

**Summary of Discussion from the Annual General Meeting  
of the Society of the  
Independent Environmental Monitoring Agency  
held on  
November 15<sup>th</sup>, 2007  
at the  
Agency Boardroom**

December 3, 2007 DRAFT

## **Participants**

### **Society Members**

Akaiicho Treaty 8 (Lutsel K'e First Nation): Florence Catholique  
Charlie Catholique

Akaiicho Treaty 8 (Yellowknives Dene First Nation): Mike Francis  
Phillip Liske  
Peter Sangris  
Isadore T'Setta

Tlicho Government: Eddie Weyallon  
Harry Apple  
Eddie Erasmus

Kitikmeot Inuit Association: Kevin Tweedle

North Slave Metis Alliance Ron Balsillie  
Claudia Haas  
Bill Enge

Government of Canada: David Livingstone, DIAND  
Lorraine Seale, DIAND

Government of the NWT Chandra Venables, ENR  
Jason McNeil, ENR

BHP Billiton Diamonds Inc.: Laura Tyler  
Eric Denholm

### **Agency Directors**

Bill Ross  
Tim Byers  
Jaida Ohokannoak  
Tony Pearse  
Sheryl Grieve  
Laura Johnston  
Kim Poole

### **Agency Staff**

Kevin O'Reilly  
Sean Kollee

### **Interpreters**

Bertha Catholique (Chipewyan)  
Margaret Mackenzie (Tlicho)

## OPENING PRAYER

The opening prayer was given by Isadore T'Setta, an elder with the Yellowknives Dene First Nation

## REVIEW OF THE AGENDA

At the request of Claudia Haas (NSMA), the five-year review of the Environmental Agreement was added to the agenda for the meeting.

## CHAIRPERSON'S ADDRESS

Bill Ross (Agency Chairperson) began the meeting with a round of introductions. Some background information on the Agency was reviewed. It was stated that this Annual General Meeting was really for the Society members and not the Directors, although the Directors would be presenting information on the activities and finances of the Agency over the last year.

## SUMMARY FROM 2006 ANNUAL GENERAL MEETING

*Motion:* To approve the summary of discussion from the 2006 AGM.

*Moved:* Ron Balsillie (NSMA)

*Seconded:* Eddie Erasmus (Tlicho Government)

*Motion without opposition.*

## PRESENTATION OF THE 2006-7 ANNUAL REPORT

Tim Byers (Agency Vice-Chairperson) presented highlights from the Agency's 2006-7 Annual Report. The presentation is available on the Agency's website ([www.monitoringagency.net](http://www.monitoringagency.net)).

Bill Ross added that a new feature of this year's annual report, is that the responses to the Agency recommendations from BHP Billiton and the two governments are found in the report, whereas in the past readers had to wait a year to see what happened. He also reiterated the Agency's assessment that the mine is being operated in an environmentally sound manner.

*Eddie Weyallon (Tlicho Government)* - In 1955 he traveled in the area of the mines and in 1957 he worked at the Rayrock mine. There were contaminants that the people were not told about. The mining companies and governments withheld information on contaminants, particularly at Rayrock where the companies left poisons after they

finished mining. He has been to Ekati and Diavik several times. Yesterday (in an Agency-run environmental workshop) we talked about air quality and dust emission that can contaminate caribou food. A lot of those animals travel through the LLCF. He wants to make sure that the effects from the current mines are monitored carefully and that impacts are prevented. In the past the mines never had to watch themselves or say anything to the people about what they were doing. We need to watch this more carefully.

Bill Ross responded by saying that because of past experiences with mining companies, people pushed for an Environmental Agreement (EA) for the Ekati mine to avoid those problems today as well as the creation of a watchdog in the monitoring agency. The diamond mining process involves virtually no toxic chemicals, unlike other mines. It is a priority for the Agency to work with the company, government and the communities to develop a good closure plan for this mine so that people can say Ekati was a good mine.

