

# Independent Environmental Monitoring Agency

## Board of Directors Meeting Summary of Discussion and Decisions

Thursday, June 26<sup>th</sup> and Friday, June 27<sup>th</sup>, 1997

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***Attendees:***

Red Pedersen  
Tony Pearse  
Bill Ross

Peter McCart  
François Messier  
Fikret Berkes

***Facilitators:***

Hal Mills  
Janice Traynor  
Jackie Morris

**Thursday June 26, 1997**

**Visit to NWT Treaty 8 General Assembly**

At 9:45 AM, the members of the Board were introduced to the NWT Treaty 8 Assembly, held in Dettah. Each Board member gave a short statement to the Assembly. A brief question and answer period followed.

**Meeting of the Board**

At about 10:45 AM the Board met in the West Kitikmeot / Slave Study offices.

***Discussion of Documents Reviewed by the Board***

*Water Effects Monitoring Program*

The Board discussed whether or not the Water Effects Monitoring Program (WEMP) met the water license requirements. The Board agreed there are too few specifics on what is being sampled and why, how and where samples are taken, and how many samples are taken. Directors noted that the lack of clear, technical objectives would make it difficult to measure whether the objectives were met.

*Construction Phase Environmental Management Plan*

The Board discussed the fact that DIAND had produced a deficiency report on the Construction Phase Environmental Management Plan. François is taking the lead on preparing the Agency's report on this plan; he would like to see what DIAND's deficiency report contains and he would also like some more comments from other Board members before the Agency's report is finalized. The Board's ensuing discussion about the plan indicated it is vague and lacking in details. It requires more information on what is to be monitored and on how the data will be used. There are no references to adaptive management and the objectives are not concrete.

**Action Item 1:** After receiving more comments from other Board members, François will complete the Agency's report on the Construction Phase Environmental Management Plan, and circulate it to the Board.

### *Construction Site Spill Contingency Program*

Bill talked about the Construction Site Spill Contingency Plan. Improvements required include: the need to define what amount constitutes a spill; clarifying to whom the spill is reported; and clarifying how “learning from a spill” will be implemented. He will provide a report on the plan to GeoNorth for distribution to the Board.

**Action Item 2:** Bill will write the review of the Spill Contingency Plan. Office staff will distribute the plan to the Board.

### *Kimberlite Toxicity and Tailings Characterization Studies Terms of Reference*

The Board reviewed the reports from the consultants who had reviewed these documents. Directors agreed with the consultants’ findings that the terms of reference for the two studies are too vague.

**Action Item 3:** Office staff will send the consultants’ reports on the Kimberlite Toxicity Study Terms of Reference and the Tailings Characterization Terms of Reference to the Water Board, and will draft a covering letter summarizing the major points.

### ***Document Review***

(Discussion on Thursday and Friday). There was a general discussion on ensuring the Agency receives copies of documents and associated comments, and when in the processes the Agency should provide its input. There is currently no protocol as to how the Agency’s reviews of documents will coincide with other parties. One suggestion was that the Agency could do a quick read and review of documents when they are received. If there are major concerns, the Agency could speak to the regulatory body and decide how to coordinate the response.

**Action Item 4:** On behalf of the Agency, Hal will meet with the governments and BHP and endeavour to ensure the Agency is on the distribution list for all documents relating to the BHP Diamonds Project. Each party will be requested to provide to the Agency all documents for which they are the authors. Included in this request should be inspection reports, such as those produced by DIAND and DFO inspectors checking for compliance. All parties should be aware that all documents provided to the Agency are in the public domain.

### ***Communication Issues and Protocols***

The Board had a general discussion on protocol for providing Agency reports and information to the governments, BHP, and the public. It was agreed that:

- Verbal advice/feedback given by the Agency to BHP or the governments will be followed by a written report, which will be considered in the public domain.
- Any written reports issued by the Agency will go out under the Agency’s name, not the name of the individual.
- It should be clear that responses and advice of the Agency are meant to be in response to documents or actions of other parties; the Agency will not be considered as co-authors of any documents initiated by other parties.

