



Independent Environmental Monitoring Agency

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July 19, 2011

Mark Cliffe-Phillips
Executive Director
Wek'eezhii Land and Water Board
P.O. Box 32
Wekweti NT X0E 1W0

Dear Mark

Re: Adaptive Management Plan for Ekati

The Agency is concerned about the continuing discharge of effluent from the Ekati Long Lake Containment Facility that contains contaminants unregulated in the water licence that may be above limits to prevent chronic effects on downstream lake trout. We detailed these concerns in a letter to BHP Billiton dated July 11, 2011 and copied to you.

While we recognize BHPB's efforts to reduce nitrates in the LLCF, the Agency is of the view that an Adaptive Management Plan, as required in Part I, s. 6 of the current water licence (W2009L2-0001), would likely have provided greater clarity in the current situation regarding nitrate discharges.

We are increasingly worried over the lack of progress on an Adaptive Management Plan. Here is a brief chronology of events:

- August 19, 2005 Ekati main water licence (MV2003L2-0013) and Reasons for Decision (see pages 16-17) released whereby BHPB is directed to submit an adaptive management plan for contaminants of concern (see Part H, s. 7) within one year of licence effective date.
- November 30, 2007 BHPB submits Watershed Adaptive Management Plan.
- February 19, 2008 WLWB requests that BHPB fix errors in the Plan.
- February 29, 2008 BHPB submits revised Plan.
- March 28, 2008 WLWB suspends review of Ekati Watershed Adaptive Management Plan pending submission of reports by BHPB on:
 - variability study (approved by the WLWB as part of the 3-year AEMP review on May 4, 2010);
 - critical effects size (rolled into the Adaptive Management Plan as directed by the WLWB as part of the AEMP 3-year review on May 4, 2010); and
 - LLCF Water Quality Model (submitted April 15, 2008).

WLWB commits to develop guidelines for Adaptive Management Plans.

- October 17, 2010 WLWB distributes draft Guidelines for Adaptive Management—A Response Framework for Aquatic Effects Monitoring.
- December 22, 2010 Deadline for comments on draft Guidelines.

The Agency understands the WLWB is to distribute revised Guidelines for Adaptive Management Plans and that, following that, BHPB would be expected to submit such a plan. There is still no approved Plan and this will become a significant issue in the upcoming water licence renewal.

Other aquatic contaminants of concern are emerging at the Ekati Mine, including chloride. A chloride discharge criterion was to be developed as follows:

- February 15, 2004 BHPB to submit proposed effluent discharge criterion under water licence MV2002L2-0008 Part I, s.3
- April 2004 BHP submits Tier I Ecological Risk Assessment for chloride
- March 11, 2005 MVLWB directs BHP to undertake a Tier II risk assessment for chloride and complete Part I, s. 3 water licence requirement
- January 31, 2007 BHPB submits Tier II Ecological Risk Assessment for chloride
- October 28, 2008 BHPB submits site-specific water quality objective for chloride
- June 24, 2009 WLWB Reasons for Decision issued for amalgamated Ekati water licence, no chloride effluent quality criteria required for Sable development but requirement for a site-wide water quality objective for chloride rolled into the adaptive management plan requirement of the renewed water licence (W2009L2-0001, Part I, s. 6)

We understand that the Department of Fisheries and Oceans is close to completing toxicity testing for northern fish species which could also assist with the task of identifying contaminants of concern and setting appropriate discharge levels in an Adaptive Management Plan and/or as effluent quality criteria in the next water licence.

We urge the Board to move forward immediately with guidance to BHPB in developing an Adaptive Management Plan.

We look forward to your reply and an opportunity to discuss these matters further.

Sincerely



Bill Ross
Chairperson

cc. Society Members
Jason Brennan, Water Inspector
Jane Fitzpatrick, Environment Canada
Bruce Hanna, Fisheries and Oceans