

**Summary of Discussion from the Annual General Meeting
of the Society of the
Independent Environmental Monitoring Agency
held on
October 28th, 2005
at the
Agency Boardroom**

November 8, 2005 DRAFT

Participants

Society Members

Lutsel K'e Dene First Nation (Akaitcho Treaty 8): Florence Catholique
Terri Enzoe

Yellowknives Dene First Nation (Akaitcho Treaty 8): Peter Crookedhand
Rachel Crapeau

Tlicho Government: Zabey Nevitt

Kitikmeot Inuit Association: Geoff Clark (via conference call)

North Slave Metis Alliance Keith Hamilton
Sheryl Grieve

Government of Canada: David Livingstone, DIAND

Government of the NWT Tom Beaulieu, ENR
Jason McNeil, ENR

BHP Billiton Diamonds Inc.: David Scott
Jane Howe
Brent Murphy

Agency Directors

Bill Ross
Tim Byers
Dave Osmond
Tony Pearse

Agency Staff

Kevin O'Reilly
Sean Kollee

Meeting Commenced at 9:15 pm

1. Opening Prayer

Terri Enzo delivered the opening prayer.

2. Welcome and Chairperson's Address

Bill Ross (Chair)

Bill stated that the AGM is a meeting of the Society of the IEMA rather than a meeting of the Agency's Directors. A round of introductions then took place along with an offer from the Chair to the Members to add items to the agenda (none were suggested).

He welcomed the Society Members to the meeting and mentioned that a quorum of Aboriginal Members was in place. His address included Agency highlights from 2004-05 such as hosting the Mine Reclamation and Closure Workshop and the Ekati Environmental Workshop. Following the Ekati Environmental Workshop the Agency benefited from an opportunity to listen to Joe Migwi discuss caribou monitoring and caribou food. The Agency also developed a more assertive approach to community consultation by meeting once per year in a community; that resulted in an August 2004 meeting that took place in Kugluktuk. He reiterated the Agency's top priority to be the reclamation and closure planning of the Ekati mine. He stressed that the mine is not about to close (it is about 35% of the way through its scheduled mine life) but more planning is needed to better prepare for closure.

He noted the working relationship between the Agency and BHP Billiton (BHPB) remains a 'bad news good news' story. The Agency and BHPB could not agree to a work plan and budget and the signatories are currently in the dispute resolution process set out in the *Environmental Agreement (EA)*. Issues of mandate and independence are key to the dispute. The good news is that productive meetings have occurred between the Agency and BHPB despite this particular dispute.

Agency Board membership has changed significantly from last year. François Messier contributed enormously to the Agency and had been a member since its establishment in 1997. He chose to resign due to increasing commitments at the University of Saskatchewan and the increasing obligation of his farm operation. He continues to serve as a director until a replacement is found. Anne Naeth has also resigned due to her acceptance of a new appointment at the University of Alberta leaving the Agency two Directors short. Jaida Ohokannoak continues to serve as a Director but suffered a serious injury this past summer. Her medical care continues so she is unable to attend. The Directors have expressed our best wishes to her and our hopes for a speedy recovery. The North Slave Metis Alliance (NSMA) also notified the Agency that Dave Osmond has been replaced by Sheryl Grieve. Bill welcomed Sheryl and thanked Dave for his valuable contribution over the past years.

Bill mentioned copies of the minutes of last year's AGM had been circulated and the summary of discussion required approval.

Motion: To approve the summary of discussion from the 2004 AGM.

Moved: Zabey Nevitt

Seconded: Rachel Crapeau

Carried without opposition

3. Annual Report Summary

Tim Byers (Vice-Chair) summarized the Agency 2004-05 annual report using a PowerPoint presentation.