*Laura Tyler (BHPB)* said that the company agrees with what Bill Ross stated. The EA was put in place to ensure community concerns were addressed and there would be ongoing monitoring of the mine site throughout its life and into closure. The Agency does a good job of checking on the monitoring and the company reports, as do the governments. As for dust and air quality monitoring there have been a lot of comments from the regulators and the communities and this is to be improved collaboratively. For Ekati, BHPB will be responsible until the regulators and communities agree that Ekati is safe. The hope is that everyone will say it was a good mine. As for cumulative effects, this concern has been regularly mentioned to BHPB. Unfortunately each company is different and cumulative effects cannot be addressed by BHPB on its own. The Chamber of Mines is attempting to collate mine data; ultimately it is a government issue to ensure the regional impacts are considered not only past mines but also future mines.

Tim Byers added that there was a lot of discussion the previous day at the Agency-sponsored workshop about dust and proper monitoring. Monitoring after closure may take as long as ten years but more importantly, the mine should meet the closure criteria that people agree to before monitoring and remediation stop.

*Isadore T'Setta (Yellowknives Dene First Nation)* – He sits on the Dettah elders committee that meets once a month and the elders know a lot of history. They talk about previous mines and what methods are used to operate the mines. The elders are aware that a lot of land has been contaminated and destroyed by mining. He mentioned Discovery, Thompson-Lundmark and Rayrock as examples of mines that did not clean up properly. New mines are planned for some areas and caribou may avoid these regions. In the 1930s there was a migration route through Yellowknife although the caribou do not come here any more and this should be researched. In the past there were no regulations on mines.

He is also concerned about the Coppermine River that flows into the area of the Inuit. Why are there no Inuit representatives at this meeting? The decline in caribou is an issue this year and it could be due to cumulative effects. The only way to get things done is to make a big deal about it. BHPB and Diavik were told to be careful with the land and water.

He is pleased to be at this meeting. He would like the Agency chairperson to attend an elders meeting some time in the future.

Bill Ross responded by saying that it is our privilege to sit here and listen and that the Chairperson would be glad to attend an elders meeting upon invitation. The KIA was invited to the Annual General Meeting and it has one representative (Kevin Tweedle) but unfortunately no elders were available.

*Ron Balsillie (NSMA)* – The Agency's annual report states that some contaminants are approaching CCME (Canadian Council of Ministers of the Environment) guidelines and he would like to know what those are. Next year he would like to see the CCME guideline limits reported. The report states that the contaminants are not yet harmful to fish in lakes, but contaminant levels may be approaching CCME limits and this appears to be contradictory. He would like to know the trend to determine if the contaminant levels will be safe many years from now.

Tim Byers responded by stating that nitrates and copper are approaching or exceeding CCME guidelines and that molybdenum is getting close. The Agency is waiting for a report from the company on future water quality in the LLCF to see if the company can manage the LLCF to make sure its discharges are not above CCME guidelines. For most variables the concentration of any single contaminant in the receiving environment downstream of the LLCF is very low due to the dilution of LLCF outflow. We can also say the fish are safe, yet remain concerned due to zooplankton levels dropping as the zooplankton could be more sensitive than the adult fish.

*Laura Tyler (BHPB)* stated that the company is not regulated on all of these parameters that are being discussed in the context of CCME guidelines but has been in compliance with the limits set in its water licences. This CCME guidelines and the monitoring done provide an early warning system so that the company can watch what is happening. Molybdenum appears to be related to one type of ore and the company has stopped mining that ore. BHPB makes its AEMP reports available each year and these show the limits in graphs and trends.

*Bill Enge (NSMA)* stated his appreciation for hearing that the company has good environmental management and that closure is being responsibly planned. In the presentation it was pointed out that 2007 is a key year for the review of the EA. It is NSMA's position that some amendments are needed. He noted that Aboriginal peoples

are not signatories. He asked if the EA signatories are planning to consult with the Aboriginal Society members regarding updating the five-year review.

*Laura Tyler (BHPB)* responded by saying that the three EA signatories have started discussion of reviewing the EA. The signatories will also discuss the process and consultation requirements.