### **Lunch Break**

### ***Discussion of GeoNorth's Proposal dated June 2<sup>nd</sup>, 1997***

This proposal outlines GeoNorth's willingness to provide administrative services to the Monitoring Agency. The Board asked that GeoNorth track the time spent on various tasks for the Agency so the Board can evaluate how the time spent compares with the proposal's budget.

**Motion 1:** To accept the proposal of GeoNorth.

Moved by François Messier, seconded by Fikret Berkes.

**Consensus was achieved to support the Motion.**

**Action Item 5:** François will write a letter accepting GeoNorth's proposal.

### ***Meeting with BHP***

Attending from BHP: John Witteman, Chris Hanks, Jim Excell, Terry Janes, and Rick Hoos (ResCan).

Red Pedersen welcomed the visitors to the meeting and gave an overview of what he hoped the meeting would accomplish. He referred to the Environmental Agreement and the Agency's role in providing advice, taking an integrated approach, being a public watchdog, and compiling data.

Tony Pearce expressed the Agency's need to receive information from BHP and the regulatory bodies in order to carry out the Agency's mandate. The Board requested that BHP provide the Agency with a list of documents sent to regulators so far, so that the Agency can set up a log on each document. It would be helpful if BHP could let the Agency know of the responses the company have had.

John Witteman stated they had nothing back yet from the Water Board on anything they have submitted. The Transportation Spill Contingency Plan went out to governments and BHP will give the Agency a copy. BHP received comments today from DFO on Lac de Gras sampling and Kodiak Lake Monitoring Program (required under fisheries authorization).

Jim Excell added that DIAND had given BHP a Deficiency Report on the Construction Phase Environmental Management Plan.

**Action Item 6:** The Monitoring Agency will ask DIAND for a copy of the Deficiency Report and clarify whether it is public domain.

Tony stated that the Monitoring Agency had a number of documents under review but at this time specifically wanted to discuss the Water Effects Monitoring Program.

Peter McCart asked if the plan dated March 31<sup>st</sup> is the only document that is being used by BHP.

John indicated the March 31<sup>st</sup> plan was the only document they had produced and that it was waiting for comments by the NWT Water Board.

Bill Ross covered the Agency's general concerns – that the purpose of the plan was not clear, and that there were no logical links between the specific components of the plan and the purpose. The plan requires specific impact management goals and objectives that the program components address. This is a requirement of adaptive management, as included in the water license. The plan must also specify how the resulting data will be used to see if the objectives are being met. In adaptive management, the point of doing monitoring is to get information to see if the impacts are mitigated or if the effect is not important.

François listed some major deficiencies with the WEMP.

- Need to evaluate existing baseline data for each component; this does not appear to have been done.
- The focus in this plan is on water quality, but this is not the sole intent of the license. What about phytoplankton, zooplankton, fish, etc.
- There is no rationale for the numbers of exposed and control sites, or the choice of sites. The map locating the sites is unreadable.
- Requirements for a detailed description of sampling program – frequency, type, seasonal coverage, etc. Note that if this document goes to the TAC it will want these details.

François continued, stating that Section J of the water license does not seem to have been met. Peter added that the Agency has not done a detailed analysis because there are too many points to critique, and the plan clearly needs to be revised. Tony asked how BHP saw the WEMP, with respect to Section J of the water license.

John Witteman said that a contract was let by BHP to carry out the Water Effects Monitoring Program and other aquatic work. ResCan won the contract, and has improved the plan by adding things like phytoplankton and zooplankton, methods, sampling sites, etc. Although BHP would prefer to do one water monitoring plan, various jurisdictions tell BHP to do different things, e.g., DFO and NWT Water Board. The Technical Advisory Committee (TAC) of the Water Board has met with ResCan and BHP and TAC now has been informed of the new scope of work.

