



## **Independent Environmental Monitoring Agency**

P.O. Box 1192, Yellowknife, NT X1A 2R2 • Phone (867) 669 9141 • Fax (867) 669 9145  
Website: www.monitoringagency.net Email: monitor1@yk.com

### **Summary of Discussion from the Inter-Agency Coordinating Team (IACT) Meeting of October 6<sup>th</sup>, 2003**

#### **Participants**

Latisha Heilman	Mackenzie Valley Land and Water Board (MVLWB)
Darnell McCurdy	Dep. of Indian and Northern Affairs (DIAND)
Lionel Marcinkoski	DIAND
Jane Howe	BHPB
Eric Yaxley	DIAND
Francis Jackson	DIAND
Robin Staples	DIAND
Dave Balint	DFO
Elaine Blais	DFO
Bart Blais	DIAND
Sean Kollee	IEMA

#### **Chair – Eric**

#### **Chair for water licence renewal components – Jane**

#### *BHPB Management Plan Approvals*

The issue of delayed management plan approvals was addressed by IACT to clarify uncertainty and potential courses of action if BHPB begins work prior to approval of a management plan required by the water licence. The inspector stated that he lacks enforcement options in that case. The MVLWB may reword the licence to ensure that plans must be submitted, approved and followed, and that a new plan cannot be implemented until it is approved. The inspector felt the water licence should be the guiding document in the absence of an approved plan unless management plan approval can be expedited within a preset time frame and that all parties accept responsibility for conducting prompt reviews. As an example the prior interim *Abandonment and Reclamation (A&R)* plan was used. The last BHPB *A&R* plan was submitted in 2000, revised in 2001 and redistributed. In that situation a plan remained out for review and approval during the following annual period so there was no need to write another plan for 2001. Due to the volume of comments and consultation involved in reviewing the plan it required two years to be approved by the MVLWB. Sean mentioned that the Agency advocates a reclamation closure criteria workshop. He felt it likely that the ongoing technical review of the BHPB document by numerous parties would again require a considerable amount of time before the Agency felt that the Board would be in a position to approve a revised version. It was agreed that some plans would require much

more consideration by reviewers than others (such as the *Spill and Contingency* plan that could be approved quickly). Latisha would grant extensions when necessary.

#### *Review Periods for BHPB Technical Documents*

There was discussion on the amount of time Latisha should grant for a review period. Five weeks was discussed as sufficient from the time the document is actually received. Often it takes time for documents to filter between departments and the departmental mailroom, and in the summer many people are away. Sean mentioned that some documents require lengthy review periods because of complexity and the Agency's use of outside experts to assist in its review. Five weeks was suggested to MVLWB as a reasonable time for technical review with extensions when necessary. Jane mentioned that all documents need to be approved within a reasonable timeframe and that BHPB must have a reasonable standard for planning its submissions. Extensions should not be automatic.

#### *Review of N7L2-1616 licence continued*

Jane discussed the progress made at the prior IACT meeting held at Ekati on September 5<sup>th</sup>, 2003 where the first portions of the N7L2-1616 water licence were reviewed. The group agreed that the attendance of the MVLWB project officer and DIAND inspector provided valued perspectives on the water licence conditions and insight into improving the renewal licence.

#### Part F: Conditions Applying to Waste Disposal

Latisha was asked how much time the MVLWB needs to reach decisions. She replied that it depends in part on the time requirements for reviewer comments. Three months was seen as a target for the amount of time for a decision. The MVLWB meets every two weeks on average. If reviewers take one month this leaves two months for the MVLWB to deal with comments and reach a decision. Darnell mentioned again that a plan needs approval in order for him to deal with it in the field. In the interim he operates based on what the old plan states. BHPB has received verbal approval from Darnell on new initiatives that have not been covered in the currently approved and outdated version of the *Wastewater and Processed Kimberlite Effluent* management plan.

Item 4 - 1,2 and 3 refer to the actual original management plans; this must be reworded to state the updated annual plans. The wording about the creation of management plans is no longer necessary as they have all been made back in 1997.

Item 6 – An addition was suggested. Any proposed modification must be submitted for approval X months before the activity is planned to take place. BHPB needs to have some certainty that it will be likely to have a decision reached within an X month period. The MVLWB may want to place a time constraint on itself, such as Board will endeavor to make a decision on management plans within a preset time frame.