*David Livingstone (DIAND)* said that there will be consultations with the Aboriginal governments. A letter on this will formally initiate the review process and ask for input.

*Jason McNeil (GNWT)* agreed that there will be consultation and that the two governments (GNWT and DIAND) are working on this together.

## PRESENTATION OF THE 2006-7 AUDITED FINANCIAL STATEMENTS

Jaida Ohokannoak (Agency Secretary-Treasurer) presented the Agency's audited financial statements for 2006-7. The presentation is available on the Agency's website ([www.monitoringagency.net](http://www.monitoringagency.net)).

*Ron Balsillie (NSMA)* commented that the Agency should budget for an annual increase of 1-2% at least. He also asked why there was no funding from DIAND and the note in the statements about the potential deficit.

Jaida Ohokannoak responded by saying that the Agency budget is set in advance and increases with the consumer price index for Canada as a result of the last mediation. The Agency cannot enter a deficit and if the funds are not expended, the money is returned to BHPB. The funding sources for the Agency are set out in the EA and DIAND is not required to provide any funding. The auditors noted a potential for a deficit as a result of the current dispute over the allocation of expenses to the Separate Fund and that this matter is going to mediation.

*Florence Catholique (Lutsel K'e First Nation)* asked about the large increase in insurance costs and why the honouraria expenditures are relatively large.

Jaida Ohokannoak replied that insurance costs have risen everywhere and that the Agency could not find anything less expensive. She noted that the honouraria expended includes time for the Directors to conduct technical reviews of BHPB's documents and time spent on communications activities.

## SELECTION OF AUDITOR

*Motion:* To appoint Mackay LLP as the auditor for the next financial year.

*Moved:* David Livingstone (DIAND)

*Seconded: Ron Balsillie (NSMA)*  
*Motion carried without opposition.*

## PRESENTATION ON 2007-2009 AGENCY WORK PLAN AND BUDGET

Bill Ross made a presentation on the Agency's work plan and budget covering 2007-2009. The presentation is available on the Agency's website ([www.monitoringagency.net](http://www.monitoringagency.net)).

*Florence Catholique (Lutsel K'e First Nation)* asked for clarification regarding the current dispute between the Agency and BHPB over the Separate Fund. Bill Ross responded by saying that the first dispute resulted in an agreement that a portion of the Agency's core budget would be for its use as an intervenor in legal and other regulatory processes. The Agency has been allocating expenses related preparation of Agency positions on matters where the Wek'eezhii Land and Water Board (WLWB) makes a decision. While BHPB does not dispute that these activities are within the mandate of the Agency, it believes that only activities related to a public hearings are eligible for the Separate Fund. The same mediator has been retained to assist in settling the current dispute.

Florence also asked whether it was in the Environmental Agreement that the Agency could be an intervenor, and whether it was on behalf of the Parties, or independently. It was clarified that the Agency Society members have not in the past given direction to the Agency regarding interventions and that the Agency Board of Directors is free to make interventions as it sees fit. It was also mentioned that each of the Society members is free to contact the Agency through any of its Directors regarding input into interventions. It was further noted that NSMA has asked for drafts ahead of regulatory deadlines and that the Agency has attempted to do so for major interventions over the last year.

*Florence Catholique (Lutsel K'e First Nation)* Lutsel K'e has a high regard for Tim Byers as the Agency is willing to make his visits to the community happen. Lutsel K'e is having difficulty with capacity funding. Lutsel K'e feels that Agency Directors should visit Lutsel K'e with Agency funds in order for meetings to be held as the First Nation does not have the money to pay for those meetings. The Agency role is to provide information to the community to promote a better understanding of how the environment is monitored and so the community can become more involved in environmental monitoring programs. Lutsel K'e would like to solicit the support of the other society members for the Agency to provide capacity funding at the community level. It appears that other Directors can be invited to the community and they too need to come with funding. Recently Charlie and Florence were concerned that the ICRP (Interim Closure and Reclamation Plan) was being initiated by the company and the WLWB but it was not clear what role the Agency has in this. Lutsel K'e does not have the funds to participate in the ICRP process though it has made requests to various funding sources. There must be a discussion of how to get input from Lutsel K'e into environmental monitoring at Ekati and regulatory processes.

