

**Independent Environmental Monitoring Agency  
Board of Directors Meeting  
Summary of Discussion and Decisions**

**March 14<sup>th</sup> and 15<sup>th</sup>, 1998**

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***Directors Present***

Red Pedersen	Fikret Berkes
Tony Pearce	Pete McCart
François Messier	Kevin O'Reilly
Bill Ross	

***Staff Present:***

Hal Mills  
Matt Bender  
Jackie Morris

***Saturday March 14<sup>th</sup>, 1998***

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**1 Introduction of Kevin O'Reilly, Appointee of Akaitcho Treaty 8**

Darrell Beaulieu, Director of Akaitcho Treaty 8, introduced Kevin O'Reilly as the Akaitcho Treaty 8 appointee to the Board. The Chair thanked Darrell for his contributions to the work of the Board.

**2 Review of Agenda**

Additions to the Agenda were the attendance of Fred Sangris and Ron Allen on Sunday morning. Red was not able to attend the Sunday portion of the meeting; Tony chaired the meeting on Sunday.

**3 Business Arising from Last Meeting**

Action Items from the last meeting were reviewed.

- Action Item #5 re January 16<sup>th</sup> -- letter to Scott Williams regarding followup on EBA's report "Wastewater and Tailings Management" – no answer yet.
- Action Item #12 re Web site proposal – Janice is working on this
- Action Item #15 – Jackie has requested BHP documents but followup is needed.

**4 Information Updates**

**4.1 Chair**

Red attended a public meeting hosted by Lytton Minerals and another hosted by the Jericho project. He also attended a workshop on contaminants. Red observed that the exploration stage also creates impacts on the land.

## **4.2 Directors**

Fikret met with North Slave Metis Alliance. The NSMA raised questions about caribou not reaching their wintering grounds, expressing concern that increased traffic on the highway may be impeding caribou movements. They also expressed concern about hunting along the winter road to Lupin, and questioned whether there were sufficient RWED personnel to monitor the hunt.

## **4.3 Staff**

Matt Bender was introduced as Assistant Monitoring Coordinator. The Directors send their best wishes to Janice Traynor, in Edmonton!

The landlord has asked that we consider the possibility of moving our office to the third floor of the NWT Communications Building. The Directors are amenable to this but would like more information before committing to anything definite.

Jackie reported that biologists from Bryant Engineering have been using the Resource Centre, and that Chris O'Brien came by with a question about winter road use.

## **5 Meeting with Representatives of the GNWT – Department of Resources, Wildlife and Economic Development**

In attendance were: Joe Handley, Deputy Minister; Kathryn Emmett, Director of Policy, Legislation and Communication; Emery Paquin, Director of Environmental Protection; and Steve Matthews, Habitat and Environmental Assessment Biologist.

Joe Handley summarized the role of RWED within the GNWT. RWED's mandate is "to pursue sustainable development and the protection of resources". With respect to the Environmental Agreement, RWED:

- Coordinates and reviews documents prepared by BHP;
- Issues no licenses or permits;
- Reviewed the Construction Phase Environmental Management Plan and continues to monitor outstanding issues;
- Participated in the design of the wildlife and aquatic effects monitoring plans.

Joe Handley thought the Monitoring Agency has expertise and has acted responsibly, showing commitment to the issues.

In general discussion, the following points were made:

- RWED sees a fragmentation BHP's reports. The plans are not integrated or cross-referenced and need to build on each other.
- RWED noted that environmental effects monitoring is one year behind, but progress is now being made. RWED has a concern about how information gathered by BHP will be used (e.g. caribou use of site). There are problems with existing plans for wildlife monitoring and their implementation (i.e. mitigation). An example is that interactions with caribou have not been adequately addressed. There is a need for BHP to commit to implementing changes when data show that changes are needed.
- GNWT has regulations regarding spills, and there is a "spills agreement" with other agencies working in this area. GNWT does not actively inspect or enforce for spills, but encourages DIAND to do so.
- The Monitoring Agency asked whether possible over-harvesting of caribou on the Lupin winter road was an issue for RWED and, if so, what was being done about it. Steve Matthews stated that there are conservation officers who monitor the road, but that both

community hunts and sport hunting occur along the southern end (within a two hour drive of Yellowknife); hunting along the northern portion of the road is not a concern.

