

**Independent Environmental Monitoring Agency  
72<sup>nd</sup> Meeting of the Board of Directors  
Yellowknife, NWT  
January 19-20, 2011  
Summary of Discussion**

Revised: February 23, 2011

Directors

Bill Ross  
Tim Byers  
Audrey Enge  
Laura Johnston  
Jaida Ohokannoak  
Kim Poole  
Tony Pearce (by phone Jan. 19)

Guests

Keith McLean, BHP Billiton (BHPB)  
  
Helen Butler, BHPB  
  
Charity Clarkin, BHPB  
  
Lynda Yonge, GNWT Environment and Natural Resources (GNWT-ENR)

Staff

Kevin O'Reilly, Executive Director

Nicole McCutchen, GNWT-ENR

Monica Krieger, Communications and Environmental Specialist

Jason Brennan, Indian and Northern Affairs Canada (INAC)

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**JANUARY 19<sup>TH</sup>**

*Meeting commenced at 9:00am.*

**AGENCY BUSINESS**

➤ **Information Updates**

Bill – Worked with Kevin on Environmental Impact Report (EIR) discussion paper. Reviewed other correspondence.

Kim – Interviews with CBC on caribou populations. Reviewed correspondence.

Jaida – Reviewed correspondence.

Laura – Reviewed correspondence. Prepared comments on Wastewater and Processed Kimberlite Management Plan. Researched St. Eugene Mission location for annual report writing workshop.

Audrey – Reviewed correspondence.

Tim - Reviewed correspondence. Worked on letter regarding Fay Bay Monitoring Program report. Researched Falcon Trails location for annual report writing workshop.

Kevin – Worked on transfer of contributed services. Prepared letters on diamond mine wildlife monitoring program review, Wastewater and Processed Kimberlite Management Plan, community capacity building and funding, Wek'ëezhii Land and Water Board aquatic effects response framework, follow up to environmental workshop, and Misery waste rock pile modification request. Worked with Bill on draft EIR discussion paper. Prepared draft peer review policy. Developed new electronic expense claim form using Excel spreadsheet. Researched other Internet connection options. Worked with Outcrop to get Annual Report brochures to Kugluktuk

and Cambridge Bay. Gave Agency update at Snap Lake Environmental Monitoring Agency meeting on December 3<sup>rd</sup>. Attended Inter-Agency Coordinating Team meeting December 6<sup>th</sup> and meeting on snow core sampling methodology on December 14<sup>th</sup>. Gave presentation about the Agency to BHPB staff at safety meeting December 17<sup>th</sup>. Arranged conference call to discuss Interim Closure and Reclamation Plan (ICRP) December 23<sup>rd</sup>.

Monica – Prepared summaries of discussion for the board meeting, environmental workshop, and Annual General Meeting (AGM) held in November. Distributed minutes to Society members and posted them on the website, along with all PowerPoint presentations. Helped organize the Christmas open house December 7<sup>th</sup>. Prepared draft communications strategy. Continued work on updating the website and timeline. Reviewed correspondence and attended most December meetings with Kevin.

### ➤ **Financial Report**

Jaida reviewed the 2010-11 Year-to-Date (YTD) Expenditures and Variance Report. Spending for all categories is roughly on track. Bill suggested the Agency could engage a consultant to research early indicators of sustainability for revegetation in the north. BHPB has been directed to do this work by the Wek'èezhìì Land and Water Board (WLWB) in the ICRP reasons for decision, but the Agency could assist with background work or make suggestions on criteria that BHPB should consider.

Action Item #1 Bill to provide Kevin with list of potential consultants for revegetation sustainability research. Kevin to check on their availability before the end of March and obtain cost estimates.

Work continues on the transfer of previously contributed services. The last remaining service not transferred is the office cleaning although efforts were made to contact this service operator.

Action Item #2 Kevin to contact Carl's Carpet for contract details and to switch billing to the Agency as of January 1<sup>st</sup>.

Directors discussed potential options if there are funds available near the end of March: purchasing jackets or other promotional items, pre-paying some of Annual Report writing workshop costs, developing new communications tools, and a meeting in Łutsël K'e. Monica informed Directors that Tsatsiyé Catholique was hired in December as the new Manager of Lands and Environment in Łutsël K'e.

Action Item #3 Monica and/or Tim to contact Łutsël K'e staff and attempt to coordinate a community update prior to March 31<sup>st</sup>.