(copies of the annual report and annual report presentation are available by request to the Agency and on the Agency website at www.monitoringagency.net)

Questions and comments from the audience occurred throughout the presentation. These included:

- **Jane Howe (BHPB)** suggested that a likely explanation for the increase in wolverine incidents at Ekati is the lack of recent harvesting of wolverine at and around the mine site. Growth in the local population of wolverine is considered an example of good environmental stewardship at Ekati by BHPB.
- **Brent Murphy (BHPB)** described current Aboriginal involvement at Ekati in environmental monitoring in response to the Agency recommendation that involvement be increased. He noted the hiring of another wildlife technician from Kugluktuk and that BHPB will continue to hire employees from northern communities. Elder visits in 2005 led to concerns being raised about the Beartooth road and BHPB is exploring improvements and hopes this advice will continue. Jane mentioned the three-year TK summary report that had been distributed that includes advice from most Aboriginal Members, particularly the KIA. **David Scott (BHPB)** discussed the prestigious internal BHPB award that the TK project is eligible for and that Chris Hanks, formerly with BHPB, would accept the award from the Australian Governor-General.
- **Geoff Clark (KIA)** reaffirmed the value of his community's TK project to the people of the KIA and his appreciation of the company for providing resources for it. He felt it unfortunate that BHPB endeavours are not always met with cooperation by the Aboriginal members and the company is not always at fault when TK or Aboriginal involvement is not sufficient. The Agency should not just point the finger at BHPB if there are problems with the use of TK in environmental management at Ekati. Rachel Crapeau (Yellowknives Dene) later thanked KIA for the opportunity to work together on the caribou diversion and road crossings project.
- **Jane Howe (BHPB)** in response to one of the Agency's concerns about the Aquatic Effects Monitoring Program (AEMP), mentioned that the company was now required to submit a new Program as a result of the new water licence. This

may present an opportunity to incorporate some of Barry Zajdlik's suggestions on the AEMP.

- **Brent Murphy (BHPB)** expressed pride in the progress BHPB has made with adaptive environmental management at the mine site. He highlighted the achievements in better waste management, improved hydrocarbon contaminated materials management, the work at the Ammonium Nitrate storage building to deal with runoff, and the replacement of the diesel pumps at cell E by electric pumps that will eliminate any future fuel spills.

4. Agency Financial Report

Dave Osmond (Agency) reported on the Agency finances for 2004-05.

(copies of the annual general meeting finance presentation are available by request to the Agency and on the Agency website at www.monitoringagency.net)

Motion: To approve MacKay LLP as the auditor for the Agency 2005-06 financial year.

Moved: David Livingstone

Seconded: Keith Hamilton

Carried without opposition

5. Agency Work Plan and Core Budget 2005-06 and 2006-07

Bill Ross presented the proposed Agency workplan and core budget for 2005-07.

(copies of the annual general meeting workplan and core budget presentation are available by request to the Agency and on the Agency website at www.monitoringagency.net)

6. Society Member Issues and Concerns

Air Quality Monitoring

Peter Crookedhand (Yellowknives Dene) described his experience in the Lac de Gras region that led him to conclude that air quality is an issue due to diesel pollution from the exhaust of machinery. Tim Byers (Agency) discussed how the Agency had met with Government of the Northwest Territories (GNWT) and Environment Canada (EC) staff to discuss air quality monitoring and that one of the sampling sites at the mine was moved. Bill Ross (Agency) remarked that the Agency view is that particulate matter deposition, as Peter Crookedhand observed, is the most important air quality issue and the Agency has recommended monitoring be redirected to target and sample snow in areas of potential deposition. Brent Murphy (BHPB) noted that BHPB has an extensive air quality sampling program and collects snow data as the Agency has recommended. Over the past two years it has been modeling air quality and particulate deposition at Ekati and a data report will be available soon. Rachel Crapeau (Yellowknives Dene) wanted to know how long it would take to identify a trend in air quality. Brent Murphy replied that it worked with EC and GNWT to construct the model so with regards to

trends it would likely take up to three years for trends to show up. Preliminary indications of the research suggest there is a limited impact of mining, similar to that of the City of Yellowknife. BHPB will continue with snow monitoring and discussing the results.