- Talks have been on-going between RWED and BHP with respect to air quality concerns -- dust likely being the central problem. RWED is not conducting any work in this area.
- Joe Handley noted that generally, considering the numbers of people coming and going at the site, BHP does make an effort to handle environmental situations (such as garbage disposal, spills) appropriately. He feels site rules are strict and well enforced.
- The Monitoring Agency asked how GNWT policies with respect to use of TK were being implemented. RWED responded that traditional knowledge is integrated throughout the work of RWED, on a project by project basis as appropriate. For example, all wildlife studies have a TK component, and that they work with the Dogrib Treaty 11 Renewable resources Committee. There are no written guidelines on how administrators or managers within GNWT are to implement TK policies. GNWT does not intend to develop written guidelines. The Dene Cultural Institute has a contract to provide training on this subject and to find experts who can help with this. Joe Handley pointed out that the GNWT TK policy is an internal one, not external.
- Kevin O'Reilly pointed out that a recommendation from the BHP Panel Review was that CEAA should produce a policy on TK as applied to the environmental review process. The status of this policy is unknown.
- The Monitoring Agency inquired as to how, specifically, RWED implemented its mandate of "sustainable development". Does RWED have criteria, indicators, or guidelines for use by departmental managers? Joe Handley responded that there are no written guidelines but that the principle is implemented on a sector-by-sector basis. He used the setting of an annual harvest level for timber extraction in NWT as an example of sustainable development.
- Kathryn Emmett stated that public may not know about the expertise and work of the Monitoring Agency. The Annual Report will help to address this.
- Joe Handley stated that the Monitoring Agency should be involved in the Diavik project because of cumulative impacts upon the region.
- The Monitoring Agency would like to receive reports, documents, updates authored by GNWT that are relative to Ekati.
- Joe Handley expressed his hope that in its Annual Report, the Monitoring Agency will praise as well as criticize work of the regulatory bodies and BHP.

**Action Item One:** Staff to check on the status of CEAA policy regarding use of traditional knowledge in the environmental review process.

## **6 Environmental Monitoring**

### **6.1 Ekati Site Visit by Peter McCart**

Peter accompanied representatives from regulatory agencies on a tour of the Ekati site, on March 10<sup>th</sup> and 11<sup>th</sup>. His general impression was that the Ekati site is well run and that BHP is making solid efforts to prevent environmental problems from developing at the site, e.g. orientation for new-comers, strict enforcement of their on-site policies for spills, etc. The tour included visits to the Panda Diversion Channel, the frozen core dam under construction at Long Lake, Kodiak Lake sewage effluent on the lake, and the Misery road, which is under construction. Peter was also briefed on the ammonia seeping from an unlined lagoon.

### **6.2 Kodiak Lake/ Dissolved Oxygen Update**

Peter updated the Board on BHP's progress in dealing with the lack of oxygen at Kodiak Lake. The Monitoring Agency receives regular updates from the environmental technicians at Ekati, and Peter is in

regular contact with Derek Chubb, the consultant retained by BHP to address the problems at Kodiak Lake. Highlights of the subsequent discussion include:

- Kodiak Lake becomes very small in the winter; it is a shallow lake and a large proportion of the water freezes.
- BHP is meeting the municipal guidelines for sewage effluent but there is a question of the appropriateness of these guidelines, the lake is small for the total amounts of effluent entering it. The Board questions how the Water Board arrived at the allowable amount of 40 mg/l BOD in Kodiak Lake.
- Sediment from the Panda Diversion Channel may be compounding habitat problems at Kodiak Lake.
- Downstream water measurements have not started yet (e.g., to see if Little Lake is being affected by what is happening to Kodiak Lake).
- What was the sewage situation last year, how many people were at the camp?
- Peter pointed out that the sewage may have other effects, such as increasing ammonia or nitrate levels.