### **INTERIM CLOSURE AND RECLAMATION PLAN (ICRP) REASONS FOR DECISION**

Directors and staff discussed the WLWB reasons for decision on the ICRP (December 10, 2010) and BHPB's response (January 7, 2011). The Agency is very impressed with the WLWB decision, including the background provided and the reasons for decision. Virtually all items raised in the Agency's intervention were addressed except that intervenors will not have the opportunity to review the revised ICRP before it is approved. The WLWB decided it will only be reviewed for conformity internally by the Board and its staff.

Tony suggested the Agency should prepare a short fact sheet for Society members, detailing the history of this issue and results achieved. Directors agreed this is a precedent-setting decision after a long and complicated process, and it is important to document the lessons learned, particularly those regarding fish habitat and reclamation. The 2010-11 Annual Report will also have a section on this issue, likely including a revised version of the table in the 2008-09 Annual Report (which shows Agency recommendations and outcomes for specific topics related to the

ICRP). The Ekati decision appears to be influencing closure planning for other mines, as shown by recent directives from the WLWB.

Action Item #4 Tony to draft short summary of ICRP history, process and results for review by Directors and staff.

## **ENVIRONMENTAL IMPACT REPORT (EIR) DISCUSSION PAPER AND WORKSHOP**

A draft discussion paper on the EIR was discussed. Several changes were suggested.

The Agency believes the company should focus less on actual vs. predicted effects from the Environmental Impact Statement (EIS) and more on dealing with the “important issues of the day”, which may or may not have been anticipated or identified in the EIS.

Timing of the EIR workshop remains uncertain. The Agency recommended spring to ensure 2011 monitoring programs were focused appropriately, but in previous discussions Eric Denholm (BHPB) had suggested fall would be preferable. This will be discussed further with BHPB staff.

Action Item #5 Directors to send any other suggested changes to the EIR discussion paper. Kevin to incorporate comments into final version and distribute to Society members.

## **COMMUNICATIONS DISCUSSION**

### ➤ **Website and Timeline Project Updates**

Monica summarized recent updates to the website. Summaries of discussion from the November board meeting, Annual General Meeting, and Environmental Workshop were all posted as well as the PowerPoint presentations. The whole Presentations section of the website has been reorganized, and the Ekati Monitor newsletter and latest satellite photos have also been uploaded.

The Timeline Project website continues to be improved. Outcrop is working on new programming for the site so that multiple photos can be uploaded to entries and viewed in a slideshow-type format (currently only one photo per entry is possible), as well as several other items. Until this is completed no other changes or updates can be made to the site. Monica emphasized the urgent need for organization of Agency photos (digital, film, slide and negative formats).

Action Item #6 Staff to investigate costs of purchasing a new high resolution scanner and/or the possibility of sending photos out for scanning.

Action Item #7 Monica to continue work on the timeline, including scheduling review of content by Society members and Directors, towards an official launch date of March 11, 2011.

### ➤ **Peer Review Policy (Draft)**

Directors and staff reviewed the draft Policy on Peer Review, prepared based on previous discussions. Several editorial changes were suggested.

**The Board of Directors move that the Agency Policy on Peer Review be approved as amended.**

**Moved by Jaida Ohokannoak. Seconded by Laura Johnston. Carried without objection.**

Action Item #8 Kevin to finalize Policy on Peer Review as per suggested changes.

➤ **Agency Communications Strategy (Draft)**

Monica presented the draft Communications Strategy for discussion. Several changes were suggested to organization and layout. As well, the implementation section should identify content, costs, and target audiences for specific tools.

Directors and staff identified several new communications tools which should be priorities for development. These include a portable booth-type display, an updated Agency poster, and a short video presentation on the Agency and its work translated into the Aboriginal languages. Monica noted the 15-minute De Beers videos introducing the Gahcho Kué project (available in English, Chipewyan and Tłı̄ch̄ı̄) are an excellent example of this type of tool.

Action Item #9 Directors to send Monica any additional comments or suggestions on the draft strategy. Monica to prepare a revised draft for further discussion at the next Board meeting.

Action Item #10 Monica to investigate costs and timelines for the development of new communications tools, in particular those which could be completed prior to March 31<sup>st</sup>. In particular, Monica to develop draft text for an updated poster (Jaida to review) and have new posters printed before the March community meeting in Kugluktuk.