Wind Energy Development and Hydro-electric power at Ekati

A discussion took place on the potential for BHPB to use wind turbines at Ekati to offset the use of diesel fuel to generate electricity. David Scott (BHPB) stated that a (so far very promising) feasibility study is under way at the mine site with support from Natural Resources Canada. A net benefit could result, especially in light of reductions to greenhouse gas emissions and air pollution. The need for a new generator to support underground operations could also lead to some cost savings for the company. Up to 20% of the electricity needed on site could eventually come from wind turbines. Tests are currently under way to determine wind speeds at various heights and cold weather maintenance problems. The Aboriginal members were very supportive of this initiative. BHPB mentioned it has a presentation available on wind power at Ekati that could be delivered to any interested party.

The merit and economics of extending hydropower transmission lines to Ekati was discussed. The capital costs associated with transmission are very high compared to the remaining life of the mine. A long lead time is also required to plan and construct a hydro facility and transmission lines. Such a project would likely require government support. Technical issues for the use of hydroelectricity also include conversion of some heating systems to electricity rather than diesel power, and reliability of hydro and the need for backup systems. BHPB mentioned that even with increasing energy costs, the cost per unit of energy and the mine site has gone down over time. Variable speed fans were used as an example of energy conservation measures implemented at site.

Director Appointments

Geoff Clark (KIA) requested further detail on the resignations of the two Directors (Francois Messier and Anne Naeth). Bill Ross (Agency) stated that there was no dissatisfaction with the Agency and that both Directors had other positions and commitments that limited their availability to serve.

Wildlife Deterrents and Grizzly Movements

A question from Geoff Clark (KIA) on wildlife deterrence led to a detailed discussion on how best to avoid having animals become habituated or problematic at Ekati. He provided a perspective from the Kitikmeot that often it is best to use the most aggressive manner possible to scare wildlife away at the first encounter as minor deterrents can lead to wildlife becoming habituated to human activity. Bill Ross (Agency) mentioned that the Agency had heard a similar concern from GNWT with regard to how the company had handled wildlife encounters, which is why the Agency recommended that the parties work together to solve wildlife problems. Brent Murphy (BHPB) replied that this is a concern of the company as the level of deterrence to use is not always clear in the NWT *Wildlife Act*. The policy on site is for escalating deterrence because the company does not want to injure animals accidentally. Horns, bear bangers, rubber bullets and finally

bean bag shotgun shells are the current approach for escalating deterrence. Some grizzly bears have spent their entire lives in the presence of the mines and are habituated but do not necessarily become a problem. Over the past year there was an increase in sightings of bears at Ekati. Peter Crookedhand (Yellowknives Dene) noted a view from his community that the mines may be redirecting grizzly movements and that grizzly had been spotted around the Yellowknife region, a rare event. Geoff Clark (KIA) provided a view from his community that mines are more likely to attract than repel grizzly and that elders have told him the people use to hunt grizzly for their meat, fat and fur and that this is not as common now. The population may be expanding its range accounting for more frequent sightings by humans.

Traditional Knowledge

Rachel Crapeau (Yellowknives Dene) thanked the KIA for working on TK recommendations with the company. She noted that statements like 'let's work together' are heard at any meeting but in reality politics govern the work of people in the community. Other priorities compete for the resources available to communities that prevent a focus on BHPB.

IEMA-BHPB budget and dispute resolution discussion

Geoff Clark (KIA) stated that it was KIA's view that the Agency is doing constructive work that includes giving credit where it is due. It seems like the company is being a bully. While Geoff was not fully briefed on the details of the dispute it appears that most matters are minor and inconsequential. The Agency work is beneficial to the KIA because the independent view builds confidence that BHPB is doing a good job in managing the site.

Keith Hamilton (NSMA) asked if the disagreement was about the Agency requesting more funds and requested more details on the nature of the disagreement. He also suggested that the Agency might look elsewhere for funding, beyond BHPB.

Jane Howe (BHPB) – As the company is going through the dispute resolution process defined in the *EA* it is not able to discuss the dispute in detail. BHPB is of the view that the Agency budget increase requested is rapid and sudden. It also should be mentioned that the Agency core budget does not include additional costs such as office rental and charter travel that cost approximately \$35-40k annually. Despite the ongoing dispute BHPB is funding agency to the same level as last year.

Zabey Nevitt (Tlicho) mentioned that this forum is the appropriate forum for discussion by the Society members even if BHPB would not like to discuss the dispute. He also asked how much of the requested funding increase is due to the expense of the Agency hosting the Environmental Workshop.

