

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

Sunday, October 26th and Monday, October 27th, 1997

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Directors Present

Red Pedersen

Tony Pearce

Pete McCart

François Messier

Fikret Berkes (by telephone for part of both Sunday and Monday)

Staff Present

Hal Mills

Janice Traynor

Jackie Morris

Sunday, October 26th, 1997

1. Review of Agenda, Business Arising from Last Meeting

The Agenda was found satisfactory.

Action items from previous meeting were reviewed and discussed.

2. Information Updates

Chair:

Red Pedersen noted a reporter from the Toronto Star had interviewed him regarding the establishment and function of the Monitoring Agency. Red also attended a public meeting held in Kugluktuk by the Nunavut Impact Review Board and discussed the Agency with the Chair of NIRB, Larry Aknavigak. He also met with Kugluktuk Hunters and Trappers Organization (see item on Traditional Knowledge, below).

Directors:

Peter McCart reported he, Tony and François met with BHP and their consultants from Rescan. They discussed the 1997 Aquatic Effects Monitoring Plan and technical improvements for the 1998 season and the long term. Also attending were representatives from Fisheries and Oceans, Environment Canada and DIAND. A summary of the technical comments prepared by Pete, Tony and François was tabled.

François Messier reported he attended a facilitated workshop, organized by GNWT, on the Wildlife Management Plan. Agency comments on the wildlife plan, as part of the

review of the Construction Phase Environmental Management Plan, were considered carefully. The minutes from the meeting were tabled.

Tony Pearse mentioned he had met with Violet Camsell-Blondin of the Dogrib Treaty 11 Council in Rae regarding the traditional knowledge study. He visited the research office and later talked with Aalice Legat, the project coordinator. He also attended a meeting of the Interagency Coordinating Team with Hal Mills.

Staff:

Hal Mills reported the office has been running smoothly. He noted the GeoNorth contract terminates next month (to be discussed under agenda item on staffing options). GeoNorth has completed "Guidance for Northern Aquatic Effects Monitoring". Copies were given to Tony, Pete and François. GeoNorth has also completed a draft of Aquatic Health of the Coppermine River Basin report. Red will be invited to a meeting to discuss this report.

ACTION ITEM: Directors will review the draft Coppermine River Basin Study report and provide comments relevant to the Agency's mandate to Red to pass on at the meeting before November 4th. Technical comments on the content of the report may be sent directly to GeoNorth.

Although Hal was told that Florence Catholique and Darrell Beaulieu were meeting to make an appointment to the Board, the Agency still has not heard of an Akaitcho Treaty 8 appointment. The Directors recognized this is becoming a difficult issue affecting the functioning of the Agency. The parties to the Environmental Agreement (BHP, GNWT and DIAND) are aware of this problem and may act. The following action was agreed to:

ACTION ITEM: Hal Mills will talk to Darrell Beaulieu to convey the Agency's concern over the lack of an Akaitcho Treaty 8 appointment and encourage progress.

One of the issues facing the Agency is the difficulty in achieving a quorum for decisions without the Akaitcho Treaty 8 appointment, as three out of four of the appointees from Aboriginal groups must be present for a quorum. It was also pointed out that this condition might be inappropriate considering the requirement that all Board appointees act in a non-representative capacity on the Board. The Agency noted that the Agency bylaws must be amended if the quorum requirement is to be changed and this must be discussed at the Annual General Meeting.

Staff reported that the mine has a new name: Ekati. This is a Dogrib word meaning "fat rock", and refers to the white veins in the rocks near the lake resembling fat-marbled caribou meat.

ACTION ITEM: The Monitoring Agency will begin referring to the mine as the Ekati Diamond Mine, including adjusting the footer on the letterhead.

Correspondence:

New Pages for the CPEMP were received October 1st. A two-page summary in the briefing binder provides the highlights (see item on CPEMP below). A related letter received October 23rd from BHP explains BHP's response to the Agency's comments on the CPEMP.

