

- Misery pit schist has been taken to the waste rock pile
- At the Misery pit, a Bauer tool was used to pull a bulk sample to see if the tool would work effectively without damaging diamonds
- At Cujo Lake, BHPB is investigating a potential drop in dissolved oxygen. It appears to have stabilized recently
- BHPB agreed to provide IEMA with dissolved oxygen data

***BHPB Environmental Monitoring Reports***

BHPB indicated that aerial surveys are an expensive element of the wildlife program that may be reviewed by BHPB in future years (but not 2004). BHPB committed to distribute its

reports with a list of proposed changes. Air quality is not a regular report but BHPB agreed to run the model again and this will be distributed for comments in February. Carole mentioned that the outcome of the modeling could improve the 2004 sampling program and that 2004 is a sample year for snow and vegetation. BHPB replied that the model parameters would be distributed for comments and that RWED and EC had already been consulted.

BHPB mentioned potential changes to its *Wastewater and Processed Kimberlite Management (WWPKM)* plan. It wants to avoid deposition of kimberlite into cell D of the LLCF as long as is possible. A pit may then be found to deposit kimberlite. Stakeholders would be consulted regarding the best possible course of action to deposit more kimberlite into the upper cells of the LLCF. BHPB feels it possesses increased knowledge of the operation of the LLCF and wants to ensure that the *WWPKM* plan determines how the facility is operated.

The 2003 *Seepage and Waste Rock* report is due February 15<sup>th</sup>. The *Spill and Contingency Plan* will be updated. The chloride risk assessment was conducted to inform discharge limits from Two Rock Lake (part of the Sable expansion).

BHPB announced that it had completed its risk assessment to the downstream aquatic environment for the deposition of Fox pit mine water to cell D of the LLCF. In its LLCF risk assessment, BHPB concludes that deposition of Fox mine water into cell C or D over life of mine would result in no significant change in water quality of LLCF effluent. A mass balance was also completed for 26 water quality variables. A fish community survey in cell E determined no significant effect on the population. BHPB mentioned that it intends to try and bring all of its reports into a larger annual report and attach the data in appendices in future years.

#### *Water Licence Renewal*

The Directors mentioned that the Agency would be advising the MVLWB of a potentially substantial change to the project related to pit flooding rather than natural infilling. BHPB thanked the Agency for this information.

#### *Annual Environmental Workshops*

BHPB presented its view that the environmental workshops are no longer as helpful to scope and improve monitoring programs now that mine is established. Translation problems also hindered the effectiveness of the event.

#### *BHPB Budget Request*

Ian discussed the declining economic situation at the mine. Underground costs are higher than open pit costs and each pit is less valuable than the last. Fiscal year six is a point in the cost curve where there could be insufficient return to BHPB. BHPB's business improvement process has been demanding on staff but has shown that a 20% cost reduction may be possible.

The Directors responded that it is crucial that budget constraints in a company must not flow through an independent watchdog due to the perception of credibility. The Directors declined to discuss BHPB's request for a 20% reduction in the Agency's budget. BHPB

mentioned that cuts will come to the environment department and if the funds go to the Agency then they must come from somewhere else. BHPB noted that many of the environment commitments are legally binding providing less room for BHPB to make cuts.

Action item #10 – Staff forward the Agency response in writing to BHPB regarding its budget request.

*Appointment of a New Agency Director*

BHPB had suggested reclamation experts that could be nominated for the position and is waiting for a response. BHPB stated it would consult with Aboriginal Members once the three parties agreed to an appointment.

*BHPB's Response to the Agency 2002-2003 Annual Report*

BHPB feels that the Agency annual report lacks a clear statement indicating if BHPB has met, failed, or exceeded its obligations. It should also highlight Agency performance versus its goals. BHPB intends to deliver the comments in writing.

*Progressive Reclamation*

BHPB mentioned that the way reclamation accruals and letters of credit for security deposit are done do not provide incentive for progressive reclamation to occur. BHPB is required to set a total amount for its maximum liability. This must be done without progressive reclamation factored into the total. Return of security for achieved reclamation has not yet occurred. Security outlay from BHPB takes place in the form of a letter of credit rather than direct cash. BHPB is currently reclaiming the old camp area and the sides of the airstrip. The lack of closure criteria may inhibit reclamation credits upon completion of these areas. In 2004 BHPB plans further progress on old camp, remediation of the contaminated area around the Klemke crusher and research on cell B of the LLCF.