Rachel Crapeau (Yellowknives Dene) agreed that the AGM is the forum for discussion of the dispute.

Bill Ross (Agency) replied to the questions asked of the Agency in regards to the budget dispute. Some of the funding increase requested by the Agency is accounted for in terms of funding an Agency-run Environmental Workshop but not in 2006 as BHPB plans to host the event. When activities relate to the Agency mandate it can receive funds from sources other than BHPB; otherwise the Agency relies solely on BHPB for funds. The Agency view is that undue influence of the company rather than just the amount of money the Agency receives is the major difference of opinion between BHPB and the Agency. The Agency will continue to prioritize workshops over other budget items, unless directed otherwise.

David Livingstone (DIAND) stated that he is impatient as a result of wasting time on the budget and work plan dispute as this is a non-central issue to the important work of the Agency. The purpose of the Agency is to provide independent technical advice. DIAND is quite satisfied with the performance of the Agency on this account. The dispute is not about budget; it is about independence. The Agency cannot be totally independent but it cannot be fettered either. The solution seems to be the use of a mediator that can help reach a consensus. The length of the dispute so far is already souring relationships and wasting time. He would like to make the mediation happen immediately so the Agency can return to the work it is supposed to be doing. He also suggested that the Agency should be doing more community consultation and capacity-building, although there is a real cost to these activities. There is an opportunity for everyone to collaborate more closely on capacity-building in the communities.

Jane Howe (BHPB) agreed with DIAND and supported the mediation approach. Given the process is laid out in the EA BHPB declined to discuss the topic any further.

Environmental Workshop Cancellation

Jane Howe (BHPB) stated that incremental costs of the workshop may be \$30-40k for the Agency but for BHPB the event is much more costly as it involves substantial consultant time. She estimated the cost of the workshop (at its largest scope including a technical pre-meeting followed by a community oriented meeting) to be well over \$120k not including BHPB staff time. In the early years the workshops were helpful in improving the monitoring programs. Now that the mine is eight or nine years old there is agreement that the monitoring programs are generally working well. BHPB feels the monitoring programs should be stable and predictable for a few years rather than modifying them annually so that is why the company decided to reduce the environmental workshop frequency to once every three years. Changing economic conditions at the mine led to a 20% cut in the environment department, as part of a company-wide cost-saving measure. Monitoring is a legal requirement of the company. Difficult decisions had to be made about where cuts could be made, resulting in redirecting efforts away from annual workshops to other forms of community consultation. BHPB wanted to ensure that the adaptive management approach that may require spontaneous expenditure beyond core monitoring could be maintained as well as its number of people on staff. Tentative plans call for a meeting or information sessions at the mine site in June 2006, as part of the Environmental Impact Review requirements in the *Environmental Agreement*

Rachel Crapeau (Yellowknives Dene) asked whether DIAND would continue to fund the Agency for the annual workshops? The workshops were, and continue to be, the most helpful event of the year in understanding what is going on at the mine. The Yellowknives thought they were accommodating BHPB by agreeing to shorter annual reports and there was a lot of learning taking place at the workshops. The Yellowknives could be more supportive of the company if they knew what was going on with BHPB and at the mine site. BHPB wants to meet with the Yellowknives to discuss closure planning but the Yellowknives do not want to do this until there is a commitment to working together, including with the other Aboriginal governments.

David Livingstone (DIAND) stated that DIAND would reluctantly continue to fund the Agency for the environmental workshops in the event that BHPB does not hold them. Ekati environmental workshops are not just about providing utility for BHPB. The workshop also helps other parties and should be considered a core responsibility of the company.

7. Members Presentation and Discussion

DIAND – David Livingston commented on his frustration with the pace and success of the director appointment process and his expectation that new directors can be found. He mentioned that the Agency is a science-based board and that Sheryl Grieve, the new NMSA appointed director, has ‘big shoes’ to fill as a result of replacing Dave Osmond, the previous NSMA appointed director. He mentioned that Dave Osmond had been a pleasure to work with.

