

***Independent Environmental Monitoring Agency
57th Meeting of the Board of Directors
Yellowknife, NWT
November 13th – 14th, 2007
Summary of Discussion***

Revised: November 27, 2007

Directors

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

Staff

Sean Kollee
Kevin O'Reilly

Information updates

In addition to review of correspondence and internal communications:

Bill – met with the mediator and briefly discussed the Agency position on the Separate Fund issue that had been delivered earlier. The mediator will be back in Yellowknife in December and there is a possibility further talks could take place then.

Jaida – reviewed the Interim Closure and Reclamation Plan (ICRP) section 3 and correspondence and administrative matters such as Agency internal policies. She also reviewed the presentation materials for the Agency AGM and environmental workshop.

Laura – reviewed ICRP section 3 and materials for the Agency AGM and environmental workshop.

Tim – developed presentations for AEMP and PDC for the environmental workshop and met with former Agency Director Fikret Berkes in Winnipeg. Tim received feedback from Dr. Berkes on Agency Annual Reports of the last few years.

Tony - contacted by Gary Borstad (remote sensing consultant) looking at research on vegetation impacts from development. He may submit a proposal for some work on dust on lichen at Ekati.

Kevin – organized the AGM and environmental workshop. He discussed the mediation with DIAND, participated in a payroll audit by CRA (CRA examined if the Agency is making the appropriate remittances based on T4 slips). A final report from the audit is

expected soon. Letters arising from the last Board meeting were drafted and sent and a draft policy on decision-making between meetings was prepared.

Sean – mentioned organization of logistics for the AGM and board meeting.

INTERNAL MEETINGS

AGENCY ENVIRONMENTAL WORKSHOP

BHPB was invited to present its environmental monitoring program results to the Agency society members but declined to do so. In his opening remarks, it was suggested that Bill make explicit mention that BHPB was invited but declined, that the Agency is not representing BHPB or employed by the company, and that notes would be taken and concerns passed on to the company and government, as appropriate.

The Directors suggested that when the Agency circulates invitations it should send out some detail on the organization and mandate to ensure there is no confusion between the Agency and numerous other boards in the NWT.

Action Item #1 – Sean to post the Environmental Workshop presentations to the website and draft a written summary of observations for those who cannot attend.
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COMMUNITY CONSULTATION POLICY

The Directors discussed the issue of the location of affected communities and the Agency's ability to pay for participants to attend Agency consultation events. The Directors agreed to continue to facilitate society members to attend and that eligible expenses would be for travel from communities in the NWT and NU and to amend the existing policy accordingly.

MEDIATION UPDATE

The Directors discussed the scope and cost of the mediation process. It was agreed that the direction in the statement of position previously developed by the Agency remains the current position of the Agency. There was some discussion of which Directors would represent the Agency in the mediation.

Mediation Representatives - It was agreed that Bill, Tim and Kevin would continue to represent the Agency in the mediation.

INTERIM CLOSURE AND RECLAMATION PLAN (ICRP) SECTION 3

The Directors discussed their analysis of section 3 of the ICRP review process. The ICRP document appears to suggest that reclamation of the LLCF does not pose a

technical challenge yet the research section highlights the need for solutions to be found for major technical issues. Issues relating to the LLCF include revegetation and cover design, and managing extra fine processed kimberlite. The Agency has suggested BHPB complete cell B deposition as soon as possible (especially the north end) to begin full scale revegetation research trials. BHPB has not put forth closure criteria for success of revegetation once it has been established and makes no mention of contingency actions if effective re-vegetation does not take place.

The suggestion to pump kimberlite into a meromictic pit lake is something the Agency has previously recommended to BHPB and this should be considered. BHPB is planning on re-doing the ecological risk assessment on vegetation on kimberlite and this needs to be seen before final determination can be made of what reclamation option to choose. The planned dates for delivery of these studies are a continuing challenge. The Agency would like large-scale experiments on the north end of LLCF to take place soon and will continue to request this be done.

BHPB has suggested it will place a fish barrier on the outlet of the LLCF and this is puzzling considering fish already exist in cell E. BHPB has suggested that exceedence of a Canadian air quality guidelines as the threshold of action during closure monitoring. A response threshold at an exceedence does not appear appropriate. A better threshold that the Agency could support would be a limit on the amount of dust on lichen that would be protective of caribou. Dust monitoring is planned to continue for five years following closure and this monitoring should be considered for a timeline well beyond that if increasing or unacceptable levels are observed. As a matter of principle, all closure monitoring should continue until the appropriate closure criteria are achieved with some assurance of stable conditions.

Some roads are to be scarified rather than left for natural re-colonization. Maps provided in the ICRP do not identify what buildings and infrastructure are to be removed or dealt with adequately and BHPB should improve this for clarity.

The Directors commented on their review of the tables of the ICRP section on research. BHPB may be willing to run a pilot study on LLCF revegetation. However, this is all put off to the future. At the very least, concrete timelines are needed otherwise reclamation research may not begin until the operation stops, too late for effective closure. A problem is that research details are not in the current text. BHPB will revise the ICRP text and should be directed to provide a greater level of detail in the draft before it is resubmitted. Timing and phasing of research needs to be detailed to decide component reclamation. The Agency is likely to reinforce this message in a covering letter to BHPB and when reviewing the actual reclamation research plan in section 4.