➤ **Newsletter Distribution Options**

Monica requested clarification on the distribution of Ekati Monitor newsletters. The newsletter was printed in colour and distributed to all participants at the November environmental workshop and AGM. It was also e-mailed to the Agency distribution list and posted on the website, and there are copies available in the office. It was agreed that distribution to communities through key contacts would be helpful.

Action Item #11 Monica to identify key contact people in communities, to be sent 50 colour copies of the newsletter (current and future issues) for placement at a central location.

**STAFF PERFORMANCE EVALUATIONS**

In-camera discussion.

**FOLLOW-UP ITEMS**

➤ **Diamond Mine Wildlife Monitoring Program Review**

The Agency sent a letter to BHPB on December 16<sup>th</sup> requesting that the company respond to the recommendations from the June (technical) and October (community/traditional knowledge) 2010 workshops. The report for the October workshop has still not been released, and none of the companies have issued any response to date.

➤ **Wastewater and Processed Kimberlite Management Plan (WPKMP)**

The Agency sent a letter to the Wek'èezhìı̄ Land and Water Board (WLWB) on January 12<sup>th</sup> regarding the conformity check on this plan. The letter identified Agency concerns with the revised WPKMP and offered suggestions on further revisions. No response has been received to date but it was sent very recently.

➤ **Air Quality Monitoring Program (AQMP) Report 2008**

Kevin and Monica attended a meeting with Jamie Steele (BHPB) on December 14<sup>th</sup> to discuss snow sampling protocols. Aileen Stevens (GNWT) and Lionel Marcinkoski (INAC) were also

present, and Dave Fox (Environment Canada) had been invited but was not available. The review of the 2008 AQMP report by SENES Consultants (commissioned by the Agency) identified a concern with allowing the snow samples to melt, which could volatilize compounds and therefore give inaccurate results. This concern was also raised in their review of the 2005 AQMP. BHPB wants to ensure the sampling is done properly and is willing to implement changes for the next cycle in April 2011, but is seeking direction as their consultants currently have no air quality specialist on staff (Dan Jarratt left Rescan in late November).

Directors noted that in previous discussions, several people including Dan Hrebenyk (SENES), Dave Fox (Environment Canada), and Graham Veale (GNWT – Aileen Stevens' predecessor) agreed that allowing snow samples to melt prior to lab analysis was not proper sampling protocol.

Action Item #12 Kevin to contact Dave Fox for his opinion on the snow sampling issues, including if CAPMoN protocols are the preferred option.
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Action Item #13 Laura to research snow sampling protocols and options, including any handbooks or standard operating procedures (Kevin to send her BHPB's procedures as provided by Jamie).
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➤ **Misery Waste Rock Storage Area (WRSA) Modification Request**

The Agency provided comments on this BHPB request to the WLWB in a January 7<sup>th</sup> e-mail. INAC and GNWT also submitted comments. BHPB has committed to providing an additional information package on the actual pushback work itself, as well as a response addressing the other issues and concerns raised.

➤ **Panda Diversion Channel (PDC) Reclamation Work**

BHPB notified the WLWB on December 6, 2010 of its intent to begin this project (to enhance the physical stability of the channel slopes), and it was discussed at the December Inter-Agency Coordinating Team (IACT) meeting. On January 10<sup>th</sup> the INAC inspector was notified the work had begun, and would be completed over the next two winters.

*Meeting adjourned at 5:00pm.*

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**JANUARY 20<sup>TH</sup>**

*Meeting commenced at 9:00am.*

**MEETING WITH BHP BILLITON (BHPB) STAFF: KEITH McLEAN, HELEN BUTLER, AND CHARITY CLARKIN**

➤ **Update on BHPB Activities**

Charity and Keith gave a PowerPoint presentation on current and future BHPB activities.

- *2011 Operations*

**Panda Diversion Channel (PDC) slope enhancement project** will be completed over the next two winters. Work has commenced with road construction and placement of snow in the channel bottom. Once the surface is smoothed it will be flooded using a water truck, and it will take about 30 days until drilling and mucking can begin. A number of sediment control strategies and other protective measures are planned. The drill, blasting pads and other construction supplies are scheduled to come up on the winter road, which will open next week.

**Misery open pit pushback** is proceeding, with a new camp coming up on the winter road. It will be in the same location as the old camp, with the same type of wolverine skirting. There will also be a chain link fence to prevent access by wolverines and bears, and electronic gates for vehicle traffic. BHPB will circulate an information package once final internal project approvals are in place. Pre-stripping is planned to start this summer or fall.