Tony expressed concern that the Agency wasn't reviewing the most current document. Peter asked for formal acknowledgement that the ResCan proposal supersedes the WEMP.

Rick Hoos stated that their proposal is now accepted as the work program. Included in the program are the requirements for the WEMP, as well as the Lac de Gras sampling and environmental study of Kodiak Lake, as required by the fisheries authorization.

Bill Ross pointed out that the purposes of the fisheries authorization and the WEMP are very different: the first is compliance and the second is adaptive management.

Rick Hoos presented the ResCan work program, as outlined in the proposal.

Concerns expressed by Monitoring Agency during the ResCan presentation included:

- Too few control sites, one (Vulture Lake) is already possibly compromised by use as a float plan base and fuel storage on the shore.

- Does the boundary of watershed stand up to TK? If so, this should be stated in the document.
- Concern that construction is far ahead of TK. Will BHP be able to integrate it once it is available? Chris Hanks stated that the TK work is proceeding at its own pace and progress has been made.
- The water license requires sites at Lac de Gras in the vicinity of the outflow of Slipper Lake and Lac de Gras in the vicinity of the Misery operation. Will these be added? John Witteman indicated that they would.
- Are measurements of fish toxic body loads consistent with baseline data and do they validate models of environmental impact, or are these DFO's requirements? Rick Hoos indicated that these had been adjusted to satisfy DFO's requirements.
- The use of indicators was lacking in the WEMP. Are these now included?
- Which metals are being tested for, and are metals from Kimberlite analysis included in the testing? John Witteman indicated that they were.
- Use of indicator fish species, e.g. a small number of fish species, rather than many different species, may be better.
- Will there be winter sampling? John Witteman answered that winter sampling was not a part of ResCan's work, but that BHP was intending to do it.

The Monitoring Agency saw ResCan's work as an improvement over the original Water Effects Monitoring Program but would like to see a re-packaged version for review. There were still concerns about control sites, uncertain techniques, vague language and vague objectives.

After the BHP group left, the Board discussed the meeting. The Board expressed their frustration on not being provided with all the pertinent information to review. The Directors summarized that, to date, BHP has not yet met the Section J requirements of the water license. BHP has not yet produced a fully integrated Water Effects Monitoring Program.

The Board was also concerned with the amount of time taken by the Water Board to review the WEMP, as a good portion of the field work for the current year will be completed before the NWT Water Board reviews the program. After some discussion, the Board decided on the following action:

**Action Item 7:** Tony Pearce will draft a letter to the NWT Water Board highlighting the Monitoring Agency's concerns with the Water Effects Monitoring Program, as well as the length of time the NWT Water Board is taking to review it.

### ***Review of Minutes of the May 28<sup>th</sup>-30<sup>th</sup> Meeting***

**Motion 2:** To accept the minutes of the May 28<sup>th</sup>-30<sup>th</sup> 1997 as presented.

Moved by Tony Pearce. Seconded by Red Pedersen

**Consensus was achieved to support the Motion.**

### ***Name of the Agency***

The Board agreed that the name of the Agency would remain “Independent Environmental Monitoring Agency”. In short form it may be called the Agency or the Monitoring Agency.

### ***Letter from DFO Regarding the Fish Habitat Compensation Fund***

The Monitoring Agency has been invited to have input into the Fish Habitat Compensation Fund (See letter dated May 13<sup>th</sup> from DFO to BHP, and forwarded to the Agency by BHP on June 20<sup>th</sup>). The Directors considered how having input to the administration of this fund would mesh with the Agency’s mandate, and discussed how much of their time might be involved. They decided to decline the invitation.

**Action Item 8:** The Agency will write a letter to Mr. Excell with a copy to Mr. Stein declining to assist with selecting, or advising on, or managing projects undertaken by the fish habitat compensation fund. However, the Monitoring Agency would accept the role of identifying and recommending on the needs for research and monitoring studies associated with these projects.