*David Livingstone (DIAND)* responded by stating that the mandate of the Agency is to provide technical advice to all parties, which is different from EMAB and SLEMA. The issue of capacity for Aboriginal groups is a long-standing one. The Agency budget is separate from capacity issues. If the Agency budget is used to fund community capacity then it will not be able to meet its core mandate. The issue of capacity is always on the table and there is no question of the need. If a community has not accounted for past funding it is put on DIAND's suspended funding list, creating a further challenge to community capacity. DIAND has various programs available to the extent possible within its budget. Lutsel K'e must get over the internal problems accounting for the funding that has been provided. If that is overcome then work can begin to work on other capacity issues. Funds must be found for the communities without drawing down Agency funds. The issue is how to enable the Agency to do its job and the communities to build capacity is really an issue for government and industry, not the Agency alone.

*Florence Catholique (Lutsel K'e First Nation)* She recently took on a managerial role with the First Nation and finds that the lack of funding and capacity is preventing the community from participating in many matters including environmental management at Ekati. Lutsel K'e is aware that the Agency does technical reviews and highlights areas that may not be known to communities. How does information get from the Agency into the community and how are Lutsel K'e concerns reported without funds? The intent is not to drain the Agency budget, but there needs to be a mechanism for Lutsel K'e to receive funds that the Agency could support.

*Motion:* Society Members encourage government and industry to work together to provide additional funding to build Aboriginal Society member capacity and participation in environmental management at Ekati.

*Moved:* Florence Catholique (Lutsel K'e First Nation)

*Seconded:* David Livingstone (DIAND)

*Motion carried unanimously.*

## FIVE-YEAR REVIEW OF THE ENVIRONMENTAL AGREEMENT

*David Livingstone (DIAND)* The purpose of the review is to consider and review the terms of the EA with a view to amending provisions of the agreement if necessary or appropriate, in consultation with the Aboriginal Society members as required. There were some administrative changes made last time, although there were no formal responses to a call for other input. This time there will likely be a letter from the three EA signatories who will solicit further input from the Aboriginal Society members.

He further noted the cooperative process undertaken to date for the Multi Project Environmental Monitoring Agency (MPEMA).

*Laura Tyler (BHPB)* The signatories will discuss the process to be used in revising the EA which may be more than just a letter.

*Florence Catholique (Lutsel K'e First Nation)* Lutsel K'e may not be able to reply because it lacks a good understanding of the EA. If the Agency or EA signatories could put on a workshop to go through the EA then the community would be equipped to comment.

Bill Ross stated that the Agency, through an annual report recommendation to BHPB and the governments, has already made a request for a change to the EA regarding delivery of BHPB environmental monitoring reports.

*Claudia Haas (NSMA)* The EA was established prior to the *Mackenzie Valley Resource Management Act*. The NSMA would like to be a signatory to the EA and enhance the Agency role in capacity building, incorporating Traditional Knowledge, environmental training, employment and community based monitoring, ensure deadlines for reports prior to the upcoming field season are met, ensure Aboriginal participation in any mediation process and make sure the entire role of the Agency as stated in the EA is fulfilled.

*David Livingstone (DIAND)* provided an update on the MPEMA. In early December 2007 the steering committee will meet to go over the proposed budget that is the last outstanding issue. The Terms of Reference has not been approved, as the budget element has not been agreed to. The process then will be to distribute the Terms of Reference to the parties for their decision on whether to sign on and this will include all the Aboriginal governments.

Bill Ross provided some closing comments for the Agency. The Agency has received direction from the meeting and the Agency will take the input seriously and do its best to incorporate that into its activities. The Agency will do its best to continue to meet its mandate into the future until the establishment of MPEMA.

#### CLOSING PRAYER

The closing prayer was given by Mike Francis (Yellowknives Dene First Nation).

#### MEETING ADJOURNED