Tim noted that the western extent of the waste rock dump has a road that acts as a barrier to the next watershed. He asked if the pushback required moving the road, and if so had trenches or other methods of catching seepage off the rock been designed. Charity replied that the west side of the waste rock dump has purposely been kept to the edge of the drainage divide. The road will have to be moved over a bit but the development is designed to stay within the Desperation Pond catchment area and not overlap with the adjacent watershed.

Kim asked about increased activity on the Misery road. Keith responded that the first two to three years will only involve stripping and no hauling, but once mining starts it will be similar to previous Misery operations.

**Pigeon open pit** is in the intermediate Selection Study phase, with further drilling to come this year during final approvals. Construction of the diversion channel may begin in winter 2011-12.

- *Updated Life of Mine Plan*

Sable pit is no longer part of the plan as numbers are not economic at this time. End of mine life is projected to be 2018 (vs. 2020 as in previous plans).

- *2011 Permitting*

**Misery Waste Rock Storage Area modification** request is on the agenda for the WLWB meeting at the end of February. Comments were submitted by the Agency, INAC and GNWT.

**Pigeon stream diversion channel** compensation and monitoring plan, required under the fisheries authorization, have been submitted to Department of Fisheries and Oceans (DFO) for approval. An update to the Aquatic Effects Monitoring Program (AEMP) to incorporate Pigeon (Exeter watershed) was also recently submitted to the WLWB. Fish monitoring is not proposed but sediments and phytoplankton are included along with the water quality parameters. Fish habitat will be created in the diversion ditch.

The Ekati **water licence** expires in August 2013. BHPB intends to start public engagement activities this summer, in anticipation of filing the renewal application in approximately one year.

BHPB is undertaking an **alternatives assessment for managing processed kimberlite**. Cell B of the LLCF is almost full and will be at its final capacity in 12-18 months. Alternatives such as expansions to different areas and the use of pits are being considered from the standpoint of operations, water quality and reclamation. The company is permitted to use cell D, but sees the advantages of avoiding or at least delaying its use to maintain its purpose for additional settling time.

Directors noted the last review of LLCF management in 2004 was a very interactive process, with all stakeholders involved in evaluating options. Charity and Keith responded it is more of an internal process at this point. Options are limited at this stage of mine life so it will be fairly straightforward. More information will be provided later in 2011.

Laura asked whether the issue of extra-fine processed kimberlite (EFPK) containment was being dealt with separately or as part of this overall assessment. Keith replied that work was completed

in summer 2010 to probe cell C, and results showed no EFPK and about 0.5 m of consolidated material. This is now considered baseline data to compare with results in a few years. Helen also responded there is a research plan dedicated to EFPK, and the operations work described by Keith feeds into that plan.

BHPB and DFO are discussing **options for compensation for Desperation and Carrie Ponds**, in connection with the Misery Waste Rock pile modification. Compensation may involve some work off-site.

**PDC and Nero-Nema monitoring programs** are winding down. There will likely be another year of data collection this summer, followed by a final report. Discussions are being held with DFO on closure of the compensation plan. Francois Landry (Rescan) has spoken with Bill Tonn about the Agency-commissioned review of the 10-year PDC monitoring report.

Additional monitoring is also planned for during and after the PDC slope enhancement project. The main concern is spills of oil or diesel. A different grade of explosives is being used, a nitroglycerine derivative that comes in sticks rather than being pumped down the hole as a slurry or emulsion. It is more expensive but promotes better detonation (it is not water-sensitive) and therefore less ammonia residue left behind.

- *2011 Environmental Monitoring Programs and Reporting*

The 2008 **Air Quality Monitoring Program (AQMP)** report is being revised following the Agency-commissioned review by SENES Consultants, and will be re-issued for clarity. No CALPUFF remodelling is being done at this time. (*Note: CALPUFF is an advanced computer program that predicts where and how far pollutants will disperse in the atmosphere and the deposition pattern, based on weather patterns and landscape features in the area.*) Rescan is in the process of rehiring an air quality specialist prior to the next AQMP report due in 2011. Snow sampling methodology is still being finalized and locations confirmed.