### ***Thank You Letters to Implementation Group***

The Directors reviewed GeoNorth’s draft letter thanking the members of the Implementation Group for their help in setting up the Monitoring Agency. They would like to see something a little more appreciative.

**Action Item 9:** Office staff will redraft the thank you letters to the Implementation Group and send to Red Pedersen for approval before they go out.

*Friday June 27<sup>th</sup>*

### ***Financial Management and Protocols***

François clarified that he would like to see GeoNorth handle the day-to-day financial affairs of the Monitoring Agency, such as looking over travel claims, paying invoices and providing information to a bookkeeper. GST and payroll and the books would be done by a bookkeeper.

François prepared a travel and work claim form. Discussion by the Board, regarding travel claims:

- If meals total less than \$56.25 per day no receipts are needed. If the total is more, then receipts are required.
- A “day”, e.g. for working at home, is defined as 7.5 hours.
- Travel time is counted as working time.

Mr. Ken Wowk, C.G.A. met with the Board to answer various questions.

- As a non-profit society, the Monitoring Agency does not have to pay income tax.
- Whether or not the Society needs to be a GST registrant depends on where our funding comes from. A percentage of the Agency’s GST paid out can possibly be reclaimed; have our accountant send in a form at the end of the year.
- A bookkeeper should be separating out GST paid by the Agency on our records.

After Mr. Wowk’s departure, the Board discussed the remuneration of Directors.

**Motion 3:** Whereas the Board is a working and technical advisory body, the means of remuneration to the Directors is per diem without any deductions at source, and T4A slips will be issued.

Moved by Bill Ross and seconded by François Messier.

**Consensus was achieved to support this Motion.**

### ***Staffing***

Bill would like to see the duties of the Executive Manager include the writing of the Agency’s Annual Report. Otherwise, the issue of staffing is tabled for the next few months.

### ***Budget***

The Board approved the revised budget as included in their Briefing Binder.

### ***Policy Manual***

The following items refer to the Policies as recorded at the May 28<sup>th</sup> -30<sup>th</sup> meeting.

- Attendance of Public at Meetings of the Board: The Board re-opened this Policy for discussion. It was agreed that, in the interests of the Board of Directors speaking openly, Board meetings generally will be closed. With the Board’s invitation or permission, other



parties may attend. In addition, the Board occasionally will hold public information meetings in communities.

- Addition to policy regarding speaking on behalf of the Agency: Any conversations of substance that are held between any Director and any other individual shall be communicated to the Agency.
- Readership of Documents: Remove reference to having “one technical and one non-technical” reader. This is to be replaced by “two readers”.
- Reports: Only one sentence necessary, and add “all of which will be publicly available.”
- Meeting with BHP: delete.
- Add new bullet: “to ensure the independence of the Agency, the Agency will not be issuing joint reports.”

*Appendix A to this summary of discussion and decisions contains the Policies, amended to show the above changes.*

The Board requested a correspondence log of all correspondence going in and out of the Agency office, and the Chairperson will be advised of correspondence.

**Action Item 10:** Office staff will keep a Correspondence Log to track office correspondence and keep the Chairperson apprised of key correspondence.

The Board also discussed how the Board can ensure the minutes from meetings are sent out promptly. It was decided the Directors could approve minutes of Board meetings through correspondence. Members of the society receive minutes as a matter of routine, and Minutes are available to the public upon request.

### ***Communications Plan***

Based on the handout in the Briefing Binder, Jackie received input from the Board on which messages should be going out and to whom.

The Board requested that a draft brochure about the Monitoring Agency be produced soon.

The Board also requested GeoNorth to put out a media release about Agency’s the new office. The Board decided not to provide translated print media, on the assumption that messages would reach non-English speakers through other means, e.g. radio and television.

**Action Item 11:** Office staff will produce a Communications Plan for the Agency, incorporating the ideas generated in this session.