ACTION ITEM: Send Bill Ross, via e-mail, the last two paragraphs of page one from BHP's October 23rd letter related to environmental training and management and ask for his response.

The Board examined the recently received report by DIAND on water quality from under ice sampling in the spring of 1996 in the BHP claim block. While this information is important, the Board was disappointed that the what is perhaps the most critical variable for understanding of over-winter lake dynamics - dissolved oxygen - was not measured.

3. Traditional Knowledge

Reports on Discussions with Traditional Knowledge Project Leaders:

North Slave Metis Alliance: Fikret Berkes related he talked to Clem Paul and the NSMA does not have a project with BHP at present. Two weeks ago, their proposal was not accepted by BHP. The first proposal submitted to BHP by the Metis Nation – NWT appeared to be acceptable to BHP but the proposal by NSMA replaced this one and was not accepted. The NSMA felt BHP was intruding on and trying to control the project.

ACTION ITEM: Fikret will ask Clem Paul for a copy of the North Slave Metis Alliance proposal for traditional knowledge work that they submitted to BHP.

Kugluktuk Hunters and Trappers Organization: Red Pedersen explained that this group is carrying out the project for the regional HTO who have been assigned to it by the Kitikmeot Inuit Association. They gave high marks to Chris Hanks and felt he had been very helpful. The interviews are done. There is an Action Packer full of cassettes that are waiting to be copied and transcribed. Red tabled a letter from BHP July 26th to the Chair of Kugluktuk group that forms the agreement on the project, a breakdown of project costs, and the interview guide.

Nunavut Impact Review Board: Red also met with NIRB, as their mandate involves using TK. Larry Aknavigak, the Chairperson of NIRB, felt they had a difficulty applying

TK and informed Red that NIRB is calling a meeting with all Nunavut agencies that have a TK component in their mandate. Red suggested the Agency should request an invitation to this meeting.

Dogrib Treaty 11: Tony Pearse met with Violet Camsell-Blondin and Aalice Legat and visited the research office. They reported that their Phase II proposal to BHP involved taking a large number of Elders up to the Ekati area to do field work and interviews during the 1997 field season. The company had approved the original proposal. Timing of the field trip was delayed because of late ice on the lake and, when the ice finally did go, too short a notice was provided to the Dogrib to mobilize their elders. There was also disagreement between the Dogrib organizers and BHP as to how many could go into the field. The Dogrib felt frustrated by what they viewed as interference from BHP, and cancelled the project. Since then the Dogrib have proposed another project for this winter, mostly doing transcriptions, but with some work on caribou on the winter road. The Dogrib have just submitted this proposal, BHP's reaction is not known yet.

Lutselk'e: Although direct contact with the community has not taken place with respect to projects related to BHP, it is known that the traditional knowledge coordinator, Ellen Bielawski, has moved out of the community. The two community people who had been hired to work on TK projects for the West Kitikmeot Slave Study have been laid off.

Yellowknives: No contact has yet been made to ascertain the status of TK projects related to BHP.

The Board discussed possible problems and solutions to encourage progress on more TK projects. One part of the problem may have to do with proposals not being acceptable to BHP. While the Agency does not want to become an adjudicator in the process of proposal submission and approval, the Board felt it would be helpful to look at the proposals and BHP's guidelines, if there are any. If there are not any guidelines (either for preparing proposals or governing the relationship between BHP and the research group), it may be difficult for groups to come up with proposals acceptable to BHP.

ACTION ITEM: The Monitoring Agency will formally request of BHP any guidelines they provide to Aboriginal groups to assist in preparation of proposals for traditional knowledge studies.

Traditional Knowledge Workshop:

The Board discussed the overlap between traditional knowledge work going on through the West Kitikmeot Slave Study (WKSS) and the BHP Phase II TK projects. There seems to be an overlap in some of these projects and it would be useful to discuss how the results of TK projects may be used for environmental monitoring and management.