Potential New clause – all plans shall be reviewed annually and revised where appropriate.

#### Item 7: Tailings Containment Area

The word 'minimized' is not enforceable for the inspector and there does not appear to be any easy method of improving the language. Perhaps if the volume exceeds a certain amount in a 24 hr period then action needs to be taken. Clause III may not be even necessary in the new licence (because all discharge from LLCF is controlled). The group discussed whether new seeps need to be identified to the inspector. It was agreed that there is considerable reliance on the annual geotechnical inspection to highlight seeps that require a management response from BHPB and attention from the inspector.

#### Item 8: Phase 1 Tailings Containment Area

BHPB mentioned that this structure is being de-commissioned.

#### Item 9: Sedimentation Ponds

BHPB does not have engineered 'sedimentation' ponds for collecting water; it uses collection ponds for runoff from the main site to ensure no water can drain into Kodiak Lake. King pond is called a 'settling pond' and is part of Clause 10, not Clause 9 of the licence and is an engineered mine water containment facility. BHPB has written that it has not used sedimentation ponds in its annual environmental reports.

Seep 19 was discussed. Results of recent sampling determined that the water was low pH. Seep 19 occurs in the same draw as seep 18b – but about 50m down slope. Darnell and Jane explained that BHPB has redirected the water that has collected in a small pond to Long Lake.

#### Item 10: Surface Mine water Settling Ponds

This refers to King Pond at the Misery site and contains standard clauses.

#### Item 12: Effluent Discharge

Another IACT meeting was suggested to deal with water licence criteria exclusively.

12(c) – Requires revision as there is no structure named as the unnamed lake and sewage is trucked to the main site for treatment.

12(d) – Water quality limits. Discussion occurred regarding more stringent limits and the relevance of any new limit to environmental consequences downstream of the mine. BHPB is concerned that limits may be lowered due to better detection technology, rather than for reason of protecting the environment. This could require BHPB to construct a water treatment facility just because it is technically feasible, not necessarily for protecting the environment from a predicted consequence.

Latisha mentioned that MVLWB has a scientifically defensible rationale for each of the more stringent limits attached to the Sable, Pigeon and Beartooth licence. Jane mentioned that levels of zinc in samples from tundra ponds exceed the zinc discharge criteria in the Sable Pigeon and Beartooth water licence.

12(f) – Requires revision because sewage has not been deposited to Kodiak Lake for a number of years. Station 1616-33, Moose Lake needs to be removed from this section, as it is downstream of the mine.

#### Part G: Conditions Applying to Modifications

The group agreed that a definition for ‘modification’ would be beneficial along with an avenue for an approval for a field modification by the inspector. As it stands now a modification can only be approved by the MVWLB. The inspector would appreciate the ability to make approvals in the field, in an interim way. The Sable, Pigeon and Beartooth licence does have a definition for modification but it too is limited in clarity. The atomization licence has a different definition that requires a judgment of significance by the inspector, another vague term.

Eric mentioned that some of the comments regarding modification could be more efficiently addressed while reviewing a draft of the new licence or by written submission to the MVLWB. Darnell mentioned that he would attempt to provide some of this guidance to the MVLWB.

#### Part H: Conditions Applying to Studies

This section has already been completed by BHPB. It was suggested that this section simply state the studies that have been carried out.

#### Part I: Conditions Applying to Contingency Planning

Much of this section was seen as redundant or outdated.

#### Part J: Conditions Applying to a Water Effects Monitoring Program

It was earlier agreed that this section needs to be reworded to be called the AEMP not WEMP as the wildlife effects program has come to be known as WEMP. 90 days was preferred over 3 months for greater clarity for deadlines for report submission. It should also be updated to include Leslie Lake, a recent AEMP addition.

A discussion among the full contingent of IACT members ensued regarding the availability of electronic data. Latisha was asked if the MVLWB requires standard data presentation to aid in cumulative effects research through its public registry. The group containing representatives from the federal and territorial governments and technical stakeholders (but no Aboriginal affected parties) agreed that it would appreciate receiving electronic data from BHPB in a useable format as described in the water licence. It also felt it would be beneficial if the data could be located at the MVWLB public registry. DIAND mentioned that if the data is not received then as a consequence any review or comment period would take longer because a reviewer may be forced to enter data manually. BHPB replied that it had distributed a draft data release agreement.