NORTH SLAVE METIS ALLIANCE (NSMA) REQUEST FOR AGENCY REVIEW
OF RESEARCH APPLICATIONS

Directors discussed the letter from the NSMA requesting the Agency review applications from BHPB related to various types of research permits and licences. The NSMA would like to know if there is sufficient detail in the application, whether the proposed research will achieve its desired result, and the level of community involvement and benefits.

Staff noted that the Agency does not now receive these applications and that there may not be the in-house technical capacity to review some of this material. There was some discussion of the value of reviewing applications when some of the actual results are already reviewed (e.g. the annual WEMP reports) and what priority might be placed on this new work given existing commitments and budgets.

The Directors decided to discuss the matter with the other monitoring agencies and deferred a decision until that time.

WASTE ROCK EXPANSION PLANNED BY BHPB

The Directors reviewed a letter sent by BHPB requesting authorizations to increase the footprint of the main waste rock storage area to accommodate additional waste rock from the Beartooth pit. Concern about this expansion includes a loss of the source rock for the Sable Road and the existence of a stream in the area that could receive drainage from the pile (similar to seep 19). Directors considered the benefit of raising the height of the pile and decided to send comments to the WLWB that the Agency has a modest preference to raise the height rather than spread the pile further on the land unless there are regulatory concerns related to air traffic safety.

Action Item #2 – Staff to draft a letter on the expansion of the Panda/Koala waste rock pile suggesting a preference for a small increase in height over a larger footprint.
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TUNDRA SOIL STUDY

The Agency did not send in comments on this report released by BHPB. No further action was requested on the study from the Directors.

DUST SUPPRESSANT ON MISERY ROAD

The Directors were of the view that no comments are necessary on this request by BHPB to apply a dust suppressant on the Misery Road as the effects of dust are of greater concern than possible (but unlikely) negative impacts of the suppressant.

REVISED GEOCHEMICAL CHARACTERIZATION AND METAL LEACHING MANAGEMENT PLAN

Tony and Laura requested a copy of the revised plan and will advise if any further action may be needed.

Action Item #3 – Distribute GCMLMP to Tony and Laura.

AIR QUALITY MONITORING PROGRAM (AQMP)

The Directors reviewed the letter requesting a meeting of technical experts to discuss improvements to air quality monitoring at Ekati. Such a meeting is a step in the right direction. Bill agreed to discuss details of the meeting, including who will cover the costs for SENES participation and whether the Agency could have an observer present, with Laura Tyler. Following the AGM Bill thanked BHPB (Laura and Eric) for the invitation to a technical workshop. He also mentioned advice given from the communities at the environmental workshop related to dust. He advised BHPB might benefit from community involvement in the designing of an improved air quality and vegetation sampling program.

Action Item #4 – Bill to discuss meeting details related to the AQMP with BHPB.

CHLORIDE CRITERIA FOR SABLE

BHPB has been asked to respond to review comments on the chloride limit issue. The WLWB technical review is currently available (called the Ecometrix report). The next step for the process is for BHPB to respond to the reviewers comments.

DRAFT LETTER ON BHPB AEMP AND WEMP

The Directors agreed on edits to the draft letter and added a comment that the full technical reports, rather than just the summary versions, are needed for Agency review. The Bathurst/Ahiak herd issue was also clarified.

LLCF WATER QUALITY STUDY

Laura will put together a response on the content of the LLCF water quality study to be sent to BHPB, as mentioned in the memo from the company.

COMMUNITY CAPACITY

Effective environmental management requires community involvement. Northern communities often do not have the capacity to effectively participate, as shown in the recent Working Group meetings on the ICRP. The Directors decided to write a letter on this topic to respond to this concern. This could also be copied to the new regulatory review initiative (DIAND appointee Neil McCrank).

Action Item #6 – Draft letter to DIAND regarding participant funding requirements. Staff to gather information on the terms of reference for the regulatory review to be conducted by Mr. McCrank.

INTERMEETING DECISION MAKING

The draft Agency policy on making decisions between meetings was discussed and changes suggested.

Moved by Tony, seconded by Laura
Unanimously accepted

ELECTION OF OFFICERS

Following the Annual General Meeting, the Directors met to appoint officers as follows:

Tim nominated and Jaida seconded Bill Ross as the Chairperson for the Board of Directors.
Unanimously accepted

Tony nominated and Kim seconded Tim Byers as the Vice-Chairperson for the Board of Directors.
Unanimously accepted

Kim nominated and Laura seconded Jaida Ohokannoak as the Secretary-Treasurer for the Board of Directors.
Unanimously accepted

MEETINGS WITH OTHERS

SLEMA

David White mentioned activities at the Snap Lake mine and SLEMA activities such as its water licence review and the posting of new documents to its website. SLEMA participated in a mine visit in May that included an underground tour as well as a look at water management facilities.