The **Wildlife Effects Monitoring Program (WEMP)** review undertaken by the three diamond mines is almost complete. Colleen English (Diavik) sent an e-mail yesterday advising that the final report from the community/traditional knowledge workshop (October 5-6, 2010) would be released by next week. Each company will issue an individual response to the reports and recommendations rather than a joint response. This will be separate from the 2011 wildlife research permit application. BHPB's goal is to have the application out for review by February 15<sup>th</sup> (it will incorporate responses to recommendations from the October workshop and the June 2010 technical workshop). The Wildlife Management Plan itself is not required to be updated every year, but BHPB is considering updating it over the next year.

Staff are working on a response to the comments received for the 2009 **Environmental Agreement and Water License Annual Report**.

Bill reminded BHPB that the Agency holds a writing session for its Annual Report in May of each year, and it is helpful if BHPB monitoring reports have been received and reviewed prior to this meeting (ideally by the end of March). BHPB staff indicated that they would keep this in mind and that there would be no **Caribou and Roads Project** report this year.

- *Special Studies*

The 2010 **Fay Bay Monitoring Program** report is in progress and should be released around the same time as other reports. It will include any future plans for monitoring, although at this point none are expected. The Pigeon AEMP changes will maintain sampling stations in Fay Bay and Exeter Lake.

The **Long Lake Containment Facility (LLCF) nitrate reduction test** results from last summer show there might have been another competing species, perhaps zooplankton from the previous year, that consumed all the phytoplankton that were to reduce nitrate levels.

BHPB will develop a site-specific **water quality objective for molybdenum**. Bill noted that the Agency recommended a more precautionary approach for nitrate and had sent a letter in May 2010. BHPB staff later advised the Agency that a response may be forthcoming.

- *Management Plans*

An update to the **Waste Rock and Ore Storage Management Plan (WROMP)** will be completed and submitted to the WLWB in 2011.

An update to the **Wastewater and Processed Kimberlite Management Plan (WPKMP)** will occur after the LLCF alternatives analysis is completed. The Agency noted that a letter on the conformity review of this plan was recently sent to the WLWB and there are some suggestions that BHPB should consider.

The **Quality Assurance/Quality Control (QA/QC) Plan** is being reviewed in relation to blanks and replicate samples.

- *Traditional Knowledge (TK)*

BHPB recently created a new staff position called Environment Advisor, Traditional Knowledge (now filled by Charles Klengenberg). Main tasks are to advance the incorporation of TK into existing environmental monitoring programs and the ICRP, as well as to facilitate community TK projects. Charles was in Łutsël K'e with the external affairs team on January 20<sup>th</sup>. Discussions were to include potential site-based TK projects, as well as revamping the First Nation's existing Geographic Information Systems (GIS) and database project.

Helen explained why the Caribou and Roads Project was not as successful as hoped. BHPB has not seen any real benefits or value from the project besides the initial placement of inukhuit to divert migrating caribou. There was little information transferred back to the communities from these activities, and the workshops held in Kugluktuk were also not producing any new information. BHPB also said there were uncertainties about how to test the effectiveness of the inukhuit. Other communities (e.g. Łutsël K'e) were also involved with this project when it first started, but for various reasons withdrew.

While the drum making and seal skin mitt making workshops that BHPB has organized on site may be useful, the Agency feels these should not be included in BHPB's annual report as examples of TK projects. Rather, the Agency is looking for indicators that BHPB is meeting the goals of the Environmental Agreement (i.e., improving environmental management at Ekati by incorporating TK). Helen stated that BHPB's TK programs have suffered since Chris Hanks left the company, but Charles is very enthusiastic and BHPB is expecting many improvements.

#### ➤ **2012 Environmental Impact Report (EIR) and Pre-EIR Workshop**

The Agency had suggested a spring workshop because the intent of the meeting would be to establish structure and priorities, and therefore should take place early enough to establish goals before activities have gone too far in another direction. Previous discussions with Eric Denholm (BHPB) indicated that fall 2011 would be preferable, as staff are busy in the spring with the completion of reports and start-up of field season. Ideally the workshop would be held at the Mine rather than meetings in Yellowknife. It was suggested late August or early September should work.



The Agency noted it will be distributing a discussion paper later this month on the EIRs.

➤ **Interim Closure and Reclamation Plan (ICRP) Status**

BHPB is meeting with the WLWB next week to discuss the ICRP reasons for decision. It will likely be the end of June before a revision package is sent to the WLWB. The Agency reiterated its offer to assist, particularly with some of the Reclamation Research Plans (RRPs). For example, the Agency plans to hire a consultant to provide advice on designing closure criteria related to early indicators of revegetation sustainability. Helen agreed this would be useful. She said that recent research has shown using reference sites for comparison is not very effective, and more focus should be placed on trends and the ability to rebound after natural disasters. Harvey Martens has been asked to review and consolidate all the revegetation RRP's. Harvey Martens may be retiring soon so BHPB may be looking for new revegetation consultants. Cell B will soon be full and BHPB is still on track with the pilot revegetation study.