The Agency felt they should seek the advice of communities and TK project coordinators in these communities on how best to use TK for the purposes of monitoring and environmental management. Fikret has discussed the possibility of holding such a workshop with John McCullum of WKSS and Allice Legat. The Traditional Knowledge Round Table, organized by Tom Andrews, was suggested as a neutral body for holding such a workshop. The Round Table is currently discussing these issues and may be amenable. Although it has been suggested that BHP is holding a stand-alone workshop on traditional knowledge this winter, the Agency has received no confirmation of this from BHP.

ACTION ITEM: Hal and Janice will contact BHP to find out if a traditional knowledge workshop is being planned, if they would support such an event, and suggest it be held through a neutral body such as the Round Table. Hal or Janice will attend the Round Table on November 6th to determine the interest the Round Table has in leading such a workshop.

4. Environmental Monitoring Activities

Activities of the NWT Water Board:

While the Board was pleased to hear that the Water Board would soon be sending letters to BHP regarding several of the items before the Water Board, they expressed concern on the timeliness of this response.

ACTION ITEM: Once the response of the NWT Water Board to BHP's plans is on the public record, Hal will contact David Milburn to express concern about the timeliness of the Water Board's review. Depending on the outcome of these events, the Agency may send a letter to the Minister of DIAND. Such a letter would express the Agency's concern, documented by dates. A draft letter will be distributed for the Directors' review. The final version of this letter will be carbon copied to all members and parties to the Environmental Agreement.

The Water Board received the Wastewater and Tailings Management Plan and the Interim Abandonment and Restoration Plan from BHP and sent them out to the Technical Advisory Committee for review. As the Agency's policy has been to receive documents directly from the author, BHP was contacted but declined to provide the Agency with copies of these documents at this time, as they felt they were in draft form.

Activities of Fisheries and Oceans:

DFO received BHP's Fish Habitat Creation and Enhancement Plans. This document was given to the Agency by DFO. It was returned, however, as when the Agency requested

if from BHP, in accordance with the Agency's policy, BHP was not willing to send it to the Agency as they considered it an early draft.

These two events caused concern among the Agency's Directors. After a short discussion the following action was recommended:

ACTION ITEM: A letter will be drafted to BHP indicating the Agency's position that once a regulatory deadline comes, documents should no longer be considered as drafts; they should be submitted as BHP's best effort to meet requirements. At this time, they should be available to the Agency. This letter will be carbon copied to all members and parties to the Environmental Agreement.

The Board also discussed how effective their review of aquatic studies and management practices could be without knowledge of the requirements of the Fish Habitat Compensation Agreement. To address this, the following action was recommended:

ACTION ITEM: The Agency staff will attempt to obtain from DFO the Fish Habitat Compensation Agreement.

New Pages of Construction Phase Environmental Management Plan:

The Board reviewed the summary in the briefing binder and asked to be kept informed with similar summaries whenever new material for the plan is received. The Board was satisfied that the Agency's major concerns on wildlife and aquatic effects will be dealt with through the upcoming workshops.

Operating Environmental Management Plan and Workshops:

There still appears momentum for the wildlife and aquatic effects workshops in February. The Board discussed the need for the environmental management plans to take a long-term viewpoint with yearly updates, not just what is going to be done next year. The plans should also demonstrate long-term consistency and comparability in data and methods, despite new contractors doing the work. This is something the Board feels can be emphasized at the upcoming workshops.

Pete has been asked to assemble the Aquatic Effects workshop notes and prepare a summary of the workshop. After some discussion on conflict of interest, it was decided that Pete should attend as a regular participant in the workshop, on the same level as other participants.

ACTION ITEM: Pete will decline the offer to take a role in assembling and summarizing notes from the workshop on Aquatic Effects.

5. Treasurer's Report

François reported that 5D Management is doing the Agency's bookkeeping, preparing monthly financial statements, and doing the bank reconciliation. They will prepare the annual financial report to give to the auditor. The auditor for this year is Wowk, Wong and all members of society have approved this. For next year, the auditor is selected at the Annual General Meeting. The audited financial statements of the Agency will be made public.