**Action Item 12:** Office staff will prepare a draft brochure about the Monitoring Agency.

**Action Item 13:** Office staff will put out a media release announcing the opening of the new office.

**Action Item 14:** Office staff will ask CBC for advice regarding a television story on the Agency.

### ***Resource Centre***

The Board reviewed and commented on the handout in the Briefing Binder describing how the Resource Centre could be set up. Materials in the Resource Centre will not be loaned but can be copied. Fees for copying are still to be determined, and only large jobs will be charged a fee, in order to recover costs.

**Action Item 15:** Office staff will determine an amount to charge for photocopying, in order to recover costs.

### ***Mission Statement***

After discussion on both days of the meeting, the Board decided that the mission statement will be used on the bottom of Agency letterhead and will state the following:

Established to oversee environmental management of BHP's NWT Diamonds Project

### ***Logo and Letterhead***

After discussion, the Board agreed to forgo the use of a logo for now, but instructed staff to investigate the cost of having a logo designed.

**Action Item 16:** Office staff will investigate the cost of having a logo designed for the Monitoring Agency.

The Board decided that letterhead, envelopes and fax cover sheets should be produced on a computer printer for now. No business cards will be printed at this time.

### ***Canadian International Development Agency: Guidelines for Environmental Assessment and Traditional Knowledge***

Fikret Berkes asked if the Board would be interested in assisting CIDA in using the BHP NWT Diamond's Project as a case study against which to test the guidelines. The Board agreed on the following action:

**Action Item 17:** Fikret Berkes should speak to CIDA and ascertain what the mutual benefits may be of an arrangement between CIDA and the Agency concerning the guidelines for environmental assessment and traditional knowledge, but at this time no commitments on the part of the Agency should be made.

### ***Work Plan***

#### ***1997 Wildlife Monitoring Plan***

François will lead the review of this document. Tony would like to see a statement in the document that explains how it fits into other management practices.

**Action Item 18:** François Messier will take the lead on reviewing the 1997 Wildlife Monitoring Plan.

*Environmental Monitoring Program, Kodiak Lake, NT*

Peter McCart will lead the review of this document; the Board should forward comments to him.

**Action Item 19:** Peter McCart will take the lead on reviewing Environmental Monitoring Program, Kodiak Lake, NT

*Wastewater and Tailings Management Plan and Abandonment and Restoration Plan*

Once received, Tony offered to lead a quick review of these plans, which are both requirements of the water licence.

**Action Item 20:** Tony Pearse will lead a quick review the Wastewater and Tailings Management Plan and the Abandonment and Restoration Plan, once they are received.

*Stream Habitat Monitoring and Maintenance Plan*

Peter offered to lead the review of this plan, a requirement of the fisheries authorization, when it is received.

**Action Item 21:** Peter will lead the review of the Stream Habitat Monitoring and Maintenance Plan, when it is received.

***Other Business***

*GeoNorth Workload*

GeoNorth asked for clarification on how work is to be assigned to staff. For instance, GeoNorth was asked to undertake a search of the EARP hearing transcripts and the Water Board hearing transcripts to pull out issues of concern to First Nations. This will assist the Agency in being more certain that the concerns of the Aboriginal groups are being covered.

Generally, the Board felt that tasks assigned to GeoNorth during Board meetings were the major workload. If other tasks requested by a Director were small, GeoNorth should endeavour to carry them out. Major tasks, however, required approval by the Board.

With respect to the specific task of reviewing transcripts for issues of concern to First Nations, Fikret expressed interest in working on this task, as did Tony and Janice. These issues should be separated out by community so that when Monitoring Agency Directors visit communities they will already have an idea of what concerns were expressed in the communities and may be able to indicate if or how these concerns have been addressed. The Board agreed that, while this was a worthwhile task, the priority assigned to it would be to work on it when time allowed.

**Action Item 22:** When time allows, Fikret, Tony, and Janice will work on extracting and organizing issues of concern to First Nations from the EARP and Water Board transcripts.