**Action Item Two:** Staff to determine how the NWT Water Board derived the number of 40 mg/l BOD entering Kodiak Lake.

**Action Item Three:** Staff to write a letter to BHP suggesting that, in addition to dissolved oxygen and water temperature, they sample a full range parameters including ammonia and nitrate at various water depths in Kodiak Lake.

**Action Item Four:** Staff to draft a letter to DIAND (David Milburn) thanking them for information on winter water profiles for lakes. The letter should note that there were no dissolved O<sub>2</sub> data in the report, and say that the Monitoring Agency recommends that oxygen levels be monitored in the future to provide a regional baseline.

**Action Item Five:** Staff to review submissions given at the Water Board Hearings for BHP, to see if any person or organization flagged the "40mg/l BOD going into Kodiak Lake" as an issue.

### **6.3 Report on Aquatic Effects Monitoring Workshop**

Bill reported that he, François, Peter, and Janice Traynor attended the two day workshop hosted by BHP to address their Aquatic Effects Monitoring Program, held February 5<sup>th</sup> and 6<sup>th</sup>. The workshop resulted in a much-improved plan. The Board has commented subsequent drafts of the plan. A third draft is now awaiting comment.

**Action Item Six:** Staff will compile Directors' comments on the third draft of the A.E.M.P. and send them to BHP for the March 20 deadline.

At the moment, this plan is the consultant's product; until the OEMP is out, it will be unclear how BHP intends to use the plan. In the OEMP, the Directors will be looking for a clear link between the monitoring program and BHP's environmental management system, i.e. how will the information gained from the program be used, and will adaptive management occur?

This AEMP must include sufficient detail to support consistent application of the program over the many years of Ekati's operation. Persons carrying out the measurements and interpreting the data must use consistent methods.

The Board agreed that a letter of support and comment regarding the Aquatic Effects Monitoring Program should go to BHP.

**Action Item Seven:** The Monitoring Agency will send a letter of support to BHP regarding the Aquatic Effects Monitoring Program.

#### **6.4 Arctic Char Monitoring Program**

Independently of the Monitoring Agency, Fikret Berkes is working with Ross Tallman and Al Kristofferson to begin a monitoring program for the Arctic Char fishery at Kugluktuk. The Nunavut Water Board and DFO will fund the project. The program will result in co-management of the fishery.

#### **6.5 Report on Wildlife Monitoring Program Workshop**

François reported that he, Red, and Hal attended the two day workshop hosted by BHP to address their Wildlife Monitoring Program, held February 3<sup>rd</sup> and 4<sup>th</sup>. The workshop was well attended and included participation by elders. BHP and their consultants showed openness and a willingness to amend the program. At the end of the workshop, there was consensus about what should be in the long term plan.

François restated his earlier comment; that the Wildlife Monitoring Program must include sufficient detail to support consistent application of the program over the many years of Ekati's operation. Persons carrying out the measurements and interpreting the data must use consistent methods.

The Board looks forward to seeing how the Wildlife Monitoring Plan appears in the OEMP, and how BHP will indicate the link between the Wildlife Management Plan and their environmental management system. The Board agreed that a letter of support and comment should go to BHP.

**Action Item Eight:** The Monitoring Agency will send a letter of support to BHP regarding the Wildlife Effects Monitoring Program.

#### **6.6 Discussion of Winter Road and Cumulative Effects**

The Directors discussed monitoring of the main winter road to BHP and Lupin, and the use of the road to the Misery Pit, which will also be the Ekati winter road. François expressed interest in the collecting of data on caribou use in the Misery road area; it would be desirable to have baseline data in place before the road opened. Tony questioned whether the current winter traffic frequencies on the main winter road were having an effect on caribou movements.