The monthly financial statements were presented to the Board and accepted. François reported that as of September 30th, 34% of the Agency's annual budget is spent. He believes the Agency's spending is on track for this year.

The Treasurer also informed the Board of the recommendation from 5D Management that the Board obtain Directors' Insurance in order to provide liability protection for the Board. After some discussion the Board decided on the following action:

ACTION ITEM: The Agency staff will investigate Director's Insurance to determine cost and what it covers.

6. Other Business

1. Tony Pearce mentioned the review done by the Canadian Institute of Resources Law of DIAND's performance in the BHP Diamond Project review panel.

ACTION ITEM: Staff will attempt to obtain the document reviewing DIAND's performance during the BHP panel review.

2. François asked that e-mails from the Agency contain only one attachment in the format required by each of the directors.

3. Peter suggested there would be occasions when the Agency needs to have a private meeting with one party. Although most of the activities of the Agency are public, there must be opportunities to have private meetings so that people can speak frankly. The Board agreed.

4. Hal will try to set up lunch for Scott Williams and Red over the next couple of days.

5. GNWT was not able to meet with the Agency at this meeting because Kathryn Emmett was in Ottawa.

6. Discussion on Agency dealing with projects other than BHP: At this time, the Agency only deals with the BHP project. The Environmental Agreement gives the Agency its mandate and it is a three way agreement. It would have to be expanded to another

party if the Agency's mandate was expanded. This is not likely to be addressed until the Diavik Environmental Assessment is further along. The Agency may have a role as an intervenor in this process, particularly with respect to cumulative effects.

7. Action items that need consensus will be summarized for the phone call tomorrow with Fikret in order to get his input on these items.

8. The Board should review the relevant parts of the Environmental Agreement prior to the discussion on the EA and the Agency's mandate.

9. Tony tabled a briefing note he had prepared for Violet Camsell-Blondin as a report to the Dogrib Treaty 11 AGM, summarizing what the Agency had done up until August of last summer.

Monday, October 27th, 1997

7. Meeting Regarding the West Kitikmeot Slave Study

Preparation:

Hal informed the Board of some of the background with respect to the West Kitikmeot Slave Study, from the announcement by the federal and territorial ministers of the WKSS and the BHP Panel to negotiations leading up to the formation of the Study's Board.

Presentation and Discussion:

John McCullum, Study Director, presented a summary of the WKSS's history, objectives, procedures for identifying and approving study projects, and the communication of study results and WKSS materials. There was considerable discussion surrounding TK projects and ownership and use of data. The discussion on TK included the topic of how TK could be incorporated into the environmental management at the Ekati diamond project. The Agency would like to see more progress on this.

The Board also discussed with John how WKSS handles its communications, and what they find most effective and efficient.

8. Staffing of Agency

The Directors decided to accept, in principle, GeoNorth's proposal to continue provision of administrative services to the Agency. Some minor changes will be made to the proposal to form the contract.

ACTION ITEM François will draft a letter to GeoNorth, detailing the changes the Directors have requested for the new contract to provide services.

9. Annual Report for Monitoring Agency

The Directors discussed the contents of the Annual Report for the Agency. Tony tabled a draft outline and will revise it according to the discussion. The Directors identified a need to develop criteria to assess BHP and regulatory agencies, such as timeliness and transparency. About fifty copies would be printed. As an aid to assess timeliness, it would be useful to have a chronology of events related to the production and review of the various documents submitted by BHP.

ACTION ITEM: Tony will revise the outline for the Agency's Annual Report.

ACTION ITEM: Staff will prepare Section 2 of the Annual Report, which describes the Agency.

ACTION ITEM Staff will prepare a chronology of events that could be used to document timeliness on the part of other agencies.

10. Communications Plan

1. Logo

Jackie presented the logos designed by Artisan. The directors did not accept any of them. After discussion, the Directors decided upon a wolverine as a symbol for the Agency. The Directors approved the design of correspondence papers using the wolverine. Staff will search for an existing wolverine drawing will or an artist will be contacted to assist with this production.