The fish palatability program identified an odour of gas initially and the test was redone. Fish samples were taken but a gas chromatography test was not done. SLEMA felt that DeBeers did not follow a proper communications protocol for engaging some of the elders involved in a recent TK project.

The Snap Lake 2006 WEMP is due along with other documents. A wolverine track survey was done but a DNA survey is not planned.

DeBeers is stockpiling ore and is in production, but well short of full production (full capacity is 3000 tonnes per day). It is also building a permanent facility for staff. Underground water entering the workings has been beyond what was predicted by a factor of three. The lake water level is up 15 cm and some water quality parameters have changed vs. background (some are up to two times the baseline level). Use of remote sensing to track TDS was suggested by SLEMA. During the Snap Lake tour the SNP sites were visited and it was noted that an SNP site was improperly located and some QA/QC issues were observed.

SLEMA has not yet considered the request from NSMA for a review of various research applications.

EMAB

John McCullum mentioned that EMAB would be reviewing the Diavik 2006 WEMP. Issues largely relate to waste management and wildlife observations at the landfill that could be improved once the incinerator building is constructed. The caribou aerial survey is a key topic and discussion is ongoing related to the 30 km survey radius. While there is a substantial overlap in aerial survey with the Ekati WEMP a different transect spacing is being used and the spring surveys continue. The data collected appear compatible and EMAB is trying to encourage cooperative caribou monitoring between companies.

Other key issues at Diavik continue to be its water licence, AEMP and difficulties with air quality monitoring. A hearing related to ammonia limits occurred in June and the WLWB had set up an expert panel and come up with limits that Diavik questioned. Diavik wondered if setting limits based on best practical technology was good practice vs. basing the limit on ecological effects. The EMAB submission contained a legal review on this issue and indicated that EMAB was pleased with the work of the technical panel that the WLWB established.

The new water licence was signed by the DIAND Minister following a review process and is currently in effect. It contains a condition that the AEMP is required to be reviewed and approved to avoid having to wait for a licence renewal to effect changes to the AEMP. The AEMP reports now require approval and EMAB is of the view that this is a big improvement over past practices. EMAB questions of participant funding and of Environmental Agreement commitments that go beyond the water licence were not covered in the WLWB decision or reasons for decision. The revised AEMP is likely to be finalized in December and the definition of low, moderate and high effects will be clarified (low is the lowest measurable change that should trigger some action). EMAB's opinion is that WLWB funding has been helpful in moving the AEMP review process forward.

The QA/QC plan for the AEMP will be reviewed and direction on the ammonia management plan will be provided by the WLWB. The Diavik ICRP was not reviewed during the licence renewal process. A workplan and direction will be issued to Diavik likely along the lines of the Ekati process for development of the closure plan. It was agreed that EMAB and IEMA staff will share relevant documents as they relate to these water licence issues and processes.

Diavik missed the July AEMP sampling and August and September sampling were incomplete. The July sampling was missed due to permitting and research problems and later sampling was lost due to poor weather and equipment safety concern. There are more sample points now contained in the AEMP and the sites are more dispersed. It

now appears that 2005-06 AEMP data has not been reviewed and the 2007 program has not collected the necessary information.

EMAB has not yet considered the request from NSMA to review various research applications.

MEETING WITH DIAND INSPECTOR (Jason Brennan)

Jason discussed the closing of old exploration land use permits on the Ekati claims block following a request from BHPB for final closure of Cougar, Boxcar and Norms exploration sites/camps and 67 land based drill holes and sites. He was unable to look at every site but a representative sample (eight of the newest sites) was inspected although it was not possible to locate some of them as there are no physical signs left. The former Cougar camp had no visible sign of human activity, Boxcar was clean and Norms camp had infrastructure remaining at the sand bar beach. This resulted in instruction to BHPB to remove empty fuel drums and contaminated soil by August 2, 2007. This was done and confirmed by BHPB. BHPB would like to keep the runway at Norm's camp for emergency use. The Inspector concluded that there was little or no environmental impact remaining due to exploration drilling so the old permitted activities are now considered either closed or transferred to the current permit.

The waste rock pile expansion BHPB has applied for was discussed and the Inspector did not feel there were substantial issues with the request. He reported that other divisions within DIAND are considering options.

The Inspector reported that BHPB is doing a good job of managing hydrocarbons. It is not yet clear what quantities and quality of incinerator scrubbing fluid there will be and whether this may be a problem. He also reported that ammonium nitrate prill is again leaking out of the storage building. On the topic of use of dust suppressant (DL10 is proposed for use on the Misery road) the Inspector does not have any concerns as BHPB has demonstrated good practices by avoiding application near waterbodies.

NEXT MEETING

The 58th Board meeting is tentatively scheduled for February 4th – 6th, 2008 in conjunction with the EA signatories meeting (assuming that the Environmental Agreement implementation meeting can be changed to this date).

A further Board meeting is proposed for March 2008 in Lutsel K'e if a satisfactory arrangement for space, accommodation and other arrangements can be worked out with the community.

Meeting was adjourned

Summary of discussion approved by

-ORIGINAL SIGNED BY-

Jaida Ohokannoak, Secretary Treasurer.