➤ **Other Topics**

Helen will be presenting a paper at the upcoming international Mine Closure 2011 Conference. The Agency will likely be submitting an abstract for a paper and presentation as well.

**MEETING WITH GNWT-ENVIRONMENT AND NATURAL RESOURCES (ENR) STAFF:  
LYNDA YONGE AND NICOLE McCUTCHEN**

➤ **Revisions to the Northwest Territories *Wildlife Act***

Lynda gave a Power Point presentation that outlined proposed changes to the NWT *Wildlife Act* which is 35 years old and predates land claim agreements. Work began in 1999 on revisions but major consultations have taken place in the last two years. A collaborative working group was created with representatives from co-management boards. As well, each of the Aboriginal governments was invited to participate. There was an elders workshop so that traditional values were also incorporated. The draft of the new *Act* was released in November 2010.

A question was asked about the definition of "harassment", in relation to BHPB having to use various means (e.g. helicopters or ATVs) to get caribou off the airport runway at Ekati. Lynda responded this would likely be covered under the Land Use Permit and operating guidelines, but under new regulations such activities may need a permit. Lynda also clarified that waterbodies would be considered habitat if it is for a species covered by the *Act* (e.g. muskrats).

The revised *Act* states that if land use activities could affect wildlife, the Minister must make a submission to the responsible regulator. This new wording imposes a duty, in contrast to the current legislation which requires the Minister to review land use permit applications but not make a submission. The wording is also used in the section on environmental assessments, and is a response to recommendations from the NWT co-management bodies. Directors were pleased with this idea.

GNWT is working with industry and regulatory bodies to develop Standard Operating Procedures, which would not be legislated requirements but rather guidelines or best practices. These will be publicly reviewed, and if companies follow these guidelines it would be part of their due diligence defence should anything go wrong.

Directors asked whether the new *Act* covered the use of incinerators. This would fall under the *Environmental Protection Act*, where there could be guidelines developed like those already in place for soil remediation and hazardous materials disposal.

The new *Act* has requirements for wildlife monitoring and management plans where activities will cause significant disturbance to wildlife and/or habitat. This will be tied to the regulatory process without duplicating it, and is designed for larger industrial projects. The Minister would have to accept the plan, which would enable GNWT staff to enforce it. This is also 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 the annual wildlife research permit.

Since the requirement for a management plan is linked to getting a permit, Directors asked whether the new *Act* would apply to projects such as Ekati which were previously approved. Under the Environmental Agreement, which was negotiated before the *Mackenzie Valley Resource Management Act* was in existence, a Minister's report can be issued if management plans are deemed unsatisfactory. The regulations for the new *Act* could be set up either way, to capture existing developments or only applying to new developments. Directors agreed it would be extremely helpful for GNWT to have the authority to enforce requirements for good wildlife monitoring and management at Ekati.

Other changes to the *Act* include increased fines for non-compliance, inclusion of guiding principles such as wildlife conservation and ecosystem-level management, and a review of the *Act* every seven years by the Legislative Assembly. The new *Act* will be introduced in the Legislative Assembly in March 2011, and the earliest it would be passed is end of summer. It would likely not be in force until a year after that as numerous regulations have to be drafted. Any existing regulations which are inconsistent would be changed immediately with a total overhaul of the regulations in the next three years.

It was noted that the legislation could be passed before the regulations are in existence. Industry has raised this as a concern; others may have the same concern. It is possible the Legislative Assembly will decide not to approve the legislation until the regulations are available. The Agency offered assistance in developing regulations by providing information on how the Ekati Environmental Agreement and WEMP works. It was also suggested that an implementation plan for the *Act* and regulations might be helpful.

#### ➤ **Status of the Diamond Mine Wildlife Effects Monitoring Program (WEMP) Review**

John McCullum, Environmental Monitoring Advisory Board (EMAB) joined the meeting for this update. Nicole said that ENR's commitments were noted in the final report for the June 2010 technical workshop, and there have been discussions with the companies since then. Directors informed Nicole about the BHPB update in the morning. A response to the workshop recommendations may be forthcoming but only after release of the October workshop report, and possibly after submission of the 2011 wildlife research permit application.