ACTION ITEM Staff will have a new logo design produced, based on the idea of a wolverine, and have this design incorporated into a letterhead for the Agency.

2. Letterhead

The Directors altered the wording of the text at the bottom of the document to read: To serve as a public watchdog for environmental management at the Ekati diamond project.

3. Brochure

The Directors made small modifications to the text and approved the brochure as being ready to produce, but Jackie will wait until the final director is appointed and the logo is finalized before going to press.

ACTION ITEM Tony would like to compare Artisan's prices for brochure printing with Vancouver prices. Jackie will send him the information he needs for a price quote.

4. Open House

After discussion, the Directors decided to omit the Open House from the Communications Plan.

5. Newsletter

The Directors would like to see a run of 1,000 copies. The first newsletter should be prepared at the time of the Agency's Annual Report, and could serve as a "plain language" version of the Annual Report.

6. Annual Report

The Directors want to see about 50 copies or so produced, with an accompanying edition of a newsletter.

7. Overhead Presentation

Although the Directors approved this in principle, they would like to defer the purchase of an overhead projector until they begin community visits.

8. Table-Top Exhibit

The Directors decided not to proceed with this item. If a need arises it can be re-visited in the future.

9. Community Visits

After discussion, the Directors decided the best way to be in touch with communities was to:

- complete the lists of concerns for each community, as extracted from Review Panel and Water Board hearings,
- explain how the Agency has addressed these concerns,
- send out the Agency's Annual Report,
- make it known that the Agency is available to make presentations on the Annual Report and list of concerns, at General Assemblies, etc., and
- Directors will follow through with community leaders to see if presentations are requested.

The original idea of a visit to each community has been discarded in favour of the above approach.

10. Video Presentation

This is on hold for now. At present, it seems there is little to say; the Directors would like to wait until the Agency has had more time to do things.

11. Web Site

A web site was not included in the Communications Plan as presented, but interest was generated by the WKSS presentation this morning. The Directors would like to know more about this idea, e.g. costs, what it could contain, etc.

ACTION ITEM Tony will prepare a proposal for an Agency web site and report at the next meeting.

12. Resource Centre

Directors would like to see maps added to the collection, and inclusion of all the submissions made to the Review Panel and supporting documents.

11. Inter-Agency Coordinating Team for Ekati Diamond Mine

Hal and Tony attended the 2nd meeting of the Inter-Agency Coordinating Team (IACT) and reported on the following highlights:

- Tony tabled the Agency's Information Policy, and it was agreed that comments on the policy should be made to the Agency within a 2 week period. After these comments are received, they will be circulated to the Directors and at the next Board meeting the Directors can discuss and finalize the policy. It was suggested a copy of the current policy be sent directly to Jim Excell.

ACTION ITEM: Staff will send a copy of the Agency's draft information policy directly to Jim Excell.

- At the last meeting of IACT, the Agency requested government departments to consider what documentation they may pass on to the Agency. DIAND prepared a memo describing mainly what they wouldn't give the Agency, but not indicating what information they could share (see letter from DIAND of Oct 24th). DIAND will revise the memo to include items they will pass on.
- The table of contents for BHP's Annual Report was passed out and discussed. Each of the Directors was given a copy.
- Mary Tapsell of DIAND suggested that a detailed chart as to dates/milestones of when documents are due, etc., would be helpful. She thinks agency should do this. The Directors discussed the merits of this idea but were reluctant to take on this task, and suggested it is probably a duplication of work done by BHP.
- The next meeting of IACT is November 21st.

The Directors discussed Agency representation on IACT. It was agreed that Hal Mills would be the representative, with Janice Traynor as the alternate. Both Hal and Janice may attend meetings, depending on the agenda for the meeting. If an Agency Director is in town, they may attend the IACT meeting. No more than two people from the Agency will attend the IACT meetings.