Given the increasing traffic on the main winter road (as Diavik and other sites are developed), there should be a wildlife monitoring program assessing cumulative impacts on the winter road. This should be flagged in the Monitoring Agency's annual report

#### **6.7 Kimberlite Toxicity Study**

The study is already underway. The Monitoring Agency has retained John Sprague to review the terms of reference for this project.

**Action Item Nine:** Tony will draft a letter to BHP on the kimberlite toxicity studies.

#### **6.8 ARD and Geochemical Characterization, Waste Rock and Ore Storage Management Plans**

The Monitoring Agency has retained Chris Mills to review these documents. After the Directors have read Mills' work, Tony will draft a letter for BHP.

**Action Item Ten:** Tony to coordinate Agency's comment on the ARD and Geochemical Characterization and Waste Rock and Ore Storage Management Plans.

## **6.9 Letters to DFO Regarding Fish Habitat Compensation Fund**

François drafted two letters to DFO, querying how they arrived at the sum of \$1.5 million for the Fish Habitat Compensation Fund, what type of projects the fund will cover, and how it might justify funding projects not directly related to Ekati site. The letters were discussed and revised.

## **7 Discussion of Agency's Annual Report**

The Board reviewed the work done to date by staff, and then discussed how to approach the rest of the Annual Report. Rather than a "report card" for BHP and the regulatory bodies, the Board will develop case studies to show where problems developed and how they were/ were not rectified. The Annual report will be released at the Monitoring Agency's Annual General Meeting. A work schedule was defined.

**Action Item Eleven:** Staff will canvass Members of the Monitoring Agency to find the best date for the Monitoring Agency's Annual General Meeting, probably mid-June.

**Action Item Twelve:** Directors and staff will prepare portions of the Annual Report as noted during the meeting. Subcommittees may need to be formed. Sections of report should be sent to the office by April 20<sup>th</sup> for compilation.

At the next Board meeting, set for May 9<sup>th</sup> and 10<sup>th</sup>, the Directors and staff will review the work done to date.

BHP's Annual Report for the NWT Water Board will be out soon. Their Annual Report will be available in early April.

## ***Sunday March 15, 1998***

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## **8 Treasurer's Report**

François reported that approximately 78% of the Monitoring Agency's annual budget has been spent. The balance will be rolled over into the next fiscal year.

The Board reviewed procedures for claiming meeting, travel and "office" expenses.

The Board discussed the need for Directors' and Officers' liability insurance. No decision was reached and the item was tabled until the next Board meeting, when Red will be present.

**Action Item Thirteen:** Staff to provide Kevin O'Reilly with a copy of the policy summary for the Directors' and Officers' liability insurance.

Signing authority for the Monitoring Agency's account has been extended to include Kevin O'Reilly. Persons with signing authority now include Red Pedersen, François Messier, Kevin O'Reilly and Hal Mills. All cheques require the signature of any two of these individuals.

## **9 Meeting with Chief Fred Sangris**

Chief Sangris briefed the Board on the contents of the newly released Weledeh Yellowknives Dene traditional knowledge report. He presented the history of their TK study since the EARP hearings and how the report fills the gap in the Environmental Impact Statement. The study represents both Phase I and II work. The Yellowknives' Lands & Resources Committee worked with elders as an advisory group. The study focuses on Ekati.

The Yellowknives have been in communication with BHP but have no clarity as to how BHP will incorporate the recommendations in their report. The report contains specific recommendations regarding caribou monitoring. Caribou will be affected by the mine; caribou will avoid the site. BHP will not be able to do environmental effects monitoring on their own; they will need TEK and aboriginal involvement to provide multi-seasonal data, etc.

The Yellowknives have not yet reviewed their recommendations with BHP. They hope to do this soon to see what recommendations BHP is willing to incorporate into the Operating Phase Environmental Management Plan. The Agency could assist with this process—the Yellowknives will let us know how the first meeting with BHP turns out. BHP has not yet come into the community to explain the Operating Phase EMP. The Yellowknives have requested a community meeting with BHP regarding the TK study. A meeting is scheduled for April 17<sup>th</sup>. BHP's wildlife monitoring program does not incorporate the TEK study.