The Directors restated their opinion on the variety of mechanisms contained in the water licences and the *Environmental Agreement (EA)* that allow reclamation credits to be returned to BHPB based on the principle of achieved reclamation. The Agency has been suggesting work to develop closure criteria for a number of years. It was agreed that a proper incentive is necessary for progressive reclamation to be carried out in a timely fashion.

***Follow up to the Meeting with BHPB***

The Directors discussed the desire of BHPB to avoid deposition into cell D of the LLCF and the likelihood of a new plan for tailings management coming after the new water licence is issued. The Directors concern is the new water licence will be granted and the mine plan will be changed dramatically after it is issued. This could mean that new plans will not be assessed with the same rigor as if they had been part of the renewal application. The coming changes in the mine plan could undermine the review of the current renewal application.

The Directors felt that achieved progressive reclamation would lower BHPB's liability obligations, thereby providing a substantial incentive. Reclamation planned for the next few years may need to be deferred on Cell B to allow for stacking of tailings.

Directors felt that late BHPB environmental monitoring program reports may reduce the ability of reviewers to offer feedback in time for the summer field season. They also mentioned the need for a better system to track due dates and compliance. The staff was instructed to investigate this further.

Action Item #11 – Staff investigate the potential for use of the BHPB tracking system or creation of a web-based tracking system.

### **Meeting with MVLWB (Latisha Heilman)**

The Directors informed Latisha of the Agency position on the BHPB water licence application exemption request that the project has not changed significantly other than the proposed change to pit-flooding in the current *A&R* plan and potentially the dewatering of Leslie Lake. Pit flooding has yet to be investigated for environmental effects. If an exemption is not granted by the MVLWB (as would be advised by the Agency in a letter to the MVLWB) then screening should focus narrowly on this issue.

Latisha replied that the application was deemed complete with the old plans in place. The MVLWB is not sure of how the review of updated programs submitted after the application would occur but if a newer plan is approved it would likely be involved in the water licence public hearing.

The directors discussed in greater detail the likelihood of large changes in the operation of the mine that could be submitted to the MVLWB after the licence is issued. Various options were put forth, including extending the current water licence until such time as new plans were submitted by BHPB as well as how to assess new plans that constitute significant alteration to the project. The Agency agreed to clarify its opinion prior to the March 10<sup>th</sup>, 2004 deadline for comments to the MVLWB.

The Directors asked Latisha what would occur if the exemption were not granted. Latisha replied that comments on the application would then be related to the preliminary screening to be carried out by the MVLWB. The decision by the MVEIRB to not assess the Con Mine *A&R* plan because it is contained within an approved water licence was discussed.

The Directors then asked Latisha how the AEMP would be reviewed by the MVLWB in the absence of technical workshops that have been relied upon heavily in past years to provide guidance for approving the AEMP. Latisha replied that she has approval from the MVLWB to use a subgroup to approve plans and she would be organizing a meeting related to the AEMP. Five days prior to the conclusion of the five-week review period a meeting of stakeholders would take place, any remaining issues would be taken to the board. The usual distribution list the board uses for BHPB would provide the invitation list. The Directors discussed collaboration with the Agency on this event and Latisha agreed this would be beneficial and her next step would be to discuss the proposal with Bob Wooley.

The Directors requested Latisha discuss her deadline tracking system for the water licences of BHPB. She replied that she only has a personal system and that several meetings have occurred on this topic in IACT but little momentum exists to develop an improved system.

The Directors asked Latisha if the N7L2-1616 water licence could become a land and water licence. Latisha replied that it could not because DIAND holds the land lease on the original mine site. On the Sable, Pigeon and Beartooth water licence the MVLWB provides a land and water licence because the MVLWB holds the land use permit for it. The Directors asked Latisha if there are *A&R* guidelines within the MVLWB. She replied that it would be a benefit if such regulations existed. The Directors mentioned that the Agency is requesting clearer commitments and more substance in the BHPB *A&R Plan*, in addition to more definitive closure criteria so that the *A&R Plan* would be capable of dealing with an imminent mine closure. The Agency feels clear wording should exist in the new water licence regarding progressive reclamation credits.