DIAND is quite satisfied with the Agency performance and has not observed Agency issues related to the Agency operating beyond its mandate. DIAND would like to see more community consultation and community capacity building and DIAND will extend an offer to collaborate on this. DIAND believes that the pace of closure planning is too slow and progress must be made. He committed DIAND to working with other parties on closure planning. He reported some other DIAND initiatives:

- Development of a multi-project monitoring agency terms of reference with a final committee meeting probably in January 2006;
- Involvement in caribou monitoring work and funding of GNWT monitoring programs and the Bathurst Caribou Management Plan;
- Potential cost-sharing on hosting environmental workshops in view of mutual budget limitations and value to capacity building in communities;
- Development of water quality guidelines as advised in the Auditor General’s report;
- Completion of the mine reclamation guidelines; and
- Development of guideline for aquatic effects monitoring programs.

He mentioned that BHPB has a good AEMP in place. His closing comment was on the nature of consensus (it does not mean all people get what they want). He urged the signatories to get on with good faith mediation.

Yellowknives Dene - Rachel Crapeau urged the Directors to involve the Aboriginal Parties (as they are the appointing organizations). She requested future Directors be chosen that can provide a sufficient level of commitment to the Agency and its mandate for community consultation. She mentioned that an Agency meeting in Dettah in September 2005 was not well attended compared to the Kugluktuk meeting in 2004 but at least an effort was made. She expressed an interest in participating in the mediation. Peter Crookedhand mentioned his frustration with the shortness of time to deal with issues. He feels that money is driving everything and the MLAs should be the ones leading efforts to find out what is happening with the caribou.

Lutsel K'e – Florence Catholique mentioned that Lutsel K'e supports the work of the Agency and thanked BHPB for its support in funding community work. A key concern of how Ekati would operate from the beginning was how the monitoring programs would be communicated to the communities. It seems like the large volume of monitoring data just accumulates over the years until it is eventually shelved. The need for understanding remains and it had to be accomplished by using a different format. The people of Lutsel K'e have to live with aftermath of mining, not the companies. More workshops should be given in the communities relating to environmental management of Ekati.

She thanked Chris Hanks (BHPB – retired) as he possessed the corporate memory within BHPB that is now gone and he was aware of the need for a TK perspective on environmental management.

She felt that the Agency Director appointed by Akaitcho Treaty 8 should be in Lutsel K'e quarterly. Lutsel K'e has a concern about mine reclamation now that the life of the project seems to reduced from 25 to 19 years.

There is an urgency to get a reclamation plan in place even in absence of clear guidelines and the community wants to be involved.

In her view caribou are the key cumulative effects issue and the multi-project monitoring agency will have a role in cumulative effects management. She questioned how GNWT is involved with caribou management. Another concern about monitoring of the mines is information compatibility across the projects and programs. She suggested that a wildlife deterrence workshop should be held for the Ekati mine, possibly sponsored by BHPB and the Agency.

She felt that money has to be attached to Agency annual report to allow translation to elders so it can be understood by the community in the form of Directors consulting with Lutsel K'e on information produced by BHPB.

There are concerns about energy and air quality at Ekati that need to be addressed. It is good to hear that the company is working on energy conservation and renewable energy.

In regards to money, it seems foolish to discuss it when there is so much money being made. The Agency was created so people living in the north would have an

understanding of the effects of the project so the cost of relaying information is central to the dispute.

The Diavik Environmental Monitoring Advisory Board (EMAB) is seeking support from the Agency and BHPB to assist in lobbying the government for funding to the communities and the public for regulatory interventions. Lutsel K'e residents do not oppose resource development and they support economic development. They wish to have access to funding and expertise to allow for informed positions to be developed around resource development. Lutsel K'e will be sending the Agency a letter on the issue of intervenor funding.

Terri Enzo mentioned her disapproval of decisions made by the Mackenzie Valley Land and Water Board despite the will of her community. Lutsel K'e has not participated in the Mackenzie Valley Land and Water Board but approvals and further resource development occurs anyway. David Livingstone (DIAND) provided Terri Enzo a brief explanation of the regulatory process and how licencing decisions are made in the Northwest Territories. He stated that people need to participate in the process if they want to change the outcomes.