*Cumulative Impacts*

Bill Ross was asked by the Board to discuss how he sees cumulative impacts with respect to the work of the Agency. Bill agreed to work on this over the summer and report to the Board.

**Action Item 23:** Bill will think about how cumulative impacts relates to the work of the Agency and report to the Board later in the summer or in the fall.

*Dogrib Treaty 11 Assembly and North Slave Metis Alliance Assembly*

Given the timing of these two assemblies, it is possible that some Board members may be able to attend, as they are being held during the first and/or second week in August.

**Action Item 24:** Office staff will find out when the Dogrib Treaty 11 Assembly and the North Metis Alliance assemblies will be and see if it is possible for the Monitoring Agency to get on the agendas.

*Agenda for Next Meeting*

The agenda for the next meeting should include an item on the Agency's workplan, including a list of documents currently under review.

There is also a need to discuss how the Agency will prioritize its workload.

***Next Meeting***

The next meeting of the Board will be on August 5th and 6th. Alternate dates are August 28th and 29<sup>th</sup>.

## Summary of Action Items

**Action Item 1:** After receiving more comments from other Board members, François will complete the Agency's report on the Construction Phase Environmental Management Plan, and circulate it to the Board.

**Action Item 2:** Bill will write the review of the Spill Contingency Plan. Office staff will distribute the plan to the Board.

**Action Item 3:** Office staff will send the consultants' reports on the Kimberlite Toxicity Study Terms of Reference and the Tailings Characterization Terms of Reference to the Water Board, and will draft a covering letter summarizing the major points.

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**Action Item 5:** François will write a letter accepting GeoNorth's proposal.

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**Action Item 15:** Office staff will determine an amount to charge for photocopying, in order to recover costs.

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**Action Item 17:** Fikret Berkes should speak to CIDA and ascertain what the mutual benefits may be of an arrangement between CIDA and the Agency concerning the guidelines for environmental assessment and traditional knowledge, but at this time no commitments on the part of the Agency should be made.

**Action Item 18:** François Messier will take the lead on reviewing the 1997 Wildlife Monitoring Plan.

**Action Item 19:** Peter McCart will take the lead on reviewing Environmental Monitoring Program, Kodiak Lake, NT

**Action Item 20:** Tony Pearse will lead a quick review the Wastewater and Tailings Management Plan and the Abandonment and Restoration Plan, once they are received.

**Action Item 21:** Peter will lead the review of the Stream Habitat Monitoring and Maintenance Plan, when it is received.

**Action Item 22:** When time allows, Fikret, Tony, and Janice will work on extracting and organizing issues of concern to First Nations from the EARP and Water Board transcripts.

**Action Item 23:** Bill will think about how cumulative impacts relates to the work of the Agency and report to the Board later in the summer or in the fall.

**Action Item 24:** Office staff will find out when the Dogrib Treaty 11 Assembly and the North Metis Alliance assemblies will be and see if it is possible for the Monitoring Agency to get on the agendas.

## Appendix A

### ***Policy Manual***

-Revised June 27, 1997

1. In the interests of the Board of Directors speaking openly, Board meetings will generally be closed to the public. With the Board's invitation or permission, other parties may attend. In addition, the Board will occasionally hold public information meetings in communities.
2. Although the Chairperson is currently the designated spokesperson, all Board members should feel free to make public statements regarding the activities and purposes of the Monitoring Agency, if they are so requested. Any conversations of substance held between any Director and any other individual shall be communicated to the Agency.
3. Specific, straightforward documents need only have two readers. The comprehensive documents of key importance to the BHP project should be read by all the Board members, with one member assigned to take the lead in preparing a response. The Board will attempt to ensure the quality, consistency and credibility of the Agency. All material issued will go out under the name of the Agency, instead of its specific authors. Reports may be reviewed by an editor for consistent style, clear language and typing errors.
4. The Agency will be producing a variety of reports, all of which will be publicly available.
5. To ensure the independence of the Agency, the Agency will not be issuing joint reports.