The inclusion of dewatering Leslie Lake in the water licence application was also discussed. It was assumed that BHPB left that provision in the licence in case it changes its mind about mining the Leslie kimberlite pipe.

***Follow up to the meeting with the MVLWB and Discussion of a MVLWB-Agency hosted Environmental Workshop***

The Directors provided the staff with instruction related to organization of the two-day event plus comments on the objectives and agenda. The Directors individually selected BHPB environmental monitoring reports to be analyzed in detail for the workshop presentations. They also agreed to request retired Director Pete McCart review the AEMP report.

**Workshop Objectives:**

1. Review outcomes of 2003 environmental monitoring programs.
2. Make recommendations regarding BHPB environmental monitoring programs for 2004.
3. Identify emerging issues.
4. Provide a forum for full exchange among stakeholders.

**Instructions:**

1. Communicate with the MVLWB to determine its role in the workshop and decide on favourable dates for both parties.
2. Develop an objectives statement.
3. Draft an Agenda and distribute to the Directors and the MVLWB.
4. Compose an invitation to BHPB to determine its likelihood of involvement.
5. Initiate work on the structure of the workshop (plain English presentations).

After the workshop, a final summary would be submitted to BHPB. The Directors also considered an extra session with Agency Aboriginal members to discuss the upcoming BHPB water licence renewal. Carole was provided with the authority to administer workshop expenditures.

Action Item #12 – Staff enter into discussions with the MVLWB to plan a joint environmental workshop.
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Action Item #13 – Carole was instructed to engage Pete McCart in a review of the AEMP report.
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***Meetings with RWED (Steven Mathews, Anne Gunn, Rob Mulders)***

The Directors and RWED expressed their mutual disappointment with BHPB's cancellation of its environmental workshops. The Directors mentioned that the Agency had agreed to work with BHPB to improve the workshops prior to their cancellation. RWED reiterated the importance of the workshop and supports the Agency hosting them.

Anne Gunn delivered a presentation on RWED's response to the decline in the Bathurst caribou herd. RWED's response includes sharing census information with all stakeholders, enhanced efforts with the Bathurst herd planning committee and a risk assessment on dust uptake by caribou (funded by DIAND and largely related to caribou feeding on Colomac tailings). Calf survival in winter is also under analysis as well as possible changes in foraging due to the loss of high quality habitat in the summer ranges. RWED is also encouraging the progress of candidate areas, such as the Mohwi Trail and the Waters of the Desnedhe Che, that are not yet involved in the NWT Protected Areas Strategy.

For caribou monitoring at BHPB, Anne suggested that the decline in the herd reduces the likelihood of caribou interaction with the mine. This should not imply that less monitoring is necessary. A decline in resilience means adaptive monitoring and mitigating should be increased by the company and others. Directors mentioned that next year BHPB may be looking at reducing caribou survey flights, one possibility is to use fixed wing aircrafts rather than helicopter. Anne believes that satellite monitors are starting to reveal a pattern between caribou tracks and developments. A weak trend that cows are more likely to be 50 km from the mine than within 50 km has been observed. This could reduce high quality habitat by 37% according to one model. This research was carried out by Chris Johnson of the University of Northern British Columbia who is working with University of Alberta and funded by the Canadian Environmental Assessment Agency. Remote cameras could also be used by BHPB to try to understand what is happening around rock berms where caribou have been successfully hunted by wolves.

In summary Anne believes that, given the herd decline, it is less resilient to change and human activity. Monitoring should be adaptive and aerial surveying enhanced to determine if avoidance exists and what causes avoidance. It is necessary to ensure mitigation is adaptive and one strategy is to use remote monitoring to see if infrastructure encourages wolf predation. Finally, more intense dust monitoring is advised.

Rob Mulders delivered a presentation on a new approach to indexing wolverine abundance using DNA. Factors influencing the wolverine population include pressure from hunting and trapping (90-137 wolverines harvested annually in the Kitikmeot and the percentage of adult females harvested ranges from 11-16%), linear developments and encroachment on refugia.

