

***Independent Environmental Monitoring Agency
46th Meeting of the Board of Directors
Yellowknife and Dettah, NWT
September 23rd – 25th, 2005
Summary of Discussion***

Revised: November 4, 2005

Directors

Bill Ross	Dave Osmond
Tim Byers	Jaida Ohokannoak (via telephone)
Tony Pearce	François Messier (via telephone)

Staff

Sean Kollee
Kevin O'Reilly

INFORMATION UPDATES

In addition to the ongoing work related to review of BHPB reports and internal communications:

Tony – Reviewed drafts of the Bill Price waste rock seepage report and submitted a memo to the Agency on his review and suggested actions.

Tim – Attended a Government and Aboriginal Conference in Winnipeg on integrating Aboriginal people in resource management, visited the Lutsel K'e fish camp (East Arm of Great Slave Lake near Fort Reliance at the Lockhart River outlet) to assist in teaching kids (11-14) about fish monitoring and water quality at Ekati, and delivered a presentation in Labrador at a workshop of the Institute for Environmental Monitoring and Research (IEMR) to discuss Aboriginal involvement in monitoring diamond mines. Many delegates were very interested in how the Agency works with communities and appreciated his presentation.

Bill – Incorporated examples from Ekati in his teaching of environmental impact assessment in Ecuador. He attempted to follow up on the budget resolution issue with BHPB; however little progress was made. He also worked with staff in organizing the 46th Agency board meeting agenda.

Dave – Reviewed regular Agency e-mails and correspondence.

Kevin – Reported that the Agency annual reports (technical and plain language) were completed and distributed. Comments on draft three of the Ekati water licence were submitted and DIAND's draft Minesite Reclamation Guidelines were reviewed and comments were sent out. The Agency's financial audit was completed and the Board

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responded to minor suggestions from the auditor. Minutes from the budget resolution meeting with BHPB and governments were prepared and sent to BHPB but no response has been received to date. Contacts were made with Anne Naeth and BHPB to try to set up a site visit. He attended a curriculum development meeting in Edzo for a Tlicho trades and technology certificate program in mining. Environmental monitoring modules are under development for this program and they may incorporate information from the Kodiak Lake special effects monitoring program as a case study. An information update was provided to the EMAB directors on September 21st. He will be participating in a Western Mining Action conference on September 29th – October 2nd where he will be speaking about the Agency as part of a panel on diamond mining. His probationary evaluation was completed and signed off by the executive.

Sean – discussed the Agency annual report distribution and advertising strategy as well as information requests received at the Agency office from the Northwest Territories and internationally.

MEETINGS WITH OTHERS

Kaw Tay Whee School in Dettah

Directors Tim Byers and Bill Ross and Manager Kevin O'Reilly visited the Kaw Tay Whee School in Dettah on the morning of Friday September 23, 2005. A PowerPoint presentation was shown to Mrs. Allerston's class of twelve students ranging from Grade 4 to Grade 7. The students appreciated the presentation and asked many questions. Five of the students had at least one parent working at the Ekati mine and four students are grandchildren of Alfred Baillergeon, who was easily recognized in one of the presentation photos.

Agency Open House at the Dettah Community Hall

The Agency hosted an Open House in the Dettah Community Hall on the evening of Friday September 23, 2005. The event was advertised on CKLB Native Communications Society FM radio, and posters were placed in the community and flyers were delivered by students, door-to-door to all the households in Dettah. There was a catered dinner provided by the Agency for the participants. Acting Chief Mary Rose Sundberg attended and assisted with translation for Noel Crapeau. Julie Crapeau, Adeline Mackenzie and several younger community members also attended. Following a PowerPoint presentation, there were many questions and the Agency representatives encouraged the community members to invite BHPB staff in for further discussions. When asked about a reduced workforce at site, the Agency responded by mentioning that there is a transition taking place as a result of the move to underground mining. It was stressed that although closure planning is taking place, the mine is not about to close.