#### Part K: Conditions Applying to Abandonment and Restoration (Reclamation)

Jane mentioned that “restoration” does not have the same meaning as “reclamation”. BHPB is not required to restore to original conditions, reclamation is the requirement of the *Environmental Agreement*.

(a) vi – sedimentation ponds could be changed to reflect the lack of use of this structure at Ekati.

A suggestion was made that a water balance during pit infilling could be considered as an addition to the revised water licence.

The possibility of a workshop to discuss the A&R Plan was discussed. Jane suggested that, rather than a workshop, Helen Butler could attend an IACT meeting to talk about the plan and answer questions. Other comments were reserved on this subject for a later date.

Once BHPB submits its water licence application, the application will be sent out for review, and a public hearing will be held. The comments from the hearing and review process will be incorporated into a draft license. Once the MVLWB staff writes the draft license, it will be sent to reviewers to provide any additional comments. To speed up this process an informal working group can be created to provide suggestions to the MVLWB staff.

#### *Round Table Updates*

DFO – Pelzer Pond status; BHPB would like to construct an additional pipeline around the top of waste rock pile and towards the LLCF to deal with storm water capacity to ensure the safety of the Panda underground operations. There are several options currently being considered by BHPB:

- Construct a pipeline to twin along the existing centralized de-watering pipeline;
- Construct a pipeline north and around the Panda waste rock pile to discharge onto the tundra with surface flow into Pelzer pond and on to the LLCF;
- Construct a pipeline through the waste rock pile and discharge to the tundra and surface flow to the LLCF; and
- Construct a pipeline north and around the Panda waste rock pile past Pelzer Pond to discharge onto the tundra and surface flow onto the LLCF (therefore not impacting Pelzer Pond).

*{Added by BHPB to the DFO update}* Once BHPB started investigating alternatives, it viewed the use of Pelzer Pond (second option above) as the most cost-effective option. DFO would prefer that BHPB not impact Pelzer Pond given that the pond contains fish (lake chubb) and is therefore fish habitat. DFO is also concerned with storm-water management issues for possible future underground mining operations at Koala and Beartooth pits. DFO would like to see these two considerations included in the overall Panda proposal that BHPB presents. Currently the capacity of the central dewatering system is 740 L/sec. In the event of a one in 100 year type storm that water must be removed from the pit as fast as it enters it. The water from this system will be largely from precipitation although it will be considered mine water so is unlikely to have water quality issues. The main issue with twinning the existing pipeline is the

estimated \$20M cost because the almost 4km long pipeline would only be used for a short period of time each year. BHPB is investigating all of these options, and has initiated discussions with DFO.

DIAND – Letters about security have been copied to stakeholders; \$16 million security for the *Environmental Agreement* has been received from BHPB. Another small security may be necessary next year and then DIAND will wait until a revised water licence estimate has been submitted.

BHPB – Many community tours are complete and four more upcoming, which would mean all communities have visited the mine. There has been a great deal of positive feedback because previous community tours focused on the internal buildings such as the process plant, training facilities and accommodations; these tours have stayed completely outside, looking at the specific aspects associated with the water license. BHPB is preparing comments on the *A&R Plan*. The *Spill and Contingency plan* will be ready soon. We are finalizing responses to comments on the *Wastewater and Processed Kimberlite Plan*. BHPB will request prompt approval of this plan from the MVLWB in order to commission the *Central Dewatering System*. Ian Goodwin and Chris Hanks are working on a new organizational chart. The *Misery land treatment project* has no progress to report other than what was discussed by the monitoring program steering committee meeting in September. It will not be commissioned this year.

BHPB reiterated that leaving issues regarding the water license to the public hearing is something that should be avoided so that concerns can be addressed sooner.

Agency – An AEMP steering committee meeting will be rescheduled when Carole returns and comments have been received from BHPB. The Agency recently submitted comments on BHPB's *A&R plan* and has suggested an *A&R closure criteria workshop* take place. The upcoming 36<sup>th</sup> Agency board meeting and AGM will take place from October 26<sup>th</sup> to 29<sup>th</sup>, with the AGM on Tuesday October 28<sup>th</sup>, at 9:00 am. All Society members in attendance were invited to attend. Sean requested that any comments gained from community tours be submitted to the Agency for review.

*Next IACT Meeting, November 6<sup>th</sup>, At 1:15 pm.*