The Directors asked about the status of the cumulative effects pilot project for caribou in the Bathurst range that came from the 2008 caribou workshop. Nicole replied that budgetary constraints have prevented completion of the project, but it has been flagged as a high priority and will be released by summer 2011.

All agreed the length and uncertainty of the diamond mine wildlife monitoring program review process clearly shows the difference between regulated programs such as the Aquatic Effects Monitoring Program and unregulated ones like the WEMP.

ENR will distribute a letter to the companies with an update on ENR commitments made at the June workshop, and requesting a follow-up meeting in early February. There are still some issues with the wolverine and grizzly bear programs, but ENR is prepared to work in conjunction with the monitoring agencies to ensure companies are following up appropriately. The Agency would support such a request for a meeting, but sees it as unlikely to take place prior to submission of the wildlife research permit applications in February. The Agency has looked at

these applications in the past, but generally uses a review of the WEMP to comment on methodologies.

## **MEETING WITH INAC INSPECTOR JASON BRENNAN**

Jason provided an update and photos from his latest inspection at Ekati, conducted on January 18<sup>th</sup>. He noted a good working relationship with Keith McLean (BHPB), and that significant progress was made on the Panda underground clean-up since the previous inspection.

The water level underground will be maintained at 2030 level because a plug will need to be in place between Panda and Koala, and there is also a ramp at 2050 that needs to be maintained. Jason feels that BHPB did an excellent job removing as much as it could safely. Some materials could not be removed due to geotechnical instability and safety issues, particularly in the “drift” areas where the rock transitions from granite to kimberlite ore. He estimates 90-95% of materials were removed and taken to the landfill. What is left behind is inert and not likely to cause any long-term water quality issues. The Directors asked whether there is an accounting of materials left behind. Jason referred to the recent report sent by BHPB which will be posted on the WLWB registry. It details materials removed and those left behind for each level of Panda. Jason also noted this was his last inspection in Panda pit because it will soon be underwater.

Work has started on creation of the ice pad before blasting starts for the Panda Diversion Channel slope enhancement project. Water for flooding the channel floor is from Grizzly Lake.

In Koala, all the underground equipment goes to the surface for refuelling. There is a refuelling bay in Koala pit but it has never been used. Workshop areas underground are extremely clean, and even the concrete floor is almost spotless.

The Directors asked about closure and reclamation from an inspector’s point of view. Jason said that the inspector’s role and focus will change as BHPB gets into progressive reclamation. Inspections will be focused less on operational issues and more on projects like the Panda underground clean-up. The Directors asked about the criteria for when reclamation is “good enough”, and whether INAC has any kind of checklist. It is up to each individual inspector, although the closure criteria in the next version of the ICRP should be helpful.

The inspector has the final authorization to give BHPB back its security money. As of today, BHPB is “over-secured” (i.e. more money is posted than what is required, based on how much it would cost today to implement the closure plan). Jason added that a re-assessment of total securities will likely be undertaken by John Brodie on the basis of the new ICRP.

Jason gave an update on the King Pond discharge issue. In July 2010, discharge was approved from King Pond to Cujo Lake. However, BHPB changed the dewatering plan without notifying him (this is required under the water license along with provision of water quality samples) and started pumping from Misery to King Pond to Cujo Lake (indirect release). Jason ordered BHPB to stop pumping as a precautionary measure, because the intent of the water license is that King Pond is a settling pond. BHPB disagreed with his interpretation of the license. The WLWB was asked to provide clarification, and suggested that Jason meet with BHPB for further discussions. More open communication would likely have prevented this issue. Directors agreed with Jason’s approach, stating the most important issue was that the water released to the receiving environment must meet licence criteria.

Jason had previously noted that the October 2010 Surveillance Network Program (SNP) report showed trace hydrocarbons at SNP station 1616-30 for the first time. Levels were still about nine times under the limit for total petroleum hydrocarbons, but were only being seen now because detection limits were recently lowered. BHPB stopped pumping from Leslie Lake in November, and the November SNP results showed no trace hydrocarbons. Jason noted that the earlier SNP results could be a sampling error, but will be something to watch in future results.