Tlicho Government – Zabey Nevitt

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Zabey provided a presentation on the Tlicho Agreement, signed off in Rae in August 2003 after 11 years of negotiation. The Monfwi boundary line indicates the area over which the Tlicho exercise traditional use and harvesting. Wek'eezhi is the area over which the Tlicho exercise resource management authority. There are also Tlicho and Crown lands within the Wek'eezhi area. The Tlicho Assembly passed a 'starter kit' of laws on August 4 for the new Tlicho Government including a Tlicho lands protection law.

The Lands Protection Department is set up under the new law and has responsibilities for management and administration of 39,000 sq. km of surface and sub-surface lands, participation in programs, and the review of development plans. The priority of the new department is the development of a land use plan for Tlicho lands.

The Tlicho government can provide policy guidance to the Wekezii Land and Water Board (WLWB), a regional panel of the MVLWB. The WLWB and the Renewable Resource Board have jurisdiction over an area specified in the Agreement, on both Tlicho and Crown lands. The Tlicho government has the ability to refer projects to Environmental Assessment and there are broad consultation requirements with Tlicho government that must be met.

DIAND will continue to carry out land and water inspections for activities regulated by the WLWB, but the Tlicho Government will issue land use permits on their own lands. Currently there is a six-month period to set up the WLWB (hiring staff, transferring files). The full MVLWB would decide which current licences and permits are trans-boundary in nature, if so, those files stay within the MVLWB. For trans-boundary files, a trans-boundary panel of MVLWB would be set up at the discretion of the Chair.

The Directors asked if any decision has been made on the BHPB water licence. The full MVLWB makes the decision on whether a file is trans-boundary and the Chair of the MVLWB would decide who sits on the trans-boundary panel. Both Tlicho and federal government can give policy direction to the WLWB. If a disagreement on policy exists, the Tlicho direction will prevail.

The Renewable Resources board has responsibility for wildlife management, forestry, research, harvest levels and reviews proposals for species at risk. There is a wildlife studies fund and it may review protected areas proposals. Eight people plus a chair make up the Renewable Resources Board, two by the federal government (CWS and DFO), two from the GNWT and four by the Tlicho. The Chair is a joint appointment by the Tlicho government and federal government.

The Directors asked if there would be changes in the functioning of the environmental agreement as a result of the Tlicho agreement. Zabey felt that other than some administrative changes such as who would appoint the Tlicho Director (i.e. Tlicho government as opposed to the Dogrib Treaty 11 Council) there would be no changes.

BHPB (David Scott and Jane Howe)

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BHPB provided some details on recent personnel changes at BHPB. A replacement for Chris Hanks has not been found and there may be some changes to the job description. Jane fills his previous duties in an acting capacity. Charlie Morissey replaces Jim Millard, Karen Hosford replaces Mike Tanguay, Jorgen Bolt is now a full-time compliance officer and Paul Mercredi has joined BHPB full-time after graduating from a local program. David Searle is retiring in the next 10 months, one of the last remaining staff from the early days. BHPB stated it is having some difficulties retaining long-term northern employees as a result of the language in its socio-economic agreement.

Operations Update:

- Fox ore recently exposed on site two months early than predicted.
- Beartooth pit perimeter has been pushed back 20 metres to the size that it was originally planned to be. BHPB is aggressively mining this pit and believes it has some underground potential.
- A Koala underground bulk sample was collected for an underground feasibility study.
- Discharge of processed kimberlite is currently to cell A (discharge does not yet contain Fox kimberlite). BHPB will try new flocculants and coagulants due to the quantity of fine clay in the Fox ore. A letter to the MVLWB has been sent because the clay is not settling the way BHPB would like. The Agency will be sent a copy of the letter.
- Discharge of water from cell E has been completed for the year.
- The *Wastewater and Processed Kimberlite Management Plan (WWPKMP)* has been delayed because BHPB's consultants are not available.
- Kimberlite exploration had favourable results in an area east of Leslie Lake at a site called Rat East.
- Jay exploration site is the focus of a large effort in Lac du Sauvage this winter; about half of the Misery camp will be moved there this winter.
- Drilling is to take place at Sable with a portable camp to be brought up this winter.
- Phase I reclamation activities at the Old Camp were put on hold until next year in the absence of closure criteria and uncertainty over the return of security.
- The summer field season is nearing completion as well as baseline work on Fox, Horseshoe and Pigeon developments.
- Elders from all Agency Aboriginal Society Members visited archaeological sites at Ekati. A five-year summary report on TK incorporation into the mine is due for release soon.
- The Annual environmental audit by Kugluktuk elders occurred; advice on managing Beartooth pit (build berm to divert caribou) was received.
- Wildlife update
 - TK and caribou project report was released describing how TK has been incorporated into *WEMP*.
 - Many grizzly bears have been observed in the area.
 - A caribou was released from antler entanglement with wires for a support tower.

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- Fisheries
 - PDC habitat improvements were installed.
 - Nero-Nema Lake habitat compensation structure design is underway.
 - Pigeon stream diversion draft compensation plan underway.
 - There was a small spill at the Desperation-Carrie discharge point as a radiator failed on a pump. It was caught quickly using a boom and rocks along the shore were physically wiped.
- Air quality
 - The snow survey was conducted in May and a vegetation survey was done in August. The new air quality model influenced both and a report is in preparation.
 - High volume air samplers have had technical problems and BHPB is re-evaluating the usefulness of the equipment.

The Directors commented that their key air quality concern is deposition onto vegetation that caribou may eat.

- Closure plan – Alexco has been hired (Clynt Nauman and Brad Thrall) and is preparing a stakeholder consultation plan and schedule and a *Closure and Reclamation Plan* ToR for MVLWB. Laura Tyler is a BHPB senior engineer in long range planning and now is in charge of the closure plan. Helen Butler has been seconded to work under her.

The Directors commented that they would like to spend as much time as necessary to discuss the closure plan and would particularly like to ensure the availability of Anne Naeth.

- Ammonium Nitrate building water collection system construction is nearly complete.
- Landfill has a new gate and no drinking boxes allowed on site.
- Beartooth geotechnical drill program and pit pushback underway.
- Ed Hornby will be the acting DIAND inspector.
- Life of mine planning is underway involving the potential widening of Fox Pit (new Fisheries authorization and a surface lease may be necessary) and reviewing the Sable pipe.
- New incinerator foundation has been constructed and will likely be operational this winter.
- Wind generator feasibility study conducted and has identified potential for six turbines on west side of LLCF. NRCAN is providing funding for this work and this is a CEAA trigger. The need for another large generator on site to support underground mining may be eliminated if the wind turbines prove feasible.
- Lessons learned from the Misery operation will be reported on, a draft of the report has been completed.
- Koala Pit – final ore to be removed from the pit this winter, underground feasibility study to be completed by year end with a decision in the spring.
- Panda underground ore conveyor will be complete by December with full production by April.
- LLCF construction including dyke C raise and diversion structures.
- Transition plan to underground will require restructuring of the workforce. There has been no new hiring of open pit staff for the last year and a half. To avoid any

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layoffs, contract workers have been used. BHPB would like to get the message out to communities that the mine is not closing but there is a transition in the workforce towards underground mining.

- Implementation of new water licence – the DIAND minister has signed the licence and it includes a requirement for an adaptive management plan and a hydrocarbon management plan.
- IACT tour planned for September 29th, 2005
- Management Plan Revisions to the *WWPKMP*, *WROSMP* and *Spill contingency Plan*.
- ISO audit to take place in October 2005.
- Visits to Aboriginal communities planned in fall for reporting and closure planning.
- Impact 2006 report development will begin soon.
- Nunavut Traditional Knowledge Project nominated as finalist in BHPB worldwide HSEC awards.