Mr. Sangris gave permission for the Monitoring Agency to reproduce Part One of the report for the purpose of providing each director with a copy. Part Two of the report will be out shortly.

**Action Item Fourteen:** Staff to request a copy of Part Two of the Yellowknives Dene report when it is available.

## **10 Meeting with Ron Allen of DFO**

Ron Allen tabled a letter from DFO to BHP regarding amendments to be made for sediment control measures in Kodiak Lake and outlet remediation for fish passage on the Panda Diversion Channel. He described the design of an artificial "reef" in Kodiak Lake, designed to catch sediment carried into the lake from the Panda Diversion Channel.

Ron expressed concern about the 40 mg/l BOD that had been approved for Kodiak Lake. This number did not take into account the volume of the lake. He stated that DFO made its concerns known to the Water Board and TAC. DOE sets the levels, although DFO recommends t DOE what they should be. Ron Allen committed to provide the Agency copies with all DFO-authored correspondence to BHP and DOE on this issue.

**Action Item Fifteen:** Monitoring Agency to request a copy of the DFO presentation to Water Board on the BOD into Kodiak Lake.

As well as the lack of dissolved oxygen, the fish may have gone into the winter stressed by the sediment load from the Panda Diversion Channel.

Regarding the Fish Habitat Compensation Fund, DFO will be hiring a person for a short term contract to get things rolling.

In a letter sent to Ron Allen on January 20<sup>th</sup>, 1998, the Directors described the role the Monitoring Agency was willing to play regarding the Fund, and that they were waiting to hear how DFO was making out in its consultation with aboriginal groups.

Ron Allen tabled a draft of how DFO would handle disclosure of information to the Monitoring Agency.

## **11 Meeting with BHP Environment Staff**

In attendance: Scott Williams, John Witteman and Chris Hanks.

Scott Williams outlined BHP's Environmental Management System (EMS). Copies of his overhead transparency presentation are available at the Monitoring Agency office. His presentation included the following points:

- BHP has two kinds of audits. Internal environmental audits are done annually by on-site staff; external environmental audits are performed every 3 years by a BHP corporate audit team comprised of trained staff from other sites. The external audit has a scoping process to identify impacts plus legal and other requirements. There are also quantified performance requirements that are site specific and time based. The system has key performance indicators—an example might be, say, the reclamation of 5 hectares per year.
- Scott Williams will trigger an audit in spring of 1999 after Ekati is operational.
- The EMS is made up of the following components:
  - a) Site Environmental Performance Requirements manual which contains environmental effects monitoring and statutory commitments; including:
    - Class A water license
    - Environmental Agreement
    - Fisheries Authorization
    - Fisheries Compensation Agreement
    - Navigable Waters Authorization
    - Surface leases
    - Mining leases
    - Land Use Permits
  - b) Operating Phase EMP;
  - c) Mining & rehabilitation plan;
  - d) Closure plan;
  - e) Site Environmental Improvement Plan containing annual performance objectives.
- There was a full external audit done in the fall of 1996. This audit did not catch the dissolved oxygen problem in Kodiak Lake—the audit instead examined whether the effluent met the required standards. This audit is not available for review by the Agency. The Agency also may not have access to BHP's EMS as this is proprietary.
- Scott Williams stated that their EMS is consistent with ISO 14001 standards. The EMS is based on proven programs and has consistent application across the company. The Agency asked if they were going for certification. Williams replied that they would not be since certification is too expensive
- The Agency asked if BHP's internal environmental audit system was consistent with ISO 14031 guidelines for Environmental Performance Evaluation. Scott Williams and John Witteman were uncertain about this, and stated they would find out.
- The Agency expressed its concern about the need to have links between the environmental effects monitoring programs and the EMS made explicit in the Operating Phase EMP.
- In BHP's opinion some of the monitoring they are required to do seems to have little application to bettering environmental management at Ekati. BHP hopes that over time some of these requirements will be reduced, leaving more resources for collecting data that is of direct relevance.