BHPB has been asked to improve on snow track surveys because variable snow cover reduces the value of the annual index. Some observers can distinguish male from female tracks but it is difficult to determine if multiple tracks are from one individual. BHPB is modifying its program using a series of transects on preferred habitat types for 2004. Advantages of DNA sampling include identification of known individuals, densities, sex

determination, documentation of mortalities when combined with regional carcass collection, dispersal patterns and cumulative effects models.

RWED has developed a wolverine hair pilot project using bait stations. Three hundred and sixty wolverine hair samples were collected. High quality DNA was collected due to the cold and dry air. Twelve males and eight females were identified. RWED is working towards cumulative effects monitoring on the central barrens for wolverines. Its next steps include further field testing, protocol refinement and training workshops to standardize techniques and coordinate regional efforts. RWED's role is developing the technique, not carrying out monitoring for companies. A regional database would be necessary to analyze the data collected.

Directors thanked RWED for the presentations and the likelihood of its research improving adaptive environmental management at Ekati and in the region.

***Follow up to the meeting with RWED***

The Directors agreed that RWED's presentations might highlight the need for regional effects monitoring on caribou. This may result in the Agency recommending changes to the BHPB *WEMP*. The RWED wolverine abundance presentation could have a large effect on the 2005 BHPB wolverine-monitoring program by replacing the snow track surveying of wolverines with DNA sampling. On the subject of air quality, the Directors requested Carole to determine the advice provided by RWED and EC to BHPB in developing the remodeling exercise.

Action Item #14 – Request clarification of RWED/EC involvement in air quality modeling from BHPB.

***Meeting with DIAND (David Livingstone and Eric Yaxley)***

Directors requested an update on the appointment of a Director to the Agency to replace Pete McCart. David replied that Dr. David Schindler had been nominated but BHPB did not accept that nomination.

David thanked the Agency for hosting the Aboriginal Caucus workshop and requested that the Agency continues to do this. The Directors agreed in principle as long as the Caucus does not require subsidy by the Agency and the task is within the Agency's mandate. The Directors agreed that the Caucus is needed to formulate shared opinions on a RMA and that the strengths of both existing watchdog agencies must be incorporated into the RMA. David informed the Agency that BHPB had commented at a meeting that although Diavik did not support its request for EMAB to assume IEMA responsibilities, that it still proposes to restructure the Agency into an EMAB-style body.

David supported IEMA hosting the environmental workshops.

The Directors requested clarification of issues related to securities and reclamation. DIAND has stated that the bond is based on the Government carrying out the reclamation work with its own equipment rather than the company. DIAND also supports the Agency view that the *A&R Plan* should be operational and detailed so that if BHPB closes immediately the

reclamation of the site could be properly carried out based on the *A&R Plan*. It is beneficial to have details worked into the plan sooner as insurance against marketplace changes that may reduce the viability of mines. DIAND water resources is updating the 1990 mine regulations and DIAND will make a presentation of this available at the next Agency meeting. David mentioned that land closure policy is not in his directorate (the operations director takes care of leases and inspectors, land related security activities and is responsible for setting standards). DIAND is also looking for an example of how to approach progressive reclamation crediting. Old camp is an example of reclamation underway, but liabilities on those specific items have not been placed yet. The *EA* security has now been set at \$28 million and this is an increase of \$20 million in the last six months.

Directors mentioned an idea that it may be beneficial to extend the term of the current water licence due to the likelihood of major changes in the coming year after the new application is processed. David agreed that this is worth considering.

***Finance and Administration***

Upon review of the budget, the Directors agreed that enough funds are available for environmental workshop related expenditures.

Some discussion was held regarding contractual matters related to the environmental analyst position. A policy was put in place related to severance for the analyst's contract and approved by the Directors.

Action Item #15 – Directors approved contract conditions for Sean Kollee including a severance clause.

***Schedule Planning and Next Meeting***

The 38<sup>th</sup> Board Meeting is to be held in conjunction with the MVLWB-Agency hosted environmental workshops in mid-March, 2004.

Summary Approved by:

-ORIGINAL SIGNED BY-

François Messier, Secretary-Treasurer