GNWT - Tom Beaulieu, Assistant Deputy Minister of Environment and Natural Resources, stated that the GNWT is looking at developing caribou management plans. There are seven or eight herds in the NWT. GNWT is alarmed by the apparent decline in caribou. Trans-boundary issues exist for some herds. Resource development will be looked at to see if it is affecting caribou. Air quality is another issue to consider along with hunting, predation and the possibility a 30-year cycle of the caribou population exists as has been stated in the past.

BHPB - David Scott provided a brief update on diamond production at Ekati related to declining production. In the last quarter diamond production was the lowest in a long time (declining from 5 million to 3.5 million carats per quarter, a new low). Mining at Misery is suspended and Fox has not been as rich as expected. Open pit mining at Beartooth and Fox is ongoing but underground expansion is the future of the project. Mining is a cyclical process and in the future there may be 2000-3000 people involved in underground mining in order to feed the process plants. His message for the Aboriginal member is to encourage their people to investigate underground work as a future employment option as the mine will be changing significantly over the next several years.

Operational issues for the company to work out include thickening Fox ore tailings to ensure better settling, diamond exploration and the possibility of deepening pits and expanding the processing plant. On closure there are some outstanding issues and BHPB agrees that good closure planning is most important. The process used in determining how best to optimize the management of the tailings facility will be repeated for closure planning and consultations in the communities are scheduled over the next while. If people cannot get involved, the process will continue in their absence and concerns may not be raised but there will be another closure plan revision. Since mining at Ekati is half complete progressive reclamation must begin. The reclamation guidelines will form an

important part of what should be considered “reasonable”. Sable and Pigeon (potential new pits) have issues of permitting and economics and closure criteria could affect their viability.

Jane Howe (BHPB) agreed with other comments on the difficulty in finding replacement Directors and promised to make an effort to fill the vacancies. She noted that inconsistency between caribou monitoring between Diavik and Ekati is in the reporting not the data collection methods, as the programs are fully integrated. BHPB is considering what it is going to do to fulfill its three-year Environmental Impact Report requirements that the company would like to call ‘information sessions’. BHPB is exploring the idea of hosting the meeting at Ekati in June 2006 over a period of three to four days. This would provide opportunity for community people to see the monitoring as it happens and the consultants would be available. BHPB would like to see two to three individuals attend per Aboriginal organization community (for example, elder, youth, councillor) and one or two from each regulator, and the Agency directors and staff. BHPB appreciates the offer of assistance from the Agency.

NSMA - Sheryl Grieve would like greater efforts to incorporate TK and community involvement along with meaningful participation in monitoring and design of monitoring programs. The NSMA supports the workshops and urges BHPB to continue doing them. She urged IEMA to support EMAB’s efforts to gain intervener funding for the communities. She thanked Dave Osmond for his valuable contribution to the Agency and hopes that his expertise will remain available but the NSMA’s needs are best suited by someone that is "local".

Tlicho - Zabey Nevitt expressed his approval of BHPB’s new approach to the Environmental Impact Review report and public information session format for June 2006. He urged BHPB to again reconsider its cancellation of the annual environmental workshops because in the past the event was the best available forum for discussion involving the Agency, communities, company and its consultants. He strongly suggested that BHPB should consider a working group to guide the planning for the June 2006 meeting so that the event will prove valuable for everyone. At a minimum, there should be a half-day meeting of representatives of the Society members to help plan the sessions.

Rachel Crapeau (Yellowknives Dene) strongly supported the notion of working together to plan the June 2006 Environmental Impact Review information sessions.

David Scott (BHPB) stated that the company is considering the concept of a “point person” for each community to help improve community relations and to ensure consistency. BHPB agreed to a meeting of representatives of the Society members to assist in development of the June 2006 meeting at Ekati.

8. Closing Comments

As there was no other business, Bill Ross (Agency) thanked the Society Members for their valuable input because providing direction to the Agency is helpful in planning the future work and direction of the Agency.

9. Closing Prayer

A closing prayer was offered by Rachel Crapeau (Yellowknives Dene).

10. Adjournment

The meeting as adjourned at 12:55 pm.