The Misery pushback was discussed. The Agency has requested additional information on the work as there might be implications for the Wastewater and Processed Kimberlite Management Plan (e.g. water in the pit could be of different quality and/or quantity). INAC has also requested more information related to the changes in pit dimensions. Jason estimates the distance from the centre of Misery pit to the Lac de Gras shoreline is about 750 m, and from the edge of the pit only 500 m. Depending on the configuration, the pushback could bring the pit even closer to the shoreline. This could be a concern when Misery becomes a pit lake because there could be acid rock drainage issues. According to BHPB's presentation earlier in the meeting, the company will be providing this information once internal approvals for the pushback are completed.

The Agency expressed its appreciation for Jason's ongoing excellent work and dedication.

## **OTHER BUSINESS**

### ➤ **Follow-Up Items From BHPB and GNWT Updates**

Directors and staff discussed BHPB's water license renewal and that the company intends to start public consultation activities in 2011. It was noted that under the *Northwest Territories Waters Act*, it is mandatory to provide notice of a public hearing for a Type A water license renewal, but if no responses or submissions are made, a hearing may be cancelled with the consent of the applicant. According to the 2008 Resolution Agreement, if a public hearing is "reasonably assured", the Agency is entitled to allocate related expenses to the Separate Fund.

Action Item #14 Kevin to contact the WLWB staff as to whether there will be a public hearing for BHPB's water license renewal.

Action Item #15 Kevin to request additional information from BHPB on the extra-fine processed kimberlite data for cell C, and whether it has indeed settled out or consolidated.

Action Item #16 Kevin to send GNWT-ENR staff an e-mail to support efforts towards a meeting with the diamond mines on the wildlife monitoring program review.

### ➤ **Community Capacity Building and Funding Letter**

Following the ICRP process and the inability of communities and Aboriginal governments to participate, the Agency discussed a draft letter on this issue. The Directors noted that this concern has been raised directly with the Agency. Consistent with the Agency's mandate to convey the concerns of Aboriginal peoples to government and the company, a letter is to be sent on the issue of community capacity and participant funding.

Action Item #17 Kevin to finalize the letter on community capacity to engage in Ekati closure planning with the suggested changes.

### ➤ **Fay Bay 2008-09 Monitoring Program Report**

In reviewing BHPB's monitoring report on the Fay Bay spill, Directors identified some concerns with regard to effects on fish and fish habitat. Lake cisco use the type of lake bottom that was covered by the processed kimberlite for spring spawning, but there was no discussion of possible effects in the report. There was also no assessment of the effects of the spill on fish habitat. It was agreed that a letter on these matters should be sent to BHPB.

Action Item #18 Kevin to finalize letter on Fay Bay Monitoring Program report and send to BHPB.

➤ **Future Board Meetings**

The dates of future Agency Board meetings were reviewed and approved as follows:

March 15-17, 2011 in Kugluktuk (travelling from Yellowknife to Kugluktuk on March 15<sup>th</sup> and returning on March 17<sup>th</sup>)

Action Item #19 Jaida to provide information on accommodations and rates, flight information and itineraries, and facilities available for meeting space.
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➤ **Agency Annual Report Writing Session (May 9-13)**

Directors and staff reviewed the two options for location that had been researched. It was decided that this year's session will be held at Falcon Lake near Winnipeg. Arrival will be on May 9<sup>th</sup> in Winnipeg, with departures on May 12<sup>th</sup> or 13<sup>th</sup>.

Action Item #20 Kevin to book Falcon Trails Resort for May 9-13. Other travel arrangements to be finalized at a later date.
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➤ **Upcoming Conferences**

It was agreed that the Agency should submit an abstract for a paper and presentation at the 2011 Mine Closure Conference in Lake Louise, AB (September 19-21). Staff will attend, along with Bill and/or Tony if available. The paper and presentation will likely be similar to that made by Kevin at the 2009 Northern Latitudes Mining Reclamation Workshop in Yellowknife (September 2009), outlining the Agency's role in closure planning at Ekati but updated with recent ICRP developments.

It was also agreed that Kim would attend the 13<sup>th</sup> Arctic Ungulate Conference: Challenges of Managing Northern Ungulates in Yellowknife (August 22-26). Audrey and/or staff may also attend if available.

Action Item #21 Kevin to draft paper abstract for closure conference listing Tony and Bill as additional authors (deadline for submission is February 1 <sup>st</sup> ).
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*Meeting concluded at 5:00pm.*

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**Summary of Discussion Approved by  
Jaida Ohokannoak, Secretary Treasurer.**