



INDEPENDENT ENVIRONMENTAL MONITORING AGENCY

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May 2, 2011

Honourable Michael Miltenberger
Minister of Environment and Natural Resources
Government of the Northwest Territories
P.O. Box 1320
Yellowknife NT
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Dear Minister Miltenberger

Earlier this year our Agency had a presentation by your staff on the new *Wildlife Act*. While many of the changes are beyond our mandate, we would like to express support for several aspects of the *Act*.

We are pleased to see that there is a mandatory requirement that the knowledge and expertise of departmental officials is used appropriately in northern resource management, including future work at the Ekati Mine. The *Act* states that if land use activities could affect wildlife, the Minister must make a submission to the responsible regulator (s. 98). This new wording imposes a duty, in contrast to the current legislation which requires the Minister to review land use permit applications but not necessarily make a submission. The wording is also used in the section on environmental assessments, and is, we understand, a response to recommendations from the NWT co-management bodies.

We recently took part in the Diamond Mine Wildlife Monitoring Program Review and although we support the principle of a coordinated and collaborative review, the outcome left a lot to be desired as there were many delays, a lack of leadership and questionable outcomes. It is certainly our view that there has been little progress on grizzly bear monitoring, or caribou monitoring that attempts to identify the mechanism of avoidance of mines by caribou within the identified zone of influence. In contrast, a review of the Ekati aquatic effects monitoring program (AEMP) was recently concluded by the Wek'eezhii Land and Water Board and we found that process to be much superior in terms of its rigour, timeliness and outcomes. The authority to regulate wildlife monitoring and management as found in the *Act* would, in our view, have facilitated a more effective wildlife monitoring program, one that would be approved and enforceable by ENR, just as the AEMP is approved and enforceable today.

The new *Act* has requirements for wildlife monitoring and management plans where activities may cause significant disturbance to wildlife and/or habitat (s. 96). This will be tied to the regulatory process without duplicating it, and appears to be designed for larger



industrial projects. The Minister would have to accept the plan, which would enable GNWT staff to enforce it. This is also apparently in response to requests from NWT land and water boards. The Wildlife Effects Monitoring Programs (WEMPs) in place at the diamond mines, for example, are currently not enforceable by GNWT. There is no regulatory authority except through the annual wildlife research permit.

Since the requirement for a management plan is linked to getting a permit, the Agency is unsure whether the new *Act* would apply to projects such as Ekati which were previously approved. Although the Environmental Agreement covering Ekati, which was negotiated before the *Mackenzie Valley Resource Management Act* was in existence, has provision for a Minister's Report if management plans are deemed unsatisfactory, it has rarely been used and is quite cumbersome. The regulations for the new *Act* should, in the view of the Agency, be set up to capture existing developments (s. 173(1)(z60)) to improve the regulation of wildlife monitoring and management.

The Agency is of the view that it would be extremely helpful for GNWT to have the authority to enforce requirements for good wildlife monitoring and management at Ekati. This should also allow for a legally mandated review of wildlife monitoring programs and management plans.

We noted that the legislation will likely be passed before many regulations are in existence. The Agency offered assistance in developing regulations by providing information on the Ekati Environmental Agreement and wildlife management. It was also suggested that an implementation plan for the *Act* and regulations might be helpful.

We look forward to working with your departmental officials on these matters.

Sincerely,



Bill Ross
Chairperson

cc. Society Members

David Ramsay, Chair, Standing Committee on Economic Development and Infrastructure
Judy Snortland, Executive Director, Wek'eezhii Renewable Resources Board
John McCullum, Environmental Monitoring Advisory Board
David White, Snap Lake Environmental Monitoring Agency