12. Environmental Agreement and the Mandate of the Agency:

The Agency has received informal notice that the Agency's mandate is not being interpreted in a commonly understood way. The Directors discussed this issue and some of the clauses of the Environmental Agreement and generally feel they have a common understanding of the EA and their mandate. Although some of the language is open to interpretation, the Directors feel they can respond to differences of interpretation as the need arises.

The “integrated approach” clause in Article 4, section 2(a), is one example where more than one interpretation is possible. The interpretation adopted by the Directors is that this clause is simply a reflection of the drafters to the Agreement that the Agency itself, by virtue of its creation and the specific responsibilities spelled out in the Agreement, will be the “integrated approach”.

It was noted that no action has been taken on the condition in Article 7, section 3, that “BHP deliver monitoring data and information to the Monitoring Agency in time frames and in formats developed in consultation with the Monitoring Agency”.

ACTION ITEM: Staff will draft a letter to BHP, noting that no action has been taken on the consultations required in Article 7, section 3, and asking BHP how they expect to handle it.

13.Next Meeting

The next meeting of the Board of Directors will be held Saturday, January 10th and Sunday, January 11th.

Appendix One -- Summary of Action Items

1. Directors will review the draft Coppermine River Basin Study report and provide comments relevant to the Agency's mandate to Red to pass on at the meeting before November 4th. Technical comments on the content of the report may be sent directly to GeoNorth.
2. Hal Mills will talk to Darrell Beaulieu to convey the Agency's concern over the lack of an Akaitcho Treaty 8 appointment and encourage progress.
3. The Monitoring Agency will begin referring to the mine as the Ekati Diamond Mine, including adjusting the footer on the letterhead.
4. Send Bill Ross, via e-mail, the last two paragraphs of page one from BHP's October 23rd letter related to environmental training and management and ask for his response.
5. Fikret will ask Clem Paul for a copy of the North Slave Metis Alliance proposal for traditional knowledge work that they submitted to BHP.
6. The Monitoring Agency will formally request of BHP any guidelines they provide to Aboriginal groups to assist in preparation of proposals for traditional knowledge studies.
7. Hal and Janice will contact BHP to find out if a traditional knowledge workshop is being planned, if they would support such an event, and suggest it be held through a neutral body such as the Round Table. Hal or Janice will attend the Round Table on November 6th to determine the interest the Round Table has in leading such a workshop.
8. Once the response of the NWT Water Board to BHP's plans is on the public record, Hal will contact David Milburn to express concern about the timeliness of the Water Board's review. Depending on the outcome of these events, the Agency may send a letter to the Minister of DIAND. Such a letter would express the Agency's concern, documented by dates. A draft letter will be distributed for the Directors' review. The final version of this letter will be carbon copied to all members and parties to the Environmental Agreement.
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10. The Agency staff will attempt to obtain from DFO the Fish Habitat Compensation Agreement.
11. Pete will decline the offer to take a role in assembling and summarizing notes from the workshop on Aquatic Effects.
12. The Agency staff will investigate Director's Insurance to determine cost and what it covers.
13. Staff will attempt to obtain the document reviewing DIAND's performance during the BHP panel review.
14. François will draft a letter to GeoNorth, detailing the changes the Directors have requested for the new contract to provide services.
15. Tony will revise the outline for the Agency's Annual Report.
16. Staff will prepare Section 2 of the Annual Report, which describes the Agency.
17. Staff will prepare a chronology of events that could be used to document timeliness on the part of other agencies.
18. Staff will have a new logo design produced, based on the idea of a wolverine, and have this design incorporated into a letterhead for the Agency.
19. Tony would like to compare Artisan's prices for brochure printing with Vancouver prices. Jackie will send him the information he needs for a price quote.
20. Tony will prepare a proposal for an Agency Web site and report at the next meeting.
21. Staff will send a copy of the Agency's draft information policy directly to Jim Excell.
22. Staff will draft a letter to BHP, noting that no action has been taken on the consultations required in Article 7, section 3, and asking BHP how they expect to handle it.