Agency feedback to BHPB

The Directors mentioned an earlier offer to assist BHPB with delivering its 2006 environmental workshop and requested an update from BHPB on this issue. BHPB replied it has yet to begin the process of planning the workshop.

On the subject of the ongoing inability for the parties to resolve the Agency budget for the current year, the Directors suggested that they may be requesting 4th quarter funding in the amount proposed by the Agency rather than the amount received in 2004. The Directors also expressed some frustration at the lengthy period that has past since the last meeting of the *Environmental Agreement* signatories and the lack of progress on finalizing the minutes of the meeting. BHPB replied that it has been experiencing difficulties with replacing Chris Hanks.

The Directors requested BHPB respond to the Agency consultant report on waste rock seepage. BHPB replied that it is spending time reviewing the report and hopes to respond at a later date. BHPB's initial impression was that the report has linkages to the *Reclamation and Closure Plan* making it more difficult to review.

Next Meeting with BHPB

BHPB suggested the Agency meet with the BHPB staff involved in reclamation planning at the next Agency Preparation. Half a day was considered sufficient and the meeting was planned for the afternoon of Friday October 28th.

EMAB (John McCullum)

John mentioned that EMAB's Annual report had been distributed with a new section, an environmental score card, on the inside cover. It provides an assessment of the state of the environment that was requested by EMAB members.

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Diavik submitted its water licence renewal application and the MVLWB developed an accelerated schedule that was determined not to be suitable by EMAB. The Directors asked John if EMAB is likely to intervene at the public hearing or if the parties would intervene on their own behalf. His view was that several significant issues with the licence have been raised by EMAB over the years and may make it more likely that EMAB should be involved with the hearing. EMAB has a workshop in early November where the licencing will be discussed. The *Aquatic Effects Monitoring Program*, reclamation and air quality monitoring have come up related to EMAB's water licence, and independent reviews have been commissioned, with completion in time of the November workshop. The MVLWB is looking for comments on the Diavik renewal application by October. EMAB would like this to be delayed until after it hosts the workshop in November.

EMAB and its members have raised the issue of participant funding in regulatory proceedings. EMAB would like to have intervener funding for activities that go beyond IRMA funding for the communities. An approach EMAB is advocating is a joint letter from the watchdog agencies to the DIAND Minister stating that there should be intervener funding for large project issues under the MVRMA. The best current example of this need is the Diavik water licence. The Directors replied that they would consider this request but it has not been raised directly with the Agency.

EMAB has conducted its Annual *WEMP* and *AEMP* review. Cumulative effects are an area of concern. An EMAB consultant recommended more intense transects plus an extension of its survey area to find a control area to compare with the effect area as well as increasing the number of collars substantially. EMAB wrote two letters to Diavik on this subject but has yet to receive a reply on the second one.

Other EMAB news:

- Barry Zajdlik is reviewing the Diavik *AEMP* and his report should be coming soon. The MVLWB independently reviewed the baseline information for Lac de Gras.
- The annual Diavik TK camp was held and training for water quality sampling and sampling of benthos, phytoplankton and zooplankton has occurred.
- No Net Loss – December deadline for design of M Lakes compensation program.
- More Aboriginal involvement in monitoring. EMAB feels that Diavik makes attempts but it has not been meaningful in terms of design or monitoring. A workshop involving Diavik and community people is planned. The IEMA Manager suggested that it would be helpful to be able to participate in this workshop as the same concerns have been raised with BHPB's monitoring programs.

AGENCY INTERNAL MEETING

Insurance

Kevin reported that while Directors and officers insurance is currently in place, the policy for comprehensive and general liability has expired, leaving the Agency with no current coverage for replacement of equipment lost in case of theft or fire or for an injury on the premises. Several insurers are not willing to cover operations in the environmental field

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or for non-profits. The old premium was \$650/year. Directors requested Kevin contact BHPB and inquire about company assistance.

Action Item #1 – Kevin to contact BHPB to seek advice on insurance coverage.