Chris Hanks summarized the status of the traditional knowledge projects:

- The Yellowknives Dene report is complete. Meetings are scheduled with Yellowknives Dene to discuss how elements of the plan can be implemented. There is a meeting set for March 27<sup>th</sup> to talk about the environmental effects monitoring program, and another meeting set for April 16<sup>th</sup> to focus

on the TEK work. Chris noted that implementing certain parts might result in legal infringements so there is a need to work also with government

- The Inuit are continuing to transcribe their report.
- There has been no action on the Dogrib project since December. Chris Hanks stated that he had received a TK proposal, and that he had revised it and sent it back, but there has been no response since. The Dogrib won't designate a principal researcher or commit to a budgeting schedule. Further, they will not commit to producing the kind of product useful to BHP. BHP needs a commitment that someone will take the responsibility for leading the project.
- The Metis do not have an approved project at this time.

Chris stated that BHP is aware that their environmental management plans are to incorporate traditional knowledge. BHP will incorporate the information in the plan as it becomes available. He suggested that one possible approach to get groups working together is to hold focused sessions. For example, a session could focus on how caribou might be affected by Ekati and what to do about it.

Regarding the Restoration and Abandonment Plan, the version coming out in the OEMP will have a few words changed from the previous version but the intent is the same.

Scott invited the Directors to hold a meeting at Ekati in the near future. Possibly this could happen in early June, to tie in with the Annual General Meeting for the Monitoring Agency.

John Witteman tabled a letter regarding Air Quality measurements and a set of six reprints about snow sampling and its relevance to air quality sampling. He mentioned that some early results from the kimberlite toxicity tests were in, and that he would get these to the Agency as soon as possible.

## **12 New Business**

### **Discussion about the Diavik Project**

The Directors expressed interest in following the Diavik project on Lac de Gras. The information from Diavik's baseline studies may be of relevance to the Ekati project. This project will contribute to cumulative environmental effects in the Lac de Gras area, for example, in regard to caribou movements, or use of the winter road.

It was not immediately clear why the federal agencies chose to go the route of a comprehensive study. The decision was apparently reached quickly and questions were raised as to the time provided for review of materials by interested parties.

According to the terms of the Environmental Agreement, the Monitoring Agency can act as an intervenor in regulatory processes related to the BHP project. Because of the potential for cumulative impacts, the review processes for the Diavik project may be a place where the Agency should be involved. The Directors are interested in participating in the formation of guidelines for the environmental assessment of the Diavik project.

**Action Item Sixteen:** Staff to prepare a letter to David Livingstone at DIAND expressing the Monitoring Agency's interest in participating in the development of a public involvement plan for the Diavik review process, and the drafting of guidelines for the environmental review of the Diavik project.

## **13 Next Meeting**

The next Board meeting will be in Yellowknife, May 9<sup>th</sup> and 10<sup>th</sup>, 1998.

**Note:** Correspondence and documents referred to in this Summary of Discussion and Decisions are available at the office of the Independent Environmental Monitoring Agency.

## **Appendix One – List of Action Items**

**Action Item One:** Staff to check on the status of CEAA policy regarding use of traditional knowledge in the environmental review process.

**Action Item Two:** Staff to determine how the NWT Water Board derived the number of 40 mg/l BOD entering Kodiak Lake.

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**Action Item Thirteen:** Staff to provide Kevin O'Reilly with a copy of the policy summary for the Directors' and Officers' liability insurance.

**Action Item Fourteen:** Staff to request a copy of Part Two of the Yellowknives Dene report when it is available.

**Action Item Fifteen:** Monitoring Agency to request a copy of the DFO presentation to Water Board on the BOD into Kodiak Lake.

**Action Item Sixteen:** Staff to prepare a letter to David Livingstone at DIAND requesting that the Monitoring Agency participate in the development of a public involvement plan for the Diavik review process, and the drafting of guidelines for, the Environmental Review of the Diavik project.