Zajdlik report

Directors discussed the outcome of the report that states that there is less certainty about the results than the *AEMP* appears to show. Directors agreed to draft a letter to BHPB setting out constructive advice and expectations regarding the three-year impact review and accompanying public meetings to be completed in 2006. The Agency will suggest that both the results of the current field season (2005) and the three year review, a *SEMP* review and related reports, should be available well in advance of the workshop in order to allow adequate review and productive discussion. The Directors also noted the requirements for the three-year impact review report are laid out in the *EA* and that BHPB did consult the Agency during the last impact report. François and Jaida later agreed to this decision via conference call.

Action Item #2– Staff draft a letter on Three-Year Impact report expectations for BHPB.

Site Visit timing

The Directors expressed their willingness to do a site visit in March in addition to June or even later in summer/early fall. Driving up on the ice road would be another option.

Agency Budget Dispute Mediation

The Directors agreed on the content of a letter to BHPB and the society members urging government action on the dispute over the Agency's budget and work plan. The letter should provide a chronology of the Agency's efforts to resolve the dispute, request that the 4th quarterly payment be the amount in the Agency's proposed 2005-6 budget, and that the draft minutes of the June 9, 2005 meeting be attached. François and Jaida later agreed to this decision via conference call.

Action Item #3 – Staff draft a letter on Agency Budget Dispute Mediation.

Agency Waste Rock Seepage Review

Directors agreed that to help facilitate a response from BHPB to the Bill Price review of the seepage reports, some interaction between Price and SRK consulting is best. Bill agreed to send an email to BHPB on this issue

Action item #4 – Bill to send email to BHPB suggesting a meeting or teleconference amongst BHPB staff and consultants and the Agency representatives, including Bill Price, to discuss the seepage reports and the independent reviews.

Annual Report Flyer

The Directors reviewed the draft flyer and distribution options. The staff were directed to revise the brochure content by providing some general context and information on the environmental performance of Ekati such as:

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- Mine has been in operation for 7 years
- Environmental performance appears to be good
- Major issue facing us is planning for the reclamation and closure of the mine
- Some discussion of the caribou monitoring and improvements necessary
- Mention the existence of the annual report and ability to contact us
- Make it clear that we are saying it is BHPB's Ekati mine

The Directors approved the costs associated with the flyer and that it be distributed by Canada Post direct admail. The Directors also approved ordering additional copies of the technical version of the Annual Report.

Action Item #5 – Staff re-draft the flyer and distribute it to the Directors.

Wastewater and Processed Kimberlite Management Plan

Directors discussed the details surrounding approval of modifications to the LLCF such as new road construction. Sean was instructed to review the *WWPKMP* to determine if road construction is approved or not.

Action Item #6 – Sean review the permitting process for LLCF road construction.

The Directors discussed the draft letter to BHPB on the new *WWPKMP*. The Directors agreed with the general direction but felt that the new water licence may provide some additional direction. It was decided to hold off on the letter until the new water licence is available.

Action Item #7 – Staff review the draft *WWPKMP* in light of the new water licence.

Community Consultation

The Directors had agreed to discuss this item at an earlier board meeting. There was general agreement that the company could benefit from having consultation expertise on staff and more cross-cultural training that could lead to better understanding of Aboriginal perspectives.

Annual General Meeting Planning

The directors provided comments on the draft AGM invitation and instructed the staff to distribute it. It was agreed that the date for the AGM is October 28, 2005 in the morning, with a regular Board meeting both before and after the AGM. The Directors also reaffirmed the practice of funding two representatives of the Aboriginal society members according to the honoraria policy.

Action Item #8 – Staff distribute the AGM invitation.

Next meeting October 26th – 29th. Directors requested that staff arrange meetings with new personnel at DFO that are involved with Ekati, the DIAND inspector and the MVLWB.

Action Item #9 – Staff organize the AGM and Board Meeting for October 26th – 29th.

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Meeting Adjourned.

Summary of Discussion Approved by,

Jaida Ohokannoak, Secretary Treasurer